ELLENDALE, MINNESOTA

CODIFICATION MANUAL

ELLENDALE, MINNESOTA

CITY OFFICIALS

Mayor	Matthew Bartsch
Councilmembers	Derek Bartness Duane Goebel Scott Groth Stephanie Kibler
City Clerk/Treasurer	Kim Zimprich
Assistant Clerk/Treasurer	Steve Engel

ORDINANCE 2021-01
CITY OF ELLENDALE, STEELE COUNTY, MINNESOTA

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

WHEREAS Minnesota Statures Sections 415.02 and 415. 021 authorize the City to cause its ordinances to be codified and printed in a book,

NOW THEREFORE the City Council of the City of Ellendale, Minnesota, ordains:

Section 1. The general ordinances of the City as amended, restated, revised, updated, codified and compiled in book form, including penalties for the violations of various provisions thereof, which shall constitute the "Code of Ordinances of the City of Ellendale." This Code of Ordinances will also adopt and reference certain statutes and administrative rules of the State of Minnesota as named in the Code of Ordinances.

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

- Title I: General Provisions
- Title III: Administration
- Title V: Public Works
- Title VII: Traffic Code
- Title IX: General Regulations
- Title XI: Business Regulations
- Title XIII: General Offenses
- Title XV: Land Usage

Section 3. All prior ordinances, pertaining to the subjects treated in the Code of Ordinances, shall be deemed repealed from and after the effective date of the ordinance, except as they are included and re-ordained in whole or in part in the Code of Ordinances; provided, this repeal shall not affect any offense committed or penalty incurred or any right established prior to the effective date of this ordinance, nor shall this repeal affect the provisions of ordinances levying taxes, appropriating money, annexing or detaching territory, establishing franchises, or granting special rights to certain persons, authorizing public improvements, authorizing the issuance of bonds or borrowing of money, authorizing the purchase or sale of real or personal property, granting or accepting easements, plat or dedication of land to public use, vacating or setting the boundaries of streets or other public places; nor shall this repeal affect any other ordinance of a temporary or special nature or pertaining to subjects not contained in or covered by the Code of Ordinances. All fees established in prior ordinances codified in this Code shall remain in effect unless amended in this code or until an ordinance adopting a fee schedule is adopted or amended.

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

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

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

Adopted by the City Council of the City of Ellendale, Minnesota this ____ day of _____, 2021.

_____
Matthew Bartsch, Mayor

ATTEST:

_____
Kim Zimprich,
City Clerk/Treasurer

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§ 10.01 TITLE OF CODE.

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

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

§ 10.02 RULES OF INTERPRETATION.

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

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

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

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

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

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

§ 10.03 APPLICATION TO FUTURE ORDINANCES.

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

§ 10.04 CAPTIONS.

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

§ 10.05 DEFINITIONS.

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

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

CITY. The area within the corporate boundaries of the City of Ellendale, Minnesota, as presently established or as amended by ordinance, annexation, or other legal actions at a future time. The term ***CITY*** when used in this code may also be used to refer to the City Council and its authorized representatives.

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

COUNTY. Steele County, Minnesota. ***MAY.*** The act referred to is permissive. ***MONTH.*** A calendar month.

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

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

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

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

SHALL. The act referred to is mandatory.

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

STATE. The State of Minnesota.

SUBCHAPTER. A division of a chapter, designated in this code by a heading in the chapter analysis and a capitalized heading in the body of the chapter, setting apart a group of sections related by the subject matter of the heading. Not all chapters have ***SUBCHAPTERS.***

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

YEAR. A calendar year, unless otherwise expressed.

§ 10.06 SEVERABILITY.

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

§ 10.07 REFERENCE TO OTHER SECTIONS.

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

§ 10.08 REFERENCE TO OFFICES.

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

§ 10.09 ERRORS AND OMISSIONS.

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

§ 10.10 OFFICIAL TIME.

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

§ 10.11 REASONABLE TIME.

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

(B) The time within which an act is to be done, as herein provided, shall be computed by excluding the first day and including the last. If the last day is a legal holiday or a Sunday, it shall be excluded.

§ 10.12 ORDINANCES REPEALED.

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

§10.13 ORDINANCES UNAFFECTED.

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

§ 10.14 EFFECTIVE DATE OF ORDINANCES.

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

§ 10.15 REPEAL OR MODIFICATION OF ORDINANCE.

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

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

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

§ 10.16 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE.

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

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

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

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

§ 10.18 COPIES OF CODE.

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

§ 10.19 ADOPTION OF STATUTES AND RULES BY REFERENCE.

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

§ 10.90 ESTABLISHMENT OF REMEDIES TO ENFORCE THE ELLENDALE CITY CODE.

(A) *Purpose.* The purpose of this Section is to provide the public and the City of Ellendale with a comprehensive set of remedies for enforcing the provisions of the Ellendale City Code. The city finds that the availability of such alternatives will have the effect of reducing nuisance and zoning violations within the city, will facilitate compliance with the provisions of this Code, will avoid unnecessary delay in the enforcement of the Code, and will provide the city's officials with an effective enforcement tool.

(B) *Misdemeanor.* Any person who violates any of the provisions of the Ellendale City Code shall be guilty of a misdemeanor and upon conviction thereof shall be punishable in accordance with Minnesota law.

(C) *Injunction.* The City may seek and shall have available to it the remedy of obtaining a temporary restraining order or a temporary or permanent injunction to enjoin a violation of any provision of the Ellendale City Code. In the event that the City successfully obtains a temporary restraining order or a temporary or permanent injunction, the person so restrained or enjoined shall be responsible for all costs and expenses incurred by the City, including court costs and reasonable attorney's fees, to seek the restraining order or injunction, and include any costs and expenses incurred by the City to enforce a court order.

(D) *Administrative Fine*. An administrative fine may be imposed by the City upon a violation of any provision of the Ellendale City Code. The imposition of an administrative fine is not a crime. Imposition of an administrative fine by the City may be in addition to any other legal or equitable remedy available to the City for City Code violations.

(E) Procedure for Imposition of Administrative Fine.

(1) *City Administrator Defined.* For purposes of this subdivision," City Administrator" shall be defined as the duly appointed city administrator for the City, or in the absence of a city administrator, a person duly appointed by the Ellendale City Council to issue administrative fines.

(2) *Demand for Corrective Action.* Depending upon the severity of the violation and necessity for immediate action, the City Administrator may serve on the violator a demand for corrective action. The demand may be presented in person or by U.S. mail to the person's last known address. The demand shall state the date, time, and nature of the violation, the name of the official issuing the demand, the corrective action required, and the amount of an administrative fine if the violation is not corrected within the time specified in the demand. Nothing herein shall be interpreted to require that a demand be sent prior to issuing an administrative fine or utilizing any other remedy available to the City under this Section.

(3) *Imposition of Administrative Fine.* Upon the reasonable belief that a violation of the Ellendale City Code has occurred, the City Council may impose an administrative fine upon the person responsible for the violation by issuance of an administrative citation.

(4) *Issuance of Administrative Citation.* An administrative fine shall be imposed through service of an administrative citation. The administrative citation shall state the date, time, and nature of the violation, the name of the official issuing that the citation, the amount of the administrative fine, the manner and requirements for paying the fine, and the procedure for appealing the fine. The administrative citation shall be served upon the violator in person, by US mail at the person's last known address, or in the case of a vehicular violation, by attaching the administrative citation to the vehicle.

(5) *Procedure to Appeal Administrative Citation*. A person upon whom an administrative citation has been served shall have the right to appeal the administrative citation to the Ellendale City Council according to the following procedure:

(a) *Request for Appeal*. In order to invoke the appeal process, the person upon whom an administrative citation has been served shall request an appeal of the administrative citation no later than 10 days following the date of the administrative citation by delivering a written request for appeal to Ellendale City Hall. Said request for an appeal shall be timely if delivered in person to Ellendale City Hall or, if delivered by US mail, the notice is postmarked no later than 10 days following the date of the administrative citation.

(b) *Hearing on Appeal*. Upon timely receipt of a request for appeal, the city shall set a time and date of a hearing before the Ellendale City Council and shall provide notice of said hearing to the person upon who the administrative citation was served. At said hearing, the person upon whom the administrative citation was served shall have the right to be heard relating to the alleged violation. Upon consideration of all the information presented, the Ellendale City Council shall have full authority to affirm the administrative citation, remove the administrative citation, or condition the administrative citation upon such compliance or corrective action as the City Council deems just and reasonable.

(6) *Repeat Violations*. Repeat violations, or a failure to cure a violation after an administrative citation has been administered, may result in an additional enhanced fine. A failure to cure a violation shall be defined as a failure to take appropriate corrective action within 30 days of issuance of an administrative citation. A repeat violation shall be defined as two or more similar violations within a 12 month period. The amount of an enhanced fine shall be determined by the City Council and shall not exceed five times the amount of the original fine. Needs formatting

(7) *Collection of Administrative Fines*. The city clerk is hereby authorized to utilize all methods available under Minnesota law to collect administrative fines. The violator shall be responsible for all costs of collection, including but not limited to the cost of utilizing a collection agency and reasonable attorney's fees incurred in the collection of the administrative fines. Needs formatting

(8) *Assessment of Administrative Fines*. Administrative fines may be assessed according to the following criteria and procedures.

(a) *Properties Subject to Assessment*. To the extent that an administrative fine has been issued (1) due to the existence of a zoning violation, (2) due to the existence of a nuisance, (3) for the purpose of accomplishing the removal of snow, ice, or rubbish from a sidewalk, (4) for the purpose of eliminating weeds from private property, (5) to remove or eliminate a public health or safety hazard from private property, or (6) due to the reinspection of private property which finds a noncompliance after the due date for compliance with an order to correct a municipal housing code violation, an unpaid administrative fine may be assessed against:

(1) Property which was the subject matter or related to the subject matter of the administrative fine; or

(2) Property which was the location of an activity, proposed use, delivery of city services or other circumstance which resulted in the administrative fine.

(b) *Prior Voluntary Payment*. Prior to any assessment for unpaid fines, the City shall seek voluntary payment of the fine by notifying the owner of the property in writing of the fine imposed and the intent of the City to assess the property. The property owner shall be given written notice of the proposed assessment and shall be provided an opportunity to be heard before the City Council.

(c) *Assessment Charge for Assessment*. An assessment charge as established by the

city's master fee schedule shall be due upon certification of the assessment.

(d) *Assessment Procedure*. The City shall follow the procedures set forth in Minnesota Statutes Chapter 429 in assessing the property in the manner of a special assessment. The amount assessed shall include the amount of the unpaid administrative fine and assessment charge. The amounts shall be certified to the Steele County auditor against said lot or parcel of land and shall be collected in the same manner as taxes and/or special assessments against the premises. The charge shall be a perpetual lien on the premises until paid. The entire amount of the fine shall be collected in the year following certification of the assessment.

(9) *Disposition of Fines*. All administrative fines collected pursuant to this Section shall be paid to the City of Ellendale and deposited into the general fund.

(10) *Administrative Fines Designated***.** Administrative fines shall be designated in the City's Fee Schedule, as updated from time to time by resolution of the City Council.

(F) The remedies to the City set forth herein shall be cumulative. The City, in its sole discretion, may apply one or more remedies. Nothing herein shall prevent the City from taking any other lawful action as it deems necessary to prevent or remedy any violation, including appropriate actions in district court."

§ 10.99 GENERAL PENALTY.

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

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

(C) In either the case of a misdemeanor or a petty misdemeanor, the costs of prosecution may be added. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.

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

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

APPENDIX A: RESOLUTION TO ADOPT A SCHEDULE OF OFFENSES AND VOLUNTARY ADMINISTRATIVE PENALTIES

WHEREAS, the City Council wishes to adopt the provisions of City Code, § 10.90, establishing a procedure for requesting the voluntary payment of administrative penalties for certain violations of the code; and

WHEREAS, the provisions of City Code, § 10.90, authorize the City Council, by a resolution adopted by a majority of its members, to identify administrative offenses and establish penalties for these offenses;

NOW THEREFORE, be it resolved by the City Council as follows:

The City Council hereby adopts the provisions of City Code, § 10.90, and adopts the following administrative penalties:

Offense	***Code Section***	***Amount of Administrative Penalty***
All offenses for which an administrative penalty may be established under this code, other than those specified below:		$100.00

EFFECTIVE DATE: The effective date of the resolution is the date of its passage by a majority of the members of the City Council. Passage of this resolution implements the provisions of City Code, § 10.90

Mayor:_____
Matthew Bartosch

Attest: _____
Kim Zimprich, City Clerk/Treasurer

TITLE III: ADMINISTRATION

Chapter

30. CITY COUNCIL

31. CITY OFFICIALS AND EMPLOYEES

32. FINANCE; REVENUE; TAXATION

CHAPTER 30: CITY COUNCIL

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ORGANIZATION AND PROCEDURE

§ 30.01 MEETINGS.

(A) *Regular meetings.* Regular meetings of the City Council shall be held on the second and fourth Thursday of each calendar month at 7:30 p.m. In the event of a conflict between the regularly scheduled meeting and a legal holiday, the regular meeting shall be rescheduled to a different date. The City Clerk/Treasurer shall maintain a schedule of regular meetings. This schedule shall be available for public inspection during regular business hours at the City Clerk/Treasurer's office.

(B) *Special meetings.* Special meetings, other than emergency meetings, may be called by the Mayor or by any two members of the Council. The request for a special meeting shall be filed in writing with the City Clerk/Treasurer who shall then notify all the members of the Council in writing of the time, place, and subject of the meeting. (This notice shall be delivered to the Council members by email notification. In addition, the Clerk/Treasurer shall notify each Councilmember by any other means for which the Councilmember has previously left written instructions with the Clerk/Treasurer.) Notice of special meetings shall be posted, and shall be mailed, or delivered to each person who has filed a written request for notice of the meetings, at least three days before the date of the meeting. Requests for notice of special

meetings must be in writing and filed with the City Clerk/Treasurer, designating an address where notice may be mailed. The request will be valid for one year.

(C) *Emergency meetings.* An emergency meeting is a special meeting called because of circumstances that, in the judgment of the Council, require its immediate consideration. The Mayor or any two Councilmembers may call an emergency meeting by filing a notice in writing with the City Clerk/Treasurer. The City Clerk/Treasurer shall immediately cause a copy of the notice to be delivered by email to each Councilmember, and in addition shall notify each Councilmember by any other means for which the Councilmember has previously left written instructions for the Clerk/Treasurer, and shall also attempt to provide notification by phone/text message. The City Clerk/Treasurer shall make a good faith effort to notify each news gathering organization that has filed a written request with the city for notice of special meetings, if the filed request includes a telephone number for notice. The notice shall include the subject of the meeting.

(D) *Initial meeting.* At the first regular Council meeting of January of each year, the Council shall do the following:

(1) Designate the depositories of city funds;

(2) Designate the official newspaper;

(3) Choose an Acting Mayor from the Councilmembers who shall perform the Mayor's duties during the Mayor's absence, disability from the city or, in case of vacancy in the Office of Mayor, until a successor has been appointed and qualifies; and

(4) Appoint necessary officers, employees, and members of boards, commissions, and committees.

(E) *Public meetings.* Except as otherwise provided in the Open Meeting Law, all Council meetings, including special, emergency, and adjourned meetings, and meetings of all Council committees shall be open to the public.

§ 30.02 PRESIDING OFFICER.

(A) *Who presides.* The presiding officer shall be the Mayor. In the absence of the Mayor, the Acting Mayor shall preside. In the absence of both, the Clerk/Treasurer shall call the meeting to order and shall preside until the Councilmembers present at the meeting choose one of their members to act temporarily as presiding officer.

(B) *Procedure.* The presiding officer shall preserve order, enforce the rules of procedure herein prescribed, and determine without debate, subject to the final decision of the Council on appeal, all questions of procedure and order. Except as otherwise provided by statute or by these rules, the proceedings of the Council shall be conducted in accordance with *Robert's Rules of Order Newly Revised, 9th Edition.*

(C) *Appeals.* Any member may appeal to the Council from a ruling of the presiding officer. If the appeal is seconded, the member may speak once solely on the question involved and the presiding officer may explain his or her ruling, but no other Councilmember shall participate in the discussion. The appeal shall be sustained if it is approved by a majority of the members present.

(D) *Rights of presiding officer.* The presiding officer may make motions, second motions, or speak on any question except that, on demand of any Councilmember, the presiding officer shall pass the Chair to another Councilmember to preside temporarily.

§ 30.03 MINUTES.

(A) *Who keeps.* The Clerk/Treasurer shall keep minutes of each Council meeting. In the Clerk/Treasurer's absence, the presiding officer shall appoint a Secretary Pro Tem. Ordinances, resolutions, and claims need not be recorded in full in the minutes if they appear in other permanent records of the Clerk/Treasurer and can be accurately identified from the description given in the minutes.

(B) *Approvals.* The minutes of each meeting shall be reduced to typewritten form, shall be signed by the Clerk/Treasurer, and copies shall be included in each Councilmember's agenda packet. At the next regular meeting, approval of the minutes need not be read aloud, but the presiding officer shall call for any additions or corrections. If there is no objection to a proposed addition or correction, it may be made without a vote of the Council. If there is an objection, the Council shall vote upon the addition or correction. If there are no additions or corrections, the minutes shall stand approved.

§ 30.04 ORDER OF BUSINESS.

(A) *Order established.* Each meeting of the Council shall convene at the time and place appointed. Council business shall be conducted in the following order:

(1) Call to order;

(2) Pledge of Allegiance.

(3) Approve Agenda.

(4) Consent Agenda.

(5) Public Input.

(6) Department Updates.

(7) Unfinished Business.

(8) New Business.

(9) Mayor/Council Updates.

(10) Adjournment.

(B) *Varying order.* The order of business may be varied by the presiding officer, but all public hearings shall be held at the time specified in the notice of the hearing.

(C) *Agenda.* The Clerk/Treasurer shall prepare an agenda of business for each Council meeting and file a copy in the office of the Clerk/Treasurer not later than three days before the meeting. The agenda shall be prepared in accordance with the order of business and copies shall be prepared for each Councilmember, sent to the City Attorney when needed, as far in advance of the meeting as time for preparation will permit. No item of business shall be considered unless it appears on the agenda for the meeting or is approved for addition to the agenda by a unanimous vote of the Council members present.

(D) *Agenda materials.* The Clerk/Treasurer shall see that at least one copy of printed materials relating to agenda items is available to the public in the meeting room while the Council considers their subject matter. The agenda item shall not be considered unless this provision is complied with. This section does not apply to materials that are classified as other than public under the Minnesota Data Practices Act or material from closed meetings.

§ 30.05 QUORUM AND VOTING.

(A) *Quorum.* At all Council meetings, a majority of the elected Councilmembers shall constitute a quorum for the transaction of business, but a smaller number may adjourn from time to time.

(B) *Voting.* The votes of the members on any question may be taken in any manner, which signifies the intention of the individual members, and the votes of the members on any action taken shall be recorded in the minutes. The vote of each member shall be recorded on each appropriation of money, except for payments of judgments, claims, and amounts fixed by statute. If any member is present but does not vote, the minutes, as to that member's name, shall be recorded as an abstention.

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

§ 30.06 ORDINANCES, RESOLUTIONS, MOTIONS, PETITIONS, AND COMMUNICATIONS.

(A) *Readings.* Every ordinance and resolution shall be presented in writing. An ordinance or resolution need not be read in full unless a member of the Council requests such a reading.

(B) *Signing and publication proof.* Every ordinance and resolution passed by the Council shall be signed by the Mayor, attested by the Clerk/Treasurer, and filed by the Clerk/Treasurer in the ordinance or resolution book. Proof of publication of every ordinance shall be attached and filed with the ordinance.

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

(D) *Motions, petitions, and communications.* Every motion shall be stated in full before the presiding officer submits it to a vote and shall be recorded in the minutes. Every petition or other communication addressed to the Council shall be in writing and shall be read in full upon presentation to the Council unless the Council dispenses with the reading. Each petition or other communication shall be recorded in the minutes by title and filed with the minutes in the office of the Clerk/Treasurer.

§ 30.07 COMMISSIONERS

(A) *Commissioners designated.* Commissioners shall be appointed by the Council at the first regular Council meeting in January of each year.

(B) *Referral and reports.* Any matter brought before the Council for consideration may be referred by the presiding officer to the appropriate committee or to a special committee which the presiding officer appoints for a written report and recommendation before it is considered by the Council as a whole. A majority of the members of the committee shall sign the report and file it with the Clerk/Treasurer prior to the Council meeting at which it is to be submitted. Minority reports may be submitted. Each committee shall act promptly and faithfully on any matter referred to it.

§ 30.08 SUSPENSION OR AMENDMENT OF RULES.

These rules may be suspended or amended only by a 2/3 vote of the members present and voting.

§ 30.09 EFFECTIVE DATE.

This subchapter is effective upon its passage and publication.

CHAPTER 31: CITY OFFICIALS AND EMPLOYEES

Section

City Clerk/Treasurer

31.01 Creation of office; annual audits

Salaries

31.15 Generally

CITY CLERK/TREASURER

§ 31.01 CREATION OF OFFICE; ANNUAL AUDITS.

(A) The Office of City Treasurer is abolished and the duties of the Treasurer shall be performed by the incumbent of the combined office of Clerk/Treasurer.

(B) There shall be an annual audit of the city's financial affairs by the State Auditor or by a public accountant in accordance with the procedures prescribed by the State Auditor.

SALARIES

§ 31.15 GENERALLY.

The salaries for city officials shall be set as follows:

Mayor:	$120 Monthly $60 Per Council Meeting
Council Members:	$80 Monthly $60 Per Council Meeting

CHAPTER 32: FINANCE; REVENUE; TAXATION

Section

Fees for Emergency Protection Fire Services

32.01 Purposes and intent
32.02 Definitions
32.03 Parties affected
32.04 Rates
32.05 Billing and collection
32.06 Mutual aid agreement
32.07 Application of collections to budget
32.08 Effective date

Master Fee Schedule

32.20 Adoption
Appendix A: Master Fee Schedule

FEES FOR EMERGENCY PROTECTION FIRE SERVICES

§ 32.01 PURPOSES AND INTENT.

This subchapter is adopted for the purpose of authorizing the City of Ellendale to charge for fire service as authorized by M.S. §§ 366.011, 366.012, and 415.01, as they may be amended from time to time.

§ 32.02 DEFINITIONS.

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

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

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

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

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

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

§ 32.03 PARTIES AFFECTED.

(A) Owners of property within the city who receive fire service;

(B) Anyone who received fire service as a result of any incident, event, or fire for which the City Fire Department is called by State or County dispatch; and

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

§ 32.04 RATES.

Calls are billed at rates as established in the city’s master fee schedule

§ 32.05 BILLING AND COLLECTION.

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

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

(C) If the fire service charge remains unpaid for 30 days after this notice of delinquency is sent, the city will use all practical and reasonable legal means to collect the fire service charge. The party receiving fire

service shall be liable for all collection costs incurred by the city, including, but not limited to, reasonable attorney fees and court costs.

(D) If the fire service charge remains unpaid for 30 days after the notice of delinquency is sent, the City Council may also, on or before November 29 of each year, certify the unpaid fire service charge to the County Auditor in which the recipient of the services owns real property for collection with property taxes. The County Auditor is responsible for remitting to the city all charge collected on behalf of the city. The city must give the property owner notice of its intent to certify the unpaid fire service charge by October 15.

§ 32.06 MUTUAL AID AGREEMENT.

When the City Fire Department provides fire service to another fire department pursuant to a mutual aid agreement, the billing will be determined by the mutual aid agreement.

§ 32.07 APPLICATION OF COLLECTIONS TO BUDGET.

All collected fire charges will be city funds and used to offset the expenses of the City Fire Department in providing fire services.

§ 32.08 EFFECTIVE DATE.

This subchapter shall be in force and effect upon its passage and publication.

MASTER FEE SCHEDULE

§ 32.20 ADOPTION.

(A) Pursuant to Minnesota law and the ordinances of the City of Ellendale, and upon a review of a study conducted by the City Council, a fee schedule for city services and licensing is hereby adopted, by an affirmative vote of a majority of the City Councilmembers present.

(1) The ordinances of the City of Ellendale establish that certain fees be set from time to time by the City Council.

(2) City Council has reviewed the current Master Fee Schedule for the City of Ellendale and is hereby recommending changes to the Master Fee Schedule, hereto attached as Appendix A, be adopted.

(3) Upon consideration and review of the City Council, the Master Fee Schedule, hereto attached as Appendix A of this chapter, is hereby adopted and becomes effective upon adoption and publication of this City Code.

(B) This section shall be in full force and effective upon passage and after publication. Fees are to become effective.

(C) The Master Fee Schedule may be amended from time to time by the City Council upon adoption of an resolution revising the Master Fee Schedule.

APPENDIX A: MASTER FEE SCHEDULE

AMENDED BY RESOLUION 2021-4-01

Community Center Rent:	***Fee***
Large hall and kitchen	$100 per event
Meeting room	$25.00 per event
Type of License/Permit:	
Golf cart permit or Unlicensed ATV	$10.00 annual
Dog/cat license	$10.00 annual
Replacement of dog/Cat License	$5.00
Animal release fee after impound (1st Offense)	$25.00
Animal release fee after impound (2nd Offense)	$50.00
Animal release fee after impound (3rd Offense)	$75.00
Registration of Rental Units 1 Unit 2-4 Units 5+ Units	(per unit) $75 $65 $35
Registration to perform work with Right-of-Way	$50 + Engineering
Liquor:	
Liquor On-Sale	$1,000.00 annual
Liquor Off-Sale	$200.00 annual
Liquor 3.2% malt liquor on sale license	$50.00 annual
Liquor temporary 3.2% malt on sale	$20.00 per day

Liquor 3.2% malt liquor off sale	$250.00 annual
Wine on sale license	$50.00 annual
Liquor Sunday Sales	$200.00 annual
Liquor Club License	$300.00 annual
Miscellaneous:	
Photocopies (Minutes, Ordinances and other public documents)	$0.25 each
Return check fee	$30.00
ACH return fee	$30.00
Assessment Charge (Section 10.90)	$100
Utility Rates:	
Water (1000 gallons) ($33.00 base + $8.00 for 1st 1000 gallons)	$41.00
Each 1000 gallons thereafter	$8.00
Water shutoff/reconnect fee	$75.00
Sewer	$23.00
Garbage	$11.50
Garbage fuel surcharge	$1.25
Late fee on delinquent balance (state fees and tax may apply)	10%
Annual interest accrued on outstanding utility bill balances	6%
Use of Water from Hydrant (Section 51.08)	
Sump pump	$50.00

Water and sewer hook-ups, each (Laterals & service lines installed by developer)	$400.00 each
Water and Sewer hook-ups, each (Laterals & service lines installed by city)	$900.00 each
Bulk water (city resident)	$11.67 per thousand
Bulk water (Non city resident)	$12.50 per thousand
Dumping	$0.025 per gallon
SWM Fee	9.75% per month
Assessment of Unpaid Utility Bill	$100.00
Snow Removal:	
Sanding township roads	$125.00 per hour
Tractor/Blower and Operator	$100.00 per hour
Plow Truck and Operator	$100.00 per hour
Backhoe and Operator	$100.00 per hour
Dump Truck and Operator	$100.00 per hour
Zoning:	
Conditional use permit	$250.00
Variance (1 or 2 family dwellings)	$100.00
Variance (other applications)	$250.00
Rezoning	$250.00
Weed Control	$50.00
Mileage	IRS approved rate

Certificate of Zoning Compliance Application		$20.00
Parking Fines	Paid within 48 hours	$2.00
	Paid within 10 days	$4.00
	Paid after 10 days	$10.00
Fees for Fire Services	Base fee for response to scene	$750
	Charge for pumper and two tankers	$500 1st hour $400 2nd hour $300 3rd hour $200/hour thereafter
	Grass Fires	$300 1st hour $200/hour thereafter

TITLE V: PUBLIC WORKS

Chapter

50. SEWERS

51. WATER

52. RIGHT OF WAY REGULATION

CHAPTER 50: SEWERS

Section

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GENERAL PROVISIONS

§ 50.001 DEFINITIONS.

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

ACT. The Federal Water Pollution Control Act also referred to as the Clean Water Act, being 33 USC 1251 et seq., as amended.

ASTM. American Society for Testing Materials.

AUTHORITY. This city or its representative thereof.

BIOCHEMICALOXYGENDEMAND(BOD5). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20° C, expressed in terms of milligrams per liter (mg/1).

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

BUILDING SEWER. The extension from the building drain to the public sewer or other place of disposal, also referred to as a house connection or service connection.

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

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

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

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

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

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

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

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

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

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

MAY. The term is permissive.

MPCA. The Minnesota Pollution Control Agency.

NATIONAL CATEGORICAL PRETREATMENT STANDARDS. Federal regulations establishing pretreatment standards for introduction of pollutants in publicly-owned wastewater treatment facilities which are determined to be not susceptible to treatment by those treatment facilities or would interfere with the operation of those treatment facilities, pursuant to Section 307(b) of the Act (33 USC 1317(b)).

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

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

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

NORMAL DOMESTIC STRENGTH WASTE. Wastewater that is primarily introduced by residential users with a BOD_5 concentration not greater than 287 mg/1 and suspended solids (TSS) concentration not greater than 287 mg/1.

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

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

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

PROPERLY SHREDDED GARBAGE. The wastes from the preparation, cooking and dispensing of food that have been shredded to a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers with no particle greater than ½ -inch (1.27 cm) in any dimension.

SEWAGE. The spent water of a community. The preferred term is wastewater.

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

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

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

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

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

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

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

SHALL. The term is mandatory.

STATE DISPOSAL SYSTEM (SDS) PERMIT. Any permit (including any terms, conditions and requirements thereof) issued by the MPCA pursuant to M.S. § 115.07, as it may be amended from time to time for a disposal system as defined by M.S.§115.01(8), as it may be amended from time to time.

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

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

UNPOLLUTED WATER. Water of quality equal to or better than the effluent criteria in effect, or water that would not cause violation of receiving water quality standards, and would not

be benefitted by discharge to the sanitary sewers and wastewater treatment facilities.

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

UTILITIES SUPERINTENDENT. The person appointed by the City Council to supervise the sewer and water systems of the city.

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

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

WPCF. The Water Pollution Control Federation.

§50.002 CONTROL OF SEWERS; ADMINISTRATION OF CHAPTER.

The Utilities Superintendent, or other official designated by the City Council shall have control and general supervision of all public sewers and service connections in the city, and shall be responsible for administering the provisions of this chapter to the end that a proper and efficient public sewer is maintained.

§ 50.003 BUILDING SEWERS; GENERAL REQUIREMENTS.

Building sewer construction shall meet the pertinent requirements of the Minnesota State Building Code, which is those chapters of Minn. Rules referenced in Minn. Rules part 1300.2400, subpart 6, as they may be amended from time to time, and the Minnesota Plumbing Code, Minn. Rules Ch. 4715, as it may be amended from time to time. The applicant shall notify the City's Building Inspector (Steele County Building Inspector) when the building sewer and connection is ready for inspection. The connection shall be made under the supervision of the Building Official or the Building Official's

representative, if the city has adopted the State Building Code. If the city has not adopted the State Building Code, the Utilities Superintendent shall perform the inspection. If the city does not have a Utilities Superintendent, an installer licensed under § 50.064 shall certify that the building sewer and connection comply with the State Building Code. No backfill shall be placed until the work has been inspected and approved, or until the certification has been received.

Penalty, see § 50.999

§ 50.004 TAMPERING WITH WASTEWATER FACILITIES.

No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is part of the wastewater facilities. Any person violating this provision shall be subject to immediate arrest under the charge of a misdemeanor.
Penalty, see § 50.999

§ 50.005 COST OF REPAIRING OR RESTORING SEWERS.

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

§ 50.015 DEPOSITS OF UNSANITARY MANNER PROHIBITED.

It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the city, or in any area under the city's jurisdiction, any human or animal excrement, garbage or objectionable waste.
Penalty, see § 50.999

§ 50.016 DISCHARGE OF WASTEWATER OR OTHER POLLUTED WATERS.

It shall be unlawful to discharge to any natural outlet any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter and the city's NPDES/SDS permit.
Penalty, see § 50.999

§ 50.017 RESTRICTIONS ON WASTEWATER DISPOSAL FACILITIES.

Except as otherwise provided in this chapter, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of wastewater.
Penalty, see § 50.999

§ 50.018 INSTALLATION OF SERVICE CONNECTION TO PUBLIC SEWER.

The owners of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes from which wastewater is discharged, and which is situated within the

city and adjacent to any street, alley or right-of-way in which there is now located, or may in the future be located, a public sanitary sewer of the city shall be required at the owner's expense to install a suitable service connection to the public sewer in accordance with provisions of this code within 365 days of the date the public sewer is operational; provided, the public sewer is within 200 feet of the structure generating the wastewater. All future buildings constructed on property adjacent to the public sewer shall be required to immediately connect to the public sewer. If sewer connections are not made pursuant to this section, an official ten-day notice shall be served instructing the affected property owner to make the connection.
Penalty, see§ 50.999

§ 50.035 PUBLIC SEWER NOT AVAILABLE.

Where a public sewer is not available under the provisions of § 50.018, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this subchapter and Minn. Rules Ch. 7080, Individual Sewage Treatment Systems Program, as they may be amended from time to time.
Penalty, see § 50.999

§ 50.036 PERMITS.

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

(B) *Inspections.* A permit for a private wastewater disposal system shall not become effective until the installation is completed to the satisfaction of the city or its authorized representative. The city or its representative shall be allowed to inspect the work at any stage of construction, and in any event, the applicant for the permit shall notify the city when work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within 24 hours of the receipt of notice.
Penalty, see § 50.999

§ 50.037 TYPE, CAPACITIES, LOCATION AND LAYOUT.

The type, capacities, location, and layout of a private wastewater disposal system shall comply with all requirements of Minn. Rules Ch.7080, Individual Sewage Treatment Systems Program, as they may be amended from time to time. No septic tank or cesspool shall be permitted to discharge to any natural outlet.
Penalty, see § 50.999

§ 50.038 DIRECT CONNECTION REQUIRED.

At the time as a public sewer becomes available to a property serviced by a private wastewater disposal system, a direct connection shall be made to the public sewer within 365 days in compliance with this chapter, and within 365 days any septic tanks, cesspools and similar private wastewater disposal systems shall be cleaned of sludge. The bottom shall be broken to permit drainage, and the tank or pit filled with suitable material.
Penalty, see § 50.999

§ 50.039 OPERATION AND MAINTENANCE BY OWNER.

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

§ 50.040 APPLICATION OF SUBCHAPTER.

No statement contained in this subchapter shall be construed to interfere with any additional requirements that may be imposed by the MPCA or the Minnesota Department of Health.

§ 50.055 RESTRICTIONS ON NEW CONNECTIONS.

Any new connections to the sanitary sewer system shall be prohibited unless sufficient capacity is available in all downstream facilities, including but not limited to capacity for flow, BOD_5 and suspended solids, as determined by the Utilities Superintendent.
Penalty, see § 50.999

§ 50.056 BUILDING SEWER PERMITS.

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

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

(C) *Classes.* There shall be two classes of building sewer permits: one for residential and commercial service, and one for service to establishments producing industrial wastes. In either case, the application shall be supplemented by any plans, specifications or any other information considered pertinent in the judgment of the city. The industry, as a condition of permit

authorization, must provide information describing its wastewater constituents, characteristics and type of activity.
Penalty, see § 50.999

§ 50.057 COSTS AND EXPENSES.

All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the city from any loss or damage that may be directly or indirectly occasioned by the installation of the building sewer.
Penalty, see § 50.999

§ 50.058 SEPARATE BUILDING SEWERS REQUIRED.

A separate and independent building sewer shall be provided for every building, except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway. The building sewer from the front building may be extended to the rear building and the whole considered one building sewer. The city does not and will not assume any obligation or responsibility for damage caused by or resulting from any connection.
Penalty, see § 50.999

§ 50.059 OLD BUILDING SEWERS; RESTRICTIONS ON USE.

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

§ 50.060 CONFORMANCE TO STATE BUILDING AND PLUMBING CODE REQUIREMENTS.

(A) The size, slopes, alignment, materials of construction of building sewers and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling of the trench, shall all conform to the requirements of the State Building and Plumbing Code or other applicable rules and regulations of the city.

(B) The connection of the building sewer into the public sewer shall conform to the requirements of the State Building and Plumbing Code or other applicable rules and regulations of the city. All connections shall be made gas tight and water tight, and verified by proper testing to prevent the inclusion of infiltration/inflow. Any deviation from the prescribed procedures and materials must be approved by the city prior to installation.
Penalty, see § 50.999

§ 50.061 ELEVATION BELOW BASEMENT FLOOR.

Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by the building drain shall be lifted by an approved means and discharged to the building sewer.
Penalty, see § 50.999

§ 50.062 SURFACE RUNOFF OR GROUNDWATER CONNECTIONS PROHIBITED.

Surface runoff and groundwater connections shall be governed by the following provisions:

(A) Purpose. The City Council finds that the discharge of water from natural precipitation, surface runoff or groundwater into the City sanitary sewage system has the potential to flood and overload the sanitary sewage system to such an extent as to cause significant and grave damage to the waste treatment plant and sanitary sewer trunk system. In addition, said discharges have the potential to cause backups on private properties and pressure damage to trunk lines. The City Council, therefore, finds it essential to the minimization of damage to property that the provisions of this ordinance be strictly enforced to avoid emergencies in the future.

(B) *Prohibition against discharges into sanitary sewer system*. No water from any roof, surface, groundwater, sump pump, footing tile, swimming pool, downspout, foundation drain, areaway drain, or other source of natural precipitation, surface runoff or groundwater shall be discharged into the sanitary sewer system.

(C) Permanent Discharge Line Required. Dwellings and other buildings and structures which require, because of infiltration of water into basements, crawl spaces and the like, a sump pump discharge system shall have a permanently installed discharge line which shall not at any time discharge water into the sanitary sewer system, except as provided herein. A "permanently installed discharge line" shall consist of a rigid discharge line (plastic, copper, galvanized or black pipe), without valving or quick connections for altering the path of discharge. It shall not be capable of connection or reconnection to the sanitary sewer system.

(D) Limitations on Discharge. The permanently installed discharge line shall provide for year-around discharge capability outside of the dwelling, building or structure to the City storm sewer via a direct connection or shall discharge onto the owner's property. Runoff from sump pump discharge shall dissipate on the owner's property and shall not drain onto a sidewalk or a street, nor shall the discharge create a nuisance for a neighboring property.

(E) Connection to Storm Sewer. In the event that a property has access to connect its sump pump discharge directly into the City's storm sewer, said property owner shall complete and retain said connection and direct all sump pump discharge into the City's storm sewer.

(F) Disconnection. Before September 1, 2016, any person, firm, or corporation having a

discharge line connected and/or discharging into the sanitary sewer system shall disconnect and/or remove same. Any disconnects or openings in the sanitary sewer shall be closed in an effective, workmanlike manner, as approved by the City.

(G) Inspection/Certification. Every person owning improved real estate that discharges into the City's sanitary sewer system shall have obtained an inspection of each building located on such property by an inspector designated by the City. The purpose of this inspection shall be to confirm that there is no sump pump or other prohibited discharge into the sanitary sewer system and that the discharge complies with Paragraph (D). In lieu of having the City inspect such property, the owner may, furnish a certificate from a licensed plumber, in a form acceptable to the City, certifying that the property is in compliance with this ordinance.

(H) Future inspections. Any building may be re-inspected on a yearly basis in conjunction with yearly water meter or other inspections. In addition, upon probable cause the City may require any property owner to provide evidence of compliance with this ordinance.

(I) New home inspections. All new construction that includes a connection to the sanitary sewer will be required to have their sump pump system inspected and be in compliance with this ordinance prior to issuance of a certificate of occupancy.

(J) Waivers. The City Council may, in its sole discretion, consider requests for waivers from the applicability of the provisions of this ordinance where strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration or cause a safety problem. This would also include cases that would not be practical or feasible to correct the clear water discharge problem. Application for waivers pursuant to this ordinance shall be addressed in writing to the City Clerk. The application shall at a minimum identify the property for which the waiver is being applied for, the name of the property owner/applicant, and describe in detail what characteristics of the subject property create an undue hardship. Within a reasonable time the City Council shall make its decision on the matter and send a copy of such decision to the applicant by regular mail. Upon approval of an application for a waiver, a property owner shall be allowed to discharge directly into the sanitary sewer system for the time specified in the City Council's written decision. The applicant will be required to agree to pay an additional fee for the additional sewer service, along with the regular monthly charge. Fees for this service will be based on estimated yearly average amounts discharged to the sanitary sewer.

(K) Surcharge and Penalties. A surcharge of Fifty Dollars ($50.00) per month shall be added to every sewer bill mailed to property owners who have not obtained a property inspection or provided a certificate of compliance by that date. In addition, a surcharge of Fifty Dollars ($50.00) per month shall be added to every sewer bill mailed to property owners who's discharge does not comply with Paragraph (D). The surcharge shall be added every month to be included in monthly bills for properties not complying with this ordinance. All properties found during yearly inspection to have violated this ordinance will be subject to the $50.00 per month charge for all months between the two most recent inspections, and for each month thereafter until the property owner submits proof to the City that the property is brought into full compliance. In addition to the $50.00 per month charge, a property owner or other person who is not in compliance with this ordinance will be mailed, by regular mail, a notice that such violation shall cease and desist within a time limit provided by the City Council. If such violation does not cease and desist by the established time limit, the owner of the property or other person violating this ordinance shall be guilty of a misdemeanor.

§ 50.063 EXCAVATIONS.

All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city.
Penalty, see § 50.999

§ 50.064 LICENSES.

Required. Service connections are the responsibility of the property owner. Connections shall be made by a person licensed as a plumber by the State of Minnesota, or a person in the ditch installing the pipe who has a card showing that they have completed a program of training that incorporates the Plumbing Code installation requirements, issued by either the Associated Builders and Contractors, Laborers-Employers Cooperation Educational Trust, or Minnesota Utility Contractors Association, is not subject to the licensing requirements of this section.
Penalty, see § 50.999

USE OF PUBLIC SERVICES

§ 50.080 DISCHARGES OF UNPOLLUTED WATER.

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

(B) Storm water and all other unpolluted drainage shall be discharged to those sewers as are specifically designed as storm sewers or to a natural outlet approved by the city and other regulatory agencies. Industrial cooling water or unpolluted process waters may be discharged to a storm sewer or natural outlet on approval of the city and upon approval and the issuance of a discharge permit by the MPCA.
Penalty, see § 50.999

§ 50.081 DISCHARGES OF WATERS OR WASTES.

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

(A) Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the wastewater disposal system or to the operation of the system. Prohibited materials include but are not limited to gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates,

carbides, hydrides and sulfides.

(B) Solid or viscous substances which will cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities such as but not limited to grease, garbage with particles greater than ½ -inch in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshing's, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastic, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud or glass grinding or polishing wastes.

(C) Any wastewater having a pH of less than 5.0 or greater than 9.5 or having any other corrosive property capable of causing damage or hazard to structures,equipment and personnel of the wastewater disposal system.

(D) Any wastewater containing toxic pollutants insufficient quantity, either singly or by interaction with other pollutants, to inhibit or disrupt any wastewater treatment process, constitute a hazard to humans or animals, or create a toxic effect in the receiving waters of the wastewater disposal system. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to Section 307(a) of the Act (33 USC1317(a)).
Penalty, see § 50.999

§ 50.082 LIMITED DISCHARGES.

(A) The following described substances, materials, water or wastes shall be limited in discharges to municipal systems to concentrations or quantities which will not harm either sewers, the wastewater treatment works, treatment process or equipment, will not have an adverse effect on the receiving stream and soil, vegetation and ground water, or will not otherwise endanger lives, limb, public property, or constitute a nuisance. The Utilities Superintendent may set limitations lower than limitations established in the regulations below if, in his or her opinion, the more severe limitations are necessary to meet the above objectives. In forming his or her opinion as to the acceptability of wastes, the Utilities Superintendent will give consideration to factors as the quantity of subject waste in reaction to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, the city's NPDES/SDS permit, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors.

(B) The limitations or restrictions on materials or characteristics of waste or wastewaters discharged to the sanitary sewer which shall not be violated without approval of the Utilities Superintendent areas follows:

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

(2) Any wastewater containing fats, wax, grease or oils, whether emulsified or not, in excess of 100 mg/1 or containing substances which may solidify or become viscous at temperatures between 32°F and 150°F (0°C and 65.6°C); and any wastewater containing oil and grease concentrations of mineral

origin of greater than 100 mg/l, whether emulsified or not.

(3) Any quantities of flow, concentrations, or both which constitute a "slug" as defined in § 50.001.

(4) Any garbage not properly shredded, as defined in § 50.001 of this chapter. Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments or similar places where garbage originates from the preparation of food on the premises or when served by caterers.

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

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

(7) Non-contact cooling water or unpolluted storm, drainage or groundwater.

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

(9) Any radioactive wastes or isotopes of half-life or concentration as may exceed limits established by the Utilities Superintendent in compliance with applicable state or federal regulations.

(10) Any waters or wastes containing the following substances to the degree that any material received in the composite wastewater at the wastewater treatment works is detrimental to treatment process, adversely impacts land application, adversely effects receiving waters, or is in violation of standards pursuant to Section 307(b) of the Act (33 USC 1317(b)): Arsenic, Cadmium, Copper, Cyanide, Lead, Mercury, Nickel, Silver, total Chromium, Zinc and Phenolic compounds which cannot be removed by the city 's wastewater treatment system.

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

(12) Any waters or wastes containing BOD_5 or suspended solids of character and quantity that unusual attention or expense is required to handle the materials at the wastewater treatment works, except as may be permitted by specific written agreement subject to the provisions of § 50.094.

§ 50.083 DISCHARGES HAZARDOUS TO LIFE OR CONSTITUTE PUBLIC NUISANCES.

(A) If any waters or wastes are discharged or are proposed to be discharged to the public sewers which contain substances or possess the characteristics enumerated in § 50.082, or which in the judgement of the Utilities Superintendent may have a deleterious effect upon the wastewater treatment facilities, processes, or equipment, receiving waters or soil, vegetation, and ground water, or which

otherwise create a hazard to life or constitute a public nuisance, the city may:

(1) Reject the wastes;

(2) Require pretreatment to an acceptable condition for discharge to the public sewers, pursuant to Section 307(b) of the Act (33 USC 1317(b)) and all amendments thereof;

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

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

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

§ 50.084 INCREASING USE OF PROCESS WATER.

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 §§ 50.081 and 50.082, or contained in the National Categorical Pretreatment Standards or any state requirements.
Penalty, see § 50.999

§ 50.085 PRETREATMENT OR FLOW-EQUALIZING FACILITIES.

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

§ 50.086 GREASE, OIL AND SAND INTERCEPTORS.

Grease, oil, and sand interceptors shall be provided when, in the opinion of the Utilities Superintendent, they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts, as specified in § 50.082(B)(2), any flammable wastes as specified in § 50.08l(A), sand or other harmful ingredients; except that interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of the type to be readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors, the owner shall be responsible for the proper removal and disposal of the captured materials by appropriate means, and shall maintain a record of dates and means of disposal which are subject to review by the Utilities Superintendent. Any removal and hauling of the collecting materials not performed by the owner's personnel must be performed by a currently licensed waste disposal firm.
Penalty, see § 50.999

§ 50.087 INDUSTRIAL WASTES; INSTALLATIONS.

Where required by the city, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable structure, or control manhole, with necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of wastes. The structure shall be accessible and safely located, and shall be constructed in accordance with plans approved by the city. The structure shall be installed by the owner at his or her expense and shall be maintained by the owner to be safe and accessible at all times.
Penalty, see § 50.999

§ 50.088 INDUSTRIAL WASTES; REQUIREMENTS.

The owner of any property serviced by a building sewer carrying industrial wastes may, at the discretion of the city, be required to provide laboratory measurements, tests or analyses of waters or wastes to illustrate compliance with this chapter and any special condition for discharge established by the city or regulatory agencies having jurisdiction over the discharge. The number, type and frequency of sampling and laboratory analyses to be performed by the owner shall be as stipulated by the city. The industry must supply a complete analysis of the constituents of the wastewater discharge to assure that compliance with federal, state and local standards are being met. The owner shall report the results of measurements and laboratory analyses to the city at times and in the manner as prescribed by the city. The owner shall bear the expense of all measurements, analyses and reporting required by the city. At those times as deemed necessary, the city reserves the right to take measurements and supplies for analysis by an independent laboratory.
Penalty, see § 50.999

§ 50.089 MEASUREMENTS, TESTS AND ANALYSES OF WATERS AND WASTES.

All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of *Standard Methods for the Examination of Water and Wastewater,* published by the American Public Health Association. Sampling methods, location, times, duration and frequencies are to be determined on an individual basis subject to approval by the Utilities Superintendent.
Penalty, see § 50.999

§ 50.090 PROTECTION FROM ACCIDENTAL DISCHARGE OF PROHIBITED MATERIALS.

Where required by the city, the owner of any property serviced by a sanitary sewer shall provide protection from an accidental discharge of prohibited materials or other substances regulated by this chapter. Where necessary, facilities to prevent accidental discharges of prohibited materials shall be provided and maintained at the owner's expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the Utilities Superintendent for review and approval prior to construction of the facility. Review and

approval of the plans and operating procedures shall not relieve any user from the responsibility to modify the user's facility as necessary to meet the requirements of this chapter. Users shall notify the Utilities Superintendent immediately upon having a slug or accidental discharge of substances of wastewater in violation of this chapter to enable countermeasures to be taken by the Utilities Superintendent to minimize damage to the wastewater treatment works. The notification will not relieve any user of any liability for any expense, loss or damage to the wastewater treatment system or treatment process, or for any fines imposed on the city on account thereof under any state and federal law. Employers shall ensure that all employees who may cause or discover a discharge are advised of the emergency notification procedure.
Penalty, see § 50.999

§ 50.091 PERMITTING SUBSTANCE OR MATTER TO FLOW OR PASS INTO PUBLIC SEWERS.

No person having charge of any building or other premises which drains into the public sewer shall permit any substance or matter which may form a deposit or obstruction to flow or pass into the public sewer. Within 30 days after receipt of written notice from the city, the owner shall install a suitable and sufficient catch basin or waste trap, or if one already exists, shall clean out, repair or alter the same, and perform other work as the Utilities Superintendent may deem necessary. Upon the owner's refusal or neglect to install a catch basin or waste trap or to clean out, repair, or alter the same after the period of 30 days, the Utilities Superintendent may cause the work to be completed at the expense of the owner or representative thereof.
Penalty, see § 50.999

§ 50.092 REPAIRING SERVICE CONNECTION.

Whenever any service connection becomes clogged, obstructed, broken or out of order, or detrimental to the use of the public sewer, or unfit for the purpose of drainage, the owner shall repair or cause the work to be done as the Utilities Superintendent may direct. Each day after 30 days that a person neglects or fails to so act shall constitute a separate violation of this section, and the Utilities Superintendent may then cause the work to be done, and recover from the owner or agent the expense thereof by an action in the name of the city.
Penalty, see § 50.999

§ 50.093 CATCH BASIN OR WASTE TRAPS REQUIRED FOR MOTOR VEHICLE WASHING OR SERVICING FACILITIES.

The owner or operator of any motor vehicle washing or servicing facility shall provide and maintain in serviceable condition at all times a catch basin or waste trap in the building drain system to prevent grease, oil, dirt or any mineral deposit from entering the public sewer system.
Penalty, see § 50.999

§ 50.094 SPECIAL AGREEMENT AND ARRANGEMENT.

No statement contained in this subchapter shall be construed as preventing any special agreement or arrangement between the city and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the city for treatment, subject to payment therefore by the industrial concern; provided, that National Categorical Pretreatment Standards and the city's NPDES/SDS Permit limitations are not violated.

USER RATE SCHEDULE FOR CHARGES

§ 50.110 CHARGES GENERALLY.

Each user of sewer service shall pay the charges applicable to the type of service, and in accordance with the provisions set forth in this subchapter.

§ 50.111 PURPOSE.

The purpose of the subchapter is to provide for sewer service charges to recover costs associated with operation, maintenance and replacement to ensure effective functioning of the city's wastewater treatment system, and local capital costs incurred in the construction of the city's wastewater treatment system.

§ 50.112 DEFINITIONS.

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

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

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

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

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

INDUSTRIAL USERS or INDUSTRIES.

(A) (1) Entities that discharge into a publicly owned wastewater treatment works liquid

wastes resulting from the processes employed in industrial or manufacturing processes, or from the development of any natural resources. These are identified in the *Standard Industrial Classification Manual,* latest edition, Office of Management and Budget, as amended and supplemental under one of the following divisions:

Division A. Agriculture, forestry and fishing
Division B. Mining
Division D. Manufacturing
Division E. Transportation, communications, electric, gas, and sanitary sewers
Division I. Services

(2) For the purpose of this definition, domestic waste shall be considered to have the following characteristics: BOD_5 -less than 287 mg/1; Suspended solids - less than 287 mg/1.

(B) Any nongovernmental user of a publicly owned treatment works which discharges wastewater to the treatment works which contains toxic pollutants or poisonous solids, liquids or gases in sufficient quantity either singly or by interaction with other wastes to contaminate the sludge of any municipal systems, or to injure or to interfere with any sewage treatment process, or which constitutes a hazard to humans or animals, creates a public nuisance, or creates any hazard in or has an adverse effect on the waters receiving any discharge from the treatment works.

MAY. The term is permissive.

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

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

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

REPLACEMENT COSTS. Expenditures for replacement.

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

SEWER SERVICE CHARGE. The aggregate of all charges, including charges for operation,

maintenance, replacement, debt service, and other sewer related charges that are billed periodically to users of the city's wastewater treatment facilities.

SEWER SERVICE FUND. A fund into which income from sewer service charges is deposited along with other income, including taxes intended to retire debt incurred through capital expenditure for

wastewater treatment. Expenditure of the sewer service fund will be for operation, maintenance and replacement costs and to retire debt incurred through capital expenditure for wastewater treatment.

SHALL. The term is mandatory.

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

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

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

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

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

§ 50.113 ESTABLISHMENT OF A SEWER SERVICE CHARGE SYSTEM.

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

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

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

(D) Sewer service rates and charges to users of the wastewater treatment facility shall be determined and fixed in a "Sewer Service Charge System" developed according to the

provisions of this subchapter. The Sewer Service Charge System shall be the system enacted prior to the adoption of this code. The Ordinance Establishing Fees and Charges adopted pursuant to § 32.20 of this code may be amended from time to time to include subsequent changes in sewer service rates and charges.

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

(F) Sewer service charges and the sewer service fund will be administrated in accordance with the provisions of § 50.116.

(G) A connection fee as fixed in the Ordinance Establishing Fees and Charges adopted pursuant to § 32.20 of this code, as that ordinance may be amended from time to time, shall be charged to each user connecting a new service to the Sanitary Sewer System. The connection fee shall be due and payable within 90 days of the date the connection is completed.
Penalty, see § 50.999

§ 50.114 DETERMINATION OF SEWER SERVICE CHARGES.

The sewer service rates and charges to users of the wastewater treatment facility shall be as established by ordinance or resolution prior to the adoption of this code, unless amended or modified in the Ordinance Establishing Fees and Charges, adopted pursuant to § 32.20, as that ordinance may be amended from time to time.
Penalty, see § 50.999

§ 50.115 SEWER SERVICE FUND.

(A) The city hereby establishes a "Sewer Service Fund" as an income fund to receive all revenues generated by the sewer service charge system, and all other income dedicated to the operation, maintenance, replacement and construction of the wastewater treatment works, including taxes, special charges, fees and assessments intended to retire construction debt.

(B) All revenue generated by the sewer system, and all other income pertinent to the treatment system, including taxes and special assessments dedicated to retire construction debt, shall be held by the City Clerk/Treasurer separate and apart from all other funds of the city. Funds received by the sewer service fund shall be transferred to the "Operation and Maintenance Account," the "Equipment Replacement Account," and the "Debt Retirement Account" in accordance with state and federal regulations and the provisions of this chapter.

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

income generated by the "Equipment Replacement Account" shall remain in the "Equipment Replacement Account."

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

§ 50.116 ADMINISTRATION.

The sewer service charge system and sewer service fund shall be administrated according to the following provisions:

(A) The City Clerk/Treasurer shall maintain a proper system of accounts suitable for determining the operation and maintenance, equipment replacement and debt retirement costs of the treatment works, and shall furnish the City Council with a report of those costs annually in December. The City Council shall annually determine whether or not sufficient revenue is being generated for the effective operation, maintenance, replacement and management of the treatment works, and whether sufficient revenue is being generated for debt retirement. The Council will also determine whether the user charges are distributed proportionately to each user in accordance with § 50.113 (B). The city shall thereafter, but not later than the end of the year, reassess and as necessary revise the Sewer Service Charge System then in use to ensure the proportionality of the user charges and to ensure the sufficiency of funds to maintain the capacity and performance to which the facilities were constructed, and to retire the construction debt.

(B) In accordance with state requirements, the City Clerk/Treasurer shall be responsible for maintaining all records necessary to document compliance with the Sewer Service Charge System adopted.

(C) Bills for sewer service charges shall be rendered on a monthly basis succeeding the period for which the service was rendered and shall be due 20 days from the date of rendering. Any bill not paid in full 30 days after the due date will be considered delinquent. At that time the city shall notify the delinquent owner/occupant in writing regarding the delinquent bill and subsequent penalty. The penalty shall be as established in the city's master fees schedule. Disconnection of services for late payment shall follow the procedures established in § 50.117.

(D) The owner of the premises shall be liable to pay for the service to their premises, and the service is furnished to the premises by the city only upon the condition that the owner of the premises is liable therefore to the city.

(E) 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 the wastes, at no expense to the city.

§ 50.117 DISCONNECTION FOR LATE PAYMENT.

The City Clerk shall be in charge of the administration of enforcement of disconnection for

late payment. The City Maintenance Department shall conduct the utility shut off upon the direction of the City Clerk. In addition, on all rental properties, the landlord will be listed on the billing as well as the tenant. The landlord will be provided with a copy of the monthly utility bill. The city will follow all Minnesota Statutes regarding utility shut off.

The following procedures shall be followed:

(A) The City Clerk will provide notice of the proposed shut off to both the property owner and occupant first by certified mail electronic return receipt requested. In the event a successful electronic return receipt is not received by the City from the occupant within ten (10) calendar days of mailing of the certified notice, the City shall attempt personal service of the notice upon the occupant. If personal service is not possible, the City shall post such notice at a conspicuous place on the property.

(B) Any account that is three (3) months or more in arrears will be processed for shut-off pursuant to this policy.

(C) The City will generally not shut off service between November 15 and April 15 of each year for delinquency of payment of accounts. The city will not discontinue water service if the cold weather rule applies to that property.

(D) Shut-off notices will be mailed prior to October 15 of each year, or as the need arises throughout the year pursuant to this policy.

(E) A written payment agreement (the "Repayment Agreement") on delinquent accounts may be entered into with the City by the property owner or occupant for repayment during a period of up to one year on the following conditions:

(1) The payment on the delinquency amount shall be not less than $50.00 per month;

(2) The delinquency amount shall be paid in full within one year of execution of the Repayment Agreement;

(3) The owner or occupant shall remain current with monthly payments under the Repayment Agreement and shall remain current with payments for ongoing services;

(4) The due date for payments under the Repayment Agreement shall be the same due date for payment of ongoing services;

(5) If payments under the Repayment Agreement or payments for ongoing services are not received by the due date, the Repayment Agreement shall be deemed void, the owner and/or occupant shall be deemed delinquent, and the City may proceed with shut off of service after notice;

(6) In the event the Repayment Agreement is voided through non-payment as set forth in e) above, the owner and occupant shall not be eligible to enter into an additional Repayment
Agreement for a period of twelve (12) months and until the delinquent amount is paid in full;

(7) As long as the owner or occupant is current with payments under the Repayment Agreement and is current on payments for ongoing services, the City may waive late fees as allowed under the city fee schedule, with the provision that if the Repayment Agreement is voided for non-payment or late payment, or payment of current services is late, the City may immediately commence assessment of such late fees; also all previously accrued late fees will once again be owed and

(8) If a delinquent account is certified to taxes during a time period of shut off of service, the certified amount must be paid in full by the owner or occupant prior to reactivation of service.

(F) Amounts already certified to property taxes on the date of adoption of this policy are exempt from the repayment plan**.**

Any exception to this policy must be first approved by the City Council prior to implementation.

POWERS AND AUTHORITY OF INSPECTORS

§ 50.130 AUTHORIZED EMPLOYEES PERMITTED TO ENTER ALL PROPERTIES.

The Utilities Superintendent or other duly authorized employees of the city, bearing proper credentials and identification, are authorized, with the permission of the licensee, owner, resident or other person in control of property within the city, to enter all properties for the purpose of inspection, observations, measurement, sampling and testing pertinent to the discharges to the city's sewer system in accordance with the provisions of this chapter. If the licensee, owner, resident or other person in control of property within the city does not permit the entrance to the property, the city shall obtain an administrative search warrant as provided for in § 10.20 before entering the property, except in emergency situations.

§ 50.131 AUTHORIZED EMPLOYEES OBTAINING INFORMATION FOR INDUSTRIAL PROCESSES.

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

§ 50.132 AUTHORIZED EMPLOYEES TO OBSERVE SAFETY RULES.

While performing necessary work on private properties, the Utilities Superintendent or duly authorized employees of the city shall observe all safety rules applicable to the premises established by the company, and the property owner shall be held harmless for injury or death to the city employees and the city shall indemnify the property owner against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as may be caused by negligence or failure of the company to maintain safe conditions as required in § 50.087.

§ 50.133 AUTHORIZED EMPLOYEES PERMITTED TO ENTER ALL PROPERTY WITH EASEMENTS.

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

§ 50.999 PENALTY.

(A) (1) Any person found to be violating any provisions of §§ 50.001 through 50.094 and 50.130 through 50.133 shall be served by the city with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in the notice, permanently cease all violations.

(2) Any person who shall continue any violation beyond the time limit provided for in division (A) of this section shall be punished as provided in § 10.99. Each day in which any violation occurs shall be deemed as a separate offense.

(3) Any person violating any of the provisions of §§ 50.001 through 50.094 and 50.130 through 50.133 shall become liable to the city for any expense, loss or damage occasioned by the city by reason of that violation.

(B) (1) Each and every sewer service charge levied by and pursuant to §§ 50.110 through 50.117 is made a lien upon the lot or premises served, and all charges which are on October 31 of each year past due and delinquent shall be certified to the County Auditor by November 29, for collection as provided for in § 50.117. Nothing in §§ 50.110 through 50.117 shall be held or construed as in anyway stopping or interfering with the right of the city to levy as taxes or assessments against any premises affected any delinquent or past due sewer service charges.

(2) As an alternative to levying a lien, the city may, at its discretion, file suit in a civil action to collect amounts as are delinquent and due against the occupant, owner or user of the real estate, and

shall collect as well all attorney's fees incurred by the city in filing the civil action. Attorney's fees shall be fixed by order of the court.

(3) In addition to all penalties and costs attributable and chargeable to recording notices of the lien or filing a civil action, the owner or user of the real estate being serviced by the treatment works shall be liable for interest upon all unpaid balances at set forth in the city's master fee schedule.

CHAPTER 51: WATER

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GENERAL PROVISIONS

§ 51.01 GENERAL OPERATION.

The city does hereby make provision for the establishment of a municipal water system (hereinafter called the water system) to be operated as a public utility.

§ 51.02 USE OF WATER SERVICE.

No person other than a city employee shall uncover or make or use any water service installation connected to the city water system except in the manner provided by this chapter. No person shall make or use any installation contrary to the regulatory provisions of this chapter.
Penalty, see § 10.99

§ 51.03 USE TO CIRCUMVENT CHAPTER PROHIBITED.

No person shall permit water from the water system to be used for any purpose to circumvent this chapter.
Penalty, see § 10.99

§ 51.04 DAMAGE TO WATER SYSTEM.

(A) No unauthorized person shall remove or damage any structure, appurtenance, or part of the water system or fill or partially fill any excavation or move any gate valve used in the water system.

(B) No person shall make any connection of an electrical welder to the city water main, appurtenance or service or use an electric welder for the purpose of thawing frozen water mains, appurtenances or services.
Penalty, see § 10.99

§ 51.05 CONNECTIONS BEYOND CITY BOUNDARIES.

Where water mains of the city are in any street or alley adjacent to or outside the corporate limits of the city, the City Council may issue permits to the owners or occupants of properties adjacent or accessible to the water main to make proper water service pipe connections with the water mains of the city and to be supplied with water inconformity with the applicable provisions of this chapter and subject to any contract for the supply of water between the city and any other city.
Penalty, see § 10.99

§ 51.06 CONNECTION TO SYSTEM REQUIRED; USE OF PRIVATE WELLS.

(A) Except where municipal water is not available, it shall be unlawful to construct, reconstruct, or repair any private water system which is designed or intended to provide water for human consumption. Private wells, to provide water for other than human consumption, may be constructed, maintained and continued in use after connection is made to the water system; provided, there is no means of cross-connection between the private well and municipal water supply at any time. Hose bibbs that will enable the cross-connection of the two systems are prohibited on internal piping of the well system supply. Where both private and city systems are in use, outside hose bibbs shall not be installed on both systems.

(B) All new homes or buildings shall connect to the municipal water system if water is available to the property. At the time as municipal water becomes available to existing homes or buildings, a direct connection shall be made to the public system within a period of time as determined by the City Council. If the connection is not made pursuant to this chapter, a charge shall be made in an amount established by §51.51.

(C) Where new homes or buildings do not have water available to the property, the city shall determine whether and under what conditions the municipal water system will be extended to serve the property.

(D) If the well is not to be used after the time a municipal water connection is made:

(1) The well pump and tank shall be disconnected from all internal piping;

(2) The casing shall be filled with sandy soil from the bottom to a point eight feet from the top;

(3) The remaining eight feet shall be filled with concrete to the floor level and the well casing cut off as close to the floor level as possible;

(4) Within 30 days after the municipal water connection is made, the owner or occupant must advise the City Utilities Superintendent that the well has been sealed.

(5) Notwithstanding the foregoing, all well abandonment shall be done in accordance with M.S. §§ 1031.301 to 1031.345 and Minn. Rules Ch. 4725, Wells and Borings, as it may be amended from time to time.
Penalty, see § 10.99

§ 51.07 USE OF WATER FOR AIR CONDITIONING; PERMITS.

(A) All air conditioning systems which are connected directly or indirectly with the public water system must be equipped with water conserving and water regulating devices as approved by a representative designated by the City Council.

(B) Permits shall be required for the installation of all air conditioning systems to the public water system. The fee shall be established pursuant to § 51.51.
Penalty, see § 10.99

§ 51.08 USE OF WATER FROM FIRE HYDRANTS; TEMPORARY CONNECTIONS.

(A) *Use of fire hydrants.* Except for extinguishment of fires, no person, unless authorized by the Public Works Director or Public Utilities Department, shall operate fire hydrants or interfere in any way with the water system without first obtaining a permit to do so from the city as follows:

(1) A permit to use a fire hydrant shall be issued for each individual job or contract and for a minimum of 30 days and for the additional 30 day period as the city shall determine. The permit shall state the location of the hydrant and shall be for the use of that hydrant and none other.

(2) The user shall make an advance cash deposit to guarantee payment for water used and to cover breakage and damage to the hydrant and meter as established in the city's master fee schedule, which shall be refunded upon expiration of the permit, less applicable charges for use.

(3) The user shall relinquish the use of the hydrant to authorized city employees in emergency situations.

(4) The user shall pay a rental charge as established in the city's master fees schedule for each 1,000 gallons of water used.

(B) *Temporary connection to fire hydrants.* An owner of a private water system may make a temporary above ground connection to a fire hydrant, subject to the time periods, conditions, and payment specified in § 51.51. In addition, the method of connection to the private system shall conform to all existing requirements of this chapter and city ordinance and the type of meter used shall meet the approval of the Utilities Superintendent.
Penalty, see § 10.99

§ 51.09 WATER DEFICIENCY, SHUT OFF AND USE RESTRICTIONS.

The city shall not be liable for any deficiency or failure in the supply of water to consumers, whether occasioned by shutting the water off for the purpose of making repairs or connections or from any other cause whatsoever. In case of fire, or alarm of fire, or in making repairs of construction of new works, water may be shut off without notice at any time and kept off as long as necessary. In addition, the City Council shall have the right to impose reasonable restrictions on the use of the city water system in emergency situations. For non-payment of charges, water service may be discontinued according to the procedures established in § 51.72.

WATER REGULATIONS

§ 51.25 SUPPLY FROM ONE SERVICE.

No more than 1 housing unit or building shall be supplied from 1 service connection except by permission of City Council. Each unit served shall have a separate water meter.
Penalty, see § 10.99

§ 51.26 TAPPING OF MAINS RESTRICTED.

No person, except persons authorized by the City Council, shall tap any distributing main or pipe of the water supply system or insert stopcocks or ferrules therein.
Penalty, see § 10.99

§ 51.27 REPAIRS.

(A) *Determination of need for repairs.* Based on the information supplied by the property owner or available to the city, the city will make a determination whether a problem exists in that portion of the service which is the city's responsibility. If the problem appears to exist in the areas for which the city has no responsibility, the private owners will be responsible for correction of the problem.

(B) Excavation *or repair of water service.*

(1) The city will arrange for the investigative digging up and repair of any water service where the problem apparently exists within that area for which the city has responsibility.

(2) Unless it is clearly evident, however, that the problem is the responsibility of the city, the excavation and repair will not be made until the property owner requests the city in writing to excavate or repair the service and agrees to pay the cost. A private owner shall be responsible for that portion of the line that extends from the valve. In the event that a service box is located in a private owner's driveway, the repair of the driveway shall be the property owner's sole responsibility.

(3) The owner further agrees to waive public hearing and be special assessed the cost of the excavation and repair if the problem is found to be other than the city's responsibility. The city will make the determination for responsibility of the cost of investigation or repair.

(4) The matter of whether the dig up is done by city forces or contracted would depend on the urgency or need of repair and the availability of city forces to do the work. Recovery by the city for faulty construction will depend upon the circumstances and the decision of the City Attorney on the likelihood of recovery.

(C) *Failure to repair.* In case of failure upon the part of any consumer or owner to repair any leak occurring in his or her service pipe within 24 hours after verbal or written notice thereof, the water may be turned off by the city and shall not be turned on until the leak has been repaired and a fee pursuant to § 51.51 has been paid to the city.
Penalty, see § 10.99

§ 51.28 ABANDONED OR UNUSED SERVICES.

(A) If the premises served by water have been abandoned, or if the service has not been used for one year, then the service shall be shut off at the curb stop box by the city and the water meter will be removed.

(B) When new buildings are erected on the site of old ones, and it is desired to increase or change the old water service, no connections with the mains shall be made until all the old service has been removed and the main taps plugged or yoked connections installed by the city at the owner's expense. Penalty, see § 10.99

§ 51.29 DISCONNECTION PERMISSION.

Written permission must be obtained to disconnect from the existing water service leads at the curb stop box.
Penalty, see § 10.99

§ 51.30 SERVICE PIPES.

Every service pipe shall be laid so as to allow at least one foot of extra length in order to prevent rupture by settlement. The service pipe must be placed no less than seven feet below the ground and in a manner as to prevent rupture by freezing. Service pipes must extend from the curb stop box to the inside of the building, or if not taken into the building, then to the hydrant or fixtures which it is intended to supply. Type K copper tubing shall be used. All services over two inches shall be ductile or cast iron. All underground joints are to be mechanical, except joints under floors shall be silver soldered, unless otherwise approved by the Utilities Superintendent. Joints of copper tubing shall be kept, to a minimum, with not more than one joint used for service for each 70 feet in length. Splicing may be approved with 3-piece unions only. All joints and connections shall be left uncovered until

inspected by the Utilities Superintendent and tested at normal water line pressure. Unions must be 3-part type. All services over two inches shall be cast iron. Connections with the mains for domestic supply shall be at least 3-quarter inch up to the curb stop box.
Penalty, see § 10.99

§ 51.31 EXCAVATION AND CONSTRUCTION REQUIREMENTS.

(A) No excavation shall be made except by a licensed plumber.

(B) No water service pipe or water connection shall be installed in the same trench or closer than 10 feet horizontally to a sewer trench or drain laid, or to be laid, either in the street or in private property, except that the water pipe on private property may be in a common trench with a sewer drain which is of a material that is in conformance with the current Minnesota Plumbing Code, Minn. Rules Ch. 4715, as it may be amended from time to time.

(C) Where it is desired to lay the water service pipe and the building sewer pipe in the same trench, or in separate trenches less than 10 feet apart, the water service pipe shall be above the sewer pipe. It shall be placed at least one foot above the sewer and on a solid shelf excavated at one side of the trench. The sewer pipe shall be of a material that is in conformance with the Minnesota Plumbing Code with tested watertight joints. The water service pipe shall be watertight and corrosion resistant. Copper pipe and ductile or cast iron water pipe with specially protected joints is acceptable for this construction. Cast iron pipe shall conform to the American Water Works Association specifications for this pipe. Bell joint clamps with rubber gaskets are provisionally acceptable as extra protection for the joints on cast iron water pipe. In all cases, precautions shall be taken to assure a firm foundation for the pipes. The intervening space between the pipes shall be backfilled with compacted earth.

(D) In case the installation is on a surfaced street, the following shall apply: All backfill materials shall be mechanically compacted in 12-inch layers to the density of the adjacent material in the roadway area and to the existing street grades in accordance with the Minnesota Department of Transportation Standards. Complete surface restoration shall be made.
Penalty, see § 10.99

§ 51.32 CONNECTION TO OTHER WATER SUPPLIES RESTRICTED.

No water pipe of the water system shall be connected with any pump, well, tank, or piping that is connected with any other source of water supply except to service municipal systems.
Penalty, see § 10.99

§ 51.33 WATER CONNECTIONS; APPLICATIONS AND CHARGES.

(A) *Connection applications.*

(1) All applications for service installations and for water service shall be made to the City Clerk/Treasurer. All applications for service installations and water service shall be made by the

owner or agent of the property to be served and shall state the size and location of service connection required. The applicant shall, at the time of making application, pay to the city the amount of fees as established for a permit in the city's master fees schedule. Applications for services larger than one inch shall be accompanied by two sets of plans or sketches indicating preferred location of service pipe and size of service based on building demand.

(2) The size of the water service connections and meter shall be subject to approval of the Representative designated by the City Council.

(3) Water billing shall start at the time of installation of the water meter, or in the event the meter is not installed, seven days after completion of outside piping, and shall be calculated upon the minimum quarterly rate, prorated on a semi-monthly basis.

(B) *Connection charges.*

(1) A permit must be obtained to connect to the existing water service leads at the curb stop box. The fee for the permit shall be set pursuant to the city's master fees schedule. The city shall install or have installed all service connections from the water main to the curb stop box including the stop box. Payment for service connections must be made before the work is started and should be based upon 1½ times the estimate of costs provided by the Representative designated by the City Council. Any excess deposit shall be returned to the applicant.

(2) Additional charges shall be paid at the time of making application for tapping and making connections with the water main to where a curb stop box and service lead is not previously installed. The charge shall include the tapping of the water main, corporation cocks, the installation of a service line, the installation of a curb stop box, cost of restoring disturbed areas and all other costs related to the installation.

(3) There shall be a connection charge pursuant to § 51.51 levied by the city to contribute to the payment of the costs of the Public Water System Facilities. The City Council shall set by resolution the charges to be made for nonresidential installations.

(4) When water services have been stopped because of a violation of this chapter,the city shall collect the fee established pursuant to § 51.51 before service is recommenced.

(5) If a person desires to connect to the system and service a parcel that has not been assessed for the cost of water main and lateral construction, then before a permit is granted, the city shall collect an amount from the applicant that is established pursuant to § 51.51.
Penalty, see § 10.99

§ 51.34 LOCATION OF CURB STOP BOX.

Curb stop boxes will be installed on the right-of-way line or easement limits at a location as determined by the Representative designated by the City Council to be best suitable to the property and shall be left in a vertical position when backfilling is completed. Curb stop boxes will be installed at an approximate depth of seven feet below the finished ground elevation and the top of the curb stop box shall

be adjusted to be flush with the finished ground elevation. Curb stop boxes must be firmly supported by a masonry block. No person shall erect any fence or plant any tree or other landscaping that would obstruct, or place a structure on, park a motor vehicle on, or otherwise obstruct the use of the curb stop box, or cause damage to the same. In the event that a curb stop box is located under a driveway, repair of the driveway shall be the responsibility of the property owner.
Penalty, see § 10. 99

§ 51.35 WATER METERS.

(A) *Generally.* Except for extinguishment of fires, no person, unless otherwise authorized by the City Council or Public Utilities Department, shall use water from the water system or permit water to be drawn therefrom unless the same be metered by passing through a meter supplied or approved by the city. No person not authorized by the City Council or Utilities Superintendent shall connect, disconnect, take apart, or in any manner change or cause to be changed or interfere with any meter or the action thereof, or break any meter or valve seal.

(1) A charge established pursuant to § 51.51 shall be paid by customers to the city for water meters including installations and check valves and payment for same shall be made at the time of water service application. This payment shall be made only once, subject to the following.

(2) Where a consumer has need for a larger line in addition to his or her domestic line, as in the case of a commercial consumer who needs a one-inch line for normal use and a 6-inch or larger line for a fire sprinkler system, he or she will be permitted to run one line into the premises and "Y" off into two lines at the building. When this is done, the meter will be attached to the small or domestic line and a check valve as well as one-inch detection meter shall be put on the large line.

(3) The city shall maintain and repair all meters when rendered unserviceable through ordinary wear and tear and shall replace them if necessary. When replacement, repair, or adjustment of any meter is rendered by the act, neglect (including damage from freezing or hot water backup) or carelessness of the owner or occupant of the premises, any expense caused the city thereby shall be charged against and collected from the water consumer.

(4) A consumer may, by written request, have his or her meter tested by depositing the amount established pursuant to § 51.51. In case a test should show an error of over 5 % of the water consumed, a correctly registering meter will be installed, and the bill will be adjusted accordingly and the testing deposit refunded. This adjustment shall not extend back more than one billing period from the date of the written request.

(5) All water meters and remote readers shall be and remain the property of the city.

(6) Authorized city employees shall have free access at reasonable hours of the day to all parts of every building and premises connected with the water system for reading of meters and inspections.

(7) It shall be the responsibility of the consumer to notify the city to request a final

reading at the time of the customer's billing change.

(B) *Water meter setting.* All water meters hereafter installed shall be in accordance with the Minnesota Plumbing Code and any standards established by resolution of the City Council.
Penalty, see § 10.99

RATES AND CHARGES

§ 51.50 WATER UNIT.

A water unit (hereinafter called unit) shall be one residential equivalent connection based on usage.

§ 51.51 RATES, FEES AND CHARGES GENERALLY.

The City Council shall establish a schedule of all water rates, fees and charges for permits or services in the Ordinance Establishing Fees and Charges adopted pursuant to § 32.20 of this code, as that ordinance may be amended from time to time.

§ 51.52 WATER SERVICE BILLING; CHANGE OF ADDRESS.

All bills and notices shall be mailed or delivered to the address where service is provided. If rental property, all bills and notices shall also be mailed to the property owner's address. Any change or error in address shall be promptly reported to the City Clerk/Treasurer.

§ 51.53 WATER RATES.

(A) The rate due and payable by each user within the city for water taken from the water system shall be established pursuant to the city's master fees schedule.

(B) In case the meter is found to have stopped, or to be operating in a faulty manner, the amount of water used will be estimated in accordance with the amount used previously in comparable periods of the year.

(C) Rates due and payable by each water user located beyond the territorial boundaries of the city shall be determined by special contract.

(D) The minimum rates established pursuant to § 51.51 shall begin to accrue after connection of the service pipe with the curb stop box.

(E) A meter shall be installed on the water valve in the house and a remote register outside regardless of whether inside piping is connected.

(F) In the event a water customer elects to discontinue the use of the municipal water, the minimum or base charge shall continue so long as services are available to the property.
Penalty, see § 10.99

§ 51.54 PAYMENT OF CHARGES; LATE PAYMENT; COLLECTION.

(A) Any prepayment or overpayment of charges may be retained by the city and applied on subsequent monthly charges.

(B) If a monthly service charge is not paid when due, then a penalty of 10% shall be added thereto.

(C) Each and every water service charge unpaid is made a lien upon the lot or premises served, and all charges which are on October 31 of each year past due and delinquent shall be certified to the County Auditor by November 29, for collection. Nothing in herein shall be held or construed as in anyway stopping or interfering with the right of the city to levy as taxes or assessments against any premises affected any delinquent or past due water service charges. The City may charge an assessment fee as established in its Master Fee Schedule.

(D) In the event a user fails to pay his or her water user fee within a reasonable time following discontinuance of service (a time period not to exceed 90 days), the fee shall be certified by the City Clerk/Treasurer and forwarded to the County Auditor for collection.

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

ADMINISTRATION AND ENFORCEMENT

§ 51.70 SUPERVISION BY UTILITIES SUPERINTENDENT; LICENSING.

Required. Service connections are the responsibility of the property owner. Connections shall be made by a person licensed as a plumber by the State of Minnesota, or a person in the ditch installing the pipe who has a card showing that they have completed a program of training that incorporates the Plumbing Code installation requirements, issued by either the Associated Builders and Contractors, Laborers-Employers Cooperation Educational Trust, or Minnesota Utility Contractors Association, is not subject to the licensing requirements of this section.

§ 51.71 POWERS AND AUTHORITY OF INSPECTORS.

The Utilities Superintendent and other duly authorized employees of the city, upon proper

identification, are authorized, with the permission of the licensee, owner, resident or other person in control of property within the city, to enter upon all properties for the purpose of inspections, observation and testing in accordance with the provisions of this chapter. If the licensee, owner, resident or other person in control of property within the city does not permit the entrance to the property, the city shall obtain an administrative search warrant as provided for in § 10.20 before entering the property, except in emergency situations.

§ 51.72 DISCONTINUANCE OF SERVICE.

Water service may be shut off at any connection as provided for in 50.117 of this code.

§ 51.73 AUTHORIZED EMPLOYEES TO TURN WATER ON AND OFF.

No person, except an authorized city employee, shall turn on or off any water supply at the curb stop box.
Penalty, see § 10.99

§ 51.74 LIABILITY FOR EXPENSE, LOSS OR DAMAGE.

Any person violating any of the provisions of this chapter shall become liable to the city for any expense, loss or damage occasioned by the city by reason of the violation.

CHAPTER 52: RIGHT OF WAY REGULATION

§ 52.01. Findings, Purpose, and Intent.

To provide for the health, safety, and welfare of its citizens, and to ensure the integrity of its streets and the appropriate use of the rights-of-way, the city strives to keep its rights-of-way in a state of good repair and free from unnecessary encumbrances.

Accordingly, the city hereby enacts this new chapter of this code relating to right-of-way permits and administration. This chapter imposes reasonable regulation on the placement and maintenance of facilities and equipment currently within its rights-of-way or to be placed therein at some future time. It is intended to complement the regulatory roles of state and federal agencies. Under this chapter, persons excavating and obstructing the rights-of-way will bear financial responsibility for their work. Finally, this chapter provides for recovery of out-of-pocket and projected costs from persons using the public rights-of-way.

This chapter shall be interpreted consistently with Minnesota Statutes, sections 237.16, 237.162, 237.163, 237.79, 237.81, and 238.086 (the "Act") and the other laws governing applicable rights of the city and users of the right-of-way. This chapter shall also be interpreted consistent with Minn. R. 7819.0050–7819.9950 and Minn. R., ch. 7560 where possible. To the extent any provision of this chapter cannot be interpreted consistently with the Minnesota Rules, that interpretation most consistent with the Act and other applicable statutory and case law is intended. This chapter shall not be interpreted to limit the regulatory and police powers of the city to adopt and enforce general ordinances necessary to protect the health, safety, and welfare of the public.

§ 52.02. Election to Manage the Public Rights-of-way

Pursuant to the authority granted to the city under state and federal statutory, administrative and common law, the city hereby elects, pursuant to Minn. Stat. 237.163 subd. 2(b), to manage rights-of-way within its jurisdiction.

§ 52.03. Definitions.

The following definitions apply in this chapter of this code. References hereafter to "sections" are, unless otherwise specified, references to sections in this chapter. Defined terms remain defined terms, whether or not capitalized.

ABANDONED FACILITY. A facility no longer in service or physically disconnected from a portion of the operating facility, or from any other facility, that is in use or still carries service. A facility is not abandoned unless declared so by the right-of-way user.

APPLICANT. Any person requesting permission to excavate, obstruct, or otherwise place

facilities in a right-of-way.

CITY. The city of Ellendale, Minnesota. For purposes of section 52.29, city also means the City's elected officials, officers, employees, and agents.

COLLOCATE OR COLLOCATION. To install, mount, maintain, modify, operate, or replace a small wireless facility on, under, within, or adjacent to an existing wireless support structure or utility pole that is owned privately, or by the city or other governmental unit.

COMMISSION. The State of Minnesota Public Utilities Commission.

CONSTRUCTION PERFORMANCE BOND. Any of the following forms of security provided at permittee's option:

- Individual project bond;
- Cash deposit;
- Security of a form listed or approved under Minn. Stat. § 15.73, subd. 3;
- Letter of Credit, in a form acceptable to the city;
- Self-insurance, in a form acceptable to the city;
  A blanket bond for projects within the city, or other form of construction bond, for a time specified and in a form acceptable to the city.

DEGRADATION. A decrease in the useful life of the right-of-way caused by excavation in or disturbance of the right-of-way, resulting in the need to reconstruct such right-of-way earlier than would be required if the excavation or disturbance did not occur.

DEGRADATION COST. Subject to Minn. R. 7819.1100, means the cost to achieve a level of restoration, as determined by the city at the time the permit is issued, not to exceed the maximum restoration shown in plates 1 to 13, set forth in Minn. R., parts 7819.9900 to 7819.9950.

DEGRADATION FEE. The estimated fee established at the time of permitting by the city to recover costs associated with the decrease in the useful life of the right-of-way caused by the excavation, and which equals the degradation cost.

DEPARTMENT. The department of public works of the city.

DELAY PENALTY. The penalty imposed as a result of unreasonable delays in right-of-way excavation, obstruction, patching, or restoration as established by permit.

EMERGENCY. A condition that (1) poses a danger to life or health, or of a significant loss of property; or (2) requires immediate repair or replacement of facilities in order to restore service to a customer.

EQUIPMENT. Any tangible asset used to install, repair, or maintain facilities in any right-of-way.

EXCAVATE. To dig into or in any way remove or physically disturb or penetrate any part of a

right-of-way.

EXCAVATION PERMIT. The permit which, pursuant to this chapter, must be obtained before a person may excavate in a right-of-way. An Excavation permit allows the holder to excavate that part of the right-of-way described in such permit.

EXCAVATION PERMIT FEE. Money paid to the city by an applicant to cover the costs as provided in Section 1.13.

FACILITY OR FACILITIES. Any tangible asset in the right-of-way used to provide Utility or Telecommunications Service.

FIVE-YEAR PROJECT PLAN. Shows projects adopted by the city for construction within the next five years.

LOCAL REPRESENTATIVE. A local person or persons, or designee of such person or persons, authorized by a registrant to accept service and to make decisions for that registrant regarding all matters within the scope of this chapter.

MANAGEMENT COSTS. The actual costs the city incurs in managing its rights-of-way, including such costs, if incurred, as those associated with registering applicants; issuing, processing, and verifying right-of-way or small wireless facility permit applications; inspecting job sites and restoration projects; maintaining, supporting, protecting, or moving user facilities during right-of-way work; determining the adequacy of right-of-way restoration; restoring work inadequately performed after providing notice and the opportunity to correct the work; and revoking right-of-way or small wireless facility permits. Management costs do not include payment by a telecommunications right-of-way user for the use of the right-of-way, unreasonable fees of a third-party contractor used by the city including fees tied to or based on customer counts, access lines, or revenues generated by the right-of-way or for the city, the fees and cost of litigation relating to the interpretation Minn. Stat. §§ 237.162 or 237.163; or any ordinance enacted under those sections, or the city fees and costs related to appeals taken pursuant to § 52.31 of this chapter.

OBSTRUCT. To place any tangible object in a right-of-way so as to hinder free and open passage over that or any part of the right-of-way, or so as to hinder maintenance of any city asset.

OBSTRUCTION PERMIT. The permit which, pursuant to this chapter, must be obtained before a person may obstruct a right-of-way, allowing the holder to hinder free and open passage over the specified portion of that right-of-way, for the duration specified therein.

OBSTRUCTION PERMIT FEE. Money paid to the city by a permittee to cover the costs as provided in § 52.13.

PATCH OR PATCHING. A method of pavement replacement that is temporary in nature. A patch consists of (1) the compaction of the subbase and aggregate base, and (2) the replacement, in kind, of the existing pavement for a minimum of two feet beyond the edges of the excavation

in all directions. A patch is considered full restoration only when the pavement is included in the

city's five-year project plan.

PAVEMENT. Any type of improved surface that is within the public right-of-way and that is paved or otherwise constructed with bituminous, concrete, aggregate, or gravel.

PERMIT. Has the meaning given "right-of-way permit" in this ordinance.

PERMITTEE. Any person to whom a permit to excavate or obstruct a right-of-way has been granted by the city under this chapter.

PERSON. An individual or entity subject to the laws and rules of this state, however organized, whether public or private, whether domestic or foreign, whether for profit or nonprofit, and whether natural, corporate, or political.

PROBATION. The status of a person that has not complied with the conditions of this chapter.

PROBATIONARY PERIOD. One year from the date that a person has been notified in writing that they have been put on probation.

REGISTRANT. Any person who (1) has or seeks to have its equipment or facilities located in any right-of-way, or (2) in any way occupies or uses, or seeks to occupy or use, the right-of-way or place its facilities or equipment in the right-of-way.

RESTORE OR RESTORATION. The process by which an excavated right-of-way and surrounding area, including pavement and foundation, is returned to the same condition and life expectancy that existed before excavation.

RESTORATION COST. The amount of money paid to the city by a permittee to achieve the level of restoration according to plates 1 to 13 of Minnesota Public Utilities Commission rules.

PUBLIC RIGHT-OF-WAY OR RIGHT-OF-WAY. The area on, below, or above a public roadway, highway, street, cartway, bicycle lane, or public sidewalk in which the city has an interest, including other dedicated rights-of-way for travel purposes and utility easements of the city. A right-of-way does not include the airwaves above a right-of-way with regard to cellular or other non-wire telecommunications or broadcast service.

RIGHT-OF-WAY PERMIT. Either the excavation permit, the obstruction permit, the small cell permit or any combination thereof depending on the context, required by this chapter.

RIGHT-OF-WAY USER. (1) A telecommunications right-of-way user as defined by Minn. Stat., § 237.162, subd. 4; or (2) a person owning or controlling a facility in the right-of-way that is used or intended to be used for providing utility service, and who has a right under law, franchise, or ordinance to use the public right-of-way.

SERVICE OR UTILITY SERVICE. Includes (1) those services provided by a public utility as defined in Minn. Stat. 216B.02, subds. 4 and 6; (2) services of a telecommunications right-of-way user, including transporting of voice or data information; (3) services of a cable communications systems as defined in Minn. Stat. ch. 238; (4) natural gas or electric energy or telecommunications services provided by the city; (5) services provided by a cooperative electric association organized under Minn. Stat., ch. 308A; and (6) water, and sewer, including service laterals, steam, cooling, or heating services.

SERVICE LATERAL. An underground facility that is used to transmit, distribute or furnish 'gas, electricity, communications, or water from a common source to an end-use customer. A service lateral is also an underground facility that is used in the removal of wastewater from a customer's premises.

SMALL WIRELESS FACILITY. A wireless facility that meets both of the following qualifications:

(1) each antenna is located inside an enclosure of no more than six cubic feet in volume or could fit within such an enclosure; and

(2) all other wireless equipment associated with the small wireless facility provided such equipment is, in aggregate, no more than 28 cubic feet in volume, not including electric meters, concealment elements, telecommunications demarcation boxes, battery backup power systems, grounding equipment, power transfer switches, cutoff switches, cable, conduit, vertical cable runs for the connection of power and other services, and any equipment concealed from public view within or behind an existing structure or concealment.

SUPPLEMENTARY APPLICATION. An application made to excavate or obstruct more of the right-of-way than allowed in, or to extend, a permit that had already been issued.

TEMPORARY SURFACE. The compaction of subbase and aggregate base and replacement, in kind, of the existing pavement only to the edges of the excavation. It is temporary in nature except when the replacement is of pavement included in the city's two-year plan, in which case it is considered full restoration.

TRENCH. An excavation in the pavement, with the excavation having a length equal to or greater than the width of the pavement.

TELECOMMUNICATIONS RIGHT-OF-WAY USER. A person owning or controlling a facility in the right-of-way, or seeking to own or control a facility in the right-of-way that is used or is intended to be used for providing wireless service, or transporting telecommunication or other voice or data information. For purposes of this chapter, a cable communication system defined and regulated under Minn. Stat. ch. 238, and telecommunication activities related to providing natural gas or electric energy services, a public utility as defined in Minn. Stat. § 216B.02, a municipality, a municipal gas or power agency organized under Minn. Stat. ch. 453 and 453A, or a cooperative electric association organized under Minn. Stat. ch. 308A, are not

telecommunications right-of-way users for purposes of this chapter except to the extent such entity is offering wireless service.

TWO YEAR PROJECT PLAN. Shows projects adopted by the city for construction within the next two years.

UTILITY POLE. A pole that is used in whole or in part to facilitate telecommunications or electric service.

WIRELESS FACILITY. Equipment at a fixed location that enables the provision of wireless services between user equipment and a wireless service network, including equipment associated with wireless service, a radio transceiver, antenna, coaxial or fiber-optic cable, regular and backup power supplies, and a small wireless facility, but not including wireless support structures, wireline backhaul facilities, or cables between utility poles or wireless support structures, or not otherwise immediately adjacent to and directly associated with a specific antenna.

WIRELESS SERVICE. Any service using licensed or unlicensed wireless spectrum, including the use of Wi-Fi, whether at a fixed location or by means of a mobile device, that is provided using wireless facilities. Wireless service does not include services regulated under Title VI of the Communications Act of 1934, as amended, including cable service.

WIRELESS SUPPORT STRUCTURE. A new or existing structure in a right-of-way designed to support or capable of supporting small wireless facilities, as reasonably determined by the city.

§ 52.04 Administration.

The city clerk, or as otherwise designated by the city council, is the principal city official responsible for the administration of the rights-of-way, right-of-way permits, and the ordinances related thereto. The city clerk may delegate any or all of the duties hereunder.

§ 52.05. Utility Coordination Committee.

The city may create an advisory utility coordination committee. Participation on the committee is voluntary. It will be composed of any registrants that wish to assist the city in obtaining information and, by making recommendations regarding use of the right-of-way, and to improve the process of performing construction work therein. The city may determine the size of such committee and shall appoint members from a list of registrants that have expressed a desire to assist the city.

§ 52.06. Registration and Right-of-way Occupancy.

(A) *Registration.* Each person authorized to occupy or use, or seeks to occupy or use, the right-of-way or place any equipment or facilities in or on the right-of-way, including persons with installation and maintenance responsibilities by lease, sublease, or assignment, must

register with the city. Registration will consist of providing application information.

(B) *Registration Prior to Work.* No person may construct, install, repair, remove, relocate, or perform any other work on, or use any facilities or any part thereof, in any right-of-way without first being registered with the city.

(C) *Exceptions.* Nothing herein shall be construed to repeal or amend the provisions of a city ordinance permitting persons to plant or maintain boulevard plantings or gardens in the area of the right-of-way between their property and the street curb. Persons planting or maintaining boulevard plantings or gardens shall not be deemed to use or occupy the right-of-way, and shall not be required to obtain any permits or satisfy any other requirements for planting or maintaining such boulevard plantings or gardens under this chapter. However, nothing herein relieves a person from complying with the provisions of the Minn. Stat. ch. 216D, Gopher One Call Law.

§ 52.07. Registration Information.

(A) *Information Required.* Registration shall be requested on an application form produced by the City. The information provided to the city at the time of registration shall include, but not be limited to:

(1) Each registrant's name, Gopher One-Call registration certificate number, address and email address, if applicable, and telephone and facsimile numbers.

(2) The name, address, and email address, if applicable, and telephone and facsimile numbers of a local representative. The local representative or designee shall be available at all times. Current information regarding how to contact the local representative in an emergency shall be provided at the time of registration.

(3) A certificate of insurance or self-insurance:

(a) Verifying that an insurance policy has been issued to the registrant by an insurance company licensed to do business in the state of Minnesota, or a form of self-insurance acceptable to the city;

(b) Verifying that the registrant is insured against claims for personal injury, including death, as well as claims for property damage arising out of the (i) use and occupancy of the right-of-way by the registrant, its officers, agents, employees, and permittees, and (ii) placement and use of facilities and equipment in the right-of-way by the registrant, its officers, agents, employees, and permittees, including, but not limited to, protection against liability arising from completed operations, damage of underground facilities, and collapse of property;

(c) Naming the city as an additional insured as to whom the coverages required herein are in force and applicable and for whom defense will be provided as to all such coverages;

(d) Requiring that the city be notified thirty (30) days in advance of cancellation of

the policy or material modification of a coverage term; and

(e) Indicating comprehensive liability coverage, automobile liability coverage, workers' compensation and umbrella coverage established by the city in amounts sufficient to protect the city and the public and to carry out the purposes and policies of this chapter.

(f) The city may require a copy of the actual insurance policies.

(g) If the person is a corporation, a copy of the certificate is required to be filed under state law as recorded and certified to by the secretary of state. A copy of the person's order granting a certificate of authority from the
Minnesota Public Utilities Commission or other authorization or approval from the applicable state or federal agency to lawfully operate, where the person is lawfully required to have such authorization or approval from said commission or other state or federal agency.

(4) Any other information deemed necessary by the City Engineer deemed necessary to adequately protect the health, safety, and welfare of the city.

(B) *Notice of Changes.* The registrant shall keep all of the information listed above current at all times by providing to the city information as to changes within fifteen (15) days following the date on which the registrant has knowledge of any change.

§ 52.08. Reporting Obligations.

(A) *Operations.* Each registrant shall, at the time of registration and by December 1 of each year, file a construction and major maintenance plan for underground facilities with the city. Such plan shall be submitted using a format designated by the city and shall contain the information determined by the city to be necessary to facilitate the coordination and reduction in the frequency of excavations and obstructions of rights-of-way.

The plan shall include, but not be limited to, the following information:

(1) The locations and the estimated beginning and ending dates of all projects to be commenced during the next calendar year (in this section, a "next-year project"); and

(2) To the extent known, the tentative locations and estimated beginning and ending dates for all projects contemplated for the five years following the next calendar year (in this section, a "five-year project").

The term "project" in this section shall include both next-year projects and five-year projects.

By January 1 of each year, the city will have available for inspection in the city's office a composite list of all projects of which the city has been informed of the annual plans. All registrants are responsible for keeping themselves informed of the current status of this list.

Thereafter, by February 1, each registrant may change any project in its list of next-year

projects, and must notify the city and all other registrants of all such changes in said list. Notwithstanding the foregoing, a registrant may at any time join in a next-year project of another registrant listed by the other registrant.

(B) *Additional Next-Year Projects.* Notwithstanding the foregoing, the city will not deny an application for a right-of-way permit for failure to include a project in a plan submitted to the city if the registrant has used commercially reasonable efforts to anticipate and plan for the project.

§ 52.09. Permit Requirement.

(A) *Permit Required.* Except as otherwise provided in this code, no person may obstruct or excavate any right-of-way, or install or place facilities in the right-of-way, without first having obtained the appropriate right-of-way permit from the city to do so.

(1) *Excavation Permit.* An excavation permit is required by a registrant to excavate that part of the right-of-way described in such permit and to hinder free and open passage over the specified portion of the right-of-way by placing facilities described therein, to the extent and for the duration specified therein.

(2) *Obstruction Permit.* An obstruction permit is required by a registrant to hinder free and open passage over the specified portion of right-of-way by placing equipment described therein on the right-of-way, to the extent and for the duration specified therein. An obstruction permit is not required if a person already possesses a valid excavation permit for the same project.

(3) *Small Wireless Facility Permit.* A small wireless facility permit is required by a registrant to erect or install a wireless support structure, to collocate a small wireless facility, or to otherwise install a small wireless facility in the specified portion or the right-of-way, to the extent specified therein, provided that such permit shall remain in effect for the length of time the facility is in use, unless lawfully revoked.

(B) *Permit Extensions.* No person may excavate or obstruct the right-of-way beyond the date or dates specified in the permit unless (i) such person makes a supplementary application for another right-of-way permit before the expiration of the initial permit, and (ii) a new permit or permit extension is granted.

(C) *Delay Penalty.* In accordance with Minn. Rule 7819.1000 subp. 3 and notwithstanding paragraph (B) of this Section, the city shall establish and impose a delay penalty for unreasonable delays in right-of-way excavation, obstruction, patching, or restoration. The delay penalty shall be established from time to time by City Council resolution.

(D) *Permit Display.* Permits issued under this chapter shall be conspicuously displayed or otherwise available at all times at the indicated work site and shall be available for inspection by the city.

§ 52.10. Permit Applications.

Application for a permit is made to the city on forms approved by the City Engineer or the City Engineer's designee. Right-of-way permit applications shall contain, and will be considered complete only upon compliance with, the requirements of the following provisions:

(A) Registration with the city pursuant to this chapter.

(B) Submission of a completed permit application form, including all required attachments, and scaled drawings showing the location and area of the proposed project and the location of all known existing and proposed facilities and all other information deemed relevant by the City Engineer.

(C) Payment of money due the city for:

(1) permit fees, estimated restoration costs, and other management costs;

(2) prior obstructions or excavations;

(3) any undisputed loss, damage, or expense suffered by the city because of applicant's prior excavations or obstructions of the rights-of-way or any emergency actions taken by the city;

(4) franchise fees or other charges, if applicable.

(D) Payment of disputed amounts due the city by posting security or depositing in an escrow account an amount equal to at least 110 percent of the amount owing.

(E) Posting an additional or larger construction performance bond for additional facilities when applicant requests an excavation permit to install additional facilities and the city deems the existing construction performance bond inadequate under applicable standards.

§ 52.11. Issuance of Permit; Conditions.

(A) *Permit Issuance.* If the applicant has satisfied the requirements of this chapter, the city shall issue a permit.

(B) *Conditions.* The city may impose reasonable conditions upon the issuance of the permit and the performance of the applicant thereunder to protect the health, safety, and welfare or when necessary to protect the right-of-way and its current use. In addition, a permittee shall comply with all requirements of local, state, and federal laws, including but not limited to Minn. Stat. §§ 216D.01 - .09 (Gopher One Call Excavation Notice System) and Minn. R., ch. 7560.

(C) *Small Wireless Facility Conditions*. In addition to paragraph (B), the erection or installation of a wireless support structure, the collocation of a small wireless facility, or other

installation of a small wireless facility in the right-of-way, shall be subject to the following conditions:

(1) A small wireless facility shall only be collocated on the particular wireless support structure, under those attachment specifications, and at the height indicated in the applicable permit application.

(2) No new wireless support structure installed within the right-of-way shall exceed 50 feet in height without the city's written authorization, provided that the city may impose a lower height limit in the applicable permit to protect the public health, safety and welfare or to protect the right-of-way and its current use, and further provided that a registrant may replace an existing wireless support structure exceeding 50 feet in height with a structure of the same height subject to such conditions or requirements as may be imposed in the applicable permit.

(3) No wireless facility may extend more than 10 feet above its wireless support structure.

(4) Where an applicant proposes to install a new wireless support structure in the right-of-way, the city may impose separation requirements between such structure and any existing wireless support structure or other facilities in and around the right-of-way.

(5) Where an applicant proposes collocation on a decorative wireless support structure, sign or other structure not intended to support small wireless facilities, such equipment shall be consistent with the City's aesthetic standards regarding wireless equipment as adopted by the City Engineer. Such standards shall ensure that wireless equipment is installed with a stealth design and that equipment does not detract from the character of the area in which it is installed. In addition, the City Engineer shall adopt standards that ensure city assets can continue to effectively perform their intended function. Standards shall be made available with the application required for a small cell permit.

(6) Where an applicant proposes to replace a wireless support structure, the city may impose reasonable restocking, replacement, or relocation requirements on the replacement of such structure.

(7) A permit will be deemed void if the approved equipment is not installed within one year of issuance of the permit.

(D) *Small Wireless Facility Agreement*. A small wireless facility shall only be collocated on a small wireless support structure owned or controlled by the city, or any other city asset in the right-of-way, after the applicant has executed a standard small wireless facility collocation agreement with the city. The standard collocation agreement may require payment of the following:

(1) Up to $150 per year for rent to collocate on the city structure.

(2) $25 per year for maintenance associated with the collocation;

(3) A monthly fee for electrical service as follows:

a. $73 per radio node less than or equal to 100 maximum watts;

b. $182 per radio node over 100 maximum watts; or

c. The actual costs of electricity, if the actual cost exceed the foregoing.

The standard collocation agreement shall be in addition to, and not in lieu of, the required small wireless facility permit, provided, however, that the applicant shall not be additionally required to obtain a license or franchise in order to collocate. Issuance of a small wireless facility permit does not supersede, alter or affect any then-existing agreement between the city and applicant,

§ 52.12 Action on Small Wireless Facility Permit Applications.

(A) *Deadline for Action*. The city shall approve or deny a small wireless facility permit application within 90 days after filing of such application or within any timeline established by state law. The small wireless facility permit, and any associated building permit application, shall be deemed approved if the city fails to approve or deny the application within the review periods established in this section.

(B) *Consolidated Applications*. An applicant may file a consolidated small wireless facility permit application addressing the proposed collocation of up to 15 small wireless facilities, or a greater number if agreed to by a local government unit, provided that all small wireless facilities in the application:

(1) are located within a two-mile radius;

(2) consist of substantially similar equipment; and

(3) are to be placed on similar types of wireless support structures.

In rendering a decision on a consolidated permit application, the city may approve some small wireless facilities and deny others, but may not use denial of one or more permits as a basis to deny all small wireless facilities in the application.

(C) *Tolling of Deadline.* The 90-day deadline for action on a small wireless facility permit application may be tolled if:

(1) The city receives applications from one or more applicants seeking approval of permits for more than 30 small wireless facilities within a seven-day period. In such case, the city may extend the deadline for all such applications by 30 days by informing the affected applicants in writing of such extension.

(2) The applicant fails to submit all required documents or information and the city

provides written notice of incompleteness to the applicant within 30 days of receipt the application. Upon submission of additional documents or information, the city shall have ten days to notify the applicant in writing of any still-missing information.

(3) The city and a small wireless facility applicant agree in writing to toll the review period.

§ 52.13. Permit Fees.

(A) *Excavation Permit Fee.* The city shall impose an excavation permit fee in an amount sufficient to recover the following costs:

(1) the city management costs;

(2) degradation costs, if applicable.

(B) *Obstruction Permit Fee.* The city shall impose an obstruction permit fee in an amount sufficient to recover the city management costs.

(C) *Small Wireless Facility Permit Fee.* The city shall impose a small wireless facility permit fee in an amount sufficient to recover:

(1) management costs, and;

(2) city engineering, make-ready, and construction costs associated with collocation of small wireless facilities.

(D) *Payment of Permit Fees.* No excavation permit, obstruction permit, or small cell permit shall be issued without payment of all required fees. The city may allow applicant to pay such fees within thirty (30) days of billing.

(E) *Non Refundable.* Permit fees that were paid for a permit that the city has revoked for a breach as stated in § 52.23 are not refundable.

(F) *Application to Franchises.* Unless otherwise agreed to in a franchise, management costs may be charged separately from and in addition to the franchise fees imposed on a right-of-way user in the franchise.

§ 52.14. Right-of-way Patching and Restoration.

(A) *Timing.* The work to be done under the excavation permit, and the patching and restoration of the right-of-way as required herein, must be completed within the dates specified in the permit, increased by as many days as work could not be done because of circumstances beyond the control of the permittee or when work was prohibited as unseasonal or unreasonable under § 52.17.

(B) *Patch and Restoration.* Permittee shall patch its own work. The city may choose

either to have the permittee restore the right-of-way or to restore the right-of-way itself.

(1) *City Restoration.* If the city restores the right-of-way, permittee shall pay the costs thereof within thirty (30) days of billing. If, following such restoration, the pavement settles due to permittee's improper backfilling, the permittee shall pay to the city, within thirty (30) days of billing, all costs associated with correcting the defective work.

(2) *Permittee Restoration.* If the permittee restores the right-of-way itself, it shall at the time of application for an excavation permit post a construction performance bond in accordance with the provisions of Minn. Rule 7819.3000.

(3) *Degradation Fee in Lieu of Restoration.* In lieu of right-of-way restoration, a right-of-way user may elect to pay a degradation fee. However, the right-of-way user shall remain responsible for patching and the degradation fee shall not include the cost to accomplish these responsibilities.

(C) *Standards.* The permittee shall perform excavation, backfilling, patching, and restoration according to the standards and with the materials specified by the city and shall comply with Minn. Rule 7819.1100.

(D) *Duty to Correct Defects.* The permittee shall correct defects in patching or restoration performed by permittee or its agents. The permittee upon notification from the city, shall correct all restoration work to the extent necessary, using the method required by the city. Said work shall be completed within five (5) calendar days of the receipt of the notice from the city, not including days during which work cannot be done because of circumstances constituting force majeure or days when work is prohibited as unseasonable or unreasonable under § 52.17.

(E) *Failure to Restore.* If the permittee fails to restore the right-of-way in the manner and to the condition required by the city, or fails to satisfactorily and timely complete all restoration required by the city, the city at its option may do such work. In that event the permittee shall pay to the city, within thirty (30) days of billing, the cost of restoring the right-of-way. If permittee fails to pay as required, the city may exercise its rights under the construction performance bond.

§ 52.15. Joint Applications.

(A) *Joint Application.* Registrants may jointly apply for permits to excavate or obstruct the right-of-way at the same place and time.

(B) *Shared Fees.* Registrants who apply for permits for the same obstruction or excavation, which the city does not perform, may share in the payment of the obstruction or excavation permit fee. In order to obtain a joint permit, registrants must agree among themselves as to the portion each will pay and indicate the same on their applications.

(C) *With city projects.* Registrants who join in a scheduled obstruction or excavation performed by the city, whether or not it is a joint application by two or more registrants or a

single application, are not required to pay the excavation or obstruction and degradation portions of the permit fee, but a permit would still be required.

§ 52.16. Supplementary Applications.

(A) *Limitation on Area.* A right-of-way permit is valid only for the area of the right-of-way specified in the permit. No permittee may do any work outside the area specified in the permit, except as provided herein. Any permittee which determines that an area greater than that specified in the permit must be obstructed or excavated must before working in that greater area (i) make application for a permit extension and pay any additional fees required thereby, and (ii) be granted a new permit or permit extension.

(B) *Limitation on Dates.* A right-of-way permit is valid only for the dates specified in the permit. No permittee may begin its work before the permit start date or, except as provided herein, continue working after the end date. If a permittee does not finish the work by the permit end date, it must apply for a new permit for the additional time it needs, and receive the new permit or an extension of the old permit before working after the end date of the previous permit. This supplementary application must be submitted before the permit end date.

§ 52.17. Other Obligations.

(A) *Compliance with Other Laws.* Obtaining a right-of-way permit does not relieve permittee of its duty to obtain all other necessary permits, licenses, and authority and to pay all fees required by the city or other applicable rule, law or regulation. A permittee shall comply with all requirements of local, state and federal laws, including but not limited to Minn. Stat. §§ 216D.01-.09 (Gopher One Call Excavation Notice System) and Minn. R., ch. 7560. A permittee shall perform all work in conformance with all applicable codes and established rules and regulations, and is responsible for all work done in the right-of-way pursuant to its permit, regardless of who does the work.

(B) *Prohibited Work.* Except in an emergency, and with the approval of the city, no right-of-way obstruction or excavation may be done when seasonally prohibited or when conditions are unreasonable for such work.

(C) *Interference with Right-of-way.* A permittee shall not so obstruct a right-of-way that the natural free and clear passage of water through the gutters or other waterways shall be interfered with. Private vehicles of those doing work in the right-of-way may not be parked within or next to a permit area, unless parked in conformance with city parking regulations. The loading or unloading of trucks must be done solely within the defined permit area unless specifically authorized by the permit.

(D) *Trenchless Excavation.* As a condition of all applicable permits, permittees employing trenchless excavation methods, including but not limited to Horizontal Directional Drilling, shall follow all requirements set forth in Minn. Stat. ch. 216D and Minn. R., ch. 7560 and shall require potholing or open cutting over existing underground utilities before excavating, as determined by the director.

§ 52.18. Denial or Revocation of Permit.

(A) *Reasons for Denial.* The city may deny a permit for failure to meet the requirements and conditions of this chapter or if the city determines that the denial is necessary to protect the health, safety, and welfare of the public or when necessary to protect the right-of-way and its current use and any city asset or facility.

(B) *Procedural Requirements.* The denial or revocation of a permit must be made in writing and must document the basis for the denial. The city must notify the applicant or right-of-way user in writing within three business days of the decision to deny or revoke a permit. If an application is denied, the right-of-way user may address the reasons for denial identified by the city and resubmit its application. If the application is resubmitted within 30 days of receipt of the notice of denial, no additional application fee shall be imposed. The city must approve or deny the resubmitted application within 30 days after submission.

§ 52.19. Installation Requirements.

The excavation, backfilling, patching and restoration, and all other work performed in the right-of-way shall be done in conformance with Minn. R. 7819.1100 and 7819.5000 and other applicable local requirements, in so far as they are not inconsistent with the Minn. Stat., §§ 237.162 and 237.163. Installation of service laterals shall be performed in accordance with Minn. R., ch 7560 and these ordinances. Service lateral installation is further subject to those requirements and conditions set forth by the city in the applicable permits and/or agreements referenced in § 52.23 (B).

§ 52.20. Inspection.

(A) *Notice of Completion.* When the work under any permit hereunder is completed, the permittee shall furnish a completion certificate in accordance Minn. Rule 7819.1300 or other as built documentation as deemed necessary by the city engineer.

(B) *Site Inspection.* Permittee shall make the work site available to the city and to all others as authorized by law for inspection at all reasonable times during the execution of and upon completion of the work.

(C) Authority of City Clerk.

(1) At the time of inspection, the director may order the immediate cessation of any work which poses a serious threat to the life, health, safety, or well-being of the public.

(2) The city clerk may issue an order to the permittee for any work that does not conform to the terms of the permit or other applicable standards, conditions, or codes. The order shall state that failure to correct the violation will be cause for revocation of the permit. Within ten (10) days after issuance of the order, the permittee shall present proof to the director that the violation has been corrected. If such proof has not been presented within the required time, the

city clerk may revoke the permit pursuant to § 52.23.

§ 52.21. Work Done Without a Permit.

(A) *Emergency Situations.* Each registrant shall immediately notify the director of any event regarding its facilities that it considers to be an emergency. The registrant may proceed to take whatever actions are necessary to respond to the emergency. Excavators' notification to Gopher State One Call regarding an emergency situation does not fulfill this requirement. Within two (2) business days after the occurrence of the emergency, the registrant shall apply for the necessary permits, pay the fees associated therewith, and fulfill the rest of the requirements necessary to bring itself into compliance with this chapter for the actions it took in response to the emergency.

If the city becomes aware of an emergency regarding a registrant's facilities, the city will attempt to contact the local representative of each registrant affected, or potentially affected, by the emergency. In any event, the city may take whatever action it deems necessary to respond to the emergency, the cost of which shall be borne by the registrant whose facilities occasioned the emergency.

(B) *Non-Emergency Situations.* Except in an emergency, any person who, without first having obtained the necessary permit, obstructs or excavates a right-of-way must subsequently obtain a permit and, as a penalty, pay double the normal fee for said permit, pay double all the other fees required by the city code, deposit with the city the fees necessary to correct any damage to the right-of-way, and comply with all of the requirements of this chapter.

§ 52.22. Supplementary Notification.

If the obstruction or excavation of the right-of-way begins later or ends sooner than the date given on the permit, permittee shall notify the city of the accurate information as soon as this information is known.

§ 52.23. Revocation of Permits.

(A) *Substantial Breach.* The city reserves its right, as provided herein, to revoke any right-of-way permit without a fee refund, if there is a substantial breach of the terms and conditions of any statute, ordinance, rule or regulation, or any material condition of the permit. A substantial breach by permittee shall include, but shall not be limited to, the following:

(1) The violation of any material provision of the right-of-way permit.

(2) An evasion or attempt to evade any material provision of the right-of-way permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the city or its citizens.

(3) Any material misrepresentation of fact in the application for a right-of-way permit.

(4) The failure to complete the work in a timely manner, unless a permit extension

is obtained or unless the failure to complete work is due to reasons beyond the permittee's control.

(5) The failure to correct, in a timely manner, work that does not conform to a condition indicated on an order issued pursuant to Sec. 1.20.

(B) *Written Notice of Breach.* If the city determines that the permittee has committed a substantial breach of a term or condition of any statute, ordinance, rule, regulation, or any condition of the permit, the city shall make a written demand upon the permittee to remedy such violation. The demand shall state that continued violations may be cause for revocation of the permit. A substantial breach, as stated above, will allow the city, at its discretion, to place additional or revised conditions on the permit to mitigate and remedy the breach.

(C) *Response to Notice of Breach.* Within twenty-four (24) hours of receiving notification of the breach, permittee shall provide the city with a plan, acceptable to the city, that will cure the breach. Permittee's failure to so contact the city, or permittee's failure to timely submit an acceptable plan, or permittee's failure to reasonably implement the approved plan, shall be cause for immediate revocation of the permit. Further, permittee's failure to so contact the city, or permittee's failure to submit an acceptable plan, or permittee's failure to reasonably implement the approved plan, shall automatically place the permittee on probation for one (1) full year. Icon

(D) *Cause for Probation.* From time to time, the city may establish a list of conditions of the permit, which if breached will automatically place the permittee on probation for one full year, such as, but not limited to, working out of the allotted time period or working on right-of-way grossly outside of the permit authorization.

(E) *Automatic Revocation.* If a permittee, while on probation, commits a breach as outlined above, permittee's permit will automatically be revoked and permittee will not be allowed further permits for one full year, except for emergency repairs.

(F) *Reimbursement of City Costs.* If a permit is revoked, the permittee shall also reimburse the city for the city's reasonable costs, including restoration costs and the costs of collection and reasonable attorneys' fees incurred in connection with such revocation.

§ 52.24. Mapping Data.

(A) *Information Required.* Each registrant and permittee shall provide mapping information required by the city in accordance with Minn. R. 7819.4000 and 7819.4100. Within ninety (90) days following completion of any work pursuant to a permit, the permittee shall provide the director accurate maps and drawings certifying the "as-built" location of all equipment installed, owned, and maintained by the permittee. Such maps and drawings shall include the horizontal and vertical location of all facilities and equipment and shall be provided consistent with the city's electronic mapping system, when practical or as a condition imposed by the director. Failure to provide maps and drawings pursuant to this subsection shall be grounds for revoking the permit holder's registration.

(B) *Service Laterals.* All permits issued for the installation or repair of service laterals, other than minor repairs as defined in Minn. R. 7560.0150, subp. 2, shall require the permittee's use of appropriate means of establishing the horizontal locations of installed service laterals and the service lateral vertical locations in those cases where the director reasonably requires it. Permittees or their subcontractors shall submit to the director evidence satisfactory to the director of the installed service lateral locations. Compliance with this paragraph (B) and with applicable Gopher State One Call law and Minnesota Rules governing service laterals installed after Dec. 31, 2005, shall be a condition of any city approval necessary for:

(1) payments to contractors working on a public improvement project, including those under Minn. Stat. ch. 429, and

(2) city approval under development agreements or other subdivision or site plan approval under Minn. Stat. ch. 462. The director shall reasonably determine the appropriate method of providing such information to the city. Failure to provide prompt and accurate information on the service laterals installed may result in the revocation of the permit issued for the work or future permits to the offending permittee or its subcontractors.

§ 52.25. Location and Relocation of Facilities.

(A) Placement, location, and relocation of facilities must comply with the Act, with other applicable law, with other applicable standards adopted by the city engineer, and with Minn. R. 7819.3100, 7819.5000, and 7819.5100, to the extent the rules do not limit authority otherwise available to cities.

(B) *Undergrounding.* Unless otherwise agreed in a franchise or other agreement between the applicable right-of-way user and the City, Facilities in the right-of-way must be located or relocated and maintained underground.

(C) *Corridors***.** The city may assign a specific area within the right-of-way, or any particular segment thereof as may be necessary, for each type of facility that is or, pursuant to current technology, the city expects will someday be located within the right-of-way. All excavation, obstruction, or other permits issued by the city involving the installation or replacement of facilities shall designate the proper corridor for the facilities at issue.

Any registrant who has facilities in the right-of-way in a position at variance with the corridors established by the city shall, no later than at the time of the next reconstruction or excavation of the area where the facilities are located, move the facilities to the assigned position within the right-of-way, unless this requirement is waived by the city for good cause shown, upon consideration of such factors as the remaining economic life of the facilities, public safety, customer service needs, and hardship to the registrant.

(D) *Nuisance.* One year after the passage of this chapter, any facilities found in a right-of-way that have not been registered shall be deemed to be a nuisance. The city may exercise any

remedies or rights it has at law or in equity, including, but not limited to, abating the nuisance or taking possession of the facilities and restoring the right-of-way to a useable condition.

(E) *Limitation of Space.* To protect the health, safety, and welfare of the public, or when necessary to protect the right-of-way and its current use, the city shall have the power to prohibit or limit the placement of new or additional facilities within the right-of-way. In making such decisions, the city shall strive to the extent possible to accommodate all existing and potential users of the right-of-way, but shall be guided primarily by considerations of the public interest, the public's needs for the particular utility service, the condition of the right-of-way, the time of year with respect to essential utilities, the protection of existing facilities in the right-of-way, and future city plans for public improvements and development projects which have been determined to be in the public interest.

§ 52.26 Pre-Excavation Facilities Location.

In addition to complying with the requirements of Minn. Stat. 216D.01-.09 ("One Call Excavation Notice System") before the start date of any right-of-way excavation, each registrant who has facilities or equipment in the area to be excavated shall mark the horizontal and vertical placement of all said facilities. Any registrant whose facilities are less than twenty (20) inches below a concrete or asphalt surface shall notify and work closely with the excavation contractor to establish the exact location of its facilities and the best procedure for excavation.

§ 52.27. Damage to Other Facilities.

When the city does work in the right-of-way and finds it necessary to maintain, support, or move a registrant's facilities to protect it, the city shall notify the local representative as early as is reasonably possible. The costs associated therewith will be billed to that registrant and must be paid within thirty (30) days from the date of billing. Each registrant shall be responsible for the cost of repairing any facilities in the right-of-way which it or its facilities damage. Each registrant shall be responsible for the cost of repairing any damage to the facilities of another registrant caused during the city's response to an emergency occasioned by that registrant's facilities.

§ 52.28. Right-of-way Vacation.

Reservation of right. If the city vacates a right-of-way that contains the facilities of a registrant, the registrant's rights in the vacated right-of-way are governed by Minn. R. 7819.3200.

§ 52.29. Indemnification and Liability

By registering with the city, or by accepting a permit under this chapter, a registrant or permittee agrees to defend and indemnify the city in accordance with the provisions of Minn. Rule 7819.1250.

§ 52.30. Abandoned and Unusable Facilities.

(A) *Discontinued Operations.* A registrant who has determined to discontinue all or a portion of its operations in the city must provide information satisfactory to the city that the registrant's obligations for its facilities in the right-of-way under this chapter have been lawfully assumed by another registrant.

(B) *Removal.* Any registrant who has abandoned facilities in any right-of-way shall remove it from that right-of-way if required in conjunction with other right-of-way repair, excavation, or construction, unless this requirement is waived by the city.

§ 52.31. Appeal.

A right-of-way user that: (1) has been denied registration; (2) has been denied a permit; (3) has had a permit revoked; (4) believes that the fees imposed are not in conformity with Minn. Stat. § 237.163, subd. 6; or (5) disputes a determination of the director regarding § 52.24 (B) of this ordinance may have the denial, revocation, fee imposition, or decision reviewed, upon written request, by the City Council. The City Council shall act on a timely written request at its next regularly scheduled meeting, provided the right-of-way user has submitted its appeal with sufficient time to include the appeal as a regular agenda item. A decision by the City Council affirming the denial, revocation, or fee imposition will be in writing and supported by written findings establishing the reasonableness of the decision.

§ 52.32 Reservation of Regulatory and Police Powers

A permittee's rights are subject to the regulatory and police powers of the city to adopt and enforce general ordinances as necessary to protect the health, safety, and welfare of the public.

§ 52.33. Severability.

If any portion of this chapter is for any reason held invalid by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof. Nothing in this chapter precludes the city from requiring a franchise agreement with the applicant, as allowed by law, in addition to requirements set forth herein.

TITLE VII: TRAFFIC CODE

Chapter

70. GENERAL PROVISIONS

71. PARKING REGULATIONS

72. TRAFFIC REGULATIONS

CHAPTER 70: GENERAL PROVISIONS

Section

Motorized Golf Carts

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MOTORIZED GOLF CARTS

§ 70.01 DEFINITION.

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

PHYSICALLY DISABLED PERSON. A person who fits the definition of physically disabled under M.S. § 169.345, Subd. 2, as it may be amended from time to time.

§ 70.02 OPERATION OF GOLF CARTS.

(A) *Operation of motorized golf carts.* A permit to operate a motorized golf cart on a roadway within the City of Ellendale shall be issued only to a person with a current, valid Minnesota driver's license or a person who is physically disabled as defined by Minnesota Statutes 169.345, subd. 2.

(B) *Permit required.*

(1) It shall be unlawful to operate a motorized golf cart on the roadways of the City of Ellendale without a permit.

(2) Permits for motorized golf carts shall be issued by the City Clerk upon an applicant's compliance with this Ordinance.

(3) Before such a permit is issued to an applicant, the applicant shall furnish to the City Clerk evidence of insurance complying with the provisions of Minnesota Statutes 65B.48, subd. 5 for golf cart to be used.

(C) *Application.* Every application for a permit to drive a motorized golf cart shall be made on a form supplied by the City and shall contain the following information:

(1) Date;

(2) Name, address and phone number of the applicant;

(3) Nature of the applicant's physical disability, if applicable;

(4) Applicant's current driver's license number, if applicable;

(5) Serial number, year, and manufacturer of the motorized golf cart which applicant intends on using; and

(6) Proof of liability insurance.

A physical-disabled applicant must submit with an application a certification signed by a physician indicating that the applicant is physically disabled as defined by Minnesota Statutes 169.345, subd. 2 and the applicant is able to safely operate a motorized golf cart. All applicants must furnish to the City Clerk any other information which the City Clerk reasonable requests.

(D) *Time of operation.* Motorized golf carts may only be operated on the designated roadways within the city from sunrise to sunset. They shall 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.

(E) *Slow moving vehicle emblem.* Motorized golf carts shall display the slow-moving vehicle emblem provided for in Minnesota Statutes 168.522, when operated on city roadways.

(F) *Application of traffic laws.* Every person operating a motorized golf cart in the City of Ellendale on the designated roadways has all the rights and duties applicable to the driver of any other vehicle under the provisions of Chapter 169 of the Minnesota Statutes, except when those provisions cannot reasonable be applied to a motorized golf cart and except as otherwise specifically provide for in Minnesota Statures 169.045, subd. 7.

(G) *Applicable state laws.* The provisions in M.S. Ch. 171, as it may be amended from time to time, are not applicable to persons operating motorized golf carts under permit on designated roadways pursuant to this section. Except for the requirements of M.S. § 169.70, as it may be amended from time to time, the provisions of M.S. Ch. 169, as it may be amended from time to time, relating to equipment on vehicles is not applicable to motorized golf carts.

(H) *Annual renewal; permit fee.* Permits granted pursuant to this section shall be for a period of one (1) year and may be renewed annually. The fee for a permit shall be set by the City Council as part of the city's fee schedule.

(I) *Revocation of permit.* A permit may be revoked at any time by the city if there is evidence that the permittee cannot safely operate the motorized golf cart on designated roadways. The City Council may, at any time, revoke the permit of any person who violates any of the provisions of this ordinance.

(J) *Operation.* Motorized golf carts shall be operated, at all times, as close to the right-hand curb as possible, except when the driver is making a left-hand turn.

(K) *Highways; sidewalks; trails.* No person shall operate a motorized golf cart on a public sidewalk or trail, nor on a state or county highway.
Penalty, see § 10.99

(L) *Allowing a Person without a Permit to Operate a Motorized Golf Cart.* A person issued a permit pursuant to this Code shall not allow any other person who has not been issued such a permit to operate the motorized golf cart for which the permit was granted on any roadway in the City of Ellendale.

(M) *Passengers.* No person operating a motorized golf cart on a roadway in the City of Ellendale shall exceed the seating capacity of said golf cart.

(N) *Possession of Permit*. Any golf cart operated within the city shall have a permit located on the golf cart during all times of operation. Only the person listed on the permit shall be authorized to operate the golf cart.

(O) *Penalty***.** Any person who violates any provision of this ordinance is guilty of a misdemeanor.

§ 70.03 VIOLATIONS.

A violation of this subchapter is a misdemeanor.
Penalty, see § 10.99.

§ 70.04 EFFECTIVE DATE.

This subchapter shall be effective following publication.

SNOWMOBILES

§ 70.15 INTENT.

It is the intent of this chapter to supplement M.S. §§ 84.81 to 84.91, and M.S. Ch. 169, as these statutes may be amended from time to time and Minn. Rules parts 6100.5000 through 6100.6000, as these rules may be amended from time to time, with respect to the operation of snowmobiles. These statutes and rules are incorporated herein by reference. This section is not intended to allow what the state statutes and rules prohibit, nor to prohibit what the state statutes and rules allow.

§ 70.16 DEFINITIONS.

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

DEADMAN THROTTLE or ***SAFETY THROTTLE.*** A device which, when pressure is removed from the engine accelerator or throttle, causes the motor to be disengaged from the driving mechanism.

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

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

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

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

RIGHT-OF-WAY. The entire strip of land traversed by a highway or street in which the public owns the fee or an easement for roadway purposes.

ROADWAY. That portion of a highway or street improved, designed or ordinarily used for vehicular travel.

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

STREET. A public thoroughfare, roadway, alley or trail used for motor vehicular traffic which is not an interstate, trunk, county-state aid, or county highway.

§ 70.17 APPLICATION OF TRAFFIC ORDINANCES.

The provisions of Ch. 70 of this code shall apply to the operation of snowmobiles upon streets and highways, except for those relating to required equipment, and except those which by their nature have no application.
Penalty, see § 10.99

§ 70.18 RESTRICTIONS.

(A) It is unlawful for any person to enter, operate or stop a snowmobile within the limits of the city:

(1) On the roadway of any street, except the most right hand lane when available for traffic or as close as practicable to right hand curb or edge of the roadway, except when overtaking and passing another vehicle stopped in the lane or proceeding in the same direction, or in making a left turn. Snowmobiles may also be operated upon the outside slope of trunk, county-state aid and county highways where the highways are so configured within the corporate limits.

(2) On a public sidewalk provided for pedestrian travel.

(3) On boulevards within any public right-of-way.

(4) On private property of another without specific permission of the owner or person in control of the property.

(5) Upon any school grounds, except as permission is expressly obtained from responsible school authorities.

(6) On public property, playgrounds and recreation areas, except areas previously listed or authorized for the use by resolution of the City Council, in which case the use shall be lawful, and snowmobiles may be driven in and out of those areas by the shortest route.

(7) On streets as permitted by this chapter at a speed exceeding 10 miles per hour.

(8) No person shall operate a snowmobile within the city limits between the hours of 11:00 p.m. and sunrise, unless they are coming into, passing through or leaving town via the marked trail. If the operator is leaving or coming home, they shall take the most direct route out of or into town using the marked trail or designated streets.

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

(1) So as to tow any person or thing in a public street or highway except through use of a rigid tow bar attached to the rear of the snowmobile; provided that a disabled snowmobile may be towed to a private residence or a place of business where snowmobiles are repaired without the use of a rigid tow bar.

(2) Within 100 feet of any fisherman, pedestrian, skating rink or sliding area where the operation would conflict with use or endanger other persons or operation.

(3) To intentionally drive, chase, run over or kill any animal.

Penalty, see § 10.99

§ 70.19 STOPPING AND YIELDING.

No snowmobile shall enter any uncontrolled intersection without making a complete stop. The operator shall then yield the right-of-way to any vehicles or pedestrians at the intersection, or so close to the intersection as to constitute an immediate hazard.

Penalty, see § 10.99

§ 70.20 PERSONS UNDER 18.

(A) No person under 14 years of age shall operate on streets or make a direct crossing of a city street as the operator of a snowmobile. A person 14 years of age or older, but less than 18 years of age, 8 may operate a snowmobile on streets as permitted under this chapter and make a direct crossing of those streets only if he or she has in his or her immediate possession a valid snowmobile safety certificate issued pursuant to M.S. § 84.872, as it may be amended from time to time.

(B) It is unlawful for the owner of a snowmobile to permit the snowmobile to be operated contrary to the provision of this section.

Penalty, see §10.99

§ 70.21 EQUIPMENT.

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

(A) Standard mufflers 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 motor.

(B) Brakes adequate to control the movement of and to stop and hold the snowmobile 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 feet ahead during the hours of darkness under normal atmospheric conditions. The head lamp shall be so aimed that glaring rays are not projected into the eyes of an oncoming snowmobile operator. It shall also be equipped with at least one red light plainly visible from a distance of 500 feet 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 handle bars and at the highest practical point on any towed object, so as to reflect lights at a 90 degree angle.
Penalty, see §10.99

§ 70.22 UNATTENDED SNOWMOBILES.

Every person leaving a snowmobile on a public place shall lock the ignition, remove the key and take the same with him or her.
Penalty, see § 10.99

§ 70.23 EMERGENCY OPERATION PERMITTED.

Notwithstanding any prohibitions in this chapter, a snowmobile may be operated on a public thoroughfare in an emergency during the period of time and at locations where snow upon the roadway renders travel by automobile impractical.

CHAPTER 71: PARKING REGULATIONS

Section

71.01 No parking where posted
71.02 Limited parking
71.03 Other parking restrictions
71.04 Declaration of snow emergency; parking prohibited
71.05 Parking certain semi-trailers or tractors on public streets prohibited
71.07 Repairing of vehicles
71.08 Prohibiting parking areas in front yards in residential zones
71.09 Impoundment
71.10 Prima facie violation

§ 71.01 NO PARKING WHERE POSTED.

No person shall stop, stand or park a vehicle upon the public streets of the city at any place where official signs or where appropriate devices, marks, or painting, either upon the surface of the street or the curb immediately adjacent thereto, prohibits these acts.
Penalty, see § 10.99

§ 71.02 LIMITED PARKING.

No person shall stop, stand or park a vehicle upon the public streets of the city where official signs are erected limiting the parking time thereon, for a period of time in excess of the time as designated by the official signs.
Penalty, see § 10.99

§ 71.03 OTHER PARKING RESTRICTIONS.

(A) The City Council may by resolution order the placing of signs, devices or marks, or the painting of streets or curbs prohibiting or restricting the stopping, standing or parking of vehicles on any street where, in its opinion, as evidenced by a finding in its official minutes, the stopping, standing or parking is dangerous to those using the highway, or where the stopping, standing or parking of vehicles would unduly interfere with the free movement of traffic. The signs, devices, marks or painting shall be official signs, devices, marks or painting, and no person shall stop, stand or park any vehicle in violation of the restrictions thereon or as indicated thereby.

(B) "No parking" signs may be placed by city employees on any street of the city to permit construction, repair, snow removal, street cleaning or similar temporary activities. While the signs are in place, it shall be unlawful to park any vehicle on the streets or portion thereof so posted.

(C) It shall be unlawful for a person to park in an area designated by Council resolution and posted as a fire lane.

(D) It shall be unlawful for a person to park a vehicle or permit it to stand, whether attended or unattended, on an alley within the city, provided that this does not prohibit the parking of vehicles for less than one hour on an alley for the purpose of access to abutting property for loading or unloading merchandise or other material when parking on the property itself is not available.

(E) It shall be unlawful for a person to park a motor vehicle in an area designated by posted signs pursuant to Council resolution for certain types of vehicles, unless the motor vehicle is one of the types of vehicles specifically permitted.

(F) Every vehicle parked upon any street with a curb shall be parked parallel to the curb, unless angle parking is designated by appropriate signs or markings. On streets with a curb, the right-hand wheels of any vehicle parked shall be within one foot of the curb. On streets without a curb, the vehicle shall be parked to the right of the main traveled portion of the street and parallel to it and in such a manner as not to interfere with the free flow of traffic, unless angle parking is designated by appropriate signs or markings.
Penalty, see § 10.99

§ 71.04 PARKING DURING STREET MAINTENANCE OR SNOW EMERGENCY.

(A) A snowfall of three (3) or more inches within an eight (8) hour period of time shall constitute a snow emergency. The emergency shall continue in effect for a period of 24 hours from the end of the snowfall or until snow has been removed from the city's streets.

(B) This section does not apply to street parking within a two-block radius of duly constituted churches for regularly scheduled weekend services, holiday services, funerals and weddings. Street parking is allowed one hour prior and one hour after the scheduled service times.

(C) No vehicle shall be parked or be permitted to remain on any street in or serving the Business District between the hours of 2:00 a.m. and 5:00 a.m. on any day, contrary to the signs ordered by the Council to be posted on such streets. Signs in place effective upon the adoption of this chapter shall be in effect until ordered changed.

(D) During a declared snow emergency, any law enforcement officer who finds a motor vehicle in violation of this section shall attempt to contact the owner of the motor vehicle and require the owner to immediately move the motor vehicle so as not to be in violation of this section. If the owner does not immediately remove the motor vehicle or the owner cannot be located, Law Enforcement is authorized to have the motor vehicle removed at the owner's expense.
Penalty, see § 10.99

§ 71.05 PARKING OF TRUCKS, TRAILERS AND OTHER VEHICLES IN RESIDENTIAL AREAS.

(A) *Definitions*. Unless the context clearly indicates or requires another meaning, the definitions contained in Minn. Stat. § 168.002, as amended from time to time, are hereby incorporated by reference for the purposes of this ordinance.

(B) *Semitrailers and Buses Prohibited*. It shall be unlawful for any person, business or other entity to park a semitrailer or bus on public or private property including streets and alleyways within a Residential District except as permitted under Section 6 below.

(C) *Parking of Truck-Tractors in Residential Districts*.

(1) It shall be unlawful for any person, business or other entity to park a truck-tractor on public property, including streets and alleyways within a Residential District except as permitted under Section 6 below.

(2) Truck-tractors may be parked on private property owned or rented by the operator and/or owner of the truck-tractor within a Residential District as long as the following conditions are met:

(3) No more than one truck-tractor may be parked on the private property owned or rented by the operator and/or owner.

(4) No part of the truck-tractor protrudes onto the street.

(5) The truck-tractor is parked on a permanent driveway area, not on any part of the lawn or yard area of the property.

(6) The truck-tractor must not be parked in a manner which restricts the view of streets, intersections or pedestrian crosswalks from on-coming traffic, or interferes with the movement of, or loading or unloading of school buses, emergency vehicles, city, county or state utility vehicles.

(7) The engine, on board generator or A.P.U. cannot be running for more than 15 minutes in any 24 hour period.

(8) The truck-tractor is not parked on the private property for more than seven consecutive days.

(D) *Parking in All Districts*.

(1) Trucks, trailers or any recreational vehicles may only be parked on a public road in a residential district for no greater than eight (8) continuous hours. Trucks, trailers or any recreational vehicles shall not be parked on a public

road in a commercial district between the hours of midnight and 6:00 am.

(2) *Surface*. Motorized vehicles and recreation vehicles, including trailers, boats, campers, or associated equipment, shall not be parked outside on the premises of any dwelling or any residential lot, unless the entire footprint of the vehicle or recreational equipment is contained within a continuous concrete or bituminous surface, or gravel or stone material with a minimum depth of four (4) inches. The surface shall maintain a minimum setback from all property lines and public right-of-ways of two (2) feet.

(E) *Exceptions for Semitrailers, Truck-Tractors and Buses*. The following situations do not constitute the parking of truck-tractors, buses and/or semitrailers:

(1) Truck-tractors, buses and/or semitrailers which are actively engaged in loading, unloading or providing a service.

(2) Truck-tractors, buses and/or semitrailers associated with public or private construction and parked within 200 feet of the construction location.

(3) The parking of truck-tractors, buses and/or semitrailers on private property which is primarily used for commercial or industrial purposes and is a permitted pre-existing non-conforming use.

(F) Truck Restrictions.

(1) The City Council by resolution may designate streets on which travel by commercial vehicles in excess of 10,000 pounds gross weight is prohibited. As instructed by the City Council by resolution, the City Maintenance Department shall erect appropriate signs on such streets.

(2) The City Council may prohibit the operation of vehicles upon any street under its jurisdiction or impose weight restrictions on vehicles to be operated on a street whenever the street by reason of deterioration, rain, snow or other climatic conditions, will be seriously damaged or destroyed unless the use of vehicles on the street is prohibited or the permissible weights thereof reduced. The City Council shall have signs erected and maintained to plainly indicate the prohibition or restriction at each end of that portion of the street affected. No person shall operate a vehicle on a posted street in violation of the prohibition or restriction.

(G) *Penalties*.

(1) If a semitrailer, truck-tractor, tractor, truck, bus, or recreational vehicle is stopped, standing or parked in violation of this ordinance, the owner, or if leased, the lessee, is guilty of a petty misdemeanor.

(2) The owner or lessee may not be fined under paragraph A if:

(a) Another person is convicted for it, or pleads guilty to, that violation; or

(b) The semi-trailer, truck-tractor, tractor, truck, bus, or recreational vehicle which is the subject of the violation was stolen at the time of the violation.

(3) Paragraph A does not apply to a lessor if the lessor keeps a record of the name of the lessee.

(4) Paragraph A does not prohibit or limit the prosecution of a motor vehicle operator for violating this ordinance. Each and every day on which any person continues to violate the provisions of this ordinance, after having been notified of the violation, shall constitute a separate offense. A conviction under the terms of this ordinance shall not relieve any person from thereafter complying with the provisions of this ordinance.

(5) In addition to the penalties provided for violation of this ordinance, if any person, business or other entity fails to comply with any provision of this ordinance, the Council or any City official designated by it, may institute appropriate proceedings at law or at equity to restrain, correct or abate the violation.

§ 71.07 REPAIRING OF VEHICLES.

Minor repairs and tune-ups, such as replacement of spark plugs, spark plug wires, thermostat, radiator or heater hoses, oil changes and brake jobs shall be permitted on city streets provided that they can be accomplished within the same day and completed by 10:00 p.m. All other repairs shall be considered major repairs and shall not be permitted on any city street, unless the repairs are made within an enclosed structure allowed within the zoning district. Damage to city streets because of repairs or lack of repairs shall be charged to the person responsible for the damage to the city streets.

§ 71.08 PROHIBITING PARKING AREAS IN FRONT YARDS IN RESIDENTIAL ZONES.

(A) A person must not place, store, or allow the placement or storage of ice fish houses, skateboard ramps, playhouses, or other similar nonpermanent structures outside continuously for longer than 24 hours in the front yard area of residential property unless more than 100 feet back from the front property line.

(B) A person must not place, store, or allow the placement or storage of pipes, lumber, forms, steel, machinery, or similar materials, including all materials used in connection with a business, outside on residential property, unless shielded from public view by an opaque cover or fence.

(C) A person must not cause, undertake, permit, or allow the outside parking and storage of vehicles on residential property, unless it complies with the following requirements.

(1) No more than four vehicles per lawful dwelling unit may be parked or stored anywhere outside on residential property, except as otherwise permitted or required by the city because of nonresidential characteristics of the property. This maximum number does not include vehicles of occasional guests who do not reside on the property.

(2) Vehicles that are parked or stored outside in the front yard area must be on a paved or graveled parking or driveway area. Motorized vehicles and recreation vehicles, including trailers, boats, campers, or associated equipment, shall not be parked outside on the premises of any dwelling or any residential lot, unless the entire footprint of the vehicle or recreational equipment is contained within a continuous concrete or bituminous surface, or gravel or stone material with a minimum depth of four (4) inches. The surface shall maintain a minimum setback from all property lines and public right-of-ways of two (2) feet.

(3) Vehicles, watercraft, and other articles stored outside on residential property must be owned by a person who resides on that property. Students who are away at school for periods of time but still claim the property as their legal residence will be considered residents on the property.

(D) *Double Parking*. No vehicle shall be parked double on a public street except for loading and unloading purposes and for the purpose of receiving and discharging passengers and then for only such time as is reasonable necessary for that purpose and in a manner not to obstruct other vehicles from passing, and except as in the paragraph provided no vehicle shall be left standing unattended at any time on any street or highway in this municipality unless such vehicle is lawfully parked thereon.

(E) *Parking During Street Maintenance*.

(1) No person, except physicians on emergency calls, shall park any vehicle or suffer or permit it to remain parked during street maintenance under conditions set forth in the subdivisions which follow.

(2) On any street, alley or public parking lot in the city contrary to the sign or marking in the block or lot adjacent to such vehicles, so as to prevent street maintenance crews from cleaning, repairing, surfacing, removal of snow or otherwise maintaining such street.

(3) No vehicle shall be parked or be permitted to remain on any street in or serving the business district of the City of Ellendale between the hours of 2:00 am and 5:00 am on any day, following the signs ordered by the Council to be posted on such streets. Signs in place effective upon the adoption of this Ordinance shall be in effect until ordered changed.

(4) The business district is defined as follows: 5th Avenue commencing at 4th Street East to Commercial Street.

(F) *Parking Limited*. No vehicle shall be parked or left unattended on any street, public parking lot or alley within the corporate limits of this Municipality for 48 hours or more unless otherwise posted.

(G) *Vehicles Towed by Police*. Where any vehicle is parked or left unattended on any street, parking lot or alley contrary to the provisions this section, any police officer of the city may cause such vehicle to be removed, or removed and stored, and the cost of such moving and storage shall be paid by the owner of such vehicle in addition to any fine for as set forth in the city's master fees schedule.

(H) *Storage on Lots Prohibited*. It is unlawful for any person to use public parking lots in the city for storage. The word "storage" as used herein shall not be constructed to mean the parking the parking of only one motor vehicle by one person, but is intended to prohibit any person who owns, or has the care, custody and control of more than one vehicle, from using city public parking lots for parking such vehicles thereby making such lots unavailable for casual parking purposes.

(I) *Compliance with Signs*. No person who operates or controls any vehicle, or in whose name any vehicle is registered, shall cause, allow, permit or suffer such vehicle to be upon any street, avenue, alley or public parking lot, contrary to or for a longer period of time than is indicated by the markings or signs erected in or adjacent to such street, avenue, alley, or public parking lot, as are now or may hereafter be ordered by the Council.

(J) *Stopping, Parking*. No person shall stop, stand, or park a vehicle, except when necessary to avoid conflict with other traffic, or in compliance with the directions of a Police Officer or traffic control device, in any of the following places:

(1) On a sidewalk;

(2) In front of a public or private driveway or any yellow painted curb;

(3) Within ten feet of a Fire Hydrant;

(4) Within an intersection;

(5) On a crosswalk;

(6) Within thirty feet upon the approach to any flashing beacon, stop sign, or traffic control signal, located on the side of a roadway;

(7) Within twenty feet of a crosswalk at an intersection;

(8) Within fifty feet of the nearest rail of a railroad crossing;

(9) Within twenty feet of the driveway entrance to any Fire Station;

(10) Alongside or opposite any street excavation or obstruction when such stopping, standing or parking would obstruct traffic; or

(11) In the roadway side of any vehicle stopped or parked at the edge of a curb of a street.

(K) *Parking Privileges for Physically Handicap*. This section is not intended to infringe upon the parking privileges accorded the physically handicapped under Minnesota Statute 169.345.

(L) *Penalty*.

(1) It is a petty misdemeanor offense for any person to do any act forbidden or fail to perform any act required by this section.

(2) Penalties shall be as established in the city's master fees schedule.

§ 71.09 IMPOUNDMENT.

Any law enforcement office may order the removal of a vehicle from a street to a garage or other place of safety when the vehicle is left unattended and constitutes an obstruction to traffic or hinders snow removal, street improvements or maintenance operations. The vehicle shall not be released until the fees for towing and storage are paid in addition to any fine imposed for violation of this chapter.

§ 71.10 PRIMA FACIE VIOLATIONS.

The presence of any motor vehicle on any street when standing or parked in violation of this chapter is prima facie evidence that the registered owner of the vehicle committed or authorized the commission of the violation.

CHAPTER 72: TRAFFIC REGULATIONS

Section

72.01 State highway traffic regulations adopted by reference
72.02 Trucks prohibited on certain streets
72.03 Stop intersections
72.04 Through streets and one-way streets
72.05 Turning restrictions
72.06 U-turns restricted
72.07 Excessive noise
72.08 Exhibition driving prohibited
72.10 Motor vehicle noise

§ 72.01 STATE HIGHWAY TRAFFIC REGULATIONS ADOPTED BY REFERENCE.

(A) The Highway Traffic Regulations Act is hereby adopted by reference. The regulatory provisions of M.S. Chapter 169, as it may be amended from time to time, are here by adopted as a traffic ordinance regulating the use of highways, streets and alleys within the city and are hereby incorporated in and made a part of this section as completely as if set out in full herein.

(B) The penalty for violation of the provisions of state statutes adopted by reference in this section shall be identical with the penalty provided for in the statutes for the same offense.

§ 72.02 TRUCKS PROHIBITED ON CERTAIN STREETS.

(A) The City Council by resolution may designate streets on which travel by commercial vehicles in excess of 10,000 pounds axle weight is prohibited. The city shall cause appropriate signs to be erected on those streets. No person shall operate a commercial vehicle on posted streets in violation of the restrictions posted.

(B) The weight restrictions established in division (A) shall not apply to city or emergency vehicles, public school buses or to garbage and refuse trucks making regular collections and are under contract with the city, nor shall the weight restrictions in division (A) apply if a commercial vehicle must use the particular street in question for the purpose of local pick-up or delivery.
Penalty, see § 10.99

§ 72.03 STOP INTERSECTIONS.

The city may designate intersections as a stop intersection and require all vehicles to stop at one or more entrances to those intersections. The city shall post signs at those designated intersections, giving notice of the designation as a stop intersection. It shall be unlawful for any person to fail to obey the markings or signs posted under this section.
Penalty, see § 10.99

§ 72.04 THROUGH STREETS AND ONE-WAY STREETS.

The City Council by resolution may designate any street or portion of a street as a through street or one-way street where necessary to preserve the free flow of traffic or to prevent accidents. No trunk highway shall be so designated unless the consent of the Commissioner of Transportation to the designation is first secured. The city shall cause appropriate signs to be posted at the entrance to designated streets. It shall be unlawful for any person to fail to obey the markings or signs posted under this section.
Penalty, see § 10.99

§ 72.05 TURNING RESTRICTIONS.

The City Council by resolution may,whenever necessary to preserve a free flow of traffic or to prevent accidents, designate any intersection as one where turning of vehicles to the left or to the right, or both, is to be restricted at all times or during specified hours. No intersection on a trunk highway shall be so designated until the consent of the Commissioner of Transportation to the designation is first obtained.

§ 72.06 U-TURNS RESTRICTED.

No person shall turn a vehicle so as to reverse its direction on any street in the business district or at any intersection where traffic is regulated by a traffic control signal.
Penalty, see § 10.99

§ 72.07 EXCESSIVE NOISE.

(A) As used in this section, ***LIGHT-MOTOR VEHICLES*** means any automobile, van, motorcycle, motor-driven cycle, motor scooter, go-cart, minibike, trail bike, or truck with a gross vehicular weight of less than 10,000 pounds.

(B) It shall be unlawful for any person to operate, or cause to operate, or use a light-motor vehicle in a manner as to cause, or allow to be caused, excessive noise levels as a result of unreasonable rapid accelerations, deceleration, revving of engine, squealing of tires, honking of horns, or as a result of the operation of audio devices including but not limited to radios, phonograph, tape players, compact disc players or any other sound-amplifying device on or from the light-motor vehicle.

(C) No person shall operate, or cause to operate, or use a light-motor vehicle in violation of the noise standards contained in Minn. Rules parts 7030.1050 and 7030.1060, as it may be amended from time to time.

(D) No person shall operate, or cause to operate, or use a light-motor vehicle that discharges its exhaust other than through a muffler or other device that effectively prevents loud or explosive noises. No person shall operate, or cause to operate, or use a light-motor vehicle whose exhaust system has been modified, altered, or repaired in any way, including the use of a muffler cut-out or by-pass, that amplifies or otherwise increases noise above that emitted by the light-motor vehicle as originally equipped.

(E) The following are exempted from the provisions of this section:

(1) Sound emitted from sirens of authorized emergency vehicles;

(2) Burglar alarms on light-motor vehicles of the electronic signaling type which also transmit an audible signal to a receiver which can be carried by the owner or operator of the vehicle; and

(3) Celebrations on Halloween and other legal holidays and celebrations in connection with duly authorized parades.
Penalty, see § 10.99

§ 72.08 EXHIBITION DRIVING PROHIBITED.

No person shall turn, accelerate, decelerate or otherwise operate a motor vehicle within the city in a manner which causes unnecessary engine noise or backfire, squealing tires, skidding, sliding, swaying, throwing of sand or gravel, or in a manner simulating a race. Unreasonable squealing or screeching sounds emitted by tires or the unreasonable throwing of sand or gravel by the tires is prima facie evidence of a violation of this section.
Penalty, see § 10.99

§ 72.10 MOTOR VEHICLE NOISE.

(A) *Definitions.* For the purposes of this section, the following phrases are defined as follows:

ABNORMAL OR EXCESSIVE NOISE.

(1) Distinct and loudly audible noise that unreasonably annoys, disturbs, injures, or endangers the comfort and repose of any person or precludes their enjoyment of property or affects their property's value;

(2) Noise in excess of that permitted by M.S. § 169.69, as it may be amended from time to time, which requires every motor vehicle to be equipped with a muffler in good working order; or

(3) Noise in excess of that permitted by M.S. § 169.693 and Minn. Rules parts 7030.1000 through 7030.1050, as this statute and these rules may be amended from time to time, which establish motor vehicle noise standards.

ENGINE-RETARDING BRAKE. A dynamic brake, jake brake, Jacobs brake, C-brake, Paccar brake, transmission brake or other similar engine-retarding brake system which alters the normal compression of the engine and subsequently releases that compression.

(B) It shall be unlawful for any person to discharge the exhaust or permit the discharge of the exhaust from any motor vehicle except through a muffler that effectively prevents abnormal or excessive noise and complies with all applicable state laws and regulations.

(C) It shall be unlawful for the operator of any truck to intentionally use an engine-retarding brake on any public highway, street, parking lot or alley within the city which causes abnormal or excessive noise from the engine because of an illegally modified or defective exhaust system, except in an emergency.

(D) Minnesota Statutes §§ 169.69 and 169.693 (motor vehicle noise limits) and Minn. Rules parts 7030.1000 through 7030.1050, as these statutes and rules may be amended from time to time, are hereby adopted by reference.

(E) Signs stating "VEHICLE NOISE LAWS ENFORCED" may be installed at locations deemed appropriate by the City Council to advise motorists of the prohibitions contained in this section, except that no sign stating "VEHICLE NOISE LAWS ENFORCED" shall be installed on a state highway without a permit from the Minnesota Department of Transportation. The provisions of this section are in full force and effect even if no signs are installed.

TITLE IX: GENERAL REGULATIONS

Chapter

90. PARKS AND RECREATION

91. ANIMALS

92. HEALTH AND SAFETY; NUISANCES

93. BOULEVARD TREES

CHAPTER 90: PARKS AND RECREATION

Section

90.15 Purpose
90.16 Hours
90.17 Camping
90.18 Sanitation
90.19 Vandalism
90.20 Alcoholic beverages
90.21 Motor vehicles
90.22 Concessions
90.23 Fires
90.24 Pets
90.25 Glass containers
90.26 Removal from park
90.28 Violations
90.29 Effective date

§ 90.15 PURPOSE.

The purpose of this subchapter is to afford a means of maintaining and enforcing the orderly use of city parks and other recreational areas under the jurisdiction of the City of Ellendale.

§ 90.16 HOURS.

The hours of all parks under the jurisdiction of the City of Ellendale shall be from dawn until 10:00 pm.

§ 90.17 CAMPING.

No overnight camping at any park area shall be permitted without prior approval of the City Clerk.

§ 90.18 SANITATION.

It is unlawful for any person to dispose of garbage, refuse, sewage, or trash of any kind except in receptacles provided.
Penalty, see § 10.99

§ 90.19 VANDALISM.

The destruction, alteration, injury, or removal of any real or personal property of the city, including, but not limited to, trees or vegetation, whether living or dead, ruins, relics, buildings, or geological formations is prohibited.
Penalty, see § 10.99

§ 90.20 ALCOHOLIC BEVERAGES.

It is unlawful for any person to consume intoxicating liquors or 3.2% malt liquors in city parks.
Penalty, see § 10.99

§ 90.201 TOBACCO PRODUCTS.

It is unlawful for any person to use tobacco products in city parks.

§ 90.21 MOTOR VEHICLES.

It is unlawful to operate any motor vehicle within the boundaries of any city park.
Penalty, see § 10.99

§ 90.22 CONCESSIONS.

It is unlawful for any person to engage in or solicit business of any nature whatsoever within a city park or recreation area without the prior written permission of the City Clerk.
Penalty, see § 10.99

§ 90.23 FIRES.

Recreational fires are not permitted in City Parks. Grilling is permitted within City Parks with city provided grills or personal portable grills.
Penalty, see § 10.99

§ 90.24 PETS.

All pets must be kept on a leash. The owner or person responsible for any animal which leaves droppings on the premises shall be responsible to remove the droppings immediately.
Penalty, see § 10.99

§ 90.25 GLASS CONTAINERS.

It shall be unlawful for any person, firm, association, or corporation to take into, possess, or maintain within any public park within the city any sealed or previously sealed glass beverage container, regardless of whether the container contains liquor, 3.2% malt liquor, or a soft drink beverage.
Penalty, see § 10.99

§ 90.26 REMOVAL FROM PARK.

Regardless of any possible sanctions as set forth in § 90.28, any person who violates any provisions of §§ 90.16 through 90.25 may be subject to immediate removal from the park.

§ 90.28 VIOLATIONS.

Any person who violates § 90.19 is guilty of a misdemeanor. Any person who violates any other section of this subchapter is guilty of a petty misdemeanor.
Penalty, see § 10.99

§ 90.29 EFFECTIVE DATE.

This subchapter shall take effect upon its passage and publication.

CHAPTER 91: ANIMALS

Section

91.01 Definitions
91.02 Dogs and cats
91.03 Non-domestic animals
91.04 Farm animals
91.05 Impounding
91.06 Kennels
91.07 Nuisances
91.08 Seizure of animals
91.09 Animals presenting a danger to health and safety of city
91.10 Diseased animals
91.11 Dangerous animals
91.12 Dangerous animal requirements
91.13 Basic care
91.14 Breeding moratorium
91.15 Enforcing officer
91.16 Pound
91.17 Interference with officers

91.99 Penalty

§ 91.01 DEFINITIONS.

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

ANIMAL. Any mammal, reptile, amphibian, fish, bird (including all fowl and poultry) or other member commonly accepted as a part of the animal kingdom. Animals shall be classified as follows:

(A)***DOMESTIC ANIMALS.*** Those animals commonly accepted as domesticated household pets. Unless otherwise defined, domestic animals shall include dogs, cats, caged birds, gerbils, hamsters, guinea pigs, domesticated rabbits, fish, non-poisonous, non-venomous and non-constricting reptiles or amphibians, and other similar animals.

(B)***FARM ANIMALS.*** Those animals commonly associated with a farm or performing work in an agricultural setting. Unless otherwise defined, farm animals shall include members of the equine family (horses, mules), bovine family (cows, bulls), sheep, poultry (chickens, turkeys), fowl (ducks, geese), swine (including Vietnamese pot-bellied pigs), goats, bees, and other animals associated with a farm, ranch, or stable.

(C) ***NON-DOMESTIC ANIMALS.*** Those animals commonly considered to be naturally wild and not naturally trained or domesticated, or which are commonly considered to be inherently dangerous to the health, safety, and welfare of people. Unless otherwise defined, non-domestic animals shall include:

(1) Any member of the large cat family (family felidae) including lions, tigers, cougars, bobcats, leopards and jaguars, but excluding commonly accepted domesticated house cats.

(2) Any naturally wild member of the canine family (family canidae) including wolves, foxes, coyotes, dingoes, and jackals, but excluding commonly accepted domesticated dogs.

(3) Any crossbreeds such as the crossbreed between a wolf and a dog, unless the crossbreed is commonly accepted as a domesticated house pet.

(4) Any member or relative of the rodent family including any skunk (whether or not descented), raccoon, squirrel, or ferret, but excluding those members otherwise defined or commonly accepted as domesticated pets.

(5) Any poisonous , venomous, constricting, or inherently dangerous member of the reptile or amphibian families including rattlesnakes, boa constrictors, pit vipers, crocodiles and alligators.

(6) Any other animal which is not explicitly listed above but which can be reasonably defined by the terms of this section, including but not limited to bears, deer, monkeys and game fish.

AT LARGE. Off the premises of the owner and not under the custody and control of the owner or other person, either by leash, cord, chain, or otherwise restrained or confined.

CAT. Both the male and female of the felidae species commonly accepted as domesticated household
pets.

DOG. Both the male and female of the canine species, commonly accepted as domesticated household pets, and other domesticated animals of a dog kind.

OWNER. Any person or persons, firm, association or corporation owning, keeping, or harboring an animal.

RELEASE PERMIT. A permit issued by an animal control officer for the release of any animal that has been taken to the pound. A release permit may be obtained upon payment of a fee in accordance with that regular license requirement if the animal is unlicensed, payment of a release fee, and any maintenance costs incurred in capturing and impounding the animal. The release fees shall be as established in the city's master fee schedule. For the purpose of a release permit, any impoundment and release shall reset that animal's impoundment count to the beginning of the fee scale.

§ 91.02 DOGS AND CATS.

(A) *Running at large prohibited.* It shall be unlawful for the dog of any person who owns, harbors, or keeps a dog or cat, to run at large. A person, who owns, harbors, or keeps a dog or cat, which runs at large shall be guilty of a misdemeanor. Dogs on a leash and accompanied by a responsible person or accompanied by and under the control and direction of a responsible person, so as to be effectively restrained by command as by leash, shall be permitted in streets or on public land unless the city has posted an area with signs reading "Dogs Prohibited."

(B) *License required.*

(1) All dogs over the age of six months kept, harbored, or maintained by their owners in the city, shall be licensed and registered with the city. Dog licenses shall be issued by the City Clerk/Treasurer upon payment of the license fee as established by the Ordinance Establishing Fees and Charges adopted pursuant to § 32.20 of this code, as that ordinance may be amended from time to time. The owner shall state, at the time application is made for the license and upon forms provided, his or her name and address and the name, breed, color, and sex of each dog owned or kept by him or her. No license shall be granted for a dog that has not been vaccinated against distemper and rabies, as evidenced by a certificate by a veterinarian qualified to practice in the state in which the dog is vaccinated.

(2) It shall be the duty of each owner of a dog subject to this section to pay to the City Clerk/Treasurer the license fee established in the Ordinance Establishing Fees and Charges adopted pursuant to § 32.20, as it may be amended from time to time.

(3) Upon payment of the license fee as established by the Ordinance Establishing Fees and Charges adopted pursuant to § 32.20 of this code, as that ordinance may be amended from time to time, the Clerk/Treasurer shall issue to the owner a license certificate and metallic tag for each dog licensed. The tag shall have stamped on it and the number corresponding with the number on the certificate. Every owner shall be required to provide each dog with a collar to which the license tag must be affixed, and shall see that the collar and tag are constantly worn. In case a dog tag is lost or destroyed, a duplicate shall be issued by the City Clerk/Treasurer. A charge shall

be made for each duplicate tag in an amount established in the Ordinance Establishing Fees and Charges adopted pursuant to § 32.20, as it may be amended from time to time. Dog tags shall not be transferable from one dog to another and no refunds shall be made on any dog license fee or tag because of death of a dog or the owner's leaving the city before the expiration of the license period.

(4) The licensing provisions of this division (B) shall not apply to dogs whose owners are nonresidents temporarily within the city, nor to dogs brought into the city for the purpose of participating in any dog show. If the animal owned is a service animal which is capable of being properly identified as from a recognized school for seeing eye, hearing ear, service or guide animals, and the owner is a blind or deaf person, or a person with physical or sensory disabilities, then no license shall be required.

(5) The funds received by the City Clerk/Treasurer from all dog licenses and metallic tags fees shall first be used to defray any costs incidental to the enforcement of this chapter; including, but not restricted to, the costs of licenses, metallic tags, and impounding and maintenance of the dogs.

(C) *Vaccination.*

(1) All dogs and cats kept harbored, maintained, or transported within the city shall be vaccinated at least once every three years by a licensed veterinarian for:

(a) Rabies - with a live modified vaccine; and

(b) Distemper.

(2) A certificate of vaccination must be kept on which is stated the date of vaccination, owner's name and address, the animal's name (if applicable), sex, description and weight, the type of vaccine, and the veterinarian's signature. Upon demand made by the City Clerk/Treasurer, the Animal Control Officer or a law enforcement, the owner shall present for examination the required certificate(s) of vaccination for the animal(s). In cases where certificates are not presented, the owner or keeper of the animal(s) shall have seven days in which to present the certificate(s) to the City Clerk/Treasurer or officer. Failure to do so shall be deemed a violation of this section.
Penalty, see § 91.99

§ 91.03 NON-DOMESTIC ANIMALS.

It shall be illegal for any person to own, possess, harbor, or offer for sale, any non-domestic animal within the city. Any owner of a non-domestic animal at the time of adoption of this code shall have 30 days in which to remove the animal from the city after which time the city may impound the animal as provided for in this section. An exception shall be made to this prohibition for animals specifically trained for and actually providing assistance to the handicapped or disabled, and for those animals brought into the city as part of an operating zoo, veterinarian clinic, scientific research laboratory, or a licensed show or exhibition.
Penalty, see § 91.99

§ 91.04 FARM ANIMALS.

The keeping of farm animals shall be prohibited in all zoning districts. An exception shall be made to this section for those animals brought temporarily into the city as part of an operating zoo, veterinarian clinic, scientific research laboratory, or a licensed show or exhibition.

§ 91.05 IMPOUNDING.

(A) *Running at large.* Any unlicensed animal running at large is hereby declared a public nuisance. Any Animal Control Officer or law enforcement may impound any dog or other animal found unlicensed or any animal found running at large and shall give notice of the impounding to the owner of the dog or other animal, if known. The Animal Control Officer or law enforcement shall not enter the property of the owner of an animal found running at large or the owner of an unlicensed animal unless the officer has first obtained the permission of the owner to do so or has obtained a warrant issued by a court of competent jurisdiction, to search for and seize the animal. In case the owner is unknown, the officer shall post notice at the city office that if the dog or other animal is not claimed within the time specified in division (C) of this section, it will be sold or otherwise disposed of. Except as otherwise provided in this section, it shall be unlawful to kill, destroy, or otherwise cause injury to any animal, including dogs and cats running at large.

(B) *Biting animals.* Any animal that has not been inoculated by a live modified rabies vaccine and which has bitten any person, wherein the skin has been punctured or the services of a doctor are required, shall be confined in the city pound for a period of not less than 10 days, at the expense of the owner. The animal may be released at the end of the time if healthy and free from symptoms of rabies, and by the payment of all costs by the owner. However, if the owner of the animal shall elect immediately upon receipt of notice of need for the confinement by the officer to voluntarily and immediately confine the animal for the required period of time in a veterinary hospital of the owner's choosing, not outside of the county in which this city is located, and provide immediate proof of confinement in the manner as may be required, the owner may do so. If, however, the animal has been inoculated with a live modified rabies vaccine and the owner has proof of the vaccination by a certificate from a licensed veterinarian, the owner may confine the dog or other animal to the owner's property.

(C) *Reclaiming.* All animals conveyed to the pound shall be kept, with humane treatment and sufficient food and water for their comfort, at least five regular business days, unless the animal is a dangerous animal as defined under § 91.11 in which case it shall be kept for seven regular business days or the times specified in § 91.11, and except if the animal is a cruelly-treated animal in which case it shall be kept for 10 regular business days, unless sooner reclaimed by their owners or keepers as provided by this section. In case the owner or keeper shall desire to reclaim the animal from the pound, the following shall be required, unless otherwise provided for in this code or established from time to time by resolution of the City Council:

(1) Payment of the release fee and receipt of a release permit as established by city's master fee schedule pursuant to §32.20 of this code, as it may be amended from time to time.

(2) Payment of maintenance costs, as provided by the pound, per day or any part of day while animal is in the pound; and

(3) If a dog is unlicensed, payment of a regular license fee as established by the Ordinance

Establishing Fees and Charges adopted pursuant to § 32.20 of this code, as that ordinance may be amended from time to time, and valid certificate of vaccination for rabies and distemper shots is required.

(D) *Unclaimed animals.* At the expiration of the times established in division (C) of this section, if the animal has not been reclaimed in accordance with the provisions of this section, the officer appointed to enforce this section may let any person claim the animal by complying with all provisions in this section, or the officer may sell the animal to the University of Minnesota, or cause the animal to be destroyed in a proper and humane manner and shall properly dispose of the remains thereof. Any money collected under this section shall be payable to the City Clerk/Treasurer.
Penalty, see § 91.99

§ 91.06 KENNELS.

(A) *Definition of Kennel***.** The keeping of three or more dogs on the same premises, whether owned by the same person or not and for whatever purpose kept, shall constitute a "kennel", except that a fresh litter of pups may be kept for a period of three months before such keeping shall be deemed a "kennel".

(B) *Kennel as a Nuisance***.** Because the keeping of three or more dogs on the same premises is subject to great abuse, causing discomfort to persons in the area by way of smell, noise, hazard, and general aesthetic depreciation, the keeping of three or more dogs on the premises is hereby declared to be a nuisance and no person shall keep or maintain a kennel within the city.

§ 91.07 NUISANCES.

(A) *Habitual barking.* It shall be unlawful for any person to keep or harbor a dog which habitually barks or cries. Habitual barking shall be defined as barking for repeated intervals of at least five minutes with less than one minute of interruption. The barking must also be audible off of the owner's or caretaker's premises.

(B) *Damage to property.* It shall be unlawful for any person's dog or other animal to damage any lawn, garden, or other property, whether or not the owner has knowledge of the damage.

(C) *Cleaning up litter.* The owner of any animal or person having the custody or control of any animal shall be responsible for cleaning up any feces of the animal and disposing of the feces in a sanitary manner whether on their own property, on the property of others or on public property.

(D) *Warrant required.* The Animal Control Officer or law enforcement shall not enter the property of the owner of an animal described in this section unless the officer has first obtained the permission of the owner to do so or has obtained a warrant issued by a court of competent jurisdiction, to search for and seize the animal.

(E) *Other.* Any animals kept contrary to this section are subject to impoundment as provided in § 91.05.
Penalty, see § 91.99

§ 91.08 SEIZURE OF ANIMALS.

Any law enforcement or animal control officer may enter upon private property and seize any animal with the permission of the owner of the property, if that person is also the owner of the animal, provided that the following exist:

(A) There is an identified complainant other than the law enforcement or Animal Control Officer making a contemporaneous complaint about the animal;

(B) The law enforcement or animal control officer reasonably believes that the animal meets either the barking dog criteria set out in § 91.07 (A); the criteria for cruelty set out in § 91.13; or the criteria for an at large animal set out in § 91.0l (E);

(C) The officer can demonstrate that there has been at least one previous complaint of a barking dog; inhumane treatment of the animal; or that the animal was at large at this address on a prior date;

(D) The law enforcement or animal control officer has made a reasonable attempt to contact the owner of the animal and the property to be entered and those attempts have either failed or have been ignored;

(E) The animal control officer or law enforcement shall not enter the property of the owner of an animal described in this section unless the officer has first obtained the permission of the owner to do so or has obtained a warrant issued by a court of competent jurisdiction, to search for and seize the animal. If the officer has the permission of the owner, a property manager, landlord , innkeeper, or other authorized person to enter the property or has obtained a pass key from a property manager, landlord, innkeeper, or other authorized person to have that key shall not be considered unauthorized entry, and a warrant to search for and seize the animal need not be obtained; and

(F) Written notice of the seizure is left in a conspicuous place if personal contact with the owner of the animal is not possible.

§ 91.09 ANIMALS PRESENTING A DANGER TO HEALTH AND SAFETY OF CITY.

If, in the reasonable belief of any person or the Animal Control Officer or law enforcement, an animal presents an immediate danger to the health and safety of any person, or the animal is threatening imminent harm to any person, or the animal is in the process of attacking any person, the person or officer may destroy the animal in a proper and humane manner whether or not the animal is on the property of its owner. Otherwise, the person or officer may apprehend the animal and deliver it to the pound for confinement under § 91.05. If the animal is destroyed, the owner or keeper of the animal destroyed shall be liable to the city for the cost of maintaining and disposing of the animal, plus the costs of any veterinarian examination. If the animal is found not to be a danger to the health and safety of the city, it may be released to the owner or keeper in accordance with § 91.05 (C).

§ 91.10 DISEASED ANIMALS.

(A) *Running at large.* No person shall keep or allow to be kept on his or her premises, or on premises occupied by them, nor permit to run at large in the city, any animal which is diseased so as to be a danger to the health and safety of the city, even though the animal be properly licensed under this section, and a warrant to search for and seize the animal is not required.

(B) *Confinement.* Any animal reasonably suspected of being diseased and presenting a threat to the health and safety of the public, may be apprehended and confined in the pound by any person, the Animal Control Officer or law enforcement. The officer shall have a qualified veterinarian examine the animal. If the animal is found to be diseased in a manner so as to be a danger to the health and safety of the city, the officer shall cause the animal to be painlessly killed and shall properly dispose of the remains. The owner or keeper of the animal killed under this section shall be liable to the city for the cost of maintaining and disposing of the animal, plus the costs of any veterinarian examinations.

(C) *Release.* If the animal, upon examination, is not found to be diseased the animal shall be released to the owner or keeper free of charge.
Penalty, see § 91.99

§ 91.11 DANGEROUS ANIMALS.

(A) *Attack by an animal.* It shall be unlawful for any person's animal to inflict or attempt to inflict bodily injury to any person or other animal whether or not the owner is present. This section shall not apply to an attack by a dog under the control of an on-duty law enforcement officer or to an attack upon an uninvited intruder who has entered the owner's home with criminal intent.

(B) *Destruction of dangerous animal.* The Animal Control Officer shall have the authority to order the destruction of dangerous animals in accordance with the terms established by this chapter.

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

(1) ***DANGEROUS ANIMAL.*** An animal which has:

(a) Caused bodily injury or disfigurement to any person on public or private property;

(b) Engaged in any attack on any person under circumstances which would indicate danger to personal safety;

(c) Exhibited unusually aggressive behavior, such as an attack on another animal;

(d) Bitten one or more persons on two or more occasions; or

(e) Been found to be potentially dangerous and/or the owner has personal knowledge of the same; the animal aggressively bites, attacks, or endangers the safety of humans or domestic animals.

(2) ***POTENTIALLY DANGEROUS ANIMAL.*** An animal which has:

(a) Bitten a human or a domestic animal on public or private property;

(b) When unprovoked, chased or approached a person upon the streets, sidewalks, or any public property in an apparent attitude of attack; or

(c) Has engaged in unprovoked attacks causing injury or otherwise threatening the safety of humans or domestic animals.

(3) ***PROPER ENCLOSURE.*** Securely confined indoors or in a securely locked pen or structure suitable to prevent the animal from escaping and to provide protection for the animal from the elements. A proper enclosure does not include a porch, patio, or any part of a house, garage, or other structure that would allow the animal to exit of its own volition, or any house or structure in which windows are open or in which door or window screens are the only barriers which prevent the animal from exiting. The enclosure shall not allow the egress of the animal in any manner without human assistance. A pen or kennel shall meet the following minimum specifications:

(a) Have a minimum overall floor size of 32 square feet.

(b) Sidewalls shall have a minimum height of five feet and be constructed of 11-gauge or heavier wire. Openings in the wire shall not exceed two inches; support posts shall be 1 ¼ -inch or larger steel pipe buried in the ground 18 inches or more. When a concrete floor is not provided, the sidewalls shall be buried a minimum of 18 inches in the ground.

(c) A cover over the entire pen or kennel shall be provided. The cover shall be constructed of the same gauge wire or heavier as the sidewalls and shall also have no openings in the wire greater than two inches.

(d) An entrance/exit gate shall be provided and be constructed of the same material as the sidewalls and shall also have no openings in the wire greater than two inches. The gate shall be equipped with a device capable of being locked and shall be locked at all times when the animal is in the pen or kennel.

(4) ***UNPROVOKED.*** The condition in which the animal is not purposely excited, stimulated, agitated or disturbed.

(D) *Designation as potentially dangerous animal.* The Animal Control Officer shall designate any animal as a potentially dangerous animal upon receiving evidence that the potentially dangerous animal has, when unprovoked, then bitten, attacked, or threatened the safety of a person or a domestic animal as stated in division (C)(2). When an animal is declared potentially dangerous, the Animal Control Officer shall cause one owner of the potentially dangerous animal to be notified in writing that the animal is potentially dangerous.

(E) *Evidence justifying designation.* The Animal Control Officer shall have the authority to designate any animal as a dangerous animal upon receiving evidence of the following:

(1) That the animal has, when unprovoked, bitten, attacked, or threatened the safety of a person or domestic animal as stated in division (C)(1).

(2) That the animal has been declared potentially dangerous and the animal has then

bitten, attacked, or threatened the safety of a person or domestic animal as stated in division (C)(l).

(F) *Authority to order destruction.* The Animal Control Officer, upon finding that an animal is dangerous hereunder, is authorized to order, as part of the disposition of the case, that the animal be destroyed based on a written order containing one or more of the following findings of fact:

(1) The animal is dangerous as demonstrated by a vicious attack, an unprovoked attack, an attack without warning or multiple attacks; or

(2) The owner of the animal has demonstrated an inability or unwillingness to control the animal in order to prevent injury to persons or other animals.

(G) *Procedure.* The Animal Control Officer, after having determined that an animal is dangerous, may proceed in the following manner: The Animal Control Officer shall cause one owner of the animal to be notified in writing or in person that the animal is dangerous and may order the animal seized or make orders as deemed proper. This owner shall be notified as to dates, times, places and parties bitten, and shall be given 14 days to appeal this order by requesting a hearing before the City Council for a review of this determination.

(1) If no appeal is filed, the Animal Control Officer shall obtain an order or warrant authorizing the seizure and the destruction of the animal from a court of competent jurisdiction, unless the animal is already in custody or the owner consents to the seizure and destruction of the animal.

(2) If an owner requests a hearing for determination as to the dangerous nature of the animal, the hearing shall be held before the City Council, which shall set a date for hearing not more than three weeks after demand for the hearing. The records of the Animal Control or City Clerk/Treasurer's office shall be admissible for consideration by the Animal Control Officer without further foundation. After considering all evidence pertaining to the temperament of the animal, the City Council shall make an order as it deems proper. The City Council may order that the Animal Control Officer take the animal into custody for destruction, if the animal is not currently in custody. If the animal is ordered into custody for destruction, the owner shall immediately make the animal available to the Animal Control Officer. If the owner does not immediately make the animal available, the Animal Control Officer shall obtain an order or warrant authorizing the seizure and the destruction of the animal from a court of competent jurisdiction.

(3) No person shall harbor an animal after it has been found to be dangerous and ordered into custody for destruction.

(H) *Stopping an attack.* If any law enforcement or Animal Control Officer is witness to an attack by an animal upon a person or another animal, the officer may take whatever means the officer deems appropriate to bring the attack to an end and prevent further injury to the victim.

(I) *Notification of new address.* The owner of an animal which has been identified as dangerous or potentially dangerous shall notify the Animal Control Officer in writing if the animal is to be relocated from

its current address or given or sold to another person. The notification shall be given in writing at least 14 days prior to the relocation or transfer of ownership. The notification shall include the current owner's name and address, the relocation address, and the name of the new owner, if any.
Penalty, see § 91.99

§ 91.12 DANGEROUS ANIMAL REQUIREMENTS.

(A) *Requirements.* If the City Council does not order the destruction of an animal that has been declared dangerous, the City Council may, as an alternative, order any or all of the following:

(1) That the owner provide and maintain a proper enclosure for the dangerous animal as specified in § 91.11(C)(3);

(2) Post the front and the rear of the premises with clearly visible warning signs, including a warning symbol to inform children, that there is a dangerous animal on the property as specified in M.S. § 347.51 as may be amended from time to time;

(3) Provide and show proof annually of public liability insurance in the minimum amount of $300,000;

(4) If the animal is a dog and is outside the proper enclosure, the dog must be muzzled and restrained by a substantial chain or leash (not to exceed six feet in length) and under the physical restraint of a person 16 years of age or older. The muzzle must be of a design as to prevent the dog from biting any person or animal, but will not cause injury to the dog or interfere with its vision or respiration;

(5) If the animal is a dog, it must have an easily identifiable, standardized tag identifying the dog as dangerous affixed to its collar at all times as specified in M.S. § 347.51 as it may be amended from time to time, and shall have a microchip implant as provided by M.S. § 347.151, as it may be amended from time to time;

(6) All animals deemed dangerous by the Animal Control Officer shall be registered with the county in which this city is located within 14 days after the date the animal was so deemed and provide satisfactory proof thereof to the Animal Control Officer.

(7) If the animal is a dog, the dog must be licensed and up to date on rabies vaccination. If the animal is a cat or ferret, it must be up to date with rabies vaccination.

(B) *Seizure.* As authorized by M.S. § 347.54, as it may be amended from time to time, the Animal Control Officer shall immediately seize any dangerous animal if the owner does not meet each of the above requirements within 14 days after the date notice is sent to the owner that the animal is dangerous. Seizure may be appealed to district court by serving a summons and petition upon the city and filing it with the district court.

(C) *Reclaiming animals.* A dangerous animal seized under § 91.12(B), may be reclaimed by the owner of the animal upon payment of impounding and boarding fees and presenting proof to animal control that each of the requirements under § 91.12(B), is fulfilled. An animal not reclaimed under this section within 14 days may be disposed of as provided under § 91.11(F) and the owner is

liable to the city for costs incurred in confining and impounding the animal.

(D) *Subsequent offenses.* If an owner of an animal has subsequently violated the provisions under § 91.11 with the same animal, the animal must be seized by animal control. The owner may request a hearing as defined in § 91.11(F). If the owner is found to have violated the provisions for which the animal was seized, the Animal Control Officer shall order the animal destroyed in a proper and humane manner and the owner shall pay the costs of confining the animal. If the person is found not to have violated the provisions for which the animal was seized, the owner may reclaim the animal under the provisions of § 91.12(C). If the animal is not yet reclaimed by the owner within 14 days after the date the owner is notified that the animal may be reclaimed, the animal may be disposed of as provided under § 91.11(F) and the owner is liable to the animal control for the costs incurred in confining, impounding and disposing of the animal.

§ 91.13 BASIC CARE.

All animals shall receive from their owners or keepers kind treatment, housing in the winter, and sufficient food and water for their comfort. Any person not treating their pet in a humane manner will be subject to the penalties provided in this section.

§ 91.14 BREEDING MORATORIUM.

Every female dog or female cat in heat shall be confined in a building or other enclosure in a manner that it cannot come in contact with another dog or cat except for planned breeding. Upon capture and failure to reclaim the animal, every dog or cat shall be neutered or spayed prior to being transferred to a new owner.

§ 91.15 ENFORCING OFFICER.

The Council is hereby authorized to appoint an animal control officer(s) to enforce the provisions of this section. In the officer's duty of enforcing the provisions of this section, he or she may from time to time, with the consent of the City Council, designate assistants.

§ 91.16 POUND.

Every year the Council shall designate an official pound to which animals found in violation of this chapter shall be taken for safe treatment, and if necessary, for destruction.

§ 91.17 INTERFERENCE WITH OFFICERS.

No person shall in any manner molest, hinder, or interfere with any person authorized by the City Council to capture dogs, cats or other animals and convey them to the pound while engaged in that operation. Nor shall any unauthorized person break open the pound, or attempt to do so, or take or attempt to take from any agent any animal taken up by him or her in compliance with this chapter, or in any other manner to interfere with or hinder the officer in the discharge of his or her duties under this chapter.

Penalty, see § 91.99

§ 91.99 PENALTY.

(A) *Separate offenses.* Each day a violation of this chapter is committed or permitted to continue shall constitute a separate offense and shall be punishable under this section.

(B) *Misdemeanor.* Unless otherwise provided, violation of this chapter shall constitute a misdemeanor punishable as provided in § 10.99.

(C) *Petty misdemeanor.* Violations of §§ 91.02, 91.07, 91.13 and 91.14 are petty misdemeanors punishable as provided in § 10.99.

CHAPTER 92: HEALTH AND SAFETY; NUISANCES

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§ 92.01 ASSESSABLE CURRENT SERVICES.

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

CURRENT SERVICE. One or more of the following: snow, ice, or rubbish removal from sidewalks; weed elimination from street grass plots adjacent to sidewalks or from private property; removal or elimination of public health or safety hazards from private property, excluding any hazardous building included in M.S. §§ 463.15 et seq., as they may be amended from time to time; installation or repair of water service lines; street sprinkling, street flushing, light street oiling, or other dust treatment of streets; repair of sidewalks and alleys; trimming and care of trees and removal of unsound and insect-infected trees from the public streets or private property; and the operation of a street lighting system.

(B) *Snow, ice, dirt, and rubbish.*

(1) *Duty of owners and occupants.* The owner and the occupant of any property adjacent to a public sidewalk shall use diligence to keep the walk safe for pedestrians. No owner or occupant shall allow snow, ice, dirt, or rubbish to remain on the walk longer than 24 hours after its deposit thereon. Failure to comply with this section shall constitute a violation.

(2) *Removal by city.* The City Clerk/Treasurer or other person designated by the City Council may cause removal from all public sidewalks all snow, ice, dirt, and rubbish as soon as possible beginning 24 hours after any matter has been deposited thereon or after the snow has ceased to fall. The City Clerk/Treasurer or other designated person shall keep a record showing the cost of removal adjacent to each separate lot and parcel.

(C) *Public health and safety hazards.* When the city removes or eliminates public health or safety hazards from private property under the following provisions of this chapter, the administrative officer responsible for doing the work shall keep a record of the cost of the removal or elimination against each parcel of property affected and annually deliver that information to the City Clerk/Treasurer.

(D) *Installation and repair of water service lines.* Whenever the city installs or repairs water service lines serving private property under this code, the City Clerk/Treasurer shall keep a record of the total cost of the installation or repair against the property.

(E) *Repair of sidewalks and alleys.*

(1) *Duty of owner.* The owner of any property within the city abutting a public sidewalk or alley shall keep the sidewalk or alley in repair and safe for pedestrians. Repairs shall be made in accordance with the standard specifications approved by the City Council and on file in the office of the City Clerk/Treasurer.

(2) *Inspections; notice.* The City Council or its designee shall make inspections as are necessary to determine that public sidewalks within the city are kept in repair and safe for pedestrians or vehicles. If it is found that any sidewalk abutting on private property is unsafe and in need of repairs,

the City Council shall cause a notice to be served, by registered or certified mail or by personal service, upon the record owner of the property, ordering the owner to have the sidewalk repaired and made safe within 90 days or with proof of intent to do the repairs and stating that if the owner fails to do so, the city will do so and that the expense thereof must be paid by the owner, and if unpaid it will be made a special assessment against the property concerned.

(3) *Repair by city.* If the sidewalk is not repaired within 90 days after receipt of the notice, the City Clerk/Treasurer shall report the facts to the City Council and the City Council shall by resolution order the work done by contract in accordance with law. No person shall enter private property to repair a sidewalk, except with the permission of the owner or after obtaining an administrative warrant. The City Clerk/Treasurer shall keep a record of the total cost of the repair attributable to each lot or parcel of property.

(F) *Personal liability.* The owner of property on which or adjacent to which a current service has been performed shall be personally liable for the cost of the service. As soon as the service has been completed and the cost determined, the City Clerk/Treasurer, or other designated official, shall prepare a bill and mail it to the owner and thereupon the amount shall be immediately due and payable at the office of the City Clerk/Treasurer.

(G) *Damage to public property.* Any person driving any vehicle, equipment, object, or contrivance upon any street, road, highway, or structure shall be liable for all damages which the surface or structure thereof may sustain as a result of any illegal operation, or driving or moving of the vehicle, equipment, object, or contrivance; or as a result of operating, driving, or moving any vehicle, equipment, object, or contrivance weighing in excess of the maximum weight permitted by statute or this code. When the driver is not the owner of the vehicle, equipment, object, or contrivance, but is operating, driving, or moving it with the express or implied permission of the owner, then the owner and the driver shall be jointly and severally liable for any damage. Any person who willfully acts or fails to exercise due care and by that act damages any public property shall be liable for the amount thereof, which amount shall be collectable by action or as a lien under M.S. § 514.67, as it may be amended from time to time.

(H) *Assessment.* On or before November 29 of each year, the City Clerk/Treasurer shall list the total unpaid charges for each type of current service and charges under this section against each separate lot or parcel to which they are attributable under this section. The City Council may then spread the charges against property benefitted as a special assessment under the authority of M.S. § 429.101, as it may be amended from time to time, 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 10, as the City Council may determine in each case.
Penalty, see § 92.99

§ 92.02 TREE DISEASES.

(A) *Trees constituting nuisance declared.* The following are public nuisances whenever they may be found within the city:

(1) Any living or standing elm tree or part thereof infected to any degree with the Dutch Elm disease fungus *Ceratocystis Ulmi (Buisman) Moreau* or which harbors any of the elm bark beetles *Scolytus*

Multistriatus (Eichh.) or *Hylungopinus Rufipes (Marsh);*

(2) Any dead elm tree or part thereof, including branches, stumps, firewood, or other elm material from which the bark has not been removed and burned or sprayed with an effective elm bark beetle insecticide;

(3) Any living or standing oak tree or part thereof infected to any degree with the Oak Wilt fungus *Ceratocystisfagacearum;*

(4) Any dead oak tree or part thereof which in the opinion of the designated officer constitutes a hazard, including, but not limited to, logs, branches, stumps, roots, firewood, or other oak material which has not been stripped of its bark and burned or sprayed with an effective fungicide; and

(5) Any other shade tree with an epidemic disease.

(B) *Abatement of nuisance.* It is unlawful for any person to permit any public nuisance as defined in division (A) above to remain on any premises the person owns or controls within the city. The nuisance may be abated as provided in §§ 92.22 and 92.23.

(C) *Record of costs.* The City Clerk/Treasurer shall keep a record of the costs of abatement done under this section for all work done for which assessments are to be made, stating and certifying the description of the land, lots, parcels involved, and the amount chargeable to each.

(D) *Unpaid charges.* On or before November 29 of each year, the City Clerk/Treasurer shall list the total unpaid charges for each abatement against each separate lot or parcel to which they are attributable under this section. The City Council may then spread the charges or any portion thereof against the property involved as a special assessment as authorized by M.S. § 429.101, as it may be amended from time to time, and other pertinent statutes for certification to the County Auditor and collection the following year along with the current taxes.
Penalty, see § 92.99

NUISANCES

§ 92.15 PUBLIC NUISANCE.

Whoever by his or her act or failure to perform a legal duty intentionally does any of the following is guilty of maintaining a public nuisance, which is a misdemeanor:

(A) Maintains or permits a condition which unreasonably annoys, injures, or endangers the safety, health, morals, comfort, or repose of any considerable number of members of the public;

(B) Interferes with, obstructs, or renders dangerous for passage any public highway or right-of-way, or waters used by the public; or

(C) Is guilty of any other act or omission declared by law or §§ 92.16, 92.17, or 92.18, or any other part of this code to be a public nuisance and for which no sentence is specifically provided.
Penalty, see § 92.99

§ 92.16 PUBLIC NUISANCES AFFECTING HEALTH.

The following are hereby declared to be nuisances affecting health:

(A) Exposed accumulation of decayed or unwholesome food or vegetable matter;

(B) All diseased animals running at large;

(C) All ponds or pools of stagnant water;

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

(E) Accumulations of manure, refuse, or other debris;

(F) Privy vaults and garbage cans which are not rodent-free or fly-tight or which are so maintained as to constitute a health hazard or to emit foul and disagreeable odors;

(G) The pollution of any public well or cistern, stream or lake, canal, or body of water by sewage, industrial waste, or other substances;

(H) All noxious weeds and other rank growths of vegetation upon public or private property;

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

(J) All public exposure of people having a contagious disease; and

(K) Any offensive trade or business as defined by statute not operating under local license.

Penalty, see § 92.99

§ 92.17 PUBLIC NUISANCES AFFECTING MORALS AND DECENCY.

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

(A) All gambling devices, slot machines, and punch boards, except as otherwise authorized by federal, state, or local law;

(B) Betting, bookmaking, and all apparatus used in those occupations;

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

(D) All places where intoxicating liquor is manufactured or disposed of in violation of law or where, in violation of law, people are permitted to resort for the purpose of drinking intoxicating liquor, or where

intoxicating liquor is kept for sale or other disposition in violation of law, and all liquor and other property used for maintaining that place; and

(E) Any vehicle used for the unlawful transportation of intoxicating liquor, or for promiscuous sexual intercourse, or any other immoral or illegal purpose.
Penalty, see § 92.99

§ 92.18 PUBLIC NUISANCES AFFECTING PEACE AND SAFETY.

The following are declared to be nuisances affecting public peace and safety:

(A) All snow and ice not removed from public sidewalks 24 hours after the snow or other precipitation causing the condition has ceased to fall;

(B) All trees, hedges, billboards, or other obstructions which prevent people from having a clear view of all traffic approaching an intersection or prevent people from seeing street signs. Any trees planted or set out between the lot line and the curb on the hereinafter described streets shall be planted or set out eight feet out from the lot line: First Street, Second Street, Third Street, Fourth Street and Fifth Street, also Third Avenue, Fourth Avenue, Fifth Avenue except that part of Fifth Avenue lying between First Street and Fourth Street, Sixth Avenue and Seventh Avenue.

(C) All wires and limbs of trees which are so close to the surface of a sidewalk or street as to constitute a danger to pedestrians or vehicles;

(D) All obnoxious noises in violation of Minn. Rules Ch. 7030, as it may be amended from time to time, which are hereby incorporated by reference into this code;

(E) The discharging of the exhaust or permitting the discharging of the exhaust of any stationary internal combustion engine, motor boat, motor vehicle, motorcycle, all-terrain vehicle, snowmobile, or any recreational device except through a muffler or other device that effectively prevents loud or explosive noises therefrom and complies with all applicable state laws and regulations;

(F) (1) *Noises prohibited.*

(a) *General prohibition.* No person shall make or cause to be made any distinctly and loudly audible noise that unreasonably annoys, disturbs, injures, or endangers the comfort, repose, health, peace, safety, or welfare of any person or precludes their enjoyment of property or affects their property's value. This general prohibition is not limited by the specific restrictions of this section.

(b) *Defective vehicles or loads.* No person shall use any vehicle so out of repair or so loaded as to create loud and unnecessary grating, grinding, rattling, or other noise.

(c) *Loading; unloading; unpacking.* No person shall create loud or excessive noise in loading, unloading, or unpacking any vehicle.

(d) *Radios, phonographs, paging systems, and the like.* No person shall use or operate or permit the use or operation of any radio receiving set, musical instrument, phonograph, paging system,

machine, or other device for the production or reproduction of sound in a distinct and loudly audible manner as to unreasonably disturb the peace, quiet, and comfort of any person nearby. Operation of any such set, instrument, phonograph, machine or other device between the hours of 10:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at the property line of the structure or building in which it is located, in the hallway or apartment adjacent, or at a distance of 50 feet if the source is located outside a structure or building, shall be prima facie evidence of a violation of this section.

(e) *Schools, churches, hospitals, and the like.* No person shall create any excessive noise on a street, alley, or public grounds adjacent to any school, institution of learning, church, or hospital when the noise unreasonably interferes with the working of the institution or disturbs or unduly annoys its occupants or residents and when conspicuous signs indicate the presence of the institution.

(f) *Jake Brakes*. Use of jake brakes shall be strictly prohibited within the city limits.

(2) *Hourly restriction of certain operations.*

(a) *Domestic power equipment.* No person shall operate a power lawnmower, power hedge clipper, chain saw, mulcher, garden tiller, edger, drill, or other similar domestic power maintenance equipment except between the hours of 7:00 a.m. and 10:00 p.m. on any weekday or between the hours of 9:00 a.m. and 9:00 p.m. on any weekend or holiday. Snow removal equipment is exempt from this provision.

(G) The allowing of rain water, ice, or snow to fall from any building or structure upon any street or sidewalk or to flow across any sidewalk;

(H) Any barbed wire fence less than six feet above the ground and within three feet of a public sidewalk or way;

(I) All dangerous, unguarded machinery in any public place, or

(1) *Refuse hauling.* No person shall collect or remove garbage or refuse in any residential district except between the hours of 6:00 a.m. and 10:00 p.m. on any weekday or between the hours of 9:00 a.m. and 9:00 p.m. on any weekend or holiday.

(2) *Construction activities.* No person shall engage in or permit construction activities involving the use of any kind of electric, diesel, or gas-powered machine or other power equipment except between the hours of 7:00 a.m. and 10:00 p.m. on any weekday or between the hours of 9:00 a.m. and 9:00 p.m. on any weekend or holiday.

(3) *Noise impact statements.* The Council may require any person applying for a change in zoning classification or a permit or license for any structure, operation, process, installation, or alteration or project that may be considered a potential noise source to submit a noise impact statement on a form prescribed by the Council. It shall evaluate each such statement and take its evaluation into account in approving or disapproving the license or permit applied for or the zoning change requested.

(J) No person shall participate in any party or other gathering of people giving rise to noise, unreasonably disturbing the peace, quiet, or repose of another person. When law enforcement determines that a gathering is creating such a noise disturbance, the officer may order all persons present, other than the owner or tenant of the premises where the disturbance is occurring, to disperse

immediately. No person shall refuse to leave after being ordered by law enforcement to do so. Every owner or tenant of the premises who has knowledge of the disturbance shall make every reasonable effort to see that the disturbance is stopped;

(K) Obstructions and excavations affecting the ordinary public use of streets, alleys, sidewalks, or public grounds except under conditions as are permitted by this code or other applicable law;

(L) Radio aerials or television antennae erected or maintained in a dangerous manner;

(M) Any use of property abutting on a public street or sidewalk or any use of a public street or sidewalk which causes large crowds of people to gather, obstructing traffic and the free use of the street or sidewalk;

(N) All hanging signs, awnings, and other similar structures over streets and sidewalks, so situated so as to endanger public safety, or not constructed and maintained as provided by ordinance; so situated or operated on private property as to attract the public;

(O) Wastewater cast upon or permitted to flow upon streets or other public properties;

(P) Accumulations in the open of discarded or disused machinery, household appliances, implements, automobile bodies, or other material in a manner conducive to the harboring of rats, mice, snakes, or vermin, or the rank growth of vegetation among the items so accumulated, or in a manner creating fire, health, or safety hazards from accumulation;

(Q) Any well, hole, or similar excavation which is left uncovered or in another condition as to constitute a hazard to any child or other person coming on the premises where it is located;

(R) Obstruction to the free flow of water in a natural waterway or a public street drain, gutter, or ditch with trash of other materials;

(S) The placing or throwing on any street, sidewalk, or other public property of any glass, tacks, nails, bottles, or other substance which may injure any person or animal or damage any pneumatic tire when passing over the substance;

(T) The depositing of garbage or refuse on a public right-of-way or on adjacent private property;

(U) Reflected glare or light from private exterior lighting exceeding 0.5 footcandles as measured on the property line of the property where the lighting is located when abutting any residential parcel, and one footcandle when abutting any commercial or industrial parcel;

(V) Junk or personal property, including worn out or discarded material that is no longer used for the purposes for which is was manufactured or made, including but not limited to household appliances or part, tools, building materials, tin cans, glass, furniture, mattresses, box springs, crates, cardboard, ties or any other unsightly debris, brush or materials, the accumulation of which may have an adverse effect upon the neighborhood or property values, health, safety or general welfare of the public; and

(W) All other conditions or things which are likely to cause injury to the person or property of anyone.

Penalty, see § 92.99

§ 92.19 NUISANCE PARKING AND STORAGE.

(A) *Declaration of nuisance.* The outside parking and storage on residentially-zoned property of large numbers of vehicles, and vehicles, materials, supplies, or equipment not customarily used for residential purposes, in violation of the requirements set forth below is declared to be a public nuisance because it:

(1) Obstructs views on streets and private property;

(2) Creates cluttered and otherwise unsightly areas;

(3) Prevents the full use of residential streets for residential parking;

(4) Introduces commercial advertising signs into areas where commercial advertising signs are otherwise prohibited;

(5) Decreases adjoining landowners' and occupants' enjoyment of their property and neighborhood; and

(6) Otherwise adversely affects property values and neighborhood patterns.

(B) *Unlawful parking and storage.*

(1) A person must not place, store, or allow the placement or storage of ice fish houses, skateboard ramps, playhouses, or other similar nonpermanent structures outside continuously for longer than 24 hours in the front yard area of residential property unless more than 100 feet back from the front property line.

(2) A person must not place, store, or allow the placement or storage of pipes, lumber, forms, steel, machinery, or similar materials, including all materials used in connection with a business, outside on residential property, unless shielded from public view by an opaque cover or fence.

(3) A person must not cause, undertake, permit, or allow the outside parking and storage of vehicles on residential property, unless it complies with the following requirements:

(a) No more than four vehicles per lawful dwelling unit may be parked or stored anywhere outside on residential property, except as otherwise permitted or required by the city because of nonresidential characteristics of the property. This maximum number does not include vehicles of occasional guests who do not reside on the property.

(b) Motorized vehicles and recreation vehicles, including trailers, boats, campers, or associated equipment, shall not be parked outside on the premises of any dwelling or any residential lot, unless the entire footprint of the vehicle or recreational equipment is contained within a continuous concrete or bituminous surface, or gravel or stone material with a minimum depth of four (4) inches. The surface shall maintain a minimum setback from all property lines and public right-of-ways of two (2) feet.

(c) Vehicles, watercraft, and other articles stored outside on residential property must be owned by a person who resides on that property. Students who are away at school for periods of time but still claim the property as their legal residence will be considered residents on the property.
Penalty, see § 92.99

§ 92.20 INOPERABLE MOTOR VEHICLES.

(A) It shall be unlawful to keep, park, store, or abandon any motor vehicle which is not in operating condition, partially dismantled, used for repair of parts or as a source of repair or replacement parts for other vehicles, kept for scrapping, dismantling, or salvage of any kind, or which is not properly licensed for operation with the state, pursuant to M.S. § 168B.011**,** Subd. 3, as it may be amended from time to time.

(B) This section does not apply to a motor vehicle enclosed in a building.

(C) Any motor vehicles described in this section constitute a hazard to the health and welfare of the residents of the community in that the vehicles can harbor noxious diseases, furnish a shelter and breeding place for vermin, and present physical danger to the safety and well-being of children and citizens; and vehicles containing fluids which, if released into the environment, can and do cause significant health risks to the community.
Penalty, see § 92.99

§ 92.21 BUILDING MAINTENANCE AND APPEARANCE.

(A) *Declaration of nuisance.* Buildings, fences, and other structures that have been so poorly maintained that their physical condition and appearance detract from the surrounding neighborhood are declared to be public nuisances because they:

(1) Are unsightly;

(2) Decrease adjoining landowners' and occupants' enjoyment of their property and neighborhood; and

(3) Adversely affect property values and neighborhood patterns.

(B) *Standards.* A building, fence, or other structure is a public nuisance if it does not comply with the following requirements.

(1) No part of any exterior surface may have deterioration, holes, breaks, gaps, or loose or rotting boards or timbers.

(2) Every exterior surface that has had a surface finish such as paint applied must be maintained to avoid noticeable deterioration of the finish. No wall or other exterior surface may have peeling, cracked, chipped, or otherwise deteriorated surface finish on more than 20% of:

(a) Any one wall or other flat surface; or

(b) All door and window moldings, eaves, gutters, and similar projections on any one side or surface.

(3) No glass, including windows and exterior light fixtures, may be broken or cracked, and no screens may be torn or separated from moldings.

(4) Exterior doors and shutters must be hung properly and have an operable mechanism to keep them securely shut or in place.

(5) Cornices, moldings, lintels, sills, bay or dormer windows, and similar projections must be kept in good repair and free from cracks and defects that make them hazardous or unsightly.

(6) Roof surfaces must be tight and have no defects that admit water. All roof drainage systems must be secured and hung properly.

(7) Chimneys, antennae, air vents, and other similar projections must be structurally sound and in good repair. These projections must be secured properly, where applicable, to an exterior wall or exterior roof.

(8) Foundations must be structurally sound and in good repair.

Penalty, see § 92. 99

§ 92.22 DUTIES OF CITY OFFICERS.

For purposes of §§ 92.22 and 92.23, the designated law enforcement officer, or person designated by the City Council, if the city has at the time no Police Department, may enforce the provisions relating to nuisances. Any peace officer or designated person shall have the power to inspect private premises and take all reasonable precautions to prevent the commission and maintenance of public nuisances. Except in emergency situations of imminent danger to human life and safety, no law enforcement or designated person shall enter private property for the purpose of inspecting or preventing public nuisances without the permission of the owner, resident, or other person in control of the property, unless the officer or person designated has obtained a warrant or order from a court of competent jurisdiction authorizing the entry.

§ 92.23 ABATEMENT.

(A) *Notice.* Written notice of violation; notice of the 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 section.

(1) *Notice of violation.* Written notice of violation shall be served by a peace officer or designated person on the owner of record or occupant of the premises either in person or by certified or registered mail. If the premise is 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 City Council hearing.* Written notice of any City Council hearing to determine or

abate a 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 premise is not occupied, the owner of record is unknown, or the owner of record or occupant refuses to accept notice of the City Council hearing, notice of City 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 M.S. § 463.17, as it may be amended from time to time.

(4) *Notice of motion for summary enforcement.* Written notice of any motion for summary enforcement shall be made as provided for in M.S. § 463.17, as it may be amended from time to time.

(B) *Procedure.* Whenever a peace officer or designated person determines that a public nuisance is being maintained or exists on the premises in the city, the officer or person designated shall notify in writing the owner of record or occupant of the premises of the fact and order that the 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 officer or designated person shall report that fact forthwith to the City Council. Thereafter, the City 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 City Council, the city may seek injunctive relief by serving a copy of the City Council order and notice of motion for summary enforcement or obtain an administrative search and seizure warrant and abate the nuisance.

(C) *Emergency procedure; summary enforcement.* In cases of emergency, where delay in abatement required to complete the notice and procedure requirements set forth in divisions (A) and (B) above will permit a continuing nuisance to unreasonably endanger public health safety or welfare, the City Council may order summary enforcement and abate the nuisance. To proceed with summary enforcement, the officer or designated person 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, or welfare. The officer or designated person 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 City 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, or welfare will be unreasonably endangered by delay in abatement required to complete the procedure set forth in division (A) above, and may order that the 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.

(D) *Immediate abatement.* Nothing in this section shall prevent the city, without notice or other process, from immediately abating any condition which poses an imminent and serious hazard to human life or safety.

Penalty, see § 92.99

§ 92.24 RECOVERY OF COST.

(A) *Personal liability.* The owner of premises on which a nuisance has been abated by the city shall be personally liable for the cost to the city of the abatement, including administrative costs. As soon as the work has been completed and the cost determined, the City Clerk/Treasurer or other official shall prepare a bill for the cost and mail it to the owner. The amount shall be immediately due and payable at the office of the City Clerk/Treasurer.

(B) *Assessment.* After notice and hearing as provided in M.S. § 429.061, as it may be amended from time to time, 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 City Clerk/Treasurer shall, on or before November 29th following abatement of the nuisance, list the total unpaid charges along with all other charges as well as other charges for current services to be assessed under M.S. § 429.101, as it may be amended from time to time, against each separate lot or parcel to which the charges are attributable. The City Council may then spread the charges against the 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 10, as the City Council may determine in each case.

Penalty, see § 92.99

§ 92.25 NOTICE OF VIOLATION.

Upon receiving notice of a nuisance violation of this subchapter, a person designated by the City Council shall make an inspection and prepare a written report to the City Council regarding the nuisances. The City Council, upon concluding that there is a probable belief that this subchapter has been violated, shall forward written notification in a form prescribed by the Council to the property owner or the person occupying the property as that information is contained with the records of the Clerk/Treasurer or any other city agency. The notice shall be served either by law enforcement or by certified mail. The notice shall provide that, within seven regular business days after the receipt of the notice, the designated violation shall be removed by the property owner or person occupying the property.

WEEDS

§ 92.35 SHORT TITLE.

This subchapter shall be cited as the "Weed Ordinance."

§ 92.36 JURISDICTION.

This subchapter shall be in addition to any state statute or county ordinance presently in effect, subsequently added, amended, or repealed.

§ 92.37 DEFINITIONS; EXCLUSIONS.

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

DESTRUCTION ORDER. The notice served by the City Council or designated city official, in cases of appeal, on the property owner of the ordinance violation.

PROPERTY OWNER. The person occupying the property, the holder of legal title or a person having control over the property of another, such as a right-of-way, easement, license, or lease.

WEEDS, GRASSES, and ***RANK VEGETATION.*** Includes, but is not limited to, the following:

(1) Noxious weeds and rank vegetation shall include, but not be limited to: alum (allium), Buckthorn, Bur Cucumber, Canada Thistle, Corncockle, Cressleaf Groundsel, Curly Dock, Dodder, Field Bindweed, French Weed, Hairy Whitetop, Hedge Bindweed, Hoary Cress, Horsenettle, Johnsongrass, Leafy Spurge, Mile-A-Minute Weed, Musk Thistle, Oxeye Daisy, Perennial Sowthistle, Poison Hemlock, Purple Loosestrife, Quackgrass, Russian Knapweed, Russian Thistle, Serrated Tussock, Shatter Cane, Sorghum, Wild Carrot, Wild Garlic, Wild Mustard, Wild Onion, Wild Parsnip;

(2) Grapevines when growing in groups of 100 or more and not pruned, sprayed, cultivated, or otherwise maintained for two consecutive years;

(3) Bushes of the species of all, common, or European barberry, further known as *berberis vulgaris* or its horticultural varieties;

(4) Any weeds, grass, or plants, other than trees, bushes, flowers, or other ornamental plants, growing to a height exceeding six inches;

(5) Rank vegetation includes the uncontrolled, uncultivated growth of annuals and perennial plants; and

(6) The term ***WEEDS*** does not include shrubs, trees, cultivated plants, or crops.

(B) In no event shall cultivated plants or crops include plants which have been defined by state statute or administrative rule as being noxious or detrimental plants.

§ 92.38 OWNERS RESPONSIBLE FOR TRIMMING, REMOVAL, AND THE LIKE.

All property owners shall be responsible for the removal, cutting, or disposal and elimination of weeds, grasses, and rank vegetation or other uncontrolled plant growth on their property, which at the time of notice is in excess of six inches in height.
Penalty, see § 92.99

§ 92.39 FILING COMPLAINT.

Any person, including the city, who believes there is property located within the corporate limits of the city which has growing plant matter in violation of this subchapter shall make a written complaint signed, dated, and filed with the City Clerk/Treasurer. If the city makes the complaint, an employee, officer, or Councilmember of the city shall file the complaint in all respects as set out above.

§ 92.40 NOTICE OF VIOLATIONS.

(A) Upon receiving notice of the probable existence of weeds in violation of this subchapter, a person designated by the City Council shall make an inspection and prepare a written report to the City Council regarding the condition. The City Council , upon concluding that there is a probable belief that this subchapter has been violated, shall forward written notification in the form of a "Destruction Order" to the property owner or the person occupying the property as that information is contained within the records of the City Clerk/Treasurer or any other city agency. The notice shall be served in writing by certified mail. The notice shall provide that, within seven regular business days after the receipt of the notice, the designated violation shall be removed by the property owner or person occupying the property.

(B) (1) All notices are to be in writing and all filings are to be with the City Clerk/Treasurer.

(2) Certified mailing to the City Clerk/Treasurer or others is deemed filed on the date of posting to the United States Postal Service.

§ 92.41 APPEALS.

(A) The property owner may appeal by filing written notice of objections with the City Council within 48 hours of the notice, excluding weekends and holidays, if the property owner contests the finding of the City Council. It is the property owner's responsibility to demonstrate that the matter in question is shrubs, trees, cultivated plants, or crops or is not otherwise in violation of this subchapter, and should not be subject to destruction under the subchapter.

(B) An appeal by the property owner shall be brought before the City Council and shall be decided by a majority vote of the Councilmembers in attendance and being at a regularly scheduled or special meeting of the City Council.

§ 92.42 ABATEMENT BY CITY.

In the event that the property owner shall fail to comply with the "Destruction Order" within seven regular business days and has not filed a notice within 48 hours to the City Clerk/Treasurer of an intent to appeal, the City Council may employ the services of city employees or outside contractors and remove the weeds to conform to this subchapter by all lawful means. No person shall enter the property to abate the nuisance, except with the permission of the owner, resident, or other person in control of the property.
Penalty, see § 92.99

§ 92.43 LIABILITY.

(A) The property owner is liable for all costs of removal, cutting, or destruction of weeds as defined by this subchapter.

(B) The property owner is responsible for all collection costs associated with weed destruction, including, but not limited to, court costs, attorney's fees, and interest on any unpaid amounts incurred by the city. If the city uses municipal employees, it shall set and assign an appropriate per hour rate for employees, equipment, supplies, and chemicals which may be used.

(C) All sums payable by the property owner are to be paid to the City Clerk/Treasurer and to be deposited in a general fund as compensation for expenses and costs incurred by the city.

(D) All sums payable by the property owner may be collected as a special assessment as provided by M.S. § 429.101, as it may be amended from time to time.

OPEN BURNING

§ 92.55 DEFINITIONS.

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

FIRE CHIEF, FIRE MARSHAL, and ASSISTANT FIRE MARSHALS. The Fire Chief, Fire Marshal and Assistant Fire Marshals of the Fire Department which provides fire protection services to the city.

OPEN BURNING. The burning of any matter if the resultant combustion products are emitted directly to the atmosphere without passing through a stack, duct, or chimney, except a "recreational fire" as defined herein. Mobile cooking devices such as manufactured hibachis, charcoal grills, wood smokers, and propane or natural gas devices are not defined as "open burning."

RECREATIONAL FIRE. A fire set with approved starter fuel no more than three feet in height, contained within the border of a "recreational fire site" using dry, clean wood; producing little detectable smoke, odor, or soot beyond the property line; conducted with an adult tending the fire at all times; for recreational, ceremonial, food preparation for social purposes; extinguished completely before quitting the occasion; and respecting weather conditions, neighbors, burning bans, and air quality so that nuisance, health, or safety hazards will not be created. No more than one ***RECREATIONAL FIRE*** is allowed on any property at one time.

RECREATIONAL FIRE SITE. An area of no more than a 3-foot diameter circle (measured from the inside of the fire ring or border); completely surrounded by noncombustible and non-smoke or odor producing material, either of natural rock, cement, brick, tile or blocks, or ferrous metal only an which area is depressed below ground, on the ground, or on a raised bed. Included are permanent outdoor wood burning fireplaces. Burning barrels are not a "recreational fire site" as defined herein. ***RECREATIONAL FIRE SITES*** shall not be located closer than 25 feet to any structure.

STARTER FUELS. Dry, untreated, unpainted, kindling, branches, cardboard, or charcoal fire starter. Paraffin candles and alcohols are permitted as starter fuels and as aids to ignition only. Propane gas torches or other clean gas burning devices causing minimal pollution must be used to start an open burn.

WOOD. Dry, clean fuel only such as twigs, branches, limbs, "presto logs, " charcoal, cord wood, or untreated dimensional lumber. The term does not include wood that is green with leaves or needles, rotten, wet, oil soaked, or treated with paint, glue, or preservatives. Clean pallets may be used for recreational fires when cut into 3-foot lengths.

§ 92.56 PROHIBITED MATERIALS.

(A) No person shall conduct, cause, or permit open burning oils, petro fuels, rubber, plastics, chemically treated materials, or other materials which produce excessive or noxious smoke such as tires, railroad ties, treated, painted or glued wood composite shingles, tar paper, insulation, composition board, sheet rock, wiring, paint, or paint fillers.

(B) No person shall conduct, cause, or permit open burning of hazardous waste or salvage operations, open burning of solid waste generated from an industrial or manufacturing process or from a service or commercial establishment or building material generated from demolition of commercial or institutional structures.

(C) No person shall conduct, cause, or permit open burning of discarded material resulting from the handling, processing, storage, preparation, serving, or consumption of food.

(D) No person shall conduct, cause, or permit open burning of any leaves or grass clippings.
Penalty, see § 92.99

§ 92.58 BURNING ALLOWED.

Open burning shall be allowed only during dates and times as designated by the city council. Open burning shall be allowed only for the following purposes:

(A) Disposal of vegetative matter for managing forest, prairie, or wildlife habitat, and in the development and maintenance of land and rights-of-way where chipping, composting, landspreading, or other alternative methods are not practical.

(B) Disposal of diseased trees generated on site, diseased or infected nursery stock, diseased bee hives.

(C) Disposal of unpainted, untreated, non-glued lumber and wood shakes generated from construction, where recycling, reuse, removal, or other alternative disposal methods are not practical.

§ 92.64 BURNING BAN OR AIR QUALITY ALERT.

No recreational fire or open burn will be permitted when the city or DNR has officially declared a

burning ban due to potential hazardous fire conditions or when the MPCA has declared an air quality alert. Penalty, see § 92.99

§ 92.65 RULES AND LAWS ADOPTED BY REFERENCE.

The provisions of M.S. §§ 88.16 through 88.22, as they may be amended from time to time, are hereby adopted by reference and made a part of this subchapter as if fully set forth at this point.

PROHIBITED DUMPING AT COMPOST SITE

§ 92.70 PROHIBITED DUMPING AT COMPOST SITE

In the event that the City designates a site for the disposal of compost materials, the dumping of materials other than garden wastes, weeds, lawn cuttings, leaves, prunings and branches is strictly prohibited. Only residents of the City of Ellendale are authorized to dispose compost materials at the city's designated site; disposal by individuals who are not residents of the City of Ellendale is strictly prohibited unless permitted by the City Clerk's office.

§ 92.99 PENALTY.

Violation of any provision of this chapter, including maintaining a nuisance after being notified in writing by first-class mail of a violation of any provision of this chapter, shall be a misdemeanor and punished as provided in § 10.99.

CHAPTER 93: BOULEVARD TREES

Section

General Provisions

93.10 Definitions
93.11 Responsibilities
93.12 Permits

§ 93.10 DEFINITIONS.

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

ORDINARY CARE. Ordinary care is the care needed and required for caring for a tree, including spading and trimming of grass around the tree, and removal of such growth and small twigs or branches growing from the side of a tree between the ground surface and the first major limb.

§ 93.11 RESPONSIBILITIES

(A) *City Maintenance Department Responsibility*. The City Maintenance Department shall have charge, custody, and control of all trees growing in any boulevards and boulevard areas, along the public streets and avenues, park or public areas of the city, and shall have power to supervise, plant, care for, and otherwise maintain such trees.

(B) *Owner's Responsibility*. The abutting property owners shall grade, seed or sod and shall give ordinary care and protection to trees and grass in boulevard planting areas. No person shall plant, trim, or remove trees in the boulevard, or use the boulevard area for any purpose other than the growing of grass and trees or public walks, without first obtaining a permit as hereinafter provided.

(C) *City Responsibility*. When financial and labor conditions permit, the city may assume complete responsibility for the purchase, planting, maintenance, and removal of all trees growing in any boulevard, park or public place in the city.

§ 93.12 PERMITS.

(A) *Authorization of Permits*. Until such time as financial responsibility for the purchase, planting, maintenance, and removal of trees growing in boulevards shall be assumed by the city, the City Council may authorize the City Clerk/Treasurer to issue permits to owners or persons responsible for property abutting on boulevards or parkways, for the planting, care and removal of trees by such owner at the owner's expense. The City Council may also authorize the City Clerk/Treasurer to issue permits for work to be done or improvements to be constructed in the boulevards beyond the planting, maintenance and removal of trees or grass. Such permits shall be reviewed and issued pursuant to guidelines and criteria established by the City Council or its Parks board if established. Appeals from the denial of a permit shall be made to the park board.

(B) *Permit for Maintenance*. No person shall plant, move, spray, fertilize, or do surgery work, cut above or below ground or otherwise disturb any tree in any boulevard beyond ordinary care and maintenance along the public streets or avenues, parks, or public places of the city, nor cause such act to be done by others, without first obtaining a written permit from the City Clerk/Treasurer's office which will issue the permit if, in its judgment, the desired work is necessary, and the proposed methods of workmanship thereof are of a satisfactory nature. The person receiving such permit shall abide by the specifications and standards adopted by the City Council.

(C) *Specifications in Permit*. Every permit granted by the City Clerk/Treasurer shall describe the work to be done, specify the species or variety, size, grade, location, briefly specify the method of planting, method of support and trimming of all trees concerned, and contain a definite date of expiration. Any permit may be declared void if its terms are violated.

TITLE XI: BUSINESS REGULATIONS

Chapter

110. ALCOHOLIC BEVERAGES

111. SEXUALLY-ORIENTED BUSINESSES

114. REGULATION OF PUBLIC DANCES

115. PEDDLERS AND SOLICITORS

116. REGULATION OF RENTAL UNITS

117. VACANT BUILDING IDENTIFICATION AND REGULATION

CHAPTER 110: ALCOHOLIC BEVERAGES

Section

110.01 Purpose
110.02 Definitions
110.03 License required
110.04 Types of licenses
110.05 Persons eligible for licenses
110.06 Liability insurance
110.07 License restrictions
110.08 Applications; investigations
110.09 Limit on the number of licenses
110.10 License suspension or revocation
110.11 Retail regulations
110.12 Hours and days of sale
110.13 Fees
110.14 Enforcement team

Public Consumption

110.25 Definitions
110.26 Consumption prohibited
110.27 Exceptions

110.99 Penalty

§ 110.01 PURPOSE.

The purpose of this subchapter is to replace existing ordinances regulating the sale of alcoholic beverages to include in a single ordinance all rules governing the sales, and to clarify the rules and procedures applicable to regulation of the sale of alcoholic beverages.

§ 110.02 DEFINITIONS.

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

***ALCOHOLIC BEVERAGES*.** Any beverage containing more than ½ of 1% alcohol by volume.

CITY. The City of Ellendale.

CLUB. 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:

(A) Has more than 50 members;

(B) Has owned or rented a building space in a building for more than one (1) year that is suitable and adequate for the accommodation of its members; and

(C) 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.

COMMISSIONER. The Commissioner of the Minnesota Department of Public Safety.

EXCLUSIVE LIQUOR STORE. An establishment used exclusively for the sale of the following items:

(A) Alcoholic beverages;

(B) Ice;

(C) Beverages for mixing with intoxicating liquor;

(D) Soft drinks;

(E) Liquor-filled candies;

(F) Food products containing more than ½ of 1% alcohol by volume;

(G) Cork extraction devices;

(H) Books and videos on the use of alcoholic beverages;

(I) Magazines and other publications published primarily for information and education on alcoholic beverages; and

(J) Pre-packaged foods which do not require preparation prior to consumption.

HOTEL. An establishment where food and lodging are regularly furnished to transients and which has:

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

(B) A minimum of 10 guest rooms.

INTOXICATING LIQUOR. Ethyl alcohol, distilled, fermented, spirituous, vinous, and malt beverages containing more than 3.5% of alcohol by weight.

LICENSED PREMISES. The premises described in the approved license application.

OFF-SALE. The sale of alcoholic beverages in original containers for consumption off the licensed premises only.

ON-SALE. The sale of alcoholic beverages for consumption on the licensed premises only.

RESTAURANT. An establishment, other than a hotel, under control of a single proprietor or manager, where meals are regularly prepared on the premises and served at tables, with a minimum seating capacity at the tables (excluding for seating) for at least 30 guests at 1 time.

RETAIL. Sale for consumption only.

3.2% MALT LIQUOR. Any beer, sale, or other beverage made from malt by fermentation containing more than 1/2 of 1%, but not more than 3.2 %, alcohol by weight.

§ 110.03 LICENSE REQUIRED.

No person may directly or indirectly, on any pretense or by any device, sell, barter, keep for sale, or otherwise dispose of alcoholic beverages as part of a commercial transaction at retail without having obtained a license under this subchapter.

§ 110.04 TYPES OF LICENSES.

(A) *On-sale intoxicating liquor.* An on-sale license for intoxicating liquor may be issued to:

(1) Hotels;

(2) Restaurants;

(3) Bowling centers; and

(4) Exclusive liquor stores.

(B) *Club licenses.* Licenses for the on-sale of intoxicating liquor may be issued, with the approval of the Commissioner, to clubs or congressionally chartered veterans organizations, for sale only to members and bona fide guests, provided the organization has been in existence for at least three (3) years.

(C) *Sunday on-sale.* A restaurant, hotel, club, or bowling center which holds an on-sale license may obtain a license for the on-sale of intoxicating liquor on Sundays in conjunction with the sale of food, provided the licensee has seating capacity at tables for a minimum of 30 patrons.

(D) *Off-sale intoxicating liquor.* An off-sale intoxicating liquor license may be issued to an exclusive liquor store.

(E) *3.2 % percent malt liquor.*

(1) A license for the on-sale of 3.2 % malt liquor may be issued to a hotel or bar.

(2) A license for the off-sale of 3.2% malt liquor may be issued to a grocery or convenience store.

(F) *Temporary on-sale licenses.*

(1) A temporary on-sale license for the sale of intoxicating liquor may be issued for a period not exceeding four (4) days to club, or charitable, religious, or other nonprofit organization in existence for at least three (3) years, or to a registered political committee in conjunction with a social event sponsored by the licensee in the city. A temporary license may be for premises other than those the licensees owns or permanently occupies. The license may provide that the licensee may contract for intoxicating liquor catering services with the holder of a regular on-sale intoxicating liquor license issued by any municipality. Licenses must be approved by the Commissioner.

(2) A temporary on-sale license for the sale of 3.2 % malt liquor in conjunction with a social event within the city may be issued to a club, charitable, religious, or nonprofit organization. No license shall be for a period of more than four (4) days.
Penalty, see § 10.99

§ 110.05 PERSONS ELIGIBLE FOR LICENSES.

(A) No license may be issued to:

(1) A person under the age of 21;

(2) A person who has had a retail license revoked within the previous 5 years or who at the time of such a revocation owned any interest, whether as a holder of 5% or more of the capital stock of a corporate licensee, as a partner or otherwise, in the premises or the business conducted thereon, or to a firm however organized in which such a person is in any manner interested;

(3) A person who has a direct or indirect interest in a manufacturer, brewer, or wholesaler as those are defined in M.S. Ch. 340A, as it may be amended from time to time; A person who has been convicted within the previous five (5) years of a felony or a willful violation of a federal or state law or local ordinance governing the manufacture, sale, distribution, or possession for sale or distribution of an alcoholic beverage; or

(4) A person in connection with the premises of another to whom a license could not be issued under the provisions of this subchapter; provided, however, that this division (A)(5) does not prevent the granting of a license to a proper lessee where the lessor is a minor, a noncitizen, or a person convicted of a crime other than a violation of M.S. Ch. 340A, as it may be amended from time to time, or an ordinance or statute in conformity with M.S. Ch. 340A, as it may be amended from time to time.

(B) Grounds for denial of a license may also be grounds for refusal to renew a license.

§ 110.06 LIABILITY INSURANCE.

(A) No retail license may be issued, maintained, or renewed unless the applicant demonstrates proof of financial responsibility with regard to liability imposed by M.S. §340A.801, as it may be amended from time to time. The minimum requirement for proof of financial responsibility may be given by filing:

(1) A certificate of insurance or of the existence of a pool providing coverage of at least $50,000 per person and $100,000 per occurrence for bodily injury; $50,000 per person and $100,000 per occurrence for loss of means of support; and $10,000 per occurrence for property damage;

(2) A bond of surety company with minimum coverages as provided in division (A)(l) above; or

(3) A certificate of the State Treasurer that the licensee has deposited with the State Treasurer $100,000 in cash or securities which may be legally purchased by savings banks or for trust funds having a market value of $100,000.

(B) Liability policies for dram shop insurance may provide for an annual aggregate limit of not less than $300,000.

(C) A policy required by this section must provide that it may not be canceled for any cause, except nonpayment of premium, by either the insurer or the insured unless the canceling party has given 30-days' written notice to the city. In the event of cancellation for nonpayment of premium, 10-days' written notice must be given to the city.

(D) A policy required by this section shall be coextensive with the license period.

(E) Division (A) above does not apply to 3.2% malt liquor who establish by affidavit that sales for the preceding year were less than $10,000 for on-sale 3.2% malt liquor licenses, and less than $20,000 for off-sale 3.2% malt liquor licenses.

§ 110.07 LICENSE RESTRICTIONS.

(A) All licenses are issued for a one (1) year period beginning on July 1 of each year. License fees for new applications after the beginning of the license year shall be pro-ra ted.

(B) All licenses are issued for the contiguous premises described in the application and all sales and delivery of alcoholic beverages by the licensee shall be made on the licensed premises.

(C) No off-site storage of alcoholic beverages is allowed except with the written approval of the Commissioner, a certified copy of which must be filed with the city by the licensee.

(D) No gambling is permitted on licensed premises except as authorized under M.S. Chapter 349A, as it may be amended from time to time.

(E) Licensees must maintain in a conspicuous location, clearly visible to customers, a sign not less than 14.5 inches wide by 8 inches high as designed by the Minnesota Commissioners of Health and Public Safety advising consumers of:

(1) The penalties for driving under the influence of alcohol;

(2) The penalties for serving someone who is obviously intoxicated or under the age of 21; and

(3) A warning regarding drinking alcohol while pregnant.

(F) The license issued pursuant to this section shall be posted in a conspicuous place clearly visible to customers.

§ 110.08 APPLICATIONS; INVESTIGATIONS.

(A) All applications for licenses shall be submitted on forms approved by the Commissioner and any further forms as the city may require.

(B) Applications shall include proof of insurance as required by § 110.06, and proof of compliance with the workman's compensation law.

(C) Applications shall include copies of any summons received by the applicant under M.S. § 340A.802, as it may be amended from time to time, during the preceding year.

(D) (1) The city shall conduct a preliminary background and financial investigation of all new applicants and in other cases where the City Council deems it to be in the public interest. If the city determines it to be necessary, it shall conduct, or contract with the Commissioner to conduct, a comprehensive investigation of the applicant.

(2) An investigation fee of $500 shall be charged. No license shall be issued or renewed if the results of the investigation show to the satisfaction of the city that issuance or renewals is not in the public interest.

§ 110.09 LIMIT ON THE NUMBER OF LICENSES.

(A) The city shall not issue more than four (4) on-sale intoxicating liquor licenses.

(B) The city shall not issue more than four (4) off-sale intoxicating liquor licenses.

§ 110.10 LICENSE SUSPENSION OR REVOCATION.

Upon a finding of a violation by a licensee of this subchapter or any applicable statute, including statutes regulating law for gambling, the city may suspend for up to 60 days or revoke the license, or impose a civil penalty up to $2,000.

§ 110.11 RETAIL REGULATIONS.

(A) Every licensee is responsible for the conduct of patrons and employees in the licensed premises, and any sale of any alcoholic beverage by an employee authorized to sell alcoholic beverages in the establishment is deemed the act of the licensee.

(B) No person under the age of 18 shall serve or sell alcoholic beverages.

(C) No person shall sell, give, furnish, or procure in any way alcoholic beverages for the use of an obviously intoxicated person.

§ 110.12 HOURS AND DAYS OF SALE.

(A) *On-sale intoxicating liquor.* No on-sale of intoxicating liquor may be made between 2:00 a.m. and 8:00 a.m. on the days Monday through Saturday, nor after 2:00 a.m. Sunday except pursuant to a Sunday license.

(B) *Sunday licenses.* On-sales pursuant to a Sunday license are permitted in conjunction with the sale of food between 11:00 a.m. Sunday and 2:00 a.m. on Monday, provided that the licensee is in compliance with the Minnesota Clean Indoor Air Act.

(C) *Off-sale intoxicating liquor.* No off-sale is permitted:

(1) On Sunday;

(2) Before 8:00 a.m. or after 10:00 p.m. on Monday through Saturday;

(3) On Thanksgiving Day;

(4) On Christmas Day, December 25; or

(5) After 8:00 p.m. Christmas Eve, December 24.

(D) *3.2% malt liquor sales.* No sale of 3.2 % malt liquor may be made between 2:00 a.m. and 8:00 a.m. on the days Monday through Saturday nor between 2:00 a.m. and 12:00 p.m. on Sunday.

(E) *Licensed premises to be closed.*

(1) No licensee shall allow non-employees on the premises more than 30 minutes after or before the times when sales may be made. No alcohol may be served during hours when sales are prohibited. No containers such as glasses, cups, or open individual serving bottles such as beer bottles, which contain alcoholic beverages shall be permitted on the premises more than 30 minutes after the time when sales may be made.

(2) When authorized persons are on the premises during hours when sales are prohibited, the premises shall be fully lighted and the interior visible from the street.

(3) Any Steele County Sheriff's Deputy shall be admitted at any time that an authorized person is on the licensed premises.

§ 110.13 FEES.

(A) *Generally.* All applications shall be accompanied by a receipt from the City Clerk/Treasurer for the required annual fee for the respective license. All fees shall be paid into the general fund.

(B) *Specifically.*

(1) The annual fee for an on-sale intoxicating liquor license is $1,750.

(2) The annual fee for an off-sale intoxicating liquor license is $100.

(3) The annual fee for a 3.2% malt liquor license is $25.

(4) The annual fee for a Sunday license is $200.

(5) The fee for a temporary license is $25.

(6) The fee for a club license is $300

§ 110.14 ENFORCEMENT TEAM.

(A) *Unlawful acts.* It is unlawful for a person under 21 to consume, purchase, or possess any alcoholic beverage. It is unlawful for anyone under 21 to enter a liquor establishment with the intent of being served alcohol.

(B) *Sales to minors.* If a license holder violates the conditions of their license by selling alcoholic beverages to a minor, the following penalty guidelines will be used:

(1) $500 fee for the first offense.

(2) $750 fee for the second offense.

(3) $1,000 fee and a three (3) day suspension of the license for the third offense.

(4) $2,000 fee and a 14-day suspension of the license for the fourth offense.

(5) The license will be revoked for the fifth offense.

(6) These guidelines apply to a 24-month time period.

(7) The City Council may change the applicable penalty, if they conclude the situation warrants a change.

(C) *Compliance checks.* Every licensee shall allow any peace officer, health officer, city employee, or any other person designated by the Council to conduct inspections, to enter, inspect, and search the premises of the licensee at any time without a warrant.

(D) *Mandatory training.*

(1) All persons holding a license, including a temporary license, shall attend an approved training session at least once each year. All employees (servers, bartenders, clerks, volunteer servers) must complete approved server education training within 30 days of the employees' first day of employment and each year in which they are employed.

(2) With the application for license or renewal of license, licensees shall certify their compliance with the provisions of this section. Current certificates of training for each employee shall be available for inspection at all times.

PUBLIC CONSUMPTION

§ 110.25 DEFINITIONS.

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

ALCOHOLIC BEVERAGE. Any beverage containing more than ½ of 1% alcohol by volume.

PUBLIC PROPERTY. All outdoor property owned by the City of Ellendale, including parking lots, parks, and playgrounds.

PUBLIC RIGHT-OF-WAY. All of the area between the outer boundaries of a platted or otherwise designated public right-of-way, including the streets, sidewalks, and boulevards.

§ 110.26 CONSUMPTION PROHIBITED.

No person shall consume an alcoholic beverage nor possess an open container containing alcoholic beverage while on public right-of-way or public property within the City of Ellendale.
Penalty, see § 10.99

§ 110.27 EXCEPTIONS.

(A) *Wine.* Prohibition of possession by this section does not apply to a person removing from a restaurant licensed to sell intoxicating liquor or wine at on-sale a bottle of wine which has been opened and the contents partially consumed, provided that at the time that the person is on the public right-of-way the bottle is corked, and the person is proceeding from the restaurant to his or her vehicle or other destination by the most direct route.

(B) *Temporary licenses.* This section does not apply to any public area within an area designated for sales under a temporary license issued by the City Council.

§ 110.99 PENALTY.

Any person violating this subchapter is guilty of a misdemeanor.
Penalty, see § 10.99

CHAPTER 111: SEXUALLY-ORIENTED BUSINESSES

Section

111.01 Purpose
111.02 Findings
111.03 Definitions
111.04 Classification
111.05 Location of sexually-oriented businesses
111.06 Regulations pertaining to exhibition of sexually-explicit films, videos, or live entertainment in viewing rooms
111.07 Additional regulations for escort agencies
111.08 Additional regulations for nude model studios
111.09 Additional regulations concerning public nudity
111.10 Prohibition against children in a sexually-oriented business
111.11 Hours of operation
111.12 Exemptions
111.13 Effective date

§ 111.01 PURPOSE.

It is the purpose of this chapter to regulate sexually-oriented businesses in order to promote the health, safety, morals, and general welfare of the citizens of the city and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually-oriented businesses within the city. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually-oriented materials. Similarly, it is not the intent nor effect of this chapter to restrict or deny access by adults to sexually-oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually-oriented entertainment to their intended market. Neither is it the intent nor effect of this chapter to condone or legitimize the distribution of obscene material.

§ 111.02 FINDINGS.

Based on evidence concerning the adverse secondary effects of adult uses in other communities and also on findings found in the *Report of Attorney General's Working Group on the Regulation of Sexually-Oriented Businesses* (6-6-1989, State of Minnesota), the Council finds:

(A) Sexually-oriented businesses in the city lend themselves to ancillary unlawful and unhealthy activities that are presently uncontrolled by the operators of the establishments. Further, there is presently no mechanism to make the owners of these establishments responsible for the activities that occur on their premises;

(B) Certain employees of sexually-oriented businesses defined in this chapter as adult theaters and cabarets engage in a higher incidence of certain types of sexually-oriented behavior at these businesses than employees of other establishments;

(C) Sexual acts, including masturbation, oral sex, and anal sex, occur at sexually-oriented businesses, especially those that provide private or semi-private booths or cubicles for viewing films, videos, or live sex shows, as defined under this chapter as adult bookstores, adult novelty shops, adult video stores, adult motion picture theaters, or adult arcades;

(D) Offering and providing the space encourages the activities which create unhealthy conditions;

(E) Persons frequent certain adult theaters, adult arcades, and other sexually-oriented businesses for the purpose of engaging in sex within the premises of the sexually-oriented businesses;

(F) At least 50 communicable diseases may be spread by activities occurring in sexually-oriented businesses, including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (AIDS), genital herpes, hepatitis B, and salmonella infections;

(G) Sanitary conditions in some sexually-oriented businesses are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities and the failure of the owners and the operators of those facilities to self-regulate those activities and maintain those facilities;

(H) Numerous studies and reports have determined that semen is found in the areas of sexually-oriented businesses where persons view "adult" oriented films;

(I) Sexually-oriented businesses have operational characteristics, which should be reasonably regulated in order to protect those substantial governmental concerns;

(J) Removal of doors on adult booths and requiring sufficient lighting on premises with adult booths advances a substantial governmental interest in curbing the illegal and unsanitary sexual activity occurring in adult theaters; and

(K) The general welfare, health, and safety of the citizens of the city will be promoted by the enactment of this chapter.

§ 111.03 DEFINITIONS.

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

ADULT ARCADE. Any place to which the public is permitted or invited wherein coin-operated, slug-operated, or for any form of consideration, or electronically, electrically, or mechanically

controlled still or motion picture machines, projectors, video, or digital disc players or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."

ADULT BOOKSTORE, ADULT NOVELTY STORE, OR ADULT VIDEO STORE.

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

(1) Books, magazines, periodicals, or other printed matter, or photographs, films, motion picture, videocassettes or video reproductions, slides, or other visual representations that are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; or

(2) Instruments, devices, or paraphernalia that are designed for use in connection with "specified sexual activities."

(B) A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical areas" and still be categorized as ***ADULT BOOKSTORE, ADULT NOVELTY STORE, and OR ADULT VIDEO STORE.***

(C) Any other business purposes will not serve to exempt the commercial establishments from being categorized as an ***ADULT BOOKSTORE, ADULT NOVELTY STORE, OR ADULT VIDEO STORE*** so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

ADULT CABARET. A nightclub, bar, restaurant, or similar commercial establishment that regularly features:

(A) Persons who appear in a state of nudity or semi-nude;

(B) Live performances that are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or

(C) Films, motion pictures, videocassettes, slides, or other photographic reproductions that are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."

ADULT MOTEL. A hotel, motel, or similar commercial establishment which:

(A) Offers accommodations to the public for any form of consideration; provides

patrons with closed-circuit television transmissions, films, motion pictures, videocassettes,

slides, or other photographic reproductions which are characterized by the depiction of or description of "specified sexual activities" or "specified anatomical areas" and has a sign visible from the public right-of-way that advertises the availability of this type of photographic reproductions;

(B) Offers a sleeping room for rent for a period of time that is less than 10 hours; or

(C) Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than 10 hours.

ADULT MOTION PICTURE THEATER. A commercial establishment where, for any form of consideration, films, motion pictures, videocassettes, slides, or similar photographic reproductions are regularly shown that are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

ADULT THEATER. A theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or semi-nude or live performances that are characterized by the exposure of "specified anatomical areas" or "specified sexual activities."

EMPLOYEE. A person who performs any service on the premises of a sexually-oriented business on a full-time, part-time, or contract basis, whether or not the person is designated an employee, independent contractor, agent, or otherwise and whether or not the person is paid a salary, wage, or other compensation by the operator of the business. ***EMPLOYEE*** does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises.

ESCORT. A person who, for consideration, agrees or offers to act as a companion, guide, or date for another person; or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

ESCORT AGENCY. A person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other compensation.

ESTABLISHMENT. Means and includes any of the following:

(A) The opening or commencement of any sexually-oriented business as a new business;

(B) The conversion of an existing business, whether or not a sexually-oriented business,

(C) to any sexually-oriented business;

(D) The additions of any sexually-oriented business to any other existing sexually-oriented

business; or

(E) The relocation of any sexually-oriented business.

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

(A) That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing;

(B) Where, in order to participate in a class, a student must enroll at least three days in advance of the class; and

(C) Where no more than one nude or semi-nude model is on the premises at any one time.

NUDITY OR A STATE OF NUDITY. The showing of the human male or female genitals, pubic area, vulva, anus, anal cleft, or cleavage with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernible turgid state.

PERSON. An individual, proprietorship, partnership, corporation, association, or other legal entity.

SEXUAL ENCOUNTER CENTER. A business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

(A) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

(B) Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.

SEXUALLY-ORIENTED BUSINESS . An adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center.

SPECIFIED ANATOMICAL AREAS. Mean:

(A) The human male genitals in a discernibly turgid state, even if completely and opaquely covered; or

(B) Less than completely and opaquely covered human genitals, pubic region, buttocks, or a female breast below a point immediately above the top of the areola.

SPECIFIED CRIMINAL ACTIVITY. Any of the following offenses:

(A) Prostitution or promotion of prostitution; dissemination of obscenity; sale, distribution, or display of harmful material to a minor; sexual performance by a child; possession or distribution of child pornography; public lewdness; indecent exposure; indecency with a child; engaging in organized criminal activity; sexual assault; molestation of a child; gambling; or distribution of a controlled substance; or any similar offenses to those described above under the criminal or penal code of other states or countries;

(B) For which:

(1) Less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;

(2) Less than five years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense; or

(3) Less than five years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any 24-month period.

(C) The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or a person residing with the applicant.

SPECIFIED SEXUAL ACTIVITIES. Any of the following:

(A) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;

(B) Sex acts, normal or perverted, actual or simulated, including intercourse, or copulation, masturbation, or sodomy; or

(C) Excretory functions as part of or in connection with any of the activities set forth in divisions (1) and (2) above.

SUBSTANTIAL ENLARGEMENT OF A SEXUALLY-ORIENTED BUSINESS. The increase in floor areas occupied by the business by more than 25%, as the floor areas exist on 1-1-2002.

TRANSFER OF OWNERSHIP OR CONTROL OF A SEXUALLY-ORIENTED BUSINESS. Any of the following:

(A) The sale, lease, or sublease of the business;

(B) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or

(C) The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership control.

§ 111.04 CLASSIFICATION.

Sexually-oriented businesses are classified as follows:

(A) Adult arcades;

(B) Adult bookstores, adult novelty stores, or adult video stores;

(C) Adult cabarets;

(D) Adult motels;

(E) Adult motion picture theaters;

(F) Adult theaters;

(G) Escort agencies;

(H) Nude model studios; and

(I) Sexual encounter centers.

§ 111.05 LOCATION OF SEXUALLY-ORIENTED BUSINESSES.

(A) Sexually-oriented businesses are a permitted use in the B-1 Highway Commercial District, as delineated on the Ellendale zoning Map, provided they meet the following setback standards.

(B) A sexually-oriented business must be setback a minimum of 1,000 feet from the following uses:

(1) A church, synagogue, mosque, temple, or building which is used primarily for religious worship and related religious activities; and

(2) A public or private educational facility, including, but not limited to, child day-care

facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, junior colleges, and universities. School includes the school grounds, but does not include the facilities used primarily for another purpose and only incidentally as a school.

(C) A sexually-oriented business must be setback a minimum of 500 feet from the following uses:

(1) A boundary of a residential district as defined in the City of Ellendale, Minnesota, zoning ordinance and map; a public park or recreational area which has been designated for park or recreational activities, including but not limited to, a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas, or other similar public land within the city that is under the control, operation, or management of the city park and recreation authorities;

(2) The property line of a lot devoted to a residential use as defined in the City of Ellendale, Minnesota, zoning map;

(3) An entertainment business which is oriented primarily toward children or family entertainment; and

(4) A licensed premise pursuant to the alcoholic beverage control regulations of the State of Minnesota.

(D) A person commits a misdemeanor if that person causes or permits the operation, establishment, substantial enlargement, or transfer of ownership or control of a sexually-oriented business within 1,000 feet of another sexually-oriented business.

(E) A person commits a misdemeanor if that person causes or permits the operation, establishment, or maintenance of more than one (1) sexually-oriented business in the same building, structure, or portion thereof, or the increase of floor area of any sexually-oriented business in any building, structure, or portion thereof containing another sexually-oriented business.

(F) For the purpose of divisions (B) or (C) above, measurement shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the building or structure used as the part of the premises where a sexually-oriented business is conducted, to the nearest property line of the premises of a use listed in divisions (B) or (C) above. Presence of a city, county, or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this section.

(G) For purposes of division (D) above, the distance between any two sexually-oriented businesses shall be measured in a straight line, without regard to the intervening structures or objects or political boundaries, from the closest exterior wall of the structure in which each business is located.

(H) Any sexually-oriented business lawfully operating on 1-1-2002 that is in violation of divisions through (G) above shall be deemed a nonconforming use. The nonconforming use will be permitted to continue unless terminated for any reason or voluntarily discontinued for a period of 180

days or more. The nonconforming uses shall not be increased, enlarged, extended, or altered except that the use may be changed to a conforming use. If two or more sexually-oriented businesses are within 1,000 feet of one another and are otherwise in a permissible location, the sexually-oriented business which was first established and continually operating at a particular location is the conforming use and the later established business(es) is/are nonconforming.
Penalty, see § 10.99

§ 111.06 REGULATIONS PERTAINING TO EXHIBITION OF SEXUALLY-EXPLICIT FILMS, VIDEOS, OR LIVE ENTERTAINMENT IN VIEWING ROOMS.

(A) A person who operates or causes to be operated a sexually-oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than 150 square feet of floor space, a film, videocassette, live entertainment, or other video reproduction which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements.

(1) It is the duty of the business owner of the premises to ensure that at least one employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.

(2) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access to for any purpose excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two or more manager's stations, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access to for any purpose from at least one of the manager's stations. The view required in this division (A) (2) must be by direct line of sight from the manager's station.

(3) It shall be the duty of the business owner to ensure that the view area specified above remains unobstructed by any doors, curtains, partitions, walls, merchandise, display racks, or other materials.

(4) No viewing room may be occupied by more than one (l) person at any time.

(5) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one foot-candle as measured at the floor level.

(6) No openings of any kind are allowed to exist between viewing rooms or booths.

(7) The owner or manager shall, during each business day, regularly inspect the walls between the viewing booths to determine if any openings or holes exist.

(8) The business owner shall cause all floor coverings in viewing booths to be nonporous, easily-cleanable surfaces, with no rugs or carpeting.

(9) The business owner shall cause all wall surfaces and ceiling surfaces in viewing booths to be constructed of, or be permanently covered by, nonporous, easily-cleanable material. No wood, plywood, composition board, or other porous material shall be used within 48 inches of the floor.

(B) A person having a duty under this section commits a misdemeanor if he or she knowingly fails to fulfill that duty.
Penalty, see § 10.99

§ 111.07 ADDITIONAL REGULATIONS FOR ESCORT AGENCIES.

(A) An escort agency shall not employ any person under the age of 18 years.

(B) A person commits an offense if the person acts as an escort or agrees to act as an escort for any person under the age of 18 years.
Penalty, see § 10.99

§ 111.08 ADDITIONAL REGULATIONS FOR NUDE MODEL STUDIOS.

(A) A nude model studio shall not employ any person under the age of 18 years.

(B) A person under the age of 18 years commits an offense if the person appears semi-nude or in a state of nudity in or on the premises of a nude model studio. It is a defense to prosecution under this division (B) if the person under 18 years was in a restroom not open to public view or visible to any other person.

(C) A person commits an offense if the person appears in a state of nudity or knowingly allows another to appear in a state of nudity in an area of a nude model studio premises which can be viewed from the public right-of-way.

(D) A nude model studio shall not place or permit a bed, sofa, or mattress in any room on the premises; except that a sofa may be placed in a reception room open to the public.
Penalty, see § 10.99

§ 111.09 ADDITIONAL REGULATIONS CONCERNING PUBLIC NUDITY.

(A) It shall be a misdemeanor for a person who knowingly and intentionally, in a sexually-oriented business, appears in a state of nudity or depicts specified sexual activities.

(B) It shall be a misdemeanor for a person who knowingly or intentionally in a sexually-oriented business appears in a semi-nude condition unless the person is an employee who, while semi-nude, shall be at least 10 feet from any patron or customer and on a stage at least two feet from the floor.

(C) It shall be a misdemeanor for an employee, while semi-nude in a sexually-oriented business, to solicit any pay or gratuity from any patron or customer or for any patron or customer to pay or give any gratuity to any employee, while the employee is semi-nude in a sexually-oriented business.
Penalty, see § 10.99

§ 111.10 PROHIBITION AGAINST CHILDREN IN A SEXUALLY-ORIENTED BUSINESS.

A person commits a misdemeanor if the person knowingly allows a person under the age of 18 years on the premises of a sexually-oriented business.
Penalty, see §10.99

§ 111.11 HOURS OF OPERATION.

No sexually-oriented business, except for an adult motel, may remain open at any time between the hours of 1:00 a.m. and 6:00 a.m. on weekdays and Saturdays, and 1:00 a.m. and 10:00 a.m. on Sundays.
Penalty, see §10.99

§ 111.12 EXEMPTIONS.

It is a defense to prosecution that a person appearing in a state of nudity did so in a modeling class operated:

(A) By a proprietary school, licensed by the State of Minnesota; a college, junior college, or university supported entirely or partly by taxation;

(B) By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or

(C) In a structure:

(1) Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing;

(2) Where, in order to participate in a class, a student must enroll at least three days in advance of the class; and

(3) Where no more than one nude model is on the premises at any one time.

§ 111.13 EFFECTIVE DATE.

This chapter shall become effective upon its publication according to law.

CHAPTER 114: PUBLIC DANCES

§ 114.01. REGULATION OF PUBLIC DANCES

All public dances held in this city shall be conducted in accordance with the provisions of this chapter.

§ 114.02. DEFINITIONS.

The terms stated below shall have the following meanings:

PUBLIC DANCE. Any dance where the general public participates in an outdoor venue, whether or not a charge for admission for dancing is made.

PUBLIC DANCING PLACE. Any room or space or other area located outside, which is open to the general public for the purpose of participating in public dancing.

§ 114.03. LIQUOR LICENSE REQUIRED.

No person shall give, hold, conduct or permit any public dance where liquor will be served, as defined in M.S. Ch. 340A, without obtaining a liquor license from the city.

§ 114.04. LICENSED PEACE OFFICER PRESENCE.

No public event that includes dancing, music (live or recorded with the intention of dancing), serving of alcohol and has an attendance of greater than 150 individuals shall occur without at least one licensed/special officer or more, if more are required under the criteria established by the City Council, who shall be present at the public dancing place during the duration of the dance and until music and liquor sales have ceased.

§ 114.05. HOURS.

No public dance shall occur between the hours of 12:00 midnight and 12:00 noon

§ 114.06. MINORS PROHIBITED.

No person under the age of 18 shall be allowed to be present at a public dance where alcohol is sold or consumed, past 8:00 pm unless accompanied by a parent or guardian. The liquor license holder shall be responsible for enforcing this section.

§ 114.07. CERTAIN BEHAVIOR PROHIBITED.

No person present at any public dance shall engage in any disorderly conduct, as defined by M.S. § 609.72, as it may be amended from time to time, and any disorderly person shall be immediately removed from the dance by the licensed/special officer present at the public dancing place. Should a substantial number of persons at the public dance engage in disorderly conduct,

the licensed/special officer present shall terminate the dance and remove all persons from the public dancing place. In the absence of an officer, bar management will access law enforcement as needed.

§ 114.08. NOISE.

All public dances shall be subject to the provisions of this code regulating noise.

§ 114.09. PENALTY

Any permit holder violating any of the provisions of this chapter relating to public dances shall be guilty of a misdemeanor and punished as provided in § 10.99, and their liquor license may be suspended at the time of arrest or citation for violating this chapter.

CHAPTER 115: PEDDLERS AND SOLICITORS

Section

115.01 Definitions
115.02 License required
115.03 License application
115.04 Revocation of license
115.05 Wearing badges and carrying licenses
115.06 Sales slips, receipts and disclosure

§ 115.01 DEFINITIONS.

For the purpose of this chapter, the following terms have the meanings stated:

ORGANIZATION. Any group, body, association, organization, company, corporation or society, however organized.

PEDDLER. Any person who goes from place to place, or house to house in the city selling or taking orders for concurrent delivery of goods or for services to be performed, or for the making, manufacturing or repairing of any article or thing whatsoever for delivery. The term does not include a person engaged in the activity of selling or taking orders by telephone or mail which includes a subsequent delivery or contact to a place or house upon the express invitation of the owner or possessor of the place or house. The term does not include a person engaged in the activity of selling or taking of orders on behalf of an organization when the selling or taking orders is conducted exclusively with regard to members of one specific organization, nor does the term include any person who sells the produce from any farm or garden cultivated by said person.

PEDDLING. The act of being a peddler.

SOLICITING. The act of being a solicitor.

SOLICITOR. Any peddling where the order for services or goods is for future delivery or for the acceptance, demand, or receipt of payment or deposit of money; including the solicitation of money or funds.

§ 115.02 LICENSE REQUIRED.

It is unlawful for any person to engage in the business of peddler or solicitor without a license therefore from the city. All peddlers and solicitors dealing solely in literature of any kind shall be exempt from payment of the license fee.

§ 115.03 LICENSE APPLICATION.

If the peddler or solicitor is so engaged on such peddler or solicitor's own behalf, the application shall include the name, home address, telephone number and date of birth of the applicant; if the applicant is working for a business, the name of the business, its address and legal structure; all applications shall include a detailed description of the goods or services for sale or for which such applicant is taking orders including the prices therefor; and , if the applicant is soliciting funds for a cause, such applicant shall give a sworn statement setting forth a description of the cause, its purposes, goals, the location to which and persons to whom the funds will go. The application shall be submitted in person by the applicant or principal officer(s) of the organization. The identity of the applicant/officer shall be verified by photo identification (valid state driver's license or state identification card). Information on the application may be verified by the city prior to granting a permit.

(A) If the peddler or solicitor is so engaged on behalf of an organization, the application shall include all the information required as noted above, together with all the following information:

(1) The organization's name, address and legal structure.

(2) The names and addresses of the principal officers and management of the organization.

(3) Either the names and addresses of each person who will be peddling or soliciting on behalf of said organization in the city or, in the alternative, the name, address and telephone number or numbers where a responsible officer or other responsible person of said organization will maintain a list of names and addresses of all persons engaged in peddling or soliciting in the city.

(4) If the organization is not a strictly commercial enterprise operated for a profit, the application shall include a statement sworn to by a responsible officer of the organization of: the purpose for which the funds raised are to be used; the plan for disposition of the funds; the names and addresses of the person or persons in direct charge of the peddling or soliciting; an outline of the methods to be used in conducting the peddling or soliciting; the timetable for the peddling or soliciting including the preferred beginning and ending dates; if funds previously have been raised in the city, a financial statement setting out the disposition of the funds raised in the immediately preceding year together with a written explanation of the financial statement, said funds to be those raised either in the city or a larger area including the city, all within the State of Minnesota; and the percentage of funds raised which are applied directly to the purposes for which are raised compared to the percentage of the funds raised which is expended in the effort to raise said funds, and said fund to be those raised either in the city or a larger area including the city, all within the State of Minnesota.

(B) Any changes in the information given by an applicant, which occur while the license under which the person is peddling or soliciting is in force and effect, shall be immediately reported in writing to the City Clerk.

§ 115.04 REVOCATION OF LICENSE.

The Council may revoke any peddler's or solicitor's license only upon a showing of cause at a public hearing after the licensee has received timely notice thereof and has an opportunity to examine all witnesses in support of revocation of his or her license and the opportunity to present witnesses on his or her behalf. Notice may be given in the same manner as that prescribed for service of process under the Minnesota Rules of Civil Procedure For The District Courts.

§ 115.05 WEARING BADGES AND CARRYING LICENSES.

(A) At all times while peddling or soliciting, every peddler or solicitor who has an individual license shall wear or carry a badge which is visible to all persons with whom the licensee comes in contact, which badge shall set forth the licensee's name and if such licensee works for or on behalf of a business or an organization, the name of the business or organization, and such licensee shall carry the license issued hereunder, or a certified copy thereof, and shall exhibit the license to any police officer, other city officer, or any other person whom such licensee is or would peddle or solicit when so requested.

(B) At all times every peddler or solicitor who is engaged in peddling or soliciting on behalf of an organization within the city shall wear or carry a badge which is visible to all persons with whom such peddler or solicitor comes in contact, which badge shall set forth such peddler or solicitor's name and the organization for whom such peddler or solicitor is engaged; provided, however, that a minor may wear or carry a badge which sets forth a number in place of said minor's name, which number either shall be assigned by the city after receiving a list containing the minor's name and address or, if the names and addresses have not been supplied the city, a responsible officer or other responsible person of said organization will assign numbers for each person engaged in peddling or soliciting in the city and keep a list of those assigned numbers along with the names and addresses of all said persons so engaged so that it is available to the city upon short notice.

§ 115.06 SALES SLIPS, RECEIPTS AND DISCLOSURE.

Every peddler or solicitor, who sells to, takes an order from or receives any funds or property from any person shall leave with that person a sales slip, receipt or other document containing the following information:

(A) The name and address of the peddler or solicitor together with a statement to the effect that the city by licensing the peddler, solicitor or organization does not endorse or make any affirmative or negative statement regarding the cause which such licensee may espouse or be acting on behalf of.

(B) The name and address of the business or organization, if any, on whose behalf the peddler or solicitor is acting.

(C) If the transaction involves the sale of goods or services for future or concurrent delivery, a description of the goods or services, the agreed price therefor, the amount of all additional charges thereon, and the date for future delivery thereof.

(D) If the peddler or solicitor is engaged on behalf of an organization which is not a strictly commercial enterprise operated for profit, a description of the purposes for which the funds or property received will be used.

CHAPTER 116: REGISTRATION OF RENTAL UNITS

Section

116.01 Definitions
116.02 Registration certificate required
116.03 Initial application; provisional licenses
116.04 Application; forms; information
116.05 Agent required
116.06 Investigation
116.07 Issuance, posting of registration certificate
116.08 Notice of violation
116.09 Rejection of application
116.10 Temporary rental registration certificates
116.11 Appeals
116.12 Certificate renewal and non-transferability
116.13 Suspension or revocation of certificate
116.14 Fees
116.15 Conduct of rental premises

§ 116.01 DEFINITIONS.

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

DWELLING UNIT.

(A) A residential building or portion thereof wholly or partly used or intended to be used for living, sleeping, cooking or eating purposes by human occupants, rented or offered for rent by any person to any other person for use for residential purposes. ***DWELLING UNIT*** means and includes apartments, single-family dwellings or manufactured (mobile) homes. ***DWELLING UNIT*** does not include rest homes, convalescent homes, nursing homes, hotels, motels, dormitories or facilities licensed by the state as institutional occupancies.

(B) The annual dwelling unit license and inspection fee shall be in an amount duly established by the Council from time to time. No license shall be issued under this section until the appropriate license fee shall be paid in full.

BUILDING INSPECTOR. The designated building inspector of the City of Ellendale or authorized designee.

§ 116.02 REGISTRATION CERTIFICATE REQUIRED.

(A) No owner shall allow another person to occupy, nor shall any person let to another for occupancy, any dwelling unit without first obtaining a registration certificate as provided in this subchapter, or at any time that the registration certificate, or the right to receive such a registration certificate, is suspended or revoked. This registration certificate is also referred to within this section as a "rental license" or "license". Any registration certificate obtained pursuant to this section shall be issued in the name of the owner. In the case of a multiple-unit dwelling, a registration certificate issued pursuant to this section includes and applies to both the entire dwelling as well as each individual rental unit within the dwelling. Any suspension or revocation of the registration certificate or the right to receive a registration certificate may involve the entire dwelling or an individual unit or units within the dwelling.

(B) The occupancy or rental of any dwelling unit for which a registration certificate is required, need not be interrupted or suspended for lack of a registration certificate if the same is due to the inability of the city to process the application in a timely manner, or if the owner is in the process of complying with a notice of deficiencies from the city within the period of time authorized by the Building Inspector.

§ 116.03 INITIAL APPLICATION; PROVISIONAL LICENSES.

On or before June 30 of each year all existing owners of dwelling units shall apply for a registration certificate as hereinafter provided. Upon filing the application and payment of the inspection fee, the applicant will be issued a provisional license pending inspection of the dwelling unit. Following the inspection provided in this subchapter and a determination that the dwelling unit is in compliance with this subchapter, and any applicable federal or state statute or administrative rule and upon payment of the license fee, a registration certificate will be issued to the owner for the dwelling unit or units.

§ 116.04 APPLICATION; FORMS; INFORMATION.

(A) *Application for registration certificate.* An application for a registration certification shall be filed by the owner with the City Clerk. An application for any dwelling to be converted to a use which would require a registration certificate shall be made and filed with the City Clerk at least 30 days prior to such conversion.

(B) *Application forms.* Forms of applications for registration certificate that shall be supplied by the City Clerk and will be available in the offices of the City Clerk.

(C) *Applications.* Each application for registration certificate shall contain the following information:

(1) Name, residence address, telephone number and date of birth of the owner of the dwelling; if the owner is a partnership, the name of the partnership, and the name, residence address,

telephone number and date of birth of the managing partner; if the owner is a corporation, the name and address of the corporation, and the name, address, telephone number and date of birth of the chief operating officer; if the dwelling is being sold on a contract for deed, the name and address of the contract vendee. Where the word ***OWNER*** is used in any part of this subchapter, it shall include all persons as outlined in this section;

(2) Name, residence address, telephone number and date of birth of any agent appointed by the owner to accept service of process and to receive or give receipt for notices;

(3) Name, residence address, telephone number and date of birth of any agent actively involved in maintenance or management of said dwelling;

(4) Legal street address of the dwelling;

(5) Description of the number and type of units offered for rent and the facilities incorporated in such rental units;

(6) Any person making application for a rental registration certificate must provide proof of identification by the use of a driver's license, state issued identification card, military identification card or such other identification as is acceptable to the Building Inspector. The identification provided must set forth the full name and date of birth of the person making the application; and

(7) An acknowledgment that the applicant has reviewed and understands the provisions of this section, intends to abide by the provisions and will include reference to this section in any written lease used in renting the property.

§ 116.05 AGENT REQUIRED.

(A) Any license holder who does not reside within a 30-mile radius of the city shall, by a written document executed and acknowledged by such license holder, appoint an agent residing within that area, upon which agent the city may serve notices pertaining to the administration of this section or of any provisions of the city code pertaining to such dwelling unit, which service shall be as effective as if made upon such license holder.

(B) In those cases where an agent is appointed, the license holder shall provide the City Clerk with the full name, date of birth, address and telephone number of such agent(s). A license holder shall provide written notice to the City Clerk, with the required information, whenever the agent for a licensed property is changed. The written notice shall be provided to the City Clerk within 48 hours of such change(s).

§ 116.06 INVESTIGATION.

The Building Inspector shall investigate all applications for the registration certificate to verify that the dwelling units offered for rent comply with the provisions of this subchapter, or any applicable federal or state statute or administrative rule, or any other city or county ordinance.

§ 116.07 ISSUANCE, POSTING OF REGISTRATION CERTIFICATE.

Whenever the investigation of an application indicates that the dwelling units comply with all provisions of this subchapter, or any applicable federal or state statute or administrative rule, or any other city or county ordinance, the City Clerk shall issue a registration certificate. Every registrant of a dwelling unit shall post the registration certificate in a conspicuous place.

§ 116.08 NOTICE OF VIOLATION.

(A) Whenever the investigation of an application for registration certificate indicates that the dwelling unit does not comply with this subchapter or any applicable federal or state statute or administrative rule, or any other city or county ordinance, the Building Inspector shall serve a notice of violation on the applicant in the manner hereafter provided:

(B) Such notice shall:

(1) Be in writing;

(2) Include the street address or other description of the real estate sufficient for identification;

(3) Include a statement of the violation or violations for which the notice is being issued;

(4) Specify a reasonable time for the performance of any act it requires; and

(5) Be served upon the owner, or the agent, by personal service or by leaving a copy at the owner or agent's usual place of abode with a person of suitable age and discretion then resident therein; or by depositing the notice in the United States post office addressed to the owner at the owner's last known address with postage prepaid thereon or if service cannot be made by any one of the above means then such notice shall be deemed served if a copy of such notice be posted and kept posted for 48 hours in a conspicuous place on the premises affected by such notice. Such notice may contain an outline of remedial actions, which if taken, will effect compliance with the provisions of this subchapter.

(C) Owners of rental property shall give notice of outstanding violations of this section to any purchaser of such property.

§ 116.09 REJECTION OF APPLICATION.

Whenever the investigation of an application for registration certificate indicates that the dwelling unit does not comply with the provisions of this subchapter, and from the nature of the violations, the dwelling cannot be brought up to meet the minimum requirements, the Building Inspector shall return the application to the applicant stating the reasons for the rejection of the application.

§ 116.10 TEMPORARY RENTAL REGISTRATION CERTIFICATES.

The City Clerk may issue a temporary rental registration certificate when corrections required following inspection do not constitute a fire, safety or health hazard to the tenants or the general public, and the repairs are not immediately practicable or feasible as a result of factors beyond the rental property owner's control. Such factors may include climatic conditions, or the unavailability of contractors, supplies or materials needed to make the corrections. A temporary rental registration certificate shall be conditioned upon the rental property owner making the needed corrections with timelines determined by the Building Inspector and identified on the temporary certificate. The temporary certificate shall expire if the work is not completed, inspected and approved by the Building Inspector by the date listed thereon.

§ 116.11 APPEALS.

(A) Any applicant whose application for registration certificate, after investigation has been rejected by the Building Inspector, may request and shall be granted a hearing in the matter before the City Council under the procedures set forth hereafter in division (B) below.

(B) (1) *Appeals to the Fire Code Board of Appeals.* Any person affected by any notice of violation or emergency order issued and served pursuant to this subchapter or otherwise adversely affected by the administration of this subchapter, shall be granted a hearing before the City Council upon filing in the office of the City Clerk a written petition requesting such hearing and setting forth a brief statement of the grounds therefor. The petition shall be filed within 20 days after the notice is served, order issued or other adverse action taken.

(2) *Date of hearing.* The hearing requested shall be held not more than 30 days after the day on which the petition is filed or within ten days of such filing in case of an emergency order. The Mayor may postpone the date of the hearing for a reasonable time beyond such period if a good and sufficient reason exists for such postponement and in the case of an emergency order the Mayor determines that adequate safeguards will be taken to provide for the health and safety of the occupants and general public during such postponement.

(3) *Notice of hearing.* The City Clerk shall cause five days' written notice of the hearing to be given to the petitioner by personal service or by mailing to the petitioner's last known address.

(4) *Proceedings.* At such hearing, the petitioner, petitioner's agent or attorney shall be given an opportunity to be heard and to show cause why the notice of alleged violation or emergency order issued by the Building Inspector or other action taken adverse to petitioner should be modified or withdrawn. The Building Inspector shall present a written statement of the findings and decision to the City Council at the time of the hearing together with evidence in support of the violation, order or other action taken.

(5) *Decisions of the City Council.*

(a) After such hearing, the City Council shall sustain, modify or withdraw the notice of alleged violation or emergency order or other action taken depending upon its findings as to

whether the provisions of this subchapter have been complied with. If the City Council sustains or modifies such notice or emergency order, or other administrative action, it shall be deemed to be an order. A copy of the decision of the City Council shall be served by mail on the petitioner.

(b) With respect to existing buildings, whenever it is not practicable or feasible to require strict compliance with the substantive provisions of this subchapter, or any applicable federal or state statute or administrative rule, or any other city or county ordinance, the City Council may approve a variance from such provisions when, in its judgment, existing conditions are in acceptable compliance with the spirit and intent of the code and reasonably safeguard the health, safety and welfare of the occupants and the public.

(6) *Record of proceedings.* The proceedings of each hearing held before the City Council, including the findings and decision of the Building Inspector, shall be reduced to writing and entered as a public record in the office of the Building Inspector. Such record shall include a copy of every notice, order, stay or other writing issued in connection with the matter.

(7) *Stays.* The City Council may stay enforcement of an order made after a hearing for a reasonable length of time; provided, however, that, the City Council shall first find that immediate enforcement of the order would result in extreme hardship to the person or persons affected and that the immediate health, safety and welfare of the occupants and the public will not be jeopardized by such stay.

(8) *Notices not appealed.* Any notice served shall automatically become an order if a written petition for a hearing is not filed with the City Clerk within 20 days after the notice was served.

(9) *Appeals from Board decisions.* Any person aggrieved by the decision of the City Council may seek relief therefrom in any court of competent jurisdiction as provided by the laws of the state.

§ 116.12 CERTIFICATE RENEWAL AND NON-TRANSFERABILITY.

(A) All registration certificates shall expire two years after date of issuance and must be renewed upon the expiration of the two-year term. All information required by § 116.04(C) of this chapter must be submitted at the time of renewal. Whenever the applicant certifies that no change has been made in a registered dwelling unit, and the registered unit has been inspected within the preceding 12 months, a renewal registration certificate may be issued without reinspection by the Building Inspector; provided, the owner certifies that the units are in compliance with this code, including any applicable provisions of the zoning, building, fire safety or health ordinances.

(B) Every person who transfers title to property registered under this section shall provide the City Clerk with the name, residence address and telephone number of the new owner, and date of the transfer of title within ten days of the date of such transfer. Within 30 days of the date of such transfer, the new owner shall apply for a new registration certificate. In the case of a contract for deed the purchaser shall be deemed to be the owner of the property for purposes of this section

and shall be required to apply for a rental registration certificate in his or her name. The date on the contract for deed shall be deemed to be the date the purchaser becomes the "owner" for purposes of this section.

(C) Registration certificates may not be transferred or assigned.

§ 116.13 SUSPENSION OR REVOCATION OF CERTIFICATE.

(A) Any registration certificate issued by the city pursuant to the provisions of this section may be suspended or revoked upon a finding that the certificate holder, during the term of the certificate, failed to comply with any provisions of this subchapter, or any applicable federal or state statute or administrative rule, or any other city or county ordinance.

(B) A person's right to apply and receive a registration certificate may be suspended or revoked upon a finding that the applicant has let to another for occupancy any dwelling unit without first obtaining a registration certificate as required by this section or who has failed to comply with any provisions of this subchapter, or any applicable federal or state statute or administrative rule, or any other city or county ordinance.

(C) Whenever it appears to the city that adequate grounds may exist for the suspension or revocation of a registration certificate, or the right to receive a registration certificate, the City Clerk shall by notice as provided in § 116.08 of this chapter, specify the nature of the alleged grounds and order that a hearing on the matter be held as provided below.

(D) No such suspension or revocation shall be effective until the licensee or permit holder has been afforded an opportunity for hearing before the City Council as set forth in § 116.11(B) of this chapter.

(E) Upon a finding that the registration certificate holder or applicant has violated any such statute, rule or ordinance, the city may invoke any of the sanctions provided in § 116.04 of this chapter.

§ 116.14 FEES.

(A) The biannual rental dwelling unit license and inspection fee shall be in an amount duly established in the city's master fee schedule. No license shall be issued under this section until the appropriate license fee shall be paid in full.

(B) In the event the Building Inspector or his or her designee fails to attend a scheduled inspection without good cause, the inspection fee will be reimbursed to the applicant.

§ 116.15 CONDUCT OF RENTAL PREMISES.

(A) A rental property owner shall be responsible to take appropriate action against persons occupying specific units in the licensed premises or premises who conduct themselves in such a manner as to cause the premises to be disorderly in violation of the statutes and ordinances listed in division (B) below. For the purposes of this section, the term "Persons Occupying the Premises" shall include residential tenants as defined by Minn. Stat. § 504B.001, Subd. 12, as it may be amended from time to time, and those persons on the licensed premises whose presence the tenant has invited, or to which the tenant has acquiesced. Violations of this section apply to individual units within buildings containing multiple units when the conduct occurs within a unit. Violations of this section by persons occupying specific units that occur within a common area of the licensed premises shall apply both to the individual unit and the common area of the licensed premises.

(B) The following ordinances and statues are applicable to this section:

(1) Minn. Stat. §§ 609.321 through 609.325, as they may be amended from time to time, prohibiting prostitution;

(2) Section 130.01 of this code of ordinances prohibiting tumultuous conduct;

(3) Minn. Stat. § 609.72, as it may be amended from time to time.

(4) Minn. Stat. § 609.33, as it may be amended from time to time, prohibiting disorderly houses;

(5) Minn. Stat. §§ 617.23 through 617.299, as they may be amended from time to time, prohibiting obscenity;

(6) Minn. Stat. §§ 609.75 through 609.763, as they may be amended from time to time, prohibiting gambling;

(7) Minn. Stat. §§ 152.01 through 152.025 and 152.027, Subd. 1 and 2, as they may be amended from time to time, which prohibit the unlawful sale or possession of controlled substances;

(8) Minn. Stat. Ch. 340A, as it may be amended from time to time, prohibiting the unlawful sale, use or possession of alcoholic beverages;

(9) Minn. Stat. §§ 609.66 through 609.67 and §§ 624.712 through 624.719, as they may be amended from time to time, and Section 130.01 of this code of ordinances, which prohibits the unlawful possession, transportation, sale or use of a weapon;

(10) Minn. Stat. §§ 609.221 through § 609.224, as they may be amended from time to time, which prohibit assaults, except that domestic assaults, as the same are defined by state law, are not included herein;

(11) Minn. Stat. § 609.50, as it may be amended from time to time, which prohibits

interference with a peace officer;

(12) Minn. Stat. § 609.705, as it may be amended from time to time, which prohibits unlawful assembly;

(13) Minn. Stat. § 609.71, as it may be amended from time to time, which prohibits riot;

(14) Minn. Stat. § 609.713, as it may be amended from time to time, which prohibits terroristic threats;

(15) Minn. Stat. § 609.715, as it may be amended from time to time, which prohibits presence of unlawful assembly;

(16) Minn. Stat. §§ 609.226 and 347.50 through 347.565, as they may be amended from time to time, dangerous dogs;

(17) Table 1003.2.2.2 of the International Fire Code elsewhere adopted in this code of ordinances, providing occupancy loads and prohibiting overcrowding;

(18) Minn. Stat. §§ 609.74 through 609.745, as they may be amended from time to time, prohibiting public nuisances and Sections 92.15 to 92.21 of this code of ordinances prohibiting nuisances defined therein;

(19) Minn. Stat. § 609.78, as it may be amended from time to time, which prohibits interfering with “911" telephone calls; and

(20) Minn. Stat. § 299F.362, as it may be amended from time to time, prohibiting the willful disabling of a smoke detector.

(C) The city’s designated law enforcement shall be charged with the responsibility of enforcing division (B) above.

(D) Upon determination by the city that the licensed premises were involved in a disorderly use, the city shall notify the license holder by regular mail of such violation and direct the license holder to take appropriate action to prevent further violations. Notice shall be effective if mailed to the license holder at the person’s last known address. This and subsequent notices are collectively referred to as “disorderly use notices”.

(E) If another instance of disorderly use of the premises occurs within 12 months of an incident for which a prior disorderly use notice was given, the license holder shall be notified of the instance of disorderly use and shall also be required to submit a written report of appropriate actions taken by the rental property owner to prevent further disorderly use of the premises. The written report shall be submitted to the city within five days of the notice of disorderly use of the premises and shall, in addition to the report of appropriate actions to be taken, detail all actions taken by the rental property owner in response to all notices of disorderly use of the premises within the preceding 12 months. Failure to submit a written report as required herein shall be a basis for the imposition of a fine and the revocation or suspension of the license or right to receive

the license for the specific unit or units located on the licensed premises as otherwise provided for in this section. If the notice of violation has been issued with respect to a common area of the building or complex of buildings, then the license or right to obtain such license as to all units in such building or complex may be suspended or revoked.

(F) If another instance of disorderly use of the premises occurs within 12 months of the two or more prior disorderly use notices, the license or right to obtain such license may be revoked or suspended for a specific unit or units located on the licensed premises. If the notice of violation has been issued with respect to a common area of the building or complex of buildings, then the license or right to obtain such license as to all units in such building or complex may be suspended or revoked.

(G) If another instance of disorderly use occurs within 12 months of the expiration of a prior suspension issued pursuant to the provisions of this section, the license or right to obtain such license may be revoked or suspended for the specific unit or units located on the licensed premises. If the notice of violation has been issued with respect to a common area of a building or complex of buildings, then the license or right to obtain such license as to all units in such building or complex may be suspended or revoked.

(H) No suspension or revocation or other sanctions shall be imposed where one or more of the three required disorderly use notices were mailed or delivered to the landlord after the rental property owner has filed an unlawful detainer action with the district court for the particular unit or units identified in the disorderly use notice. Calls to the police made by rental property owners or managers shall not be considered incidents of disorderly use in the implementation of divisions (D), (E), (F) and (G) above. The initiation of an unlawful detainer action shall not be a bar to sanctions, however, unless the action is diligently pursued by the rental property owner. Notice of and a copy of the unlawful detainer action shall be delivered to the Chief of Police. A determination that the licensed premises have been involved in a disorderly use, as described in division (B) above, shall be made upon the preponderance of the evidence. It shall not be necessary that criminal charges be brought against a tenant or other person to support a determination of disorderly use, nor shall the fact of dismissal or acquittal of such criminal charge operate as a bar to adverse license action under this section.

(I) This subchapter applies to all leases, whether written or oral, and a landlord may consider any tenant's conduct listed in division (B) above, to be both a material breach of the lease and grounds for termination in any unlawful detainer action.

(J) This subchapter is not intended to supersede criminal sanctions that may be applied to the individual who violates the statutes and ordinances in division (B) above.

(K) Consistent with Minn. Stat. § 5048.205, Subd. 3, nothing in this subchapter:

(1) Requires an eviction after a specified number of calls by residential tenant for police or emergency assistance in response to domestic abuse or any other conduct; or

(2) Provides that calls by a residential tenant for police or emergency assistance in

response to domestic abuse or any other conduct may be used to penalize or assess a fine to a landlord.

CHAPTER 117: VACANT BUILDING IDENTIFICATION AND REGULATION

Section

117.01 Vacant Building Identification and Regulation

§ 117.01 VACANT BUILDING IDENTIFICATION AND REGULATION

(A) *Purposes and findings.*

(1) The purpose of this section is to protect the public health, safety and welfare by establishing a program for the identification and regulation of vacant and abandoned buildings within the city. This section also determines the responsibilities of owners of vacant buildings and provides for administration, enforcement and penalties associated with the same.

(2) The City Council finds that vacant buildings are a major cause and source of blight in residential and non-residential neighborhoods, especially when the owner or party responsible for a building fails to maintain and manage the building to ensure it does not become a liability to the neighborhood. Vacant buildings often attract transients, trespassers and criminals. Neglect of vacant buildings and the use of vacant buildings by transients and criminals creates a risk of fire, and other structural damage of the vacant building and adjacent properties. Vacant properties are often used as dumping grounds for junk and debris and are frequently overgrown with weeds and tall grass. Vacant buildings that are boarded to prevent entry by transients and other long-term vacancies are unsightly, discourage economic development and inhibit the increase of property values. There is a substantial cost to the city in monitoring vacant buildings. This cost should not be born borne by the general taxpayers but should be borne by those who leave their buildings vacant.

(3) Pursuant to authority provided in M.S.§ 463.26, permitting cities to enact and enforce ordinances regarding hazardous buildings, and in order to enhance livability and preserve the tax base and property values of buildings within the city, and because of the need to assure that buildings which are capable of rehabilitation are promptly rehabilitated and buildings which are not capable of rehabilitation be promptly demolished, the city hereby declares that it is the policy of the city to promote rehabilitation of vacant and unoccupied buildings, and to assure a prompt process for demolition of hazardous buildings through a procedure fixing appropriate responsibility in accordance with due process requirements.

(B) *Definitions*. For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

(1) ***ABANDONED PROPERTY.*** Property that: (1) has been substantially unoccupied or unused for any commercial or residential purpose for at least one (1) year by a person with a

legal or equitable right to occupy the property; (2) has not been maintained; and (3) for which taxes have not been paid for at least two (2) previous years.

(2) ***BUILDING.*** A roofed structure used or intended for supporting or sheltering any use or occupancy.

(3) ***CITY.*** The City of Ellendale, State of Minnesota.

(4) ***COMPLIANCE OFFICIAL.*** The Codification Committee or other designee authorized to administer and enforce this section.

(5) ***OWNER OF RECORD.*** The fee owner, contract for deed vendee, mortgagee in foreclosure, holder of sheriff's certificate, and taxpayer as shown on the real property records of Steele County, or the authorized agent of any of the preceding persons.

(6) ***RESPONSIBLE PARTY.*** An owner, entity or person acting as an agent for the owner who has direct or indirect control or authority over the building or real property upon which the building is located or any party having a legal or equitable interest in the property, including but not limited to a realtor, service provider, mortgagor, leasing agent, management company or similar person or entity.

(7) ***VACANT BUILDING.*** A vacant building shall be defined to include:

(a) An abandoned building;

(b) A building or a portion of a building that is open to entry by unauthorized persons without the use of tools or ladders;

(c) Records of Steele County Recorder show the property is in lien foreclosure;

(d) Windows or entrances to the property are boarded up or closed off, or multiple doors or windows are broken and unrepaired;

(e) Doors to the property are damaged, smashed through, caved in, broken off, unhinged, or continuously unlocked;

(f) The property is without gas, electric or water service;

(g) Rubbish, trash, putrescible materials or debris has accumulated on the property;

(h) Law enforcement agencies have received at least two (2) reports of trespass, vandalism, or other illegal acts being committed on the property within 12 months;

(i) The yard on the property exhibit grass, lawn, weeds, and other vegetation which are not maintained to the standards prevailing in the neighborhood and/or city code.

(C) *Securing vacant buildings.* Any building which becomes unsecured or vacant may be deemed hazardous. If the hazardous condition could be abated by securing the building, the City Council may order the building secured and shall cause notice of the order to be served by United States Mail on the record owner at its last known address. The notice must be in writing and must include, at a minimum, a statement that:

(1) Informs the owner of record that it has ten (10) days, from the date of the notice, to secure the building or provide the council with a reasonable plan and schedule to comply with the order and that costs may be assessed against the property if the person does not secure the building.

(2) Provides the owner of record with a copy of right of entry by holder of mortgage or sheriff's certificate to protect the premises from waste and trespass.

Service by mail is complete upon mailing.

(D) *Emergency securing of vacant buildings.* When the City Council or the Compliance Official determines that a vacant or unsecured building poses an immediate threat to the health or safety of persons on the community and the immediate securing of a building is required to protect health and safety, all notice requirements herein are waived and the building may be secured by the city, provided that:

(1) The conditions showing the existence of an immediate threat are documented in a written report.

(2) A copy of the written report and the city action taken are mailed immediately to the owner of record and any neighborhood association.

(3) *Collection of costs.* All costs incurred by the city for securing a vacant building under this section may be charged against the real property.

(E) Vacant building registration.

(1) *Application.*

(a) The owner or responsible party shall register a vacant building with the city no later than 120 days after the building becomes vacant. The registration shall be submitted on a form provided by the city and shall include the following information supplied by the owner:

(1) The names, addresses, telephone number and email addresses of each owner and each owner's representative;

(2) The tax parcel identification number and street address of the premises on which the building is situated;

(3) The names, addresses, telephone numbers and email addresses of all known lien holders and all other parties with any legal interest in the building;

(4) The name, address, telephone number and email address of a local agent or person responsible for managing or maintaining the property;

(5) The status of water, sewer, natural gas and electric utilities; and

(6) The date the building became vacant, the period of time the building is expected to remain vacant, and a property plan and timetable for returning the building to appropriate occupancy or use and correcting code violations and nuisances or for demolition of the building.

(b) The owner shall notify the inspector within 30 days of changes in any of the information supplied as part of the vacant building registration and shall continue to do so on an ongoing basis during vacancy.

(2) *Property plan.* The property plan shall meet the following requirements:

(a) *General provisions.* The plan shall comply with all applicable regulations and meet the approval of the Inspector. It shall contain a timetable regarding use or demolition of the property. The plan shall be completed within 30 days after the building is registered.

(b) *Maintenance of building.* The plan shall identify the means and timetable for addressing all maintenance and nuisance-related items identified in the application. Any repairs, improvements or alterations to the property shall comply with building code provisions and applicable city regulations.

(c) *Plan changes.* If the property plan or timetable for the vacant building is revised in any way for any purpose, the revisions shall meet the approval of the Inspector.

(d) *Demolition required.* If a building has remained vacant for a period of 365 consecutive days or more, and the Inspector has not approved an alternative schedule in the property plan, the city may declare the building to be a nuisance and direct the owner to demolish the building and restore the grounds. If the owner does not demolish the building and thereby eliminate the nuisance conditions, the city may commence abatement and cost recovery proceedings for the abatement of the violation.

(3) *Noncompliance and notification.* If the owner does not comply with the property plan, or maintain or correct nuisance violations, the city may commence abatement and recover its costs for correction of those items. In the case of an absent owner and ongoing nuisance issues,

the city need not provide notice of each abatement act to the owner. A single notice by the city to the owner is determined to be sufficient notice that it intends to provide ongoing abatement until the owner corrects the violations.

(4) *Exemptions.*

(a) *Casualty damage.* A building that has suffered casualty damage is exempt for the registration requirement for a period of 180 days after the date of the casualty event if the owner submits a request for exemption in writing to the Inspector. An exemption request for review by the Inspector shall include the following information supplied by the owner:

(1) A description of the premises;

(2) The names and addresses of owner or owners;

(3) A statement of intent to repair and reoccupy the building in an expeditious manner and time frame for completion; and

(4) Actions the owner will take to ensure the property does not become a nuisance.

(b) *Snowbirds.* Those persons who leave their residential buildings on a temporary (six months or less) for vacation purposes or to reside elsewhere during the winter season and have the intent to return are exempt from the registration requirement.

(5) *Fees.* The owner shall pay an annual registration fee. The registration fee will be an amount adopted by ordinance by the City Council. The amount of the registration fee shall be reasonably related to the administrative costs for registering and processing the registration form and for the costs of the city in monitoring the vacant building site. The fee shall be paid in full prior to the issuance of any building permits or licenses, with the exception of a demolition permit.

(6) *Assessment.* If the registration fee of any portion thereof is not paid within 60 days after billing or within 60 days after any appeal becomes final, the City Council may certify the unpaid fees against the property.

(7) *Issuance of registration.* Upon completion of the registration process and payment of the fee, the city will issue a vacant building registration to the owner. The owner shall securely post the registration on the vacant building on a side entrance door, where possible, that is not generally visible from the public street. If no side entrance door is available, the registration shall be securely posted on another available entrance door.

(8) *Failure to register.* If the property is abandoned or the owner or responsible party fails to complete the registration process, the property will be registered administratively as a vacant property and the registration fee shall be assessed against the property.

(F) *Change of ownership.* A new owner shall register or re-register a vacant building within ten (10) days of any transfer of an ownership interest in a vacant building. The new owner shall comply with the approved property plan and timetable submitted by the previous owner or shall submit a revised or amended property plan to the Inspector for review and approval. For the purpose of this section, the new owner is an owner as defined in this section if the new owner has purchased the vacant building since its registration by the previous owner or has otherwise succeeded to all rights of the previous owner.

(G) *Inspections.* The Compliance Official, also known as the Inspector, may conduct inspections on any vacant building in the city for the purpose of enforcing and ensuring compliance with this section and other applicable regulations. Upon the request of the Inspector, an owner or responsible party shall provide access to all interior portions of the building and the exterior of the property in order to complete and inspection. If the owner of responsible party is not available, is unresponsive, or refuses to provide access to the interior of the building, the city may use any legal means to gain entrance to the building for inspection purposes. Prior to any re-occupancy, the owner or responsible party shall request an inspection of the vacant building by the Inspector to determine compliance with this chapter and all other applicable regulation. All application and re-inspection fees also shall be paid prior to building occupancy.

(H) *Maintenance of vacant buildings.* The owner shall comply with and address the following items in the property plan:

(1) *Appearance.* All vacant buildings shall be maintained and kept so that they appear to be occupied.

(2) *Securing.* All vacant buildings shall be secured from the outside by unauthorized persons or pests. Security shall be ensured by normal building amenities such as window and doors having adequate strength to resist intrusion. All doors and windows shall remain locked. There shall be at least one (1) operable door into every building and into each dwelling unit. Exterior walls and roofs shall remain intact without holes.

(a) *Architectural (cosmetic) structural panels.* Architectural structural panels may be used to secure windows, doors and other openings provided they are cut to fit the opening and match the characteristics of the building. Architectural panels may be of exterior grade-finished plywood or Medium Density Overlaid plywood (MDO) that is painted to match the building exterior or covered with a reflective material such as plexiglass to simulate windows.

(b) *Temporary securing.* Untreated, exterior grade (CDX) plywood or similar structural panels may be used to secure windows, doors and other openings for a maximum period of 90 days.

(c) *Emergency securing.* The Inspector may take immediate steps to secure a vacant building at his or her discretion in emergency circumstances.

(3) *Fire safety--Removal of hazardous and combustible materials.* The owner of any vacant building shall remove all hazardous material and hazardous refuse that could constitute a fire hazard or contribute to the spread of fire.

(4) *Plumbing fixtures.* Plumbing fixtures connected to an approved water system, an approved sewage system, or an approved natural gas utility system shall be installed in accordance with applicable codes and be maintained in sound condition and good repair or removed and the service terminated in the manner prescribed by applicable codes. The building's water systems shall be protected from freezing.

(5) *Electrical.* Electrical service lines, wiring, outlets or fixtures not installed or maintained in accordance with applicable codes shall be repaired, removed or the electrical services terminated to the building in accordance with applicable codes.

(6) *Lighting.* All exterior lighting fixtures shall be maintained in good repair, and illumination shall be provided to the building and all walkways in the same manner as provided at the time the building was last occupied or as otherwise provided in the approved vacant building plan.

(7) *Heating.* Heating facilities or heating equipment in vacant buildings shall be removed, rendered inoperable, or maintained in accordance with applicable codes.

(8) *Termination of utilities.* The Inspector may require the water, sewer, electricity, or gas service to the vacant building be terminated or disconnected. Prior to the termination of any utility service, the city will provide written notice to the owner as provided in city Code of Ordinances. No utility may be restored until consent is given by the Inspector. Utilities may be disconnected at the request of the owner or responsible party as part of the approved vacant building property plan. The Inspector may authorize immediate termination of utilities at his or her discretion in emergency circumstances and provide subsequent notice to the owner or responsible party.

(9) *Signs.* On non-residential properties, obsolete or unused exterior signs and installation hardware shall be removed. Holes and penetrations shall be properly patched and painted to match the building. Surfaces beneath the signs that do not match the building shall be repaired, resurfaced, painted or otherwise altered to be compatible with the building surfaces. All signs remaining on the property shall be maintained in good condition and comply with the provisions of the code.

(10) *Exterior maintenance.* The owner shall comply with all applicable property maintenance regulations and city codes including, but not limited to, the following:

(a) *Nuisances.* The owner shall eliminate any activity on the property that constitutes a nuisance as defined by this code or state statute.

(b) *Grass and weeds.* Any weeds or grass shall be maintained at a height of no greater than eight (8) inches and in accordance with city code.

(c) *Exterior structure maintenance.* The owner shall maintain the vacant building in a manner so that it does not constitute a nuisance or as otherwise determined to be necessary by the Inspector to protect public health and safety.

(d) *Abandoned or junk vehicles.* The owner shall keep the property free of unlicensed, inoperable, abandoned or junk vehicles. The city may cause such vehicles to be removed.

(e) *Animals.* The owner shall ensure that all animals, including domestic, exotic and feral, are removed from the property and handled in a humane manner.

(f) *Diseased, dead or hazardous trees.* The owner shall remove diseased, dead or hazardous trees or branches from the property as required for public health and safety.

(g) *Graffiti.* The owner shall keep the property free from graffiti.

(h) *Abandoned pools.* Swimming pools shall be covered and secured to prevent accidental entry, treated to prevent pest harborage, and properly drained and winterized.

(11) *Removal of garbage and refuse.* The owner of any vacant building shall keep the building and property free of all junk and refuse pursuant to city code or otherwise in accordance with public health and safety.

(12) *Police protection systems.* All alarm systems in any vacant building or portion thereof shall be maintained in operating condition.

(13) *Loitering, criminal activities.* Loitering or engaging in criminal activities is prohibited in the vacant building or on the real property upon which the vacant building is located. The owner or responsible party shall not allow these activities and shall take immediate actions to eliminate these conditions upon notification by the city upon discovery.

(14) *Emergency abatement.* The Inspector may authorize immediate abatement of any public nuisance or correction of any maintenance item if the Inspector determines that conditions exist that present an imminent threat to the public health and safety.

(15) *Other codes.* The property owner or responsible party shall comply with all other city codes and applicable regulations.

(I) *No occupancy or trespass.* No person may trespass, occupy or reside, on a temporary or permanent basis, in any vacant building, registered or not, without the owner's consent.

(J) *Vandalism or removal of items prohibited.* No person may damage or remove items from a vacant building or the property upon which it is located, including, but not limited to, appliances, fixtures, electrical wiring, copper, or similar items without the owner's consent.

(K) *Appeal.* Any person or responsible party aggrieved by a decision rendered under this chapter by the Inspector may appeal to the City Council. The appeal shall be made in writing, shall specify the grounds for the appeal and shall be submitted to the City Clerk's office with the required filing fee, not exceeding ten days from the date of mailing of the decision that is basis of the appeal.

(L) *Penalty.* Any person or responsible party who violates the provisions of this chapter is guilty of a misdemeanor. Nothing in this section, however, is deemed to limit other remedies or civil penalties available to the city under this code or state law as they may be amended from time to time.

TITLE XIII: GENERAL OFFENSES

Chapter

130. GENERAL OFFENSES

CHAPTER 130: GENERAL OFFENSES

Section

130.01 Discharging firearms
130.02 Curfew for minors

§ 130.01 DISCHARGING FIREARMS.

(A) No person shall fire or discharge any cannon, gun, pistol, airgun, BB gun, or firearm of any description, or bow, including crossbow, hunting bow, compound bow, or any other type or description of bow, having a draw or pull of 20 pounds or more, within the city limits without first receiving written permission from the City Council to do so, except on courses or ranges approved for that purpose by the City Council. The permission shall limit the time and place of the discharge.

(B) Any person, firm, or corporation violating any provision of this section shall be guilty of a petty misdemeanor. A second offense by that person of any provision of this section shall be deemed a misdemeanor.

(C) This section shall take effect upon publication.

(D) This section shall not prohibit the firing of a military salute or the firing of weapons by persons of the nation's armed forces acting under military authority, and shall not apply to law enforcement officials in the proper enforcement of the law, or to any person in the proper exercise of the right of self-defense, or to any person otherwise lawfully permitted by proper federal, state or local authorities to discharge a firearm in a manner contrary to the provisions of this section.

(E) If any of the above provisions are found to be in conflict with M.S. § 624.717, as it may be amended from time to time, the provisions of that statute shall prevail.
Penalty, see § 10.99

§ 130.02 CURFEW FOR MINORS.

(A) *Purpose.* The curfew for minors established by this section is maintained for four primary reasons:

(1) To protect the public from illegal acts of minors committed during the curfew hours;

(2) To protect minors from improper influences that prevail during the curfew hours, including involvement with gangs;

(3) To protect minors from criminal activity that occurs during the curfew hours; and

(4) To help parents control their minor children.

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

EMERGENCY ERRAND. A task that if not completed promptly threatens the health, safety, or comfort of the minor or a member of the minor's household. The term shall include, but shall not be limited to, seeking urgent medical treatment, seeking urgent assistance from law enforcement or Fire Department personnel, and seeking shelter from the elements or urgent assistance from a utility company due to a natural or human-made calamity.

OFFICIAL CITY TIME. The time of day as determined by reference to the master clock used by the Police Department.

PLACES OF AMUSEMENT, ENTERTAINMENT, OR REFRESHMENT. Those places that include, but are not limited to, movie theaters, pinball arcades, shopping malls, nightclubs catering to minors, restaurants, and pool halls.

PRIMARY CARE or ***PRIMARY CUSTODY.*** The person who is responsible for providing food, clothing, shelter, and other basic necessities to the minor. The person providing primary care or custody to the minor shall not be another minor.

SCHOOL ACTIVITY. An event which has been placed on a school calendar by public or parochial school authorities as a school-sanctioned event.

(C) *Hours.*

(1) *Minors ages 12 and under*. No minor age 12 years or under shall be in or upon the public streets, alleys, parks, playgrounds, or other public grounds, public places, or public buildings; nor in or upon places of amusement, entertainment, or refreshment; nor in or upon any vacant lot, between the hours of 9:00 p.m. and 6:00 a.m. the following day, official city time.

(2) *Minors 13 to 16 years of age.* No minor between the ages of 13 and 16 years shall be in or upon the public streets, alleys, parks, playgrounds, or other public grounds, public places, or public buildings; nor in or upon places of amusement, entertainment, or refreshment; nor in or upon any vacant lot, between the hours of 10:00 p.m. and 5:00 a.m. the following day, official city time.

(3) *Minors ages 16 years to 18 years.* No minor of the ages of 16 or 17 years shall be in or upon the public streets, alleys, parks, playgrounds, or other public grounds, public places, or public buildings; nor in or upon places of amusement, entertainment, or refreshment; nor in or upon any vacant lot, between the hours of 12:00 a.m. and 5:00 a.m., official city time.

(D) *Effect on control by adult responsible for minor.* Nothing in this section shall be construed to give a minor the right to stay out until the curfew hours designated in this section if otherwise directed by a parent, guardian, or other adult person having the primary care and custody of the minor; nor shall this section be construed to diminish or impair the control of the adult person having the primary care or custody of the minor.

(E) *Exceptions.* The provisions of this section shall not apply in the following situations:

(1) To a minor accompanied by his or her parent or guardian, or other adult person having the

primary care and custody of the minor;

(2) To a minor who is upon an emergency errand at the direction of his or her parent, guardian, or other adult person having the primary care and custody of the minor;

(3) To a minor who is in any of the places described in this section if in connection with or as required by an employer engaged in a lawful business, trade, profession, or occupation; or to a minor traveling directly to or from the location of the business, trade, profession, or occupation and the minor's residence. Minors who fall within the scope of this exception shall carry written proof of employment and proof of the hours the employer requires the minor 's presence at work;

(4) To a minor who is participating in or traveling directly to or from an event which has been officially designated as a school activity by public or parochial school authorities; or who is participating in or traveling directly to or from an official activity supervised by adults and sponsored by the city, a civic organization, school, religious institution, or similar entity that takes responsibility for the minor and with the permission of the minor's parent, guardian, or other adult person having the primary care and custody of the minor;

(5) To a minor who is passing through the city in the course of interstate travel during the hours of curfew;

(6) To a minor who is attending or traveling directly to or from an activity involving the exercise of First Amendment rights of free speech, freedom of assembly, or freedom of religion;

(7) To minors on the sidewalk abutting his or her residence or abutting the residence of a next-door neighbor if the neighbor does not complain to the city 's designated law enforcement provider about the minor's presence; and/or

(8) To a minor who is married or has been married, or is otherwise legally emancipated.

(F) *Duties of person legally responsible for minor.* No parent, guardian, or other adult having the primary care or custody of any minor shall permit any violation of the requirements of this section by the minor.

(G) *Duties of other persons.* No person operating or in charge of any place of amusement, entertainment, or refreshment shall permit any minor to enter or remain in his or her place of business during the hours prohibited by this section unless the minor is accompanied by his or her parent, guardian, or other adult person having primary care or custody of the minor, or unless one of the exceptions to this section applies.

(H) *Defense.* It shall be a defense to prosecution under this section that the owner, operator, or employee of an establishment promptly notified the city 's designated law enforcement provider that a minor was present on the premises of the establishment during curfew hours and refused to leave.

(I) *Before arrest.* A law enforcement officer must look into whether a minor has an affirmative defense before making an arrest.
Penalty, see § 10.99

TITLE XV: LAND USAGE

Chapter

151. SUBDIVISION REGULATIONS

152. ZONING CODE

CHAPTER 151: SUBDIVISION REGULATIONS

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GENERAL PROVISIONS

§ 151.001 TITLE.

This chapter shall be known and may be cited as the "Subdivision Ordinance of the City of Ellendale."

§ 151.002 POLICIES.

(A) It is the policy of the City of Ellendale to consider the subdivision of land and the subsequent development of the subdivided plat as subject to the control of the municipality pursuant to the official comprehensive plan of the municipality for the orderly, planned, efficient, and economical development of Ellendale.

(B) Land to be subdivided shall be of the character that it can be used safely for building purposes without danger to health or peril from fire, flood, or other menace, and land shall not be subdivided until adequate public facilities and improvements exist and proper provision has been made for drainage,
water, sewerage, and capital improvements such as schools, parks, recreational facilities, transportation facilities, and improvements. It shall also be the city's policy that the cost of the improvements be placed against those benefitting from their construction.

(C) To provide for the orderly and equitable development of the municipality, all subdivisions hereafter shall, in all respects, fully comply with the regulations set forth herein which shall be interpreted as minimum requirements for the protection of the public health, safety, and general welfare.

(D) Land that has been subdivided prior to the effective date of these regulations should, whenever possible, be brought within the scope of these regulations to further the purposes of regulations identified in division (C) above.
Penalty, see § 10.99

§ 151.003 PURPOSE.

(A) *Generally.* These regulations are adopted for the following purposes.

(B) *Specifically.*

(1) To protect and provide for the public health, safety, and general welfare of the municipality;

(2) To guide the future growth and development of the municipality in accordance with the Ellendale Land Use Plan;

(3) To provide for adequate light, air, and privacy, to secure safety from fire, flood, and other danger, and to prevent overcrowding of the land and undue congestion of population;

(4) To protect the character and the social and economic stability of all parts of the municipality and to encourage the orderly and beneficial development of the community through appropriate growth management techniques assuring the timing and sequencing of development, promotion of infill development in existing neighborhoods and nonresidential areas with adequate public facilities, to assure proper urban form and open space separation of urban areas, to protect environmentally critical areas and areas premature for urban development;

(5) To protect and conserve the value of land throughout the municipality and the value of buildings and improvements upon the land, and to minimize the conflicts among the uses of land and buildings;

(6) To guide public and private policy and action in order to provide adequate and efficient transportation, water, sewerage, schools, parks, playgrounds, recreation, and other public requirements and facilities;

(7) To provide the most beneficial relationship between the uses of land and buildings and the circulation of traffic throughout the municipality, having particular regard to the avoidance of congestion in the streets and highways and the pedestrian traffic movements appropriate to the various uses of land and buildings, and to provide for the proper location and width of streets and building lines;

(8) To establish reasonable standards of design and procedures for subdivisions and resubdivisions in order to further the orderly layout and use of land, and to ensure proper legal descriptions and monumenting of subdivided land to encourage well planned, efficient, and attractive subdivisions by establishing adequate and impartial standards for design and construction;

(9) To ensure that public facilities and services are available concurrent with development and will have a sufficient capacity to serve the proposed subdivision and that the community will be required to bear no more than its fair share of the cost of providing the facilities and services through requiring the developer to pay fees, furnish land, or establish mitigation to ensure that the development provides its fair share of capital facilities needs generated by the development;

(10) To prevent the pollution of air, assure the adequacy of drainage facilities, safeguard the water table, and encourage the wise use and management of natural resources throughout the municipality in order to preserve the integrity , stability, and beauty of the community and the value of the land;

(11) To prevent the pollution of air, assure the adequacy of drainage facilities, safeguard the water table, and encourage the wise use and management of natural resources throughout the municipality in order to preserve the integrity, stability, and beauty of the community and the value of the land;

(12) To preserve the natural beauty and topography of the municipality and to ensure appropriate development with regard to these natural features;

(13) To provide for open spaces through the most efficient design and layout of the land, including the use of average density in providing for minimum width and area of lots, while preserving the density of development as established in the zoning ordinance of the municipality;

(14) To ensure that land is subdivided only when subdivision is necessary to provide for uses of lands for which market demand exists and which are in the public interest; and

(15) To remedy the problems associated with inappropriately subdivided lands, including premature subdivision, excess subdivision, partial or incomplete subdivision, scattered and low-grade subdivision.

§ 151.004 AUTHORITY.

The Zoning Board of the City of Ellendale is vested with the authority to review applications for the subdivision of land, including sketch, preliminary, and final plats, and to make recommendations to the City Council for approval, approval with conditions, or denial of the applications. The City Council of Ellendale is vested with the authority to approve, approve conditionally, or disapprove the submitted subdivision applications. The City Council may grant variances from these regulations pursuant to the provisions of § 151.024.

§ 151.005 JURISDICTION.

(A) These regulations apply to all subdivision of land located within the corporate limits of the municipality or outside the corporate limits as provided by law.

(B) No land may be subdivided through the use of any legal description other than with reference to a plat approved by the City Council in accordance with these regulations.

(C) No zoning permit shall be issued for any parcel or plat of land created by subdivision after the effective date of, and not in substantial conformity with, the provisions of these subdivision regulations, and no excavation of land or construction of any public or private improvements shall take place or be commenced except in conformity with these regulations

(D) No plat or any subdivision shall be entitled to be recorded in the Steele County Recorder's office or have any validity until the plat or subdivision has been prepared, approved, and acknowledged in the manner prescribed by this chapter.
Penalty, see § 10.99

§ 151.006 INTERPRETATION; CONFLICT.

(A) *Interpretation.* In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. These regulations shall be construed broadly to promote the purposes for which they are adopted.

(B) *Conflict.* Where the conditions imposed by any provisions of this chapter are either more restrictive or less restrictive than comparable conditions imposed by any other provisions of this chapter or of any other applicable law, ordinance, resolution, rule, or regulation of any kind, the regulations which are more restrictive and impose higher standards or requirements shall govern.

§ 151.007 DEFINITIONS.

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

ALLEY. A public or private right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on some other street.

APPLICANT. The owner of land proposed to be subdivided or its representative who shall have express written authority to act on behalf of the owner and has executed an application form with the city. Consent shall be required from the legal owner of the premises.

ATTORNEY. The attorney employed by the city, unless otherwise stated.

BLOCK. An area of land within a subdivision that is entirely bounded by streets, or by streets and the exterior boundary or boundaries of the subdivision, or a combination of the above with a natural waterway.

BOND. Any form of a surety bond in an amount and form satisfactory to the governing body. All bonds shall be approved by the governing body whenever a bond is required by these regulations.

BOULEVARD. The portion of the street right-of-way between the curb line and the property line.

BUILDING. Any structure built for the support, shelter, or enclosure of persons, animals, chattels, or movable property of any kind.

CAPITAL IMPROVEMENT. A public facility owned and operated by or on behalf of the local government.

CITY. The City of Ellendale

CITY CLERK/TREASURER. The person employed by the City of Ellendale and who is hereby established as the Administrative Officer of this chapter.

CITY ENGINEER. A professional engineer working for the city, unless otherwise stated.

COMMON OWNERSHIP. Ownership by the same person, corporation, firm, entity, partnership, or unincorporated association; or ownership by different corporations, firms, partnerships, entities, or unincorporated associations, in which a stockbroker, partner, or associate, or a member of his or her family owns an interest in each corporation, firm, partnership, entity, or unincorporated association.

CONSTRUCTION PLAN. The maps or drawings accompanying a subdivision plat and showing the specific location and design of improvements to be installed in the subdivision in accordance with the requirements of this chapter or as conditions linked to approval of the plat.

CONTIGUOUS. Lots are contiguous when at least one boundary line of one lot touches a boundary line or lines of another lot.

COUNTY. Steele County, Minnesota.

COVENANTS. Protective or restrictive covenants are contracts made between private parties and constitute an agreement between these parties as to the manner in which land may be used, with a view to protecting and preserving the physical, social, and economic integrity of any given area.

DESIGN STANDARD. The specifications for the preparation of preliminary plans indicating minimums and maximums in the dimensions, magnitude, and capacity in the features as the layout of streets, lots, blocks, drainage, and required improvements.

DEVELOPER. The owner of land proposed to be subdivided or its representative who is responsible for any undertaking that requires review and/or approval under these regulations.

DEVELOPMENT. The act of building structures and installing site improvements.

DEVELOPMENT AGREEMENT. Agreement between the City Council and developer through which the City Council may agree to vest development use or intensity or refrain from interfering with subsequent phases of development through new legislation, in exchange for agreement to construct any and all improvements to existing city standards, or a higher standard in some cases, abide by all conditions specified by the City Council, perform all required tasks within the established time frame, warranty all improvements, and provide security in an amount acceptable to the city to ensure performance of the agreement and all warranties. The agreement shall be recorded at the same time or prior to the final plat.

EASEMENT. A grant by a property owner for the use of a strip of land by the public or any person for any specific purpose or purposes.

ESCROW. A deposit of cash with the local government or escrow agent to secure the promise to perform some act.

FRONTAGE. The width of a lot from property corner to corner that abuts a public street or way.

GRADE. The slope of a road, street, or other public way specified in percentage terms.

LAND USE PLAN. A plan prepared by the city, including a compilation of policy statement goals, standards, and maps indicating the general locations recommended for the various functional classes of land use, places, and structures, and for the general physical development of the city, including any unit or part of the plan separately adopted and any amendment to the plan or parts thereof.

LANDSCAPING. Acting with the purpose of meeting specific criteria regarding uses of outside space, including ground cover, buffers, and shade trees.

LOT. A portion of the subdivision intended for building development or for transfer of ownership.

LOT, BUTT. A lot at the end of a block, located between two corner lots.

LOT, CORNER. A lot bordered on at least two sides by streets.

LOT, DOUBLE FRONTAGE. Lots having a frontline abutting on a street and a back line abutting another street.

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 the betterment. Certain proposed lot improvements shall be properly bonded for as provided in these regulations.

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 Steele County, Minnesota, prior to the effective date of this chapter.

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 bearings and distances of the lines forming the boundaries of the property or delineating a fractional portion of a section, lot, or area by described lines or portions thereof.

NATURAL WATERWAY. A natural passageway in the surface of the earth so situated and having such a topographical nature that surface water flows through it from other areas before reaching a final ponding area. The term also includes all drainage structures placed in lieu of natural waterway in order to facilitate the continuity of the natural waterway.

ORDINANCE. Any legislative action, however denominated, of a local government that has the force of law, including any amendment or repeal of any ordinance.

OUTLOT. A lot remnant or parcel of land left over after platting, which is intended as open space or other future use, for which no zoning permit shall be issued.

OWNER. An individual, association, syndicate, partnership, corporation, trust, or any other legal entity holding an equitable or legal ownership interest in the land sought to be subdivided.

PARKS. Playgrounds, trails, parks, or open spaces within the city, owned, leased, or used, wholly or in part, by the city for park and recreational purposes or of which is designated by the City Council as a park.

PEDESTRIAN WAY. A public right-of-way or private easement across a block or within a block to provide access for pedestrians and which may be used for the installation of paths or trails.

PERCENTAGE OF GRADE. Along a centerline of a street, the change in vertical elevation in feet and tenths of a foot for each 100 feet of horizontal distance, expressed as a percentage.

PERSON. Any individual or group of individuals, or any corporation, limited liability company, general or limited partnership, or any other legal entity, joint venture, unincorporated association, or governmental or quasi-governmental entity.

PLANNED UNIT DEVELOPMENT (PUD). Land under unified control to be planned and developed as a whole in a single development operation, in a programmed series of development operations, or to address unique development concepts. A planned development includes principal and accessory structures and uses substantially related to the character and purposes of the planned development. The development is built according to general and detailed plans that include not only streets, utilities, lots, and building location, but also site plans for all building locations, how they are to be used and related to each other, and plans for other uses and improvements on the land as they relate to the buildings. The PUD concept may also be an appropriate development strategy for land containing unique features that would make it difficult to develop strictly under established city code.

PLAT, FINAL. A map of a subdivision, meeting all the requirements of the city and in the form as required by the county for purposes of recording.

PLAT, PRELIMINARY. The preliminary drawings described in these regulations, indicating the proposed manner or layout of the subdivision to be submitted to the Zoning Board and City Council for approval.

PRELIMINARY APPROVAL. The official action taken by a municipality on an application to create a subdivision that established the rights and obligations set forth in M.S. Ch. 462, as it may be amended from time to time, and the applicable subdivision regulation. In accordance with M.S. Ch. 462, as it may be amended from time to time, and unless otherwise specified in the applicable subdivision regulations, preliminary approval may be granted only following the review and approval of a preliminary plat of other map or drawing establishing without limitation the number, layout, and location of lots, tracts, blocks, and parcels to be created, location of streets, and lands to be dedicated for public use.

PROPERTY OWNERS ASSOCIATION. An association or organization, whether or not incorporated, which operates under and pursuant to recorded covenants or deed restrictions, through which each owner of a portion of a subdivision, be it a lot, parcel site, unit plot, condominium, or any other interest, is automatically a member as a condition of ownership and each such member is subject to a charge or assessment for a pro-rated share of expense of the association which may become a lien against the lot, parcel, unit, condominium, or other interest of the member.

PROTECTIVE OR RESTRICTIVE COVENANTS. Contracts entered into between all owners and holders of mortgage constituting a restriction on the use of all private property within a subdivision for the benefit of the property owners, and providing mutual protection against undesirable aspects of development which would tend to impair the stability of property value and economic integrity of any given area.

PUBLIC HEARING. An adjudicatory proceeding held by the Zoning Board or City Council, preceded by published notice and actual notice to certain persons and at which certain persons, including the applicant, may call witnesses and introduce evidence for the purpose of demonstrating that plat approval should or should not be granted. The hearing may be combined with other adjudicatory or legislative hearings to address related issues such as a land use plan amendment, a zoning map or text amendment, or a variance.

PUBLIC IMPROVEMENT. Any drainage ditch, roadway, parkway, street, sanitary sewer, storm sewer, water system, sidewalk, pedestrian way, tree, lawn, off-street parking area, lot improvement, or other facility for which the city may ultimately assume ownership, responsibility for maintenance and operation, or which may affect an improvement for which local government responsibility is established.

QUADRAMINIUMS. Single structures that contain four subdivided dwelling units all of which have individually separate entrances from the exterior of the structure.

REGISTERED LAND SURVEYOR. A land surveyor properly licensed and registered in the state.

RESUBDIVISION. Any change in a map of an approved or recorded subdivision plat that affects any street layout on the map or area reserved thereon for public use or any lot line, or that affects any map or plan legally recorded prior to the adoption of any regulations controlling subdivisions.

RIGHT-OF-WAY. The land dedicated for public use as a street or way or private use such as a power line or railroad.

SERVICE AREA. The area for a particular category of public facilities within the jurisdiction of the local government and within which fees for capital improvements may be collected for new development occurring within such an area and within which fees so collected will be expended for those types of improvements for that category of public facility identified in the public facility improvements program. ***SERVICE AREAS*** may be subdivided into subareas for purposes of assuring that fees collected and expended therein reasonably benefit new development within the areas.

SETBACK. The distance between a building and the street line nearest to the building.

SKETCH PLAN. A sketch preparatory to the preliminary plat to enable the subdivider to save time and expense in reaching general agreement with the Zoning Board as to the form of the plat and the objectives of these regulations.

STREET. A public right-of-way or easement for vehicular traffic, whether designated as highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place, drive, court, or otherwise designated.

STREET, ARTERIAL. A higher order, interregional road in the street hierarchy. Conveys traffic

between centers. It should be excluded from residential areas.

STREET, CUL-DE-SAC. A street with a single means of ingress and egress and having a turnaround. Design of turnaround may vary. Cul-de-sacs shall be classified and designed according to anticipated daily traffic levels.

STREET, MARGINAL ACCESS (SERVICE ROAD). A service street that runs parallel to a higher order street and provides access to abutting properties and separation from through traffic. May be designed as residential access street or subcollector according to the anticipated daily traffic levels.

STREET, RESIDENTIAL ACCESS. The lowest order of residential streets. This type of street provides frontage for access to lots and carries traffic having destination or origin on the street itself. Designed to carry the least amount of traffic at the lowest speed.

STREET, RESIDENTIAL COLLECTOR. This street is the highest order of residential street. It conducts and distributes traffic between lower order residential streets to higher order streets (arterials). It carries the largest volume of traffic at higher speeds. It functions to promote free traffic flow; therefore; direct access to homes from this street should be restricted.

STREET, RESIDENTIAL SUBCOLLECTOR. This street is the middle order of residential street. It provides frontage for access to lots, and carries traffic of adjoining residential access streets. It is designed to carry somewhat higher traffic volumes with traffic limited to motorists having origin or destination within the immediate neighborhood.

STREET WIDTH. The shortest distance between the lines delineating the right-of-way of a street.

SUBDIVIDE. The act or process of creating a subdivision.

SUBDIVIDER. Any person who:

(A) Having an interest in land causes it directly or indirectly, to be divided into a subdivision;

(B) Directly or indirectly, sells, leases, or develops, or offers to sell, tease, or develop, or advertises to sell, lease, or develop, any interest, lot, parcel site, unit, or plat in a subdivision;

(C) Engages directly or through an agent in the business of selling, leasing, developing, or offering for sale, lease, or development a subdivision or any interest, lot, parcel site, unit, or plat in a subdivision; and

(D) Is directly or indirectly controlled by, or under direct or indirect common control with any of the foregoing.

SUBDIVISION. The separation of an area, parcel, or tract of land under single ownership into two or more parcels, tracts, lots, or long-term leasehold interests where the creation of the leasehold interest necessitates the creation of streets, roads, or alleys, for residential, commercial, industrial, or the use of any combination thereof, except the following separations:

(A) Where all the resulting parcels, tracts, lots, or interests will be 20 acres or larger in size and 500 feet in width for residential uses and five acres or larger in size for commercial and industrial uses;

(B) Creating cemetery lots; or

(C) Resulting from court orders, of the adjustment of a lot line by the relocation of a common boundary.

SUBDIVISION, MAJOR. All subdivisions not classified as minor subdivisions.

SUBDIVISION, MINOR.

(A) Any subdivision containing three or fewer lots fronting on an existing street, not involving any new street or road, or the extension of municipal facilities or the creation of any public improvements, and not adversely affecting the remainder of the parcel or adjoining property, and not in conflict with any provision or portion of the Land Use Plan, Official Map, zoning ordinance, or the regulations contained in this chapter.

(B) In addition, none of the parcels shall have been a part of a minor subdivision within the preceding five years.

SURVEYOR. A land surveyor registered under Minnesota state laws.

TOPOGRAPHIC MAP. A map showing the irregularities in elevation of land surface through the use of lines connecting points of equal elevation.

ZONING BOARD. The Zoning Board of the City of Ellendale. In the event that a Zoning Board has not been appointed by the City Council, the City Council shall be the acting Zoning Board.

ZONING ORDINANCE. The zoning ordinance controlling the use of land as adopted by the city.

§ 151.020 ZONING BOARD AND BOARD OF ADJUSTMENT.

(A) A Zoning Board is hereby established pursuant to M.S. Ch. 462.354, Subd. 1, as it may be amended from time to time.

(B) A Board of Adjustment is hereby established pursuant to M.S. Ch. 462.354, Subd. 2, as it may be amended from time to time. The Board of Adjustment shall be the City Council.

(C) The City Council hereby appoints the Zoning Administrator as the administrative officer who is responsible for the tasks as assigned herein. In addition, the City Clerk/Treasurer shall be given the responsibility for ensuring orderly and expeditious processing of subdivision applications.

§ 151.021 JURISDICTION.

Pursuant to M.S. Ch. 462.358, as it may be amended from time to time, approval of subdivision plats by resolution of the City Council is hereby required as a condition for the filing of the plats with the Steele County Recorder's office, as well as a condition for issuance of a permit for any development.

§ 151.022 EXCEPTIONS.

The City Council, when acting upon applications for preliminary or minor subdivision approval, shall have the power to grant the exceptions from the requirements for subdivision approval as may be reasonable and within the general purpose and intent of the provisions for subdivision review and approval of this chapter.

§ 151.023 ISSUANCE OF PERMITS.

No zoning permit shall be issued for the construction of a building, the enlargement, alteration, repair, demolition, or moving of any building or structure on any lot or parcel conveyed in violation of the provisions of this subchapter.

§ 151.024 VARIANCES.

(A) *Hardship.* Where the Zoning Board finds that extraordinary hardships may result from strict compliance with these regulations, it may recommend to the Board of Adjustment that the regulations be varied so that substantial justice may be done and public interest secured; provided that the variations will not have the effect of violating the Land Use Plan or the regulations contained herein.

(B) *Conditions in granting variances and modifications.* The Board of Adjustment may require that conditions be placed on the granting of the variances which it deems necessary to or desirable for the public interest. In making its approval, the Board of Adjustment shall take into account the nature of the proposed use of the land and the existing use of the 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 approved when the Board of Adjustment finds:

(1) The proposed variance must be in harmony with the general purposes and intent of the Land Use Ordinance.

(2) The proposed variance must be consistent with the comprehensive plan.

(3) The applicant for the proposed variance must establish that there are practical difficulties in complying with the Land Use Ordinance. “Practical difficulties,” as used in connection with the granting of a variance, means that:

(a) the property owner proposes to use the property in a reasonable manner not permitted by the Land Use Ordinance;

(b) the plight of the landowner is due to circumstances unique to the property not created by the landowner; and

(c) the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate lot size or shape, topography, inadequate access to direct sunlight for solar energy systems, or other circumstances over which the owner of the property has no control.

(4) No variance shall be permitted as to any use that is not allowed under the Land Use Ordinance for property in the zone where the affected person's land is located.

(5) The City Council may impose such restrictions or conditions upon the premises benefited by the variance as may be necessary to comply with the standards established by this Land Use Ordinance, or to reduce or minimize the effect of such variance upon other properties in the neighborhood, and to better carry out the intent of the variance. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

(C) *Procedures.*

(1) Requests for a variance or appeal shall be filed with the City Clerk/Treasurer on an official application form. The application shall be accompanied by a fee, as established by the City Council. The application shall also be accompanied by four copies of detailed written and graphic materials, including one plan no larger than 11 inches by 17 inches necessary for the explanation of the request.

(2) The review of the variance application shall be run concurrently with the preliminary plat application.

(3) Upon receiving the application, the City Clerk/Treasurer shall refer the application, along with all related information, to the Zoning Board for a report and recommendation to the Board of Adjustment.

(4) The Zoning Board shall consider the variance at its next regular meeting. The City Clerk/Treasurer shall refer the application, along with all related information, to the City Zoning Board for consideration and a report and recommendation to the Board of Adjustment.

(5) The city staff may submit a report on and recommendation for action regarding the variance application to the Zoning Board.

(6) The Zoning Board and City Clerk/Treasurer shall have the authority to request additional information from the applicant regarding the variance or to obtain expert reports of testimony at the expense of the applicant concerning the variance.

(7) The Zoning Board shall make a finding of fact and recommend the actions or conditions

relating to the request as they deem necessary to carry out the intent and purpose of this chapter and submit this finding in the form of a report to the Board of Adjustment for their information prior to the variance

application's public hearing date.

(8) The City Clerk/Treasurer shall set a date for a public hearing. Notice of the hearing shall be published in the official newspaper at least 10 days prior to the hearing and individual notices shall be mailed not less than 10 days nor more than 30 days prior to the hearing to all owners of property within 350 feet of the parcel included in the request. Failure of any property owner to receive the notice shall not invalidate any such proceedings as set forth within this chapter.

(9) The applicant or a representative thereof shall appear before the Board of Adjustment in order to answer questions concerning the proposed variance request.

(10) A copy of the Zoning Board's report shall be entered in and made a part of the written record of the public hearing.

(11) The Board of Adjustment shall make a recorded finding of fact and impose any condition it considers necessary to protect the public hearing, safety, and welfare of the city.

(12) The Board of Adjustment shall decide whether to approve or deny a request for a variance or an appeal within 30 days after the public hearing on the request.

(13) A variance of this chapter or grant of an appeal shall be by a simple majority vote of the full Board of Adjustment.

§ 151.035 PURPOSE.

The purpose of this subchapter is to establish the procedure for Zoning Board and City Council review and action on applications for subdivisions. The procedure is intended to provide orderly and expeditious processing of the applications.

§ 151.036 CLASSIFICATION OF SUBDIVISION.

Before any land is subdivided, the owner of the property proposed to be subdivided, or his or her authorized agent, shall apply for and secure approval of the proposed subdivision in accordance with the following procedures, based upon whether the proposal is classified a minor subdivision or a major subdivision:

(A) Minor subdivision (see § 151.039(A) below):

(1) Sketch plan; and

(2) Final plat.

(B) Major subdivision (all other subdivision proposals):

(1) Sketch plan;

(2) Preliminary plat; and

(3) Final plat.

Penalty, see § 10.99

§ 151.037 OFFICIAL SUBMISSION DATE.

For the purpose of meeting the statutory time lines, the date on which the applicant has submitted a complete application containing all information requirements of this chapter, has properly executed all required application forms and paid the required fees, and any additional requests of the City Clerk/Treasurer or Zoning Administrator, shall constitute the official submission date of the plat on which the statutory period required for formal approval, conditional approval, or disapproval shall commence to run.

§ 151.038 SKETCH PLAN.

(A) In order to insure that all applicants are informed of the procedural requirements and minimum standards of this chapter and the requirements or limitations imposed by other city code provisions or plans, and prior to the submission of a plat, all applicants shall submit a sketch plan to the City Clerk/Treasurer for review.

(B) Applicants seeking review of a sketch plan shall submit the items stipulated in §§ 151.120 *et seq.* This submission requirement is needed for the developer, City Clerk/Treasurer, and other participants, as needed, to review and discuss the development proposal in its formative stages. The City Clerk/Treasurer shall determine whether the development proposal is a major or minor subdivision and shall provide the developer with a list of submission requirements for the appropriate development type as well as the expected process flow and timetable.

(C) The applicant shall not be bound by any sketch plan for which review is requested, nor shall any representatives of the city be bound by any such review.

§ 151.039 MINOR SUBDIVISIONS; APPLICATION.

(A) *Minor subdivision defined:*

(1) In the case of a request to divide a portion of a 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 conform to zoning ordinance lot size standards;

(2) In the case of a request to combine two existing platted lots;

(3) In the case of a request to divide no more than two lots from a larger tract of land thereby creating no more than three lots. To qualify, the parcel of land should not have been a part of a minor subdivision within the last five years;

(4) In the case of a request to divide a base lot, which is a part of a recorded plat upon which has been constructed a two-family dwelling, townhouse, or quadraminium, 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 not cause any of the unit lots or structure to be in violation of this chapter, the zoning ordinance, or the State Building Code; and

(5) Any other subdivisions that meet the definition contained in § 151.007.

(B) *Content and data requirements for minor subdivisions.*

(1) The requested minor division shall be prepared by a registered land surveyor in the form of a certificate of survey.

(2) The data and supportive information detailing the proposed subdivision is specified in §§ 151.120 *et seq.* Exceptions, stipulated in writing, may be granted by the City Clerk/Treasurer or Zoning Administrator.

(3) The minor subdivision shall conform to all design standards as stipulated in this chapter. Any proposed deviation from the standards requires the processing of a variance request.

§ 151.040 PRELIMINARY PLAT.

(A) The application shall:

(1) Be filed with the City Clerk/Treasurer at least two weeks prior to the next regularly scheduled meeting of the Zoning Board;

(2) The City Clerk/Treasurer shall notify an applicant within 10 days of the submission of the application whether there are any deficiencies in the information submitted as part of the application. If the notification is not made within the 10-day period, the subdivision application is officially accepted for review;

(3) Be made on forms available at the city offices accompanied by the required fee, as established by the City Council. The City Clerk/Treasurer shall deposit any money received as fees hereunder to the credit of the general fund of the City of Ellendale. No money shall be refunded to the applicant. The fee is not intended to cover specialized engineering, planning, or site analysis reviews. Fees for additional technical services such as these will become the responsibility of the subdivider;

(4) An up-to-date certified abstract of title or registered property report showing title in the applicant's name, or an option to buy the property by the applicant as shown on the preliminary plat;

(5) The application shall include the items specified in §§ 151.120 *et seq.* which constitutes a checklist of items to be submitted for subdivision review; and

(6) Be accompanied by a minimum of 10 copies of the preliminary plat and one reduced copy of the plat no larger than 11 inches x 17 inches.

(B) The City Clerk/Treasurer shall submit five copies of the preliminary plat to the Zoning Board, and may, at their discretion, submit one copy to the City Engineer, one copy to the City Planner, and one copy to the City Attorney. The remaining copies shall be placed in the city's files.

(C) The City Clerk/Treasurer may instruct the appropriate staff to prepare technical reports and provide general assistance in preparing a recommendation on the action to the City Council. This may include the City Planner, the City Engineer, City Building Official, or the City Attorney, or others as deemed needed.

(D) Upon receipt of the completed application as outlined above, the Zoning Board shall set a public hearing for public review of the preliminary plat. The hearing shall be held within 60 days of the official submission date of the application. The applicant and/or his or her representative shall appear at the public hearing before the Zoning Board in order to answer questions concerning the proposal. Notice of the public hearing may consist of a legal property description, shall contain a description of the request, and shall be advertised in the official newspaper at least 10 days before the day of the hearing. Property owners within 350 feet of the proposed subdivision shall also be notified through the mail of the hearing. Failure of any property owner to receive the notice shall not invalidate the public hearing.

(E) No later than 30 days after the close of the public hearing described above, the Zoning Board shall submit the plat to the City Council with its own recommendations, including any conditions it recommends be placed upon the plat prior to approval. The City Council may approve, approve with conditions, or disapprove the plat by a majority vote of its members regardless of the recommendations made by the Zoning Board. If the Zoning Board has not acted upon the preliminary plat within 30 days following the close of the public hearing on such and in compliance with this chapter, the Council may act on the preliminary plat without the Zoning Board's recommendation, and may approve, approve with conditions, or disapprove the plat by a majority vote of its members after the required public hearing.

(F) The City Council shall take final action within 120 days of the application's official submission date. The subdivision application shall be preliminarily approved or denied by the City Council. If the City Council fails to approve or disapprove the preliminary plat in this review period, the application shall be deemed preliminarily approved.

(G) At any time during this process, either the applicant or the city may request an extension of the imposed time limits. Both the applicant and the city must agree to the time extension and must execute a time extension form that will become a part of the subdivision file.

(H) If the City Council requires changes to the preliminary plat, and if the changes are determined to be minor changes in the opinion of the City Council, then the changes may be noted on the plat and approved as such.

(I) If the changes to be made are major changes in the opinion of the City Council, then a new preliminary plat must be prepared and resubmitted, along with the payment of new fees, based upon the procedures and time lines established in this section.

(J) No preliminary plats shall be approved unless the applicant proves by clear and convincing evidence that:

(1) The application for a preliminary plat is not premature and conforms to the Ellendale Comprehensive Plan;

(2) The uses in the subdivision will be connected to and served by public utilities for the provision of water supply and sewage collection and treatment facilities.

(3) The subdivider has the financial ability to complete the proposed subdivision in accordance with all applicable laws and regulations;

(4) The proposed subdivision will not result in the scattered subdivision of land that leaves undeveloped parcels of land lacking urban services between developed parcels; and

(5) The subdivider has taken every effort to mitigate the impact of the proposed subdivision on public health, safety, and welfare.

(K) The Zoning Board may recommend and the City Council may require the changes or revisions as deemed necessary for the health, safety, general welfare, and convenience of the city. The approval of a preliminary plat by the Zoning Board and the City Council is tentative only, involving merely the general acceptability of the layout submitted. Subsequent approval will be required of the proposals pertaining to water supply, storm drainage, sewage and sewage disposal, gas and electric service, grading, gradients and roadway widths, and the surfacing of streets.

(L) If the preliminary plat is approved, the approval shall not constitute final acceptance of the layout. Subsequent approval will be required of the engineering proposals and other features and requirements as specified by this chapter to be indicated on the final plat. The City Council may impose the conditions and restrictions as it deems appropriate or require the revisions or modifications in the preliminary plat or final plat as it deems necessary to protect the health, safety, comfort, general welfare, and convenience of the city.

(M) If the preliminary plat is not approved by the City Council, the reasons for the action shall be recorded in the proceedings of the Council and shall be transmitted to the applicant.

(N) Any resubmission of a plat application that has been denied by the City Council shall be prohibited for one year following denial unless the City Council votes to allow the resubmission either unanimously or by super majority.

§ 151.041 FINAL PLAT.

(A) After approval of the preliminary plat, the applicant shall prepare and submit a final plat to the city for study and recommendation. This plat must be submitted within one year from approval of the preliminary plat, or as specified in an approved development agreement. If the final plat is not submitted within this time period and the applicant has not requested a time extension, the approved preliminary plat becomes null and void within one year of its approval date.

(B) In some development proposals, the city may agree to review the preliminary and final plats simultaneously.

(C) The procedure for filing the final plat is that which is established for submission of the preliminary plat under this subchapter, except as specified below. Ten copies of the final plat shall be provided to the city by the applicant, and one reduced copy no larger than 11 inches by 17 inches. All final plats shall comply with the provisions of Minnesota Statutes and the requirements of this chapter. An applicant shall submit with the final plat a current abstract of title or a registered property certificate, along with any unrecorded documents and an opinion of title.

(D) Upon receipt of a final plat, the City Clerk/Treasurer shall refer one copy each to the City Council, appropriate city staff, the County Surveyor, and to all applicable utility companies, and one copy with abstract of title or registered property certificates and opinion title to the City Attorney. The City Council may refer the final plat to the Zoning Board for recommendation if they feel the proposed final plat is substantially different from the approved preliminary plat. The Zoning Board shall submit a report thereon to the City Council within 30 days. The city staff receiving a copy of the final plat shall submit reports through the City Clerk/Treasurer to the City Council within 15 days of receiving the plat expressing their recommendation on the final plat. The County Surveyor shall review the final plat and notify the subdivider's surveyor or final plat preparer of corrections that are to be made to the final plat. Prior to approval of a final plat, the applicant shall have executed an agreement with the city controlling the installation of all required improvements. The agreement will require all improvements to comply with approved engineering standards and applicable regulations, and shall set forth the amount and form of security required by the city to insure proper installation and warranty of all improvements. Unless otherwise approved by the City Council, the security shall be in the form of an irrevocable letter of credit.

(E) The City Council, after receiving the final plat and any recommendations from the Zoning Board, shall approve, approve with attached conditions, or disapprove the final plat within 60 days of receiving the final plat. This action taken by the City Council is dependent upon the final plat's conformance with the preliminary plat, as approved by the City Council. If the final plat is not approved, the reasons for the action shall be recorded in the official proceedings of the city and shall be transmitted to the applicant.

(F) At any time during this process, either the applicant or the city may request an extension of the imposed time limits. Both the applicant and the city must agree to the time extension and must execute a time extension form that will become a part of the subdivision file.

(G) The final plat, when approved, shall be submitted by the applicant to the Steele County Recorder for recording. A developer's agreement must be recorded prior to or simultaneously with the plat. The final plat must be recorded within 180 days from the date of approval or it will become null

and void. If recording is not accomplished according to these procedures, the city may require another review of the proposed subdivision according to these regulations and state law. Prior to recording, the final plat must be signed by representatives of the city and the applicant must post all required security in a city approved manner. If a final plat is submitted for a portion of the area encompassed in the preliminary plat and it is recorded within 180 days from the date of approval, the remaining portion of the preliminary plat will remain valid for two years. That portion of a preliminary plat for which a final plat is not submitted and recorded or for which a time extension form has not been executed between the applicant and the city within this two (2) year period, shall become null and void.

(H) Fees for final recording by the county shall be paid by the applicant. The applicant immediately upon recording shall furnish the City Clerk/Treasurer with a reproducible copy of the recorded plat, either chronoflex or its equivalent and two prints and an electronic version of the plat in a format the city requests. Failure to furnish the copies shall be grounds for a refusal to issue zoning permits for the lots within a plat.

(I) Any resubmission of a plat application which has been denied by the City Council shall be prohibited for one year following denial unless the City Council votes to allow the resubmission either unanimously or by super majority.

§ 151.042 SOIL TESTS.

The City Council may require soil tests prior to the final approval of any plat. These soil tests shall consist of test holes to a depth necessary to determine the various types of soil to be encountered before reaching a stable base. The test holes when ordered by the City Council or Zoning Board shall be drilled at the expense of the owner or developer and the information disclosed shall be furnished to the City Council together with a copy of the proposed plat showing the location of each test hole. The information required shall include a report as to the various types of soils encountered and their depths, the level of the ground water and a percolation test and may include additional information. The number of test holes to be drilled and their location on the property which is proposed to be platted will be as directed by the governing body or its authorized representative. In questionable cases, the owner shall be required to furnish a report from a recognized engineering laboratory as to the safety and practicality of the use of the area for building construction, including the feasibility for installation of sewage facilities.

§ 151.043 APPEALS TO CITY COUNCIL.

The applicant for subdivision approval may appeal the disapproval of a plat by filing a notice of appeal with the City Council no later than 10 days after the date on which the plat was disapproved. The notice of appeal shall set forth in clear and concise fashion the basis for the appeal. The appeal shall be considered at the next regularly scheduled public meeting of the City Council, at which time it may affirm or reverse its decision of the disapproval only by a unanimous vote of the members present at the meeting. On appeal, the applicant shall be allowed to make a presentation to the City Council under the terms, conditions, and procedures as established by the City Council. The City Council shall render a decision affirming or reversing their earlier decision no later than 45 days after the date on which the notice of appeal is filed. If the City Council reverses its prior decision, the applicant may proceed to submit a preliminary or final plat as is appropriate under the conditions for approval agreed to by the City Council.

§ 151.044 EFFECT OF SUBDIVISION CONTROL.

For one year following preliminary approval and for two years following final approval, unless the subdivider 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 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 will suffer substantial financial damage as a consequence of a requirement to submit a new application. In connection with a subdivision involving planned and staged development, the city may by resolution or agreement, grant the rights referred to herein for the periods of time longer than two years it determines to be reasonable and appropriate.

§ 151.045 ZONING.

Prior to the approval of the final plat, the applicant shall submit an application to rezone any or all plats of the area previously zoned incorrectly for the proposed use, in accordance with the provisions of Chapter 152.

§ 151.046 REQUIREMENTS FOR RECORDING AND CONVEYING REAL PROPERTY.

(A) Restriction of Conveyances. No conveyance of land within the City shall be filed or recorded in the County Recorder's Office or have any validity, and the Building Inspector shall not issue a building permit for any structure on said land, unless said conveyance is described with reference to an approved plat or an approved administrative land survey as hereafter provided. No conveyance of land shall be described by metes and bounds except as contained in an administrative land survey, except that any parcel that is of record prior to the date of this ordinance may be conveyed according to the legal description contained in that record.

(B) Creation of New Parcel by Administrative Land Survey. A new parcel may be created through use of an Administrative Land Survey. Said Administrative Land Survey may combine former parcels or portions of parcels or may divide a former parcel into two or more new parcels.

(C) Requirements of Administrative Land Survey. A new parcel may be created through use of an Administrative Land Survey only upon the satisfaction of all of the following requirements:

(1) No Administrative Land Survey shall be of any effect unless and until approved by the City after public hearing and recorded in the Office of the Steele County Recorder. No Administrative Land Survey shall be recorded without the prior consent of the City.

(2) All Administrative Land Surveys shall be filed subject to the same procedure as required for the filing of a preliminary plat. The standards and requirements set forth in these regulations shall apply to all Administrative Land Surveys.

(3) An Administrative Land Survey shall not be used to divide a parcel of land in such a way that any

resulting parcel does not meet a zoning requirement of this Chapter. All resulting parcels of an Administrative Land Survey shall be buildable lots meeting the minimum requirements of this Chapter of the zoned designation.

(4) No Administrative Land Survey shall alter or affect a public right of way or public easement.

(5) No conveyance of a parcel defined by an Administrative Land Survey shall be recorded unless the City shall have first approved the Administrative Land Survey.

(6) All conveyances of land described with reference to an Administrative Land Survey shall have a copy of the survey attached to the deed of conveyance at the time it is recorded.

(D) Restriction on Future Conveyances. Upon the recording of an Administrative Land Survey, no portion of a parcel described by the Administrative Land Survey shall be conveyed except the entire parcel.

(E) Effect of Administrative Land Survey. Upon the recording of an Administrative Land Survey, parcels defined by the Administrative Land Survey shall constitute a "Lot" as that term is used in this Chapter.

(F) Fees for the review and approval of an Administrative Land Survey shall be set by the City Council by the Master Fee Schedule.

(G) Waiver of Compliance. In any case in which compliance with the foregoing restrictions will create an unnecessary hardship and failure to comply does not interfere with the purpose of this Section, the City Council may waive such compliance by adoption of a resolution to that effect and the conveyance may then be filed or recorded.

(H) Conveyances Prohibited. Any owner or agent of the owner of land who conveys a lot of parcel in violation of this Section shall forfeit and pay to this municipality a penalty of not less than One Thousand and 00/100 Dollars ($1,000.00) for each lot or parcel so conveyed. The City may enjoin such conveyance by action for injunction or may recover such penalty by civil action in any court of competent jurisdiction. The City shall not issue any building permits to property conveyed in violation of the Section.

§ 151.060 GENERALLY.

(A) Before a final plat is approved by the City Council, the owner and subdivider of the land covered by the plat shall execute and submit to the Council a written developers agreement, which shall be binding on their heirs, personal representatives, and assigns, that they will cause no private construction to be made on the plat or file or cause to be filed any application for zoning permits for the construction until all improvements required under this chapter have been made or have been arranged for, in the manner, with respect to the streets to which the lots sought to be constructed have access.

(B) The agreement shall provide that all of the required improvements will be made in accordance with standards established by the City Engineer. This shall include provision for inspections by the City Engineer and shall grant to the City Engineer authority to coordinate the work and improvements to be done under the contract by any subcontractor authorized to proceed thereunder and with any other work being done or contracted by the city in the vicinity. The agreements shall include adequate provisions to insure that all improvements accomplished by the subdivider will comply with the standards.

(C) A developer's responsibility for contributing to off-tract improvements may be required. Refer to §§ 151.105 *et seq.* for the standards related to this requirement.

§ 151.061 IMPROVEMENTS MAY BE PARTIAL.

It is not the intent of this chapter to require the subdivider to develop the entire plat and make all required improvements at one time, but no zoning permits shall be granted except on the lots having access to streets on which the required improvements have been made.

§ 151.062 FINANCIAL GUARANTEE.

(A) *Generally.* The contract provided for in § 151.060 shall require the applicant to provide a financial guarantee in a form approved by the City Council or the City Attorney, and in an amount based upon the City Engineer's estimate of the total cost of the improvements to be furnished under the contract, including the cost of inspection. The amount of the financial guarantee shall equal 120% of the City Engineer's estimate. The agreement may further provide for additional sums to be placed in escrow for estimated engineering, legal, and administrative costs.

(B) *Escrow deposit; certified check.* If an escrow deposit is required, the escrow deposit shall be made with the City Clerk/Treasurer. Upon completion of the work and termination of any liability, the balance remaining in the deposit shall be refunded to the applicant.

(C) *Irrevocable letter of credit.* An irrevocable letter of credit in a form acceptable to the City Council or City Attorney shall be payable to the order of the city and delivered to the City Clerk/Treasurer in a sum equal to the amount specified in division (A) above, for all the improvements to be furnished and installed by the applicant pursuant to the developer's agreement which have not been completed prior to the approval of the plat. The letter of credit may include an amount for the cost of inspection by the city. In the event of any default in the terms and conditions of the contract the city may, at its discretion, draw upon the letter of credit and use those funds to contract for completion of the improvements required by the contract.

(D) *Reduction of letter of credit.* Upon receipt of proof satisfactory to the city that work has been completed and financial obligations to the city have been satisfied, with city approval, the security may be reduced by 90% of the financial obligations that have been satisfied. Ten percent of the security shall be retained until all improvements have been completed, all financial obligations to the city satisfied (which includes the duration of the established warranty period), and the required "as built" plans have been received by the city.

§ 151.063 INSPECTION OF IMPROVEMENTS.

The City Council shall provide for inspection of required improvements during construction and ensure their satisfactory completion. The applicant shall pay to the city an inspection fee based on the estimated cost of inspection. These fees shall be due and payable upon demand of the city and no zoning

permits shall be issued until all fees are paid. If the City Engineer finds upon inspection that any one or more of the required improvements have not been constructed in accordance with the city's construction standards and specifications, the applicant shall be responsible for properly completing the improvements.

§ 151.064 MAINTENANCE OF IMPROVEMENTS.

The developer shall be required to maintain all public improvements on the individual subdivided lots and provide for snow removal on streets and sidewalks until acceptance of the improvements by the City Council. Following the acceptance of the dedication of any public improvement by the local government, the city may, in its sole discretion, require the subdivider to maintain the improvement for a period of one year from the date of acceptance.

§ 151.065 DEFERRAL OR WAIVER OF REQUIRED IMPROVEMENTS.

(A) The City Council may defer or waive at the time of final approval, subject to appropriate conditions, the provision of any or all public improvements as, in its judgment, are not requisite in the Interests of the public health, safety, and general welfare, or which are inappropriate because of the inadequacy or in existence of connecting facilities. Any determination to defer or waive the provision of any public improvement must be made on the record and the reasons for the deferral or waiver also shall be expressly made on the record.

(B) Whenever it is deemed necessary by the City Council to defer the construction of any improvement required under these regulations because of incompatible grades, future planning, inadequate or nonexistent connecting facilities, or for other reasons, the subdivider shall pay his or her share of the costs of the future improvements to the city prior to signing of the final subdivision plat by the City Mayor, or the developer may execute a separate subdivision improvement agreement secured by a letter of credit guaranteeing completion of the deferred improvements upon demand of the city.

§ 151.066 ISSUANCE OF ZONING PERMITS.

(A) The extent of street improvement shall be adequate for vehicular access by emergency vehicles prior to the issuance of a zoning permit.

(B) No zoning permit shall be issued for the final 10% of the lots in a subdivision, or if 10% is less than two lots, for the final two lots of the subdivision, until all public improvements required by the Zoning Board or City Council for the subdivision have been fully completed and the local government has accepted the developer's offer(s) to dedicate the improvements.

DESIGN AND IMPROVEMENT STANDARDS

§ 151.080 GENERAL REQUIREMENTS.

Prior to the approval of a plat by the governing body, the applicants shall have agreed, in the manner set forth below, to install the following improvements on the site in conformity with approved construction plans and in conformity with all applicable standards and ordinances. The developer or the municipality shall award contracts for any construction work and material mentioned herein. The contract shall be based upon plans and specifications completed or approved by the City Engineer and approved by the City Council. The Engineer shall supervise or inspect all of the work and shall certify that the work has been finished, and that it has been finished in accordance with plans and specifications approved by the governing body.
Penalty, see § 10.99

§ 151.081 LAND REQUIERMENT'S

(A) Land shall be suited to the purpose for which it is to be subdivided. No plan shall be approved if the site is not suitable for the purposes proposed by reason of potential flooding, topography, wetlands, or adverse soil or rock formation.

(B) Land subject to hazards to life, health, or property shall not be subdivided until all the hazards have been eliminated, or unless adequate safeguards against the hazards are provided by the subdivision plan.

(C) Proposed subdivisions shall be coordinated with existing neighborhoods, so that the city as a whole may develop efficiently and harmoniously. Water mains and sanitary sewer collection pipes shall be provided to serve the subdivision by extension of the existing city water system and sanitary collection system. Service connections shall be stubbed to the property line and all necessary fire hydrants shall also be provided. Extensions of the public water supply system and sanitary sewer collection system shall be designed so as to provide a water supply and sanitary sewer collection in accordance with the standards of the city.
Penalty, see § 10.99

§ 151.082 SITE DESIGN STANDARDS.

(A) *Site analysis.* An analysis shall be made of characteristics of the development site, such as site context; geology and soil; topography; existing vegetation; structures and road networks; and past and present use of the site.

(B) *Subdivision and site design.*

(1) Design of the development shall take into consideration all existing local plans of the community and shall conform to Chapter 152 requirements.

(2) Development of the site shall be based on the site analysis. To the maximum extent practicable, development shall be located to preserve the natural features of the site, to avoid areas of environmental sensitivity, and to minimize negative impacts and alteration of natural features.

(3) The following specific areas shall be preserved as undeveloped open space, to the extent consistent with the reasonable utilization of land, and in accordance with state and local regulations:

(a) Unique or fragile areas, including wetlands;

(b) Significant trees or stands of trees;

(c) Steep slopes in excess of 20%, as measured over a 10-foot interval unless appropriate engineering measures concerning slope stability, erosion, and resident safety are taken;

(d) Habitats of endangered wildlife; and

(e) Historically significant structures and sites.

(4) The development shall be laid out to avoid adversely affecting groundwater and aquifer recharge; to reduce cut and fill; to avoid unnecessary impervious cover; to prevent flooding; to provide adequate access to lots and sites; and to mitigate adverse effects of noise, odor, traffic, drainage, and utilities on neighboring properties.

(5) The lot arrangement shall be such that there will be no foreseeable difficulties, for reasons of topography or other conditions, in securing zoning permits to build on all lots in compliance with Chapter 152 and to meet all health regulations that would be applicable and in providing driveway access to buildings on the lots from an approved street.

(6) The lot line common to the street right-of-way shall be the front line. All lots shall face the front line and a similar line across the street. Wherever feasible, lots shall be arranged so that the rear line does not abut the side line of an adjacent lot.

(C) *Residential development design.*

(1) In conventional developments, the Zoning Board or City Council may vary lot areas and dimensions, yards, and setbacks for the purpose of encouraging and promoting flexibility, economy, and environmental soundness in layout and design, provided that the average lots areas and dimensions, yards, and setbacks within the subdivision conform to the minimum requirements of the city's zoning regulations, and provided that the standards shall be appropriate to the type of development permitted.

(2) Residential lots shall be encouraged to front on local or collector streets, and discouraged from fronting arterial streets.

(3) Every lot shall have sufficient access to it for emergency vehicles as well as for those needing access to the property in its intended use.

(4) The placement of units in residential developments shall take into consideration topography, privacy, building height, orientation, drainage, and aesthetics.

(5) Buildings shall be spaced so that adequate privacy is provided for units.

(D) *Commercial and industrial development design.* Commercial and industrial developments shall be designed according to the same principles governing the design of residential developments; namely, buildings shall be located according to topography, with environmentally sensitive areas avoided to the maximum extent practicable. Factors such as drainage, noise, odor, and surrounding land uses shall be considered in siting buildings; sufficient access shall be provided; and adverse impacts buffered.

(E) *Circulation system design.*

(1) The road system shall be designed to permit the safe, efficient, and orderly movement of traffic; to meet, but not exceed the needs of the present and future population served; to have a simple and logical pattern; to respect natural features and topography; and to present an attractive streetscape.

(2) In residential subdivisions, the road system shall be designed to serve the needs of the neighborhood and to discourage use by through traffic.

(3) The pedestrian system shall be located as required for safety. In conventional developments, walks shall be placed parallel to the street, with exceptions permitted to preserve natural features or to provide visual interest. In planned developments, walks may be placed away from the road system, but they may also be required to be parallel to the street for safety reasons.

(F) *Block design.*

(1) Blocks shall have sufficient width to provide for two tiers of lots of appropriate depths. Exceptions to this standard shall be permitted in blocks adjacent to arterial roads, railroad lines, or where one tier of lots is necessary because of topographical conditions.

(2) Double-frontage or lots with frontage on two parallel streets shall be permitted only in the following cases:

(a) Where vehicular and pedestrian accesses are prohibited between lots and an arterial street is prohibited; and

(b) Where topographical or other conditions render subdividing lots in different configurations unreasonable. The double-frontage lots shall have an additional depth of at least 20 feet in order to allow space for the planting of screening vegetation or placement of other screening options along the back lot line.

(3) The lengths, widths, and shapes of blocks shall conform to the following, based upon the type of development proposed:

(a) In residential areas, block lengths shall not exceed 1,200 feet nor be less than 600 feet in length. Block length and width or acreage within bounding streets shall accommodate the size of residential

lots required in the area by Chapter 152, and provide for convenient access, circulation control, and safety of street traffic; and

(b) In commercial or industrial areas, block width shall be suitable for their respective use, including adequate space for off street parking, deliveries, and loading. The facilities shall be provided with safe and convenient access to the street system.

(4) In long blocks, the Zoning Board or City Council may require the reservation of an easement through the block to accommodate utilities, drainage facilities, or pedestrian traffic.

(5) Pedestrian ways or crosswalks may be required by the Zoning Board where it is deemed essential to provide circulation or access to schools, playgrounds, shopping areas, or other community facilities. Suitable surfacing shall be provided in pedestrian ways and shall be subject to city review.

(G) *Landscape design.*

(1) Reasonable landscaping should be provided at site entrances, in public areas, and adjacent to buildings. The type and amount of landscaping shall be allowed to vary with the type of development.

(2) Planting or other landscaping material that best serves the intended function shall be selected. Landscaping materials shall be appropriate for the Upper Midwest environment, the Ellendale soil conditions, and the availability of the local water supply. The impact of the proposed landscaping plan at various time intervals shall also be considered.
Penalty, see § 10.99

§ 151.083 EASEMENTS.

(A) *Provided for utilities.* A minimum 10-foot easement for drainage and utilities shall be provided on all lot lines. In the case of side or rear lot lines, these may be centered on the lot line. These easements shall be furnished by the owner at no cost to the municipality.

(B) *Provided for drainage.* Easements shall be provided along each side of the center line of the water course or drainage channel, whether or not shown on the Comprehensive Plan, to a sufficient width to provide proper maintenance and protection to provide for storm water runoff and to provide for installation and maintenance of storm sewers. Drainage easements shall be furnished by the owner at no cost to the municipality.

(C) *Continue utility easement locations.* Utility easements shall connect with easements established on adjoining property. These easements, when approved, shall not thereafter be changed without the approval of the City Council after a public hearing.

(D) *Dedication.* All easements shall be dedicated for the required use and shall be shown on the final plat.
Penalty, see § 10.99

§ 151.084 OPEN SPACE AND RECREATION.

(A) *Minimum requirements.*

(1) *Generally.* In all plats, the governing body shall require a recreational land contribution to be used in connection with the development of a general park system in the city. All recreation areas dedicated to the city shall be subject to approval by the governing body. A cash contribution may be used in lieu of the land dedication or, in some instances, may be required by the city.

(2) *Amount of open space required.* 10% of the tract proposed for development shall be set aside for use as developed and/or undeveloped open space. This amount of land is the city's best estimate of need for open space to accommodate the increased usage of the space by the population of the proposed development. If a cash contribution is to be used in lieu of land dedication, the cash payment shall equal the value of the land dedication requirement as determined by a certified appraiser who shall determine the current market value of the property with development potential. The cost of the appraisal shall be borne by the developer. The cash contribution amount specified above is the city's best estimate for undertaking needed improvements to its open space facilities based upon the increased usage resulting from new development.

(3) *Size of open space parcels.* In general, land reserved for recreation purposes shall have an area of at least four acres. When the area reservation amount for a development would equal less than four acres, the Zoning Board may require the area designated for this use be located at a suitable place on the edge of the subdivision so that additional land may be added at the time as the adjacent land is subdivided. In no case shall an area of less than two acres be reserved for recreation purposes if it will be impractical or impossible to secure additional lands in order to increase its area. In these instances, the developer may choose the cash contribution option or choose construction methods referred to in division (C) below, or a combination of these options.

(4) *Location of open space parcels.* Open space parcels shall be convenient to the dwelling units they are intended to serve. However, because of noise generation, they shall be sited with sensitivity to surrounding development.

(B) *Improvement of open space parcels.*

(1) *Developed open space.* All land to be reserved for dedication to the local government for park purposes shall have prior approval of the City Council and shall be shown marked on the plat "Reserved for Park and/or Recreation Purposes." The Zoning Board or City Council may require the installation of recreational facilities, taking into consideration:

(a) The character of the open space land;

(b) The estimated age and recreation needs of persons likely to reside in the development;

(c) The proximity, nature, and excess capacity of existing municipal recreation facilities; and

(d) The cost of the recreational facilities.

(2) *Undeveloped open space.* As a general principle, undeveloped open space should be left in its natural state. A developer may make certain improvements such as the cutting of trails for walking or jogging, or the provision of picnic areas. In addition, the
Zoning Board may require a developer to make other improvements, such as removing dead or diseased trees, thinning trees, or other vegetation to encourage more desirable growth, and grading and seeding.

(C) *Other uses of land that may be counted towards filling the recreation reservation requirement.*

(1) If a developer constructs a looped road turn around at the end of a cul-de-sac, the amount of land contained within the loop that is left in natural vegetation may count towards the recreational reservation requirement.

(2) If a developer constructs a walking and/or biking pathways in the development, that are separate and distinct from motorized routes, the amount of land used for this purpose or the cost for making the improvement for this use may count towards the recreational reservation requirement.

(D) *Exceptions to the standards.* The Zoning Board or City Council may permit minor deviations from open space standards when it can be determined that:

(1) The objectives underlying these standards can be met without strict adherence to them; and/or

(2) Because of peculiarities in the tract of land or the facilities proposed, it would be unreasonable to require strict adherence to these standards.

(E) *Deed restrictions.* Any lands dedicated for open space purposes shall contain appropriate covenants and deed restrictions approved by the City Attorney ensuring that:

(1) The open space area will not be further subdivided in the future;

(2) The use of the open space will continue in perpetuity for the purpose specified;

(3) Appropriate provisions will be made for the maintenance of the open space; and

(4) Common undeveloped open space shall not be turned into a commercial enterprise admitting the general public at a fee.

(F) *Open space ownership.* The type of ownership of land dedicated for open space purposes shall be selected by the owner, developer, or subdivider, subject to the approval of the City Council. The type of ownership may include, but is not necessarily limited to, the following:

(1) The municipality, subject to acceptance by the City Council;

(2) Other public jurisdictions or agencies, subject to their acceptance;

(3) Quasi-public organizations, subject to their acceptance;

(4) Homeowner, condominium, or cooperative associations or organizations; or

(5) Shared, undivided interest by all property owners in the subdivision.

(G) *Homeowners association.* If the open space is owned and maintained by a homeowner or condominium association, the developer shall file a declaration of covenants and restrictions that will govern the association, to be submitted with the application for the preliminary approval. The provisions shall include, but are not necessarily limited to, the following:

(1) The homeowners association must be established before the homes are sold;

(2) Membership must be mandatory for each home buyer and any successive buyer;

(3) The open space restrictions must be permanent, not just for a period of years;

(4) The association must be responsible for liability insurance, local taxes, and the maintenance of recreational and other facilities;

(5) Homeowners must pay their pro rata share of the cost, and the assessment levied by the association can become a lien on the property if allowed in the master deed establishing the homeowners association; and

(6) The association must be able to adjust the assessment to meet changed needs.

(H) *Maintenance of open space areas.* The person or entity identified as having the right of ownership or control over the open space shall be responsible for its continuing upkeep and proper maintenance.

(I) *Preservation of natural features and amenities.* Existing features that would add value to residential development or to the local government as a whole, such as trees, watercourses, historic spots, or similar irreplaceable assets, shall be preserved in the design of the subdivision.

(J) *Appeal of open space and recreational lands.* The developer may appeal the open space and recreational land dedication or cash contribution requirements specified herein. However, the costs of conducting the study needed to prove the impacts from the development will not overburden the city's need for open space, recreational space, or the need to make improvements to the city’s recreational space will be borne by the developer.
Penalty, see § 10.99

§ 151.085 ADEQUATE PUBLIC FACILITIES.

(A) *Generally.* No plat shall be approved unless the City Council determines that public facilities will be adequate to support and service the area of the proposed subdivision. The applicant shall, at the request of the Zoning Board and/or the City Council, submit sufficient information and data on the proposed subdivision to demonstrate the expected impact on public facilities by possible uses of the subdivision. Public facilities and services to be examined for adequacy will include roads and other transportation routes, sewerage, water service, storm water drainage facilities, and others as determined by city staff, Zoning Board, or City Council.

(B) *Extension policies.* All public improvements and required easements shall be extended through the subdivision on which new development is proposed. Streets, water lines, wastewater systems, drainage facilities, electric lines, and telecommunications lines shall be constructed through new development to promote the logical extension of public infrastructure. The City Council may require the applicant of a subdivision to extend off-site improvements to reach the subdivision or oversize required public facilities to serve anticipated future development as a condition of plat approval.

(C) *Trunk facilities and alternative installation.* 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 pursuant to established city policies. The City Council may elect to install any or all of the required public improvements pursuant to a cash escrow agreement or other financial arrangements with the applicant.
Penalty, see § 10.99

§ 151.086 STREETS.

(A) *General requirements.*

(1) The arrangement of streets shall conform to the circulation plan of the Comprehensive Plan or the official map of the city.

(2) For streets not shown on the Comprehensive Plan or official map, the arrangement shall provide for the appropriate extension of existing streets.

(3) Residential streets shall be arranged so as to discourage through traffic and provide for maximum privacy.

(4) No subdivision shall be approved unless the area to be subdivided shall have frontage on and access from an existing street or road.

(5) Where a subdivision abuts or contains an existing street of inadequate width, sufficient additional width shall be provided to meet the standards referenced in Section 151.086(K).

(B) *Specific requirements.*

(1) *Dead-end streets.* Dead-end streets shall be prohibited, except as stubs to permit future street extension into adjoining tracts with possible temporary cul-de-sacs, as determined by the city. When a temporary cul-de-sac is constructed, a temporary turn-around facility may be required at the closed end in conformance with the cul-de-sac requirements.

(2) *Private streets and reserve strips.* Private streets and reserve strips shall be prohibited and no public improvement shall be approved for any private street. All streets shall be dedicated for public use. If any person applies to subdivide or replat any land or parcels adjoining an existing private street, the private street shall be required to be dedicated for public use and scheduled for improvement to public street standards at the time of final plat.

(3) *Restriction of access.* Access of residential access or residential subcollector streets onto residential collector or arterial streets shall be discouraged at intervals of less than 500 feet.

(4) *Marginal access streets.* Where a subdivision abuts or contains an existing or planned major arterial street or a railroad right-of-way, a marginal access street approximately parallel to and on each side of the arterial street or railroad right-of-way may be required for adequate protection or residential properties and separation of through and local traffic. The service streets shall be located at a distance from the major arterial or railroad right-of-way suitable for appropriate use of the intervening land, as for park purposes in residential districts or for commercial or industrial uses, as would be appropriate for the location. The distances also shall be determined with due regard to the requirements of approach grades and future grade separations.

(5) *Street jogs.* Street jogs with centerline off-sets of less than 150 feet shall not be allowed.

(6) *Deflection.* When connecting street lines deflect from each other at any one point by more than 10 degrees, they shall be connected by a curve with a radius of not less than 100 feet.

(7) *Vertical curves.* Different connecting street gradients shall be connected with vertical curves. Minimum length, in feet, of these curves shall be 20 times the algebraic difference in the percent of grade of the two adjacent slopes.

(8) *Corner radii.* Roadways of street intersections shall be rounded by a radius of not less than 15 feet. Corners at entrances to the turnaround portion of cul-de-sacs shall be rounded by a radius of not less than 15 feet.

(C) *Topography and arrangement.*

(1) Streets shall be related appropriately to the topography. Residential access streets and residential subcollector streets shall be curved wherever possible to avoid conformity of lot appearance. All streets shall be arranged so as to obtain as many building sites as possible at, or above, the grades of the streets. Grades of streets shall conform as closely as possible to the original topography. A combination of steep grades and curves shall be avoided.

(2) All streets shall be properly integrated with the existing and proposed system of roads and dedicated rights-of-way.

(3) All streets shall be properly related to special traffic generators such as industries, business districts, school, and churches; to population densities; and to the pattern of existing and proposed land uses.

(4) Residential access streets and residential subcollector streets shall be laid out to conform as much as possible to the topography to discourage use by through traffic, to permit efficient drainage and utility systems, and to require the minimum number of streets necessary to provide convenient and safe access to property.

(5) The rigid rectangular gridiron street pattern need not necessarily be adhered to, and the use of curvilinear streets or U-shaped streets shall be encouraged where the use will result in a more desirable layout.

(6) Proposed streets shall be extended to the boundary lines of the tract to be subdivided, unless prevented by topography or other physical conditions, or unless, in the opinion of the Zoning Board or City Council, the extension is not necessary or desirable for the coordination of the layout of the subdivision with the existing layout or the most advantageous future development of adjacent tracks.

(D) *Half width streets.* The dedication of half width streets following boundary lines of proposed subdivisions shall not be approved except as follows:

(1) Where a half street has been dedicated and recorded on the opposite side of the boundary line. In these cases, the dedication of matching of half streets shall be a requirement; and/or

(2) Where it is evident to the Zoning Board and/or the City Council that the proper layout of the proposed Plat cannot be satisfactorily completed in any other way.

(E) *Construction of half width right-of-way.* The construction of a street within a half width right-of-way is prohibited except as follows:

(1) When a half street is adjacent to side lot lines only; and

(2) Where a half width street right-of-way is adjacent to recorded or dedicated right-of-way on the opposite side of the property boundary line, the developer shall be required to grade the entire width of the driving surface, i.e., between gutters.

(F) *Street hierarchy.*

(1) Streets shall be classified in a street hierarchy system with the design tailored to its function.

(2) The street hierarchy system shall be defined by road function, as specified below:

(a) Residential access street - lowest order of residential street. Provides frontage for access to lots and carries traffic having destination or origin on the street itself. Designed to carry the least amount of traffic at the lowest speed;

(b) Residential subcollector street - middle order of residential street. Provides frontage for access to lots, and carries traffic of adjoining residential access streets. Designed to carry somewhat higher traffic volumes with traffic limited to motorists having origin or destination within the immediate neighborhood;

(c) Residential collector street - highest order of residential street. Conducts and distributes traffic between lower order residential streets to higher order streets (county or state roads). Carries the largest volume of traffic at higher speeds. Its function is to promote free traffic flow; therefore; direct access to homes from this street should be restricted;

(d) Cul-de-sac street - a street with a single means of ingress and egress and having a turnaround. Design of turnaround may vary. Cul-de-sacs shall be classified and designed according to anticipated daily traffic levels; and

(e) Alleys - alleys shall not be permitted in residential areas unless it can be shown that their use is essential to a proper plan, where alleys are used in a proposed business or industrial area, they shall not be less than 24 feet in width.

(G) *Roadway width.*

(1) Roadway width for each street classification shall be determined by parking and curbing requirements based upon form and intensity of development.

(2) Roadway width shall also consider possible limitations imposed by sight distances, climate, terrain, and maintenance needs. Additional roadway width may be required to promote public safety and convenience. In order to minimize street costs, the minimum width assuring satisfaction of needs shall be selected.

(3) Roadway widths for each street classification shall be determined on an individual basis upon review of the development plans by the city engineer.

(H) *Cul-de-sac.* A cul-de-sac shall not exceed 750 feet in length. The turn-around radius shall be no less than 45 feet.

(I) *Curbs and gutters.*

(l) Curb requirements shall vary according to street hierarchy and in accordance with the requirements shown in division (K). Curbing may also be required:

(a) For storm water management;

(b) To stabilize pavement edge;

(c) To delineate parking areas;

(d) Ten feet on each side of drainage inlets;

(e) At intersections:

(f) At corners; and

(g) At tight radii.

(2) Where curbing is not required, some sort of edge definition and stabilization shall be furnished for safety reasons and to prevent pavement unraveling.

(3) Where curbing is required, this requirement may be waived and shoulders and/or drainage swales used when it can be shown that:

(a) Shoulders are required by state regulations;

(b) Soil or topography make the use of shoulders and/or drainage swales preferable; or

(c) It is in the best interests of the community to preserve its rural character by using shoulders and/or drainage swales instead of curbs.

(4) The curbing requirement may be waived where front setbacks exceed 40 feet and it can be demonstrated that sufficient on-site parking exists.

(5) Flexibility regarding curb type shall be permitted as long as the curb type accommodates the system of drainage proposed.

(6) Curbing shall be designed to provide a ramp for bicycles and/or wheelchairs as required by law.

(7) Curbing shall be constructed according to the specifications established by the City Engineer.

(J) *Shoulders.*

(1) Shoulders and/or drainage swales shall be required instead of curbs when:

(a) Shoulders are required by state law;

(b) Soil or topography make the use of shoulders and/or drainage swales preferable; or

(c) It is in the best interests of the community to preserve its rural character by using shoulders and/or drainage swales instead of curbs.

(2) Shoulder requirements shall vary according to street hierarchy and in accordance with the requirements shown in division (K) below.

(3) Shoulders shall measure four (4) feet in width on each side for all streets and shall be located

within the right-of-way as shown in division (K) below. The width of swales shall be determined by site specific conditions.

(4) Shoulders shall consist of stabilized turf or other material acceptable to the Zoning Board or City Council.

(K) *Right-of-way.*

(1) The right-of-way shall be measured from lot line to lot line and shall be sufficiently wide to contain the roadway, curbs, shoulders, sidewalks, graded areas, utilities, and shade trees (if placed within the right-of-way). Additional right-of-way widths may be required to promote public safety and convenience. Right-of-way requirements are shown in below.

(2) The right-of-way width of a new street that is a continuation of an existing street shall in no case be continued at a width less than that of the existing street.

Right-of Way Width				
Street Classification	***Roadway Width***	***Curb Required***	***Sidewalk or Graded Area***	***Total Right-of-Way***
Residential Access Street on-street parking - side	**34 feet**	**curb**	**sidewalk 1 side graded area 1 side**	**50 feet**
Residential Subcollector Street on-street parking - 1 side	**34 feet**	**curb**	**sidewalk both sides**	**50 feet**
Residential Subcollector Street on-street parking - 2 sided	**38 feet**	**curb**	**sidewalk both sides**	**60 feet**
Residential Collector Street on-street parking - 1 side	**34 feet**	**curb**	**sidewalk both sides**	**60 feet**
Residential Collector Street on-street parking - 2 sided	**40 feet**	**curb**	**sidewalk both sides**	**72 feet**
Cul-de-Sac Street	**"a"**	**"a"**	**"a"**	**"a"**

NOTES TO TABLE:

"a" - Denotes that the appropriate width of the roadway, the inclusion of a curb or shoulder, the requirement of a sidewalk or graded area, and then the required right-of-way width for a cul-de-sac is dependent upon the level of traffic the cul-de-sac is intended to carry, whether it is intended to be extended at some point in time as a through street, and if it is, what type of street it is likely to be.

(L) *Street grade and intersections.*

(1) *Generally.* The full width of the right-of-way of each street dedicated to the plat shall be graded, as specified in the Grading Plan and approved by the City Engineer.

(2) *Angle of intersection.* The angle formed by intersecting streets shall not be less than 75 degrees, with 90-degree intersections preferred.

(3) *Size of Intersection.* Intersections of more than four corners shall be prohibited.

(M) *Pavement section.*

(1) All streets and alleys shall be improved with concrete or bituminous surfaces, as specified in the construction plans and as approved by the City Engineer.

(2) Street pavement thickness shall vary by street hierarchy, subgrade properties, and pavement type.

(3) The wearcoat shall be applied to streets or roads within one year of their being paved and following at least one frost freeze.

(N) *Sidewalks.*

(1) Sidewalks shall be required where the city council determines it is in the public's best interests.

(2) Where sidewalks are optional, they may be required if the development is close to pedestrian generators or include pedestrian generators, or to continue an existing walkway along an existing street, or, depending upon probable future development, as indicated in the Comprehensive Plan.

(3) In conventional developments, sidewalks shall be placed in the right-of-way, parallel to the street, unless an exception has been permitted to preserve topographical or natural features or to provide visual interest, or unless the applicant shows that an alternative pedestrian system provides safe and convenient circulation. In commercial and in high density residential areas, sidewalks may abut the curb.

(4) The width of sidewalks shall generally conform to the following standards, however, please refer to division (K) for a more specific sidewalk standard as it is linked to road type:

(a) For single-family residential developments - five feet;

(b) For multiple-family residential/public buildings - six feet;

(c) For commercial areas - six feet; and

(d) For industrial areas - six feet.

(O) *Bikeways.*

(1) Bicycle lanes, where required, shall be placed in the outside lane of a roadway, adjacent to the curb or shoulder. When on-street parking is permitted, the bicycle lane shall be between the parking lane and the outer lane of moving vehicles. Lanes shall be delineated with markings, preferably striping.

(2) Bikeways shall be constructed according to the specifications approved by the City Engineer.

(P) *Utility and shade tree areas.*

(1) Utilities and shade trees shall generally be located within the right-of-way on both sides of and parallel to the street.

(2) Utility areas shall be planted with grass or ground cover, or treated with other suitable cover material.

(Q) *Lighting.* Installation of street lights shall be required. At a minimum, the outdoor lighting requirements must conform to the following minimum standards.

(1) Lighting for safety shall be provided at intersections, along walkways, at entryways, between buildings, and in parking areas.

(2) Spacing of standards shall be equal to approximately four times the height of the standard.

(3) The maximum height of the standards shall not exceed the maximum building height permitted, or 25 feet, whichever is less.

(4) The height and shielding of lighting standards shall provide proper lighting without hazard to drivers or nuisance to residents, and the design of lighting standards shall be of a type appropriate to the development and the municipality.

(R) *Underground wiring.*

(1) All electric, telephone, television, and other communication lines, both main and service connections, servicing new developments shall be provided by underground wiring within easements or dedicated public rights-of-way, installed in accordance with the prevailing standards and practices of the utility or other companies providing the services.

(2) Lots that abut existing easements or public rights-of-way where overhead electric or telephone distribution supply lines and service connections have previously been installed may be supplied with

electric and telephone service from those overhead lines, but the service connections from the utilities' overhead lines shall be installed underground. In the case of existing overhead utilities, should a road widening, or an extension of service, or other such condition occur as a result of the subdivision and necessitate the replacement or relocation of the utilities, the replacement or relocation shall be underground.

(3) Where overhead lines are permitted, the placement and alignment of poles shall be designed to lessen the visual impact of overhead lines. Alignments and pole locations shall be carefully routed to avoid locations along horizons. Clearing swaths through treed areas shall be avoided by selective cutting and a staggered alignment; trees shall be planted in open areas and at key locations to minimize the view of the poles and the alignments; and alignments shall follow rear lot lines and other alignments.

(4) Year-round screening of any utility apparatus appearing above the surface of the ground, other than utility poles, shall be required.

(S) *Signs.*

(1) Design and placement of traffic signs shall follow applicable state or local regulations.

(2) At least two street name signs shall be placed at each 4-way street intersection and one at each "T" intersection. Signs shall be installed under light standards and free of visual obstruction. The design of street name signs shall be consistent, of a style appropriate to the community, and of a uniform size and color.

(3) Names of new streets shall not duplicate existing or platted street names unless a new street is a continuation of or is in alignment with the existing or platted street. In that event, it shall bear the name of the existing or platted street. Street names shall conform to the city street naming and property numbering system as applicable.

(4) Site information signs in planned developments shall follow a design theme that is related and complementary to other elements of the overall site design.

Penalty, see § 10.99

§ 151.087 WATER SUPPLY.

(A) *Generally.* All installations shall be properly connected with an approved and functioning public community water system.

(B) *Capacity.*

(1) The water supply system shall be adequate to handle the necessary flow based on complete development.

(2) The demand rates for all uses shall be considered in computing the total system demand. The system shall be capable of providing the required fire demand in addition to the required domestic demand.

(3) Fire protection shall be furnished for all developments. Minimum fire flows shall be

approved by the Fire Chief or City Engineer.

(4) The water system shall be designed to carry peak hour flows and be capable of delivering the peak hourly demands, as determined by the City Engineer.

(C) *System design and placement.* System design and placement shall comply with the construction specifications as approved by the City Engineer.

(D) *Fire hydrants.*

(1) Hydrants shall be spaced to provide necessary fire flows. The average area per hydrant shall not exceed 120,000 square feet. In addition, hydrants shall be spaced so that each residence shall be within 400 feet of a hydrant and shall be located no more than 1,000 feet apart.

(2) A hydrant shall be located at all low points and at all high points with adequate means of drainage provided.

(3) Hydrants shall be located at the ends of lines, and valves of full line size shall be provided after hydrant tees at the ends of all deadlines that may be extended in the future.

(4) Size, type, and installation of hydrants shall conform to specifications as approved by the City Engineer.
Penalty, see § 10.99

§ 151.088 SANITARY SEWERS.

(A) *Generally.* All installations shall be properly connected to an approved and functioning public sanitary sewer system.

(B) *System design and placement.*

(1) The sanitary sewer system shall be adequate to handle the necessary flow based upon complete development.

(2) Average daily residential sewer flow shall be specified in plan submittals by the design engineer and as approved by the City Engineer.

(3) System design and placement shall be approved by the City Engineer.
Penalty, see § 10.99

§ 151.089 STORM WATER MANAGEMENT.

(A) *Generally.*

(1) No plan will be approved for a plat that is subject to periodic flooding or contains poor

drainage facilities until adequate drainage of the streets and lots is made possible.

(2) Design of the storm water management system shall be consistent with the applicable city, county, regional, or state storm drainage control regulations.

(3) The best available technology shall be used to minimize storm water runoff, increase on-site infiltration, encourage natural filtration functions, simulate natural drainage systems, and minimize off-site discharge of pollutants to ground and surface water. The technologies may include measures such as retention basins, recharge trenches, porous paving and piping, contour terraces, and swales.

(4) Drainage easements or land dedication may be required when the easements or land is needed in the public interest for purposes of proper drainage, prevention of erosion, or other public purpose. The owner shall furnish all necessary slope easements and drainage easements at no cost to the municipality.

(B) *System strategy and design.* Storm water management system design shall be approved by the City Engineer.
Penalty, see § 10.99

§ 151.090 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 siltation control measures shall be coordinated with the different stages of construction. Appropriate control measures shall be installed prior to development when necessary to control erosion.

(C) 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 (1) period of time.

(D) When soil is exposed, the exposure shall be for the shortest feasible period of time, as specified in the development agreement.

(E) Where the topsoil is removed, sufficient arable soil shall be set aside for respreading over the developed area. Topsoil shall be restored or provided to a depth of four inches and shall be of a quality at least equal to the soil quality prior to development.

(F) Natural vegetation shall be protected wherever possible.

(G) Runoff water shall be diverted to a sedimentation basin before being allowed to enter the natural drainage system. Storm water runoff from the developed site shall not, at any time, exceed the existing runoff level.
Penalty, see § 10.99

§ 151.091 SURVEY MONUMENTS.

All subdivision boundary corners block and lot corners, road intersection corners, and points of tangency and curvature shall be marked with survey monuments meeting the minimum requirements of state law. All U.S., state, county, and other official benchmarks, monuments or triangulation stations in or adjacent to the property shall be preserved in precise position, unless a relocation is approved by the controlling agency. All lot corner pipes or iron rods shall be a minimum of 1/2 inch in diameter, 18 inches in length, and shall be inscribed with the registration number of the land surveyor making the survey, as prescribed in M.S. Ch. 505, as it may be amended from time to time.
Penalty, see § 10.99

OFF-TRACT IMPROVEMENTS

§ 151.105 PURPOSE.

This subchapter is intended to ensure a pro rata share allocation of the costs for off-tract improvements necessitated by new development.

§ 151.106 DEFINITION AND PRINCIPLES.

As a condition of final subdivision approval, the City Council may require an applicant to pay a pro rata share of the cost of providing reasonable and necessary circulation improvements and water, sewerage, drainage facilities, and other improvements, including land and easements, located off-tract of the property limits of the subdivision or development but necessitated or required by the development. "Necessary" improvements are those clearly and substantially related to the development in question. The City Council shall provide in its resolution of approval the basis of the required improvements. The proportionate or pro rata amount of the cost of the facilities within a related or common area shall be based on the following criteria.

§ 151.107 COST ALLOCATION.

(A) *Full allocation.* In cases where off-tract improvements are necessitated by the proposed development, and where no other property owner(s) receive(s) a special benefit, the applicant may be required at his or her sole expense and as a condition of approval, to provide and install improvements.

(B) *Proportionate allocation.* Where it is determined those properties outside the development will also be benefitted by the off-tract improvement; the following criteria shall be utilized in determining the proportionate share of the cost of the improvements to the developer.

(1) *For sanitary sewers.* The applicant's proportionate share of distribution facilities, including the

installation, relocation, or replacement of collector, trunk, and interceptor sewers, and associated appurtenances, shall be computed as follows:

(a) The capacity and the design of the sanitary sewer system shall be based on standards specified or approved by the City Engineer;

(b) The City Engineer shall provide the applicant with the ex1stmg and reasonably anticipated peak hour flows as well as capacity limits of the affected sewer system; and

(c) If the existing system does not have adequate capacity to accommodate the applicant's flow given existing and reasonably anticipated peak-hour flows, the pro rata share shall be computed as follows:

Developer's cost I Total cost of enlargement or improvement = *Development generated gallons per day to be accommodated by the enlargement or improvement / Capacity of enlargement or improvement (gals. per day)*

(2) *For water supplies.* The applicant's proportionate share of water distribution facilities including the installation, relocation, or replacement of water mains, hydrants, valves, and associated appurtenances shall be computed as follows:

(a) The capacity and the design of the water supply system shall be based on the standards specified or approved by the City Engineer;

(b) The City Engineer shall provide the applicant with the existing and reasonably anticipated capacity limits of the affected water supply system in terms of average demand, peak demand, and fire demand; and

(c) If the existing system does not have adequate capacity as defined above to accommodate the applicant's needs, the pro rata share shall be computed as follows:

Developer's cost / Total cost of enlargement or improvement = *Development generated gallons per day to be accommodated by the enlargement or improvement / Capacity of enlargement or improvement (gals. per day)*

(3) *For streets or roads.* The applicant's proportionate share of street improvements, alignment, channelization, barriers, new or improved traffic signalization, signs, curbs, sidewalks, trees, utility improvements not covered elsewhere, the construction or reconstruction of new or existing streets, and other associated street or traffic improvements shall be as follows:

(a) The City Engineer shall provide the applicant with the existing and reasonably anticipated future peak-flows for the off-tract improvement; and

(b) If the existing system does not have adequate capacity as defined above, the pro rata share shall be computed as follows:

Developer's cost / Total cost of enlargement or improvement = *Development peak hour traffic to be accommodated by the enlargement or improvement / Capacity of enlargement or improvement (peak hour traffic)*

(4) *For drainage improvements.* The applicant's proportionate share of storm water and drainage improvements including the installation, relocation, or replacement of storm drains, culverts, catch basins, manholes, riprap, improved drainage ditches and appurtenances, and relocation or replacement or other storm drainage facilities or appurtenances, shall be determined as follows:

(a) The capacity and the design of the drainage system to accommodate storm water runoff shall be computed by the developer 's engineer and approved by the City Engineer; and

(b) The capacity of the enlarged, extended, or improved system required for the subdivision and areas outside of the developer's tributary to the drainage system shall be determined by the developer's engineer subject to approval of the City Engineer. The developer's engineer shall prepare the plans for the system improvements and the estimated cost of the enlarged system calculated by the City Engineer. The pro rata share for the proposed improvements shall be computed as follows:

Developer's cost / Total cost of enlargement or improvement = *Development generated peak rale of runoff expressed in cubic feet per second 10 be accommodated by the enlargement or improvement / Capacity of enlargement (total capacity expressed in cubic feet per second)*

(5) *For other improvements.* The applicant's proportionate share of other capital improvements shall be computed as follows:

Developer's cost / Total cost of enlargement or improvement = *Development share of enlargement or improvement / Capacity of enlargement or improvement*

§ 151.108 ESCROW ACCOUNTS.

Where the proposed off-tract improvement is to be undertaken at some future date, the monies required for the improvement shall be deposited in a separate interest-bearing account to the credit of the city until the time as the improvement is constructed. If the off-tract improvement is not begun within two years of deposit, all monies and interest shall be returned to the applicant.

DOCUMENTATION REQUIREMENTS

§ 151.120 PURPOSE.

The documents to be submitted are intended to provide the municipality with sufficient information and data to assure compliance with all municipal codes and specifications and ensure that the proposed development meets the design and improvement standards contained in this chapter. The specification of documents to be submitted is based on the type of development and particular stage of development application.

§ 151.121 REQUIREMENTS.

The documents and information to be submitted are shown below. In specific cases and for documented reasons, the municipality may waive the submission of a particular document. The reasons for waiver shall be indicated in the minutes of the approving authority.

Required Submission Documents			
Item Number and Information Description	***Sketch Plan***	***Preliminary Plat***	***Final Plat***
I. Plat Information			
1. Name, address of owner and/or applicant	X	X	X
2. Name, signature, license number, seal and address of land surveyor surveyor, engineer, architect, or other person involved in preparing the plat.		X	X
3. Name of subdivision – which shall not duplicate the name of any plat previously recorded in Steele County.		X	X
4. Title block, denoting type of application, county name, and name of city.		X	X

5. A key map at specified scale showing location of tract with reference to surrounding properties, streets, municipal boundaries, school district boundaries, or other key geographic references within 500 feet of the development property and the date of the survey.		X	
6. Location of boundary lines in relation to a known section, quarter section, or quarter-quarter section lines comprising a legal description of the property.		X	X
7. North arrow and scale (not more than 100 feet per inch)	X	X	X
8. Proof of property title		**X**	
9. Title opinion and abstract			**X**
10. Proof that taxes are current		X	X
11. Signature blocks for Mayor, City Clerk/Treasurer, and City Engineer			X
12. Certification blocks:			
a. for registered land surveyor indicating that all the monuments shown on the plat actually exist, and their location, size, and materials are correctly shown.			X
a. for registered land surveyor indicating that all the monuments shown on the plat actually exist, and their location, size, and materials are correctly shown.			X
b. notarized certification by owner, and by any mortgage holder by record, of the adoption of the plat and the dedication of streets easements, other rights-of-way, and any land for public use.			X
c. for the Steele County Treasurer indicating that all taxes and special assessments against the property have been paid in full prior to recording of the plat.			X
d. approval and review blocks to be signed by the Zoning Board Chairperson, the City Mayor, and the City Clerk/Treasurer.			X
e. space for a certificate of review and approval to be signed by the Zoning Board, such as "This plat of _____ was approved and accepted by the Zoning Board of Ellendale at a meeting held this _____ day of _____, 20_____."			X
f. space for a certificate or review and approval to be signed by the City Council, such as: "This plat of _____ was approved and accepted by the City Council of the City of Ellendale at a regular meeting held this _____ day of _____, 20___."			X
13. Boundary lines of adjoining unsubdivided or subdivided land within 100 feet, identified by name and ownership, including all contiguous land owned or controlled by subdivider.	X	X	
14. Boundary line survey, including measured distance and angles, which shall close by latitude and departure with an error of closure not exceeding 1 foot in 5,000 feet.		X	X
15. Acreage of tract to the nearest tenth of an acre.		X	X
16. Existing zoning classification for land in and abutting the subdivision, and other information as requested.	X	X	
17. Monumentation			X
18. Plat shall be on 22 inches x 34 inches sheets or larger.		X	X

19. Date of original and all revisions		X	
20. Location and dimensions of any existing or proposed streets.	X (general)	X	X
21. Dimensions, bearings, curve data, length of tangents, radii, arcs, and central angles for all centerlines and rights-of-way, and centerline curves on streets.			X
22. Existing rail lines and/or rail rights-of-way.		X	X
23. Existing electric power lines and street lights.		X	
24. Existing gas and oil pipelines.		X	
25. Existing parks, public lands, and land to be set aside for public use.	X (general)	X	
26. Existing buildings and structures, size, location, and setbacks.	X (general)	X	
27. Easements, existing and proposed.	X (general)	X	X
28. All proposed lot lines and area of lots (sq. ft.)		X	X
29. Proposed restrictive covenants if they are to be used for preliminary plat. Restrictive covenants, if any, of all adjoining subdivisions.	X (existing)	X	X
30. Development stages or staging plans.		X	
31. List of required regulatory approvals or permits.			X
32. List of variances required or requested.		X	
33. Payment of application fees.	X	X	X
II. Environmental Information			
34. All existing wetland or other environmentally sensitive areas on and within 100 feet of the site.	X (general)	X	X
35. Two copies of a complete topographic map with contour intervals not greater than 2 feet, superimposed on at least 1 print of the preliminary plat that extends at least 100 feet beyond the subject property. United States Geologic Survey datum shall be used for all topographic mapping.		X	
36. Boundary, limits, nature and extent of wooded areas, specimen trees, and other significant physical features.	X (general)	X	X
37. Complete drainage concept including proposed grading and drainage of site.		X	X
III. Improvements and Construction Information			
38. Proposed utility infrastructure plans, including sanitary sewers, water supply, storm water management, fire hydrants, telephone, electric, and cable TV.		X	X
39. Soil erosion and sediment control plan.		X	X
40. Proposed street names.		X	X
41. Road and paving cross-sections and profiles.		X	X
42. New block and lot numbers.	X		X
43. Lighting plan and details.		X	X
44. Landscape plan and details.		X	X
45. Site identifications signs, traffic-control signs, and directional signs.		X	X
46. Vehicular and pedestrian circulation patterns.	X	X	X

	(general)		
47. Parking plan showing spaces, curb cuts, drives, driveways, and all ingress and egress areas and dimensions.		X	

ENFORCEMENT

§ 151.135 VIOLATIONS.

(A) *Sales 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 the plan, plat, or replat shall have first been recorded in the office of the Recorder of Steele County.

(B) *Receiving or recording unapproved plats.* It shall be unlawful for a private individual to receive or record in any public office any plans plats of lands 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 there thereon, by endorsement or otherwise, be approved by the City Council.

(C) *Misrepresentation.* It shall be a misdemeanor for any person owning an addition or subdivision of land within a city to represent that any improvement upon any of the streets, alleys or avenues of the addition or subdivision has been constructed according to the plan's specifications approved by the City Council, or has been supervised or inspected by the city when the improvements have not been so constructed, supervised, or inspected.

(D) *Misdemeanor.* Anyone violating any of the provisions of this chapter shall be guilty of a misdemeanor. Each day during which compliance is delayed shall constitute a separate offense. In addition, nothing shall prevent the city from exercising its civil remedies in response to a violation of this chapter, including, but not limited to, an action for an injunction
Penalty, see § 10.99

§ 151.136 FEES, CHARGES, AND EXPENSES.

(A) Fees and charges, as well as expenses incurred by the city for engineering, planning, attorney, and other services related to the processing of application, shall be established by resolution of the Council and collected by the City Clerk/Treasurer for deposit in the city's accounts. Fees shall be established for the processing of request for platting, major and minor subdivisions, review of plans, and any other subdivision-related procedures as the Council may from time to time establish. The Council may also establish charges for public hearings, special meetings, or other such Council or Zoning Board actions as are necessary to process application.

(B) The fees, charges, and estimated expenses, shall be collected prior to city action on any application. All the applications must be accompanied by a written agreement between the city and the applicant/landowner (when the landowner and applicant are not the same person or entity, both the landowner and applicant must sign the agreement). Whereby the applicant/landowner agrees to pay all applicable fees, charges, and expenses as set forth by Council resolution, and which allows the city to assess that the above fees, charges, and expenses against the landowner if the monies are not paid within 30 days after a bill is sent to the applicant/landowner.

(C) The fees referred to above are only an estimate of the expense the city may incur. The applicant is responsible for any and all fees incurred by the city that result from his or her request. All charges are due and payable before the city signs a plat.

(D) These fees shall be in addition to sewer access charges, water access charges, zoning permit fees, inspection fees, subdivision fees, charges and expenses, and other such fees, charges, and expenses currently required by ordinance, or which may be established by ordinance in the future.

CHAPTER 152: ZONING CODE

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§ 152.001 TITLE.

The Ellendale Zoning Ordinance.

§ 152.002 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 governing development and use of land and structures. This chapter shall divide the city into use districts and establish regulations governing the uses of land and structures, including the location, construction, and alteration of structures. The regulations are established to protect access to property; to prevent congestion in the public right-of-way; to regulate the density of population; to provide for compatibility of different land uses; to provide for administration of this chapter; to provide for amendments; to prescribe penalties for violation of the regulations; and to define powers and duties of the Board of Adjustment and Appeals (City Council), the Zoning Committee, and the City Council in relation to the zoning ordinance.

§ 152.003 RULES.

(A) *Generally.* Unless the context otherwise dictates, the following rules of interpretation shall apply.

(B) *Specifically.*

(1) The singular number includes the plural, and the plural the singular.

(2) The present tense includes the past and the future tenses, and the future tense includes the present.

(3) The word "shall" is mandatory, while the word "may" is permissive.

(4) The masculine gender includes the feminine and the neuter.

(5) All measured distances shall be the nearest integral foot. If a fraction is 1/2 foot or less, the integral foot next below shall be taken.

§ 152.004 APPLICATIONS AND INTERPRETATION.

(A) The provisions of this chapter shall be held to be the minimum requirements for the promotion of public health, safety, and welfare.

(B) Where the requirement imposed by any provisions of this chapter is either more or less restrictive than a comparable requirement imposed by any law, ordinance, statute, resolution, or regulation of any kind, the regulation which is more restrictive or which imposes higher standards or

requirements shall prevail.

(C) No structure shall be erected, converted, enlarged, reconstructed, or altered, and no structure or land shall be used for any purpose or in any manner that is not in conformity with the provisions of this chapter.) Penalty, see § 10.99

§ 152.005 DEFINITIONS.

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

ABUTTING, ABUT. To have a common border, including parcels separated by right-of-way, alley, or easement.

ACCESS DRIVEWAY. The area between the traveled portion of a roadway and a parking lot used by motor vehicles for access to and from the parking lot.

ACCESSORY STRUCTURE. A subordinate structure located on the same lot as the principle structure, the use of which is incidental and accessory to that of the principal structure.

ACCESSORY USE. A use incidental to, and on the same lot as, a principal use.

AGRICULTURE. A use of land, which includes farming, dairying, pasturage, agriculture, horticulture, viticulture, and animal and poultry husbandry.

ALLEY. A public or private way permanently reserved as a secondary means of access to property.

ANCHORING EQUIPMENT. This term means bolts, straps, cables, turnbuckles, and chains, including tensioning devices, which are used with ties to secure a structure to a foundation system.

ANCHORING SYSTEM. Any method used for securing a structure to a foundation system.

ANTENNA. (See also ***SATELLITE DISH ANTENNA.)*** A wire or set of wires used in transmitting and receiving electromagnetic waves and including the supporting structure; includes, but is not limited to, amateur radio antennas, television antennas, and satellite dishes.

BASEMENT. The portion of a building that is partly or completely below grade.

BEDROOM. A room in a dwelling unit planned and intended for sleeping, separable from other rooms by a door.

BILLBOARD. A structure upon which a sign is located which directs attention to a business commodity, service, or entertainment, which is located or provided elsewhere than upon the premises where the structure is located.

BUFFER AREA. A strip of land established to protect one type of land use from another land use. Normally, the area is landscaped and kept in open space use.

BUILDABLE PORTION OF A LOT. The portion of a lot other than required yard setback areas upon which the principal building may be located under the terms of this chapter.

BUILDING. Any structure designed or built for the support, enclosure, shelter, or protection of persons, animals, chattels, or property of any kind.

BUILDING HEIGHT. The vertical distance measured from the adjoining curb grade to the highest point of the roof surface if a flat roof, to the deck-line of a mansard roof, and to the mean height level between eaves and ridges for a gable, hip, or gambrel roof; provided that where a building is set back from the street line, the height of the building shall be measured from the average elevation of the finished surface of the ground adjacent to the exterior walls of the building.

CITY CLERK/TREASURER. This term and term usage shall include the City Clerk/Treasurer and/or appointed officials or representatives of the city where it is deemed appropriate, including, but not limited to, the following: Zoning Administrator, City Engineer, or Building Official.

COMMERCIAL USE. An occupation, employment, or enterprise that is carried on for profit by the owner, lessee, of licensee.

CONDITIONAL USE. A use that, owing to some special characteristics attendant to its operation or installation (for example, potential danger, smoke, or noise), is permitted in a district subject to approval by the City Council, and subject to special requirements for the district in which the conditional use may be located.

CONVENTIONAL CONSTRUCTION. Essentially all construction of the structure is accomplished on the building site and is construed to be permanently placed.

COUNCIL. The City Council of the City of Ellendale, Minnesota.

CUL-DE-SAC. A local street, one end of which is closed and consists of a circular turn around.

DAY CARE FACILITY.

(A) ***FAMILY CHILD CARE HOME.*** A private residence where care, protection, and supervision are provided, for a fee, at least twice a week to no more than six children at one time, including children of the adult provider.

(B) ***GROUP CHILD CARE CENTER, CLASS 1***. A building or structure where care, protection, and supervision are provided, on a regular schedule, at least twice a week to at least seven and no more than 12 children, including children of the adult provider.

(C) ***GROUP CHILD CARE CENTER, CLASS 2.*** A building or structure where care, protection, and supervision are provided on a regular schedule, at least twice a week to more than 12 children, including children of the adult provider.

DECK. Horizontal, unenclosed platform, greater than 50 square feet in size, with or without attached railings, seats, trellises, or other features, attached or functionally related to a principal use or site and at any point extending above grade.

DISTRICT. See ***ZONE.***

DWELLING, MULTIPLE. A residence designed for or occupied by three or more families, with separate housekeeping and cooking facilities for each.

DWELLING, SINGLE-FAMILY. A residential building containing not more than one dwelling unit entirely surrounded by open space on the same lot.

DWELLING, SINGLE-FAMILY ATTACHED. A building containing dwelling units, each of which has primary ground floor access to the outside and which are attached to each other by party walls without openings.

DWELLING, 2-FAMILY. A residence designed for two families only, with separate housekeeping and cooking facilities for each.

DWELLING UNIT. A room or group of rooms forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking, and eating purposes.

FAMILY. One or more persons occupying a single housekeeping unit and using common cooking facilities, provided that unless a majority of the members are related by blood or marriage, no such family shall contain over five persons.

FEEDLOT. Any tract of land or structure, pen, or corral, wherein cattle, horses, sheep, goats, swine are maintained in close quarters for the purpose of fattening such livestock for final shipment to market.

FLOOD PLAIN. Flood plain or flood-prone area means any land area susceptible to being inundated by water from any source.

FLOODWAY. The channel of a river or other watercourse and the adjacent land area that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation more than one foot at any point.

FLOODWAY FRINGE. All that land in the flood plain not lying within a delineated floodway. Land within a ***FLOODWAY FRINGE*** is subject to inundation by relatively low velocity flows and shallow water depths.

FLOOR AREA, GROSS. The total gross floor area on all floors as measured to the outside surfaces of exterior walls, excluding crawl spaces, garages, car ports, breezeways, attics, open porches, balconies, and terraces.

FRONTAGE. The straight line distance between the intersection of the side lot lines and the front

lot line.

GARAGE, PRIVATE. A building for the private use of the owner or occupant of a principal building situated on the same lot as the principal building for the storage of motor vehicles with no facilities for mechanical service or repair of a commercial nature.

GARAGE, REPAIR. A building designed and used for the storage, care, repair, or refinishing of motor vehicles including both minor and major mechanical overhauling, painting, and body work.

GAS STATION. See ***SERVICE STATION.***

GLARE. A sensation of brightness within the visual field that causes annoyance, discomfort, or loss in visual performance.

GRADE. The average of the finished ground level at the center of all walls of a building.

HARD SURFACED. A descriptive term used in conjunction with a surface feature or improvement required to be made to a lot and meaning the use of concrete or bituminous material.

HEIGHT. See ***BUILDING HEIGHT*** **.**

HOME OCCUPATION. An occupation, profession, activity, or use that is clearly a customary, incidental, and secondary use of a residential dwelling unit.

INOPERABLE VEHICLE. Any vehicle designed for transportation or any other use on public rights-of-way and not in running condition either temporarily or permanently, or any such vehicle which does not meet all vehicle requirements for operation on public rights-of-way set forth by M.S**.** Ch. 169, as it may be amended from time to time. ***INOPERABLE VEHICLES*** would include, but not be limited to, inoperable implements of husbandry, vehicles lacking wheels, lighting, brakes, wheel coverings, bumpers, windshields, or horns.

INSTITUTION. A building occupied by a nonprofit corporation or a nonprofit establishment for public use.

JUNK YARD. A parcel of land in an R-1 Zoning District on which two or more motor vehicles not in running condition, or parts thereof are stored in the open, in a fenced area, or in a partially enclosed building, or, a parcel of land in any other zoning district on which four or more motor vehicles not in running condition, or parts thereof are stored in the open, in a fenced area, or in a partially enclosed building. Also, any parcel of land which is used for wrecking or storing of the motor vehicles or farm machinery, or parts thereof, are stored in the open, and including an open area where waste, scrap metal, used building materials, paper, rags or similar materials are bought, sold, exchanged, stored, baled, packed, disassembled, or handled.

LANDING. Horizontal, unenclosed platform, with or without attached railings, seats, trellises, or other features, attached or functionally related to a principal use or site and at any point extending above grade, with an area no larger than 50 square feet.

LOT. A platted parcel of land intended to be separately owned.

LOT, AREA. The area of horizontal plane bounded by the vertical planes through front, side, and rear lot lines.

LOT, CORNER. A lot abutting on and at the intersection of two or more streets.

LOT DEPTH. The average horizontal distance between the front and rear lot lines.

LOT, FLAG. Lots or parcels that the city has approved with less frontage on a public street than is normally required.

LOT, INTERIOR. An interior lot is a lot other than a corner lot.

LOT LINE. A line dividing one lot from another or from a street or alley.

LOT LINE, FRONT. On an interior lot, the lot line abutting a street; or, on a corner lot, the lot line(s) abutting a street(s); or, on a through lot, the lot lines abutting a street(s).

LOT LINE, REAR. The rear property line of a lot is that lot line opposite the front property line. A lot bounded by only three lot lines will not have a rear lot line.

LOT LINE, SIDE. Any boundary of a lot that is not a front or rear lot line.

LOT OF RECORD. (See also ***LOT.)*** A lot which is part of a subdivision, the map of which has been recorded in the office of the County Recorder of Steele County, Minnesota, or a parcel of land described by metes and bounds, the description of which has been recorded in the office of the County Recorder of the county.

LOT, THROUGH. A lot that has a pair of opposite lot lines along two substantially parallel streets, and which is not a corner lot. On a through lot, both street lot lines shall be deemed front lot line.

LOT WIDTH. The horizontal distance between side lot lines, measured at the required front setback line. In the case of a lot fronting a curvilinear street or cul-de-sac or otherwise irregular in shape or size, the width shall be determined be measuring the horizontal distance from the side lot lines measured at the front yard setback line.

MANUFACTURED HOME. A structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical system contained therein; except that the term includes any structure which meets all the requirement and with respect to which the manufacturer file a certification required by the secretary of the U.S. Department of Housing and Urban Development and complies with the standard established under M.S. Ch. 327, as it may be amended from time to time.

MANUFACTURED HOME PARK. Any site, lot, field, or tract of land upon which two or more occupied manufactured homes are located, either free of charge or for compensation, and includes any building, structure, tent, vehicle, or enclosure used or intended for use as part of the equipment of the

manufactured home park.

MANUFACTURED HOME SITE. The part of an individual lot or space within a manufactured home park designed for the placement of one manufactured home.

MOBILE HOME. A transportable, factory-built home, designed to be used as a year-round residential dwelling and built prior to the enactment of the Federal Manufactured Housing Construction and Safety Standard Act of 1974, being U.S.C. §§ 5401 et seq., which became effective 6-15-1976.

NONCONFORMING BUILDING. Any building that does not meet the requirements for the building size and location on a lot, for the district in which the building is located, or for the use to which the building is being put.

NONCONFORMING LOT. A lot, which at the time it was initially created or defined, was not in violation of any law or regulation, but which fails to conform to the requirements of this chapter.

NONCONFORMING USE. A lawful use of land that does not comply with the use regulations for its zoning district, but which complied with applicable regulations at the time the use was established.

OPEN SPACE. Land use for recreation, resource protection, amenity, and/or buffers. In no event shall any area of a lot constituting neither the minimum lot area nor any part of an existing or future road or right-of-way be counted as constituting open space.

PARK. An area open to the general public reserved for recreational, educational, cultural, or aesthetic purposes.

PARK MANAGEMENT. The person who owns or has charge, care, or control of the manufactured home park.

PARK STREET. A private way that affords principal means of access to individual manufactured home lots or auxiliary buildings.

PARKING LOT. An area not within a building where motor vehicles may be parked hourly, daily, or overnight off-street parking.

PERFORMANCE GUARANTEE. A financial guarantee to ensure that all improvements, facilities, or work required by this chapter will be completed in compliance with the ordinance, regulations, and approved plans and specifications of a development.

PERMIT (ZONING PERMIT). A written permit or certification issued by the City Council, City Clerk/Treasurer, or Zoning Administrator permitting the construction, alteration, and extension of any permanent structure.

PERSON. The use of this term includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual.

PRINCIPAL BUILDING. A building in which the principle use of the lot on which the building is located is conducted.

PRINCIPAL USE. The main use of land or structures, as distinguished from a secondary or accessory use.

RECREATIONAL VEHICLE.

(A) Any vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational, and vacation uses;

(B) Any structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation, and vacation;

(C) Any portable, temporary dwelling to be used for travel, recreation, and vacation, constructed as an integral part of a self-propelled vehicle; and

(D) Any folding structure, mounted on wheels and designed for travel, recreation, and vacation use.

RIGHT-OF-WAY. A public or private thoroughfare used, or intended to be used, for passage or travel by motor vehicles.

ROAD, HARD SURFACED. Paved with asphalt, concrete, or portland cement concrete.

ROAD, PRIVATE. A way opens to vehicular ingress and egress established as a separate tract for the benefit of certain, adjacent properties. This definition shall not apply to driveways.

ROAD, PUBLIC. All public property reserved or dedicated for street traffic.

SATELLITE DISH ANTENNA. A device incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, cone, horn, or cornucopia. The device shall be used to transmit and/or receive radio or electromagnetic wave between terrestrially and/or orbitally based uses. This definition is meant to include, but not be limited to, what are commonly referred to as satellite earth stations, TVROs (television reception only satellite dish antennas), and satellite microwave antennas.

SERVICE STATION. Any premises where gasoline and other petroleum products are sold and/or light maintenance activities such as engine tune up, lubrication, minor repairs, and carburetor cleaning are conducted. ***SERVICE STATIONS*** shall not include premises where automobile maintenance activities such as engine overhauls, automobile painting, and body fender work are conducted.

SETBACK. The minimum horizontal distance between the lot or property line and the nearest front, side, or rear line of the building (as the case may be), including any covered projection thereof, excluding steps.

SIGN. A structure or device designed or intended to convey information to the public or written or pictorial form. A ***SIGN*** includes, but is not limited to, any and all reading matter, letters, numerals, pictorial representations, emblems, trademarks, flags, banners, streamers, pennants, inscriptions and

patterns, whether affixed to a building, painted or otherwise depicted on a building, or separated from any building, and shall include window signs.

SIGN, AWNING, CANOPY, OR MARQUEE. A sign painted, stamped, perforated, or stitched, or otherwise applied on the valance of an awning. Also included are, illuminated architectural canopy signs (backlit awning), which are enclosed, illuminated structures that are attached to the wall of a building with the face of the sign approximately parallel to the wall and with the message integrated into the face.

SIGN, BILLBOARD, OR POSTER PANEL. A sign that identifies or communicates a commercial or noncommercial message related to an activity conducted, a service rendered, or a commodity sold at location other than where the sign is located.

SIGN, BUSINESS. A sign that identifies the business, project, profession, service, or activity conducted, sold, or offered upon the premises where the sign is located.

SIGN, FLASHING. Any sign, which, by method or manner of illumination, flashes on or off, winks, or blinks with varying light intensity, shows motion, or creates the illusion of motion or revolves in a manner to create the illusion of being on or off. Illuminated signs that indicated the time, temperature, weather, or similar public service information shall not be considered flashing signs.

SIGN, FREESTANDING (PYLON). A sign erected on free standing shafts, posts, walls, or piers which are solidly affixed to the ground and not attached to a building. In addition, the term ***SIGN PYLON*** shall also mean a sign inflated or otherwise suspended or anchored to mooring lines or cables solidly affixed to the ground or attached to a building. A ***PYLON SIGN*** shall be considered as one (1) sign, though it may have two (2) faces. So long as the faces are parallel to each other and are not separated by more than 20 inches.

SIGN, ILLUMINATED. A sign illuminated in any manner by an artificial light source.

SIGN, INDIRECTLY ILLUMINATED. A sign illuminated by an external artificial light source, in such a manner that no direct rays of light are projected from the source into residence districts or public streets.

SIGN, NAMEPLATE. A sign that states the name and address, or both, of the occupant of the lot where the sign is located.

SIGN, PORTABLE. A sign so designed as to be moveable from one (1) location to another, and which is not permanently attached to the ground, sales display device or structure.

SIGN, PROJECTING. Any sign other than a wall sign that is attached to and projects from the wall or face of a building or structure, including a canopy/marquees sign.

SIGN, ROOF. Any sign erected upon, against, or directly above a roof or roof eave, or on top or above the parapet, or on a functional architectural appendage above the roof or roof eave.

SIGN, SURFACE AREA OF. The entire area within a continuous perimeter, enclosing the extreme limits of sign display, including any frame or border. Curved, spherical, or any other shaped sign face is computed on the basis of actual surface area. The copy of signs composed individual letters, numerals, or

other devices shall be the sum of the area of the smallest rectangle or other geometric figure encompassing each of the letter or devices. The calculation for a double-faced sign shall be the area of one face only.

Double-faced signs shall be so constructed that the perimeter of both faces coincide and are parallel and not more than 24 inches apart.

SIGN, TEMPORARY. Any sign that is erected or displayed for a special period of time, and not of a permanent nature.

SIGN, WALL. A sign which is attached to the wall of a building with the face in a plane parallel to the wall, and not extending more than 18 inches from the face of the wall.

SIGN, WINDOW. A sign painted, stenciled, or affixed on a window, which is visible from a right-of-way.

STORY. The portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, the space between the floor and the ceiling above it. A basement shall be counted as a story if its ceiling is over six (6) feet above the average level of the finished ground surface adjoining the exterior walls of the story, or if it is used for business or dwelling purposes.

STREET. A public or private thoroughfare used, or intended to be used, for passage or travel by motor vehicles.

STREET, IMPROVEMENT PUBLIC. A local street or road under the jurisdiction of the city, township, county, or state which is maintained so as to allow normal vehicular access to adjacent properties.

STREET LINE. The right-of-way line of a street.

STRUCTURAL ALTERATIONS. Any change in the supporting member of a structure, such as bearing walls, partitions, columns, beams, or girders, or any substantial change in the roof or any exterior walls.

STRUCTURE. Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground, including, but not limited to, buildings, mobile homes, walls, fences, billboards, and poster panels.

SUBDIVIDE. To divide a lot of record if any lot resulting from the division is less than 2-1/2 acres in area.

SUBDIVISION. Any division of land creating new public rights-of-way shall be deemed a ***SUBDIVISION.***

SWIMMING POOL, OUTDOORS. Any structure, basin, chamber, or tank containing an artificial body of water for swimming, diving, or recreational bathing and having a depth of more than 24 inches at any point and a surface area exceeding 150 square feet.

TEMPORARY USE. A use allowed only by permit authorized by the City Council for a limited time

period.

VARIANCE. A relaxation by the Zoning Administrator and/or the Planning Commission of the dimensional regulations of the code where the action will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of actions or the situation of the applicant, a literal enforcement of this code would result in unnecessary and undue hardship.

YARD. Any open space located on the same lot with a building, unoccupied and unobstructed from the ground up, except for accessory buildings, or the projections as are expressly permitted in these regulations.

§ 152.006 EFFECTIVE DATE.

This chapter shall become effective upon its publication according to law.

NONCONFORMING USES OF LAND AND STRUCTURES

§ 152.020 NONCONFORMING USES OF LAND.

(A) *Generally.* Where, at the effective date of adoption or amendment of this chapter, lawful use of land exists that is made no longer permissible under the terms of this chapter as enacted or amended, the use may be continued so long as it remains otherwise lawful, subject to the following provisions.

(B) *Specifically.*

(1) No nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied to the effective date of adoption or amendment of this chapter.

(2) No nonconforming use shall be moved in whole, or in part, to any other portion of the lot or parcel occupied by the use at the effective date of adoption or amendment of this chapter.

(3) If any such nonconforming use of land is voluntarily discontinued for 90 days or more, any subsequent use of the land shall conform to the regulations specified by this chapter for the district in which the land is located.
Penalty, see § 10.99

§ 152.021 NONCONFORMING STRUCTURES OR BUILDINGS.

(A) *Generally.* Where lawful structure exists at the effective date of adoption or amendment of this chapter that could not be built under the terms of this chapter by reason of restrictions on area, height, yard, or other characteristics of the structure or its location on the lot, the structure may be continued so long as it remains otherwise lawful, subject to the following provisions.

(B) *Specifically.* No nonconforming structure may be enlarged or altered in a way which increases its nonconformity.

(1) Should the structure be damaged by any means to an extent of more than 50% of its replacement cost at time of destruction, any reconstruction work on nonconforming structures must occur within the existing footprint of the structure, or if enlarged, must occur in a manner that does not increase its nonconformity, the work must be completed within 12 months of sustaining the damage, the reconstruction efforts must be of like or similar materials, or the architectural design and building materials be approved by the Planning Commission.

(2) Should the structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

(3) A lawful nonconforming building or structure which is the principal use of a parcel or lot and nonconforming by reason of the setbacks required by this chapter may be increased in size or bulk provided the following:

(a) The addition or alteration does not infringe upon established building lines, setbacks or any building requirements which were established when the building or structure was declared a legal nonconformity; and/or

(b) That the additions or alterations attached to the structure or building since being declared a legal nonconformity must not exceed 50% of the bulk of the building or 50% of its fair market value, as determined by the County Assessor and City Clerk/Treasurer whichever is more.

(4) If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may be changed to nonconforming use, provided that the Zoning Committee, in conformance with the procedures established in §§ 152.280 *et seq.,* either by proposing a general rule change or by making recommendations in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In recommending a change, the Zoning Committee may require appropriate conditions and safeguards in accordance with the provisions of this chapter.
Penalty, see § 10.99

§ 152.022 DISCONTINUANCE OF USE.

When a nonconforming use of a structure, or structure and premises in combination, is voluntarily discontinued for 1 year or more, the structure, or structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located.
Penalty, see § 10.99

§ 152.023 CONSTRUCTION ON NONCONFORMING LOTS OF RECORD.

(A) Lots of record in the office of the County Recorder and dated prior to the adoption of this City Code, that do not meet the lot size requirements of this chapter may be allowed as building sites; provided the use is permitted in the zoning district, the lot has been in separate ownership from abutting lands at all times since it became substandard, was created compliant with official controls in effect at the time, and setback requirements of this chapter are met.

(B) If, in a group of two or more contiguous lots under the same ownership, any individual lot does not meet the lot size requirements of the zoning district within which it falls, it must not be considered as a separate parcel of land for the purpose of sale or development. The lot must be combined with one or more contiguous lots so they equal one or more conforming lots.

Penalty, see § 10.99

GENERAL PROVISIONS

§ 152.035 APPLICATION OF DISTRICT REGULATIONS.

(A) The regulations provided by this chapter within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land use.

(B) No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, converted, enlarged, constructed, moved, or structurally altered unless in conformity with all of the regulations herein specified for the district in which it is located, or unless otherwise exempted.

(C) No building or other structure shall hereafter be erected or Altered:

(1) In excess of the height requirements herein stablished;

(2) With lot area, ground floor area, or total floor area less than the minimum;

(3) To accommodate or house a number of families in excess of that allowed; and/or

(4) To provide for rear, side, or front yard setback areas, or other open spaces with less than the minimum dimensions herein required, or in any other manner contrary to the provisions of this chapter.

(D) No part of a yard setback area, open space, or off-street parking or loading space required for 1use for the purpose of complying with this chapter, shall be included as part of a yard setback area, open space, or off-street parking or loading space required for any other use or building.

(E) No yard setback area or lot existing at the time of passage of this chapter shall be reduced in dimension or area below the minimum requirements set forth herein. Yard setback areas or lots created after the effective date of this chapter shall meet at least the minimum requirements established by this chapter.

Penalty, see § 10.99

§ 152.036 LOT WIDTH AND LOT DEPTH.

(A) The required lot width as established in each zoning district shall be found by measuring the horizontal distance between the side lot lines, measured at the front yard setback line.

(B) In the case of a lot fronting a curvilinear street or cul-de-sac or otherwise irregular in shape or size, the width shall be determined by measuring the horizontal distance from the side lot lines measured at the front yard setback line.

(C) The required lot depth as established in each zoning district within this chapter shall be found by measuring the shortest horizontal distance between the front lot line and the rear lot line measured from a 90-degree angle from the street right-of-way within the lot boundaries.

§ 152.037 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 that case, the City Council, the Zoning Committee, or a property owner may request a study by the city 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 the development of the use. The City Council and/or the Zoning Committee may initiate an amendment to the zoning ordinance to provide for the particular use under consideration or may find that the use is not compatible for development within the city.

ZONING MAP

§ 152.050 OFFICIAL ZONING MAP.

The city is hereby divided into zones, or districts, as shown on the Official Zoning Map, which, together with all explanatory matter thereon, are hereby adopted by reference and declared to be a part of this chapter. A copy of this zoning map is on file for public inspection in the city offices.

§ 152.051 RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES.

(A) *Generally.* Where uncertainty exists as to the boundaries of districts as shown on the official zoning maps, the following rules shall apply.

(B) *Specifically.*

(1) Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow the centerlines.

(2) Boundaries indicated as approximately following platted lot lines shall be construed as following the lot lines.

(3) Boundaries indicated as approximately following city limits shall be construed as following city limits.

(4) Boundaries indicated as following shore lines shall be construed to follow the shore lines, and

in the event of change in the shore line shall be construed as moving with the actual shore line; boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow the centerlines.

(5) Where physical or cultural features existing on the ground are at variance with this shown on the official zoning maps, the Zoning Committee shall interpret the district boundaries.

§ 152.052 ANNEXED PROPERTY.

All territory that may hereafter be annexed to the city shall be considered zoned in the same manner as the contiguous territory inside the previous city limits until otherwise classified and indicated as such on the Zoning Map.

AN AGRICULTURAL DISTRICT

§ 152.065 PURPOSE.

An Agricultural District is intended to establish a district that is best suited for the transition from rural agricultural uses to urban uses. This district is designed for the protection of both urban and rural uses by controlling excessive and wasteful scattering of population and by holding land for eventual urban development until the time as adequate municipal facilities are available.

§ 152.066 DWELLING RESTRICTIONS.

(A) No basement, cellar, garage, tent, or accessory building shall, at any time, be used as an independent residence or dwelling unit.

(B) All structures used for residential occupancy shall have a minimum width of 24 feet on its narrowest dimension and shall be affixed to a permanent foundation constructed of continuous poured footings. The house must sit directly on a continuous foundation wall that extends to a minimum depth of 42 inches to clay or granular fill.
Penalty, see § 10.99

§ 152.067 CONSTRUCTION ON LOTS OF RECORD.

A principal use or building may be erected on any lot which has been approved and recorded prior to the effective date of this chapter regardless of its area or width, provided all other applicable requirements of this chapter are satisfied, and provided that the developer or property owner does not own any adjoining land on the date of adoption of this chapter.
Penalty, see § 10.99

§ 152.068 REQUIRED STREET FRONTAGE FOR DEVELOPABLE LOTS.

All lots used for the purpose of conducting or erecting a principal use and building shall have frontage on an improved public street.
Penalty, see § 10.99

§ 152.069 LOT DESIGN STANDARDS.

(A) *Lot area.* Every lot on which a single-family dwelling is erected shall contain an area of not less than 8,600 square feet.

(B) *Lot width.* Every lot shall have a minimum width at the building setback line of 80 feet.

(C) *Yard requirements.*

(1) *Front yard.* There shall be a minimum front yard of 20 feet from the property line. In the event the building is located on a lot at the intersection of two or more roads, the lot shall have a front yard abutting each such road.

(2) *Side yard.* Every building, except buildings on corner lots, shall have two side yards. Each side yard shall have a width of not less than 10 feet.

(3) *Rear yard.* There shall be a minimum rear yard of 25 feet.

Penalty , see § 10.99

§ 152.070 HEIGHT REGULATIONS.

(A) No permitted or conditionally permitted building shall be erected or enlarged to exceed 30 feet in height.

(B) No building used as a part of an operational farm is subject to height regulations, with the exception of increased setback requirements. For each foot in height exceeding 30 feet, an agricultural building shall be setback from property lines and road rights-of-way an additional foot beyond the minimum standards established in the yard setback requirements stated above.

(C) Building height limitations shall be determined by measuring the vertical distance from the average elevation of the finished lot grade at the front of the building to the highest point of the coping of the flat roof, or the deck line of a mansard roof or to the average height between the plate and ridge of a gable, hip, or gambrel roof.

(D) The building height limits established above shall apply to all structures except the following: belfries, chimneys or flues, church spires, cooling towers, cupolas and domes which do not contain useable space, flag poles, monuments, parapet walls extending not more than three feet above the limiting height of the building, water towers, poles, towers, and other structures for essential services, necessary mechanical and electrical appurtenances, television antennas not exceeding 20 feet.

Penalty, see § 10.99

§ 152.071 GENERAL REGULATIONS.

Off-street parking, signage, and other requirements that may apply to uses are set forth in §§ 152.205 *et seq*.

§ 152.072 PERMITTED USES.

(A) *Generally.* The following uses shall be permitted within the Agricultural District.

(B) *Specifically.*

(1) Any single-family dwelling;

(2) Any agricultural use, including farm building, nursery, greenhouse; except that any feedlot shall be prohibited; and

(3) Any utility facility necessary for local service.

Penalty, see § 10.99

§ 152.073 PERMITTED ACCESSORY USES.

(A) *Generally.* Any accessory building or use in association with any permitted or conditional use;

(B) *Residential accessory use design standards.*

(1) Two residential accessory buildings or structures are allowed per residential lot. The size of one accessory structure shall not exceed 1,440 square feet in size. The size of the second accessory structure shall not exceed 200 square feet in size.

(2) No detached residential accessory building or structure shall be erected or located within any required yard other than a rear yard. The accessory building or structure shall not exceed one story over 24 feet in height, nor exceed a wall height of 14feet.

(3) Accessory buildings and structures shall be located not less than 10 feet from another building on the same lot (on corner lots accessory structures shall be located no closer than 25 from the side street line.

(4) All garages shall, if the vehicle entrance and driveway is located perpendicular to a public alley, be set back at least 20 feet from the public right-of-way.

(5) The large or primary accessory structure shall be constructed upon a totally concrete slab or floating foundation (Minnesota State Building Code). The second or smaller accessory structure does not need to be constructed on a concrete slab or floating foundation, if some type of constructed floor component is included with the structure. However, this type of accessory structure does need to be anchored

to the ground in a manner acceptable to the Zoning Administrator.

(6) Each parcel, lot, or tract zoned for residential use shall be limited to having two detached accessory structures, with no more than one in excess of 160 square feet.

(C) *Farming accessory uses.* For all property owners in the Agricultural District on parcels of land containing five (5) or more acres, and who are actively engaged in the farming profession, the standards specified above for the number and size of accessory structures do not apply. However, if the owner and/or the farm site cease to be the location on which the farming profession is conducted, any accessory structure not conforming to the standards specified above becomes nonconforming and is therefore subject to all nonconforming structure requirements specified in this chapter.
Penalty, see § 10.99

§ 152.074 CONDITIONAL USES.

Within the Agricultural District, no structure or land shall be used for the following uses or uses deemed similar by the City Council without obtaining a conditional use permit according to the provisions of § 152.240 *et seq.:*

(A) Any public or private school;

(B) Any park, playground, or community building;

(C) Any cemetery or mausoleum;

(D) Any church;

(E) Any government building;

(F) Any child care center (day care) for pre-school children;

(G) Any roadside structure for the sale of agricultural products;

(H) Any (public only) airport or landing field;

(I) Any outdoor commercial, recreational, or amusement development for temporary or seasonal periods only. Provided that not more than 5 % of the land area of the site be covered by buildings and structures;

(J) Any development of natural resources, including the extraction of sand, gravel, fill dirt, topsoil, or stone;

(K) Gun club, country club, or private or semi-private golf course or similar recreation club or organization;

(L) Any radio or television broadcasting tower or station;

(M) Any commercial riding stables, dog kennels, and similar uses;

(N) Any 2-family dwelling or multi-family dwelling; and

(O) The relocation and/or placement of dwellings that have been occupied in a previous location. Penalty, see § 10.99

§ 152.075 ZONING PERMITS REQUIRED.

(A) No building or structure shall be erected, reconstructed, moved, or structurally altered to increase the exterior dimensions, height, or floor area; or remodeled to increase the number of dwellings or to accommodate a change in use of the building and/or premises, or any part thereof, without first securing a zoning permit to be issued by the City Clerk/Treasurer or Zoning Administrator, depending upon the type of permit needed.

(B) No zoning permits are required for the construction and/or placement of gazebos, trellises, playhouses, kennels, hot tubs, swing sets, arbors, and inflatable swimming pools.
Penalty, see § 10.99

R-1 RESIDENTIAL DISTRICT

§ 152.090 PURPOSE.

The R-1 Residential District is intended to establish a district which will define and protect an area suitable for low density residential developments as the principal use of the land and to allow related facilities desirable for a residential environment. Single-family dwellings are the primary residential use.

§ 152.091 DWELLING RESTRICTIONS.

(A) No basement, cellar, garage, tent, or accessory building shall, at any time, be used as an independent residence or dwelling unit.

(B) No more than one (1) principal building shall be located on a lot in the R-1 District.

(C) All structures used for residential occupancy shall have a minimum width of 24 feet on its narrowest dimension and shall be affixed to a permanent foundation constructed of continuous poured footings. The house must sit directly on a continuous foundation wall that extends to a minimum depth of 42 inches to clay or granular fill.

(D) For all principal buildings in the R-1 Residential District, exterior building materials shall be of a durable, maintainable material that is in keeping with the character of the existing residential area. Materials such as unfinished concrete or concrete block may compose up to three feet of the exterior perimeter of the structure, as measured from the ground vertically, and up to 25 % of the remaining outer surface area of the

structure not visible from a public right-of-way. Siding materials such as corrugated or sheet metal, unpainted wood composite materials, tile panels and reflective materials, but not glass, are prohibited. These provisions shall not apply to metal tool sheds used as accessory buildings only, located only in the rear yard portion of a lot, and not exceeding 120 square feet in area.
Penalty, see § 10.99

§ 152.092 CONSTRUCTION ON LOTS OF RECORD.

A principal use or building may be erected on any lot which has been approved and recorded prior to the effective date of this chapter regardless of its area or width, provided all other applicable requirements of this chapter are satisfied, and provided the developer or property owner does not own any adjoining land on the date of adoption of this chapter, in which case, the developer or owner will be required to combine adjacent lots to form new and conforming lots prior to the city issuing zoning permits or any other requested permit.
Penalty, see § 10.99

§ 152.093 REQUIRED STREET FRONTAGE FOR DEVELOPABLE LOTS.

All lots used for the purpose of conducting or erecting a principal use and building shall have frontage on an improved public street.
Penalty, see § 10.99

§ 152.094 LOT DESIGN STANDARDS.

(A) *Generally.* No building shall be erected or enlarged unless the following minimum requirements are met.

(B) *Lot area.*

(1) Every lot on which a single-family dwelling is erected shall contain an area of not less than 10,000 square feet.

(2) Every lot on which a 2-family dwelling is erected shall contain an area of not less than 10,000 square feet.

(3) Every lot on which a multi-family dwelling is erected shall contain 2,000 square feet minimum per 1bedroom dwelling units, plus 500 square feet of area for each additional bedroom within the dwelling unit.

(4) For uses other than residential, the lot area shall be adequate to meet the setback, yard, and other applicable requirements of this chapter.

(C) *Lot width.* Every lot on which a single-family dwelling is erected shall have a minimum width at the building setback line of 75 feet.

(D) *Yard requirements.*

(1) *Front yard.*

(a) There shall be a minimum front yard of 35 feet from the property line. In the event the building is located on a lot at the intersection of two or more roads, the lot shall have a front yard abutting each such road provided this does not reduce the buildable width of less than 30 feet.

(b) Where adjacent structures within the same block have front yard setbacks different from those required, the front yard minimum setback shall be the average of the adjacent structures. If there is only one adjacent structure, the front yard minimum setback shall be the average of the required setback and the setback of the adjacent structure.

(2) *Side yard.*

(a) Every building, except buildings on corner lots, shall have two side yards. Each side yard shall have a width of not less than 10 feet from the property line.

(b) On corner lots, the "side yard" on the street side shall be the same as the front yard on the reverse interior lots on that street provided this does not reduce the buildable width to less than 30 feet.

(3) *Rear yard.*

(a) There shall be a minimum rear yard of 25 feet from the property line to the nearest foundation point of the principle structure. Accessory structures may be located a minimum of 10 feet from property lines within the rear yard unless all owners of the adjacent property consent to a smaller setback.

(b) On corner lots, the rear yard shall meet the same requirements as interior lots. Accessory structures in the rear yards must be located a minimum of 20 feet from a side street line and at least 10 feet from the rear property lines unless all owners of the adjacent property consent to a smaller setback.
Penalty, see § 10.99

§ 152.095 SETBACK EXCEPTIONS.

(A) On a through lot (a lot fronting on two parallel streets), both street lot lines shall be front lot lines for applying yard and parking requirements of this chapter.

(B) Front yard encroachments may be allowed:

(1) Into any required front yard, required side or required rear yard, cornices, canopies, and eaves may project a distance not exceeding three feet. Fire escapes, uncovered stairs and necessary landings, bay windows, balconies, uncovered decks, walkways, or chimneys may project into any required front yard, required side yard or required rear yard a distance not to exceed four feet; and

(2) Vestibules, greenhouses, and active solar energy systems attached to the structure to achieve energy conservation are permitted to extend from the building into any required front, rear, or side yard a distance of not more than four feet.

(C) Rear yard encroachments may be allowed only for placement of moveable accessory structures, provided:

(1) The property owner shall have a written agreement in place with his neighbor that documents the neighbor's agreement to allow the encroachment.

(2) The written agreement shall be filed with the city.

(3) Upon revocation of the neighbor's consent, or upon transfer of ownership of the subject or neighboring parcel, whichever shall earlier occur, the accessory structure shall be moved so as to comply with existing setback requirements.

Penalty, see § 10.99

§ 152.096 HEIGHT REGULATIONS.

(A) No permitted or conditionally permitted building shall be erected or enlarged to exceed 30 feet in height.

(B) Building height limitations shall be determined by measuring the vertical distance from the average elevation of the finished lot grade at the front of the building to the highest point of the coping of the flat roof, or the deck line of a mansard roof or to the average height between the plate and ridge of a gable, hip, or gambrel roof.

(C) The building height limits established above shall apply to all structures except the following: belfries, chimneys or flues, church spires, cooling towers, cupolas and domes which do not contain useable space, flag poles, monuments, parapet walls extending not more than three feet above the limiting height of the building, water towers, poles, towers, and other structures for essential services, necessary mechanical and electrical appurtenances, television antennas not exceeding 20 feet.

Penalty, see § 10.99

§ 152.097 ACCESS DRIVES.

(A) For single-family residential uses:

(1) One driveway access to an improved public street is allowed per single-family residential lot. A second driveway access may be allowed into a single-family residential lot, but will require securing a conditional use permit;

(2) All vehicle driveways shall be paved with concrete or bituminous materials;

(3) A residential access drive must not exceed 20 feet in width at the point it intersects with the right-of-way line, except that a driveway that provides access to a three-car garage may have a driveway width up to 30 feet at the right-of-way line;

(4) A curb cut for the access drive must not exceed the width of the driveway at the property line by more than six feet; and

(5) Access drives may not be placed closer than five feet to any side or rear lot line.

(B) For all other uses, such as multiple-family units (more than two dwelling units) or nonresidential uses, consult with the City Council.

Penalty, see § 10.99

§ 152.098 GENERAL REGULATIONS.

Off-street parking and loading requirements are set forth in §§ 152.216 and 152.217. Signage and other requirements are set forth in §§ 152.205 *et seq.*

§ 152.099 PERMITTED USES.

(A) *Generally.* The following uses shall be permitted within the R-1 Residential District.

(B) *Specifically.*

(1) Any single-family dwelling, including the following uses within the structure:

(a) A state-licensed residential facility or as housing with services accommodating up to six or fewer persons, both of which must be licensed and registered as specified under M.S. Ch. 144D, as it may be amended from time to time; and

(b) A licensed day care facility for up to 12 or fewer persons and licensed under Minn. Rules, Chapter 9502, as it may be amended from time to time.

(2) Any park, playground, or community building; and

(3) Any utility facility necessary for local service (essential services).

(4) Home Occupations

Penalty, see § 10.99

§ 152.100 PERMITTED ACCESSORY USES.

(A) *Generally.* The following uses shall be permitted accessory uses within any R-1 Residential District:

(1) Any accessory building or use associated with the permitted or conditional uses listed in this section. Placement of an accessory building or use on a lot shall not be allowed prior to placement of the permitted or conditional use on the lot, save and except that if a lot does not meet the minimum requirements for placement of a principal dwelling on the lot, an accessory building or use may be located on the lot without a principal dwelling.

(2) The parking of any travel trailer or pleasure boat, provided that only one (1) travel trailer not

exceeding 32 feet in length shall be permitted. No living quarters shall be maintained and no business or other activity shall be carried on in the travel trailer; and/or

(3) A home occupation subject to the provisions of § 152.205.

(B) *Residential accessory use design standards.*

(1) Two residential accessory buildings or structures are allowed per residential lot. The size of one accessory structure shall not exceed 1,440 square feet in size. The size of the second accessory structure shall not exceed 200 square feet in size.

(2) No detached residential accessory building or structure shall be erected or located within the front or side yard setback area, but may be located within the rear yard setback area. The accessory building or structure shall not exceed one (1) story over 24 feet in height, nor exceed a wall height of 14 feet.

(3) Accessory buildings and structures shall be located a minimum of 10 feet from another building on the same lot, on corner lots accessory structures shall be setback a minimum of 20 feet from the side street line.

(4) All garages in the R-1 District shall, if the vehicle entrance and driveway is located perpendicular to a public alley, be set back at least 20 feet from the public right-of-way.

(5) The large or primary accessory structure shall be constructed upon a totally concrete slab or floating foundation (Minnesota State Building Code). The second or smaller accessory structure does not need to be constructed on a concrete slab or floating foundation, if some type of constructed floor component is included with the structure. However, this type of accessory structure does need to be anchored to the ground in a manner acceptable to the Zoning Administrator.

(C) *All other accessory use standards.* Accessory buildings and structures for parking attendants, guard shelters, gate houses, and transformer buildings may be located in the front or side yards not closer than five feet from any property line.
Penalty, see § 10.99

§ 152.101 CONDITIONAL ACCESSORY USES.

The following accessory uses require applying for and securing a conditional use permit: a second access driveway to a single-family residential lot.

§ 152.102 CONDITIONAL USES.

(A) *Generally.* The following uses may be allowed in the R-1 Residential District subject to obtaining a conditional use permit in accordance with the provisions of §§ 152.240 *et seq.*

(B) *Specifically.*

(1) Any hospital or institution, provided that any such use shall not occupy more than 25% of the total lot area and shall be set back from all yard lines at least 30 feet;

(2) Radio or television broadcasting tower or station (see § 152.219);

(3) Any public or private school;

(4) Any church;

(5) Any cemetery or mausoleum;

(6) Any nursing home;

(7) Any government building;

(8) State-licensed residential facilities serving from 7 to 16 mentally or physically challenged persons, licensed and registered as specified under M.S. Ch. l44D, as it may be amended from time to time, or a state-licensed day care facility serving 13 to 16 children, as regulated under Minn. Rules, Chapter 9502, as it may be amended from time to time; and

(9) The relocation and/or placement of a dwelling that has been occupied in a previous location, and subject to provisions of § 152.221.

Penalty, see § 10.99

§ 152.103 ZONING PERMITS REQUIRED.

(A) No building or structure shall be erected, reconstructed, moved, or structurally altered to increase the exterior dimensions, height, or floor area; or remodel to increase number of dwellings or accommodate a change in use of the building and/or premises or part thereof without first securing a zoning permit to be issued by the City Clerk/Treasurer or Zoning Administrator, depending upon the type of permit needed.

(B) No zoning permits are required for the construction and/or placement of gazebos, trellises, playhouses, kennels, hot tubs, swing sets, arbors, and inflatable swimming pools.

Penalty, see § 10.99

R-2 RESIDENTIAL DISTRICT

§ 152.104 PURPOSE.

The R-2 Residential District is intended to establish a district which will define and protect an area suitable for low density residential developments as the principal use of the land and to allow related facilities desirable for a residential environment. Single-family dwellings are the primary residential use; however, multi-family dwelling structures may be allowed subject to the special provisions of this chapter.

§ 152.105 DWELLING RESTRICTIONS.

(A) No basement, cellar, garage, tent, or accessory building shall, at any time, be used as an independent residence or dwelling unit.

(B) No more than one (1) principal building shall be located on a lot in the R-2 District.

(C) All structures used for residential occupancy shall have a minimum width of 24 feet on its narrowest dimension and shall be affixed to a permanent foundation constructed of continuous poured footings. The house must sit directly on a continuous foundation wall that extends to a minimum depth of 42 inches to clay or granular fill.

(D) For all principal buildings in the R-1 Residential District, exterior building materials shall be of a durable, maintainable material that is in keeping with the character of the existing residential area. Materials such as unfinished concrete or concrete block may compose up to three feet of the exterior perimeter of the structure, as measured from the ground vertically, and up to 25 % of the remaining outer surface area of the structure not visible from a public right-of-way. Siding materials such as corrugated or sheet metal, unpainted wood composite materials, tile panels and reflective materials, but not glass, are prohibited. These provisions shall not apply to metal tool sheds used as accessory buildings only, located only in the rear yard portion of a lot, and not exceeding 120 square feet in area.
Penalty, see § 10.99

§ 152.106 CONSTRUCTION ON LOTS OF RECORD.

A principal use or building may be erected on any lot which has been approved and recorded prior to the effective date of this chapter regardless of its area or width, provided all other applicable requirements of this chapter are satisfied, and provided the developer or property owner does not own any adjoining land on the date of adoption of this chapter, in which case, the developer or owner will be required to combine adjacent lots to form new and conforming lots prior to the city issuing zoning permits or any other requested permit.
Penalty, see § 10.99

§ 152.107 REQUIRED STREET FRONTAGE FOR DEVELOPABLE LOTS.

All lots used for the purpose of conducting or erecting a principal use and building shall have frontage on an improved public street.
Penalty, see § 10.99

§ 152.108 LOT DESIGN STANDARDS.

(A) *Generally.* No building shall be erected or enlarged unless the following minimum requirements are met.

(B) *Lot area.*

(1) Every lot on which a single-family dwelling is erected shall contain an area of not less than 10,000 square feet.

(2) Every lot on which a 2-family dwelling is erected shall contain an area of not less than 10,000 square feet.

(3) Every lot on which a multi-family dwelling is erected shall contain 2,000 square feet minimum per 1bedroom dwelling units, plus 500 square feet of area for each additional bedroom within the dwelling unit.

(4) For uses other than residential, the lot area shall be adequate to meet the setback, yard, and other applicable requirements of this chapter.

(C) *Lot width.* Every lot on which a single-family dwelling is erected shall have a minimum width at the building setback line of 75 feet.

(D) *Yard requirements.*

(1) *Front yard.*

(a) There shall be a minimum front yard of 35 feet from the property line. In the event the building is located on a lot at the intersection of two or more roads, the lot shall have a front yard abutting each such road provided this does not reduce the buildable width of less than 30 feet.

(b) Where adjacent structures within the same block have front yard setbacks different from those required, the front yard minimum setback shall be the average of the adjacent structures. If there is only one adjacent structure, the front yard minimum setback shall be the average of the required setback and the setback of the adjacent structure.

(2) *Side yard.*

(a) Every building, except buildings on corner lots, shall have two side yards. Each side yard shall have a width of not less than 10 feet from the property line.

(b) On corner lots, the "side yard" on the street side shall be the same as the front yard on the reverse interior lots on that street provided this does not reduce the buildable width to less than 30 feet.

(3) *Rear yard.*

(a) There shall be a minimum rear yard of 25 feet from the property line to the nearest foundation point of the principle structure. Accessory structures may be located a minimum of 10 feet from property lines within the rear yard unless all owners of the adjacent property consent to a smaller setback.

(b) On corner lots, the rear yard shall meet the same requirements as interior lots. Accessory structures in the rear yards must be located a minimum of 20 feet from a side street line and at least 10 feet from the rear property lines unless all owners of the adjacent property consent to a smaller setback.
Penalty, see § 10.99

§ 152.109 SETBACK EXCEPTIONS.

(A) On a through lot (a lot fronting on two parallel streets), both street lot lines shall be front lot lines for applying yard and parking requirements of this chapter.

(B) Front yard encroachments may be allowed:

(1) Into any required front yard, required side or required rear yard, cornices, canopies, and eaves may project a distance not exceeding three feet. Fire escapes, uncovered stairs and necessary landings, bay windows, balconies, uncovered decks, walkways, or chimneys may project into any required front yard, required side yard or required rear yard a distance not to exceed four feet; and

(2) Vestibules, greenhouses, and active solar energy systems attached to the structure to achieve energy conservation are permitted to extend from the building into any required front, rear, or side yard a distance of not more than four feet.

(C) Rear yard encroachments may be allowed only for placement of moveable accessory structures, provided:

(1) The property owner shall have a written agreement in place with his neighbor that documents the neighbor's agreement to allow the encroachment.

(2) The written agreement shall be filed with the city.

(3) Upon revocation of the neighbor's consent, or upon transfer of ownership of the subject or neighboring parcel, whichever shall earlier occur, the accessory structure shall be moved so as to comply with existing setback requirements.
Penalty, see § 10.99

§ 152.110 HEIGHT REGULATIONS.

(A) No permitted or conditionally permitted building shall be erected or enlarged to exceed 30 feet in height.

(B) Building height limitations shall be determined by measuring the vertical distance from the average elevation of the finished lot grade at the front of the building to the highest point of the coping of the flat roof, or the deck line of a mansard roof or to the average height between the plate and ridge of a gable, hip, or gambrel roof.

(C) The building height limits established above shall apply to all structures except the following: belfries, chimneys or flues, church spires, cooling towers, cupolas and domes which do not contain useable space, flag poles, monuments, parapet walls extending not more than three feet above the limiting height of the building, water towers, poles, towers, and other structures for essential services, necessary mechanical and electrical appurtenances, television antennas not exceeding 20 feet.
Penalty, see § 10.99

§ 152.111 ACCESS DRIVES.

(A) For single-family residential uses:

(1) One driveway access to an improved public street is allowed per single-family residential lot. A second driveway access may be allowed into a single-family residential lot, but will require securing a conditional use permit;

(2) All vehicle driveways shall be paved with concrete or bituminous materials;

(3) A residential access drive must not exceed 20 feet in width at the point it intersects with the right-of-way line, except that a driveway that provides access to a three-car garage may have a driveway width up to 30 feet at the right-of-way line;

(4) A curb cut for the access drive must not exceed the width of the driveway at the property line by more than six feet; and

(5) Access drives may not be placed closer than five feet to any side or rear lot line.

(B) For duplexes or twin homes (two dwelling units):

(1) One driveway access to an improved public street is allowed per dwelling unit;

(2) All vehicle driveways shall be paved with concrete or bituminous materials;

(3) The access drive must not exceed 20 feet in width at the point it intersects with the right-of-way line, except that a driveway that provides access to a three (3) car garage may have a driveway width up to 30 feet at the right-of-way line;

(4) A curb cut for the access drive must not exceed the width of the driveway at the property line by more than three feet; and

(5) Access drives may not be placed closer than five feet to any side or rear lot line.

(C) For all other uses, such as multiple-family units (more than two dwelling units) or nonresidential uses, consult with the City Council.
Penalty, see § 10.99

§ 152.112 GENERAL REGULATIONS.

Off-street parking and loading requirements are set forth in §§ 152.216 and 152.217. Signage and other requirements are set forth in §§ 152.205 *et seq.*

§ 152.113 PERMITTED USES.

(A) *Generally.* The following uses shall be permitted within the R-1 Residential District.

(B) *Specifically.*

(1) Any single-family dwelling, including the following uses within the structure:

(a) A state-licensed residential facility or as housing with services accommodating up to six or fewer persons, both of which must be licensed and registered as specified under M.S. Ch. 144D, as it may be amended from time to time; and

(b) A licensed day care facility for up to 12 or fewer persons and licensed under Minn. Rules, Chapter 9502, as it may be amended from time to time.

Single family detached dwellings and single family attached dwellings and lots in an R-2 District must comply with all requirements as set forth for those dwellings in an R-1 District.

(2) Duplexes, townhouses, apartments, and condominiums.

(3) Child care facilities serving sixteen (16) or fewer persons.

(4) Home occupations.

(5) Any park, playground, or community building; and

(6) Any utility facility necessary for local service (essential services).

Penalty, see § 10.99

§ 152.114 PERMITTED ACCESSORY USES.

(A) *Generally.* The following uses shall be permitted accessory uses within any R-1 Residential District:

(1) Any accessory building or use associated with the permitted or conditional uses listed in this section;

(2) The parking of any travel trailer or pleasure boat, provided that only one (1) travel trailer not exceeding 32 feet in length shall be permitted. No living quarters shall be maintained and no business or other activity shall be carried on in the travel trailer; and/or

(B) *Residential accessory use design standards.*

(1) Two residential accessory buildings or structures are allowed per residential lot. The size of one accessory structure shall not exceed 1,440 square feet in size. The size of the second accessory structure shall not exceed 200 square feet in size.

(2) No detached residential accessory building or structure shall be erected or located within the front or side yard setback area, but may be located within the rear yard setback area. The accessory building or structure shall not exceed one(1) story over 24 feet in height, nor exceed a wall height of 14 feet.

(3) Accessory buildings and structures shall be located a minimum of 10 feet from another building on the same lot, on corner lots accessory structures shall be setback a minimum of 20 feet from the

side street line.

(4) All garages in the R-1 District shall, if the vehicle entrance and driveway is located perpendicular to a public alley, be set back at least 20 feet from the public right-of-way.

(5) The large or primary accessory structure shall be constructed upon a totally concrete slab or floating foundation (Minnesota State Building Code). The second or smaller accessory structure does not need to be constructed on a concrete slab or floating foundation, if some type of constructed floor component is included with the structure. However, this type of accessory structure does need to be anchored to the ground in a manner acceptable to the Zoning Administrator.

(C) *All other accessory use standards.* Accessory buildings and structures for parking attendants, guard shelters, gate houses, and transformer buildings may be located in the front or side yards not closer than five feet from any property line.
Penalty, see § 10.99

§ 152.115 CONDITIONAL ACCESSORY USES.

The following accessory uses require applying for and securing a conditional use permit: a second access driveway to a single-family residential lot.

§ 152.116 CONDITIONAL USES.

(A) *Generally.* The following uses may be allowed in the R-1 Residential District subject to obtaining a conditional use permit in accordance with the provisions of §§ 152.240 *et seq.*

(B) *Specifically.*

(1) Any hospital or institution, provided that any such use shall not occupy more than 25 % of the total lot area and shall be set back from all yard lines at least 30 feet;

(2) Radio or television broadcasting tower or station (see § 152.219);

(3) Residential planned unit developments (§ 152.224 for development standards);

(4) Any public or private school;

(5) Any church;

(6) Any cemetery or mausoleum;

(7) Any nursing home;

(8) Any government building;

(9) State-licensed residential facilities serving from 7 to 16 mentally or physically challenged persons, licensed and registered as specified under M.S. Ch. l44D, as it may be amended from time to time,

or a state-licensed day care facility serving 13 to 16 children, as regulated under Minn. Rules, Chapter 9502, as it may be amended from time to time; and

(10) The relocation and/or placement of a dwelling that has been occupied in a previous location, and subject to provisions of § 152.221.

(11) Child care facilities serving seventeen (17) or more persons.

(12) Manufactured/mobile home park.

(13) Bed and breakfast facilities.

(14) Funeral Homes.

(15) Nursing Homes.

(16) Restaurants, Eating Establishments, Community Dining.

Penalty, see § 10.99

§ 152.117 ZONING PERMITS REQUIRED.

(A) No building or structure shall be erected, reconstructed, moved, or structurally altered to increase the exterior dimensions, height, or floor area; or remodel to increase number of dwellings or accommodate a change in use of the building and/or premises or part thereof without first securing a zoning permit to be issued by the City Clerk/Treasurer or Zoning Administrator, depending upon the type of permit needed.

(B) No zoning permits are required for the construction and/or placement of gazebos, trellises, playhouses, kennels, hot tubs, swing sets, arbors, and inflatable swimming pools.

Penalty, see § 10.99

B-1 HIGHWAY COMMERCIAL DISTRICT

§ 152.118 PURPOSE.

The B-1 Highway Commercial District is intended to encourage the concentration of a broad range of commercial establishments, including drive-in business, establishments requiring outdoor display area, and businesses operating with late hours. It is important that businesses in this district provide adequate off-street parking with safe ingress and egress to the adjoining streets. Equally important is the provision of adequate safeguards between business establishments and residential uses when the two are adjoining.

§ 152.119 CONSTRUCTION ON LOTS OF RECORD.

A principal use or building may be erected on any lot which has been approved and recorded prior to the effective date of this chapter regardless of its area or width, provided all other applicable requirements of this

chapter are satisfied, and provided the developer or property owner does not own any adjoining land on the date of adoption of this chapter.
Penalty, see § 10.99

§ 152.120 REQUIRED STREET FRONTAGE FOR DEVELOPABLE LOTS.

All lots used for the purpose of conducting or erecting a principal use and building shall have frontage on an improved public street.
Penalty, see § 10.99

§ 152.121 LOT DESIGN STANDARDS.

(A) *Generally.* No building shall be erected or enlarged unless the following minimum requirements are met.

(B) *Lot area.* No minimum lot size is required; however, the lot size shall be adequate to meet the setback, yard, and other requirements of this chapter.

(C) *Lot width.* There shall be a minimum lot width requirement of 100 feet.

(D) *Yard requirements.*

(1) *Front yard.*

(a) There shall be a minimum front yard of 20 feet from the property line. In the event the building is located on a lot at the intersection of two or more roads, the lot shall have a front yard abutting each such road.

(b) On a through lot (a lot fronting on two parallel streets), both street lot lines shall be front lot lines for applying yard and parking requirements of this chapter.

(2) *Side yard.* Every building, except buildings on corner lots, shall have two side yards. Each side yard shall have a width of not less than 10 feet.

(3) *Rear yard.* There shall be a minimum rear yard of 25 feet.
Penalty, see § 10.99

§ 152.122 HEIGHT REGULATIONS.

(A) No permitted or conditionally permitted building shall be erected or enlarged to exceed 30 feet in height.

(B) The building height limits established above shall apply to all structures except the following: belfries, chimneys or flues, church spires, cooling towers, cupolas and domes which do not contain useable space, flag poles, monuments, parapet walls extending not more than three feet above the limiting height of the building, water towers, poles, towers, and other structures for essential services,

necessary mechanical and electrical appurtenances, television antennas not exceeding 20 feet.
Penalty, see § 10.99

§ 152.123 GENERAL REGULATIONS.

Off-street parking and loading requirements are set forth in §§ 152.205 *et seq.* Signage and other requirements are set forth in §§ 152.205 *et seq.* Screening of storage areas, all outside business activity areas, and off-street parking areas shall be required when a commercial use is located adjacent to a use of lesser activity in the R-1 residential zone.
Penalty, see § 10.99

§ 152.124 PERMITTED USES.

The following structures and uses shall be permitted in the B-1 Highway Commercial District:

(A) Wholesale and bulk sales totally enclosed. No processing or fabrication shall be permitted in conjunction with such uses;

(B) Hotels and motels;

(C) Farm stores, equipment and supply sales for farm and home;

(D) Retail stores primarily engaged in selling merchandise for personal household consumption and rendering services incidental to the sale of the merchandise:

(1) Any grocery store, meat market, supermarket, fruit market, or bakery; and

(2) Any drug store, apparel shop or hardware store, bookstore, stationary store, or flower shop.

(E) Personal services generally involving the care of the person or his or her personal effects:

(1) Any cleaning or laundry establishment, self-service laundry including any pressing, cleaning or garment repair;

(2) Any dressmaking, millinery, tailor shop, or shoe repair shop;

(3) Any beauty shop or barber shop; and

(4) Any photographic studio.

(F) Administrative, business, or professional offices:

(1) Any bank or savings and loan institution;

(2) Any insurance or real estate agent or broker;

(3) Any professional office, including any physician, dentist, chiropractor, engineer, architect, lawyer, or recognized profession; and

(4) Government office buildings, buildings housing equipment used to protect the community's health and safety such as firefighting equipment, ambulances, first-response vehicles, and others as needed.

(G) Entertainment and recreation establishment. Any restaurant (other than convenience or drive-in food establishments), theater, dance hall, bowling alley, pool or billiard hall, or roller or ice rink;

(H) Repair services:

(1) Any electrical repair shop;

(2) Any watch, clock, or jewelry repair;

(3) Any re-upholster and furniture repair;

(4) Any miscellaneous repair shop; and

(5) Any repair service carried on in conjunction with any permitted use.

(I) Business services. Any duplicating, printing, addressing, blueprinting, photocopying, mailing, or stenographic service;

(J) Building materials and contractors. Any building materials sales or contractor's office, provided the uses shall be conducted wholly within an enclosed building;

(K) Any motor fuel station (gas station), automotive service station, subject to standards in section § 152.220;

(L) An adult use, as defined in Chapter 111 and subject to the standards specified in that same chapter; and

(M) Miscellaneous uses:

(1) Any utility facility necessary for local service; and

(2) Any residence, when included as an integral part of the principal building.

Penalty, see § 10.99

§ 152.125 ACCESSORY USES.

(A) The following shall be permitted accessory uses within any B-1 Highway Commercial District:

(1) An accessory building or use in association with any permitted or conditional use;

(2) Daycare facility as an accessory use to a principal activity, providing services exclusively to employees of that activity; and

(3) Accessory retail as a secondary activity to a permitted use.

(B) Accessory use design standards:

(1) Accessory structures and buildings shall conform to all setbacks established for the principal building or structure; and

(2) Accessory buildings and structures for parking attendants, guard shelters, gate houses, and transformer buildings may be located in the front or side yards not closer than five (5) feet from any property line.

Penalty, see § 10.99

§ 152.126 CONDITIONAL USES.

Within any B-1 Highway Commercial District, the following uses shall be allowed to be developed only when a conditional use permit is secured, according to the provisions of §§ 152.240 *et seq.:*

(A) Motor vehicle and implement sales and services, subject to standards in § 152.220:

(1) Any automobile sales, trailer sales or service, auto repair garage, or automobile rental;

(2) Any agricultural equipment sales or service;

(3) Any truck sales or services, or truck repair garage;

(4) Any boat sales or repair;

(5) Any mobile home or travel trailer sales or repair; and

(6) Any tire and battery sales.

(B) Drive-in establishments, subject to standards in §152.220:

(1) Any drive-in establishment including banks and restaurants; and

(2) Any shopping center.

(C) Car or truck washes (drive-through, mechanical, and self-service); and

(D) Any veterinary clinic where there are no outside runs or kennels.

Penalty, see § 10.99

§ 152.127 ZONING PERMITS REQUIRED.

No building or structure shall be erected, reconstructed, moved, or structurally altered to increase the exterior dimensions, height, or floor area; or remodel to increase number of dwellings or accommodate a change in use of the building and/or premises or part thereof without first securing a zoning permit to be issued by the City Clerk/Treasurer or Zoning Administrator, depending upon the type of permit needed.
Penalty, see § 10.99

B-2 CENTRAL BUSINESS DISTRICT

§ 152.135 PURPOSE.

The B-2 Central Business District comprises the downtown section of the city, which is called the Central Business District. The use of land is intensive, and this is one of the main determinants of the vitality of the Central Business District. It is the purpose of these regulations to encourage the intensity of use and to exclude activities having a negative effect upon the proper functioning of the Central Business District.

§ 152.136 SPECIAL REQUIREMENTS.

The following requirements shall apply to all uses in this district.

(A) *Expansion of the B-2 District.* The B-2 Central Business District applies only to land located in the downtown. The B-2 District is not intended for other locations in the city. The B-2 District may be expanded through rezoning, but only through an expansion of the existing district boundaries.

(B) *Enclosure of uses.*

(1) Every use, unless expressly exempted by this section, shall operate entirely within a completely enclosed structure.

(2) The temporary or incidental display of products sold on the premises shall be exempt from this requirement.

(C) *Noise limitation.* There shall be no noise beyond the lot boundary upon which a business is located, except for normal car and pedestrian activity.
Penalty, see § 10.99

§ 152.137 CONSTRUCTION ON LOTS OF RECORD.

A principal use or building may be erected on any lot which has been approved and recorded prior to the effective date of this chapter regardless of its area or width, provided all other applicable requirements of this chapter are satisfied, and provided the developer or property owner does not own any adjoining land on the date of adoption of this chapter.
Penalty, see § 10.99

§ 152.138 REQUIRED STREET FRONTAGE FOR DEVELOPABLE LOTS.

All lots used for the purpose of conducting or erecting a principal use and building shall have frontage

on an improved public street.
Penalty, see § 10.99

§ 152.139 LOT DESIGN STANDARDS.

There are no lot design requirements (lot area; lot width; lot depth; and yard requirements) for this district.

§ 152.140 HEIGHT REGULATIONS.

(A) No permitted or conditionally permitted building shall be erected or enlarged to exceed 30 feet in height.

(B) The building height limits established above shall apply to all structures except the following: belfries, chimneys or flues, church spires, cooling towers, cupolas and domes which do not contain useable space, flag poles, monuments, parapet walls extending not more than three feet above the limiting height of the building, water towers, poles, towers, and other structures for essential services, necessary mechanical and electrical appurtenances, television antennas not exceeding 20 feet.
Penalty, see § 10.99

§ 152.141 PARKING REQUIREMENTS.

The only off-street parking requirements in this district shall be one off-street parking space for every apartment. There are no other off-street parking requirements for uses in this district.
Penalty, see § 10.99

§ 152.142 GENERAL REGULATIONS.

Loading requirements, signage, and other regulations are set forth in §§ 152.205 *et seq.* Screening of outside storage areas and trash receptacles shall be required when a commercial use is located adjacent to a use of lesser activity in the R-1 residential zone. Screening standards are specified in § 152.210.
Penalty, see § 10.99

§ 152.143 PERMITTED USES.

The following uses are permitted in the B-2 District.

(A) Retail stores primarily engaged in selling merchandise for personal household consumption and rendering services incidental to the sale of the merchandise, including:

(1) Any grocery store, meat market, supermarket, fruit market, or bakery; and

(2) Any drug store, apparel shop or hardware store, bookstore, stationary store, or flower shop.

(B) Personal services generally involving the care of the person or his or her personal effects:

(1) Any cleaning or laundry establishment, self-service laundry including any pressing, cleaning or garment repair;

(2) Any dressmaking, millinery, tailor shop, or shoe repair shop;

(3) Any beauty shop or barber shop;

(4) Any photographic studio; and

(5) Any eating or drinking establishment, except for drive-in establishments.

(C) Administrative, business, or professional offices:

(1) Any bank or savings and loan institution;

(2) Any insurance or real estate agent or broker; and

(3) Any professional office, including any physician, dentist, chiropractor, engineer, architect, lawyer, or recognized profession.

(D) Entertainment and recreation establishment. Any theater, dance hall, bowling alley, or pool or billiard hall;

(E) Repair services:

(1) Any electrical repair shop;

(2) Any watch, clock, or jewelry repair;

(3) Any re-upholsters and furniture repair;

(4) Any miscellaneous repair shop; and

(5) Any repair service carried on in conjunction with any permitted use.

(F) Business services. Any duplicating, printing, addressing, blueprinting, photocopying, mailing, or stenographic service; and

(G) Miscellaneous uses:

(1) Any utility facility necessary for local service;

(2) Any motel or hotel; and

(3) Any parking facility; not to be enclosed.

(H) No ground level shall be used for residential purposes in any Permitted Use set forth in this section.
Penalty, see § 10.99

§ 152.144 ACCESSORY USES.

The following uses shall be permitted accessory uses within the B-2 Central Business District:

(A) Day care facility as an accessory use to a principal activity, providing service exclusively to employees of that activity; and

(B) Combination residential and commercial uses in a single structure provided that the front 20 feet of the street level floor is exclusively a permitted commercial use.
Penalty, see § 10.99

§ 152.145 CONDITIONAL USES.

Conditional uses require a conditional use permit based upon procedures set forth in and regulated by §§ 152.240 *et seq.:*

(A) Open and outdoor storage as an accessory use;

(B) Open and outdoor service sales and/or rental as an accessory use;

(C) Day care facility;

(D) Elderly housing;

(E) Government and public utility buildings and structures necessary for the health, safety, and general welfare of the community;

(F) Bars, liquor establishments, on- and off-sale liquor stores where the principal activity involves liquor sales; The establishment of an outdoor enclosure, beer garden or patio as an accessory use to a bar, restaurant, or club licensed to sell intoxicating or 3.2 % malt liquor;

(G) Vehicle storage associated with, but not limited to, vehicle repair shops, towing businesses, automotive service stations; and

(H) Inside warehouse/storage buildings use in support of a business operating within the City of Ellendale.
Penalty, see § 10.99

§ 152.146 ZONING PERMITS REQUIRED.

No building or structure shall be erected, reconstructed, moved, or structurally altered to increase the

exterior dimensions, height, or floor area; or remodel to increase number of dwellings or accommodate a change in use of the building and/or premises or part thereof without first securing a zoning permit to be issued by the City Clerk/Treasurer or Zoning Administrator, depending upon the type of permit needed.
Penalty, see § 10.99

I-1 INDUSTRIAL DISTRICT

§ 152.160 PURPOSE.

The I-1 Industrial District is intended to provide space to meet the location requirements of a broad range of industrial uses. These industrial uses should be encouraged to locate in areas where adequate utilities are available. Industrial uses should be designed to blend harmoniously with adjacent land uses, particularly residential uses. For this reason, industrial uses should have adequate area to provide off-street parking and loading, and screening should be used to provide a visual barrier for unsightly operational characteristics.
Penalty, see § 10.99

§ 152.161 CONSTRUCTION ON LOTS OF RECORD.

A principal use or building may be erected on any lot which has been approved and recorded prior to the effective date of this chapter regardless of its area or width, provided all other applicable requirements of this chapter are satisfied, and provided the developer or property owner does not own any adjoining land on the date of adoption of this chapter.
Penalty, see § 10.99

§ 152.162 REQUIRED STREET FRONTAGE FOR DEVELOPABLE LOTS.

All lots used for the purpose of conducting or erecting a principal use and building shall have frontage on an improved public street.
Penalty, see § 10.99

§ 152.163 LOT DESIGN STANDARDS.

(A) *Generally.* No building shall be erected or enlarged unless the following minimum requirements are met.

(B) *Specifically.*

(1) *Lot area and lot width.* No minimum lot size or width is required; however, the lot size shall be adequate to meet the setback, yard, and other requirements of this chapter.

(2) *Yard requirements.*

(a) Front yard - 25 feet minimum;

(b) Side yard - each side yard a minimum of 25 feet; and

(c) Rear yard - 25 feet minimum.

Penalty, see § 10.99

§ 152.164 HEIGHT REQUIREMENTS.

There shall be no limitation of height, except that a building shall be set back from a required yard setback line one foot for each foot of building height above 30 feet where the required yard is contiguous to or across the street from any residential zoning district.

Penalty, see § 10.99

§ 152.165 SCREENING REQUIREMENTS.

All principal and accessory industrial structures and uses shall be screened from all adjacent districts of lesser activity, in accordance to provisions established in § 152.210.

Penalty, see § 10.99

§ 152.166 GENERAL REGULATIONS.

Off-street parking, loading regulations, signage, and other regulations are set forth in §§ 152.205 *et seq.*

Penalty, see § 10.99

§ 152.167 PERMITTED USES.

The following uses shall be permitted within any I-1 Industrial District:

(A) Any plant nursery or greenhouse;

(B) Any contractor establishment or construction equipment dealer, provided that material or equipment is not stored in required front yard;

(C) Any cartage, express, or hauling establishment;

(D) Any bulk storage of petroleum products;

(E) Any print plant;

(F) Any bottling work;

(G) Any radio or television broadcasting station or tower (see § 152.219 for performance standards);

(H) Any research laboratory;

(I) Any warehouse;

(J) Any repair service or business, including automobile repair garage, provided that outdoor storage of material or items being repaired are not within required front yard;

(K) Any utility, including railroad terminal facility;

(L) Any laundry and dry cleaning plant;

(M) Any animal hospital or veterinary office, provided that outside runs and outdoor animal pens are not located within 400 feet of any residential zoning districts; and

(N) Any industrial plant manufacturing or assembling the following: boats, small metal products such as bolts, nuts screws, washers, rivets, nails, and the like; clothing; drugs and medicines; electrical equipment; glass products from previously manufactured glass; furniture and wood products; and plastic products for production of finished equipment.
Penalty, see § 10.99

§ 152.168 ACCESSORY USES.

(A) *Generally.* The following uses shall be permitted accessory uses within I-1 Industrial District:

(1) All permitted accessory uses as allowed in a B-1 Highway Commercial District;

(2) Offices accessory to a principal use; and

(3) Any accessory building or use in association with any permitted or conditional uses in this subchapter and subject to the design standards below.

(B) *Accessory use design standards.*

(1) Accessory structures and buildings shall conform to all setbacks established for the principal building or structure.

(2) Accessory buildings and structures for parking attendants, guard shelters, gate houses, and transformer buildings may be located in the front or side yards not closer than five (5) feet from any property line.
Penalty, see § 10.99

§ 152.169 CONDITIONAL USES.

The following uses may be allowed in the I-1 Industrial District subject to obtaining a conditional use permit in accordance with the provisions of §§ 152.240 *et seq.:*

(A) Any ammonia, bleaching powder, or chlorine manufacture;

(B) Any asphalt manufacture or refining;

(C) Any asphalt mixing plant;

(D) Any automobile salvage yard or junk yard (see § 152.225 for performance standards);

(E) Any cement or cinder block manufacture;

(F) Any creosote treatment or manufacture;

(G) Any fertilizer manufacture from organic materials or bond distillation;

(H) Any glucose, dextrin, or starch manufacture;

(I) Any iron, steel, brass, or copper foundry;

(J) Any metal stamping; and

(K) Any sauerkraut or pickle, and the like, manufacture.

Penalty, see § 10.99

§ 152.170 ZONING PERMITS REQUIRED.

No building or structure shall be erected, reconstructed, moved, or structurally altered to increase the exterior dimensions, height, or floor area; or remodel to increase number of dwellings or accommodate a change in use of the building and/or premises or part thereof without first securing a zoning permit to be issued by the City Clerk/Treasurer or Zoning Administrator, depending upon the type of permit needed.

Penalty, see § 10.99

R-M RESIDENTIAL-MOBILE HOME DISTRICT

§ 152.185 PURPOSE.

The R-M Residential-Mobile Home District regulations are to promote health, safety, order, convenience, and general welfare by enforcing minimum standards for manufactured home subdivisions and manufactured home parks, the location and use of manufactured homes and the design, construction, alteration, and arrangement of homes on the lots, authorizing the inspection of these parks and subdivisions, the licensing of operator and fixing penalties for violations.

§ 152.186 LOCATION.

A mobile home park or subdivision may be established in the R-M Residential-Mobile Home District, provided the proposed park or subdivision contains a minimum of 10 acres and has frontage on an arterial street. All parks and subdivision must comply with the development and design requirements of this subchapter. The City Council may waive the required 10-acre minimum size requirement upon good cause

where special conditions exist.
Penalty, see § 10.99

§ 152.187 PERMITTED USES.

(A) Manufactured home parks with only one (1) manufactured home permitted on each approved space; and

(B) Manufactured home subdivisions with only one (1) manufactured home on each approved manufactured home lot. No recreational vehicle or dwelling units of conventional construction shall be permitted on a manufactured home lot for living purposes.
Penalty, see § 10.99

§ 152.188 PERMITTED ACCESSORY USES.

(A) Manager's office and residence which may be of conventional type construction;

(B) Recreation and social centers which may be used for dancing, crafts, hobbies, games, child care, meetings, banquets, theatrical performances, movie viewing, emergency weather shelter, and similar entertainment uses;

(C) Outdoor recreation facilities, such as parks, swimming pools, playground equipment, shuffleboard and tennis courts, putting greens, and similar recreational uses;

(D) Coin-operated laundry facilities, outdoor drying areas, maintenance buildings, and/or facilities;

(E) Security guard houses at park or subdivision entrances;

(F) Boat and recreation vehicle storage including washing areas;

(G) Recreational center and guest parking areas;

(H) Certain accessory structures, which are complementary to individual manufactured homes, such as patio awnings, storage buildings, and room additions, which appear to be an integral part of and architecturally compatible with the manufactured home itself;

(I) Directional information sign within the subdivision or park and one identification as provided in § 152.218; and

(J) Temporary construction buildings and yards necessary during the actual development of the manufactured home subdivision or parks.
Penalty, see § 10.99

§ 152.189 PROCEDURE FOR MANUFACTURED HOME PARK OR MANUFACTURED HOME SUBDIVISION APPROVAL

(A) The developer shall meet informally with the city to review tentative site plans for the development

and review procedural steps required by this chapter.

(B) An application to amend the zoning boundaries shall be filed and processed upon the procedures established by this chapter.

(C) The application to amend the zoning district boundaries shall be accompanied by five (5) copies of the "development plan" containing the following information:

(1) Proposed name of the park or subdivision names shall not duplicate or too closely resemble names of existing parks or subdivisions;

(2) Park or subdivision lines in relation to a know section, quarter section, or quarter-quarter section lines comprising a legal description of the property;

(3) Names and addresses of all developers who have vested interests in the park or subdivision and also the designer of the park or subdivision;

(4) The number, location, and dimensions of all spaces;

(5) Typical manufactured home locations on proposed spaces;

(6) Street locations, widths and typical cross-sections;

(7) Pedestrian circulation;

(8) The location, square footage, and acreage of all recreational areas, facilities, and buildings;

(9) Walls, fencing, and right-of-way landscaping;

(10) Off-street parking facilities;

(11) Vehicle storage areas;

(12) Sign; location, size, height, and illumination;

(13) Location, width, and name of each existing or platter street or other public way, railroad, the utility right-of-way, parks, and other public open spaces and permanent buildings within or adjacent to the proposed subdivision;

(14) All existing sewers, water mains, gas mains, culverts, or other underground installations within the proposed subdivision or immediately adjacent thereto; and

(15) All subdivision proposals and other proposed new developments greater than 50 lots or five (5) acres whichever is less, including base flood elevation data.

(D) Upon request of the City Council, supplementary information shall be submitted. The supplementary information may include the following:

(1) Topography, with contour intervals of not more than one (1) foot, related to the United States

Geological Survey datum; also the location of water courses, ravines, bridges, lakes, wooded areas, approximate acreage, and other features as many be pertinent to the subdivision;

(2) Two copies of profiles for each proposed street, showing existing grades and proposed approximate grades and gradients on the center line. The location of proposed culverts and bridges shall also be shown;

(3) Vicinity sketch, at a legible scale, to show the relation of the plat to its surroundings; and/or

(4) The location and character of all proposed public utility lines, including sewers (storm and sanitary), water, gas, and power lines.

(E) All manufactured home subdivision proposals must comply with all procedural and design requirements as set forth in this chapter and other related ordinances of the City of Ellendale.
Penalty, see § 10.99

§ 152.190 MANUFACTURED HOME PARK DESIGN AND DEVELOPMENT REQUIREMENTS

(A) *Area and space requirements.*

(1) Each manufactured home space shall contain at least 10,000 square feet of land area for the exclusive use by the occupant.

(2) Each manufactured home space shall be no less than 50 feet in width.

(3) Each manufactured home space shall have frontage on an approved roadway.

(4) Each manufactured home space shall be marked and numbered with digits that are at least three (3) inches in height and made from a bright metal or alloy which will not rust, tarnish, or change color.

(5) The corners of each manufactured home space shall be marked on a permanent basis with metal corner markers.

(6) A maximum density of seven (7) manufactured home spaces per net acres after deduction of existing and/or proposed public rights-of-way.

(7) Except in the case of public or semi-public buildings, no building or manufactured home hereafter shall be erected or altered which exceeds 20 feet in height.

(B) *Yard and setback requirements.*

(1) No manufactured home shall be parked closer than 10 feet to the side lot lines or closer than 15 feet to the front lot line or within 15 feet of the rear lot line.

(2) There shall be an open space of at least 20 feet between any portion of the manufactured home, room additions, and other manufactured homes, or room additions.

(3) There shall be an open space of at least seven (7) feet between any portion of the

manufactured home and any permitted accessory structure.

(4) There shall be a minimum setback of three (3) feet between any permitted accessory structure and any rear or side lot line.

(5) Automobiles shall not be parked nearer than five (5) feet from any side lot line.

(6) Screening shall be required along the perimeter of the manufactured home park. The screening shall consist of coniferous trees and other natural landscaping materials at the determination of the City Council. In circumstances where the screening requirements would be redundant, the requirements may be waived at the discretion of the City Council.

(C) *Parking*

(1) *Manufactured home space.* A minimum of two (2) parking spaces per each manufactured home space is required.

(2) *Manager's office and residence.* Two (2) parking spaces per manager's office and two (2) additional parking spaces per residence.

(3) *Recreation or social centers within manufactured home parks.* Each recreation or social center within a manufactured home subdivision shall develop at least one (1) parking space for each 10 manufactured home spaces.

(4) *Hard surface.* Each manufactured home space access drive and parking space shall be hard surfaced.

(D) *Accessory structures.*

(1) *Generally.* It is preferable that accessory structures be constructed upon and anchored to a concrete slab or floating foundation (Minnesota State building Code). Steel rods cast in concrete shall be used as anchoring devices for the accessory structure unless some other anchoring system is otherwise approved by Zoning Administrator. Accessory structures do not need to be constructed on a concrete slab or floating foundation, if some type of constructed floor component is included with the structure. However, this type of accessory structure does need to be anchored to the ground in a manner acceptable to the Zoning Administrator.

(2) *Ties; materials and tension.* Cable or strapping or other approved methods or materials shall be used for ties.

(3) *Permanency of connections.* Anchoring equipment shall be designed to prevent self-disconnection when ties are slack. Hook ends shall not be used in any part of the anchoring system.

(4) *Tensioning device design.* Tensioning devices such as turnbuckles or yoke-type fasteners shall be ended with clevis or forged or welded eyes.

(5) *Other anchoring devices.* Other anchoring devices meeting the requirements of this part shall be permitted if approved prior to installation by the Zoning Administrator.

(E) *Utilities.*

(1) All manufactured homes shall be connected to a public water and sanitary sewer system.

(2) The ground surface in all parts of every manufactured home park shall be graded and equipped to drain all surface water in a safe, efficient manner. All installations for disposal of surface storm water must be approved by the city.

(3) All utility connections shall be as approved by the city.

(4) The source of fuel for cooking, heating, or other purposes at each manufactured home site shall be as approved by the city.

(5) All utilities shall be underground; there shall be no overhead wires or supporting poles except those essential for street or other lighting purposes.

(6) No obstruction shall be permitted that impedes the inspection of plumbing, electrical facilities, and related manufactured home equipment.

(7) The method of garbage, waste and trash disposal must be as approved by the city. The storage, collection, and disposal of refuse in the manufactured home park shall be so conducted as to create no health hazards, rodent harborage, insect breeding, accident or fire hazards, or air pollution.

(8) Owner shall pay required sewer and water connection fees to the city.

(F) *Internal roads and streets.*

(1) All roads shall have a hard-surfaced roadway (mountable, roll type), curb and gutter, and shall be maintained in a suitable condition, free of holes and other hazards at all times.

(2) All streets shall be developed with a road bed of not less than 36 feet in width. Transverse grades (crown) of all streets shall be sufficient to insure adequate transverse drainage.

(3) The matter of development of the roads shall be approved by the City Council subject to engineering review and the cost of development and maintenance shall be at the owner/operator's expense.

(4) *Intersections.* Within 50 feet of an intersection, street shall be at right angles. A distance of 85 feet shall be maintained between the centerlines of offset intersection streets. Intersections of more than two (2) streets at any one (1) point shall be avoided.

(5) Entrances to manufactured home parks shall be designed to minimize congestion and hazards and allow free movement of traffic on adjacent streets. No parking shall be permitted on the park entrance street for a distance of 100 feet from its point of beginning.

(G) *Recreation.* All manufactured home parks shall have at least 10% of the land area developed for recreational use. Development of the recreational land shall be approved by the City Council and the cost and maintenance shall be at the owner/operator's expense. The area of recreational land shall not be areas included within any setback nor shall they include any areas of less than 30 feet in length or width.

(H) *Landscaping.*

(1) Each site shall be properly landscaped with at least one (1) tree, hedges, grass, fences, windbreaks, or the like.

(2) A compact hedge, redwood fence, or landscaped area shall be installed around each manufactured home park.

(3) All manufactured home parks located adjacent to residential, recreational, commercial, or industrial land uses shall provide screening such as fences, shrubs, or trees, along the property boundary line separating the park and such uses, which shall be maintained in a neat and orderly fashion.

(I) *Weather shelters.* There shall be emergency weather shelters large enough to accommodate the residents in the area.

(J) *Lighting.*

(1) Artificial light shall be maintained during all hours of darkness in all buildings containing public toilets, laundry equipment, and the like.

(2) The manufactured home park grounds shall be lighted as approved by the city from sunset to sunrise.

(K) *Tiedown of manufactured homes required.* All manufactured homes, other than transient home or recreational vehicles, installed in the manufactured home park shall be anchored by means of adequate tiedowns to prevent uplift, sliding, rotation, and overturning. The anchoring systems shall conform to the regulation pertaining to manufactured home installation adopted by the Minnesota Commissioner of Administration.
Penalty, see § 10.99

§ 152.191 GENERAL PROVISIONS.

(A) Manufactured homes shall not be used for residential purposes in this city if they:

(1) Do not conform to the requirements to the Vehicle Code in the State of Minnesota;

(2) Are in unsanitary condition or have an exterior in bad repair;

(3) Are structurally unsound and do not protect the inhabitants against all elements; and/or

(4) Do not conform with conditions outlined in city zoning ordinance for single-family dwellings.

(B) All land areas shall be:

(1) Adequately drained;

(2) Free from dust; and

(3) Clean and free from refuse, garbage, rubbish, or debris.

(C) All manufactured homes within a manufactured home park shall be owner-occupied only except the owner may lease his or her manufactured home to a lessee for not exceeding five (5) months per calendar year. This division (C) may be subject to Council review.

(D) No tents shall be erected in a manufactured home park.

(E) There shall be no outdoor camping anywhere in a manufactured home park.

(F) No public address or loud-speaker system shall be permitted in the park.

(G) Dogs and animals shall not run at large within the manufactured home park.

(H) Advertising of the manufactured home park subdivision shall be limited to one (1) sign not to exceed 32 square feet, with lighting, height and location as approved by the city.

(I) Responsibilities of park managements:

(1) The person to whom a license 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 and 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; and

(3) It shall be the duty of the operator of the manufactured home park to keep a register containing a record of all manufactured home owners and occupants located within the park. The register shall contain the following information: the name and address of each manufactured home occupant; the name and address of the owner of each manufactured home and motor vehicle by which it is towed; the make, model, year, and license number of each manufactured home and motor vehicle, the state, the territory, or county issuing the license; and the date of arrival and departure of each manufactured home. The park shall keep the register available for inspection at all times by law enforcement officers, public health officials, and other officials whose duties necessitate acquisition of the information contained in the register. The register record for each occupant registered shall not be destroyed for a period of three (3) years following the date of departure of the registrant from the park.

(J) A map of the manufactured home park shall be displayed near the entrance of the court and be illuminated during all hours of darkness.

(K) All structures (fences, private sidewalks, private roads, storage sheds, or other) shall require a zoning permit from the Ellendale City Clerk/Treasurer, except that an unenclosed steps and landing of not greater than 50 square feet shall not require a permit.

(L) The area beneath a manufactured home coach shall be enclosed except that the enclosure must have access for inspection.

(M) Laundry and clothing shall be hung out to dry only on lines located in Council-approved areas established and maintained exclusively for that purpose.

(N) Not more than 10% of all trailer sites in a dependent manufactured home park shall be occupied by

transient coaches.

(O) No building, cabana, carport, awning, storage closet, cupboard, or other structure shall be permitted on a transient trailer site except plumbing and electrical service connections.

(P) Where the manufactured home park is dependent, it shall have an adequate central community building with the following features:

(1) Laundry drying areas and machines;

(2) Laundry washing machines;

(3) Showers; and

(4) Public toilets and lavatories. The buildings shall have central heating and be maintained in a safe, clean, and sanitary condition.

Penalty, see § 10.99

§ 152.192 ADMINISTRATION.

(A) *Zoning permits.*

(1) *Zoning permits required.* No building or structure shall be erected, reconstructed, moved, or structurally altered to increase the exterior dimensions, height, or floor area; or remodel to increase number of dwellings or accommodate a change in use of the building and/or premises or part thereof without first securing a zoning permit to be issued by the City Clerk/Treasurer or City Council, depending upon the type of permit needed. No zoning permits are required for the construction and/or placement of gazebos, trellises, playhouses, kennels, hot tubs, swing sets, arbors, and inflatable swimming pools.

(2) *Applications.* All applications for permits shall contain the following:

(a) Name and address of applicant;

(b) Location and legal description of the manufactured home park; and

(c) Complete engineering plans and specifications of the proposed park, including, but not limited to, the following: the area and dimensions of the tract of land; topography sketch of the land; the number , location, and size of all manufactured home spaces; the location and width of roadways and walkways; the location of water and sewer lines and riser pipes; plans and specifications of the water supply and refuge and sewage disposal facilities; plans and specifications of all buildings constructed or to be constructed within the manufactured home park; the location and details of lighting and electrical systems; a landscaping plan approved by the city , and that park ground area and recreational equipment be shown on the landscaping plan.

(3) *Fee.* All applications for a permit shall be accompanied by a fee which shall be based on total valuation of the work to be done. The fees shall be in accordance with established zoning permit fees required in the city.

(4) *Review of applications.* The City Council shall review all applications for permits issued hereunder. The findings and recommendations of the City Council shall be forwarded to the City Council for appropriate action.

(5) *Denial.* Any person whose application for permit under this chapter has been denied may request and shall be granted a hearing on this matter before the City Council.

(B) *Inspection of manufactured home parks.*

(1) *Compliance with ordinance.* The zoning inspector or a representative of the city is hereby authorized and directed to make the inspections as are necessary to determine satisfactory compliance with this chapter, including the power to enter at reasonable times upon any private or public property for the purposes.

(2) *Registration record.* The Zoning Inspector, the Chief of Police, or their duly authorized representatives, shall have the power to inspect the register containing a record of all residents of the manufactured home park.

(3) *Access.* It shall be the duty of the park management to give the zoning inspector free access to all spaces at reasonable times for the purpose of inspection.

(4) *Repairs.* It shall be the duty of every occupant of a manufactured home park to give the owner thereof or his or her agent or employee access to any part of the manufactured home park at reasonable time for the purpose of making the repairs or alterations as are necessary to effect compliance with this chapter.

(C) *Notices, hearing, and orders.*

(1) *Notice.* Whenever the Zoning Inspector determines that there are reasonable grounds to believe that there has been a violation of any provision of this chapter, the Zoning Inspector shall give notice of the alleged violation to the person to whom the permit or license was issued, as well as to the park owner, as hereinafter provided. The notice shall:

(a) Be in writing;

(b) Include a statement of the reasons for its issuance;

(c) Allow 30 days' time for the performance of any act it requires. If work cannot be completed in the 30-day period, extensions may be granted if reasons for hardship do prevail and can be verifies; and

(d) Be served upon the owner or his or her agent when a copy thereof has been sent by registered mail to his or her last known address, or when he or she has been served with the notice by any method authorized or required by the laws of this state.

(2) *Hearing.* Any person affected by any notice which has been issued in connection with the enforcement of any provision of this chapter, may request and shall be granted a hearing before the Zoning Committee.

(3) *Emergency.* Whenever the Zoning Inspector finds that an emergency exists which requires immediate action to protect the public health, he or she may, without notice or hearing, issue an order reciting the existence of such an emergency and requiring that the action be taken as he or she may deem necessary to meet the emergency, including the suspension of the permit or license. Notwithstanding any other provisions of this chapter, the order shall be effective immediately. Any person to whom such an order is directed shall comply therewith immediately, but upon petition to the City Clerk/Treasurer shall be afforded a hearing before the Zoning Committee as soon as possible. Pending any such hearing, the emergency orders shall be in full force and effect until and unless later removed, modified, or changed by the Zoning Inspector, Zoning Committee or the City Council.

PERFORMANCE STANDARDS

§ 152.205 HOME OCCUPATIONS.

(A) The purpose of this classification is to prevent competition with business districts and to provide a means through the establishment of specific standards and procedures by which home occupations can be conducted in residential neighborhoods without jeopardizing the health, safety, and general welfare of the surrounding residential neighborhood.

(B) The establishment and continuance of home occupations as accessory uses shall be permitted with any residential use if the following requirements and conditions are met.

(1) No more than one person other than the members of the family occupying the premises shall be employed in conjunction with a permitted home occupation.

(2) The home occupation shall be clearly incidental and subordinate to the use of the premises for residential purposes.

(3) Floor area devoted to the home occupation shall not exceed 25% or 500 square feet of the gross floor area of the residence whichever is less.

(4) The home occupation may also be conducted within an accessory structure (garages inclusive), so long as no more than 1/3 of the accessory structure is used for the activity. There shall be no exterior storage of materials used in conjunction with the home occupation.

(5) No traffic shall be generated by the home occupation beyond that which is reasonable and normal for the area in which it is located.

(6) Two non-illuminated signs, not to exceed eight square feet each, are allowed in the front yard. The signs cannot be attached to the house proper. No sign shall be erected closer than eight feet to any side of rear lot line, nor closer to the front lot line than 1/2 the depth of the front yard.

(7) No equipment or process shall be used in the home occupation to create noise, vibration, glare, fumes, odors, or electrical interference detectable off the premises.

(8) The operation of the home occupation shall begin no earlier than 6:30 a.m. and end no later than 9:00 p.m.

(9) There shall be no display or evidence apparent from the exterior of the lot that the premises are being used for any purpose other than that of a dwelling.

(10) The home occupation shall not require internal or external alterations or involve construction features not customarily found in dwellings.

(11) A home occupation shall not include the repair of internal combustion engines (other than small engine repair), body shops, machine shops, welding, and ammunition, manufacturing other objectionable uses as determined by the City Council. Machine shops are defined as places where raw metal is fabricated, using machines that operate on more than 110 volts of current.

(12) Home occupations such as beauty, barber shops, and tanning salons, but not restricted to, shall provide not more than one station.

(13) All vehicles used in conjunction with any home occupation shall be parked upon hard surfacing (concrete or bituminous).

(14) In the case of a home occupation which requires the use of a commercial truck, tractor, van, pickup, trailer, or any vehicle whatsoever with a rated capacity of greater than one ton not to exceed road capacity, the vehicle shall be parked off-street and upon the lot of the owner from where the home occupation is conducted and subject to the following conditions and restrictions: any commercial vehicle that is brought home to a residence shall be considered a home occupation. Engines of the commercial vehicles shall not be permitted to run continuously; provided, however, a 30-minute engine warm-up time shall be permitted immediately prior to leaving the premises. The 30-minute warm-up time shall also apply to any and all air handline, refrigeration, heating, or other equipment involving motors, which may accompany or be part of the commercial vehicle.

Penalty, see § 10.99

§ 152.206 TRAVEL TRAILERS, RECREATIONAL OR CAMPING VEHICLES, AND CABINS.

Only under the following conditions or circumstances shall any person maintain, install, construct, erect, or permit on any property within the city the parking or standing of travel trailer, recreational vehicle, or any other temporary building:

(A) Unoccupied travel trailers, recreational vehicles stored within a building or displayed for sale in a commercial district;

(B) On a year-round basis, one (1) unoccupied travel trailer or recreational vehicle may be stored within the rear yard setback or the side yard setback area;

(C) Travel trailers, recreational vehicles, or temporary buildings such as cabins that are used in

conjunction with construction work only may be permitted in any district during the period of construction; provided, that they shall be removed upon completion of the construction work. The travel trailers, recreational vehicles, or temporary buildings may be occupied 24 hours a day for site security; however, they may not be used as a residence or family dwelling unit on the site; and/or

(D) One travel trailer or recreational vehicle may be placed and used for lodging or sleeping for a period not to exceed 14 days; provided it is placed on the same lot which is occupied by a principal building or dwelling and has access to sanitary sewer and water facilities.
Penalty, see § 10.99

§ 152.207 REMOVAL OF SOIL, SAND, AND OTHER MATERIAL.

(A) *Temporary excavation permit.* The use of land for the removal of topsoil, sand or gravel, and other materials from the land is not permitted in any zone except by granting of a temporary excavation permit by the City Council after recommendation is submitted by the City Zoning Committee. Permits shall be issued for a maximum period of one (1) year and shall be subject to review and rehearing at that time.

(B) *Future use of land.* The persons applying for a temporary excavation permit must submit a plan of intent as to the future use of the property being excavated as well as development plans showing proposed elevations, drainage, access routes to be used in hauling to and/or from the site and daily hours intended for operation as well as projected period of excavation.

(C) *Safety precautions.* If during the excavation work, it becomes necessary to protect the health and/or safety of nearby residents or curiosity seekers, the persons operating the excavation pit shall erect or construct a fence to protect the area from the general public during the period of danger.
Penalty, see § 10.99

§ 152.208 EXTERIOR STORAGE REQUIREMENTS.

(A) *Generally.* The following standards apply to all uses in Residential Districts or unless otherwise exempted in other sections of this chapter.

(B) *Standards.*

(1) All material, supplies, or semi-finished products, and equipment shall be stored within a building, fenced or screened according to the provisions outlined in § 152.210, so as not to be visible from adjoining properties.

(2) The following are exempt from screening requirements of this chapter:

(a) Clotheslines poles, and pet equipment;

(b) Recreational equipment;

(c) Construction and landscaping materials currently being used for construction (or reconstruction) of a structure on the premises;

(d) passenger vehicles, which are operational and/or currently licensed under the provisions of the law; and

(e) Stockpiling and storage of soil materials used for construction or landscape purposes. Stockpiling and storage of firewood or tree brush not to exceed seven cords of wood.
Penalty, see § 10.99

§ 152.209 GENERAL FENCING, LANDSCAPING, AND VISION CLEARANCE STANDARDS.

(A) Fence: For purposes of this section, a "fence" is any partition, structure, wall, hedge, or similar barrier erected or grown to serve as a dividing marker, enclosure, physical barrier, or visual barrier.

(B) Permit: No property owner shall allow a fence to be constructed or grown on the property owner's property without first obtaining a Certificate of Zoning Compliance for said fence.

(C) Fencing in All Zoning Districts.

(1) All fences shall be maintained so that the exposed outer surface shall be uniform in appearance. All fences shall be uniformly painted, stained, or rust-proofed.

(2) The side of the fence considered to be the face (finished side as opposed to structural supports) shall face the abutting property or street.

(3) Electric and barbed wire fences may not be used. Snow fencing will not be allowed as a permanent fencing.

(4) The owner of the property on which the fence is located shall maintain both sides of the fence. Fences shall be maintained by said owner in a condition of reasonable repair and shall not be allowed to become or remain in a condition of disrepair.

(5) On all corner lots, fences shall not be permitted within 35 feet of any corner formed by the intersection of two streets or a street and a railroad right-of-way. This area in which no fence shall be allowed shall be in the form of a triangle with 35 foot sides formed by the property lines (with both of these sides starting at said intersection) and the third side formed by a straight line connecting the ends of the lines extending from said intersection.

(6) All fences shall be at least two (2) feet from the property line.

(7) For purposes of this section, the height of a fence shall be determined by measuring the distance from the ground immediately below the highest point of the fence to said highest point.

(D) Fencing in a Residential District: The following fences may be constructed in a residential district:

(1) Except as otherwise provided in this Ordinance, fences up to 36" in height may occupy any part of a lot.

(2) Except as otherwise provided in this Ordinance, fences up to 6' in height may be constructed in any part of the lot which is not part of the front yard.

(E) Fences in Districts Other Than Residential Districts: Fences in districts other than Residential Districts shall not exceed 8' in height except that all fences (or part of fences) located within 100' of a Residential District shall comply with the requirements for fences in a Residential District.

(F) Violations: Any violation of this Ordinance shall be a misdemeanor.

(G) Grandfather Provision: No existing fence in violation of this Ordinance will be allowed to be replaced or rebuilt.

§ 152.210 STANDARDS FOR REQUIRED SCREENING STRUCTURES.

(A) When fences or walls are used for screening purposes, the fence or wall shall be constructed of masonry brick, painted or treated wood, or metal. The fence shall be not less than six feet in height nor provide less than 90 % opacity.

(B) The design and materials used in the construction of required fencing or walls shall be approved by the Zoning Committee.

(C) Whenever screening or landscaping is required by this chapter, it shall be completed within 180 days from the date of permit approval or from the date of official notification and shall thereafter be maintained to provide a screen to abutting properties.

(D) When vegetation is used for screening purposes, the landscaping materials shall consist of evergreen trees, deciduous trees, and/or shrub material installed using the following standards to ensure sufficient width, density, and height.

(1) Plant materials shall not be placed closer than four feet from the fence line or property line.

(2) Where plant materials are planted in two or more rows, plantings shall be staggered in rows.

(3) Evergreen trees shall be a minimum of 2-1/2 inches in diameter and planted not more than 25 feet on center.

(4) Narrow evergreens shall be a minimum of 2-1/2 feet in height and planted not more than three feet on center.

(5) Deciduous trees shall be a minimum of three feet in height and planted not more than 25 feet on center.

(6) Tree-like shrubs shall be a minimum of three feet in height and planted not more than 10 feet

on center.

(7) Large deciduous shrubs shall be a minimum of three feet in height and planted not more than four feet on center.

(E) The combined average height of materials used to satisfy screening and/or landscaping requirements shall be not less than four feet in height, unless otherwise approved by the Zoning Committee.

(F) Earth mounding or berms may be used but shall not contribute to the satisfaction or more than three feet of the screen and landscaping height requirement.
Penalty, see § 10.99

§ 152.211 REQUIRED TRASH AREAS.

All residential properties shall be subject to the following restrictions as it pertains to garbage collection:

(A) All garbage stored outside shall be placed in receptacles.

(B) Garbage receptacles shall not be stored in the front yard.

(C) Garbage receptacles shall be removed from the street within twelve hours following garbage pick-up.

§ 152.212 GRADING AND ALTERATION OF LOTS.

Whenever the slope or elevation of any lot is changed by one foot or more, the city, prior to issuance of the zoning permit, may require an engineer's report to ensure that adjacent properties will not be adversely impacted by storm water runoff.

§ 152.213 SINGLE-FAMILY ATTACHED DWELLING UNITS.

(A) *Generally.* The construction, conversion, or conveyance of single-family attached dwelling units or multiple-family dwelling units, which result in separate ownerships of the dwelling units, shall conform to the following requirements.

(B) *Condominiums.* Condominiums (a form of individual ownership within a multi-family building which entails joint responsibility for maintenance and repairs; in the condominium each apartment or townhouse is owned outright by its occupant) shall meet the following: The regulatory provisions of M.S. Ch. 515A, as it may be amended from time to time, commonly known as the Uniform Condominium Act, is hereby adopted.

(C) *Single-family attached dwellings.* Single-family attached dwelling shall meet the following requirements.

(1) The dwelling units are attached on the side and the remaining side conforms to the minimum side yard setbacks as required by the zoning district regulations where the structure is to be located.

(2) That if a division or conveyance of a portion of a platted land or parcel of land is necessary, the applicable sections of the subdivision ordinance are applied and met. In the case where the dwelling units are situated on a parcel of property which is described within a recorded plat and that it is proposed to subdivide or create common ownership, it is the intent of the ordinance to require formal revision or replat of the original recorded plat as set forth in the subdivision ordinance.

(3) Each dwelling unit must have independent and separate front and rear entrances.

(4) The owner(s) shall submit, to the satisfaction of the City Council, an agreement addressing:

(a) The repair and maintenance of all common properties;

(b) A provision regarding access to the abutting property for the adjacent property owner and/or his or her representatives for the purpose of construction, reconstruction, repair, and maintenance of either side of the total property;

(c) A provision which provides easements for necessary encroachments for footings and eaves, and provides for mutual perpetual easements in the event of an encroachment by the party wall;

(d) A restriction limiting changes in color, material, and design of the dwelling, so as to be compatible with the attached unit; and

(e) A provision which addresses maintenance of insurance coverage in event of fire, explosion, vandalism, and malicious mischief.

(5) Utility corrections:

(a) *Water connections.* Where more than one resident is served from the same service line, a shutoff valve must be located in such a way that each unit's services may be shut off by the city, in addition to the normally supplied shutoff at the street; and

(b) *Sewer connection.* Where more than one unit is served by a sanitary sewer lateral, which exceeds 300 feet in length, provision must be made for a manhole to allow adequate cleaning and maintenance of the lateral. All maintenance and cleaning shall be the responsibility of the homeowner's association, or owner.

Penalty, see § 10.99

§ 152.214 VEHICLE STORAGE.

(A) *Residential districts.* No inoperable vehicles shall be stored outside a building in any residential use.

(B) *Commercial and industrial districts.* For conforming commercial and industrial uses, as many as four (4) inoperable vehicles may be stored outside a building or area screened according to § 152.210, provided that no one vehicle is so stored in excess of 30 days in a given year. Any use, which exceeds this prescribed limit, shall automatically be required to make application to the city for a conditional use permit within 20 days of receipt of official notice.
Penalty, see § 10.99

§ 152.215 ENVIRONMENTAL AND HEALTH STANDARDS.

(A) *Points of measurements.* The determination of the existence of objectionable elements shall be made at the location of the activity or use creating the same and at any points where the existence of the elements may be more apparent; provided, however, that the measurements necessary for the enforcement standards set forth in this chapter shall be taken at property line boundaries. All measurements shall be made outdoors.

(B) *Noise standards.* All noise shall be muffled so as not to be objectionable due to intermittence, beat, frequency, or shrillness and shall be in compliance with the State of Minnesota Pollution Control Standards, Minnesota Code of Agency Rules, as subsequently expanded, modified, or amended.

(C) *Vibration.* No continuous intermittent vibration or oscillation which is discernible without instrument at the points of measurement shall be permitted.

(D) *Smoke.* The emission of smoke by any use shall be in compliance with and recognized by the State of Minnesota Pollution Control Standards, Minnesota Code of Agency Rules, as subsequently expanded, modified, or amended.

(E) *Dust and other particulated matter.* The emission of dust, fly ash, or other particulated matter by any use shall conform to the State of Minnesota Pollution Control Standards, Minnesota Code of Agency Rules, as subsequently expanded, modified, or amended.

(F) *Odors.* The emission of odorous matter in the quantities as to be offensive shall not be permitted. The emission of odor by any use shall conform to the State of Minnesota Pollution Control Standard, Minnesota Code of Agency Rules, as subsequently expanded, modified, or amended.

(G) *Glare and light emission:*

(1) All outdoor light used to illuminate the general area of specified site, is to be shielded to reduce glare and be so arranged as to reflect lights way from adjacent residential zoning districts or adjacent residences.

(2) All outdoor lighting shall be directed toward and confined to the ground areas of lawns and parking lots.

(3) All lighting in nonresidential zoning districts used for the external illumination of buildings shall be so placed and shielded downward so as not to interfere with the vision of persons on adjacent

property or using an adjacent public right-of-way.

(4) Any light or combination of lights which cast light on a public right-of-way shall not exceed one (1) foot candle (meter reading) as measured from the centerline of the street. Any lights or combination of lights which cast light on residential property shall not exceed 0.4 foot candles (meter reading) as measured from the property.

(5) Any light, combination of lights, or illumination of object shall not be of flashing, moving, or intermittent type. Artificial light shall be maintained stationary and constant in intensity and color at all times when in use.

(6) Public street lights, traffic signals, warning devices, and seasonal decorations of which the placement has been approved under the authorization of the Zoning Committee are exempted from this chapter.

Penalty, see § 10.99

§ 152.216 PARKING STANDARDS.

(A) *Definition of off-street parking space.* An off-street parking space shall be defined for the purpose of this chapter as an area of 180 square feet or more, exclusive of driveways, permanently reserved and available for the storage of one automobile, which is enclosed in a building or unenclosed, and is not in a public right-of-way, and which has satisfactory ingress and egress to a public street or alley.

(B) *Application.* The regulations and requirements set forth herein shall apply to all off-street parking facilities in all of the zoning districts of the city except the B-2 Central Business District. In the B-2 Central Business District, the only parking required of proposed uses shall be one off-street parking space for every apartment.

(C) *General provisions.*

(1) *Fractions.* When determining the number of off-street parking spaces results in a fraction, each fraction of 1/2 of or more shall constitute another space.

(2) *Floor area.* The term "floor area" for the purpose of calculating the number of off-street parking spaces required shall be determined on the basis of the exterior floor area dimensions of the buildings, structure or use times the number of floors, minus 10%.

(3) *Benches, pews, and the like.* In sports arenas, churches, and other places of public assembly in which patrons or spectators occupy benches, pews, or other similar seating facilities, each 22 inches of the seating shall be counted as one seat for the purpose of determining requirements.

(4) *Multiple uses.* Should a structure contain two or more types of uses, each use shall be calculated separately for determining the total off-street parking spaces required.

(D) *Stall, aisle, and driveway design.*

(1) *Parking space size.* Each parking space shall be no less than nine feet wide and 20 feet in length

exclusive of access aisles, and each space shall be served adequately by access aisles.

(2) *Within structures.* The off-street parking requirements may be furnished by providing a space so designed within the principal building or one attached thereto as defined by § 152.005; however, if provisions are so made, no building permit shall be issued to convert the space into a dwelling or living area unless other adequate provisions are made to comply with the required off-street parking provisions of this chapter.

(3) *Traffic circulation.* Except in the case of single-family, 2-family and townhouse dwellings, parking areas shall be designed so that circulation between parking bays or aisles occurs within the designated parking lot and does not depend upon a public street or alley. Parking areas designed that requires backing into the public street is prohibited.

(4) *Distance of curb cut access from intersection.* No curb cut access shall be located less than 50 feet or in the case where such is not possible, not less than 2/3 of the lot width from an intersection of two public streets. The distance shall be measured from the curb lines that intersect.

(5) *Standard for parking areas and aisles.* Except in the case of single-family, 2-family, and townhouse dwellings, parking areas and their aisles shall be developed in compliance with the following standards:

Angle	***Wall to Wall (Minimum)***	***Wall to Interlock (Minimum)***	***Interlock to Interlock (Minimum)***
30	48.6 feet	44.5 feet	40.3 feet
45	56.8 feet	53.4 feet	50.0 feet
60	62.0 feet	59.7 feet	57.4 feet
90	64.0 feet	64.0 feet	64.0 feet
NOTES TO TABLE: Parallel parking - 22 feet in length.			

(6) *Minimum width of curb cut access.* In all zoning districts except the R-1 District, the minimum curb cut width shall be 22 feet.

(7) *Minimum distance between driveway access curb openings.* Driveway access curb openings onto a public street except in the case of single-family, 2-family, and townhouse dwellings shall not be located less than 25 feet from one another.

(8) *Surfacing.* All areas intended to be utilized for parking space and driveways shall be hard surfaced with concrete or bituminous materials, or rock consisting of at least 4 inches of depth. Plans for surfacing and drainage of driveways and stalls shall be submitted to the city for approval.

(9) *Lighting.* Any lighting used to illuminate off-street parking areas shall be so arranged as to reflect the light away from adjoining property, abutting residential uses, and public rights-of-way.

(10) *Signs.* No sign shall be so located as to restrict the orderly operation and traffic movement within any parking lot.

(11) *Landscaping requirement.* Except for single-family, 2-family, and townhouses, all off-street parking areas shall maintain a vegetation perimeter (grass and/or shrubbery), five feet in width, between the parking lot and any public road.

(12) *Required screening.* All open commercial and industrial off-street parking areas with five or more spaces shall be screened and landscaped from abutting or surrounding residential districts.

(E) *Location of required off street parking spaces.* All accessory off-street parking facilities shall be located as follows.

(1) Except as provided in division (H) below, required accessory off-street parking shall be on the same lot under the same ownership as the principal use being served.

(2) Except for single-family, 2-family, and townhouse dwellings, head-in parking, directly off of and adjacent to a public street, with each stall having its own direct access to the public street shall be prohibited.

(3) There shall be no off-street parking within five feet of any street surface.

(F) *Use of required area.* Required accessory off-street parking spaces in any district shall not be utilized for open storage, sale or rental of goods, storage of inoperable vehicles, and/or storage of snow.

(G) *Maintenance.* It shall be the 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, striping, landscaping, and required fences.

(H) *Off-site parking.*

(1) Reasonable access from off-site parking facilities to the use being served shall be provided.

(2) The site used for meeting the off-street parking requirements of this chapter shall be under the same ownership as the principal use being served or under public ownership.

(3) Off-site parking for multi-family dwellings shall not be located more than 100 feet from any normally used entrance of the principal use served. The off-site parking should not be separated from the site of the principal use by a public right-of-way.

(4) Off-site parking for nonresidential uses shall not be located more than 300 feet from the main entrance of the principal use being served.

(5) Any use which depends upon off-site parking to meet the requirements of this chapter shall maintain ownership and parking utilization of the off-site location until the time as on-site parking is provided or a site in closer proximity to the principal use is acquired and developed for parking.

(6) The parking space requirement for a use not specifically mentioned herein shall be the same as required for a use of similar nature.

(I) *Number of spaces required.*

Use	***Number of Required Spaces***
1- and 2-family dwellings	1 space for each dwelling unit.
Amphitheater, stadium, or similar outdoor place of assembly	lf normally used or intended for use more than 12 times each year, 1 space for each 10 seats provided.
Bowling alley	4 spaces for each alley, plus additional spaces as may be required for related uses contained within the principal structure.
Business or professional office, studio, bank, medical or dental clinic	1 space for each 300 square feet of floor area.
Church	1 space for each 6 seats in the main auditorium.
Community center, library, museum or art gallery	10 spaces plus 1 additional space for each 300 square feet of floor area in excess of 2,000 square feet.
Dance hall, roller rink, assembly or exhibition hall without seats	1space for each 100 square feet of floor area used.
For uses not listed	As determined by the Zoning Committee
Furniture or appliance store, hardware store, wholesale establishment, machinery or equipment sales and service business, clothing store, shoe repair or service	2 spaces plus I additional parking space for each 300 square feet of floor area in excess of 1,000 square feet.
Hospital	1 space for each 4 beds.
Hotel or motel	1 space for each sleeping room, guest room, or suite and 1 space for each employee on any shift.
Manufacturing or industrial establishment, research, or testing laboratory, creamery, bottling plant, warehouse, or similar establishment	l space for each 2 employees on the maximum working shift plus space to accommodate all trucks and other vehicles used in connection therewith.
Mortuary or funeral home	3 spaces for each room used as a chapel, slumber room, or parlor, or 1 space for each 50 square feet of floor area of assembly rooms used for service, whichever is greater.
Multiple-dwellings - 3 or more units	1 space per dwelling unit containing 1 bedroom and 2 spaces per dwelling unit containing 2 or more bedrooms.
Printing or plumbing shop	1 space for each person employed therein.
Private club, lodge, fraternity	1 space for every 5 members.
Restaurant, night club, bar, cafe similar recreation or amusement establishment	1 space for each 100 square feet of floor area.
Retail store or personal service establishment	Except as otherwise specified herein, 1 space for each 200 square feet of floor area.

Use	*Number of Required Spaces*
Manufacturing or industrial establishment, research, or testing laboratory, creamery, bottling plant, warehouse, or similar establishment	1 space for each 2 employees on the maximum working shift plus space to accommodate all trucks and other vehicles used in connection therewith.
Mortuary or funeral home	3 spaces for each room used as a chapel, slumber room, or parlor, or 1 space for each 50 square feet of floor area of
Sanatorium, convalescent home, nursing home, home for the aged or similar institution	1 space for each 6 beds.
School (high school/college)	1 space for each 8 seats in the main auditorium or 3 spaces for each classroom, whichever is greater.
School (elementary/middle school)	1 space for each 10 seats in the auditorium or main assembly room or 1 space for each classroom, whichever is greater.
Theater or auditorium (except schools)	1 space for each 5 seats or bench seating spaces.

(J) *Application to existing buildings and change of use.* Buildings existing at the time of adoption of this chapter, not meeting the off-street parking requirements, may be structurally altered to the extent of 50% of the cost of equivalent new construction, and the use of the buildings may be changed to an equally intensive or less intensive use, without providing the required off-street parking spaces. However, if the buildings are structurally altered to an extent greater than 50% of the cost of equivalent new construction, or if the use is changed to a more intensive use, all required off-street parking spaces shall be provided.

(K) *Enlargement of existing buildings.* Buildings existing at the time of adoption of this chapter not meeting off-street parking requirements of this section may be enlarged to the extent of 50 % addition of floor area and need provide off-street parking for the enlargement only and not for the original building. When an existing building is enlarged to an extent greater than a 50% addition in floor area, off-street parking spaces shall be provided for both the original building and the enlargement.

(L) *Existing parking spaces.* Off-street parking spaces allocated for a use in existence at the time of adoption of this chapter may not be reduced in number below the number required herein for equivalent new construction, or may not be further reduced below the number required for equivalent new construction.

(M) *Requirements for parking areas adjacent to residential district.* The following requirements apply to all parking areas that have five or more spaces and which are adjacent to land zoned residential. Included in this category are parking areas that are within residential areas themselves, such as for schools, churches, and other uses.

(1) Parking areas shall be set back seven feet or more from a side yard of a residentially zoned parcel and screened therefrom.

(2) Parking area shall be set back five feet or more from a rear yard of a residentially zoned parcel and screened therefrom. (The Zoning Committee has authority to waive the requirements for parking areas adjacent to side and rear yards).

(3) Lighting facilities, where provided, shall be so arranged as to reflect light away from any adjacent residential district.
Penalty, see § 10.99

§ 152.217 OFF-STREET LOADING BERTH REQUIREMENTS.

(A) *Definition of loading berth.* A space within the main building or on the same lot, providing for the standing, loading, or unloading of trucks, having a minimum dimension of 12 feet by 35 feet and a vertical clearance of at least 14 feet.

(B) *Location.*

(1) All required loading berths shall be off-street and located on the same lot as the building or use to be served.

(2) Loading berths shall be setback 50 feet from a residential district unless it is contained within a structure.

(3) No loading berth shall be located in a front yard or at the front of a building.

(4) Each loading berth shall be located with appropriate means of vehicular access to a street or public alley causing the least interference with traffic.

(C) *Surfacing.* All loading berths and access ways shall be hard surfaced to control the dust and drainage.

(D) *Use of required area.* Any space allocated as a required loading berth or access drive so as to comply with the terms of these zoning regulations shall not be utilized for open storage, sale, or rental of goods, storage of inoperable vehicles, and/or storage of snow.

(E) *Screening.* All loading areas shall be screened and landscaped from abutting and surrounding residential uses.

(F) *Schedule of loading berth requirements.* All non-residential buildings, including retail, wholesale, office, and industrial buildings, hereafter built, relocated, or structurally altered to the extent of more than a 50% addition in floor area, shall provide an off-street loading berth or berths in accordance with the following schedule:

(1) A building whose dominant use is the selling of goods at retail shall provide loading berths in relation to the floor area used for retail purposes as follows:

Retail Floor Area	***Berth(s) Required***
5,000 – 10,000 sq. ft.	1
10,001 – 20,000 sq. ft.	2
20,001 – 30,000 sq. ft.	3
More than 30,000 sq. ft.	4

(2) Manufacturing, repair, wholesale, trucking terminal, or warehouse uses shall provide loading berth in relation to total floor area as follows:

Total Floor Area	***Berth Required***
5,000 - 40,000 sq. ft.	1
40,001 – 100,000 sq. ft.	2
More than 100,000 sq. ft.	3

(3) Other non-residential buildings, including offices, hotels, mortuaries, and institutions, having more than 10,000 square feet of floor area, shall provide one off-street loading berth.
Penalty, see § 10.99

§ 152.218 SIGN REGULATIONS.

(A) *Permitted signs in all districts.* The following signs are permitted in all districts:

(1) Real estate signs, not exceeding 12 square feet in surface area, advertising the sale, rental or lease of the premises upon which the signs are located. The signs shall be removed within seven days after completion of the advertised sale or lease;

(2) Residential and professional nameplates, not exceeding three square feet in surface area;

(3) Signs or bulletin boards, not over 24 square feet in surface area, for public, charitable, or religious institutions where the same are located on the premises of the institutions;

(4) Signs denoting the architect, engineer, or contractor, when placed upon work under construction and not exceeding 24 square feet in surface area. The signs shall be removed within seven working days after completion of the work;

(5) Traffic or other municipal signs, legal notices, danger and other such temporary, emergency or non-advertising signs as may be approved by the City Council;

(6) Memorial signs or tablets, names of buildings and date or erection, when cut into any masonry surface or when constructed of bronze or other incombustible material;

(7) Decorations connected with civic, patriotic, or religious holidays may be displayed no more than 40 days prior to, nor more than seven working days after, the appropriate holiday. The decorations are exempt from the provisions of this section;

(8) Flags, emblems, and signs of civic, political, patriotic, and religious holiday or events and signs pertaining to commercial promotions and/or sales may be displayed no more than 40 days prior to, nor later than seven days after, the appropriate holiday, event or promotion. The decorations are exempt from the provisions of this section; and

(9) Non-illuminated signs not exceeding six square feet in surface area displayed strictly for the direction, safety, or convenience of the public, including signs which identify rest rooms, parking area entrances or exits, freight entrances, addresses, or similar signs are exempt from the provisions of this section.

(B) *General sign standards.*

(1) *Unsafe and unlawful signs.* If the Zoning Committee shall find that any sign regulated under this section is unsafe or insecure, or has been constructed or erected in violation of the provisions of this section, the City Clerk/Treasurer shall be instructed to give written notice to the owner thereof.
If the owner fails to remove or alter the structure so as to comply with the standards set forth in this section within 30 days after the notice, the sign may be removed or altered at the expense of the owner of the property upon which it is located. The sign may be removed summarily and without further notice.

(2) *Attachment to buildings.* All signs attached to a building shall be secured in a manner approved by the Zoning Committee, and shall be repaired and maintained to keep them secure, safe, and free from danger.

(3) *Safety obstructions.* No sign in the city shall obstruct access to fire escapes, windows, doors, exits, or standpipes.

(C) *Removal of certain signs.* Any business sign in the city which no longer advertises or identifies a bona fide business or product sold shall be taken down and removed by the owner, agent, or person having the beneficial use of the building, structure, or lot upon which the sign may be found within 30 days after written notification from the City Clerk/Treasurer. Upon failure by any such owner, agent, or person to comply with the notice within the time specified in the order, the Zoning Committee is hereby authorized to cause removal of the sign. Any expense incident to the sign removal shall be paid by the owner of the building, structure, or lot to which the sign is attached.

(D) *Computations.*

(1) *Computation of area of individual signs.* The area of the sign face (which is also the sign area of a wall sign or other sign with only one face) shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display if used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, or decorative fence or wall when the fence or wall otherwise meets zoning ordinance regulations, and is clearly incidental to the display itself.

(2) *Computation of area on multi-faced sign.* The sign area for a sign with more than 1face shall be computed by adding together the area of all sign faces visible from any one point. When two identical sign faces are placed back to back, so that both faces cannot be viewed from any one point at one time, and when the sign faces are part of the same structure and not more than 42 inches apart, the sign area shall be computed by the measurement of one of the faces.

(3) *Computation of height.* The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attachment component of the sign. Normal grade shall be construed to be the lower of existing grade prior to construction, or the newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign. In cases where the normal grade cannot be reasonable determined, sign height shall be computed on the assumption that the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public street or the grade of the land at the principal entrance to the principal structure on the lot, whichever is lower.

(E) *Other permitted signs by zoning district.* Except as otherwise provided in this chapter, no sign shall be erected in the city, unless it is permitted in the district in which it is to be located or under the provisions of this section.

(1) *"A" Agricultural District.* In the "A" Agricultural District, only the following signs shall be permitted to be erected:

(a) *Roadside sign.* One sign per highway or street frontage, not to exceed 32 square feet, advertising farm products, or listing the real estate for sale or rent; and

(b) *Temporary signs.* Portable signs may be displayed for no longer than 40 days prior to and not more than seven working days after a special sale or promotion.

(2) *Residential districts.* In residential districts R-1 and R-M, the following signs shall be permitted to be erected.

(a) *Institutional signs.* One identification sign, not to exceed 24 square feet in surface area, for each building devoted to the following uses: church, school, hospital, library, or similar use. The sign shall be solely for the purpose of displaying the name of the institution or association and its activities or

services. In addition, a bulletin board may be permitted; provided that, a total of 30 square feet is not exceeded by both bulletin board and identification sign. The sign may be indirectly illuminated, but not flashing. No sign shall be erected closer than eight feet to any side or rear lot line nor closer to the front lot line than 1/2 the depth of the front yard. The sign, when affixed to a building shall not project higher than one story, or 20 feet above curb level, whichever is lower, and a ground sign shall not project higher than eight feet above ground level.

(b) *Identification signs.* An identification sign for apartment or institutional office building, not exceeding a surface area of 30 square feet or 3% of the wall area upon which it is placed, whichever is less, and indicating only the name and address of the building, occupant, or management. For corner lots, two (2) such signs, one (1) facing each street, may be displayed. The signs shall either be illuminated or non-illuminated, but shall not be flashing.

(c) *Real estate signs (for subdivisions).* Temporary real estate signs for approved subdivisions, not exceeding 30 square feet in surface area and limited to one for each major street entrance to the subdivision. The sign shall be set back at least 10 feet from each lot line. It may be indirectly illuminated, not flashing, and shall be removed following the completion of sale of property advertised. The sign shall not be more than 15 feet nor less than two feet, above ground level.

(d) *Temporary signs.* Portable signs may be displayed for no longer than 40 days prior to, nor more than seven working days after a special sale or promotion.

(3) *Business/commercial districts.* In the B-1 Highway Commercial District, and B-2 Central Business District, the following signs are permitted, subject to the following limitations.

(a) *Business or advertising signs.* The total surface area for all business signs, not to exceed three in number (except in a unified shopping center) on a lot, shall not exceed 2-1/2 square feet for each linear foot of street frontage of the lot. Commercial lots may have 1freestanding sign. Additional freestanding signs are permitted provided a lot has a minimum of 100 feet of street frontage per freestanding sign. Wall signs shall not exceed 10% of the wall area as defined by this chapter. The percentage figure here shall mean the percentage of the wall area of the wall, which the sign is a part or to which each sign is most nearly parallel. No wall sign shall be permitted to project more than two feet above the roof or parapet line of the building, not extend more than 18 inches from the wall to which it is attached. One pylon or projection sign may be permitted for each separate street frontage of business occupancy; provided that the sign does not project more than 36 inches past the front property line and ground signs are limited to an overall maximum height of 28 feet.

(b) *Unified shopping center/multiple occupancy buildings.* In a unified shopping center/multiple occupancy building under single ownership or control, the total surface area of all business signs in the lot shall not exceed 2-1/2 square feet for each lineal foot of street frontage of the lot. The number of signs shall not exceed the number of shops located within the center. A unified shopping center may also erect one (1) additional business sign for each separate street frontage, not to exceed 350 square feet in area; and not to display more than the name and location of the shopping center.

(4) *Industrial districts.* In the 1-1 Industrial Districts, signs are permitted subject to the following limitations. In the 1-1 Industrial Districts, signs are permitted as and regulated under B

Business District; except that, in lieu of the permitted additional shopping center sign of 350 square feet, an identification sign for a unified industrial park of the same size, height, and location shall be allowed in addition to other business signs permitted under the 2-1/2 square feet for each lineal foot of frontage ratio.

(F) *Billboards and posterboard signs.* Billboards and posterboard signs as defined in the definitions section are permitted only on property defined below.

(1) *Location.* Billboards or posterboard signs shall be permitted in the following districts, subject to the requirements below. All properties which are zoned B-2 or I-1 and border Trunk Highway 60.

(2) *Size.* Billboard or posterboard sign structures shall not contain more than two signs per facing, nor shall the sum of the sign or signs exceed the length of 55 feet nor the surface area of 750 square feet.

(3) *Setback.* Billboard or posterboard sign structures must maintain a 25-foot minimum front yard setback off the property line. Where adjacent building structures within the same block have front yard setbacks different than those required, the front yard minimum setback shall be the average of the required setback and the actual setback of adjacent structures.

(4) *Distance from other uses.* No billboard or posterboard structure shall be permitted to be erected within 100 feet of an adjoining residential district boundary line or any public park, school, library, church, or government building. No billboard, posterboard, or advertising sign shall be located within 200 feet of a residential dwelling.

(5) *Spacing.* All billboard or posterboard sign structures shall be spaced at least 750 linear feet from another sign on the same side of the street right-of-way line.

(6) *Height.* The height of billboard or posterboard signs is limited to 40 feet above curb level.

(7) *Conditional use.* A conditional use permit may be requested for the placement of billboard or posterboard signs on property zoned A Agricultural District.

(8) *State statutes.* All billboard or posterboard sign structures are also subject to any provisions not provided for in this code, but cited in the Minnesota Outdoor Advertising Control Act, M.S. Ch. 173, as it may be amended from time to time.

(G) *Sign prohibitions and restrictions applicable in all zoning districts.* The construction of any type of sign within the city shall conform to the requirements of the State Building Code. In addition, the following prohibitions and general restrictions shall apply to signs in all zoning districts in the city.

(1) No sign, whether illuminated or not, shall obscure any traffic-control signal from the vision of any motorist, in a moving traffic lane, within 150 feet of the signal.

(2) No sign visible from the street shall use the work "stop" or "danger" or any other word, phrase, symbol, or character with the intent of simulating a public safety warning or traffic sign.

(3) Awning and marquee signs must be limited to places of public assemblage. Marquee signs may extend to two feet of the curb line, but no such sign shall be less than 10 feet in the clear above the level of the sidewalk, at its lowest level. On authorized marquees and awnings there may be placed a sign which may extend not more than four feet above nor more than one foot below the marquee or awning, but under no circumstance shall the sign be wider than eight feet.

(4) Any existing sign or logo painted directly to the surface of any wall shall be required to be repainted at least once every three years, and a sign permit shall be required for the painting. If the repainted sign should result in exceeding the total allowable sign area in the respective business or industrial district for the business sign, the sign shall be painted out or otherwise removed or reduced in area to conform to the limitations.

(5) Gooseneck and thin-line reflectors and lighting shall be permitted on illuminated signs; provided that, the reflectors and lighting do not extend more than eight feet beyond the sign structure to which it is attached and the illumination is focused directly upon the face of the sign to reduce possibility of direct light rays shining onto adjoining property or into the public right-of-way.

(6) No sign is permitted which purports to be or resembles an official traffic-control device, sign, or signal, or which hides from view or interferes in any material degree with the effectiveness of any traffic-control device, sign, or signal, or which obstructs or interferes with the driver's view of approaching, merging, or intersecting traffic for a distance of 500 feet.

(7) No sign is allowed which has flashing lights.

Penalty, see § 10.99

§ 152.219 TELECOMMUNICATION TOWERS AND ANTENNAE.

(A) *Purpose.* To accommodate the communication needs of residents and businesses while protecting the public health, safety, and general welfare of the community, the city finds that these regulations are necessary in order to:

(1) Facilitate the provision of wireless telecommunication services to the residents and businesses of the city;

(2) Minimize adverse visual effects of towers through careful site location and design standards;

(3) Avoid potential damage to adjacent properties from tower failure through structural standards and setback requirements; and

(4) Maximize the use of existing and approved towers and buildings to accommodate new wireless telecommunication antennas in order to reduce the number of towers needed to serve the community.

(B) *Required permits.* Prior to any construction activities, the following permits must be secured from the city.

(1) A zoning permit, as required by § 152.295 *et seq.;* and

(2) A conditional use permit, as required by this chapter, with attachments, as required by §§ 152.240 *et seq.,* and as required by the conditional use permit application.

(C) *Zoning district use.* Telecommunication towers and antennae will be allowed in any zoning district in the city upon the approval of the two permits required above. The conditional use permit is required regardless of the underlying zoning district.

(D) *Area, setback, and height restrictions.*

(1) *Lot area.* The minimum lot area requirements are determined by the zoning district in which the tower development site is located and as determined by any additional area needed to meet all setback requirements of this chapter.

(2) *Tower setbacks.* The minimum setback from all property lines and public rights of way for telecommunications towers shall be equal to its height, except for towers that are designed to collapse in upon themselves. For these later types of towers, the minimum yard setbacks are 1/2 the tower height or 50 feet, whichever is less.

(3) *Height restrictions.* A maximum height for telecommunications towers is 200 feet.

(E) *Co-location requirements.*

(1) A proposal for a new commercial wireless telecommunication service tower shall not be approved unless it can be documented by the applicant, as documented by a qualified and licensed engineer, that the telecommunication equipment planned for the proposed tower cannot be accommodated on an existing or approved tower, commercial building, or public structure within one (1) mile radius of the proposed tower site due to one or more of the following reasons.

(a) The planned equipment would exceed the structural capacity of the existing or approved tower or commercial building, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.

(b) The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or building and interference cannot be prevented at a reasonable cost.

(c) Existing or approved towers and buildings within the search radius (one mile) cannot accommodate the planned equipment at a height necessary to reasonably function.

(d) The applicant must demonstrate that a good faith effort to co-locate equipment on existing towers or structures within the one (1) mile radius, but an agreement could not be reached.

(2) Predominantly economic reasons for not pursuing co-location sites shall not be accepted and would generally be grounds for rejection of the application and/or denial of the conditional use permit.

(3) Any proposed commercial wireless telecommunication service tower shall be designed to

accommodate both the applicant's antennae and comparable antennae for at least two additional users. Towers must be designed to allow for future rearrangement of antennae upon the tower and to accept antennae mounted at varying heights.

(F) *Tower design requirements.* Proposed or modified towers and antennae shall meet the following design requirements.

(1) Towers and antennae shall be designed to blend into the surrounding environment through the use of color and camouflaging architectural treatment, except in instances where the color is dictated by federal or state authorities.

(2) Commercial wireless telecommunication service towers shall be of a monopole design unless the City Council determines that an alternative design would better blend into the surrounding environment. Towers must be self-supporting without the use of wires, cables, beams, or other means.

(G) *Construction requirements.*

(1) All antennae, towers, and accessory structures shall comply with all applicable provisions of this chapter.

(2) Towers shall be certified by a qualified and licensed professional engineer to conform to the latest structural standards and wind loading requirements of the Uniform Building Code and Electronics Industry Association.

(3) No part of any antenna or tower nor any lines, cable, equipment, wires, or braces in connection with either shall at any time extend across or over any part of the right-of-way, public street, highway, sidewalk, or property line.

(4) Towers and associated antennae shall be designed to conform with accepted electrical engineering methods and practices and to comply with the provisions of the National Electrical Code.

(5) All signal and remote control conductors of low energy extending substantially horizontally above the ground between a tower or antenna and a structure, or between towers, shall be at least eight (8) feet above the ground at all points, unless buried underground.

(6) Every tower affixed to the ground shall be protected by a security fence to discourage climbing of the tower by unauthorized persons.

(7) Tower locations should provide the maximum amount of screening possible for off-site views of the facility. Existing on-site vegetation shall be preserved to the maximum extent practicable. The area around the base of the tower and any accessory structures shall be landscaped and/or screened. See § 152.210.

(H) *Lights and other attachments.*

(1) No antenna or tower shall have affixed or attached to it in any way, except during time of repair or installation, any lights, reflectors, flashers, or other illuminating device, except as required

by the Federal Aviation Agency (FAA) or the Federal Communications Commission (FCC), nor shall any tower have constructed on, or attached to, in any way, any platform, catwalk, crow's nest, or like structure, except during periods of construction or repair.

(2) The use of any portion of a tower for signs other than warning or equipment information signs is prohibited.

(I) *Accessory utility buildings.* All utility buildings and structures accessory to a tower shall be architecturally designed to blend in with the surrounding environment and shall meet the minimum setback requirements of the zoning district in which the tower site is located. Ground-mounted equipment shall be screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and complements the architectural character of the surrounding neighborhood.

(J) *Screening standards.*

(1) When used, walls or fences must provide for full visual screening of accessory buildings or storage areas, as viewed from residential areas and state and county roads.

(2) The materials used for constructing the wall or fence shall be specified in the site plan and shall be subject to approval by the Zoning Committee and City Council.

(3) Berms, if used, shall be constructed with a slope not to exceed 3:1 and shall be covered with sod or other landscape material sufficient to prevent erosion of the berm.

(4) Trees, hedges, or other vegetative materials, when used, must provide at least 75 % capacity throughout the year. The screening must also conform to all vegetative setback requirements of this chapter.

(K) *Maintenance requirements.*

(1) The yard area in front of fences and walls shall be trimmed and maintained in a neat and attractive manner.

(2) Repairs to damaged areas of walls or fences shall be made within 30 days of sustaining the damage.

(3) Areas left in a natural state and vegetative screening area shall be properly maintained in a sightly and well-kept condition.

(4) Diseased, dying, or dead vegetative screening elements shall be removed and then replaced, at a minimum, with healthy plants of the same size required when first planted.

(L) *Abandoned or unused towers or portions of towers.*

(1) All abandoned or unused towers and associated facilities shall be removed within six (6) months of the cessation of operations at the site unless a time extension is approved by the City Council. A copy of the relevant portions of a signed lease which requires the applicant to remove the tower and any associated facilities upon the cessation of their operations shall be submitted at the time of application. In the event that a tower is not removed within six months of cessation of operations at a

site, the tower and associated facilities may be removed by the city and the cost of removal assessed against the property.

(2) Unused portions of towers above manufactured connection shall be removed within six months of the time of antenna relocations. The replacement of portions of a tower previously removed requires the issuance of a new building/ conditional use permit.

(M) *Antennae mounted on roofs, walls, and existing towers.* The placement of wireless telecommunication antennae on roofs, walls, and existing towers may be approved by the City Council, provided the antennae meet the requirements of this chapter, after submittal of:

(1) A site and building plan; and

(2) A report prepared by a qualified and licensed professional engineer indicating the existing structure or towers suitability to accept the antenna, and the proposed method of affixing the antenna to the structure. A complete detailing of all fixtures and couplings needed and the precise point of attachment shall be indicated.

(N) *Additional submittal requirements.* In addition to the information required elsewhere in this chapter, applications for towers shall include the following supplemental information.

(1) Documentation of the area to be served by the tower including a narrative describing why the site chosen is the most appropriate site for the tower location, the results of any environmental review conducted on the chosen site, and a discussion of why existing structures within the search area would not be suitable as locations or co-locations for the purpose of antennae.

(2) A copy of an agreement between the applicant and property owner that the site and tower will be designed for not less than three users. The agreement shall also include a statement that any unused or obsolete tower shall be removed by the property owner or applicant. This agreement shall be signed by the applicant and property owner and shall be attached to and become part of the permit.

(3) A report from a qualified and licensed professional engineer which:

(a) Describes the tower height and design including a cross-section and elevation;

(b) Documents the height above grade for all potential mounting positions for co-locating antennae and the minimum separation distances between antennae;

(c) Describes the tower capacity, including the number and type of antennae it can accommodate;

(d) Documents what steps the applicant will take to avoid interference with established public safety telecommunications;

(e) Includes an engineer 's stamp and registration number; and

(f) Includes other information necessary to evaluate the request.

(4) Before the issuance of a zoning permit, the following supplemental information shall be submitted:

(a) Proof that the proposed tower complies with regulations administered by the FAA; and

(b) A report from a qualified and licensed professional engineer which demonstrates the tower's compliance with the aforementioned structural and electrical standards.

(5) Additional liability insurance equivalent to the minimum city requirements and proof of insurance be provided with all other information contained with the submittal materials.
Penalty, see § 10.99

§ 152.220 DRIVE-IN BUSINESS DESIGN STANDARDS.

The following standards shall apply to drive-in businesses in all districts.

(A) *General standards.*

(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. Each drive-in business serving food may have outside seating.

(2) The hours of operation shall be set forth as a condition of any zoning permit for drive-in businesses.

(3) No service shall be rendered, deliveries made, or sales conducted within the required front yard.

(4) The entire area, other than that occupied by structures or landscaped areas, shall be hard surfaced to control dust and drainage runoff.

(5) A fence or screening of acceptable design not more than six feet in height nor less than four feet shall be constructed along the property line abutting a residential district and the fence or screen shall be adequately maintained.

(B) *Site design standards.*

(1) Each food or beverage drive-in business shall place trash receptacles at all exits as well as one refuse receptacle per 10 vehicle parking spaces within the parking area.

(2) Electronic devices such as loudspeakers, automobile service order devices, drive-in car speakers, and similar instruments shall not be located within 300 feet of any residential dwelling unit.

(3) Number of stacking spaces required, in addition to the vehicle being served:

(a) Financial institutions – three (3) stacking spaces;

(b) Car wash – four (4) stacking spaces; and

(c) All other uses requiring the use of stacking spaces - three (3) stacking spaces.

(4) The minimum size of each stacking space shall be nine feet wide by 18 feet deep.

(5) Location of stacking spaces:

(a) No stacking space shall encroach into any drive aisle that is necessary for the circulation of vehicles; and

(b) All stacking spaces shall be setback from property lines the same distance required of parking areas.

(6) All canopies and equipment appurtenant to a drive-through facility shall provide the same setbacks as are required for principal buildings.

(7) Lights shall be designed and placed in such a manner as to direct the light away from residential areas.

(8) All areas used for the storage or disposal of trash, debris, discarded parts, and similar items shall be fully screened from public view or from adjacent properties. All structures and grounds shall be maintained in an orderly, clean, and safe manner.

(C) *Auto service stations; additional site design standards.*

(1) *Vehicles.* No more than four vehicles awaiting service shall be parked outside building areas, other than those utilized by employees. No single vehicle shall be parked in an area visible from a public street or a residential property for a period longer than 15 days.

(2) *Exterior storage.* Exterior storage, besides vehicles as referenced above, shall be limited to service equipment and items offered for sale. Items for sale shall be in containers that are designed for outside display such as racks, trays, or similar containers. Junk cars, empty cans, and other unsightly materials are not permitted in an area visible from public rights-of-way or from adjacent property.

(D) *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.

(E) *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 plants 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 entire area of any drive-in business shall have a drainage system approved by the Zoning Committee or City Engineer.
Penalty, see § 10.99

§ 152.221 BUILDING RELOCATION REQUIREMENTS.

(A) *Generally.* The relocation of any building or structure from one lot or from out of city limits to another lot within the city limits requires the applicant to secure a conditional use permit and a zoning permit.

(B) *Performance standards.*

(1) Upon relocation, the building will comply with the applicable requirements of the building code.

(2) The proposed relocated building shall comply with the character of the neighborhood in which it is being relocated, as determined by the Zoning Committee.

(3) The relocated building shall only be used for a conforming use, as designated by the zoning map and the district use designations in this chapter.

(4) Except as otherwise allowed by the City Council, the relocated structure shall be ready for occupancy within six months of its relocation.

(C) *Performance Security.*

(1) Any person seeking a permit under this section shall also provide a bond, executed by a corporate surety company authorized to do business in the state, in the amount of $25,000, conditioned upon the compliance by the applicant with the provisions contained in this chapter and other applicable provisions of state law, to be used for the payment to the city for any damage the city may sustain by reason of the building being moved.

(2) After the building has been moved, the City Council shall furnish the City Clerk/Treasurer with a written statement of all expenses incurred and of all damage caused to or inflicted upon property belonging to the city by reason of the move. The City Clerk/Treasurer shall return to the applicant all deposits after deducting a sum sufficient to pay for all costs associated with making repairs to damaged city property.
Penalty, see § 10.99

§ 152.222 SWIMMING POOLS; OUTDOORS.

(A) *Generally.* The following standards are to be applied to swimming pools.

(B) *Standards.*

(1) The interior vertical wall of swimming pools shall not be closer than five feet to any side or rear lot line.

(2) No swimming pool shall be located beneath or within 10 feet of any overhead utility lines or over any underground utility lines.

(3) All outdoor swimming pools shall be completely enclosed by a security fence or wall at least four but not more than six feet high and be located no less than four feet from the edge of the pool. The bottom of the fence or wall shall be no higher than four inches above the surface of the ground. Fence openings or points of entry to the pool area shall be equipped with self-closing and self-latching lockable gates.

(4) No swimming pool shall be used, kept, maintained or operated in such a manner as to constitute a nuisance or as to be hazardous to health, life, or property. All swimming pools shall have and operate adequate equipment to filter and otherwise keep the water clean and free from contamination.
Penalty, see § 10.99

§ 152.223 SUBDIVISION OF 2-FAMILY HOME OR TWIN HOME DEVELOPMENT.

(A) The subdivision of base lots in the R-1 District containing a 2-family structure to permit individual private ownership of a single dwelling unit within such a structure is acceptable upon review by the Zoning Committee and with the approval of the City Council.

(B) Prior to a 2-family dwelling and lot being subdivided, the base lot must meet the area requirements and the structure must meet the setback requirements of the R-1 zoning district.

(C) After subdivision in which a zero lot line between the two units is established, the principal structure on each of the lots created will be that portion of the attached dwelling unit existing or constructed on the platted unit lots.

(D) Each of the subdivided lots shall abut an improved public street.

(E) A property maintenance agreement must be arranged by the applicant and submitted to the Zoning Committee for review and approval. The agreement shall specify the requirement for maintenance provisions for owners of the structures and the lots to coordinate efforts to ensure that their efforts will maintain continuity in the appearance of the structure's exterior. This agreement is to be filed with the Steele County Recorder's office as a deed restriction against the title of each unit lot.

(F) Separate public utility service shall be provided to each subdivided unit.

(G) The subdivision is to be platted and recorded in conformance to requirements of Chapter 151. Penalty, see § 10.99

§ 152.224 RESIDENTIAL PLANNED UNIT DEVELOPMENT (PUD).

(A) *Purpose.* To provide a set of procedures and standards to allow for greater flexibility in the development of neighborhoods with mixed densities or varying residential uses. The PUD process will permit variation in setbacks, height of buildings, lot area, width, and depth standards, densities, for the purpose of encouraging any of the following:

(1) Innovations in development proposals by integrating housing variety, design, and the location of structures;

(2) Conservation and more efficient use of land resulting in smaller networks of utilities and streets thereby lowering development costs and public investment;

(3) Preservation and enhancement of desirable site characteristics such as natural topography, surface water features, or the prevention of soil erosion; or

(4) A more desirable and creative environment than might be possible through strict application of zoning and subdivision regulations.

(B) *General requirements and standards.*

(1) *Ownership.* An application for a PUD must be filed by the landowner or jointly by all landowners of the property included in the project. The application and all submissions must be directed to the development of the property as a unified whole. In the case of multiple owners, the approved plan shall be binding upon all owners.

(2) *Land use plan consistency.* The proposed PUD shall be consistent with the Ellendale Land Use Plan.

(3) *Common open space.* Common open space at least sufficient to meet the minimum requirements as established in the Land Use Plan shall be provided, as well as, structures and improvements necessary and appropriate for the benefit and enjoyment of the residents of the PUD.

(4) *Operating and maintenance requirements for PUD common open space or facilities.* Whenever common open space or service facilities are provided within the PUD, the PUD plan shall contain provisions to assure the continued operation and maintenance of the open space and service facilities to a pre-determined standard. Common open space and service facilities within a PUD may be placed under the ownership of one or more of the following, as approved by the City Council:

(a) Dedicated to public, where a community wide use is anticipated and the Council agrees to accept the dedication;

(b) Landlord control, where only use by tenants is anticipated; and/or

(c) Property owners association, provided all of the following conditions are met:

(1) Prior to the use or occupancy or sale of an individual building unit, parcel, tracts, townhouse, apartment or common area, a declaration of covenants, conditions and restrictions or an equivalent document shall be submitted to the city prior to having it recorded with the county;

(2) The declaration of covenants, conditions, and restrictions or equivalent document shall specify that deeds, leases or documents of conveyance affecting buildings, units, parcels, tracts, townhouses, or apartments shall subject the properties to the terms of the declaration;

(3) The declaration of covenants, conditions, and restrictions shall provide that an owner's association or corporation shall be members of the association or corporation which shall maintain all properties and common areas in good repair and shall assess individual property owners' proportionate shares of joint or common costs. This declaration shall be reviewed by the Zoning Committee and City Council. The intent of this requirement is to protect the property values of the individual owner through establishing private control;

(4) The declaration shall also provide that in the event the association or corporation fails to maintain properties in accordance with the applicable rules and regulations of the city or fails to pay taxes or assessments on properties as they become due and in the event the city incurs any expenses in enforcing its rules and regulations, which the expenses are not immediately reimbursed by the association or corporation, then the city shall have the right to assess each property its pro-rated share of the expenses. The assessments, together with interest thereon and costs of collection, shall be a lien on each property against which each such assessment is made;

(5) Membership must be mandatory for each owner and any successive buyer;

(6) The open space restrictions must be permanent, not for a given number of years;

(7) The association must be responsible for liability insurance, local taxes, and the maintenance of the open space facilities to be deeded to it;

(8) Property owners must pay their prorated share of the cost of the Association by means of an assessment to be levied by the Association which meet the requirements for becoming a lien on the property in accordance with state statutes;

(9) The association must be able to adjust the assessment to meet changed needs; and

(10) The bylaws and rules of the Association and all covenants and restrictions to be recorded must be approved by the Council prior to the approval of the final PUD plan.

(5) *Density.* The maximum allowable density variation in a PUD shall be determined by standards negotiated and agreed upon between the applicant and the city.

(6) *Utilities.* All utilities shall be installed underground.

(7) *Utility connections.*

(a) *Water connections.* Where more than one property is served from the same service line, individual unit shut-off valves shall be provided.

(b) *Sewer connections.* Where more than 1unit is served by a sanitary sewer lateral which exceeds 300 feet in length, provision must be made for a manhole to allow adequate cleaning and maintenance of the lateral. All maintenance and cleaning shall be the responsibility of the property owners association or owner.

(8) *Roadways.* All streets shall conform to the design standards required by Chapter 151, or as approved by the City Council.

(9) *Landscaping.* In any PUD, landscaping shall be provided according to a plan approved by the Council. In assessing the landscaping plan, the Council shall consider the natural features of the particular site and the overall scheme of the PUD plan.

(10) *Setbacks.* The front and side yard design standards specified in the R-1 District will apply to the periphery of the PUD. No building within the project shall be nearer to another building than ½ the sum of the building heights of the two buildings.

(C) *Submission requirements; general concept stage.* Five copies of the following exhibits and plans shall be submitted to the Zoning Committee and City Council:

(1) General information:

(a) The landowner(s) name, address, and interest in the property;

(b) The applicant's name and address, if different from landowners;

(c) Names and addresses of all consultants who have contributed to the development of the PUD plan being submitted, such as attorney, land planner, engineer, surveyor, others; and

(d) Evidence the applicant has sufficient control over the subject property on which the PUD is proposed, including a statement of all legal, beneficial, tenancy and contractual interests held in or affecting the subject property and including an up-to-date certified abstract of title or registered property report, and any other evidences as the city may require of the petitioner to show control of the subject property.

(2) Present status:

(a) The legal description of the property;

(b) The existing zoning classification and present use of land within the subject property, as well as, the use of land adjacent to the subject property within 500 feet; and

(c) A map showing any existing development within the subject property and of the property within 500 feet of the subject property, including the location of existing streets, property lines,

easements, water mains, sanitary sewers, and storm sewers.

(3) A written statement generally describing the proposed PUD and the market it is intended to serve, how the PUD is designed , arranged, and operated in order to permit the development and use of neighboring property in accordance to the land use controls of the city;

(4) Graphic reproduction of the following site conditions shall be provided at a scale of one (1) inch = 100 feet.

(a) Contours - minimum of two intervals;

(b) Location, type, and extent of tree cover;

(c) Location and extent of water bodies, wetlands, streams, flood plains within the subject property and within 300 feet of the subject property;

(d) Significant rock outcroppings;

(e) Existing drainage patterns;

(f) Vistas and significant views; and

(g) Soils conditions as they may affect development.

(5) Schematic drawing of the proposed development concept, including but not limited to, the general location of major circulation elements, public and common open space, and residential uses;

(6) A statement of the estimated total number of dwelling units proposed for the development, as well as estimates of the following:

(a) An estimate of the amount of land devoted to residential uses;

(b) An estimate of the amount of land devoted to residential use by building type;

(c) An estimate of the amount of land devoted to common open space;

(d) An estimate of the amount of land devoted to public open space;

(e) Approximate area devoted to streets; and

(f) Approximate area devoted to and an number of off-street parking spaces, loading spaces, and access ways.

(7) When the PUD is to be constructed in stages, extending beyond a single construction season, a schedule for the development stages or units shall be submitted stating the approximate beginning and completion date for each such stage and the proportion of the total PUD public or common open space and dwelling units to be provided or constructed during each such stage and the overall

chronology of development to be followed from stage to stage;

(8) When the proposed PUD includes provisions for public or common open space or service facilities, a statement describing the provision that is to be made for the care and maintenance of the open space or service facilities;

(9) General intents of any restrictive covenants that are to be recorded with respect to the property included in the proposed PUD;

(10) Schematic utilities plans indicating placement of water, sanitary and storm sewers;

(11) The Zoning Committee may excuse an applicant from submitting any specific item of information or document required in this stage, which it finds to be unnecessary to the consideration of the specific proposal for PUD approval; and

(12) The Zoning Committee may require the submission of any additional information or documentation which it may find necessary or appropriate to full consideration of the proposed PUD or any aspect or stage thereof.

(D) *Submission requirements; development stage.* The development stage submissions shall include, but not be limited to:

(1) Zoning classification required for development and any other public decisions required to implement the plan;

(2) Five sets of preliminary plans, drawn to a scale of not less than one (1) inch = 100 feet, or a scale requested by the Zoning Committee, containing the following information:

(a) Proposed name of the development, not duplicating the name of any other plat recorded in the city;

(b) Property boundary lines and dimensions of the property and any significant topographical or physical features of the property;

(c) The location, size, use, and arrangement including height in stories and feet and total square feet of ground area coverage and floor area, of proposed buildings, and existing buildings which will remain, if any;

(d) Location, dimensions of all driveways, entrances, curb cuts, parking stalls, loading spaces and access aisles, and all other circulation elements including bike and pedestrian; and the total site coverage of all circulation elements;

(e) Location, designation, and total area of all common open space;

(f) Location, designation, and total area proposed to be conveyed or dedicated for public open space, including parks, playgrounds, school sites, and recreational facilities;

(g) Proposed lots and blocks, if any, and numbering system;

(h) The location, use, and size of structures and other land uses on adjacent properties;

(i) Detailed sketches and provisions of proposed landscaping;

(j) General grading and drainage plans for the developed PUD; and

(k) Any other information that may be required by the Zoning Committee or City Council in conjunction with the approval of the general concept plan.

(3) An accurate legal description of the entire area within the PUD for which final development plan approval is sought;

(4) A tabulation indicating the number of residential dwelling units and expected population;

(5) Preliminary architectural "typical" plans indicating use, floor plan, elevations and exterior wall finishes of proposed buildings;

(6) A detailed site plan, suitable for recording, showing the physical layout, design and purpose of all streets, easement, rights-of-way, utility lines and facilities, lots, blocks, public and common open space, general landscaping plan, and structure uses;

(7) Preliminary grading and site alteration plan illustrating changes to existing topography and natural site vegetation. The plan should clearly reflect the site treatment and its conformance with the approved concept plan;

(8) A preliminary plat prepared in accordance with Chapter 151;

(9) Any other information or documentation requested by the Zoning Committee or City Council; and/or

(10) The Zoning Committee and City Council may excuse an applicant from submitting any specific item of information of document required in this section if it is determined to be unnecessary to the consideration of the proposal for PUD approval.

(E) *Submission requirements; final plan stage.* After approval of a general concept plan for the PUD and the development stage plan, the applicant will submit the following material for review prior to requesting a zoning permit:

(1) Proof of recording any easements and restrictive covenants prior to the sale of any land or dwelling unit within the PUD and of the establishment or hiring of any entity that is to be responsible for the management and maintenance of any public or common open space or service facility;

(2) All certificates, seals, and signatures required for the dedication of land and recording of documents;

(3) Final architectural working drawings of all structures;

(4) A final plat and final engineering plans and specifications for streets, utilities, and other

public improvements, together with a developer's agreement for the installation of the improvements and financial guarantees for the completion of the improvements; and

(5) Any other plan, agreements, or specifications necessary for the Zoning Committee and City Council to review the proposed construction.

(F) *Procedure for processing a planned unit development (PUD).*

(1) *Application conference.* The applicant of a proposed PUD is encouraged to arrange for and attend a conference with the Zoning Committee. The primary purpose is to provide the applicant with an opportunity to gather information and obtain guidance about the general suitability of the project for the area on which the PUD is proposed.

(2) *Time lines.* The general concept plan, development stage, and final plan stage will conform to the time lines set in Chapter 151.

(3) *Zoning and other permits.* Upon receiving notice that the final plan has been recorded, zoning permits may be issued pursuant to the applicable city provisions.

(4) *Limitation on final plan approval.* Within one (1) year after the approval of a final plan for a PUD, construction shall commence in accordance with the approved plan. Failure to commence construction within the period shall, unless an extension shall have been granted, automatically render the PUD permit invalid.

(G) *Additional standards applying to residential PUDs developed in shoreland.*

(1) *Site suitable area evaluation.*

(a) The suitable area within shoreland is calculated by excluding from the tier area all wetlands, bluffs, or land below the ordinary high water level of public waters.

(b) The suitable area within shoreland is divided by the single residential lot size standard, which shall then be used to yield a base density of dwelling units.

(2) *Density increase multiplier.* A 50% increase to the dwelling unit base density calculated above is allowable, if structure setbacks from the ordinary high water level are increased to at least 50% greater than the minimum setback, or the impact on the waterbody is reduced an equivalent amount through the use of increased vegetative screening plantings, and the setback is at least 25 % greater than the minimum setback.

(3) *Open space requirements.* Planned unit developments must contain open space meeting all of the following requirements:

(a) At least 50 % of the total project area must be preserved as open space;

(b) Dwelling units, road surfaces, parking areas, or other structures are developed areas, and shall not be included in the computation of minimum open spaces;

(c) Open space may include outdoor recreational facilities for use by owners of dwelling units;

(d) The appearance of open space areas, including topography, vegetation, and allowable uses, must be preserved by use of restrictive deed covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means; and

(e) The shore impact zone must be included as open space. At least 70% of the shore impact zone must be preserved in its natural or existing state.

Penalty, see § 10.99

§ 152.225 JUNK YARDS OR AUTO SALVAGE YARDS.

(A) *Generally.* Junk yards and auto reduction yards shall conform to the following performance standards.

(B) *Performance standards.*

(1) Designated storage areas shall be totally screened by means of fencing so the area shall not be visible from public roads nor from dwellings that are located on adjacent lots. Screening shall be completed within 90 days from receipt of the notice from the Zoning Administrator.

(2) All storage areas shall be setback a minimum of 100 feet from a residential district, any lake, stream, creek, public or private ditch.

(3) The area upon which the business activity is located must be a contiguous area within the owner's parcel and must meet all yard setbacks and screening provisions herein.

(4) Vehicle storage provisions include:

(a) All vehicles must remain upright unless the motor and running gear have been removed; and

(b) No vehicle storage nor any business operation is permitted in any flood plain area, wetland, or in areas where groundwater is less than three feet from the ground surface.

(5) All structures will conform to yard setbacks as established in the district provisions. However, no fencing is permitted in the front yard nor is the storage of any autos. Additionally, all autos must be setback at least 10 feet from the rear and side property lines.

(6) The site plan for the establishment of any new use or for any rezoning request must be accompanied by the following information;

(a) The location of buildings and auto storage area and all applicable linear dimensions;

(b) A fencing plan;

(c) A signage plan;

(d) A drainage plan;

(e) A hazardous waste plan which conforms to Minnesota Pollution Control Agency (MPCA) guidelines and addresses the handling and storage of any or all of the following;

(1) Motor oil and/or fuel;

(2) CFCs (chlorofluorocarbons);

(3) Auto or other motorized vehicle batteries;

(4) Antifreeze; and

(5) Any other substance as requested by the Zoning Committee or City Council.

(f) Provide a copy of the Environmental Protection Act (EPA) ID Number Notification and a copy of their hazardous waste license.
Penalty, see § 10.99

§ 152.226 NON-CONFORMING BUILDING MATERIALS.

In all zoning districts any principle or accessory building and or structure shall not be constructed or erected of;

(A) Temporary materials such as canvas, tarps, plastics, or other such materials; or

(B) Prefabricated kits greater than 160 square feet.

§ 152.227 STORAGE CONTAINERS PROHIBITED

In all zoning districts, the use or placement of Storage Containers shall be prohibited. For purposes of this section a Storage Container is defined as a container not exceeding 160 square feet placed outdoors and used for the storage of goods, materials or merchandise, including but not limited to roll-off containers, slide-off storage containers, portable moving and storage containers, but not including dumpsters. A Storage Container does not include a garage, barn, or storage shed, provided the structure is not of a type designed, equipped, or customarily used for over-the-road transport of goods, materials, or merchandise.

ADMINISTRATION; CONDITIONAL USE PERMITS

§ 152.240 PURPOSE.

The purpose of this section of the zoning ordinance is to provide the City of Ellendale with a reasonable degree of discretion in determining the suitability of certain designated uses upon the general welfare, public health, and safety. In making this determination, whether or not the conditional use is to be allowed, the city may consider the nature of the land upon which the use is to be located, the nature of the adjoining land or buildings, whether or not a similar use is already in existence and located on the same premises or on other lands immediately close by, the effect upon traffic into and from the premises, or on any adjoining roads, and all other further factors as the city shall deem a requisite of consideration in determining the effect of the use of the general welfare, public health, and safety.

§ 152.241 PROCEDURE.

(A) *Application.*

(1) The applicant requests proper form for a conditional use permit from the City Clerk/Treasurer or Zoning Administrator.

(2) The application shall be filed with the City Clerk/Treasurer or Zoning Administrator accompanied by the fee as set by the City Council. The application shall contain the following information:

(a) The legal description and local address of the property;

(b) The names and addresses of the owners of all property within 350 feet of the property for which the conditional use permit is being applied;

(c) Detailed description of the proposed conditional use;

(d) Detailed plans of all proposed buildings, roadways, and any other structural or cultural improvements;

(e) A map showing the locations, dimensions, and use of all property within 350 feet of the applicant's property, including streets, alleys, and other physical and cultural features;

(f) A statement describing the reasons for the request of the conditional use permit; and

(g) Other information or exhibits as required by the Zoning Committee and City Council in making recommendations, determinations, and dispositions on the application.

(B) *Application process.*

(1) The applicant shall file the completed application form with the City Clerk/Treasurer or Zoning Administrator. If the application and submittals are complete, the date on which the application was accepted shall be the official submission date. If the application or submittals are not complete, the City Clerk/Treasurer or Zoning Administrator will notify the applicant of the deficiencies within 10 days.

(2) Upon receipt of a complete application, a copy of the application and attachments shall be forwarded immediately to the Zoning Committee.

(3) A representative of the Zoning Committee shall set the date for a public hearing for its next regular meeting and instruct the City Clerk/Treasurer to give notice of time, place, and purpose of the public hearing in the following manner.

(a) Notify by mail all property owners within 350 feet of the property at least 10 days prior to the date of the public hearing.

(b) Give public notice in a newspaper of general circulation in the city at least 10 day prior to the public hearing.

(c) Notify the appropriate Township Board, County Planning Commission, or other agencies as instructed or deemed necessary.

(4) The Zoning Committee or delegation thereof shall view the area being considered for a conditional use permit.

(C) *Public hearings.*

(1) The Chairperson of the Zoning Committee shall conduct the public hearing.

(2) The applicant and/or his or her representative shall appear before the Zoning Committee and answer any questions relative to the proposed conditional use permit.

(3) An accurate record of all testimony shall be kept by the Secretary of the Zoning Committee. This record shall include the names of all persons who participated in the meeting.

(D) *Recommendation.*

(1) The Zoning Committee shall consider all possible adverse effects of the proposed conditional use permit and what, if any, additional requirements may be necessary to prevent the adverse effects.

(2) The Zoning Committee in considering an application for a conditional use permit, shall make findings on the following criteria and report these findings in its recommendation to the City Council:

(a) Relationship to community plans;

(b) The geographical area involved;

(c) Whether the use will depreciate the area in which it is proposed;

(d) The character of the surrounding area;

(e) The demonstrated need for the use;

(f) Whether the proposed use would cause odors, dust, flies, vermin, smoke, gas, noise, or vibration or would impose hazards to life or property in the neighborhood;

(g) Whether the use would inherently lead to or encourage disturbing influences in the

neighborhood;

(h) Whether stored equipment or materials would be screened and whether there would be continuous operation within the visible range of surrounding residences;

(i) The danger of life and property due to increase flood heights or velocities;

(j) Elimination of nonconforming uses of land or nonconforming signs;

(k) Hours of operation;

(l) Off-street parking and loading;

(m) Location of egress and ingress for off-street parking and loading;

(n) Direction and intensity of outdoor illumination; and

(o) Cleaning and painting.

(3) The Zoning Committee shall make a decision and forward its report and recommendations to the City Council no later than 30 to 40 days from the official submission date of the application. It shall recommend one of three actions: approval, denial, or approval with special conditions to the City Council.

(E) *Decision.*

(1) Upon receipt of the report and recommendations from the Zoning Committee, the City Council shall place the consideration of the application for conditional use on the agenda for its next regular meeting.

(2) The City Council shall make a decision on the application for a conditional use permit within 60 days of the official submission date of the conditional use application.

(3) The concurring vote of a majority of the full council membership shall be necessary for the approval or denial of an application for a conditional use permit.

(4) Decision of the City Council shall immediately be filed and recorded with the City Clerk/Treasurer's office. Copies shall be sent to the applicant and/or his or her representative.

(a) The Council shall detail its reasons for denial or approval.

(b) Upon approval of an application, the Council may impose any additional special conditions if considered necessary to protect the public's health, safety, and welfare.

(5) In the event that the applicant violates any of the conditions set forth in this permit, the City Council shall have the authority to revoke the conditional use permit.

(6) The conditional use permit, if granted, shall also be recorded with the County Recorder and become a part of the title to the property.

(F) *Issuance.* The City Clerk/Treasurer shall issue a conditional use permit for a particular use to a particular tract of land.

(G) *Appeal.* If the application for a conditional use permit is denied by the City Council, the decision may be appealed to the Board of Adjustment as provided for in this chapter.

§ 152.242 FINDINGS.

No conditional use shall be recommended for approval by the Zoning Committee unless the committee shall find:

(A) That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for permitted uses;

(B) That the establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area;

(C) That adequate utilities, access roads, drainage, and other necessary facilities have been or are being provided;

(D) That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use; and

(E) That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise, and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.

§ 152.243 RECONSIDERATION.

Whenever an application for a conditional use permit has been considered and denied by the City Council, a similar application for a conditional use permit affecting substantially the same property shall not be considered again by the Zoning Committee 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 Zoning Committee or City Council for an additional six months from the date of the second denial.

§ 152.244 LAPSE OF CONDITIONAL USE PERMIT BY NON-USE.

Whenever within one (1) year after granting a conditional use permit the work as permitted has not been completed, then the permit shall become null and void unless a petition for extension of time in which to complete the work has been granted by the City Council. The extension shall be requested in writing and filed with the City Clerk/Treasurer at least 30 days before the expiration of the original conditional use permit. There shall be no charge for the filing of such a petition. The request for extension shall state facts showing a good faith attempt to complete the work permitted in the

conditional use permit. The petition shall be presented to the Zoning Committee and the City Council for a decision.

§ 152.245 VIOLATIONS.

Violations of conditions imposed by the City Council in conjunction with approval of an action shall be deemed a violation of this chapter and punishable under §§ 152.315 *et seq.*
Penalty, see § 10.99

ADMINISTRATION; VARIANCE

§ 152.260 BOARD OF ADJUSTMENTS AND APPEALS.

The City Council shall act as the Board of Adjustment and Appeals.

§ 152.261 WRITTEN REPORTS AND RECOMMENDATIONS TO BOARD TO BECOME PERMANENT RECORD.

The City Council serving as the Board of Adjustment and Appeals shall, after receiving the written reports and recommendations of the Zoning Committee, decide upon request for variance from the literal provisions of the ordinance in instances where strict enforcement would cause non-economic and undue hardship because of circumstances that are unique to the property under consideration.

§ 152.262 STANDARD FOR VARIATION.

(A) A variance to the provisions of this chapter may be issued by the Board of Adjustment to provide relief to the landowner in those cases where this chapter imposes undue hardship or practical difficulties to the property owner in the use of this land. No use variances (uses different than those allowed in the district) may be issued.

(B) A variance may be granted only in the event that all the following circumstances exist:

(1) The proposed variance must be in harmony with the general purposes and intent of the Land Use Ordinance.

(2) The proposed variance must be consistent with the comprehensive plan.

(3) The applicant for the proposed variance must establish that there are practical difficulties in complying with the Land Use Ordinance. “Practical difficulties,” as used in connection with the granting of a variance, means that

(a) The property owner proposes to use the property in a reasonable manner not permitted by the Land Use Ordinance;

(b) The plight of the landowner is due to circumstances unique to the property not created by the landowner; and

(c) The variance, if granted, will not alter the essential character of the locality.

(d) Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate lot size or shape, topography, inadequate access to direct sunlight for solar energy systems, or other circumstances over which the owner of the property has no control.

(4) No variance shall be permitted as to any use that is not allowed under the Land Use Ordinance for property in the zone where the affected person's land is located.

(5) The City Council may impose such restrictions or conditions upon the premises benefited by the variance as may be necessary to comply with the standards established by this Land Use Ordinance, or to reduce or minimize the effect of such variance upon other properties in the neighborhood, and to better carry out the intent of the variance. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

§ 152.263 APPEAL OF ADMINISTRATIVE DECISIONS OR ORDERS.

The City Council serving as the Board of Adjustment shall, after receiving the written report and recommendation from the Zoning Committee, make a decision on appeals where it is alleged by the applicant that error has occurred in any order, requirement, decision, or determination made by the city in the enforcement of this chapter. However, the appeal shall be filed no later than 90 days after the applicant has received a written notice from the City Clerk/Treasurer, or the appeal shall be considered void.

§ 152.264 PROCEDURES.

(A) *Application.*

(1) The applicant requests the proper form for a variance from the City Clerk/Treasurer or Zoning Administrator.

(2) The application shall be filed with the City Clerk/Treasurer or Zoning Administrator accompanied by the fee as set by the City Council. The application shall contain the following information:

(a) The legal description and local address of the property;

(b) The names and addresses of the owners of all property within 350 feet of the property for which the variance is being applied;

(c) Detailed description of the proposed variance;

(d) Detailed plans of all buildings, roadways, and any other structural or cultural improvements;

(e) A map showing the locations, dimensions, and use of all property within 350 feet of the applicant's property, including streets, alleys, railroads, and other physical and cultural features;

(f) A statement describing the reasons for the request of the variance; and

(g) Other information or exhibits as required by the Zoning Committee and/or Board of Adjustment in making disposition and determinations on the application.

(B) *Application processing.*

(1) The applicant shall file the completed application form with the City Clerk/Treasurer or Zoning Administrator. If the application and submittals are complete, this date shall be the official submission date. If the application or submittals are not complete, the City Clerk/Treasurer or Zoning Administrator will notify the applicant of the deficiencies within 10 days.

(2) Upon receipt of a complete application by the City Clerk/Treasurer or Zoning Administrator, a copy of the completed application and attachments shall be forwarded immediately to the Zoning Committee. The Zoning Committee, at their next regularly scheduled meeting and following their review of the variance request, shall prepare a recommendation for the Board of Adjustment. It shall recommend one of three actions: approval, denial, or approval with special conditions. The recommendation shall be forwarded to the Board of Adjustment to be considered at a public hearing.

(3) The Board of Adjustment shall set the date for a public hearing and instruct the City Clerk/Treasurer to give notice of time, place, and purpose of the public hearing in the following manner:

(a) Notify by mail all property owners within 350 feet of the property at least 10 days prior to the date of the public hearing;

(b) Give public notice in newspaper of general circulation in the city at least 10 days prior to public hearing; and

(c) Notify the appropriate Township Board of Supervisors, County Planning Commission, or other agencies as instructed or deemed necessary.

(4) The Board of Adjustment or a delegation thereof shall view the area being considered for a variance.

(C) *Public hearing.*

(1) The Chairperson of the Board of Adjustment shall conduct the public hearing.

(2) The applicant and/or his or her representative shall appear before the Board of Adjustment and answer any questions relative to the proposed variance.

(3) The Secretary of the Board of Adjustment shall keep an accurate record of all testimony. This record shall include the names of all persons who participated in the meeting.

(D) *Decision.*

(1) The Board of Adjustment shall consider all potential adverse effects of the proposed variance and what, if any, additional requirements may be necessary to prevent the adverse effects. It shall also review the criteria listed in § 152.262 to ensure that the variance request conforms to the requirements listed.

(2) The Board of Adjustment shall hold a public hearing on the proposed variance and shall make a decision within 60 days of the official submission date. It shall take one of three actions: approval, denial, or approval with special conditions.

§ 152.265 RECONSIDERATION.

Whenever an application for a variance has been considered and denied by the Board of Adjustment, a similar application affecting substantially the same property shall not be considered again by the Zoning Committee or Board of Adjustment for at least six months from the date of its denial.

§ 152.266 APPEALS.

If the Board of Adjustment denies the application for a variance, the decision may be appealed to the court of competent jurisdiction.

§ 152.267 LAPSE OF VARIANCE OR APPEAL.

Whenever within one year after granting a variance or appeal the work as permitted by the variance or appeal shall not have been completed, then the variance or appeal shall become null and void unless a petition for extension of time in which to complete the work has been granted by the City Council.

The extension shall be requested in writing and filed with the City Clerk/Treasurer at least 30 days before the expiration of the original variance or appeal. There shall be no charge for the filing of the petition. The request for extension shall state facts showing a good faith attempt to complete the work permitted in the variance or appeal. The petition shall be presented to the Zoning Committee and the City Council for a decision.

ADMINISTRATION; AMENDMENTS

§ 152.280 KINDS OF AMENDMENTS.

(A) A change in a district's boundary (rezoning);

(B) A change in a district's regulations; and

(C) A change in any other provision of this chapter.

§ 152.281 INITIATION OF PROCEEDINGS.

Proceedings for amending this chapter may be initiated by 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 Zoning Committee; or

(C) By action of the City council.

§ 152.282 PROCEDURE.

No district amendment or change may be taken unless it shall have been proposed by or shall have been first submitted to the Zoning Committee for review and recommendation in the following manner.

(A) *Application.*

(1) Applicant requests the proper form for zoning amendment from the City Clerk/Treasurer or Zoning Administrator.

(2) Application shall be filed with the City Clerk/Treasurer or Zoning Administrator accompanied by a fee as set by the City Council. The application shall contain the following information:

(a) The legal description and local address of the property;

(b) The present zoning classification and the zoning classification requested for the property;

(c) The existing use and proposed use of the property;

(d) The names and address of the owners of all property within 350 feet of the property for which the change is requested;

(e) A statement of the reasons why the applicant believes the present zoning classification is no longer valid; and

(f) A map showing the locations, dimensions, and use of the applicants property and all property within 350 feet thereof, including streets, alleys, railroads, and other physical features.

(3) Failure to approve the requested change shall not be deemed cause to refund the fee to the applicant.

(B) *Application processing.*

(1) If the application and submittals are complete, this date shall be the official submission date. If the application or submittals are not complete, the City Clerk/Treasurer or Zoning Administrator will notify the applicant of the deficiencies within 10 days.

(2) A receipt of a complete application by the City Clerk/Treasurer or Zoning Administrator, a copy of the completed application shall be forwarded immediately to the Zoning Committee for study and recommendation.

(3) The Zoning Committee shall schedule a date for public hearing at their next regular meeting and instruct the City Clerk/Treasurer to give notice of time, place, and purpose of the public hearing in the following manner. The City Clerk/Treasurer shall:

(a) Notify by mail all property owners within 350 feet of the property at least 10 days prior to the date of the public hearing;

(b) Give public notice in a newspaper of general circulation in the city at least 10 days prior to the public hearing; and

(c) Notify the appropriate Township Board of Supervisors, the County Planning Commission, and other agencies as instructed and deemed necessary.

(4) The Zoning Committee or delegation thereof shall view the area being considered.

(C) *Public hearing.*

(1) The Chairperson of the Zoning Committee shall conduct the public hearing.

(2) Any person with legitimate interest in the application may present his or her views to the Zoning Committee either verbally or in writing.

(3) The Secretary of the Zoning Committee shall keep an accurate record of all testimony. This record shall include the names and addresses of all persons who participated in the meeting.

(D) *Zoning Committee decisions and recommendations.*

(1) The Zoning Committee shall, prior to making a recommendation, consider the following:

(a) All relevant facts and findings brought out in public hearings;

(b) Physical inspection of property in question by all members or a delegation of members of the Zoning Committee; and

(c) The following items should be considered in reaching a decision:

(1) Would granting of the rezoning request conform to the presently accepted future land use plans for the city as well as present land uses;

(2) Is it in the community's best interest for additional land space to be zoned to the class requested,

(3) If the request were granted, what additional public services would be required;

(4) Is the capacity of existing roads and sewer and water facilities sufficient to accommodate this proposal;

(5) Was there an error or oversight in preparing the original zoning map that indicates this zoning class should have been included at that time; and

(6) Is this change beneficial to the community or is it merely a convenience to the applicant.

(2) The Zoning Committee shall make a written recommendation with reasons for approval or denial of the application to the City Council no later than 30 to 40 days from the official submission date of the application. The Zoning Committee shall recommend one of three actions: approval, denial, or approval with special conditions to the City Council.

(E) *City Council decision.*

(1) The City Council may approve or deny the application by simple majority vote of the entire City Council.

(2) The City Council shall act upon the application within 20 to 30 days of receiving the recommendations by the Zoning Committee, or, ultimately, within 60 days of the official submission date.

(F) *Approval.* The City Council officially adopts the ordinance change. The City Clerk/Treasurer shall forward a certified copy to the County Recorder and make map and/or ordinance changes and publish a summary of the changes adopted.

§ 152.283 LIMITATION ON APPLICATIONS.

An applicant shall not initiate action for a zoning amendment affecting the same land more often than once every 12 months unless the Zoning Committee has determined that the conditions of the application have sufficiently changed to warrant reconsideration by the city of the proposal.

§ 152.284 APPEAL.

If the application is denied by the City Council, the decision may be appealed to the Board of Adjustment as provided for by this chapter.

§ 152.295 GENERALLY.

The Zoning Committee, with the help of the City Clerk/Treasurer and the Zoning Administrator, shall administer and enforce this chapter.

In the event that a Zoning Committee has not been appointed, the City Council shall be the acting Zoning Committee. In the event that a Zoning Administrator has not been appointed, the City Clerk/Treasurer shall be the acting Zoning Administrator.

If the members of the Zoning Committee, the City Clerk/Treasurer, or Zoning Administrator find that any of the provisions of this chapter are being violated, the City Clerk/Treasurer or Zoning Administrator shall be directed to notify, in writing, the person responsible for the violation, indicating the nature of the violation and ordering the action necessary to correct it. This notification could include an order to discontinue illegal use of land, buildings, or structures; remove illegal buildings or structures or additions, alterations, or structural changes thereto; discontinue any illegal work being done; or any other action authorized by this chapter to ensure compliance with or to prevent violation of its provisions.

§ 152.296 ZONING PERMITS REQUIRED.

No building or structure shall be erected, reconstructed, moved, or structurally altered to increase the exterior dimensions, height, or floor area; or remodeled to increase the number of dwellings or accommodate a change in use of the building and/or premises or part thereof without first securing a zoning permit to be issued by the City Clerk/Treasurer or Zoning Administrator, depending upon the type of permit needed. In addition, a zoning permit shall be required for replacement of roofs, siding, or windows. No zoning permit is required for the construction and/or placement of gazebos, trellises, playhouses, kennels, hot tubs, swing sets, arbors, and inflatable swimming pools. No zoning permit shall be issued by an administrative official except in conformity with the provisions of this chapter unless he or she receives a written order from the Board of Adjustment, Zoning Committee, or City Council, dependent on the form of administrative review, variance, conditional use, or amendment, as provided by this chapter.
Penalty, see § 10.99

§ 152.297 ZONING PERMIT APPLICATION.

All applications for a zoning permit shall be accompanied by the appropriate site plans and shall be made in duplicate on forms furnished by the City Clerk/Treasurer or Zoning Administrator and shall include the following where applicable:

(A) Names and addresses of the:

(1) Applicant;

(2) Owner of the site;

(3) Architect; and

(4) Professional engineer or contractor.

(B) Description of the site by lot, block, and record subdivision or by metes and bounds and the address of the proposed site;

(C) Type of structure, existing and/or proposed operation or use of the structure or site and the zoning district in which the site is located;

(D) Where applicable, the number of housekeeping units, families, rental units, or employees the proposed building is designed to accommodate; and

(E) Additional information, as may be requested by the Zoning Committee, City Clerk/Treasurer, Zoning Administrator, or other city official.

§ 152.298 APPROVAL OR DENIAL OF ZONING PERMIT.

Upon approval or denial, the City Clerk/Treasurer or Zoning Administrator shall attest to the same by his or her signature on the zoning permit. If the zoning permit is approved, one copy shall be returned to the applicant and the City Clerk/Treasurer shall retain 1copy. If the zoning permit is denied, the City Clerk/Treasurer shall, in addition to the above, notify the applicant with a memorandum stating the reason for denial of the zoning permit. The zoning permit shall be issued for a length of time as determined by the city, but in no event to exceed 12 months. All construction shall be finished within the time specified in the zoning permit. If construction is not completed within the time specified in the zoning permit, the permit shall become void. Failure to finish the project within the time specified in the zoning permit shall be a violation of this section and shall subject the applicant to a fine as established by the City Council, unless prior to the expiration of the permit the applicant receives an extension or reissuance of the zoning permit. An extension or reissuance of a zoning permit shall be subject to a fee as established by the City Council.

§ 152.299 CONSTRUCTION AND USE TO BE SAME AS APPLICATION AND PLANS.

Zoning permits issued on the basis of plans and applications approved by the city shall authorize only that use, arrangement, and construction set forth in the approved site plan and applications and for no other use, arrangement, or construction. Any use, arrangement, and construction that varies with that authorized shall be deemed a violation of this chapter and punishable as provided herein.

§ 152.300 FEES.

The City Council shall establish a schedule of fees, charges, and expenses and a collection procedure for zoning permits, appeals, amendments, conditional uses, variances, and other matters pertaining to this chapter. The schedule of fees shall be posted in the office of the City Clerk/Treasurer and may be altered or amended only by the City Council. Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

ADMINISTRATION; FEES, VIOLATIONS, DUTIES, AND INTERPRETATION

§ 152.315 SCHEDULE OF FEES.

The City Council shall establish a schedule of fees, charges, and expenses and a collection procedure for zoning permits, appeals, and applications to the Zoning Committee, and applications for rezoning of land. The schedule of fees shall be posted in the office of the City Clerk/Treasurer, and may be altered or amended only by the City Council. No permit, amendment, variance, or conditional use shall be issued or allowed unless or until the costs, charges, fees, or expenses have been paid in full, nor shall any action be taken on proceedings before the Zoning Committee or City Council unless or until preliminary charges and fees have been paid in full.

§ 152.316 COMPLAINTS REGARDING VIOLATIONS.

Whenever a violation of this chapter occurs, or is alleged to have occurred, any person may submit a complaint. The complaint stating fully the causes and basis thereof shall be filed with the City Clerk/Treasurer. The City Clerk/Treasurer shall promptly record the complaint, immediately investigate and take action thereon as provided by this chapter.

§ 152.317 VIOLATION OF ZONING ORDINANCE MAY BE ENJOINED.

No person shall erect, construct, alter, repair, or maintain any building or structure or use any land in violation of this chapter. In the event of any such violation or imminent threat thereof, the municipal corporation or the owner of any contiguous or neighboring property who would be especially damaged by the violation, in addition to any other remedies provided by law, may institute a suit for injunction or prevent or terminate the violations.
Penalty, see § 10.99

§ 152.318 VIOLATION A MISDEMEANOR.

(A) Violation of the provisions of this chapter or failure to comply with any of its requirements shall constitute a misdemeanor with maximum penalties as established by the laws of the State of Minnesota. Each day the violation continues shall be considered a separate offense.

(B) The owner or tenant of any building, structure, premises, or part thereof, any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains the violation may each be found guilty of a separate offense and suffer the penalties provided.

(C) Nothing in this chapter shall prevent the city from taking the other lawful action as is necessary to prevent or remedy any violation, including appropriate actions in District Court for the State of Minnesota. In addition to the other remedies as may be available to the city by access to the District Court, any person found in violation of this chapter shall pay all costs and expenses involved in the case, including reasonable and actual expenses generated by city officials or employees, legal expenses including attorney's fees and any other actual and

necessary expenses as the city may have generated in pursuing relief in the court.
Penalty, see § 10.99

§ 152.319 DUTIES OF CITY CLERK/TREASURER, ZONING ADMINISTRATOR, ZONING COMMITTEE AND CITY COUNCIL

(A) *City Clerk/Treasurer and Zoning Administrator.* It is the intent of this chapter that all questions on interpretation and enforcement shall first be presented to the City Clerk/Treasurer or the Zoning Administrator.

(B) *Zoning Committee.* It is further the intent of this chapter that the Zoning Committee shall conduct public hearing in order to collect evidence and to hear all parties who may be interested in the resolution of an issue. Thereafter, the Committee shall make the recommendations as it deems appropriate to the Council concerning all matters which may arise under this chapter, including, but not limited to, conditional use permits, appeals from the interpretation and enforcement of this chapter by the City Clerk/Treasurer or Zoning Administrator, and variances from the literal provisions of this chapter. The Zoning Committee shall be advisory to the City Council.

(C) *City Council.* It is further the intent of this chapter that the duties of the City Council shall include a careful consideration of the recommendations provided by the Zoning Committee and the making of the ultimate decision concerning the merits of the application for a conditional use permit, appeal from the interpretation of the zoning ordinance by the City Clerk/Treasurer or Zoning Administrator, or for the issuance of a variance. The City Council may hear comments from the applicant, the City Clerk/Treasurer, or Zoning Administrator, as it deems appropriate in the consideration of its decision. However, the City Council shall not conduct public hearing unless it determines that the issue under consideration is of significant and compelling importance to the city. If such a public hearing is to be conducted by the City Council, then the notice provisions of this chapter shall be followed. The city and the applicant shall bear the cost of providing notice to the public hearing held by the Council pursuant to this chapter.

(D) *Notice and hearing.* In all cases where a public hearing is required under this chapter the City Clerk/Treasurer shall cause to have published in the official newspaper a notice of the time, place, and purpose of the hearing. When the area of land involved is five acres or less, a similar notice shall be sent by first-class mail to each owner of the affected property and to the owners of property situated wholly or partly within 350 feet of the affected property. Publication and mailing notices shall be made not less than 10 days nor more than 30 days prior to the date of the hearing. For the purpose of giving mailed notice, the City Clerk/Treasurer may use any appropriate record to determine the names and addresses of owners. A copy of the notice and a list of the owners and addresses to which the notice was sent, shall be attested to by the City Clerk/Treasurer and shall be made a part of the records of the proceedings. For purposes of computing the 10 days of notice, the day after publication or mailing, shall he counted as the first day. Saturdays, Sundays, or any other day made a legal holiday by the city, state, or federal governments shall be included in the computation unless the tenth day of the period falls on such a day, when it shall not be counted. The failure to give mailed notice to individual property owners, or defects in the notice shall not invalidate the proceedings. Upon evidence that adequate notice has been served, at least 1 public hearing shall be held on each application. The applicant or duly authorized representative shall be present at the public hearings. Absence of the applicant or duly authorized representative shall be sufficient cause to deny the application. All other persons wishing to be heard at a hearing shall be heard although reasonable limitations may be imposed concerning time or subject materials at the discretion of the Commission or Council conduction the hearing.

CONSTRUCTION AND LICENSING

§ 152.325 BUILDING CODE ADOPTED.

(A) *Building Code*. The Minnesota State Building Code, one copy of which is on file in the office of the City Clerk of Ellendale, is hereby adopted by reference as though set forth verbatim herein.

(B) *Organization and Enforcement*. The organization of the Building Department and enforcement of the Code shall be as established by Chapter 2 of the Uniform Building Code. The Code shall be enforced within the incorporated limits of the City. The Administrative Authority shall be a State Certified "Building Official" appointed from time to time by the Ellendale City Council.

(C) *Permits, Inspections and Fees*. Permits, inspections, and collection of fees shall be as provided in Chapter 3 of the Uniform Building Code. The permit fees shall be as established from time to time by the Ellendale City Council by the Master Fees Schedule.

ADMINISTRATION; ZONING COMMITTEE

§ 152.330 ESTABLISHMENT OF THE ZONING COMMITTEE.

The Ellendale Zoning Committee shall have the power and duty to hear matters within its jurisdiction and to make recommendations to the Council concerning the same. Each member of the Zoning Committee must be a property owner or resident of the city for at least three years or have a vested interest in the welfare of the city. The Zoning Committee will consist of a five (5) member board with each member serving a 5-year term. Reappointment at the end of the five (5) year term may be allowed. Appointments to this Committee shall be made by the City Council, based upon recommendations of the Zoning Committee. In the absence of a duly appointed Zoning Committee, the City Council shall act as and have all authority of the Zoning Committee.

§ 152.331 PROCEEDINGS OF THE ZONING COMMITTEE.

(A) The Zoning Committee shall adopt rules necessary to the conduct of its affairs. Meetings shall be held at the call of the chairperson and at such other times as the Committee may determine, may administer oaths, and compel the attendance of witnesses. All meetings shall be open to the public.

(B) The Committee shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote indicating the fact, and shall keep records of its examinations and other official actions, all of which shall be of public record and be filed in the City Clerk/Treasurer's office. Every decision of the Committee shall be based upon a finding of fact, which shall be reduced to writing and preserved among its records.

§ 152.332 POWERS.

The Zoning Committee has the following powers with respect to this chapter:

(A) Review all applications for appeals and variances to this chapter and report the findings and recommendations to the Board of Adjustments as provided in this chapter;

(B) Review or initiate applications for amendments and changes to this chapter and report the findings and recommendations to the City Council as provided in this chapter; and

(C) Review all applications for conditional use permits, hear and make disposition of applications as provided in this chapter.

§ 152.333 PUBLIC HEARING AND NOTICE.

The Zoning Committee shall follow the procedures concerning the holding of public hearings and the giving of notice, which are compelled by this chapter.

§ 152.334 AUTHORITY TO IMPOSE CONDITIONS.

(A) In recommending action under any of the powers conferred upon the Committee, the Committee may recommend the manner in which an approved action shall be carried out, or may suggest other required improvements, safeguards and conditions for the protection of the health, safety, and welfare of owners and occupants of surrounding lots for the public.

(B) Specifically, the Zoning Committee on its own initiative may attach conditions dealing with the following:

(1) Paving, shrubbery, screening, fences, or walls;

(2) Control or elimination of smoke, dust, vibration, gas, noise, or odor;

(3) Hours of operation;

(4) Location of exits;

(5) Cleaning and painting;

(6) Elimination of nonconforming uses of land or nonconforming signs, as allowed by law;

(7) Direction and intensity of outdoor illumination; and

(8) Off-street parking and loading.

§ 152.335 VIOLATIONS.

Violations of conditions imposed by the Committee in conjunction with approval of an action shall be deemed a violation of this chapter and punishable as specified in this chapter.

Penalty, see §1