

City of Franklin
CODE OF ORDINANCES
November, 2003



Franklin, Minnesota 55333

PREFACE TO THE MINNESOTA BASIC CODE, FIRST EDITION (2000)

The Minnesota Basic Code

The City of Franklin has adopted the Minnesota Basic Code (MBC). This League of Minnesota Cities/American Legal Publishing (LMC/ALP) MBC is an effort to provide a modern and comprehensive code of ordinances for smaller Minnesota cities without the expense of a customized code of ordinances. Its provisions are also useful to all Minnesota cities that wish to have models for the basic city ordinances on the subjects contained in the code. The code reflects current state statutes, case law and rules through February 1, 2000.

Authors and Editors

This Minnesota Basic Code is partly based on the *Model Ordinance Code for Minnesota Cities, Revised Edition 1980*, prepared by Orville C. Peterson, former Executive Director of the League of Minnesota Cities, and the *1989 Model Ordinance Code* prepared by Thomas L. Grundhoefer, then Staff Attorney and now General Counsel for the League. The first draft of this MBC was prepared by Kent Sulem, who was the League's Codification Attorney. The final draft was prepared by Special Counsel Duke Addicks, who has also served the League as its first Legislative Counsel, as Director of Intergovernmental Relations and its first Director of Member Services. All of the Minnesota Basic Code authors are licensed attorneys in the state of Minnesota. The editorial review and formatting of the MBC was done by the staff of American Legal Publishing Corporation.

The City of Franklin contracted the Mid-Minnesota Development Commission (MMDC) to provide the City with the MBC and add existing and new ordinances to the MBC that were not part of the original document. MMDC staff also work with a City of Franklin Ordinance Committee to make some minor changes to the text of the MBC to reflect city staffing assignments and where the City uses different procedures.

USER'S GUIDE

Adopting and Amending the Code

The Minnesota Basic Code (MBC) is intended to be adopted by a city as its basic code of ordinances. The MBC contains extensive regulations concerning the subjects listed in its table of contents.

Once the ordinance adopting the code has been passed, it must be published in the manner required by law for statutory cities and by the city charter if a charter city. The ordinance, for statutory cities, takes effect on the date of publication.

A city is free to adopt ordinances on subjects not covered by the MBC, or to amend the provisions of the MBC to conform to local desires and concerns. The Ordinance Adopting the Minnesota Basic Code repeals all ordinances pertaining to the subjects treated in the MBC which were adopted by the city prior to the adoption of the MBC. There may be old or archaic ordinances or ordinances existing at the time the MBC is adopted which do not pertain to subjects treated in the MBC. Language repealing those ordinances that the city does not wish to continue is included in the Ordinance Adopting the Minnesota Basic Code. Future ordinances amending sections of the MBC should be published when adopted and should be codified periodically in the MBC.

Fees and Charges

No fees or charges are specified in the MBC, unless a specific amount is required by law. A city adopting the MBC must therefore adopt an "Ordinance Establishing Fees and Charges". Until that ordinance is adopted, the MBC provides that any fees and charges established by ordinances that are in effect when the MBC is adopted remain in effect.

Arrangements and Numbering

The MBC is divided into seven odd-numbered titles, each devoted to a particular topic of municipal law. The titles include the following topics: Title I - General Provisions; Title III - Administration; Title V - Public Works; Title VII - Traffic Code; Title IX - General Regulations; Title XI - Business Regulations; and Title XIII - General Offenses Code.

Titles are divided into chapters, and all chapters are subdivided into sections. A citation to a specific section identifies the title, chapter and section number of the Basic Code provision being cited. For example, "72.11" refers to section 11 of Chapter 72 in Title VII. Title and chapter number appear to the left of the decimal; the title number precedes the first digit to the left of the decimal, and the chapter number constitutes all numerals to the left of the decimal. As another example, "138.05" indicates that the citation refers to section 05 of Chapter 138 in Title XIII.

Newly created sections subsequent to the original Basic Code may be indicated by three digits to the right of the decimal in the event that the law properly belongs between two consecutively numbered sections. For example, § 73.011 would follow § 73.01 and would precede § 73.02.

General Provisions

The purpose of this title is to create consistently throughout the code, and the provisions of Title I apply to all titles of the code. Thus, the general provisions of Title I will not be repeated throughout the code unless a variation of the provision applies to a particular code provision. Title I contains provisions concerning general definitions, rules of construction, the effect of amendment or repeal, the construction of section references, conflicting provisions, severability, reference to offices, errors and omissions, ordinances repealed, ordinances unaffected, ordinances saved, application to future ordinances, interpretation, amendments to the code, amendatory language, explanation of statutory references, preservation of penalties, offenses, rights and liabilities, and a general penalty.

General Penalty

Penalty provisions have been given a section number of .99. A general penalty has been provided at § 10.99. This general penalty will apply when no other penalty has been specifically provided for in another provision of this code.

Cross-references

“Cross-references” direct the user to subject matter related to certain Basic Code provisions contained within another section or chapter of the Basic Code.

Title and Chapter Analysis

A table of contents, giving the name of each chapter within the title and the respective chapter numbers, can be located in the front of each title. A chapter analysis, giving section headings and the respective section numbers, can be located on the first page of each chapter. A complete table of contents with title, chapter and section numbers follows the User’s Guide.

Page Numbering

Each page is numbered by a title number and page number. For example, the first page of Title III is numbered “3-1”. The “3” indicates the title number and the “1” shows the page number you are looking at in Title III.

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ORDINANCE NO. 02-2003
CITY OF FRANKLIN
COUNTY OF RENVILLE
STATE OF MINNESOTA

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

WHEREAS Minnesota Statutes Section 471.62 authorizes the city to adopt the Minnesota Basic Code by reference, and 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 Franklin, Minnesota, ordains:

Section 1. The Minnesota Basic Code, First Edition, together with amendments and supplements contained therein, is hereby adopted and shall constitute the "Code of Ordinances of the City of Franklin, Minnesota." This Code of Ordinances also adopts by reference certain statutes and administrative rules of the State of Minnesota as named in the Code of Ordinances.

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

TITLE I: GENERAL PROVISIONS

- 10. General Provisions

TITLE III: ADMINISTRATION

- 30. General Provisions
- 31. Departments, Boards and Commissions
- 32. Emergency Management
- 33. City Personnel
- 34. Annexations and Vacation of Land

TITLE IV: FRANCHISES

- 40. NSP
- 41. Cable TV

TITLE V: PUBLIC WORKS

- 50. Garbage and Rubbish
- 51. Sewer Regulations
- 52. Water Regulations
- 53. Storm Sewer Regulations

TITLE VII: TRAFFIC CODE

- 70. Traffic Regulations
- 71. Parking Regulations
- 72. Specific Parking Regulations
- 73. Snowmobiles

TITLE IX: GENERAL REGULATIONS

- 90. Abandoned Property
- 91. Animals
- 92. Health and Safety; Nuisances
- 93. Streets, Sidewalks and Public Right-of-Way

TITLE XI: BUSINESS REGULATIONS

- 110. General Licensing Provisions
- 111. Commercial Amusements
- 112. Liquor Regulations
- 113. Peddlers and Solicitors
- 114. Tattoo and Body Piercing Services
- 115. Tobacco Regulations
- 116. Adult Entertainment

TITLE XIII: GENERAL OFFENSES

- 130. General Offenses

TITLE XV: LAND USAGE

- 150. Zoning Code

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

city code shall remain in effect unless amended in this code or until an ordinance adopting a schedule of fees and charges is adopted or amended.

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

Section 5. The Code of Ordinances is declared to be prima facie evidence of the law of the city and shall be received in evidence as provided by Minnesota Statutes by the Courts of the State of Minnesota. A copy of the Code of Ordinances marked "Official Copy" shall be filed as part of the official records of the city in the office of the City Clerk. The City Clerk shall provide a copy of the Code of Ordinances to any person who requests a copy and shall charge that person the cost to the city of the copy of the Code of Ordinances.

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

PASSED BY THE CITY COUNCIL OF THE CITY OF Franklin,
MINNESOTA THIS 12th DAY OF November 2003.

APPROVED:

MAYOR

ATTEST:

CITY CLERK

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ORDINANCE NO. 03-2003
CITY OF FRANKLIN
COUNTY OF RENVILLE
STATE OF MINNESOTA

AN ORDINANCE ADOPTING A SCHEDULE OF FEES AND CHARGES
FOR VARIOUS SERVICES, LICENSES AND PERMITS
FOR THE CITY OF FRANKLIN, MINNESOTA

WHEREAS, the City Council of the City of Franklin has adopted the Minnesota Basic Code as it has been amended and supplemented to be its city code and that code permits the city to adopt by ordinance a schedule of fees and charges for various services, licenses and permits,

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

Section 1. All fees and charges in effect as of the date of the adoption of the city code for the city shall remain in effect unless otherwise modified by the provisions of this ordinance. All citations below are to various sections of the city code unless otherwise indicated.

Section 2. Below are the fees and charges for the permits, licenses and services listed below which are referenced to the section of the city code which authorizes their establishment. Please note that when the phrase “is not applicable at this time” is used below it only refers to the fee or charges, not to the required action referenced within the ordinances.

1. The charge for the collection, removal and disposal of garbage and trash from residences and businesses within the corporate limits of the city, pursuant to § 50.08(A), shall be \$15.50/quarter, \$5.17/month plus tax. Garbage labels cost \$1.00 each. County Landfill costs are \$12.50/quarter, \$4.17/month plus tax, with the following exceptions:

Franklin Health Care Center	\$60.00/month plus tax
Cedar Mountain School	\$45.00/month
Petro 19	\$15.00/month
United Agri Products/Rocker’s	\$10.00/month plus tax
Centennial Apartments	\$10.00/month plus tax
Valley View Apartments	\$10/month plus tax
Franklin Depot	\$10/month plus tax
Longbranch Saloon	\$10/month plus ax
Minnesota Valley Telephone	\$10/month plus tax

2. The sewer service rates and charges to users of the wastewater treatment facility pursuant to §§ 51.113 and 51.114 shall be established by ordinance or resolution prior to the adoption of this code. The sewer service rates and charges are as follows:

Base Rate	\$20/month, \$60/quarter
Metered Usage	\$1.00/1,000 gallons of water used plus Base Rate
Unmetered	\$75/quarter

Sewer rates and charges may be changed by amendment to this ordinance from time to time pursuant to §§ 51.113(D) and 51.114.

3. The connection fee (sewer hook up) pursuant to §§ 51.113 and 51.114 shall be \$150.00. There shall also be a sewer assessment charge of \$624.00.
4. The charge for not connecting to the municipal water system when it becomes available pursuant to § 52.06(B) is not applicable at this time.
5. The fee which must be paid before water service may be turned on pursuant to § 52.27(D) shall be \$50.00.
6. The fee for the disconnection permit pursuant to § 52.29 is not applicable at this time.
7. The fee for the permit to connect to the existing water service leads pursuant to § 52.33(B)(1) shall be \$300.00.
8. The connection charge to contribute to the payment of the costs of the Public Water System Facilities pursuant to § 52.33(B)(3) is not applicable at this time.
9. The fee to be collected before service is recommenced pursuant to § 52.33(B)(4) shall be \$50.00 and service calls shall be \$20.00.
10. The charge to a person who desires to connect to the water system and service a parcel that has not been assessed for the cost of water main and lateral construction pursuant to § 52.33(B)(5) shall be the amount that could have been assessed against the persons property at the time the prior assessments were made.
11. The charge for water meters pursuant to § 52.35(A)(1) is not applicable at this time.
12. The charge for testing a water meter pursuant to § 52.35(A)(4) is not applicable at this time.
13. The schedule of rates, fees and charges for permits or services pursuant to § 52.51 shall be as follows:

Base Rate	\$10/month, \$30/quarter
Rural Base rate	\$20/month, \$60/quarter
Metered usage	\$1.35/1,000 gallons plus Base rate
Unmetered	\$70/quarter.

The Utility Deposit shall be \$150.00, and shall be refundable upon one year. Maintenance charges shall be as follows:

Residential	\$6/quarter
Commercial	\$2.75/month, \$8.25/quarter
All apartment Buildings	\$10/quarter
Rural	\$9/quarter

14. The rate due and payable for each user for water taken from the water system pursuant to § 52.53(A) shall be based upon the usage formula above, (see Number 13 above).
15. The minimum rate pursuant to § 52.53(D), which shall begin to accrue after connection of the service pipe with the curb stop box, shall be based upon the “base rate” amount shown above, (see Number 13 above).
16. The fee for license for a person, firm or corporation to engage in the business of altering, repairing, installing or constructing municipal water connections within the city who is not a master plumber pursuant to § 52.70(C) is not applicable at this time.
17. The parade permit fee pursuant to § 70.22(D) is not applicable at this time.
18. The fee for a “release permit” pursuant to § 91.01 shall be \$25 for an impound fee, plus a \$10 per day boarding fee.
19. The fee for a dog and cat license pursuant to § 91.05 shall be \$5.00 per year.
21. The fee for duplicate dog tags pursuant to § 91.02(B)(3) is not applicable at this time.
22. The fee for a release pursuant to § 91.05 shall be an impound fee of \$25, and a \$10 per day boarding fee.
23. The fee for an open burning permit pursuant to § 92.64(B) is not applicable at this time.
24. The fee for a delay penalty pursuant to § 93.22(C) is not applicable at this time.
25. The fee for a permit application pursuant to § 93.23(B)(1) is not applicable at this time.
26. The fee for a franchise fee pursuant to § 93.23(B)(4) is not applicable at this time.
27. The fee for an excavation permit pursuant to § 93.25(A) is not applicable at this time.
28. The fee for an obstruction permit pursuant to § 93.25(B) is not applicable at this time.
29. The fee for a degradation fee pursuant to § 93.26(F) is not applicable at this time.
30. The fee for a license for circuses, carnivals, shows and other entertainment pursuant to § 111.02(A) is not applicable at this time.
31. The fee for a license for public entertainment or exhibitions pursuant to § 111.04 is not applicable at this time.
32. The fee for a license as a peddler or a transient merchant pursuant to § 113.03(D) shall be \$10.

33. The license fee to operate a business that offers tattooing or body piercing services pursuant to § 114.03(A) is not applicable at this time.
34. The tobacco license fee pursuant to § 115.04 shall be \$25.00 per year.
35. The penalty for minors in possession of tobacco products pursuant to § 115.99(B)(3) is not applicable at this time.

Section 3: Below are the active fees and charges for the permits, licenses and services that are not directly referenced in the City of Franklin City Code, but are authorized by the City Council:

1. Liquor License for On Sale shall be \$1,600.00 per year.
2. Liquor License for Off Sale shall be \$100.00 per year.
3. 3.2% Beer – On Sale shall be \$100 per year.
4. One Day 3.2% Beer License shall be \$5 per site, per day.
5. One Day Consumption/Display shall be \$10 per day.
6. Zoning Permits shall be \$5.00 and \$75.00 for a variance application.
7. To advertise on the Access Channel “for sale” shall be \$2.50 per “for sale”.
8. Copies/Photocopies shall be \$0.25 per page.
9. Summer Recreation Fees shall be \$10 per child.
10. EMT shall require an \$100 deposit which is refundable.

Section 4: Below are the terms for the payment of water, maintenance, sewer, county landfill and garbage services supplied by the City of Franklin to its customers receiving such services:

One-third of amount due by 20th day of billing month, second-third due by 20th day of second month of quarter, final due by 20th day of final month of quarter. Ten percent (10%) finance charge will be applied to any amount due on the first of each month. Any customer receiving water services shall also be billed for all other available services.

PASSED BY THE CITY COUNCIL OF THE CITY OF Franklin,
MINNESOTA THIS 12th DAY OF November, 2003.

APPROVED: _____ MAYOR

ATTEST: _____ CITY CLERK

**CODE OF ORDINANCES OF THE
CITY OF FRANKLIN**

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CHAPTER 10: GENERAL PROVISIONS

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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:

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

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

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

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

§ 10.03 APPLICATION TO FUTURE ORDINANCES.

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

§ 10.04 CAPTIONS.

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

§ 10.05 DEFINITIONS.

(A) *General rule.* Words and phrases shall be taken in their plain, 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.

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

CITY. The area within the corporate boundaries of the city as presently established or as amended by ordinance, annexation or other legal actions at a future time. The term **CITY** 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. The county or counties in which the city is located.

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

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

SHALL. The act referred to is mandatory.

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

STATE. The State of Minnesota.

SUBCHAPTER. A 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, recodified, or renumbered unless the subject matter is changed or materially altered by the amendment or revision.

§ 10.08 REFERENCE TO OFFICES.

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

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

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

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

All offenses committed under laws in force prior to the effective date of this code shall be prosecuted and remain punishable as provided by those laws. This code does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this code. The liabilities, proceedings and rights are continued; punishments, penalties, or forfeitures shall be enforced and imposed as if this code had not been enacted. In particular, any agreement

granting permission to utilize highway right-of-ways, 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 for public inspection. The Clerk 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 Minnesota Basic 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.

§ 10.99 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.

CHAPTER 30: GENERAL PROVISIONS

Section

30.01	City Council meetings
30.02	Presiding officer
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30.05	Voting
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30.09	Compensation of officers and employees
30.10	Quorum for conducting business
30.11	Fees and charges

§ 30.01 CITY COUNCIL MEETINGS.

(A) *Regular meetings.* Regular meetings of the City Council shall be held at least once each month, at a date, time and place as established by the City Council. Any regular meeting falling upon a holiday shall be held on the next following business day at the same time and place, or as arranged previously by the City Council. All meetings, including special and adjourned meetings, shall be held in the city hall unless the City Council decides otherwise at a prior meeting, or meeting in the city hall is impossible.

(B) *Special meetings.* The Mayor or any two members of the City Council may call a special meeting of the City Council upon at least 24 hours written notice to each member of the City Council. This notice shall be delivered personally to each member or shall be left at the member's usual place of residence with some responsible person. Pursuant to M.S. §471.705, as it may be amended from time to time, written notice of any special meeting shall be posted giving the date, time, place and purpose of the meeting at least three days before the meeting. Written notice shall be mailed at least three days before the meeting to anyone who has filed a written request for notice of special meetings. In calculating the three days, if the last day falls on a Saturday, Sunday or legal holiday, the next regular business day shall be counted as the third day.

(C) *Emergency meetings.* Notice of emergency meetings shall be given as required by M.S. § 471.705, Subd. 1 c(c), as it may be amended from time to time. An emergency meeting is a meeting defined by M.S. §471.705, Subd. 1c(c), as it may be amended from time to time.

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

(1) Designate the depositories of city funds;

(2) Designate the official newspaper;

(3) Choose one of the Council Members as Acting Mayor, who shall perform the duties of the Mayor during the disability or absence of the Mayor from the city or, in case of a vacancy in the office of Mayor, until a successor has been appointed and qualifies;

(4) Appoint officers and employees and members of departments, boards, commissions and committees as may be necessary;

(5) Establish and appoint Council Members to those City Council committees as are deemed appropriate for the efficient and orderly management of the city.

(E) *Public meetings.* All City Council meetings, including special, emergency and adjourned meetings and meetings of City Council committees, shall be conducted in accordance with the Minnesota Open Meeting Law, M.S. §47 1.705, as it may be amended from time to time.

§ 30.02 PRESIDING OFFICER.

(A) *Who presides.* The Mayor shall preside at all meetings of the City Council. In the absence of the Mayor, the Acting Mayor shall preside. In the absence of both, the City Clerk shall call the meeting to order and shall preside until the Council Members present at the meeting choose one of their number to act temporarily as presiding officer.

(B) *Procedure.* The presiding officer shall preserve order, enforce any rules of procedure adopted by the City Council, and determine without debate, subject to the final decision of the City Council on appeal, all questions of procedure and order.

(C) *Appeal procedure.* Any member may appeal to the City Council 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 the ruling, but no other Council Member shall participate in the discussion. The appeal shall be sustained if it is approved by a majority of the members present, including the presiding officer.

§ 30.03 MINUTES.

(A) *Generally.* Minutes of each City Council meeting shall be kept by the City Clerk or, in the City Clerk'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 City Clerk and can be accurately identified from the description given in the minutes.

(B) *Approval.* The minutes of each meeting shall be reduced to typewritten form, shall be signed by the City Clerk, and copies thereof shall be delivered to each Council Member prior to the next regular meeting. At the next regular City Council meeting following the delivery,

approval of the minutes shall be considered by the City Council. The minutes need not be read aloud, but the presiding officer shall call for any additions or corrections. If there is no objection to a proposed addition or correction, it may be made without a vote of the City Council. If there is an objection, the City 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 City Council shall convene at the time and place appointed therefor. City Council business shall be conducted in the following order unless varied by the presiding officer:

- (1) Call to order.
- (2) Roll call.
- (3) Approval of minutes.
- (4) Consent agenda.
- (5) Public hearings.
- (6) Petitions, requests, and communications.
- (7) Ordinances and resolutions.
- (8) Reports of officers, boards, and committees.
- (9) Unfinished business.
- (10) New business.
- (11) Miscellaneous.
- (12) Adjournment.

(B) *Petitions and agenda.* Petitions and other papers addressed to the City Council shall be read by the City Clerk upon presentation of the same to the City Council. All persons desiring to present new business before the City Council that requires that action be taken shall inform the City Clerk thereof at least 72 hours before new business is to be heard. The City Clerk may prepare an agenda of the new business for submission to the City Council on or before the time of the next regular meeting.

§ 30.05 VOTING.

The votes of the Council Members on any question may be taken in any manner which signifies the intention of the individual members, and the votes of the Council Members on any action taken shall be recorded in the minutes. The vote of each Council Member shall be recorded on each appropriation of money, except for payments of judgments, claims and amounts fixed by statute. Council Members shall not vote on matters where there is a “conflict of interest” as defined by Minnesota Statutes §§ 471.87 and 412.311. In such cases the minutes shall reflect that the Council Member has not voted for such reason.

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

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

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

§ 30.07 SUSPENSION OR AMENDMENT OF RULES.

These rules may be suspended only by a two-thirds vote of the members present and voting.

§ 30.08 COMPENSATION OF MAYOR AND COUNCIL MEMBERS.

The compensation of the Mayor and the compensation of each Council Member shall be established from time to time by City Council ordinance pursuant to M .S. §415. 11, as it may be amended from time to time.

§ 30.09 COMPENSATION OF OFFICERS AND EMPLOYEES.

Officers and employees of the city shall be compensated at a rate as established from time to time by City Council resolution.

§ 30.10 QUORUM FOR CONDUCTING BUSINESS.

(A) A quorum shall consist of a majority of the entire City Council, including the Mayor. A quorum shall be necessary to transact the business of the City Council.

(B) If no quorum is present, the City Council shall not thereby stand adjourned, but the members present shall adjourn or recess the City Council by a majority vote.

§ 30.11 FEES AND CHARGES.

The City Council may enact an ordinance establishing those fees and charges that are authorized by this code. Until that ordinance becomes effective, all fees and charges established by ordinance or resolution prior to the adoption of this code shall remain in effect. All fees and charges established by the ordinance establishing fees and charges may be amended from time to time by amendment of that ordinance.

§ 30.12 ANNUAL AUDIT. (Prior Ordinance Number 101, Section II, 12/11/79)

Beginning with the year in which this ordinance becomes effective and the years thereafter, there shall be an audit of the City's financial affairs by the State Auditor or a public accountant in accordance with minimum auditing procedures prescribed by the State Auditor.

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CHAPTER 31: DEPARTMENTS, BOARDS AND COMMISSIONS

Section

Police Department

- 31.01 Police Department continued
- 31.02 Chief of Police
- 31.03 Duties of police
- 31.04 Uniform and badge
- 31.05 Extra police
- 31.06 Police Department policies manual adopted

Volunteer Fire Department

- 31.20 Volunteer Fire Department continued; appointment of officers
- 31.21 Duties of Chief
- 31.22 Duties of Fire Marshal
- 31.23 Records
- 31.24 Practice drills
- 31.25 Assistant Chief
- 31.26 Firefighters
- 31.27 Loss of membership
- 31.28 Compensation
- 31.29 Interference with Volunteer Fire Department
- 31.30 Bylaws

Planning Commission

- 31.45 Establishment of the Planning Commission
- 31.46 Composition
- 31.47 Organization, meetings, minutes and expenditures
- 31.48 Powers and duties; comprehensive plan

POLICE DEPARTMENT

§ 31.01 POLICE DEPARTMENT CONTINUED.

(A) The Police Department of the city is hereby continued. The head of the Police Department shall be known as the Chief of Police and the number of additional members of the Police Department, together with their ranks and titles, shall be determined by the City Council by resolution. The compensation to be paid to members of the Police Department shall be fixed by the City Council. Members of the Police Department shall be appointed by the City Council.

(B) All police officers shall meet the minimum standards for licensing as a peace officer as established by the Minnesota Peace Officers Standards and Training Board and have a current and valid peace officer license at the time of appointment. All police officers shall retain this license during their employment as a police officer with the city and will be subject to discharge if the license is suspended, revoked or becomes invalid for any reason. In addition, all police officers must have a valid Minnesota vehicle operator's license and must be insurable as a vehicle driver by the city's automobile insurance carrier. Temporary suspension of a Minnesota vehicle operator's license shall not necessarily result in suspension or termination of employment.

§ 31.02 CHIEF OF POLICE.

The Chief of Police shall have supervision and control of the Police Department and its members. The Chief of Police shall be responsible for the proper training and discipline of the members of the Police Department. The Chief of Police shall be responsible for the keeping of adequate records and shall report to the City Council on the needs of the Police department and its work. Every member of the Police department is subordinate to the Chief of Police and shall obey the instructions of the Chief of Police and any superior officer. The City Council may designate one of the police officers as Acting Chief, who shall have all the powers and duties of the Chief of Police during the absence or disability of the Chief of Police.

§ 31.03 DUTIES OF POLICE.

Members of the Police Department shall enforce the laws applicable to the city, bring violators before the court, and make complaints for offenses coming to their knowledge. Members of the Police Department shall serve processes on behalf of the city and shall serve those notices as may be required by the City Council or other authority. When the city is not a party to the proceedings involved in the process or notice, the officer shall collect the same fees as provided by law. All court fees that are returned to the City shall be paid into the city treasury.

§ 31.04 UNIFORM AND BADGE.

Each member of the Police Department shall, while on duty, wear a suitable badge and uniform, except that the Chief of Police may authorize the performance of specific duties while not in uniform. When a member terminates membership in the Police Department, the member shall immediately deliver to the city the badge, uniform and all other property of the city.

§ 31.05 EXTRA POLICE.

In case of riot or other law enforcement emergency, the Chief of Police may appoint for a specified time as many emergency assistants to the Chief of Police as may be necessary for the maintenance of law and order. During the term of appointment, the emergency assistants shall have only those powers and perform only those duties as shall be specifically assigned by the Chief of Police and which are permitted by law.

§ 31.06 POLICE DEPARTMENT POLICIES MANUAL ADOPTED.

The Police Department Manual, as amended, containing the general policies, procedures and rules for operation of the Police Department of the city is hereby adopted as the official departmental policy manual of the Police Department.

VOLUNTEER FIRE DEPARTMENT

§ 31.20 VOLUNTEER FIRE DEPARTMENT CONTINUED; APPOINTMENT OF OFFICERS.

(A) There is continued in this city a Volunteer Fire Department, which department shall have the following officers: a Chief, Captain, First Lieutenant, Second Lieutenant, Secretary and Treasurer.

(B) The Chief of the Volunteer Fire Department shall be approved by the City Council. The Chief of the Volunteer Fire Department shall appoint the Captain and two Lieutenants, subject to confirmation by the City Council. The Volunteer Fire Department's Bylaws, which are approved by the City Council, shall specify terms of office for the department's officers. Officers shall hold office until the successor has been duly appointed or qualified. These officers may be removed by the City Council for cause and after a public hearing. If one of the officers duly appointed shall resign his or her office, be removed from office by the City Council, or is deceased during his or her term of office, the successor shall be duly appointed by the Volunteer Fire department and the City Council as soon as it is practical to do so. The officer so appointed is so appointed for the period of the unexpired term of the vacated office.

(C) Firefighters and probationary firefighters shall be appointed by the Chief of the Volunteer Fire Department, subject to confirmation by the City Council. Firefighters shall continue as members of the Volunteer Fire Department during good behavior until retirement, but may be removed for cause by following the Department's impeachment/removal rules found in the Department's Bylaws. Any impeachment or removal of an officer or firefighter member shall be approved by the City Council after a public hearing.

§ 31.21 DUTIES OF CHIEF.

The Chief shall have control of all fire fighting apparatus and shall be responsible for its care and condition. The Chief shall make a report no less than annually to the City Council and/or the Rural Fire Association. At this meeting, the Chief, or his/her designee shall report on the condition of the equipment and needs of the Volunteer Fire Department. The Chief may submit additional reports and recommendations at any meeting of the City Council, and he or she shall report each suspension by him or her of a member of the Volunteer Fire Department at the *first* meeting of the City Council following the suspension. The Chief shall be responsible for the proper training and discipline of the members of the Volunteer Fire Department, and may suspend any member for refusal or neglect to obey orders pending final action by the City Council on his or her discharge or retention.

§ 31.22 RECORDS.

The Chief shall keep in convenient form a record of all fires. The record shall include the time of the alarm, location of fire, cause of fire, if known, type of building, name of owner or tenant, purpose for which occupied, value of building and contents, members of the Volunteer Fire Department responding to the alarm and other information as he or she may deem advisable or as may be required from time to time by the City Council or state law or regulation.

§ 31.24 PRACTICE DRILLS.

It shall be the duty of the Chief, when the weather permits, to hold practice drills for the Volunteer Fire Department and to give the firefighters instruction in approved methods of fire fighting and fire prevention.

§ 31.25 CAPTAIN.

In the absence or disability of the Chief of the Volunteer Fire Department, the Captain shall perform all functions and exercise all of the authority of the Chief.

§ 31.26 FIREFIGHTERS.

Firefighters shall not be less than 18 years of age and able bodied. They shall become members of the Volunteer Fire Department only after a 3-month probationary period. The City Council may require that each candidate, before he or she may become a probationary firefighter, must possess certain minimum height, weight, education, mental and physical health requirements, and any other qualifications which may be specified by the City Council.

§ 31.27 LOSS OF MEMBERSHIP.

Firefighters shall forfeit membership in the Volunteer Fire Department for unreasonable inattention to duties or lack of attendance at meetings or calls or disobedience of orders or other due cause, and any firefighter may be suspended by the Chief pending hearing upon his or her removal. Firefighters absent from three consecutive drills or calls, unless excused by the Chief, shall forfeit membership in the Volunteer Fire Department.

§ 31.28 COMPENSATION.

The members and officers of the Volunteer Fire Department shall receive compensation as provided by the City Council.

§ 31.29 INTERFERENCE WITH VOLUNTEER FIRE DEPARTMENT.

It shall be unlawful for any person to give or make, or cause to be given or made, an alarm of fire without probable cause, or to neglect or refuse to obey any reasonable order of the Chief or other firefighter at a fire, or to interfere with the Volunteer Fire Department in the discharge of its duties. Penalty, see § 10.99.

§ 31.30 BYLAWS.

The Volunteer Fire Department may adopt bylaws for its government, which bylaws shall be effective upon approval by the City Council.

PLANNING COMMISSION

§ 31.45 ESTABLISHMENT OF THE PLANNING COMMISSION.

A Planning Commission for the city is hereby established. The Planning Commission shall be the city planning agency authorized by M.S. § 462.354(1), as it may be amended from time to time.

§ 31.46 COMPOSITION.

(A) The Planning Commission shall consist of five members from the resident population of the city to be appointed by the Mayor with the approval of the City Council. The appointees shall be appointed to serve staggered terms of three years, except as noted below, commencing on the first day of January in the year of appointment. Upon expiration of a term, the appointee shall continue until reappointed or a successor is appointed. Absences from any three meetings in a year, unless excused in advance by the Chair, constitutes a vacancy. In the event of any vacancy, the Mayor, with the approval of the City Council, shall appoint a person to complete the unexpired term.

(B) One member may be a Council Member or the City Clerk, to be appointed by the Mayor with the approval of the City Council. This member shall serve for a one year term, to expire on December 31 of each year.

(C) Other persons may serve in an ex officio capacity as the City Council may, in its discretion, deem appropriate.

(D) Each of the five regular Planning Commission members shall have equal voting privileges. Any member may be removed for cause by majority vote of the City Council upon written charge and after a public hearing.

§ 31.47 ORGANIZATION, MEETINGS, MINUTES AND EXPENDITURES.

(A) At the first regular meeting of the year, the Planning Commission shall elect a Chairperson, a Vice-Chairperson and a Secretary from among its appointed members, each for a term of one year. The Planning Commission may create and fill other offices as it may determine.

(B) The Planning Commission shall meet as needed to meet the Commission's duties, with the provision that the Commission shall hold at least one meeting each year. Special meetings may be called at any time by the Chairperson, or in the case of the Chairperson's absence, by the Vice-Chairperson.

(C) Written minutes of meetings shall be kept and filed with the City Clerk prior to the next regularly scheduled City Council meeting, but shall be subject to the approval at the next Planning Commission meeting.

(D) No expenditures by the Planning Commission shall be made unless and until authorized for the purpose by the City Council.

§ 31.48 POWERS AND DUTIES; COMPREHENSIVE PLAN.

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

(B) *Means of executing plan.* Upon the adoption of a comprehensive plan or any section thereof, it shall be the concern of the Planning Commission to recommend to the City Council reasonable and practical means for putting into effect the plan or section thereof in order that it will serve as a pattern and guide for the orderly physical development of the city and as a basis for judging the timely disbursements of funds to implement the objective. Means of effectuating the plan shall, among other things, consist of a zoning ordinance, subdivision regulations, capital improvement programming and technical review, and recommendations of matters referred to the Planning Commission by the City Council.

(C) *Zoning ordinance.* Pursuant to M.S. § 462.357(3), as it may be amended from time to time, the Planning Commission shall review all proposed amendments to the zoning ordinance, take part in public hearings, and make recommendations to the City Council as may be prescribed by the zoning ordinance.

(D) *Special permits.* The Planning Commission may make recommendations on all requests for a conditional use permit under the terms of the zoning ordinance. The Planning Commission shall report its recommendations to the City Council for action.

(E) *Subdivision regulations.* The Planning Commission may make recommendations in relation to the subdividing of land as prescribed by the ordinance. The Planning Commission shall report its recommendations to the City Council for action.

(F) *Variances.* All applications for variances shall be referred to the Planning Commission which shall have the powers of a Board of Appeals and adjustments as provided for in M.S. § 462.357, Subd. 6, as it may be amended from time to time, and forwarded with or without recommendations directly to the City Council for its decision. Variances may be granted from the literal provisions of an ordinance only where strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration as authorized by M.S. § 462.357, Subd. 6(2) as it may be amended from time to time.

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CHAPTER 32: EMERGENCY MANAGEMENT

Section

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

§ 32.01 POLICY AND PURPOSE.

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

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

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

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

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

§ 32.02 DEFINITIONS.

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

DISASTER. A situation which creates an immediate and serious impairment to the health and safety of any person, or a situation which has resulted in or is likely to result in catastrophic

loss to property, and for which traditional sources of relief and assistance within the affected area are unable to repair or prevent the injury or loss.

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

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

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

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

§ 32.03 ESTABLISHMENT OF EMERGENCY MANAGEMENT ORGANIZATION.

The Chief of Police, hereinafter in this Section called the Director, shall have direct responsibility for the organization, administration and operation of the emergency preparedness organization, subject to the direction and control of the Mayor.

§ 32.04 POWERS AND DUTIES OF DIRECTOR.

(A) The Director, with the consent of the Mayor, shall represent the city on any regional or state conference for emergency management. The Director shall develop proposed mutual aid agreements with other political subdivisions of the state for reciprocal emergency management aid and assistance in an emergency too great to be dealt with unassisted, and shall present these agreements to the Council for its action. These arrangements shall be consistent with the State Emergency Plan.

(B) The Director shall make studies and surveys of the human resources, industries, resources, and facilities of the city as deemed necessary to determine their adequacy for emergency management and to plan for their most efficient use in time of an emergency or

disaster. The Director shall establish the economic stabilization systems and measures, service staffs, boards, and sub-boards required, in accordance with state and federal plans and directions subject to the approval of the Mayor.

(C) In the event that such is manifest by necessity, the Director shall prepare a comprehensive emergency plan for the emergency preparedness of the city and shall present the plan to the Council for its approval. When the Council has approved the plan, it shall be the duty of all city agencies and all emergency preparedness forces of the city to perform the duties and functions assigned by the plan as approved. The plan may be modified in like manner from time to time. The Director shall coordinate the emergency management activities of the city to the end that they shall be consistent and fully integrated with the emergency plans of the federal government and the state and correlated with emergency plans of the county and other political subdivisions within the state.

(D) In accordance with the State and City Emergency Plan, the Director shall institute training programs, public information programs and conduct practice warning alerts and emergency exercises as may be necessary to assure prompt and effective operation of the City Emergency Plan when a disaster occurs.

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

(F) The Director shall, in cooperation with those city departments and agencies affected, assist in the organizing, recruiting, and training of emergency management personnel, which may be required on a volunteer basis to carry out the emergency plans of the city and state. To the extent that emergency personnel are recruited to augment a regular city department or agency for emergencies, they shall be assigned to the departments or agencies and shall be under the administration and control of the department or agency.

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

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

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

§ 32.05 LOCAL EMERGENCIES.

(A) A local emergency may be declared only by the Mayor or his or her legal successor. It shall not be continued for a period in excess of three days except by or with the consent of the Council. Any order, or proclamation declaring, continuing, or terminating a local emergency shall be given prompt and general publicity and shall be filed in the office of the City Clerk.

(B) A declaration of a local emergency shall invoke necessary portions of the response and recovery aspects of applicable local or inter-jurisdictional disaster plans, and may authorize aid and assistance thereunder.

(C) No jurisdictional agency or official may declare a local emergency unless expressly authorized by the agreement under which the agency functions. However, an inter-jurisdictional disaster agency shall provide aid and services in accordance with the agreement under which it functions. Penalty, see § 32.99

§ 32.06 EMERGENCY REGULATIONS.

(A) Whenever necessary, to meet a declared emergency or to prepare for an emergency for which adequate regulations have not been adopted by the Governor or the Council, the Council may by resolution promulgate regulations, consistent with applicable federal or state law or regulation, respecting: the conduct of persons and the use of property during emergencies; the repair, maintenance, and safeguarding of essential public services, emergency health, fire, and safety regulations, drills or practice periods required for preliminary training, and all other matters which are required to protect public safety, health, and welfare in declared emergencies.

(B) Every resolution of emergency regulations shall be in writing; shall be dated; shall refer to the particular emergency to which it pertains, if so limited, and shall be filed in the office of the City Clerk. A copy shall be kept posted and available for public inspection during business hours. Notice of the existence of these regulations and their availability for inspection at the City Clerk's Office shall be conspicuously posted at the front of the city hall or other headquarters of the city or at other places in the affected area as the Council shall designate in the resolution. By resolution, the Council may modify or rescind a regulation.

(C) The Council may rescind any regulation by resolution at any time. If not sooner rescinded, every regulation shall expire at the end of 30 days after its effective date or at the end of the emergency to which it relates, whichever comes first. Any resolution, rule, or regulation inconsistent with an emergency regulation promulgated by the Council shall be suspended during the period of time and to the extent conflict exists.

(D) During a declared emergency, the city is, under the provisions of M.S. § 12.31, as it may be amended from time to time and notwithstanding any statutory or Charter provision to the contrary, empowered, through its Council, acting within or without the corporate limits of the city, to enter into contracts and incur obligations necessary to combat the disaster by protecting the health and safety of persons and property and providing emergency assistance to the victims of a disaster. The city may exercise these powers in the light of the exigencies of the disaster

without compliance with the time-consuming procedures and formalities prescribed by law pertaining to the performance of public work, entering rental equipment agreements, purchase of supplies and materials, limitations upon tax levies, and the appropriation and expenditure of public funds, including, but not limited to, publication of resolutions, publication of calls for bids, provisions of personnel laws and rules, provisions relating to low bids, and requirement for bids. Penalty, see § 32.99

§ 32.07 EMERGENCY MANAGEMENT A GOVERNMENT FUNCTION.

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

§ 32.08 PARTICIPATION IN LABOR DISPUTES OR POLITICS.

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

§ 32.99 PENALTY.

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

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CHAPTER 33: CITY PERSONNEL

Section

33.01 Offices of Clerk and Treasurer Combined

§ 33.01 OFFICES OF CLERK AND TREASURER COMBINED. (prior Ordinance Number 101, Section III, 12/11/1979)

The offices of Clerk and Treasurer in the City of Franklin, Renville County, Minnesota, are hereby combined in the office of Clerk-Treasurer.

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CHAPTER 34: ANNEXATION AND VACATION OF LAND

Section

Annexations

- 34.01 Annexation of 5.56 Acres In 1961
- 34.02 Birch Coulee Addition In 1978
- 34.03 Annexation of Former County Boat Landing Site

Vacation of Land

§ 34.01 ANNEXATION OF 5.56 ACRES IN 1961 (Prior Ordinance Number 44-A, 10/7/1961)

An ordinance annexing certain lands to the Village of Franklin.

Pursuant to Chapter 645, laws 1961, Section 3, (N.S.A. 414.03, subd. 2) and;
WHEREAS, the following described lands, abut on the Village of Franklin, a municipal corporation and;
WHEREAS, said described lands are not included in any other municipality, and said land does not exceed 200 acres, and;
WHEREAS, the sole owner of said lands has petitioned the governing body of the Village of Franklin, to have such land included within the municipality and of the territory affected.
NOW THEREFORE, the Village Council of the Village of Franklin do ordain as follows:

That the following described lands, the north 311 feet of the west 518.1 feet of the Northwest quarter of the United States Lot 1 of Section 12, township 112, range 34 west containing 3.70 acres, and the north 311 feet of the east 260 feet of the northwest quarter of the southeast quarter of section 11, township 112, range 34 west, containing 1.86 acres, abutting upon the incorporated Village of Franklin, be and the same are hereby annexed to such village and shall be a part of such village as effectually as if they had been originally a part thereof.

§ 34.02 BIRCH COULEE ADDITION IN 1978 (Prior Ordinance Number 100-A, 8/14/1978)

An Ordinance annexing certain Birch Coulee land into the City of Franklin.

WHEREAS, Mary Ann Woelfel, the owner of the following described land, requested the City of Franklin to annex said land in her Petition dated June 12, 1978;

WHEREAS, the town Board of the Township of Birch Coulee, in which the following described land is located, has stated that it has no objection to the annexation of the following

described land to the City of Franklin and waives the 90 days before a city ordinance can be adopted by its waiver dated July 14, 1978; and

WHEREAS, The City Council of the City of Franklin has determined that the annexation of said land will be to the best interests of the City of Franklin and of the land itself, in that the land is currently in use as a service station and restaurant of an urban character; in that the annexation of said land will add to the tax base of the City of Franklin and will permit the City of Franklin to extend fire protection to said land; and also in that the annexation of said land will make possible the extension of city services to said land at some time in the future;

NOW THEREFORE, the City Council of the City of Franklin, County of Renville, State of Minnesota, does ordain and declare:

That the following described land is hereby annexed to the City of Franklin, to-wit:

Webb Oil Station Lot in the Northeast Quarter of the Southeast Quarter of Section Two (2) in the Township One Hundred Twelve (112) North of Range Thirty-four (34) West of the Fifth P.M. according to plat thereof on file and of record in the office of the Register of Deeds in and for said County of Renville and State of Minnesota, and

The following property situated in Section Two (2), Township One Hundred Twelve (112), Range Thirty four (34): Beginning at a point where State Highway #19 intersects County Road #5, thence southerly along said County Road #5 a distance of 17.5 feet, thence southerly along said County road #5 a distance of 58 feet, thence westerly at a right angle, a distance of 200 feet, along the northerly edge of a private road as now established, thence northerly at a right angle a distance of 274 feet to a point where Highway #19 intersected thereby, thence southeasterly along said Highway #19 to a point joining the northwest corner of the Webb Oil Station lot according to the plat thereof, thence southerly along westerly boundary of the said Webb Oil Station lot, a distance of 182.5 feet to the southwest corner of said lot, thence easterly a distance of 159 feet, along said south boundary of said Webb Oil Station lot to point of beginning, all in Renville County, Minnesota.

§ 34.03 ANNEXATION OF FORMER COUNTY BOAT LANDING SITE LOCATED IN SECTIONS 11 AND 12 OF BIRCH COOLEY TOWNSHIP (TOWNSHIP 112 NORTH, RANGE 34 WEST) (Prior Ordinance Number 117, 8/9/1993)

THE CITY OF FRANKLIN DOES ORDAIN:

1. The City Council hereby determines and finds that the property is now owned by the City of Franklin pursuant to a deed from the County of Renville dated June 14, 1993; that the area is deemed to be urban or suburban in character; and that the annexation of such lands are permitted by Minnesota Statute 414.033, Subd. 2 (1).
2. The Corporate Limits of the City of Franklin are hereby extended to include the former boat landing site, more particularly described on Exhibit A which attach hereto and incorporated herein; and same is hereby annexed to and included in the City of Franklin as if the property had originally been a part thereof.

3. The City Clerk is authorized and directed to file a certified copy of this Ordinance with the Minnesota Municipal Board, Birch Cooley Township, the Renville County Auditor and the Minnesota Secretary of State.

EXHIBIT A:

A piece of land running over and across the Northeast Quarter of the Southeast Quarter (NE1/4 SE1/4) , Section Eleven (11) , Township One Hundred Twelve (112) North, Range Thirty-four (34) West, the description being as follows: Commencing at a point on section line 728 feet south of the east quarter corner of Section 11, Township 112 North, Range 34 West, thence on an angle $74^{\circ}24'$ to the left a distance of 330 feet in a northwesterly direction; thence on an angle $135^{\circ}32'$ to the left a distance of 630 feet in a southeasterly direction; thence on an angle $150^{\circ}04'$ to the left a distance of 460 feet on section line to the point of beginning. This being 1.68 acres, more or less, AND

A piece of land running over and across the Northwest Quarter of the Southwest Quarter (NW1/4SW1/4) , Section Twelve (12) , Township One Hundred Twelve (112) North, Range Thirty-four (34) West , the description being as follows: Commencing at a point on section line 728 feet south of the west quarter corner of Section 12, Township 112 North, Range 34 West, thence on an angle $111^{\circ}12'$ to the right 419 feet on a southeasterly direction; thence on an angle $77^{\circ}12'$ to the right 555 feet in a southerly direction to the south line of the Northwest Quarter of the Southwest Quarter (NW1/4SW1/4) of Section 12, Township 112 North, Range 34 West; thence on an angle $81^{\circ}0'$ to the right a distance of 175 feet in a westerly direction (NW1/4SW1/4) of Section 12, Township 112 North, Range 34 West; thence on an angle $60^{\circ}40'$ to the right a distance of 275 feet in a northwesterly direction; thence on an angle $29^{\circ}56'$ to the right a distance of 460 feet on section line to the point of beginning. This being 4.52 acres, more or less.

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**CHAPTER 40: ELECTRIC DISTRIBUTION SYSTEM FRANCHISE
(Prior Ordinance Number 111, 11/13/1989)**

Section

- 40.01 Franchise Awarded to NSP
- 40.02 Rates Charged and Adequate Service Provided
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§ 40.01. FRANCHISE AWARDED TO NSP.

There be and hereby is granted to Northern States Power Company, a Minnesota corporation, its successors and assigns, hereinafter referred to as “Company”, during the period of twenty (20) years from the date hereof, the right and privilege of constructing, operating, repairing, and maintaining, in, on, over, under, and across the streets, alleys and public grounds of the City of Franklin, Renville County, Minnesota, hereinafter referred to as the “City” an electric distribution system and electric transmission lines, including poles, pole lines, and fixtures and appurtenances, usually conveniently, or necessarily used in connection therewith, for the purpose of transmitting and furnishing electric energy for light, heat, power and other purposes for public and private use in and to said City and the inhabitants thereof, and others, and for the purpose of transmitting into and through said City such electric energy, provided that such electric distribution system and transmission lines shall be so located as in no way to interfere with the safety and convenience of ordinary travel along and over streets, alleys, and public grounds, and provided that Company, in the construction, operation, repair and maintenance of such poles, pole lines, and fixtures and appurtenances, shall be subject to such reasonable regulation as may be imposed by the City Council.

§ 40.02. RATES CHARGED AND ADEQUATE SERVICE PROVIDED.

The service to be provided and the rates to be charged by Company for electric service in the City shall be subject to the jurisdiction of the Public Utilities Commission of this State. Company shall provide reasonably effeciant and adequate service to members of the public within the City who apply for such service in accordance with the rules and regulations of Company.

§ 40.03. AUTHORITY TO TRIM TREES AND SHRUBS THAT INTERFERE.

There is also granted to Company, during the term hereof, permission and authority to trim all trees and shrubs in the streets, alleys, and public grounds of said City which may interfere

with the proper construction, operation, repair, and maintenance of any poles, pole lines, and granted, provided that Company shall save said City harmless from any liability in the premises.

§ 40.04. NOTICE OF VACATION OF A PUBLIC WAY.

The City shall give the Company at least two (2) weeks prior written notice of a proposed vacation of a public way. Except where required solely for a City improvement project, the vacation of any public way, after the installation of electric facilities, shall not operate to deprive Company of its rights to operate and maintain such electric facilities, until the reasonable cost of relocating the same and the loss and expense resulting from such relocation are first paid to Company. In no case, however, shall City be liable to the Company for failure to specifically preserve a right-of-way under Minnesota Statutes, Section 160.29.

§ 40.05. AUTHORITY TO RE-ASSIGN RIGHTS.

Company shall have full right and authority to assign to any person, persons, firm, or corporation all the rights conferred upon it by this Chapter, provided that the assignee of such rights, by accepting such assignment, shall become subject to the terms and provisions of this Chapter.

§ 40.06. WRITTEN ACCEPTANCE.

Company shall, if it accepts this Ordinance and the rights and obligations hereby granted, file a written acceptance of the rights hereby granted with the City Clerk within ninety (90) days after the final passage and any required publication of this Ordinance.

§ 40.07. TIMING OF FULL FORCE AND EFFECT OF ORDINANCE.

This Ordinance shall be in full force and effect from and after the final passage and any required publication of this Ordinance.

§ 40.08. CONFLICT.

Where a provision of any other Ordinance conflicts with the provision of this Ordinance, (Chapter), the provisions of this Ordinance shall prevail. Notice to Company shall be mailed to the Area Office Manager thereof at 3515 – 3rd Street, North, St. Cloud, Minnesota, 56301 and any notice to City shall be mailed to the City Clerk.

**CHAPTER 41: CABLE TELEVISION FRANCHISE SUMMARY
(Prior Ordinance Number 119, 3/8/1993)**

Section

- 41.01 Adoption of Summary of the Cable Franchise Ordinance
- 41.02 Franchise To D.D. Cable Partners, L.P.
- 41.03 Construction of System
- 41.04 Cable Channels and Initial Subscriber Cost
- 41.05 Lock Out Devices and Free Drops To City and School
- 41.06 Toll Free Telephone Number For Complaints
- 41.07 Annual Fee to City
- 41.08 Right To Terminate For Cause
- 41.09 Unauthorized Connections
- 41.10 Performance Review

§ 41.01. ADOPTION OF SUMMARY OF THE CABLE FRANCHISE ORDINANCE.

Pursuant to Minnesota Statutes 412.191, the City Council of the City of Franklin hereby adopts the following summary of the Cable Franchise Ordinance which it adopted awarding a cable TV franchise to D.D. Cable Partners, L.P. The following is only a **summary** of certain relevant provisions. The full 38 page text of the cable TV Ordinance is available for public inspection at the Franklin City Offices during normal business hours.

§ 41.02. FRANCHISE TO D.D. CABLE PARTNERS, L.P.

The City grants a 15-year non-exclusive cable TV franchise to D.D. Cable Partners, L.P. The franchise covers the City as it now exists and may from time to time be expanded in the future during the term of the franchise. Service will be extended to those areas not in the initial service area pursuant to a formula set forth in Section 2.6 of the full Ordinance.

§ 41.03. CONSTRUCTION OF SYSTEM.

The cable company shall construct the system commencing as soon as possible and finish construction not later than one (1) year after start of construction subject to unavoidable delays. It shall be constructed pursuant to construction standards set forth in Section 3 of the full Ordinance and in compliance with all state and federal laws or regulations. Specific provisions relate to construction standards, including use of poles and/or underground installation.

§ 41.04. CABLE CHANNELS AND INITIAL SUBSCRIBER COST.

The cable company shall construct a system capable of providing up to sixty (60) channels. The systems shall be initially programmed to provide the same twenty-nine (29) channels offered in Redwood Falls, plus the Midwest Sports Channel. The cable company shall program and

activate two (2) additional channels by December 1, 1995 and two (2) more by December 1, 1996. The initial cost to the subscribers would be \$20.45 per month, with the right of the cable company to adjust the charges subject to state and federal rules and regulations.

§ 41.05. LOCK OUT DEVICES AND FREE DROPS TO CITY AND SCHOOL.

The cable company shall provide for sale or lease a lock out device which could be used to prevent viewing of certain programming. The cable company shall provide free drops to the community building and the school.

§ 41.06. TOLL FREE TELEPHONE NUMBER FOR COMPLAINTS.

The cable company shall carry one public access channel. The broadcast time and playback of programming on the access channel shall be provided without charge, subject to certain other costs which may be assessed pursuant to Section 6.2 of the full Ordinance. The cable company shall provide a character generator and \$2,000 for purchase of public access equipment.

§ 41.07. ANNUAL FEE TO CITY.

The cable operator shall pay to the City an annual fee equal to five percent (5%) of all gross revenues as defined in the full Ordinance.

§ 41.08. RIGHT TO TERMINATE FOR CAUSE.

The City reserved the right to revoke, terminate or cancel a franchise in the event the cable operator violates the standards set forth in Section 9.1 of the full Ordinance.

§ 41.09. UNAUTHORIZED CONNECTIONS.

The Ordinance provides monetary penalties for persons making unlawful or unauthorized connections to the system and for damage to the system.

§ 41.10. PERFORMANCE REVIEW.

The City reserved the right to review the performance and technological upgrading of the system. The City may appoint a citizen advisory body to monitor the cable operator's performance.

CHAPTER 50: GARBAGE AND RUBBISH

Section

- 50.01 Definitions
- 50.02 Sanitation collection service required
- 50.03 Container required; placement
- 50.04 Meddling with trash receptacles prohibited
- 50.05 Containers to be kept sanitary and secure
- 50.06 Unauthorized private collections prohibited
- 50.07 Sanitation service: city options.
- 50.08 Rates and charges; collection and late payment
- 50.09 Removal of building materials
- 50.10 Prohibited acts
- 50.11 Non-residential customers; container types; collection schedules
- 50.12 Manner of collection and transportation
- 50.13 Licensing for collection
- 50.14 Collection of leaves, trees or tree limbs

Cross-reference:

Health and Safety; Nuisances, see Chapter 92

§ 50.01 DEFINITIONS.

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

GARBAGE. Organic refuse resulting from the preparation of food, and decayed and spoiled food from any source.

RUBBISH. All inorganic refuse matter such as tin cans, glass, paper, ashes and the like.

§ 50.02 SANITATION COLLECTION SERVICE REQUIRED.

Every person owning, managing, operating, leasing or renting any premises or any place where garbage or rubbish accumulates shall subscribe to a sanitation collection service.

Penalty, see § 10.99

§ 50.03 CONTAINER REQUIRED; PLACEMENT.

(A) It shall be the duty of every person whose garbage and refuse is collected by the sanitation collection service to provide a container or containers for garbage and refuse, sufficient in size and number to accommodate and securely keep all garbage and refuse that may

accumulate between collections. Garbage containers shall be watertight and constructed of a solid and durable grade of metal, plastic, or paper material.

(B) It shall be the duty of every person whose garbage and refuse is collected by the sanitation collection service to place their garbage containers directly behind the curblin of the street abutting their property or in the absence of a curb directly behind the ditch line abutting their property. In no event shall containers be placed in the street or on the sidewalk or in any manner placed where the containers will interfere with vehicular or pedestrian traffic. It shall be the responsibility of the subscriber to place the containers no earlier than 12:01 p.m. of the afternoon preceding the collection day. Penalty, see § 10.99

§ 50.04 MEDDLING WITH TRASH RECEPTACLES PROHIBITED.

(A) It shall be unlawful to meddle with garbage cans, trash or rubbish receptacles or in any way pilfer, search or scatter contents of garbage cans or rubbish receptacles in or upon any street or alley within the city limits.

(B) This section shall not apply to persons authorized by the city or persons authorized by state or federal law to search or otherwise meddle with trash receptacles. Penalty, see § 10.99

§ 50.05 CONTAINERS TO BE KEPT SANITARY AND SECURE.

All containers shall be kept clean and free from accumulation of any substance remaining attached to the inside of the container which would attract or breed flies, mosquitoes, or other insects. The area surrounding garbage containers shall be maintained in a clean and sanitary condition. The contents of all receptacles shall be protected so that the wind cannot scatter the contents over the streets, alleys or other property within the city. All containers shall be securely closed in a manner as to prevent the scattering of the contents and to make them inaccessible to insects, rodents and other animals. Penalty, see § 10.99

§ 50.06 UNAUTHORIZED PRIVATE COLLECTIONS PROHIBITED.

(A) It shall be unlawful for any person to transport garbage or refuse for hire which has been collected from any premises within the city over any public street within the city.

(B) This section shall not apply to any unauthorized person under this chapter who at the time of the activity is operating under a valid contract or franchise granted by the city which authorizes that person to use the public streets to conduct that activity. Penalty, see § 10.99

§ 50.07 SANITATION SERVICE: CITY OPTIONS.

The City Council may provide for sanitation collection services within the city by use of city employees and vehicles, or it may grant licenses under the terms and conditions of § 50.13, or it may contract with one or more contractors for the provision of these services under the terms and conditions negotiated with the contractors, except that the provisions for insurance under § 50.13(E) shall always apply.

§ 50.08 RATES AND CHARGES; COLLECTION AND LATE PAYMENT.

If the city collects charges for the collection, removal and disposal of garbage and trash within the city, the following provisions apply:

(A) *Generally.* The monthly charge for the collection, removal and disposal of garbage and trash from residences and businesses within the corporate limits of the city shall be as established by the Ordinance Establishing Fees and Charges adopted pursuant to § 30.11 of this code, as that ordinance may be amended from time to time.

(B) *Collection of charges.* The charges fixed herein for the collection, removal and disposal of all garbage and trash shall be entered in their respective amounts on the utility bill.

(C) *City response for late payment.*

(1) It is the policy of the city that when utility charges are more than thirty (30) days past due, that these delinquent utility accounts shall be delivered to the County Auditor to be assessed to the property taxes to be levied with the taxes payable. These charges shall be subject to the same penalties, interest, and other conditions provided for the collection of property taxes. The following provisions shall be followed by the City:

(a) That all bills are due and payable on or before the date set forth on the bill;

(b) That if any bill is not paid by or before that date, a past due notice of the past due amount shall be mailed to the property owner. In the case of a rental property, the notice shall be sent to both the renter and the property owner. The past due notice shall describe the City's assessment policy.

(c) That any customer disputing the correctness of his or her bill shall have a right to a hearing at which time he or she may be represented in person and by counsel or any other person of his or her choosing and may present orally or in writing his or her complaint and contentions to the city official in charge of utility billing.

§ 50.09 REMOVAL OF BUILDING MATERIALS.

Waste from building operations, rock waste, building materials or other refuse resulting from building or remodeling operations or resulting from a general cleanup of vacant or improved property shall be removed by the building contractor, owner or occupant of the building at his or her own expense. It shall be unlawful for any person to place those materials in any dumpster or other trash receptacle for disposal by the city or any agent or contractor of the city. Penalty, see § 10.99

§ 50.10 PROHIBITED ACTS.

(A) It shall be unlawful for any person to sweep, throw or deposit any garbage, trash, debris, stagnant water or dead animal into, upon or along any public property or private property of another, except as may be specifically provided by this chapter.

(B) It shall be unlawful for any person owning or otherwise in control of any premises within the city to permit any of the conditions described in division (A) to exist upon property owned or controlled by him or her after having actual or constructive notice thereof.

(C) It shall be unlawful for any person to place in any container any material other than as specifically provided in this chapter.

(D) It shall be unlawful for any person to deposit or maintain garbage or trash except as provided for by this chapter.

(E) It shall be unlawful for any person to deposit any burning match, charcoal, ember, or other material in any container used for the disposal of garbage. Penalty, see § 10.99

§ 50.11 NON-RESIDENTIAL CUSTOMERS; CONTAINER TYPES; COLLECTION SCHEDULES.

(A) It shall be the duty of the owner or person otherwise in charge of multi-family, institutional or industrial premises within the city to cause all garbage and trash accumulated on the premises to be placed in disposable containers, or commercial-type containers. Commercial-type containers may be used and may be placed at a location on the premises as arranged between the customer and the collector, but subject to review by the city at any time.

(B) Disposable containers shall be placed at a location on the premises which is readily accessible to the collector.

(C) The amount and character of garbage shall be considered in establishing size of commercial containers and frequency of pickup. The city shall have final authority to establish the size and frequency based on the history of amount and type of garbage generated by the customer. The collection and removal of garbage and trash from premises used for commercial, institutional, or industrial purposes shall be made as often as necessary in order to maintain the premises free of accumulations. Garbage, except dry trash in contractor-supplied containers, shall be collected not less than one time each week, except for roll-off containers which shall not be subject to this provision so long as they are used solely for brush and dry trash. Penalty, see § 10.99

§ 50.12 MANNER OF COLLECTION AND TRANSPORTATION.

(A) The collection, removal and disposal of all garbage, trash and brush shall be carried on in a systematic, efficient manner to keep the city in a clean and sanitary condition.

(B) All vehicles used for the collection and transportation of garbage and trash shall be equipped with suitable covers which shall be used to prevent blowing or scattering of refuse while garbage and trash are being transported for disposal. Penalty, see § 10.99

§ 50.13 CONTRACT AGREEMENT FOR COLLECTION.

(A) *Purpose.* In order to provide for a continuous system of refuse collection and disposal in a manner which meets the needs and conveniences of the residents of the city and in order to protect the area from the problems of uncoordinated, unsanitary and improper solid waste disposal, the City Council may determine that it is in the best interests of the residents of the city to require standards of operation of persons collecting or hauling garbage and rubbish for hire, reserving to the city the right and authority to contract with one or more operators to provide these services.

(B) *Contract Arrangement.* No person may collect or haul garbage or rubbish within the city without first entering into a written contract arrangement with the City Council. The contract shall stipulate the responsibilities of the contractor and the City.

(C) *Franchise.* When preparing a new municipal rubbish and garbage disposal agreement, the City Council may exercise its reserved right to contract with one or more operators for the collection of garbage and rubbish within the city.

(D) *Suspension of contract.* A contract or license issued under the provisions of this section may be revoked or suspended for a violation of this chapter or other applicable regulations of law upon a showing that the contractor or licensee has failed to comply with that regulation.

(E) *Financial responsibility.* The licensee or contractor shall show financial responsibility or a certificate of insurance coverage prior to obtaining the license or franchise whereby each vehicle to be used by the licensee or contractor shall be covered against loss or injury. The amounts of insurance liability coverage shall be determined by the City Council at the time new contracts for service are prepared. The licensee or contractor shall hold the city harmless and agrees to defend and indemnify the city, and the city's employees and agents, for any claims, damages, losses, and expenses related to the work under the license or contract. The city shall be named as an additional insured under that insurance for the services provided under the license or contract. The licensee's or contractor's insurance shall be the primary insurance for the city and the licensee or contractor shall provide a certificate of insurance on the city's approved form which verifies the existence of the insurance required, including provisions to hold the city harmless and defend and indemnify the city. The licensee or contractor shall also provide evidence of workers compensation insurance for employees. These insurance policies shall be for the full term of the license or franchise and shall provide for the giving of ten days prior notice to the city of the termination or cancellation of these policies. In case any policies are terminated or cancelled, the license or contract shall be automatically revoked upon receipt by the City Clerk of the termination or cancellation.

(F) *Design of equipment.* All trucks, motor vehicles and equipment used by the licensee or contractor shall be kept in a sanitary, neat and proper operating condition. The licensee or contractor shall be responsible for the cleanup of any spillage or other mess for which they are responsible.

(G) *Inspections.* All vehicles used for garbage or rubbish shall be made available for inspection within the city at the times and places as the City Council may designate.

(H) *Bond.* The contractor or licensee may be required to furnish a surety bond in an amount as the City Council deems necessary running to and approved by the City Council, guaranteeing the franchisee's or licensee's faithful and continuous performance of the terms of the franchise, license or contract and of this chapter.

§ 50.14 COLLECTION OF LEAVES, TREES OR TREE LIMBS.

Nothing in this chapter shall be construed to prevent the collection for hire by other persons of leaves, trees or tree limbs.

CHAPTER 51: SEWER REGULATIONS

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Cross-reference:

Health and Safety; Nuisances, see Chapter 92

GENERAL PROVISIONS

§ 51.001 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.

BIOCHEMICAL OXYGEN DEMAND (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 200 C, expressed in terms of milligrams per liter (mg/l).

BUILDING DRAIN. The part of the lowest horizontal piping of a drainage system which receives the discharge from waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning 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 BOD₅ concentration not greater than 287 mg/l and a suspended solids (TSS) concentration not greater than 287 mg/l.

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

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

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

PROPERLY SHREDDED GARBAGE. The wastes from the preparation, cooking and dispensing of food that have been shredded to 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.

PUBLIC WORKS SUPERVISOR. The person appointed by the City Council to supervise the sewer and water systems of the city.

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

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

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

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

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

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

(5) **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.

(6) **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 benefited 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.

WASTE WATER. 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.

§ 51.002 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.

§ 51.003 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 Clerk 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 § 51.064 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 § 51.999

§ 51.004 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 § 51.999

§ 51.005 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.

GENERAL REGULATIONS

§ 51.015 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 § 51.999

§ 51.016 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 § 51.999

§ 51.017 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 § 51.999

§ 51.018 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 § 51.999

§ 51.019 FAILURE TO CONNECT TO A PUBLIC SEWER.

In the event an owner shall fail to connect to a public sewer in compliance with a notice given under § 51.018, the city shall undertake to have the connection made and shall assess the cost thereof against the benefitted property. The assessment, when levied, shall bear interest at the rate determined by the City Council and shall be certified to the County Auditor and shall be collected and remitted to the city in the same manner as assessments for local improvements. The rights of the city shall be in addition to any remedial or enforcement provisions of this chapter. Penalty, see § 51.999

PRIVATE WASTEWATER DISPOSAL

§ 51.035 PUBLIC SEWER NOT AVAILABLE.

Where a public sewer is not available under the provisions of § 51.018, 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 § 51.999

§ 51.036 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 § 51.999

§ 51.037 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 § 51.999

§ 51.038 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 § 51.999

§ 51.039 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.

§ 51.040 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.

BUILDING SEWERS AND CONNECTIONS

§ 51.055 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, BOD₅ and suspended solids, as determined by the Utilities Superintendent. Penalty, see § 51.999

§ 51.056 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.

(D) *Inspection and connection.* The applicant for the building sewer permit shall notify the city when the building sewer is ready for inspection and connection to the public sewer. The connection and inspection shall be made under the supervision of the Public Works Supervisor or authorized representative thereof. Penalty, see § 51.999

§ 51.057 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 § 51.999

§ 51.058 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 § 51.999

§ 51.059 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 Public Works Supervisor or his or her representative, to meet all requirements of this chapter.

§ 51.060 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 and standards of the State Building and Plumbing Code or other applicable rules and regulations of the city. No person shall make a service connection until the City has been notified and has the opportunity to inspect such work. All connections shall be made gastight and watertight, 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 § 51.999

§ 51.061 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 § 51.999

§ 51.062 SURFACE RUNOFF OR GROUNDWATER CONNECTIONS PROHIBITED.

No person shall make connection of roof downspouts, sump pumps, foundation drains, areaway drains or other sources of surface runoff or groundwater to a building sewer or indirectly to the wastewater disposal system. Penalty, see § 51.999

§ 51.063 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 § 51.999

§ 51.064 CITY IDEMNIFIED AND SAVE HARMLESS.

No person or plumbing company shall be allowed to make a connection to the public sewer until such person/plumbing company has given a policy of insurance to the city, approved by the Council, is filed with the City Clerk conditioned that such person/plumbing company will indemnify and save harmless the city from all suits, accidents and damage that may arise by reason of any opening in any street, alley or public ground made by the such person or by those in the employment of such person for any purpose whatever, and that such person/plumbing

company will replace and restore the street and alley over that opening to the condition existing prior to installation, adequately guard with barricades and lights, and will keep and maintain the same to the satisfaction of the Public Works Supervisor, and shall conform in all respects to any rules and regulations of the Council relative thereto, and pay all fines that may be imposed on the person/plumbing company by law.

§ 51.065 SUSPENSION OF WORK.

The Council or the Public Works Supervisor may suspend the work of a plumber in regards to service connections with any public sewers for any of the following causes:

(A) Giving false information in connection with the proposed work.

(B) Incompetence.

(C) Willful violation of any provisions of this chapter or any rule or regulation pertaining to the making of service connections. Penalty, see § 51.999

USE OF PUBLIC SERVICES

§ 51.080 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) Stormwater 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 § 51.999

§ 51.081 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 fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastic, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud or glass grinding or polishing wastes. The business in the city named the Franklin Locker shall be given grandfather provisions in that the business shall be allowed to continue its current practices without reprisals from the City. The Franklin Locker shall meet the provisions of this Section when the business is sold or expanded.

(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 in sufficient quantity, either singly or by interaction with other pollutants, to inhibit or disrupt any wastewater treatment process, constitute a hazard to humans or animals, or create a toxic effect in the receiving waters of the wastewater disposal system. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to Section 307(a) of the Act (33 USC 13 17(a)). Penalty, see § 51.999

§ 51.082 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 Public Works Supervisor 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 Public Works Supervisor 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 are as follows:

(1) Any wastewater having a temperature greater than 150° F (65.60 C), or causing, individually or in combination with other wastewater, the influent at the wastewater treatment plant to have a temperature exceeding 104E F (40E C), or having heat in amounts which will inhibit biological activity in the wastewater treatment works resulting in interference therein.

(2) Any wastewater containing fats, wax, grease or oils, whether emulsified or not, in excess of 100 mg/l or containing substances which may solidify or become viscous at temperatures between 32E F and 150E F (0E C and 65.6E C); and any wastewater containing oil and grease concentrations of mineral origin of greater than 100 mg/l, whether emulsified or not. Any new business or organization shall meet these requirements at time of startup. Established businesses and organizations shall be given a period of time to come into compliance, which shall be determined by the City on a case by case basis. The City shall look at the cost and complexity for the business or organization to become compliant as well as how excessive are the amounts of grease, oil, etc. in their wastewater. The time for such compliance shall begin on the date the business or organization has received official notification from the City.

(3) Any quantities of flow, concentrations, or both which constitute a “slug” as defined in § 51.001.

(4) Any garbage not properly shredded, as defined in § 51.001 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 ground water.

(8) Wastewater containing inert suspended-solids such as but not limited to fullers earth, lime slurries, and lime residues, or of dissolved solids such as but not limited to sodium chloride and sodium sulfate, in 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 Public Works Supervisor 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 13 17(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 BOD₅ 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 § 51.094.

§ 51.083 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 § 51.082, or which in the judgment of the Public Works Supervisor 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 cover the added 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 MPCA.

§ 51.084 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 § 51.081 and 51.082, or contained in the National Categorical Pretreatment Standards or any state requirements. Penalty, see §51.999

§ 51.085 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.

§ 51.086 GREASE, OIL AND SAND INTERCEPTORS.

Grease, oil, and sand interceptors shall be provided when, in the opinion of the Public Works Supervisor, they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts, as specified in § 51.082(B)(2), any flammable wastes as specified in § 51.081(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 Public Works Supervisor. 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 § 51.999

§ 51.087 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 § 51.999

§ 51.088 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 § 51.999

§ 51.089 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 Public Works Supervisor. Penalty, see § 51.999

§ 51.090 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 Public Works Supervisor 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 Public Works Supervisor 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 Public Works Supervisor 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 insure that all employees who may cause or discover a discharge are advised of the emergency notification procedure. Penalty, see § 51.999

§ 51.091 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 Public Works Supervisor 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 Public Works Supervisor may cause the work to be completed at the expense of the owner or representative thereof. Penalty, see § 51.999

§ 51.092 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 Public Works Supervisor 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 Public Works Supervisor 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 § 51.999

§ 51.093 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 § 51.999

§ 51.094 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 therefor 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

§ 51.110 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.

§ 51.111 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.

§ 51.112 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.

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

(b) For the purpose of this definition, domestic waste shall be considered to have the following characteristics: BOD₅ - less than 287 mg/l; Suspended solids - less than 287 mg/l.

(2) 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 13 17(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.

§ 51.113 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 users proportionate contribution to the total wastewater loading from all users.

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

(D) 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 § 30.11 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 Service 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 § 51.116.

(G) A connection fee as fixed in the Ordinance Establishing Fees and Charges adopted pursuant to § 30.11 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 § 51.999

§ 51.114 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 § 30.11, as that ordinance may be amended from time to time. Penalty, see § 51.999

§ 51.115 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. The city also establishes the following accounts as income and expenditure accounts within the sewer service fund:

- (1) Operation and maintenance account.
- (2) Equipment replacement account.
- (3) Debt retirement account.

(B) All revenue generated by the sewer service charge system, and all other income pertinent to the treatment system, including taxes and special assessments dedicated to retire construction debt, shall be held by the City Clerk 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 service charge system sufficient to insure 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.”

§ 51.116 ADMINISTRATION.

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

(A) The City Clerk 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 § 51.113(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 insure the proportionality of the

user charges and to insure the sufficiency of funds to maintain the capacity and performance to which the facilities were constructed, and to retire the construction debt.

(B) In accordance with federal and state requirements, the City Clerk 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 quarterly basis succeeding the period for which the service was rendered and shall be due ten 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 computed at 10% of the original bill and shall be increased the same 10% for every quarter the bill is outstanding. Disconnection of services for late payment shall follow the procedures established in § 51.117:

(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.

§ 51.117 CITY RESPONSE FOR LATE PAYMENT

It is the policy of the city that when utility charges are more than thirty (30) days past due, that these delinquent utility accounts shall be delivered to the County Auditor to be assessed to the property taxes to be levied with the taxes payable. These charges shall be subject to the same penalties, interest, and other conditions provided for the collection of property taxes. The following provisions shall be followed by the City:

(A) That all bills are due and payable on or before the date set forth on the bill;

(B) That if any bill is not paid by or before that date, a past due notice of the past due amount shall be mailed to the property owner. In the case of a rental property, the notice shall be sent to both the renter and the property owner. The past due notice shall describe the City's assessment policy.

(C) That any customer disputing the correctness of his or her bill shall have a right to a hearing at which time he or she may be represented in person and by counsel or any other person of his or her choosing and may present orally or in writing his or her complaint and contentions to the city official in charge of utility billing.

POWERS AND AUTHORITY OF INSPECTORS

§ 51.130 AUTHORIZED EMPLOYEES PERMITTED TO ENTER ALL PROPERTIES.

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

§ 51.131 AUTHORIZED EMPLOYEES OBTAINING INFORMATION FOR INDUSTRIAL PROCESSES.

The Public Works Supervisor 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.

§ 51.132 AUTHORIZED EMPLOYEES TO OBSERVE SAFETY RULES.

While performing necessary work on private properties, the Public Works Supervisor 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 § 51.087.

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

The Public Works Supervisor 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.

§ 51.999 PENALTY.

(A) (1) Any person found to be violating any provisions of § 51.001 through 51.094 and 51.130 through 51.133 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 § 51.001 through 51.094 and 51.130 through 51.133 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 § 51.110 through 51.118 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 30 as taxes or assessments on the real estate. Nothing in § 51.110 through 51.118 shall be held or construed as in any way stopping or interfering with the right of the city to levy as taxes or assessments against any premises affected 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 the rate of 8% per annum.

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CHAPTER 52: WATER REGULATIONS

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Cross-reference:

Assessable current services, see § 92.01

GENERAL PROVISIONS

§ 52.01 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.

§ 52.02 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

§ 52.03 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

§ 52.04 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

§ 52.05 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 in conformity 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

§ 52.06 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 § 52.51.

(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 well shall be sealed in accordance to Minnesota Statutes 103I, and Minnesota Rules Chapter 4725 and amendments thereto. State law requires that the sealing of a well be done by a licensed well contractor.

(3) Within 30 days after the municipal water connection is made, the owner or occupant must advise the Public Works Supervisor that the well has been sealed.

(4) Notwithstanding the foregoing, all well abandonment shall be done in accordance with M.S. § 103I.301 to 103I.345 and Minn. Rules Ch. 4725, Wells and Borings, as it may be amended from time to time. Penalty, see § 10.99

§ 52.07 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 the City Engineer or Public Works Supervisor.

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

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

Use of fire hydrants. Except for extinguishment of fires, no person, unless authorized by the Public Works Supervisor or Public Utilities department, shall operate fire hydrants or interfere in any way with the water system. No temporary connections shall be allowed without first obtaining permission from the City Council. At that time the City Council shall determine what stipulations and charges shall apply for use of a fire hydrant. Emergency situations, as determined by the City, shall require that the user relinquish the use of the hydrant.

§ 52.09 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.

WATER REGULATIONS

§ 52.25 SUPPLY FROM ONE SERVICE.

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

§ 52.26 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

§ 52.27 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) *Thawing of water services.* The city will attempt to thaw water services on request of the resident. If the problem is found within that portion of the service for which the private owner is responsible, the private owner thereafter will be responsible for thawing the service and correction of the problem.

(C) 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.

(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.

(D) *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 § 52.51 has been paid to the city. Penalty, see § 10.99

§ 52.28 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 when the City determines that it is practical to do so.

(B) When new buildings are erected in 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

§ 52.29 DISCONNECTION PERMIT.

A permit must be obtained to disconnect from the existing water service leads at the curb stop box. The fee for the permit shall be set pursuant to § 52.51. Penalty, see § 10.99

§ 52.30 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 up to and including two-inch services. All underground joints are to be mechanical, except joints under floors shall be silver soldered, unless otherwise approved by the Public Works Supervisor. 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 three-piece unions only. All joints and connections shall be left uncovered until inspected by the Public Works Supervisor and tested at normal water line pressure. Unions must be three-part type. All services over two inches shall be cast iron. Connections with the mains for domestic supply shall be at least three-quarter inch up to the curb stop box. Penalty, see § 10.99

§ 52.31 EXCAVATION AND CONSTRUCTION REQUIREMENTS.

(A) No excavation shall be made until a permit for the connection has been issued by the city.

(B) No water service pipe or water connection shall be installed in the same trench or closer than ten 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 ten feet apart, the water service pipe shall be above the sewer pipe unless approved by the City Engineer. 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 cast iron water pipe with specially protected joints is acceptable for this construction, as may be other materials if approved by the Minnesota Plumbing Code. 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

§ 52.32 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

§ 52.33 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. 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 by the Ordinance Establishing Fees and Charges adopted pursuant to § 30.11 of this code, as that ordinance may be amended from time to time or deposit required for the installation of the service connection as hereinafter provided. 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 City Engineer.

(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 § 52.51. 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 City Engineer. 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 § 52.51 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 non-residential installations.

(4) When water services have been stopped because of a violation of this chapter, the city shall collect the fee established pursuant to § 52.51 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 § 52.51. Penalty, see § 10.99

§ 52.34 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 City Engineer 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 the use of the curb stop box, or cause damage to the same. Penalty, see § 10.99

§ 52.35 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 there from 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 Public Works Supervisor 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) The City shall pay for the cost of the first water meter, including the unit's installation, however, the property owner shall provide a freeze proof location for such installation. If a property owner requests additional water meters, they will be charged for these additional units. A charge established pursuant to § 52.51 shall be paid by customers to the city for additional 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 six-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) All water meters and remote readers shall be and remain the property of the city.

(5) 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.

(6) 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

§ 52.50 WATER UNIT.

A water unit (hereinafter called unit) shall be one residential equivalent connection based on usage of 1,000 gallons per quarter or portion thereof. The City also charges a base rate for water usage beyond the metered usage.

§ 52.51 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 § 30.11 of this Code, as that ordinance may be amended from time to time.

§ 52.52 WATER SERVICE BILLING; CHANGE OF ADDRESS.

All bills and notices shall be mailed or delivered to the address where service is provided. If nonresident owners or agents desire personal notice sent to a different address, they shall so note on the water service application. Any change or error in address shall be promptly reported to the City Clerk.

§ 52.53 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 § 52.51.

(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 § 52.51 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 regular or minimum charge shall continue until the date as service is disconnected at the curb box. Penalty, see § 10.99

§ 52.54 PAYMENT OF CHARGES; LATE PAYMENT; COLLECTION.

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

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

(C) In the event a user fails to pay his or her water user fee within a reasonable time (a time period not to exceed 30 days), the fee shall be certified by the City Clerk and assessed against the property on which the charges have incurred, and forwarded to the County Auditor for collection. See Section 52.73 for a complete explanation to the City's late payment provision. Penalty, see § 10.99

ADMINISTRATION AND ENFORCEMENT

§ 52.70 SUPERVISION BY PUBLIC WORKS SUPERVISOR; FILING.

(A) All piping connections from the curb stop box to house supply piping shall be made subject to inspection by the Public Works Supervisor. The piping connection made to the curb stop box on the house side shall be inspected by the Public Works Supervisor. The water meter installation shall be inspected, tested and the meter sealed by the Public Works Supervisor.

(B) No person, firm or corporation shall engage in the business of altering, repairing, installing or constructing municipal water connections within the city without first obtaining approval of the Public Works Supervisor to do so.

(C) No person, firm or corporation shall engage in the business of altering, repairing, installing or constructing municipal water connections within the city without first filing with the City Clerk evidence of public liability insurance, including products liability insurance with limits of at least \$50,000 per person and \$100,000 per occurrence and property damage insurance

with limits of at least \$10,000. Evidence of insurance required pursuant to M.S. § 326.40, Subd. 2, as it may be amended from time to time, shall satisfy this requirement.

(D) No person, firm or corporation shall engage in the business of altering, repairing, installing or constructing municipal water connections within the city without first filing with the City Clerk a surety bond guaranteeing the conformance and compliance of work with this chapter. The bond shall be in the amount of \$2,000. The city shall hold the bond for one year period. Failure to comply with provisions and requirements of this chapter shall result in forfeiture of the bond. The applicant may comply with the requirements of M.S. § 326.40, Subd. 2, as it may be amended from time to time in lieu of these requirements.

(E) The Council or the Public Works Supervisor may suspend the work of a person, firm or corporation in regards to the business of altering, repairing, installing or constructing municipal water connections within the city for any of the following causes:

- (1) Giving false information in connection with the proposed work.
- (2) Incompetence.
- (3) Willful violation of any provisions of this chapter or any rule or regulation pertaining to the business of altering, repairing, installing or constructing municipal water connections within the city. Penalty, see § 51.999.

No altering, repairing, installing or constructing municipal water connections within the city may continue until the Public Works Supervisor determines that corrective measures have been made and the job will be done appropriately. The City Council may decide to suspend all work involving municipal water connections within the city for a period of time for reasons/causes shown above. For such cases, the person, firm or corporation being made subject to this suspension shall be given a hearing by the City Council to show cause for why such action should not be taken. Notice of the time, place and purpose of the hearing shall be in writing.

§ 52.71 POWERS AND AUTHORITY OF INSPECTORS.

The Utilities Superintendent and other duly authorized employees of the city, upon proper identification, shall be permitted to enter upon all properties for the purpose of inspections, observation and testing in accordance with the provisions of this chapter.

§ 52.72 DISCONTINUANCE OF SERVICE.

Water service may be shut off at any connection whenever:

(A) The owner or occupant of the premises served or any person working on any pipes or equipment thereon which are connected with the water system has violated, or threatens to violate, any of the provisions of this chapter.

(B) Any charge for water, service, meter, or any other financial obligations imposed on the present or former owner or occupant served is unpaid.

(C) Fraud or misrepresentation by the owner or occupant of the premises serviced in connection with an application for service.

§ 52.73 CITY RESPONSE FOR LATE PAYMENT.

It is the policy of the city that when utility charges are more than thirty (30) days past due, that these delinquent utility accounts shall be delivered to the County Auditor to be assessed to the property taxes to be levied with the taxes payable. These charges shall be subject to the same penalties, interest, and other conditions provided for the collection of property taxes. The following provisions shall be followed by the City:

(A) That all bills are due and payable on or before the date set forth on the bill;

(B) That if any bill is not paid by or before that date, a past due notice of the past due amount shall be mailed to the property owner. In the case of a rental property, the notice shall be sent to both the renter and the property owner. The past due notice shall describe the City's assessment policy.

(C) That any customer disputing the correctness of his or her bill shall have a right to a hearing at which time he or she may be represented in person and by counsel or any other person of his or her choosing and may present orally or in writing his or her complaint and contentions to the city official in charge of utility billing.

§ 52.74 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

§ 52.75 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 53: STORM SEWER REGULATIONS

Section

- 53.01 Establishment of a Storm Sewer Improvement District
- 53.011 Provisions of State Law Adopted
- 53.012 Creation
- 53.013 Assessments

§ 53.01 ESTABLISHMENT OF A STORM SEWER IMPROVEMENT DISTRICT. (Prior Ordinance Number 115, 3/2/1992)

§ 53.011 PROVISIONS OF STATE LAW ADOPTED.

The provisions of Minnesota Statutes 444.16 through 444.21 relating to storm sewer improvement districts are adopted and made part of this ordinance as if set out in full.

§ 53.012 CREATION.

A storm sewer improvement tax district is hereby established for the purpose of assessing the costs of major storm sewer improvement programs. The City of Franklin Storm Sewer Improvement District shall consist of all property within the corporate limits of the City of Franklin as the same may be located from time to time.

§ 53.013 ASSESSMENTS.

Assessments for any storm sewer improvements which are assessed to the City of Franklin Storm Sewer Improvement District shall be assessed to all property within the boundaries of the district on an ad valorem basis. Any such assessments shall be levied collected and disbursed as provided by Section 444.20 of Minnesota Statutes.

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CHAPTER 70: TRAFFIC REGULATIONS

Section

General Provisions

- 70.01 State highway traffic regulations adopted by reference
- 70.02 Trucks prohibited on certain streets
- 70.03 Stop intersections
- 70.04 Through streets and one-way streets
- 70.05 Turning restrictions
- 70.06 U-turns restricted
- 70.07 Excessive noise
- 70.08 Exhibition driving prohibited
- 70.09 Cruising prohibited

Parades

- 70.20 Definitions
- 70.21 Permit required
- 70.22 Application for permit
- 70.23 Standards for issuance of permit
- 70.24 Notice of rejection of permit application
- 70.25 Appeal procedure when permit denied
- 70.26 Alternative permit
- 70.27 Notice to city and other officials when permit issued
- 70.28 Contents of permit
- 70.29 Duties of permittee
- 70.30 Public conduct during parades
- 70.31 Revocation of permit

GENERAL PROVISIONS

§ 70.01 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 hereby 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.

§ 70.02 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 Chief of Police 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) No truck shall be driven or operated within the city limits except upon designated truck routes with the following exceptions: (Prior Ordinance Number 121, 12/9/96).

Notwithstanding any language to the contrary above, individuals owning land adjoining the City which is devoted to agricultural purposes whose access is limited to outlets onto the city streets are hereby exempted from the restrictions founding said Ordinance as it relates to the operation. This exception, however, is limited to the most direct route from their farm across city streets to an approved truck route within the City limits. The properties affected are more fully set forth on the map on file in the Clerk's office for the City of Franklin which map is incorporated herein by reference. (Prior Ordinance Number 121, 12/9/96).

(C) 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

(D) All trucks will be limited to a thirty minute idling time, in a 12 hour period. (Prior Ordinance Number 121, 12/9/96).

§ 70.03 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

§ 70.04 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

§ 70.05 TURNING RESTRICTIONS.

(A) 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.

(B) The city shall mark by appropriate signs any intersection so designated.

(C) No person shall turn a vehicle at any intersection contrary to the direction on those signs. Penalty, see § 10.99

§ 70.06 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

§ 70.07 EXCESSIVE NOISE.

(A) As used in this section, **LIGHT-MOTOR VEHICLES** means any automobile, van, motorcycle, motor-driven cycle, motorscooter, 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 Mm. 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

§ 70.08 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

§ 70.09 CRUISING PROHIBITED.

(A) As used in this section, **CRUISING** means the operation of a motor vehicle as defined in M.S. § 169.01, Subd. 3, as it may be amended from time to time, past a traffic control point as determined by a peace officer on a street in an area designated a No Cruising Zone by City Council resolution four or more times between the hours of 9:00 p.m. and 3:30 a.m.

(B) The passing of a traffic control point under the conditions previously stated, shall constitute unnecessary repetitive driving and is a violation of this section.

(C) The following use of vehicles shall constitute valid exceptions to this prohibition: taxicabs for hire, buses, authorized emergency vehicle, vehicles use used by or under contract with any governmental jurisdiction, any vehicle being used to conduct legitimate business activities.

(D) This section may be enforced only in an area that has been posted as a A No Cruising Zone. Signs shall be posted at the beginning and the end of any public street, alley or highway, or portion thereof which is a no cruising zone.

PARADES

§ 70.20 DEFINITIONS.

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

PARADE. Any parade, march, ceremony, show, exhibition, pageant, or procession of any kind, or any similar display in or on any street, sidewalk, park, or other public place in the city.

PARADE PERMIT. A permit required by this subchapter.

PARKING LOT. Any paved or unpaved area used by a place of business or shopping center for the parking of vehicles of their customers, but shall not include those operated for hire.

§ 70.21 PERMIT REQUIRED.

(A) No person or persons shall engage or participate in, aid, form or start any parade unless a parade permit has been obtained from the City Clerk or other authorized city official.

(B) This subchapter shall not apply to:

(1) Funeral processions;

(2) Students going to and from school classes or participating in educational activities; provided, that the conduct is under the immediate direction and supervision of the proper school authorities;

(3) A governmental agency acting within the scope of its functions. Penalty, see ' 10.99

§ 70.22 APPLICATION FOR PERMIT.

(A) *Generally.* A person seeking issuance of a parade permit shall file an application with the City Clerk.

(B) *Filing period.* The application for a parade permit shall be filed not less than 72 hours but not more than 60 days before the date on which it is proposed to conduct the parade. Failure to file an application 72 hours in advance will not result in automatic denial of the permit; provided, that the applicant shows reasonable grounds why the application could not be filed 72 hours in advance.

(C) *Required information.* The application for a parade permit shall set forth the following information:

(1) The name, address, and telephone number of the person seeking to conduct the parade;

(2) If the parade is proposed to be conducted for, on behalf of, or by an organization, the name, address, and telephone number of the headquarters of the organization and of the authorized and responsible heads of the organization;

(3) The name, address, and telephone number of the person who will be the parade chairperson and who will be responsible for its conduct;

(4) The date when the parade is to be conducted;

- (5) The route to be traveled, the starting point, and the termination point;
 - (6) The approximate number of persons, animals, and vehicles which will constitute the parade, the type of animals, if any, and the description of the vehicles;
 - (7) The hours when the parade will start and terminate;
 - (8) A statement as to whether the parade will occupy all or only a portion of the width of the streets, sidewalk, park or other public place proposed to be traversed;
 - (9) The location by street of any assembly area for the parade;
 - (10) The time at which units of the parade will begin to assemble at any assembly area or areas;
 - (11) The interval of space to be maintained between units of the parade;
 - (12) If the parade is designed to be held by, and on behalf of or for, any person other than the applicant, the applicant for the permit shall file a communication in writing from the person authorizing the applicant to apply for the permit on his or her behalf;
 - (13) Any additional information reasonably necessary to a fair determination as to whether a permit should be issued.
- (D) There shall be paid at the time of filing an application for a parade permit a fee in an amount as established in the Ordinance Establishing Fees and Charges pursuant to § 30.11 of this Code, as it may be amended from time to time. Penalty, see § 10.99

§ 70.23 STANDARDS FOR ISSUANCE OF PERMIT.

The City Clerk shall issue a permit when, from a consideration of the application and from other information obtained, he or she finds that:

- (A) The conduct of the parade will not substantially interrupt the safe and orderly movement of other traffic contiguous to its route;
- (B) The conduct of the parade will not require the diversion of so great a number of police officers of the city to properly police the line of movement and the areas contiguous thereto as to prevent normal police protection to the city;
- (C) The concentration of persons, animals and vehicles at assembly points of the parade will not unduly interfere with proper fire and police protection of, or ambulance service to, areas contiguous to the assembly areas;
- (D) The conduct of the parade will not interfere with the movement of firefighting equipment en route to a fire;

(E) The parade is scheduled to move from its point of origin to its point of termination expeditiously and without unreasonable delays en route; Penalty, see § 10.99

§ 70.24 NOTICE OF REJECTION OF PERMIT APPLICATION.

If the City Clerk disapproves the application, he or she shall mail to the applicant within the three regular business days after the date on which the application was filed a notice of his or her action stating the reasons for his or her denial of the permit.

§ 70.25 APPEAL PROCEDURE WHEN PERMIT DENIED.

Any person aggrieved shall have the right to appeal the denial of a parade permit to the City Council. The appeal shall be taken within 30 days after notice of denial. The City Council shall act on the appeal within 30 days after its receipt.

§ 70.26 ALTERNATIVE PERMIT.

The City Clerk or other authorized city official, in denying an application for a parade permit, shall be empowered to authorize the conduct of the parade on a date, at a time, or over a route different than that named by the applicant. An applicant desiring to accept an alternate permit shall file a written notice of his or her acceptance. An alternate parade permit shall conform to the requirements of, and shall have the effect of, a parade permit under this subchapter.

§ 70.27 NOTICE TO CITY AND OTHER OFFICIALS WHEN PERMIT ISSUED.

Immediately on the issuance of a parade permit, a copy thereof shall be sent to the Police Chief and the Fire Chief.

§ 70.28 CONTENTS OF PERMIT.

- (A) Starting time;
- (B) Minimum speed;
- (C) Maximum speed;
- (D) Maximum interval of space to be maintained between the units of the parade;
- (E) The portions of the street, sidewalk, park or other public place to be traversed that may be occupied by the parade;
- (F) The maximum length of the parade in miles or fractions thereof;

(G) Other information as is reasonably necessary to the enforcement of this subchapter.
Penalty, see § 10.99

§ 70.29 DUTIES OF PERMITTEE.

A permittee hereunder shall comply with all permit directions and conditions and with all applicable laws and ordinances. The parade chairperson or other person heading or leading the activity shall carry the parade permit on his or her person during the conduct of the parade.
Penalty, see § 10.99

§ 70.30 PUBLIC CONDUCT DURING PARADES.

(A) *Interference.* No person shall unreasonably hamper, obstruct, impede or interfere with any parade or parade assembly or with any person, vehicle or animal participating or used in a parade.

(B) *Driving through parades.* No driver of a vehicle except a police car or other emergency vehicle shall drive between the vehicles or persons comprising a parade when the vehicles or persons are in motion and are conspicuously designated as a parade.

(C) *Parking on parade route.* The Police Chief or other authorized city official shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along a street or other public thoroughfare or part thereof constituting a part of the route of a parade. Signs shall be posted to the effect, and it shall be unlawful for any person to park or leave unattended any vehicle in violation thereof. No person shall be liable for parking on a street or other public thoroughfare unless signs have been posted in accordance with this section. Penalty, see ' 10.99

§ 70.31 REVOCATION OF PERMIT.

The city shall have the authority to revoke a parade permit issued hereunder on application of the standards for issuance as herein set forth.

CHAPTER 71: GENERAL 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
- 71.06 Repairing of vehicles
- 71.07 Prohibiting parking areas in front yards in residential zones
- 71.08 Impoundment
- 71.09 Prima facie violation

Cross-reference:

Abandoned vehicles, see Chapter 90

Off-Street Parking and Loading, see City of Franklin Zoning Ordinance, Article VI

Storage Standards, see City of Franklin Zoning Ordinance, Article III

§ 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, prohibit 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.

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. Penalty, see § 10.99

§ 71.04 REGULATING PARKING ON CITY STREETS DURING SNOW REMOVAL

(A) Vehicles shall not be parked on city streets or public ways after accumulation of two (2) or more inches of snowfall until the street or public way is plowed from curb to curb.

(B) During a declared snow emergency, any police 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, the police officer is authorized to have the motor vehicle removed at the owner's expense. Penalty, see § 10.99

§ 71.05 TRUCK PARKING WITHIN THE CITY OF FRANKLIN. (Prior Ordinance Number 121, 12/9/1996).

(A) There shall be no truck parking allowed within the City of Franklin except in the areas designated below:

(1) The South side of First Avenue between First Street and Fourth Street.

(2) Trucks will be allowed to park on truck routes with a 4 ton axle limit.

(3) The term "trucks" as used in this Ordinance shall not be interpreted to include: Moving vans; delivery vehicles to residential customers; emergency vehicles; and school buses.

(B) Penalty, see § 10.99.

§ 71.06 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.

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

(A) The front part of any lot shall not be used for the parking of a commercial motor vehicle, farm tractor, travel trailer, camper, camper top, tent, wagon, trailer, boat, boat trailer, storage area or motor home. Definitions of commercial motor vehicle, farm tractor and travel trailer shall be the same definitions as given under Minnesota Statutes 171.01.

(B) No person, being the owner or having control of any building, shall violate or fail to conform to any provision of this section, or fail to obey any lawful order of an officer charged with its enforcement. Each and every day on which any person continues to violate the provisions of this section, after having been notified of the violation, shall constitute a separate offense. This conviction shall not relieve any person from thereafter complying with the

provisions of this section, and shall be sufficient cause to refuse further building or land use permits to the offender until a time as the orders have been complied with. Penalty, see § 10.99

§ 71.08 IMPOUNDMENT.

Any police officer 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.

§ 71.09 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.

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CHAPTER 72: SPECIFIC PARKING REGULATIONS

Section

- 72.01 Parking Restrictions on C.S.A.H. No. 5
- 72.02 Restrictive Parking on Second Avenue

§ 72.01 PARKING RESTRICTIONS ON C.S.A.H. No. 5 (Prior Ordinance Number CC, 2/27/1964).

(A) Definitions as use herein:

(1) “Vehicle” shall mean every device and machine, in, upon, or which any person is or may be transported or drawn upon a highway.

(2) “Park” and “Parking” shall mean the leaving of a vehicle unattended.

(3) “Driving” shall mean every person who drives or is in actual physical control of a vehicle.

(B) Parking Regulations:

(1) No parking of vehicles shall be allowed on the West side of County State Aid Highway No. 5, also known as First Street in the City of Franklin.

(2) On the East side of County State Aid Highway No. 5, vehicles may be parked parallel to the curb, or with the right hand wheels of such vehicle within 12 inches of the curb.

(3) No vehicles shall be double parked on this County State Aid Highway No. 5, also known as First Street.

(C) Vehicles Removed By Police. Any vehicle parked on the West side of the County State Aid Highway No. 5, also known as First Street, in violation of the provisions of this ordinance may be removed by and under the direction of the City Police or the Superintendent of Streets at the expense of the owner or driver of such vehicle.

(D) Penalties. Penalty, see § 10.99

§ 72.02 RESTRICTIVE PARKING ON SECOND AVENUE (Prior Ordinance Number 110, 2/13/1984).

Parking shall be prohibited during the hours from 2:00 A.M. to 6:00 A.M. on Second Avenue between First Street and Fourth Street. Penalty, see § 10.99

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CHAPTER 73: SNOWMOBILES

Section

72.01	Intent
72.02	Definitions
72.03	Application of traffic ordinances
72.04	Restrictions
72.05	Stopping and yielding
72.06	Persons under 18
72.07	Equipment
72.08	Unattended snowmobiles
72.09	Emergency operation permitted

§ 73.01 INTENT.

It is the intent of this chapter to supplement M .S. § 84.81 through 84.91, and M .S. Chapter 169, as these statues 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 statues and rules are incorporated herein by reference. This section is not intended to allow what the state statues and rules prohibit, nor to prohibit what the state statues and rules allow.

§ 73.02 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.

§ 73.03 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

§ 73.04 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 then 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) During the hours of 10:00 p.m. to 7:00 a.m., Sunday through Thursday, and 12:01 a.m. to 8:00 a.m. on other days closer than 100 feet from any residence. This provision is not

intended to prohibit snowmobiles from operating on city streets during the hours specified herein.

(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

§ 73.05 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

§ 73.06 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, 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

§ 73.07 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, bypass straight pipe or similar device on a snowmobile motor.

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

(C) When operated between the hours of one-half hour after sunset to one-half hour before sunrise, or at 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.

(D) Reflective material at least 16 square inches on each side, forward of the handlebars and at the highest practical point on any towed object, so as to reflect lights at a 90 degree angle. Penalty, see § 10.99

§ 73.08 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

§ 73.09 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 90: ABANDONED PROPERTY

Section

General Provisions

90.01 Disposition of abandoned property

Abandoned Vehicles

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GENERAL PROVISIONS

§ 90.01 DISPOSITION OF ABANDONED PROPERTY.

(A) *Procedure.* Except for abandoned and junked vehicles, all property lawfully coming into possession of the city shall be disposed of as provided in this section which is adopted pursuant to M.S. § 471.195, as it may be amended from time to time. Abandoned and junked vehicles shall be disposed of according to the procedures of § 90.15 et seq.

(B) *Storage.* The department of the city acquiring possession of the property shall arrange for its storage. If city facilities are unavailable or inadequate, the department may arrange for storage at a privately-owned facility.

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

(D) *Sale.* If the property remains unclaimed in the possession of the city for 60 days, the property may be sold to the highest bidder at a public auction conducted by the City Clerk or his or her designee after two weeks’ published notice setting forth the time and place of the sale and the property to be sold.

(E) *Disposition of proceeds.* The proceeds of the sale shall be placed in the general fund of the city. If the former owner makes application and furnishes satisfactory proof of ownership within six months of the sale, the former owner shall be paid the proceeds of the sale of the property less the costs of storage and the proportionate part of the cost of published notice and other costs of the sale.

ABANDONED VEHICLES

§ 90.15 FINDINGS AND PURPOSE.

M.S. Ch. 168B, and Minn. Rules Ch. 7035, as they may be amended from time to time, are hereby adopted by reference. Sections 90.15 through 90.25 of this code are adopted under the authority of M.S. § 168B.09, Subd. 2, as it may be amended from time to time. If any of these provisions are less stringent than the provisions of § M.S. 168B or Minn. Rules Ch. 7035, as it may be amended from time to time, the statute or rule shall take precedence.

§ 90.16 DEFINITIONS.

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

ABANDONED VEHICLE.

(A) A motor vehicle, as defined in M.S. § 169.01 as it may be amended from time to time, that:

(1) Has remained illegally:

a. For a period of more than 48 hours on any property owned or controlled by a unit of government, or more than four hours on that property when it is properly posted; or

b. On private property for a period of time, as determined under § 90.18(B), without the consent of the person in control of the property; and

(2) Lacks vital component parts or is in an inoperable condition that it has no substantial potential for further use consistent with its usual functions, unless it is kept in an enclosed garage or storage building.

(B) A classic car or pioneer car, as defined in M.S. § 168.10 as it may be amended from time to time, is not considered an abandoned vehicle.

(C) Vehicles on the premises of junk yards and automobile graveyards that are defined, maintained, and licensed in accordance with M.S. § 161.242 as it may be amended from time to time, or that are licensed and maintained in accordance with local laws and zoning regulations, are not considered abandoned vehicles.

(D) A vehicle being held for storage by agreement or being held under police authority or pursuant to a writ or court order is not considered abandoned, nor may it be processed as abandoned while the police hold, writ or court order is in effect.

DEPARTMENT. The Minnesota Department of Public Safety.

IMPOUND. To take and hold a vehicle in legal custody. There are two types of impounds: public and nonpublic.

IMPOUND LOT OPERATOR or OPERATOR. A person who engages in impounding or storing, usually temporarily, unauthorized or abandoned vehicles. **OPERATOR** includes an operator of a public or nonpublic impound lot, regardless of whether tow truck service is provided.

JUNK VEHICLE. A vehicle that:

- (A) Is three years old or older;
- (B) Is extensively damaged, with the damage including things as broken or missing wheels, motor, drive train or transmission;
- (C) Is apparently inoperable;
- (D) Does not have a valid, current registration plate; and
- (E) Has an approximate fair market value equal only to the approximate value of the scrap in it.

MOTOR VEHICLE or VEHICLE. Has the meaning given “motor vehicle” in M.S. § 169.01, as it may be amended from time to time.

MOTOR VEHICLE WASTE. Solid waste and liquid wastes derived in the operation of or in the recycling of a motor vehicle, including such things as tires and used motor oil, but excluding scrap metal.

MPCA or AGENCY. The Minnesota Pollution Control Agency.

NON-PUBLIC IMPOUND LOT. An impound lot that is not a public impound lot.

PUBLIC IMPOUND LOT. An impound lot owned by or contracting with a unit of government under section § 90.24.

UNAUTHORIZED VEHICLE. A vehicle that is subject to removal and impoundment pursuant to § 90.18(B), or M.S. § 169.041 as it may be amended from time to time, but is not a junk vehicle or an abandoned vehicle.

UNIT OF GOVERNMENT. Includes a state department or agency, a special purpose district, and a county, statutory or home rule charter city, or town.

VITAL COMPONENT PARTS. Those parts of a motor vehicle that are essential to the mechanical functioning of the vehicle, including such things as the motor, drive train and wheels.

§ 90.17 VIOLATION TO ABANDON MOTOR VEHICLE.

Any person who abandons a motor vehicle on any public or private property, without the consent of the person in control of the property, is guilty of a misdemeanor. Penalty, see § 10.99

§ 90.18 AUTHORITY TO IMPOUND VEHICLES.

(A) *Abandoned or junk vehicles.* The City Clerk or his or her designee or any peace officer employed or whose services are contracted for by the city may take into custody and impound any abandoned or junk vehicle.

(B) *Unauthorized vehicles.* The City Clerk, or his or her designee or any peace officer employed or whose services are contracted for by the city may take into custody and impound any unauthorized vehicle under M.S. § 169.041 as it may be amended from time to time. A vehicle may also be impounded after it has been left unattended in one of the following public or private locations for the indicated period of time:

(1) In a public location not governed by M.S. § 169.041 as it may be amended from time to time:

(a) On a highway and properly tagged by a peace officer, four hours;

(b) Located so as to constitute an accident or traffic hazard to the traveling public, as determined by a peace officer, immediately; or

(c) That is a parking facility or other public property owned or controlled by a unit of government, properly posted, four hours; or

(2) on private property:

(a) That is single-family or duplex residential property, immediately;

(b) That is private, nonresidential property, properly posted, immediately;

(c) That is private, nonresidential property, not posted, 24 hours; or

(d) That is any residential property, properly posted, immediately.

§ 90.19 SALE; WAITING PERIODS.

(A) *Sale after 15 days.* An impounded vehicle is eligible for disposal or sale under § 90.23, 15 days after notice to the owner, if the vehicle is determined to be:

(1) A junk vehicle, except that it may have a valid, current registration plate and still be eligible for disposal or sale under this subdivision; or

(2) An abandoned vehicle.

(B) *Sale after 45 days.* An impounded vehicle is eligible for disposal or sale under § 90.23, 45 days after notice to the owner, if the vehicle is determined to be an unauthorized vehicle.

§ 90.20 NOTICE OF TAKING AND SALE.

(A) *Contents; notice given within five days.* When an impounded vehicle is taken into custody, the city or impound lot operator taking it into custody shall give notice of the taking within five days. The notice shall:

(1) Set forth the date and place of the taking; the year, make, model and serial number of the impounded motor vehicle if the information can be reasonably obtained; and the place where the vehicle is being held;

(2) Inform the owner and any lienholders of their right to reclaim the vehicle under § 90.21; and

(3) State that failure of the owner or lienholders to exercise their right to reclaim the vehicle and contents within the appropriate time allowed under § 90.19 shall be deemed a waiver by them of all right, title and interest in the vehicle and contents and a consent to the transfer of title to and disposal or sale of the vehicle and contents pursuant to § 90.23.

(B) *Notice by mail or publication.* The notice shall be sent by mail to the registered owner, if any, of an impounded vehicle and to all readily identifiable lienholders of record. The Department makes this information available to impound lot operators for notification purposes. If it is impossible to determine with reasonable certainty the identity and address of the registered owner and all lienholders, the notice shall be published once in a newspaper of general circulation in the area where the motor vehicle was towed from or abandoned. Published notices may be grouped together for convenience and economy.

(C) *Unauthorized vehicles; notice.* If an unauthorized vehicle remains unclaimed after 30 days from the date the notice was sent under division (B) of this section, a second notice shall be sent by certified mail, return receipt requested, to the registered owner, if any, of the unauthorized vehicle and to all readily identifiable lienholders of record.

§90.21 RIGHT TO RECLAIM.

(A) *Payment of charges.* The owner or any lienholder of an impounded vehicle shall have a right to reclaim the vehicle from the city or impound lot operator taking it into custody upon payment of all towing and storage charges resulting from taking the vehicle into custody within 15 or 45 days, as applicable under § 90.19, after the date of the notice required by § 90.20.

(B) *Lienholders.* Nothing in this chapter shall be construed to impair any lien of a garagekeeper under the laws of this state, or the right of a lienholder to foreclose. For the purposes of this section, **GARAGEKEEPER** is an operator of a parking place or establishment, an operator of a motor vehicle storage facility, or an operator of an establishment for the servicing, repair or maintenance of motor vehicles.

§ 90.22 OPERATOR'S DEFICIENCY CLAIM; CONSENT TO SALE.

(A) *Deficiency claim.* The nonpublic impound lot operator has a deficiency claim against the registered owner of the vehicle for the reasonable costs of services provided in the towing, storage and inspection of the vehicle minus the proceeds of the sale or auction. The claim for storage costs may not exceed the costs of:

- (1) 25 days storage for a vehicle described in section § 90.19(A); and
- (2) 55 days storage for a vehicle described in § 90.19(B).

(B) *Implied consent to sale.* A registered owner who fails to claim the impounded vehicle within the applicable time period allowed under section § 90.19 is deemed to waive any right to reclaim the vehicle and consents to the disposal or sale of the vehicle and its contents and transfer of title.

§ 90.23 DISPOSITION BY IMPOUND LOT.

(A) *Auction or sale.*

(1) If an abandoned or unauthorized vehicle and contents taken into custody by the city or any impound lot is not reclaimed under § 90.21, it may be disposed of or sold at auction or sale when eligible pursuant to § 90.20 and 90.21.

(2) The purchaser shall be given a receipt in a form prescribed by the Registrar of Motor Vehicles which shall be sufficient title to dispose of the vehicle. The receipt shall also entitle the purchaser to register the vehicle and receive a certificate of title, free and clear of all liens and claims of ownership. Before a vehicle is issued a new certificate of title, it must receive a motor vehicle safety check.

(B) *Unsold vehicles.* Abandoned or junk vehicles not sold by the city or public impound lots pursuant to division (A) of this section shall be disposed of in accordance with section § 90.24.

(C) *Sale proceeds; public entities.* From the proceeds of a sale under this section by the city or public impound lot of an abandoned or unauthorized motor vehicle, the city shall reimburse itself for the cost of towing, preserving and storing the vehicle, and all administrative, notice and publication costs incurred in handling the vehicle pursuant to this chapter. Any remainder from the proceeds of a sale shall be held for the owner of the vehicle or entitled lienholder for 90 days and then shall be deposited in the treasury of the city.

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

§ 90.24 DISPOSAL AUTHORITY.

The city may contract with others or may utilize its own equipment and personnel for the inventory of impounded motor vehicles and abandoned scrap metal and may utilize its own equipment and personnel for the collection, storage and transportation of these vehicles and abandoned scrap metal. The city may utilize its own equipment and personnel only for the collection and storage of not more than five abandoned or unauthorized vehicles without advertising for or receiving bids in any 120-day period.

§ 90.25 CONTRACTS; REIMBURSEMENT BY MPCA.

(A) *MPCA review and approval.* If the city proposes to enter into a contract with a person licensed by the MPCA pursuant to this section or a contract pursuant to section § 90.24, the MPCA may review the proposed contract before it is entered into by the city, to determine whether it conforms to the MPCA's plan for solid waste management and is in compliance with MPCA rules. A contract that does so conform may be approved by the MPCA and entered into by the city. Where a contract has been approved, the MPCA may reimburse the city for the costs incurred under the contract that have not been reimbursed under section § 90.23. Except as otherwise provided in § 90.24, the MPCA shall not approve any contract that has been entered into without prior notice to and request for bids from all persons duly licensed by the MPCA to be a party to a disposal contract pursuant to M.S. § 116.07, as it may be amended from time to time; does not provide for a full performance bond; or does not provide for total collection and transportation of abandoned motor vehicles, except that the MPCA may approve a contract covering solely collection or transportation of abandoned motor vehicles where the MPCA determines total collection and transportation to be impracticable and where all other requirements herein have been met and the unit of government, after proper notice and request for bids, has not received any bid for total collection and transportation of abandoned motor vehicles.

(B) *The city may perform work.* If the city utilizes its own equipment and personnel pursuant to its authority under § 90.24, and the use of the equipment and personnel conforms to the MPCA's plan for solid waste management and is in compliance with MPCA rules, the city may

be reimbursed by the MPCA for reasonable costs incurred which are not reimbursed under section § 90.23.

(C) *The city required to contract work.* The MPCA may demand that the city contract for the disposal of abandoned motor vehicles and other scrap metal pursuant to the MPCA's plan for solid waste disposal. If the city fails to contract within 180 days of the demand, the MPCA, through the Department of Administration and on behalf of the city, may contract with any person duly licensed by the MPCA for the disposal.

CHAPTER 91: ANIMALS

(Prior Ordinance Number 127, 11/13/2000, With Revisions)

Section

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§ 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 equestrian 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 descended), 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 the Police Department or other person in charge of the pound for the release of any animal that has been taken to the pound. A release permit may be obtained upon payment of a fee to the City Clerk in accordance with the 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 fee shall be as established in the

Ordinance Establishing Fees and Charges adopted pursuant to § 30.11, as it may be amended from time to time.

POUND MASTER. The Pound Master shall be appointed annually by the City Council. The Pound Master may be a full time City Employee or a Volunteer City Employee.

ANIMAL POUND. Any dog or cat found in the City of Franklin without a tag, or running at large, that can be caught shall be placed in the Animal Pound and the Pound Master shall keep an accurate record of the time of such placement of each dog and cat. Every dog or cat so placed in the Animal Pound shall be retained for a period of five (5) days, Sundays and legal holidays excluded, unless claimed by the owner. If unclaimed, the dog or cat will become the property of the City of Franklin and may be disposed of in the most economical way at the discretion of the Pound Master and may include donation of the animal to the Renville/Sibley Humane Society.

§ 91.02 RUNNING AT LARGE PROHIBITED.

(A) Running At Large. It shall be unlawful for the dog or cat 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 or cats 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 or Cats Prohibited."

(B) Warning Letter. A warning letter may be sent stating the animal was sited off leash off of the owner's property by a City employee within the next thirty (30) days, a citation will be issued, carrying a fine as set by the Minnesota Statutes.

(C) Petty Misdemeanor. It is a petty misdemeanor, punishable by fine as set by the State of Minnesota for any person who is the owner, or other person in possession, of a dog or cat, to permit such dog or cat to run at large. Penalty, see § 10.99. Any dog or cat running at large that cannot be caught shall be treated as follows:

- (1) An attempt will be made to determine the owner.
- (2) The owner will be issued a dated, written warning describing the details of the violation and the animal description.
- (3) If a pet belonging to the same household is again running at large within thirty (30) days the owner will be mailed a citation.
- (4) If the thirty (30) days have passed before another violation occurs, at the next violation another written warning will be issued.
- (5) If after a citation has been issued, another violation occurs prior to thirty (30) days from the previous violation a second citation will be issued.
- (6) If after a citation has been issued and another violation occurs but more than thirty (30) days have passed since the last violation a written warning will be sent and the process will start over.
- (7) If more than four (4) citations have been issued to a household in one (1) year period the violation shall be a misdemeanor.

§ 91.03 ANIMAL POUND.

(A) Placement. Any dog or cat found in the City of Franklin without a tag, or running at large, that can be caught shall be transported to the Fairfax Veterinary Clinic (Animal Pound) or other future designated animal pound. The Pound Master shall keep an accurate record of the time of such placement of each dog or cat. Every dog or cat impounded shall be retained for a period of five (5) days. If unclaimed, the dog or cat will become the property of the Renville/Sibley Humane Society.

(B) Notice of Impoundment. A written notice of impoundment shall be posted at City Hall, 320 Second Avenue East, Franklin, Minnesota, upon the impoundment of an animal running at large. The notice will remain posted for a period of Five (5) days, Sundays and legal holidays excluded, unless claimed by the owner.

(C) Impound and Maintenance Fees. The penalty for a violation of § 91.03 shall be a petty misdemeanor punishable currently by a twenty-five dollars (\$25) fine and up to a maximum of two-hundred dollars (\$200.00) fine as determined by future resolutions of the City. A daily maintenance fee for each day an animal is housed within the pound shall be set by the City Council. This boarding fee is shown within the Franklin Schedule of Fees and Charges for Various Services, Licenses and Permits located within this Franklin Ordinance Code. Animals found in violation of this Section that are both running at large and untagged shall be punishable by two separate fines.

(D) Release from Animal Pound. Prior to releasing the animal from the Animal Pound, all fees must be paid to the City. Animals belonging to the City given for adoption by the Pound Master may be released without the payment of impound and maintenance fees.

§ 91.04 DISTURBING THE PEACE.

(A) Petty Misdemeanor. It is a petty misdemeanor for any owner of an animal to suffer or permit such animal to disturb the peace and quiet of the neighborhood by unreasonable barking, howling, whining, yowling, or making any other loud or unusual noise.

(B) Complaint. Upon the Police Department receiving a complaint, the following actions will be taken:

(1) The complaint will be investigated to determine if a violation has occurred.

(2) If a violation has occurred a dated notice will be sent to the owner notifying the violation. A duplicate copy of the notice will be sent to the complainant.

(3) If another violation occurs within thirty (30) days, the owner will be mailed a citation with a fine being equal to the impound fee plus all applicable court fees.

(4) If the thirty (30) days have passed before another violation occurs, at the next violation another written warning will be issued.

(5) If after a citation has been issued, another violation occurs prior to thirty (30) days from the previous violation a second citation will be issued.

(6) If after a citation has been issued, another violation occurs but more than thirty (30) days have passed since the last violation a written warning will be sent and the process will start over.

(7) If more than four (4) citations have been issued to a household , the fifth violation shall be a misdemeanor.

§ 91.05 LICENSE REQUIREMENTS.

A license shall be required for every dog and cat over the age of six (6) months kept in the City of Franklin. This shall not apply to any dog or cat temporarily present within the City of Franklin for a period of less than thirty (30) days. The owner shall apply to the City Clerk for a license for such animal. The Clerk shall record the licenses issued and furnish the applicant with a tag and certificate bearing the corresponding tag number. The applicant shall attach said tag to the collar or chain around the neck of the animal in a secure manner. Licenses for dogs and cats shall be issued annually. The City Clerk shall not issue any license for a dog or cat until the applicant furnishes a certificate from veterinarian indicating that such animal has been vaccinated for rabies within the preceding two (2) years. License fees shall be set by the City Council of the City of Franklin as established by the Ordinance Establishing Fees and Charges pursuant to § 30.11 of this code, as the ordinance may be amended from time to time. The penalty for non-licensed animals shall be a petty misdemeanor punishable currently by a fine of twenty-five dollars (\$25) and up to a maximum of two-hundred dollars (\$200) fine or maximum petty misdemeanor fine as stated by state law.

§ 91.06 VACCINATION.

(A) Dogs and Cats Vaccinated. 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:

(1) Rabies - with a live modified vaccine; and

(2) Distemper.

(B) Certificate of Vaccination. 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 or a Police Officer, 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 or officer. Failure to do so shall be deemed a violation of this section. Penalty, see § 91.99

§ 91.07 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

§ 91.08 FARM ANIMALS.

Farm animals shall only be kept in an agricultural district of the city, or on a residential lot of at least ten acres in size provided that no animal shelter shall be within 300 feet of an adjoining piece of property. An exception shall be made to this section for those animals brought into the city as part of an operating zoo, veterinarian clinic, scientific research laboratory, or a licensed show or exhibition. Current owners grandfathered in will be exempt. Files will be kept on these particular situations.

§ 91.09 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 (3) months before that keeping shall be deemed to be 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. Current owners grandfathered in will be exempt from this Section with files kept on this particular situation. Penalty, see § 91.99

§ 91.10 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 noises made intermittently for more than three minutes with one minute or less lapse of time between each animal noise during the three minute period. Such barking must also be audible off of the owner’s or caretaker’s premises. Any Police Officer or Animal Control Officer may enter onto private property and seize any barking dog, provided that the following conditions exist:

(1) There is an identified complainant other than the police or animal control officer making a contemporaneous complaint about the barking.

(2) The officer reasonably believes that the barking meets the criteria set for in § 91.04 or § 91.10 (A).

(3) The officer can demonstrate that there has been at least one previous complaint about the barking.

(4) The office has made reasonable attempts to contact the owner of the dog(s) or the owner of the property and those attempts have either failed or have been ignored.

(5) The seizure will not involve forced entry into a property manager, landlord, innkeeper, or other person authorized to have such key shall not be considered forced entry.

(6) No other less intrusive means to stop the barking is available.

(7) Written notice of the seizure is left in a conspicuous place if personal contact with the owner of the dog is not possible.

(B) Damage of Property. The owner of any animal shall prevent the animal from committing the following act which shall constitute a nuisance: Allowing the animal to dig or otherwise damage the garden, shrubbery, lawn or other property of a person other than the owner. The owner must pay the property owner for any such damaged caused.

(C) Excrement Cleanup. (Prior Ordinance Number 127 Amendment, 6/11/2001) It is unlawful for any person to allow animal excrement to accumulate, by failing to clean up excrement no less than once per week. It is unlawful to leave animal excrement on public property or the private property of another person.

§ 91.11 ANIMALS PRESENTING A DANGER TO HEALTH AND SAFETY OF CITY.

If, in the reasonable belief of any person or police officer, 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. Otherwise, the person or officer may apprehend the animal and deliver it to the pound for confinement. In such a case, the owner or keeper of the animal shall be liable for the cost of impoundment and maintenance provided, and if the animal is destroyed, the owner will be charged for the disposal of the animal, as established by the Ordinance Establishing Fees and Charges adopted pursuant to § 30.11 of this code, as that ordinance may be amended from time to time.

§ 91.12 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.

(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 city employee or a police officer. The police 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. This amount is established by the Ordinance Establishing Fees and Charges adopted pursuant to § 30.11 of this code, as that ordinance may be amended from time to time.

(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.

(D) *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 ten 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. Penalty, see § 91.99

§ 91.13 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 1¼-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)(1).

(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 orders issued will stand or the Animal Control Officer may order the animal destroyed.

(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'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.

(3) No person shall harbor an animal after it has been found by to be dangerous and ordered into custody for destruction.

(H) *Stopping an attack.* If any police officer 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

§ 91.14 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;

(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.* 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.

§ 91.15 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.

§ 91.16 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 interfere with, hinder any device used for capture of animals or in any manner to interfere with or hinder the officer in the discharge of his or her duties under this chapter. Penalty, see § 91.99

§ 91.40 BEEKEEPING.

(A) Beekeeping Definitions. The following words, terms and phrases, when used in this Section, shall have the following meanings ascribed to them, except where the context clearly indicates a different meaning:

(1) *Apiary* means any place or location where one or more colonies or nuclei of bees are kept.

(2) *Bees* means any stage of the common honeybee, *Apis mellifera*, or other bees kept for the production of honey or wax.

(3) *Hive* means any domicile for keeping bees. One hive houses on swarm consisting of one queen and workers.

(4) *Wild Swarms of Bees* means any colony of bees which becomes established upon a lot or parcel or in anything other than a hive.

(B) Within Corporate Limits. It shall be unlawful for any person to place, establish, or maintain any hive, stand, bod, apiary, or keep any bees in or upon premises within the corporate limits of the city unless the bees are kept in accordance with the provisions of this article.

(C) Requirements for Hives, Stands, Boxes, or Apiaries:

(1) No person shall establish or maintain any hive, stand, box or apiary or keep any bees on any premises within 50 feet of any occupied dwelling, except the dwelling of the owner of such bees, or within 25 feet of any property line, sidewalk, alley, or other public way. No person shall establish or maintain a number of hives, stands, boxes or apiaries on any premises such as to constitute a nuisance to neighboring property owners as determined by the Chief of Police or his designee based on all provisions of this article. No hive, stand, box or apiary shall be kept or maintained within 200 feet of a school, licensed child day care center or a dwelling occupied by any person systemically allergic to bee stings. The distance requirements shall be enforced with the exception of an adjacent property owner or occupant who may request in a written affidavit to the Chief of Police that the distance requirements be waived pertaining to their property line. The affidavit may be voided at any time upon the request from the submitting owner or occupant.

(2) No bees shall be kept upon any land not owned or possessed by the keeper of such bees without first obtaining written permission to do so from the owner or person lawfully in possession of such land, which permission may be revoked at anytime.

(3) All hives, stands, boxes or apiaries shall be oriented so that their entrances face a house or building on the premises and shall be surrounded by a solid fence not less than four (4) feet in height, located no further than thirty (30) feet from such hives. All gates must be locked with a key or combination lock at all times.

(4) A conspicuous sign identifying the site as housing bees and warning of danger shall be posted at entrance and exit points of all apiary enclosures.

(5) No hive shall be kept or maintained within any front or side yard.

(6) With the exception to property located within agriculture districts, no more than two (2) hives, stands, boxes or apiaries shall be maintained on any lot or parcel. If more than two hives are kept on land zoned as agricultural, such beehives shall be situate not less than two hundred (200) feet from any dwelling, excluding the dwelling on the lot or parcel whereon such hives are situate, and at least two hundred (200) feet from any public street or roadway or public access.

(D) Subsequent Development of Adjacent Properties. If adjacent property is later developed, or residential structures located closer than distances prescribed § 91.40 (B), above, the keeper shall move such hives, stands, boxes, or apiaries to comply with this article.

(E) Water Facilities. Fresh clean water facilities for the bees shall be provided within twenty-five (25) feet of each hive, stand, box or apiary.

(F) Power of Chief of Police to Remove or Destroy Bees. Whenever the Renville County Public Health Director shall find, and so declare, that a public health nuisance or emergency exists by reason of beekeeping within the city limits, or if the Beekeeper fails to comply with the provisions of this article, the Chief of Police may order the removal or destruction of any apiary in order to preserve the public health and welfare.

(G) Exemptions. Nothing in this article shall be deemed or construed to prohibit the keeping of bees within a school for the purpose of observation, or within a physician's office or laboratory for the purpose of medical research, treatment, or other scientific purposes.

(H) Wild Swarms of Bees. No person shall keep, maintain, or allow to remain on any lot or parcel which such person owns and/or resides any wild swarms of bees.

§ 91.99 VIOLATIONS, PENALTIES, AND FEES.

(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. Specific fines may be charged by resolution of the City Council.

(C) *Fees.* Any and all fees addressed on this ordinance shall be set by resolution of the City Council.

CHAPTER 92: HEALTH AND SAFETY; NUISANCES

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GENERAL PROVISIONS

§ 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. Shall mean 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 through 463.26 as they may 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 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 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.

(D) *Installation and repair of water service lines.* Whenever the city installs or repairs water service lines serving private property under Chapter 52 of this code, the City Clerk 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.

(2) *Inspections; notice.* The City Council or its designee shall make inspections as are necessary to determine that public sidewalks and alleys within the city are kept in repair and safe for pedestrians or vehicles. If it is found that any sidewalk or alley 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 or alley repaired and made safe within 30 days 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 or alley is not repaired within 30 days after receipt of the notice, the City Clerk 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. The City Clerk 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, 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.

(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 or 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 such 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 September 1 of each year, the City Clerk 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 benefited 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 ten, as the City Council may determine in each case. Penalty, see § 10.99

§ 92.02 SHADE TREE DISEASE CONTROL. (Prior Ordinance Number 109, 10/11/1982)

(A) *Policy and Purpose.* The City has determined that the health of oak and elm trees is threatened by fatal diseases know as Oak Wilt and Dutch Elm disease. It has further been

determined that the loss of oak and elm trees located on public and private property would substantially depreciate the value of the property and impair the safety, good order, general welfare and convenience of the public. It has further determined that conditions of trees may exist that could create risks of injury to persons or damage to property or a hazard to public traffic safety. It is declared to be the intention of the council to control and prevent the spread of diseases, and provide for the removal of dead, diseased trees or nuisances as prescribed.

(B) *Definitions.* The following terms, as used in this Section, shall have the meanings stated:

(1) *Shade Tree Disease* shall mean Dutch Elm Disease, Oak Wilt Disease, or any other epidemic tree diseases.

(2) *Tree Inspector* shall mean the City employee or other such person as the City Council may designate and who thereafter qualify, together with his/her duly designated assistants.

(3) *Nuisance* means a) any living or standing tree infected to any degree with a shade tree disease; or b) any logs, branches, stumps, or other parts of any dead or dying tree, so infected, unless such parts have been fully burned or treated under the direction of the Tree Inspector; or 3) any tree that by its position or condition creates a risk of injury to persons or damage to property, or that creates a hazard to public traffic safety. Note: See § 92.18 (B) for non-disease related tree nuisances.

(C) *Scope and Adoption by Reference.* Minnesota Statutes, Sections 18.01 through 18.023, inclusive, are hereby adopted by reference together with the Rules and Regulations of the Minnesota Commissioner of Agriculture relating to shade tree diseases; provided, that this Section shall supercede such Statutes , Rules and Regulations, only to the extent of inconsistencies.

(D) *Unlawful Act.* It is a petty misdemeanor for any person to keep, maintain or permit upon premises owned by him or upon public property where he has the duty of tree maintenance, any nuisance as herein defined.

(E) *Inspection and Diagnosis.* It is the power and duty of the Tree Inspector to enter upon public or private property, at any reasonable time, for the purpose of inspecting for, and diagnosing shade tree disease damage or to determine if the risk of injury or damage to property or safety hazard. Such abatement procedures shall be carried out in accordance with the current technical and expert methods and plans as may be designed by the Commissioner of Agriculture of the State of Minnesota. The City shall establish specifications for tree removal and disposal methods consistent therewith.

(F) *Procedures For Removal of Trees and Wood.*

(1) Whenever the Tree Inspector finds with reasonable certainty that the infection, or danger of infection, or risk or hazard exists in any tree or wood on any public or private property, he shall proceed as follows:

(a) If the Tree Inspector finds that the danger of infection or other trees is not imminent because of dormancy of shade tree disease, he shall make a written report of his findings to the Council which shall proceed by (1) abating the nuisance as a public improvement under Minnesota Statutes, Chapter 429, or (2) abating the nuisance as provided in Subparagraph b of this Subdivision.

(b) If the Tree Inspector finds that danger of infection of other trees, risk of injury or damage to property or a hazard to public traffic safety is imminent, he shall notify the owner of the property, or the abutting property, as the case may be, by mail that the nuisance will be abated within a specified time, not less than ten (10) days from the date of mailing of such notice. The Tree Inspector shall immediately report such action to the Council and after the expiration of the time limited by the notice he may abate the nuisance.

(c) If the Tree Inspector finds with reasonable certainty that immediate action is required to prevent the spread of shade tree disease, or to eliminate a risk of injury to persons or damage to property, or hazard to public traffic safety, he may proceed to abate the nuisance forthwith. He shall report such action immediately to the Council and to the abutting property owner, or to the owner of the property where the nuisance is located.

(2) Upon receipt of the Tree Inspector's report required by Subparagraph (1) Item a, the Council shall by resolution order the nuisance abated. Before action is taken on such resolution, the Council shall publish notice of its intention to meet to consider taking action to abate the nuisance. This notice shall be mailed to affected property owners no less than 3 days prior to such meeting. The notice shall state the time and place of the meeting, the streets affected, action proposed, the estimated cost of the abatement, and the proposed basis of assessment, if any, of costs. At such hearing or adjournment thereof, the Council shall thereafter adopt a resolution confirming the original resolution with such modifications as it considers desirable and provide for doing of the work by day labor or by contract.

(3) The Tree Inspector shall keep a record of the costs of abatements done under this Subdivision and shall report monthly to the City Clerk all work done for which assessments are to be made stating and certifying the description of the land, lots, parcels involved and the amount chargeable to each.

(4) On or before September 1 of each year the City Clerk shall list the total unpaid charges for each abatement against each separate lot or parcel to which they are attributable under this Section. The Council may then spread the charges or any portion thereof against the property involved as a special assessment under Minnesota Statutes Section 429.101 and other pertinent statutes for certification to the County Auditor and collection the following year. Penalty, see § 10.99

(5) No damage shall be awarded the owner for destruction of any tree, wood, or part thereof pursuant to this Ordinance.

(G) Spraying Trees.

(1) Whenever the Tree Inspector determines that any tree or wood is infected or threatened with infection, he may spray or treat all nearby high value trees with an effective concentrate or fungicide or both. Activities authorized by this Subdivision shall be conducted in accordance with technical and expert opinions and plans of the Commissioner and his agents whenever possible.

(2) The notice and assessment provisions of Subdivision (F) apply to spraying and treatment operations conducted under this Subdivision.

(H) *Transporting Wood Prohibited.* It is a petty misdemeanor for any person to transport any elm wood, or in the months of April, May or June, to transport any oak wood without having obtained a permit from the Tree Inspector. The Tree Inspector shall grant such permits only when the purpose of this Section will be served thereby.

(I) *Interference Prohibited.* It is a petty misdemeanor for any person to prevent, delay or interfere with the Tree Inspector while he is engaged in the performance of duties imposed by this Ordinance.

(J) *Additional Duties of Tree Inspector.* It is the additional duty of the Tree Inspector to coordinate, under the direction and control of the Council, all activities of the City relating to the control of shade trees and prevention of shade tree disease. He shall recommend to the Council the details of a program for the control of the disease and perform the duties incident to such a program adopted by the Council.

(K) *Subsidies.* The duty of any property owner to bear the cost of removing or maintaining trees, whether by private contract or assessment, shall be subject to a subsidy policy, if any, established by the State of Minnesota for the treatment or removal of trees infected with shade tree disease.

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 § 10.99

§ 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 § 10.99

§ 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;

(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 § 10.99

§ 92.18 PUBLIC NUISANCES AFFECTING PEACE AND SAFETY.

The following are declared to be nuisances affecting public peace and safety: (See also § 92.85 Noises Prohibited)

(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. A tree shall also be deemed a nuisance if it or any part of it:

(1) appears dead, dangerous or likely to fall;

(2) is not pruned to a height of eight (8) feet above a sidewalk, or fourteen (14) feet above the street to accommodate vehicles such as garbage trucks and street maintenance trucks;

(3) obstructs a curb, gutter, street or sidewalk.

(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) 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;

(E) Radio aerials or television antennae erected or maintained in a dangerous manner;

(F) 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;

(G) 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;

(H) 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;

(I) Any barbed wire fence less than six feet above the ground and within three feet of a public sidewalk or way;

(J) All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public;

(K) Waste water cast upon or permitted to flow upon streets or other public properties;

(L) Accumulations in the open of discarded or disused machinery, household appliances, automobile bodies or other material in a manner conducive to the harboring of rats, mice, snakes or vermin, or the rank growth of vegetation among the items so accumulated, or in a manner creating fire, health or safety hazards from accumulation;

(M) 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;

(N) Obstruction to the free flow of water in a natural waterway or a public street drain, gutter or ditch with trash of other materials;

(O) 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;

(P) The depositing of garbage or refuse on a public right-of-way or on adjacent private property;

(Q) All other conditions or things which are likely to cause injury to the person or property of anyone. Penalty, see § 10.99

§ 92.19 DUTIES OF CITY OFFICERS.

The Police Department or Sheriff, if the city has at the time no Police Department, shall enforce the provisions relating to nuisances. Any peace officer shall have the power to inspect private premises and take all reasonable precautions to prevent the commission and maintenance of public nuisances.

§ 92.20 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 on the owner of record or occupant of the premises either in person or by certified or registered mail. If the premises 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 premises 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 (Hazardous and Substandard Building Act), 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 (Hazardous and Substandard Building Act), as it may be amended from time to time.

(B) *Procedure.* Whenever a peace officer determines that a public nuisance is being maintained or exists on the premises in the city, the officer shall notify in writing the owner of record or occupant of the premises of such fact and order that 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 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.

(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) of this section 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 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 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) of this section, 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 § 10.99

§ 92.21 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 or other official shall prepare a bill for the cost and mail it to the owner. Thereupon the amount shall be immediately due and payable at the office of the City Clerk.

(B) *Assessment.* If the nuisance is a public health or safety hazard on private property, the accumulation of snow and ice on public sidewalks, the growth of weeds on private property or outside the traveled portion of streets, or unsound or insect-infected trees, the City Clerk shall, on or before September 1 next following abatement of the nuisance, list the total unpaid charges along with all other the charges as well as other charges for current services to be assessed under M.S § 429.101 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 ten, as the City Council may determine in each case. Penalty, see § 10.99

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 tall, 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 12 inches.

(5) Rank vegetation includes the uncontrolled, uncultivated growth of annuals and perennial plants.

(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 12 inches in height. Penalty, see § 10.99

§ 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. If the city makes the complaint, an employee, officer or Council Member 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 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 that 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.

(2) Certified mailing to the City Clerk 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 owners 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 Council Members 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 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.

§ 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 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

(Prior Ordinance Number 125, 7/12/1999, With Revisions)

§ 92.60 PURPOSE.

The purpose of this Ordinance is to establish permitted categories of open burn events for residences and farms within the City of Franklin and provide for a permitting process for residential and agricultural burning, except when such open burning is defined as a “Camp or Recreation Fire” as prescribed in this Section.

§ 92.61 DEFINITIONS.

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

FIRE CHIEF, CAPTAIN AND LIUTENANTS. The Fire Chief, Captain, and Lieutenants of the Fire Department which provides fire protection services to the city.

OPEN BURNING or OPEN FIRE. A fire burning in matter, whether concentrated or dispersed, which is not contained within a fully enclosed fire box, structure or vehicle, and from which the products of combustion are emitted directly to the open 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.”

CAMP FIRE. A fire set for cooking, warming, or ceremonial purposes, which is not more than three (3) feet in diameter by three (3) feet high, and has had the ground five (5) feet from the base of the fire cleared of all combustible material.

RECREATIONAL FIRE BURN -REQUIREMENTS. When a camp fire is used for recreational purposes, it must be ignited with an approved starter fluid 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; 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. Mobile cooking devices such as manufactured hibachis, charcoal grills, wood smokers, and propane or natural gas devices, are not defined as camp or recreational fires. No more than one recreational fire is allowed on any property at one time.

RECREATIONAL FIRE SITE. An area of no more than a three foot diameter circle (measured from the inside of the fire ring or border); completely surrounded by non-combustible 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 or burners are not a “recreation fire site” as defined herein. Recreational fire sites shall not be located closer than fifty (50) feet to any structure.

STARTER FUELS. Dry, untreated, unpainted wood 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 Fire.

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 three foot lengths.

§ 92.62 OPEN BURNING PROHIBITED.

From and after the effective date of this Ordinance, except as herein otherwise provided, open burning shall be prohibited within the City of Franklin.

§ 92.63 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, sheetrock, 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 grass clippings. Penalty, see § 10.99

§ 92.64 PERMIT REQUIRED FOR OPEN BURNING.

No person shall start or allow any open burning on any property in the city without first having obtained an open burn permit, except that a permit is not required for any fire which is a recreational fire as defined in § 92.60. Penalty, see § 10.99

§ 92.65 EXEMPTIONS.

Open burning of the types, and subject to the conditions, as hereinafter stated, shall be exempt from the prohibition within the City of Franklin.

(A) Recreational Fires.

(B) Fires under managed supervision for which a burning permit has been obtained from the City Clerk and, where required by state law, from the Department of Natural Resources, but limited to the following:

(1) Fires purposely set for the instruction and training of public and industrial fire fighting personnel. Note: Fire Training permits can only issued by the Minnesota Department of Natural Resources.

(2) Fires set for the elimination of a fire hazard which cannot be abated by any other practicable means.

(3) Ground thawing for utility repairs and construction.

(4) The burning of piled trees, brush, leaves and other vegetable matter shall be permitted to occur from 6:00 p.m. through 9:00 p.m., from April through October.

(C) Exemption to conduct fires under this section does not excuse a person from the consequences, damages or injuries which may result therefore nor does it exempt any person from regulations promulgated by the Minnesota Pollution Control Agency or any other governmental unit exercising jurisdiction in matters of pollution or fire hazard regulation.

(D) 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.

(E) Disposal of diseased trees generated on site, diseased or infected nursery stock, diseased bee hives.

(F) 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.

Penalty, see § 10.99

§ 92.66 FIRE LIMITS.

It shall be unlawful to burn on any public owned or controlled lot or parcel of land, street, public sidewalk or other public place which has not been set aside by public authorities for such purposes. Penalty, see § 10.99

§ 92.67 PERMITS REQUIRED FOR OPEN BURNING.

Open burning permits shall be obtained by making application on a form prescribed by the Department of Natural Resources (DNR) and adopted by the City. The permit application shall be presented to the City Clerk for review and processing.

§ 92.68 PERMIT HOLDER RESPONSIBILITY.

(A) Prior to starting an open burn, the permit holder shall be responsible for confirming that no burning ban or air quality alert is in effect. Every open burn event shall be constantly attended by the permit holder or his or her competent representative. The open burning site shall have available appropriate communication and fire suppression equipment.

(B) The open burn fire shall be completely extinguished before the permit holder or his or her representative leaves the site. No fire may be allowed to smolder with no person present. It is the responsibility of the permit holder to have a valid permit, as required by this subchapter, available for inspection on the site by the Police Department, Fire Department, MPCA representative or DNR forest officer.

(C) The permit holder is responsible for compliance and implementation of all general conditions, special conditions, and the burn event safety plan as established in the permit issued. The permit holder shall be responsible for all costs incurred as a result of the burn, including but not limited to fire suppression and administrative fees. Penalty, see § 10.99

§ 92.69 REVOCATION OF OPEN BURNING PERMIT.

The open burning permit is subject to revocation at the discretion of DNR forest officer, the Fire Chief, Captain, or Lieutenants of the City’s Fire Department, or the City’s Chief of Police. Reasons for revocation include but are not limited to a fire hazard existing or developing during the course of the burn, any of the conditions of the permit being violated during the course of the burn, pollution or nuisance conditions developing during the course of the burn, or a fire smoldering with no flame present. Penalty, see § 10.99

§ 92.70 DENIAL OF OPEN BURNING PERMIT.

If established criteria for the issuance of an open burning permit are not met during review of the application, it is determined that a practical alternative method for disposal of the material exists, or a pollution or nuisance condition would result, or if a burn event safety plan cannot be drafted to the satisfaction of the Fire Chief, Captain, or Lieutenants of the City’s Fire Department, these officers may deny the application for the open burn permit.

§ 92.71 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 § 10.99

§ 92.72 RULES ADOPTED BY REFERENCE.

Minnesota Statutes 88.02-88.22, 88.75, 88.76 and Minnesota Uniform Fire Code are hereby adopted by reference and made a part of this Ordinance as if fully set forth at this point.

§ 92.73 AREA OF ENFORCEMENT.

This Ordinance shall effect the area as set forth and on file with the clerk of the City of Franklin, which is incorporated in and made a part of this Ordinance.

§ 92.74 SEVERABILITY.

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

§ 92.75 PENALTY.

Any person violating the provisions of this Ordinance shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine and/or imprisonment as described under § 10.99.

§ 92.76 RULES AND LAWS ADOPTED BY REFERENCE.

The provisions of M.S. § 88.16 to 88.22 and the *Minnesota Uniform Fire Code*, Minn. Rules Ch. 1510, as these statutes and rules 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.

REGULATION OF NOISE LEVELS
(Prior Ordinance Number 126, 6/12/2000, With Revisions)

§ 92.85 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, health, peace, safety or welfare of any persons or precludes their enjoyment of property or affects their property's value.

All obnoxious noises in violation of Minn. Rules Ch. 7030, as they may be amended from time to time which are hereby incorporated by reference into this code. This general prohibition is not limited by the specific restrictions of the following sections.

B) Motor Vehicles. No person shall operate a motor vehicle in the city in violation of motor vehicle noise limits of the Minnesota Pollution Control Agency as per Minn. Stat. Sec. 169.69 and 169.693, et. al.

The discharging of the exhaust or permitting the discharging of the exhaust of any stationary internal combustion engine, motor boat, motor vehicle, 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.

C) Stereo Systems, Sound Devices, Etc. No person shall use or operate or permit the use or operation of any stereo system, musical instrument, paging system, or other device for the production or reproduction of sound in a distinctly and loudly audible manner as to unreasonably disturb the peace, quiet, and comfort of any person nearby or otherwise in violation of Sub-Section A, above.

Operation of any such device 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, shall be considered by the City as prima facie evidence of a violation of Sub-Section A.

Load sounds from stereo systems from a motor vehicle may form the basis of a violation of Section A, above. Sounds from a stereo system of a motor vehicle that is plainly audible outside the vehicle shall be considered by the City as prima facie evidence of a violation of Sub-Section A.

D) Animals. (See also Chapter 91, Section 91.10 for additional regulations on animal noise.) No person shall keep any animal that unreasonably disturbs the comfort of person in the vicinity by its frequent or continued noise or otherwise violates Sub-Section A, above. For purposes of this sub-section, the following shall be considered by the City as prima facie evidence of a violation of this sub-section:

The animal noise occurs and can be heard from a location past the property line of the premises where the animal is being kept and the animal has made such noises intermittently for more than three minutes with one minute or less lapse of time between each animal noise during the three minute period.

E) Special Events – Exemptions. It is recognized by the City that public policy requires discretion in enforcing this noise ordinance in the context of certain special events. It is further recognized that special events are by their nature unique and infrequent. Therefore, noise levels relating to special events operating with approval of the City, including, but not necessarily limited to, the annual town celebration of Catfish days; public dances; and other special events sanctioned by the City, shall be exempt from the prima facie provisions of Sub-Section C.

Furthermore, the City Police Department shall have the authority to grant variances and exceptions to this City Ordinance for special events. A person aggrieved by the decision and seek a decision by the City Council as to how the noise levels of a particular special event will be regulated in the future.

§ 92.86. CRIMINAL PENALTIES.

Any violation of this ordinance by an owner, caretaker or person otherwise in charge of the motor vehicle, sound, device, or animal is a petty misdemeanor. Penalty see § 10.99.

§ 92.87. ENFORCEMENT.

The police department shall enforce the provision of this Noise Ordinance.

§ 92.88. CIVIL REMEDIES.

This Ordinance may be enforced by injunction, action for abatement, or other appropriate civil remedy.

CHAPTER 93: STREETS, SIDEWALKS AND RIGHT-OF-WAYS

Section

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Cross-reference:

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GENERAL PROVISIONS

§ 93.01 UNLOADING ON STREET OR SIDEWALK.

No person shall unload any heavy material in the streets of the city by throwing or letting the material fall upon the pavement of any street, alley, sidewalk, or other public way, without first placing some sufficient protection over the pavement. Penalty, see § 10.99

§ 93.02 STREET AND SIDEWALK OBSTRUCTION.

No person shall obstruct any street, alley, sidewalk, or other public way within the city by erecting thereon any fence or building, or permitting any fence or building to remain thereon. Each day that any fence or building is permitted to remain upon the public way shall constitute a separate offense. Penalty, see § 10.99

§ 93.03 MATERIALS ON STREET OR SIDEWALK.

No person shall encumber any street or sidewalk. No owner, occupant or person having the care of any building or lot of land, bordering on any street or sidewalk, shall permit it to be encumbered with barrels, boxes, cans, articles, or substances of any kind, so as to interfere with the free and unobstructed use thereof. Penalty, see § 10.99

RIGHT-OF-WAY CONSTRUCTION REGULATIONS

§ 93.20 ELECTION TO MANAGE THE PUBLIC RIGHT-OF-WAY.

In accordance with the authority granted to the city under state and federal statutory, administrative and common law, the city hereby elects pursuant to this chapter to manage rights-of-ways within its jurisdiction.

§ 93.21 DEFINITIONS AND ADOPTION OF RULES BY REFERENCE.

Minn. Rules Ch. 7819, as it may be amended from time to time is hereby adopted by reference and is incorporated into this code as if set out in full. The definitions included in Minn. Rules part 7819.0100 subps. 1 through 23, as it may be amended from time to time are the definitions of the terms used in the following provisions of this subchapter.

§ 93.22 PERMIT REQUIREMENT.

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

(1) *Excavation permit.* An excavation permit is required to excavate that part of the right-of-way described in the permit and to hinder free and open passage over the specified

portion of the right-of-way by placing facilities described therein, to the extent and for the duration specified therein.

(2) *Obstruction permit.* An obstruction permit is required 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.

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

(C) *Delay penalty.* In accordance with Minn. Rules part 7819.1000 subp. 3, as it may be amended from time to time and notwithstanding division (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 the Ordinance Establishing Fees and Charges, adopted pursuant to § 30.11 of this code, as it may be amended from time to time.

(D) *Permit display.* Permits issued under this subchapter shall be conspicuously displayed or otherwise available at all times at the indicated work site and shall be available for inspection by the Director. Penalty, see § 10.99

§ 93.23 PERMIT APPLICATIONS.

Application for a permit shall contain, and will be considered complete only upon compliance with the requirements of the following provisions:

(A) Submission of a completed permit application form, including all required attachments, scaled drawings showing the location and area of the proposed project and the location of all known existing and proposed facilities, and the following information:

(1) Each permittee's name, gopher one-call registration certificate number, address and e-mail address if applicable, and telephone and facsimile numbers.

(2) The name, address and e-mail 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, or a form of self-insurance acceptable to the Director;

(b) Verifying that the registration is insured against claims for personal injury, including death, as well as claims for property damage arising out of the use and occupancy of the right-of-way by the registrant, its officers, agents, employees and permittees, and placement and use of facilities and equipment in the right-of-way by the registrant, its officers, agents, employees and permittees, 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 coverages;

(d) Requiring that the Director be notified 30 days in advance of cancellation of the policy or material modification of a coverage term;

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

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

(5) If the person is a corporation, a copy of the certificate required to be filed under M.S. § 300.06, as it may be amended from time to time as recorded and certified to by the Secretary of State.

(6) A copy of the person's order granting a certificate of authority from the Minnesota Public Utilities Commission or other applicable state or federal agency, where the person is lawfully required to have the certificate from the Commission or other state or federal agency.

(B) Payment of money due the city for:

(1) Permit fees as established by the Ordinance Establishing Fees and Charges adopting pursuant to § 30.11 of this code, as that ordinance may be amended from time to time, 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 the applicant's prior excavations or obstructions of the rights-of-way or any emergency actions taken by the city; or

(4) Franchise fees or other charges as established by the Ordinance Establishing Fees and Charges adopted pursuant to § 30.11 of this code, as that ordinance may be amended from time to time, if applicable.

§ 93.24 ISSUANCE OF PERMIT; CONDITIONS.

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

(B) *Conditions.* The Director 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.

§ 93.25 PERMIT FEES.

Permit fees shall be in an amount established in the Ordinance Establishing Fees and Charges, adopted pursuant to § 30.11, as it may be amended from time to time.

(A) *Excavation permit fee.* The city shall establish an excavation permit fee as established by the Ordinance Establishing Fees and Charges adopted pursuant to § 30.11 of this code, as that ordinance may be amended from time to time, in an amount sufficient to recover the following costs:

- (1) The city management costs; and
- (2) Degradation costs, if applicable.

(B) *Obstruction permit fee.* The city shall establish the obstruction permit fee as established by the Ordinance Establishing Fees and Charges adopted pursuant to § 30.11 of this code, as that ordinance may be amended from time to time, and shall be in an amount sufficient to recover the city management costs.

(C) *Payment of permit fees.* No excavation permit or obstruction permit shall be issued without payment of excavation or obstruction permit fees. The city may allow applicant to pay those fees within 30 days of billing.

(D) *Non-refundable.* Permit fees as established by the Ordinance Establishing Fees and Charges adopted pursuant to § 30.11 of this code, as that ordinance may be amended from time to time, that were paid for a permit that the Director has revoked for a breach as stated in § 93.33 are not refundable.

(E) *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.

(F) All permit fees shall be established consistent with the provisions of Minn. Rules part 7819.100, as it may be amended from time to time. Penalty, see § 10.99

§ 93.26 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 this subchapter.

(B) *Patch and restoration.* The permittee shall patch its own work. The city may choose either to have the city restore the right-of-way or to restore the right-of-way itself.

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

(2) *Permittee restoration.* If the permittee restores the right-of-way itself, it shall be at the time of application for an excavation permit post a construction performance bond in accordance with the provisions of Minn. Rules part 7819.3000, as it may be amended from time to time.

(C) *Standards.* The permittee shall perform patching and restoration according to the standards and with the materials specified by the city and shall comply with Minn. Rule part 7819.1100, as it may be amended from time to time. The Director shall have the authority to prescribe the manner and extent of the restoration, and may do so in written procedures of general application or on a case-by-case basis.

(D) *Duty to correct defects.* The permittee shall correct defects in patching, or restoration performed by the permittee or its agents. The permittee upon notification from the Director, shall correct all restoration work to the extent necessary, using the method required by the Director. The work shall be completed within five calendar days of the receipt of the notice from the Director, not including days during which work cannot be done because of circumstances constituting force majeure or days when work is prohibited as unseasonal or unreasonable under § 93.34.

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

(F) *Degradation fee in lieu of restoration.* In lieu of right-of-way restoration, a right-of-way user may elect to pay a degradation fee as established by the Ordinance Establishing Fees and Charges adopted pursuant to § 30.11 of this code, as that ordinance may be amended from time

to time. However, the right-of-way user shall remain responsible for patching and the degradation fee shall not include the cost to accomplish these responsibilities.

§ 93.27 SUPPLEMENTARY APPLICATIONS.

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

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

§ 93.28 DENIAL OF PERMIT.

The city may deny a permit for failure to meet the requirements and conditions of this chapter or if the city determines that the denial is necessary to protect the health, safety, and welfare or when necessary to protect the right-of-way and its current use.

§ 93.29 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. Rules part 7819.1100, as it may be amended from time to time and other applicable local requirements, in so far as they are not inconsistent with M.S. § 237.162 and 237.163 as it may be amended from time to time.

§ 93.30 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 part 7819.1300, as it may be amended from time to time.

(B) *Site inspection.* The permittee shall make the work-site available to city personnel 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 Director.*

(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 Director may issue an order to the permittee for any work which does not conform to the terms of the permit or other applicable standards, conditions or codes. The order shall state that failure to correct the violation will be cause for revocation of the permit. Within ten days after issuance of the order, the permittee shall present proof to the Director that the violation has been corrected. If proof has not been presented within the required time, the Director may revoke the permit pursuant to § 93.40.

§ 93.31 WORK DONE WITHOUT A PERMIT.

(A) Emergency situations.

(1) Each person with facilities in the right-of-way shall immediately notify the city of any event regarding its facilities which it considers to be an emergency. The owner of the facilities may proceed to take whatever actions are necessary to respond to the emergency. Within two business days after the occurrence of the emergency, the owner shall apply for the necessary permits, pay the fees associated therewith and fulfill the rest of the requirements necessary to bring itself into compliance with this chapter for the actions it took in response to the emergency.

(2) If the city becomes aware of an emergency regarding facilities, the city will attempt to contact the local representative of each facility owner 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 person whose facilities occasioned the emergency.

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

§ 93.32 SUPPLEMENTARY NOTIFICATION.

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

§ 93.33 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 the 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 permittees' control; or

(5) The failure to correct, in a timely manner, work that does not conform to a condition indicated on an order issued pursuant to § 93.37.

(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 that 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 24 hours of receiving notification of the breach, the permittee shall provide the city with a plan, acceptable to the city, that will cure the breach. The permittee's failure to so contact the city, or the permittee's failure to submit an acceptable plan, or the permittee's failure to reasonably implement the approved plan, shall be cause for immediate revocation of the permit.

(D) *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 the revocation.

§ 93.34 MAPPING DATA; INFORMATION REQUIRED.

Each permittee shall provide mapping information required by the city in accordance with Minn. Rules parts 7819.4000 and 7819.4100, as it may be amended from time to time.

§ 93.35 LOCATION OF FACILITIES.

(A) Placement, location, and relocation of facilities must comply with applicable laws, and with Minn. Rules parts 7819.3100, 7819.5000 and 7819.5100, as they may be amended from time to time, to the extent the rules do not limit authority otherwise available to cities.

(B) *Corridors.* The city may assign specific corridors within the right-of-way, or any particular segment thereof as may be necessary, for each type of facilities 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.

(C) *Limitation of space.* To protect the health, safety and welfare or when necessary to protect the right-of-way and its current use, the Director shall have the power to prohibit or limit the placement of new or additional facilities within the right-of-way. In making those decisions, the Director 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.

§ 93.36 DAMAGE TO OTHER FACILITIES.

When the city does work in the right-of-way and finds it necessary to maintain, support, or move facilities to protect it, the Director shall notify the local representative as early as is reasonably possible and placed as required. The costs associated therewith will be billed to that registrant and must be paid within 30 days from the date of billing. Each facility owner shall be responsible for the cost of repairing any facilities in the right-of-way which it or its facilities damages. Each facility owner 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 owner's facilities.

§ 93.37 RIGHT-OF-WAY VACATION.

If the city vacates a right-of-way which contains the facilities of a registrant, the registrant's rights in the vacated right-of-way are governed by Minn. Rules part 7819.3200, as it may be amended from time to time.

§ 93.38 INDEMNIFICATION AND LIABILITY.

By applying for and accepting a permit under this chapter, a permittee agrees to defend and indemnify the city in accordance with the provisions of Minn. Rule 7819.1250, as it may be amended from time to time.

§ 93.39 ABANDONED FACILITIES; REMOVAL OF ABANDONED FACILITIES.

Any person who has abandoned facilities in any right-of-way shall remove them 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 Director.

§ 93.40 APPEAL.

A right-of-way user that has been denied registration; has been denied a permit; has had permit revoked; or believes that the fees imposed are invalid, may have the denial, revocation, or fee imposition reviewed, upon written request, by the City Council. The City Council shall act on a timely written request at its next regularly scheduled meeting. A decision by the City

Council affirming the denial, revocation, or fee as imposition will be writing and supported by written findings establishing the reasonableness of the decision.

§ 93.41 RESERVATION OF REGULATORY AND POLICE POWERS.

A permittees or registrants rights are subject to the regulatory and police powers of the city to adopt and enforce general ordinances necessary to protect the health, safety and welfare of the public.

RIGHT-OF-WAY MAINTENANCE REGULATIONS

§ 93.60 INTENT.

The purpose of this Ordinance is to enforce the maintenance of certain portions of the public right-of-way situated within the City of Franklin.

There are portions of platted public street and alley right-of-way situated within the City of Franklin which are not improved or used at the present time for public street purposes; and upon which the abutting property owners have planted grass, gardens, shrubs, trees or other vegetation. Such use of the surface of the right-of-way by an abutting property owner does not presently interfere with use of the remainder of the platted right-of-way for public street purposes; and such use of the surface of the public right-of-way is otherwise lawful and consistent with the rights of the abutting owner, but is subject to the superior right of the public to use, if necessary, the entire right-of-way for street purposes. Limitations of the financial resources of the City of Franklin require that the responsibility for maintenance of grass, shrubs, trees and other vegetation growing on public right-of-way not presently improved or used for public street purposes be clearly established.

§ 93.61 INTERFERENCE PROHIBITED.

No Person, including an abutting property owner, shall plant or maintain tiny grass, garden other vegetation, shrub, or tree on public street or alley right-of-way situated within the City of Franklin that interferes with the use of such right-of-way by the traveling public, the safety of users of the right-of-way, or the efficient maintenance of such right-of-way by the City of Franklin.

§ 93.62 RESPONSIBILITY OF VEGETATION MAINTENANCE.

A person owning land abutting public right-of-way who lawfully plants or thereafter maintains any grass, garden, other vegetation, shrub or tree on a portion of the public street or alley right-of-way is responsible for the maintenance of the surface of such right-of-way on which the above vegetation is situated; the abutting land owner is also responsible for the expense of removal of any dead or diseased tree or shrub on such right-of-way.

§ 93.63 VIOLATIONS AND ABATEMENT.

If an abutting property owner plants or maintains any grass, garden, shrub, tree or other vegetation in violation of this section, such is a public nuisance and may be summarily abated by the City of Franklin. The cost of such abatement may be assessed against the abutting property as provided in Minnesota Statutes, Chapter 429, following thirty days written notice to the abutting property owner.

CHAPTER 110: GENERAL LICENSING PROVISIONS

Section

- 110.01 Licenses required to engage in certain businesses
- 110.02 Application for license
- 110.03 Issuance of license
- 110.04 Date and duration of license
- 110.05 License not transferable
- 110.06 License certificate to be displayed
- 110.07 Revocation or suspension
- 110.08 Appeal and review

§ 110.01 LICENSES REQUIRED TO ENGAGE IN CERTAIN BUSINESSES.

No person shall engage in any of the trades, businesses, or professions for which licenses are required by Title XI of this code or by any other ordinance of the city or provision of this code without first applying for and obtaining a license from the City Clerk or other duly authorized issuing authority. Penalty, see § 10.99

§ 110.02 APPLICATION FOR LICENSE.

(A) All original applications for licenses, unless otherwise specifically provided, shall be made to the City Clerk or other authorized official in writing upon forms to be furnished by him or her and shall contain:

(1) The applicant's full name, address, and telephone number, and the full name of each officer, partner or business associate, if applicable;

(2) His or her present occupation and principal place of business;

(3) His or her place of residence for the preceding five years;

(4) The nature and location of the intended business or enterprise;

(5) The period of time for which the license is desired;

(6) A description of the merchandise, goods or services to be sold;

(7) If a motor vehicle is to be used, a full description of the motor vehicle, including the make, model, year, color, license number, and vehicle registration (VIN) number of the vehicle.

(8) Other information concerning the applicant and his or her business as may be reasonable and proper, having regard to the nature of the license desired.

(B) Any change in the information required by division (A) of this section must be reported to the City Clerk or other authorized official within 14 days of that change.

(C) Renewal of an annual license may be granted to a licensee in good standing on the basis of the original application, unless otherwise provided. However, if a request for renewal is not submitted to the City Clerk or other authorized official within 21 days after the date of expiration for the preceding license, the applicant must fill out an original application.

(D) With each original or renewal application, the applicant shall deposit the fee required for the license requested.

(E) It shall be unlawful to knowingly make any false statement or representation in the license application. Penalty, see § 10.99

§ 110.03 ISSUANCE OF LICENSE.

Upon receipt of an application for a license, accompanied by the proper fee if approval by another officer or department is not required, the City Clerk, shall deposit the fee in the general fund of the city and issue to the applicant a proper license certificate signed by the City Clerk.

§ 110.04 DATE AND DURATION OF LICENSE.

A license shall not be valid beyond the expiration date therein specified and, unless otherwise provided, shall not extend beyond December 31 of the year issued. However, at any time after December 1, licenses may be issued for the next calendar year. Unless otherwise specified, the full annual fee will be required of licensees irrespective of the date of issuance of the license.

§ 110.05 LICENSE NOT TRANSFERABLE.

Every license shall be issued to a real party in interest in the enterprise or business, and unless otherwise provided, no license shall be assigned or transferred. Penalty, see § 10.99

§ 110.06 LICENSE CERTIFICATE TO BE DISPLAYED.

Every licensee carrying on business at a fixed location shall keep posted in a prominent place upon the premises the license certificate. Other licensees shall carry their licenses at all times, and whenever requested by any officer or citizen, shall exhibit the license. Penalty, see § 10.99

§ 110.07 REVOCATION OR SUSPENSION.

(A) Any license may be suspended or revoked by the City Clerk or City Council at any time for the following reasons:

(1) For conditions or considerations which, had they existed at the time of issuance, would have been valid grounds for its denial;

(2) For any misrepresentation of a material fact in the application discovered after issuance of the license;

(3) For any misrepresentation or materially false statement made in the course of carrying on the trade, business or profession;

(4) For violation of any provision of this chapter or other federal, state or municipal law or ordinance relating to the operation of the business or enterprise for which the license has been issued; or

(5) Upon conviction of a licensee for any federal, state or municipal law or ordinance involving the creation of a nuisance, a breach of the peace, interference with the rights of property owners, or any other offense constituting a threat to the public health, safety, morals or general welfare of the public.

(B) The suspension or revocation shall become effective upon notice served upon the licensee. The notice shall contain a written summary of the reasons for the suspension or revocation and a statement concerning the right to appeal the decision. The notice shall be delivered by certified mail, return receipt requested, to the address given on the licensee's application.

§ 110.08 APPEAL AND REVIEW.

In case any applicant has been denied a license by the City Clerk, or if his or her license has been suspended or revoked by the City Clerk, the applicant or licensee shall within ten business days have the right to appeal to the City Council from the denial, suspension or revocation. Notice of appeal shall be filed in writing with the City Clerk or other authorized official. The Mayor shall call a special meeting of the City Council for the purpose of holding the hearing unless a regular meeting of the City Council will occur within the 21-day period, and who shall fix the time and place for a hearing which shall be held not later than 21 days thereafter. Notice of appeal shall be filed in writing with the City Clerk.

Unless a regular meeting of the City Council at which the appeal can be heard is scheduled within 21 days after receiving the notice of appeal, the Mayor shall schedule a special meeting of the City Council for the hearing within the 21-day period. Three members of the City Council shall constitute a quorum to hear the appeal. The appellant may appear and be heard in person or by counsel. If, after hearing, a majority of the members of the City Council present at the meeting declare in favor of the applicant, the license shall be issued or fully reinstated as the case may be; otherwise the suspension or revocation shall become final.

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CHAPTER 111: COMMERCIAL AMUSEMENTS

Section

- 111.01 Circuses, carnivals, shows and other entertainment
- 111.02 Deposit required
- 111.03 License fee for public entertainment or exhibition

§ 111.01 CIRCUSES, CARNIVALS, SHOWS AND OTHER ENTERTAINMENT.

(A) (1) Each person, desiring to conduct, stage or give a circus, carnival, theatrical exhibition, public show, athletic game or other entertainment, for which there is a charge for admission, shall first obtain a license and pay the license fee or fees as established by the Ordinance Establishing Fees and Charges adopted pursuant to § 30.11 of this code, as that ordinance may be amended from time to time.

(2) Local school entertainment, charitable organizations, lecture courses, and lectures on historic, literary or scientific subjects are not subject to the provisions of this section; provided, that the entertainment is not for profit.

(B) In addition to any other requirements, the applicant for a license shall give at least one week's notice in writing to the City Clerk or other authorized official, stating the dates of the performances and the location at which the performances are to be presented. The City Clerk shall give his or her consent to the issuance of the license if he or she deems that the location is suitable for the purpose; that it will properly accommodate the patrons; that the nature of the performance or exhibition does not pose a threat to the health, safety or general welfare of the public; and that the use of the location will not create too great a burden upon the police department or the fire department.

(C) No circus, carnival, theatrical exhibition, public show, athletic game or other entertainment shall be given for more than two consecutive days, except in cases where the City Council by resolution allows a longer period, or where the exhibition is to be conducted on municipal property and the use thereof for a longer period shall have been approved by the City Council. Penalty, see § 10.99

§ 111.02 DEPOSIT REQUIRED.

(A) At the time application for a license is made, where use of municipal grounds is contemplated, the applicant shall deposit with the City Clerk or other designated municipal official a cash bond in an amount to be determined by the City Council, conditioned upon the restoration and cleaning up of the grounds in a manner satisfactory to the Mayor or his/her designee. In the event the grounds are restored and cleaned up properly following the exhibition, the deposit shall be returned; otherwise the same shall be forfeited to the city to the extent of actual costs to the city for restoration and cleaning up of the grounds.

(B) No licensee shall fail to restore or clean up the grounds upon which the circus, carnival or other entertainment has taken place. Penalty, see § 10.99

§ 111.03 LICENSE FEE FOR PUBLIC ENTERTAINMENT OR EXHIBITION.

The fee for the license shall be in an amount as established in the Ordinance Establishing Fees and Charges adopted pursuant to § 30.11 of this Code, as that ordinance may be amended from time to time.

CHAPTER 112: LIQUOR REGULATIONS

Section

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- 112.02 City may be more restrictive than state law
- 112.03 Definitions
- 112.04 Nudity on the premises of licensed establishments prohibited
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- 112.21 Term and expiration of licenses
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Municipal Liquor Stores

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- 112.54 Proof of financial responsibility
- 112.55 Issuance of other licenses

- 112.99 Penalties

GENERAL PROVISIONS

§ 112.01 ADOPTION OF STATE LAW BY REFERENCE.

The provisions of M.S. Chapter 340A, as they may be amended from time to time, with reference to the definition of terms, conditions of operation, restrictions on consumption, provisions relating to sales, hour of sale, and all other matters pertaining to the retail sale, distribution, and consumption of intoxicating liquor and 3.2 percent malt liquor are hereby adopted by reference and are made a part of this Chapter as if set out in full. It is the intention of the City Council that all future amendments to M.S. Chapter 340A are hereby adopted by reference or referenced as they had been in existence at the time this Chapter is adopted.

§ 112.02 CITY MAY BE MORE RESTRICTIVE THAN STATE LAW

The Council is authorized by the provisions of M.S. § 340A.509, as it may be amended from time to time, to impose, and has imposed in this chapter, additional restrictions on the sale and possession of alcoholic beverages within its limits beyond those contained in M.S. Chapter 340A, as it may be amended from time to time.

§ 112.03. DEFINITIONS.

In addition to the definitions contained in M.S. § 340A.101, as it may be amended from time to time, the following terms are defined for purposes of this chapter:

LIQUOR. As used in this chapter, without modification by the words “intoxicating” or “3.2 percent malt,” includes both intoxicating liquor and 3.2 percent malt liquor.

RESTAURANT. An eating facility, other than a hotel, under the control of a single proprietor or manager, where meals are regularly prepared on the premises, where full waitress/waiter table service is provided, where a customer orders food from printed menus and where the main food course is served and consumed while seated at a single location. To be a “restaurant” as defined by this section, an establishment shall have a license from the state as required by M.S. § 157.16, as it may be amended from time to time, and meet the definition of either a “small establishment”, “medium establishment”, or “large establishment” as defined in M.S. § 157.16, Subd. 3d, as it may be amended from time to time. An establishment which serves prepackaged food that receives heat treatment and is served in the package or frozen pizza that is heated and served, shall not be considered to be a restaurant for purposes of this chapter unless it meets the definitions of “small establishment”, “medium establishment” or “large establishment”.

§ 112.04 NUDITY ON THE PREMISES OF LICENSED ESTABLISHMENTS PROHIBITED.

(A) The City Council finds that it is in the best interests of the public health, safety, and general welfare of the people of the city that nudity is prohibited as provided in this section on

the premises of any establishment licensed under this chapter. This is to protect and assist the owners, operators, and employees of the establishment, as well as patrons and the public in general, from harm stemming from the physical immediacy and combination of alcohol, nudity, and sex. The Council especially intends to prevent any subliminal endorsement of sexual harassment or activities likely to lead to the possibility of various criminal conduct, including prostitution, sexual assault, and disorderly conduct. The Council also finds that the prohibition of nudity on the premises of any establishment licensed under this chapter, as set forth in this section, reflects the prevailing community standards of the city.

(B) It is unlawful for any licensee to permit or allow any person or persons on the licensed premises when the person does not have his or her buttocks, anus, breasts, and genitals covered with a non-transparent material. It is unlawful for any person to be on the licensed premises when the person does not have his or her buttocks, anus, breasts, and genitals covered with a non-transparent material.

(C) A violation of this section is a misdemeanor punishable as provided by law, and is justification for revocation or suspension of any liquor, wine, or 3.2 percent malt liquor license or the imposition of a civil penalty under the provisions of § 112.99(B). Penalty, see §112.99.

(D) See Adult Business Ordinance later in this Chapter for additional information.

§ 112.05 CONSUMPTION IN PUBLIC PLACES

Except when expressly authorized by the City Council, no person shall consume intoxicating liquor or 3.2 percent malt liquor in a public park, on any public street, sidewalk, parking lot or alley, or in any public place other than on the premises of an establishment licensed under this chapter, in a municipal liquor dispensary if one exists in the city, or where the consumption and display of liquor is lawfully permitted. Penalty, see § 112.99.

LICENSING

§ 112.20 NUMBER OF LICENSES WHICH MAY BE ISSUED.

State law establishes the number of liquor licenses that a city may issue. However, the number of licenses which may be granted under this chapter is limited to the number of license which were issued as to the effective date of this chapter, even if a larger number of licenses are authorized by law or election. The Council in its sound discretion may provide by ordinance that a larger number of licenses may be issued up to the number of licenses authorized by M.S. Chapter 340A, as it may be amended from time to time. If a larger number of licenses in a particular category has been authorized by a referendum held under the provisions of M.S. § 340A.413, Subd. 3, as it may be amended from time to time, but not all of them have been issued, the larger number of licenses is no longer in effect until the Council by ordinance determines that any or all of the licenses may be issued. The Council is not required to issue the full number of licenses that it has available.

§ 112.21 TERM AND EXPIRATION OF LICENSES.

Each license shall be issued for a maximum period of one year. All licenses, except temporary licenses, shall expire on June 30 of each year unless another date is provided by ordinance. All licenses shall expire on the same date. Temporary licenses expire according to their terms. Consumption and display permits issued by the Commissioner of Public Safety, and the accompanying city consent to the permit, shall expire on March 31 of each year.

§ 112.22 KINDS OF LIQUOR LICENSES.

The Council of a city that does not have a municipal liquor store is authorized to issue the following licenses and permits, up to the number specified in § 112.20.

(A) 3.2 percent malt liquor on-sale licenses, which may be issued only to restaurants, hotels, clubs, bowling centers, and establishments used exclusively for the sale of 3.2 percent malt liquor with the incidental sale of tobacco and soft drinks.

(B) 3.2 percent malt liquor off-sale license.

(C) Contingent upon proof of liquor liability insurance (DRAM), temporary 3.2 percent malt liquor licenses may be issued only to any person, organization or establishment that has been approved by the City Council.

(D) Off-sale intoxicating liquor licenses, which may be issued only to exclusive liquor stores or drug stores that have an off-sale license which was first issued on or before May 1, 1994. The fee for an off-sale intoxicating liquor license established by the Council under § 112.23 shall not exceed \$100 or a greater amount which may be permitted by M.S. § 340A.408, Subd. 3, as it may be amended from time to time.

(E) On-sale intoxicating liquor licenses, which may be issued to the following establishments as defined by M.S. § 340A.101, as it may be amended from time to time, and this chapter: hotels, restaurants, bowling centers, clubs or congressionally chartered veterans organizations, and exclusive liquor stores. Club licenses may be issued only with the approval of the Commissioner of Public Safety. The fee for club licenses established by the Council under § 112.23 shall not exceed the amounts provided for in M.S. § 340A.408, Subd. 2b, as it may be amended from time to time. The Council may in its sound discretion authorize a retail on-sale licensee to dispense intoxicating liquor off the licensed premises at a community festival held within the city under the provisions of M.S. § 340A.404, Subd. 4b, as it may be amended from time to time. The Council may in its sound discretion authorize a retail on-sale licensee to dispense intoxicating liquor off the licensed premises at any convention, banquet, conference, meeting, or social affair conducted on the premises of a sports, convention, or cultural facility owned by the city, under the provisions of M.S. § 340A.404, Subd. 4a, as it may be amended from time to time; however, the licensee is prohibited from dispensing intoxicating liquor to any person attending or participating in an amateur athletic event being held on the premises.

(F) Sunday on-sale intoxicating liquor licenses, only after authorization to do so by voter approval at a general or special election as provided by M.S. § 340A.504, Subd. 3, as it may be amended from time to time. Sunday on-sale intoxicating liquor licenses may be issued only to a restaurant as defined in § 112.03, club, bowling center, or hotel which has a seating capacity of at least 30 persons, which holds an on-sale intoxicating liquor license, and which serves liquor only in conjunction with the service of food. The maximum fee for this license, which shall be established by the Council under the provisions of § 112.23, shall not exceed \$200, or the maximum amount provided by M.S. § 340A.504, Subd. 3c, as it may be amended from time to time.

(G) Combination on-sale/off-sale intoxicating liquor licenses if the city has a population less than 10,000.

(H) Temporary on-sale intoxicating liquor licenses, with the approval of the Commissioner of Public Safety, which may be issued only in connection with a social event sponsored by a club, charitable, religious, or other nonprofit corporation that has existed for at least three years. No license shall be for longer than four consecutive days, and the city shall issue no more than 12 days worth of temporary licenses to any one organization in one calendar year.

(I) On-sale wine licenses, with the approval of the Commissioner of Public Safety to: restaurants that have facilities for seating at least 25 guests at one time and meet the criteria of M.S. § 340A.404, Subd. 5, as it may be amended from time to time, and which meet the definition of restaurant in § 112.03; and to licensed bed and breakfast facilities which meet the criteria in M.S. § 340A.401, Subd. 1, as it may be amended from time to time. The fee for an on-sale wine license established by the Council under the provisions of § 112.23 shall not exceed one-half of the license fee charged for an on-sale intoxicating liquor license. The holder of an on-sale wine license who holds an on-sale 3.2 percent malt liquor license is authorized to sell malt liquor with a content over 3.2 percent (strong beer) without an additional license.

(J) One day consumption and display permits with the approval of the Commissioner of Public Safety to a nonprofit organization in conjunction with a social activity in the city sponsored by the organization.

(K) Approval of the issuance of a consumption and display permit by the Commissioner of Public Safety. The maximum amount of the additional fee which may be imposed by the Council on a person who has been issued a consumption and display permit under the provisions of § 112.23 shall not exceed \$300, or the maximum amount permitted by M.S. § 340A.14, Subd. 6, as it may be amended from time to time. Consumption and display permits shall expire on March 31 of each year.

§ 112.23 LICENSE FEES; PRO RATA

(A) No license or other fee established by the city shall exceed any limit established by M.S. Chapter 340A, as it may be amended from time to time, for a liquor license.

(B) The Council may establish from time to time in the Ordinance Establishing Fees and Charges the fee for any of the liquor licenses it is authorized to issue. The license fee may not exceed the cost of issuing the license and other costs directly related to the enforcement of the liquor laws and this chapter. No liquor license fee shall be increased without providing mailed notice of a hearing on the proposed increase to all affected licensees at least 30 days before the hearing.

(C) The fee for all licenses, except temporary licenses, granted after the commencement of the license year shall be prorated on a quarterly basis.

(D) Other than on and off sale liquor licenses, which may be paid on a semi-annual basis, all license fees shall be paid in full at the time the application is filed with the city. If the application is denied, the license fee shall be returned to the applicant.

(E) A refund of a pro rata share of an annual license fee may occur only if authorized by M.S. § 340A.408, Subd. 5, as it may be amended from time to time.

§ 112.24 COUNCIL DISCRETION TO GRANT OR DENY A LICENSE.

The Council in its sound discretion may either grant or deny the application for any license or for the transfer or renewal of any license. No applicant has a right to a license under this chapter.

§ 112.25 APPLICATION FOR LICENSE.

(A) *Form.* An application for an on-sale intoxicating liquor license, an off-sale intoxicating liquor license and consumption and display shall be in the form prescribed by the Commissioner of Public Safety and shall also contain the information required by the City Council. The form shall be verified and filed with the city. No person shall make a false statement in an application.

(B) *Financial responsibility.* Prior to the issuance of any license under this chapter, the applicant shall demonstrate proof of financial responsibility as defined in M.S. § 340A.409, as it may be amended from time to time, with regard to liability under M.S. § 340A.801, as it may be amended from time to time. This proof will be filed with the city and/or the Commissioner of Public Safety as required. Any liability insurance policy filed as proof of financial responsibility under this section shall conform to M.S. § 340A.409, as it may be amended from time to time. Operation of a business which is required to be licensed by this chapter without having on file with the city at all times effective proof of financial responsibility is a cause for revocation of the license. Penalty, see § 112.99.

§ 112.26 DESCRIPTION OF PREMISES.

The application shall specifically describe the compact and contiguous premises within which liquor may be dispensed and consumed. The description may not include any parking lot or sidewalk unless waived by the City Council

§ 112.27 APPLICATIONS FOR RENEWAL.

Before a license issued under this chapter is to be renewed, an application for renewal shall be filed with the city. The decision whether or not to renew a license rests within the sound discretion of the Council. No licensee has a right to have the license renewed.

§ 112.28 TRANSFER OF LICENSE.

No license issued under this chapter may be transferred without the approval of the Council. Any transfer of stock of a corporate licensee is deemed to be a transfer of the license, and a transfer of stock without prior Council approval is a ground for revocation of the license. An application to transfer a license shall be treated the same as an application for a new license, and all of the provisions of this code applying to applications for a license shall apply. Penalty, see § 112.99.

§ 112.29 INVESTIGATION.

(A) Preliminary background and financial investigation. On an initial application for a license, on an application for transfer of a license and, in the sound discretion of the Council that it is in the public interest to do so, on an application for renewal of a license, the city may conduct a preliminary background and financial investigation of the applicant or it may contract with the Commissioner of Public Safety for the investigation. In the event a preliminary background investigation is required, the applicant shall pay with the application an investigation fee of \$500 which shall be in addition to any license fee. If the cost of the preliminary investigation is less than \$500, the unused balance shall be returned to the applicant. The results of the preliminary investigation shall be sent to the Commissioner of Public Safety if the application is for an on-sale intoxicating liquor license or an on-sale wine license.

(B) Comprehensive background and financial investigation. If the results of a preliminary investigation warrant, in the sound discretion of the Council, a comprehensive background and financial investigation, the Council may either conduct the investigation itself or contract with the Commissioner of Public Safety for the investigation. The investigation fee for this comprehensive background and financial investigation to be paid by the applicant shall be \$500, less any amount paid for the initial investigation if the investigation is to be conducted within the state, and \$10,000, less any amount paid for the initial investigation, if the investigation is required outside the state. The unused balance of the fee shall be returned to the applicant whether or not the application is denied. The fee shall be paid in advance of any investigation and the amount actually expended on the investigation shall not be refundable in the event the application is denied. The results of the comprehensive investigation shall be sent to the Commissioner of Public Safety if the application is for an on-sale intoxicating liquor license or an on-sale wine license.

§ 112.30 HEARING AND ISSUANCE.

The Council shall investigate all facts set out in the application and not investigated in the preliminary or comprehensive background and financial investigations. Opportunity shall be

given to any person to be heard for or against the granting of the license. After the investigation and hearing, the Council shall in its sound discretion grant or deny the application. No license shall become effective until the proof of financial security has been approved by the Commissioner of Public Safety.

§ 112.31 RESTRICTIONS ON ISSUANCE.

(A) Each license shall be issued only to the applicant for the premises described in the application.

(B) Not more than one license shall be directly or indirectly issued within the city to any one person.

(C) No license shall be granted or renewed for operation on any premises on which taxes, assessments, utility charges, service charges, or other financial claims of the city are delinquent and unpaid.

(D) No license shall be issued for any place or any business ineligible for a license under state law.

(E) No license shall be issued to any person who is not a resident of the state. If the applicant is a corporation, all of the shareholders shall be residents of the state. The provisions of this division (E) shall not apply to any license existing on the effective date of this chapter or to the renewal of an existing license.

§ 112.32 CONDITIONS OF LICENSE.

The failure of a licensee to meet any one of the conditions of the license specified below shall result in a suspension of the license until the condition is met.

(A) As part of an orientation for employment, every person selling or serving liquor in an establishment which has an "on-sale" license shall receive training regarding the selling or serving of liquor to customers.

(B) Every licensee is responsible for the conduct of the place of business and the conditions of sobriety and order in it. The act of any employee on the licensed premises is deemed the act of the licensee as well, and the licensee shall be liable to all penalties provided by this chapter and the law equally with the employee.

(C) Every licensee shall allow any peace officer, health officer, city employee, or any other person designated by the Council to conduct compliance checks and to otherwise enter, inspect, and search the premises of the licensee during business hours and after business hours during the time when customers remain on the premises without a warrant.

(D) No on-sale establishment shall display liquor to the public during hours when the sale of liquor is prohibited.

(E) Compliance with financial responsibility requirements of state law and of this chapter is a continuing condition of any license. Penalty, see § 112.99.

§ 112.33 HOURS AND DAYS OF SALE.

(A) The hours of operation and days of sale shall be those set by M.S § 340A.504, as it may be amended from time to time.

(B) No person shall consume nor shall any on-sale licensee permit any consumption of intoxicating liquor or 3.2 percent malt liquor in an on-sale licensed premises more than 30 minutes after the time when a sale can legally occur.

(C) No on-sale licensee shall permit any glass, bottle, or other container containing intoxicating liquor or 3.2 percent malt liquor to remain upon any table, bar, stool, or other place where customers are served, more than 30 minutes after the time when a sale can legally occur.

(D) No person, other than the licensee and any employee, shall remain on the on-sale licensed premises more than 30 minutes after the time when a sale can legally occur.

(E) Any violation of any condition of this section may be grounds for revocation or suspension of the license. Penalty, see § 112.99.

§ 112.34 MINORS ON PREMISES.

(A) No person under the age of 18 years shall be employed in any rooms constituting the place in which intoxicating liquors or 3.2 percent malt liquor are sold at retail on sale, except that persons under the age of 18 may be employed as musicians or to perform the duties of a bus person or dishwashing services in places defined as a restaurant, hotel, motel or other multi-purpose building serving food in rooms in which intoxicating liquors or 3.2 percent malt liquor are sold at retail on sale.

(B) No person under the age of 21 years may enter a licensed establishment except to work, consume meals on premises that qualify as a restaurant, or attend social functions that are held in a portion of the premises where liquor is not sold. Penalty, see § 112.99.

§ 112.35 RESTRICTIONS ON PURCHASE AND CONSUMPTION.

No person shall mix or prepare liquor for consumption in any public place of business unless it has a license to sell on-sale, or a permit from the Commissioner of Public Safety under the provisions of M.S. § 340A.414, as it may be amended from time to time, which has been approved by the Council, and no person shall consume liquor in any such place. Penalty, see § 112.99.

§ 112.36 SUSPENSION AND REVOCATION.

(A) The Council shall either suspend for a period not to exceed 60 days or revoke any liquor license upon finding that the licensee has failed to comply with any applicable statute, regulation, or provision of this chapter relating to liquor. Except in cases of lapse of proof of financial responsibility, no suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to the Administrative Procedures Act, M.S. § 14.57 to 14.70, as it may be amended from time to time. The Council may act as the hearing body under that act, or it may contract with the Office of Hearing Examiners for a hearing officer.

(B) The following are the minimum periods of suspension or revocation which shall be imposed by the Council for violations of the provisions of this chapter or M.S. Chapter 340A, as it may be amended from time to time or any rules promulgated under that Chapter as they may be amended from time to time:

(1) For commission of a felony related to the licensed activity, sale of alcoholic beverages while the license is under suspension, sale of intoxicating liquor where the only license is for 3.2 percent malt liquor, or violation of § 112.04, the license shall be revoked.

(2) The license shall be suspended by the Council after a finding under division (A) that the licensee has failed to comply with any applicable statute, rule, or provision of this chapter for at least the minimum periods as follows:

(a) For the first violation within any three-year period, at least one day suspension in addition to any criminal or civil penalties which may be imposed.

(b) For a second violation within any three-year period, at least three consecutive days suspension in addition to any criminal or civil penalties which may be imposed.

(c) For the third violation within any three-year period, the license shall be revoked.

(d) For a fourth violation within any three-year period, the license shall be revoked.

(3) The council shall select the day or days during which the license will be suspended.

(C) Lapse of required proof of financial responsibility shall effect an immediate suspension of any license issued pursuant to this chapter or state law without further action of the Council. Notice of cancellation or lapse of a current liquor liability policy shall also constitute notice to the licensee of the impending suspension of the license. The holder of a license who has received notice of lapse of required insurance or of suspension or revocation of a license may request a hearing thereon and, if a request is made in writing to the Clerk, a hearing before the Council shall be granted within ten days. Any suspension under this division (B) shall continue until the Council determines that the financial responsibility requirements of state law and this chapter have again been met.

(D) The provisions of § 112.99 pertaining to administrative penalty may be imposed in addition to or in lieu of any suspension or revocation under this chapter. Penalty, see § 112.99.

§ 112.99 PENALTIES.

(A) Any person violating the provisions of this chapter or M.S. Chapter 340A as it may be amended from time to time or any rules promulgated under that Chapter as they may be amended from time to time is guilty of a misdemeanor and upon conviction shall be punished as provided by law.

(B) The Council shall impose a civil penalty of up to \$2,000 for each violation of M.S. Chapter 340A, as it may be amended from time to time, and of this chapter. Conviction of a violation in a court of law is not required in order for the Council to impose the civil penalty. A hearing under the Administrative Procedures Act, M.S. § § 14.57 to 14.70, as it may be amended from time to time, is not required before the penalty is imposed, but the Council shall hold a hearing on the proposed violation and the proposed penalty and hear any person who wishes to speak. Non-payment of the penalty is grounds for suspension or revocation of the license. The following is the minimum schedule of presumptive civil penalties which must be imposed in addition to any suspension unless the licenses is revoked:

- (1) For the first violation within any three-year period, \$500.
- (2) For the second violation within any three-year period, \$1,000.
- (3) For the third and subsequent violations within any three-year period, \$2,000.

(C) The term “violation” as used in this section includes any and all violations of the provisions of this chapter, or of M.S. Chapter 340A, as it may be amended from time to time or any rules promulgated under that Chapter as may be amended from time to time. The number of violations shall be determined on the basis of the history of violations for the proceeding three-year period. Revocation shall occur within 60 days following a violation for which revocation is imposed.

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CHAPTER 113: PEDDLERS AND SOLICITORS

Section

113.01	Definitions
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§ 113.01 DEFINITIONS.

Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

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

PERSON. Any natural individual, group, organization, corporation, partnership or association. As applied to groups, organizations, corporations, partnerships and associations, the term shall include each member, officer, partner, associate, agent or employee.

REGULAR BUSINESS DAY. Any day during which the city hall is normally open for the purpose of conducting public business. Holidays defined by state law shall not be counted as regular business days.

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

TRANSIENT MERCHANT. A person who temporarily sets up business out of a vehicle, trailer, boxcar, tent, other portable shelter, or empty store front for the purpose of exposing or displaying for sale, selling or attempting to sell, and delivering, goods, wares, products, merchandise or other personal property and who does not remain or intend to remain in any one location for more than 14 consecutive days.

§ 113.02 EXCEPTIONS TO DEFINITIONS.

(A) For the purpose of the requirements of this chapter, the terms ***PEDDLER, SOLICITOR,*** and ***TRANSIENT MERCHANT*** shall not apply to any person selling or attempting to sell at wholesale any goods, wares, products, merchandise or other personal property to a retailer of the items being sold by the wholesaler. The terms also shall not apply to any person who makes initial contacts with other people for the purpose of establishing or trying to establish a regular customer delivery route for the delivery of perishable food and dairy products such as baked goods and milk, nor shall they apply to any person making deliveries of perishable food and dairy products to the customers on his or her established regular delivery route.

(B) In addition, persons conducting the type of sales commonly known as garage sales, rummage sales, or estate sales, as well as those persons participating in an organized multi-person bazaar or flea market, shall be exempt from the definitions of ***PEDDLERS, SOLICITORS,*** and ***TRANSIENT MERCHANTS:*** as shall be anyone conducting an auction as a properly licensed auctioneer, or any officer of the court conducting a court-ordered sale. Exemption from the definitions for the scope of this chapter shall not excuse any person from complying with any other applicable statutory provision or local ordinance.

§ 113.03 LICENSING; EXEMPTIONS.

(A) *County license required.* No person shall conduct business as a peddler or transient merchant within the city limits without first having obtained the appropriate license from the county as required by M.S. Ch. 329 as it may be amended from time to time.

(B) *City license required.* Except as otherwise provided for by this chapter, no person shall conduct business as either a peddler or a transient merchant without first having obtained a license from the city.

(C) *Application.* Application for a city license to conduct business as a peddler or transient merchant shall be made at least 14 regular business days before the applicant desires to begin conducting business. Application for a license shall be made on a form approved by the City Council and available from the office of the City Clerk. All applications shall be signed by the applicant. All applications shall include the following information:

(1) Applicant's full legal name.

(2) All other names under which the applicant conducts business or to which applicant officially answers.

(3) A physical description of the applicant (hair color, eye color, height, weight, distinguishing marks and features, and the like).

(4) Full address of applicant's permanent residence.

(5) Telephone number of applicant's permanent residence.

(6) Full legal name of any and all business operations owned, managed or operated by applicant, or for which the applicant is an employee or agent.

(7) Full address of applicant's regular place of business (if any).

(8) Any and all business related telephone numbers of the applicant.

(9) The type of business for which the applicant is applying for a license.

(10) Whether the applicant is applying for an annual or daily license.

(11) The dates during which the applicant intends to conduct business, and if the applicant is applying for a daily license, the number of days he or she will be conducting business in the city (maximum 14 consecutive days).

(12) Any and all addresses and telephone numbers where the applicant can be reached while conducting business within the city, including the location where a transient merchant intends to set up business.

(13) A statement as to whether or not the applicant has been convicted within the last five years of any felony, gross misdemeanor, or misdemeanor for violation of any state or federal statute or any local ordinance, other than traffic offenses.

(14) A list of the three most recent locations where the applicant has conducted business as a peddler or transient merchant.

(15) Proof of any requested county license.

(16) Written permission of the property owner or the property owner's agent for any property to be used by a transient merchant.

(17) A general description of the items to be sold or services to be provided.

(18) All additional information deemed necessary by the City Council.

(19) The applicant's driver's license number or other acceptable form of identification.

(20) The license plate number, registration information and vehicle identification number for any vehicle to be used in conjunction with the licensed business and a description of the vehicle.

(D) *Fee.* All applications for a license under this chapter shall be accompanied by the fee established in the Ordinance Establishing Fees and Charges, adopted pursuant to § 30.11, as it may be amended from time to time.

(E) *Procedure.* Upon receipt of the completed application and payment of the license fee, the City Clerk, must determine if the application is complete. An application is determined to be complete only if all required information is provided. If the City Clerk determines that the application is incomplete, the City Clerk shall inform the applicant of the necessary information that is missing. When the application is determined to be complete the decision to approve or disapprove the application will go before the City Council. Before the City Council meeting, the City Clerk may conduct any investigation, including background checks, necessary to verify the information provided in the application is correct. The City Council may either approve or deny the license, or it may delay action for a reasonable period of time as necessary to complete any further investigation of the application or the applicant it deems necessary. The City Council's decision to deny the license shall be based on if there are grounds to do so under § 113.04. If the City Council denies the license, the applicant must be notified in writing of the decision, the reason for denial, and of the applicant's right to appeal the denial if made within 20 days of receiving notice of rejection. The City Council shall hear the appeal within 20 days of the date of the request. The decision of the City Council following the public hearing can be appealed by petitioning the Minnesota Court of Appeals for a Writ of Certiorari.

(F) *Duration.* An annual license granted under this chapter shall be valid for one calendar year from the date of issue. All other licenses granted under this chapter shall be valid only during the time period indicated on the license.

(G) *License exemptions.*

(1) No license shall be required for any person to sell or attempt to sell, or to take or attempt to take orders for, any product grown, produced, cultivated, or raised on any farm.

(2) No license shall be required of any person going from house-to-house, door-to-door, business-to-business, street-to-street, or other type of place-to-place when the activity is for the purpose of exercising that person's State or Federal Constitutional rights such as the freedom of speech, press, religion and the like, except that this exemption may be lost if the person's exercise of Constitutional rights is merely incidental to a commercial activity.

(3) No license shall be required for any person who is acting on behalf of a local community civic organization, local school activity fundraiser, or a children's club such as Girl Scouts or Boy Scouts.

(4) Professional fundraisers working on behalf of an otherwise exempt person or group shall not be exempt from the licensing requirements of this chapter. Penalty, see § 10.99

§ 113.04 LICENSE INELIGIBILITY.

The following shall be grounds for denying a license under this chapter:

(A) The failure of the applicant to obtain and show proof of having obtained any required county license.

(B) The failure of the applicant to truthfully provide any of the information requested by the city as a part of the application, or the failure to sign the application, or the failure to pay the required fee at the time of application.

(C) The conviction of the applicant within the past five years from the date of application for any violation of any federal or state statute or regulation, or of any local ordinance, which adversely reflects on the person's ability to conduct the business for which the license is being sought in an honest and legal manner. Those violations shall include but not be limited to burglary, theft, larceny, swindling, fraud, unlawful business practices, and any form of actual or threatened physical harm against another person.

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

(E) The applicant is found to have a bad business reputation. Evidence of a bad business reputation shall include, but not be limited to, the existence of more than three complaints against the applicant with the Better Business Bureau, the Attorney General's Office, or other similar business or consumer rights office or agency, within the preceding 12 months, or three complaints filed against the applicant within the preceding five years.

§ 113.05 SUSPENSION AND REVOCATION.

(A) *Generally.* Any license issued under this section may be suspended or revoked at the discretion of the City Council for violation of any of the following:

(1) Fraud, misrepresentation or incorrect statements on the application form.

(2) Fraud, misrepresentation or false statements made during the course of the licensed activity.

(3) Conviction of any offense for which granting of a license could have been denied under § 113.04.

(4) Violation of any provision of this chapter.

(B) *Multiple persons under one license.* The suspension or revocation of any license issued for the purpose of authorizing multiple persons to conduct business as peddlers or transient merchants on behalf of the licensee shall serve as a suspension or revocation of each authorized

person's authority to conduct business as a peddler or transient merchant on behalf of the licensee whose license is suspended or revoked.

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

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

(E) *Emergency.* If, in the discretion of the City Council, imminent harm to the health or safety of the public may occur because of the actions of a peddler or transient merchant licensed under this chapter, the City Council may immediately suspend the person's license and provide notice of the right to hold a subsequent public hearing as prescribed in division (C) of this section.

(F) *Appeals.* Any person whose license is suspended or revoked under this section shall have the right to appeal that decision in court. Penalty, see § 10.99

§ 113.06 TRANSFERABILITY.

No license issued under this chapter shall be transferred to any person other than the person to whom the license was issued. Penalty, see § 10.99

§ 113.07 PROHIBITED ACTIVITIES.

No peddler, solicitor or transient merchant shall conduct business in any of the following manners:

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

(B) Obstructing the free flow of either vehicular or pedestrian traffic on any street, alley, sidewalk or other public right-of-way.

(C) Conducting business in a way as to create a threat to the health, safety and welfare of any individual or the general public.

(D) Conducting business before 7:00 a.m. or after 9:00 p.m.

(E) Failing to provide proof of license or registration, and identification, when requested; or using the license or registration of another person.

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

(G) Remaining on the property of another when requested to leave, or to otherwise conduct business in a manner a reasonable person would find obscene, threatening, intimidating or abusive. Penalty, see § 10.99

§ 113.08 EXCLUSION BY PLACARD.

No peddler, solicitor or transient merchant, unless invited to do so by the property owner or tenant, shall enter the property of another for the purpose of conducting business as a peddler, solicitor or transient merchant when the property is marked with a sign or placard at least four inches long and four inches wide with print of at least 48 point in size stating “No Peddlers, Solicitors or Transient Merchants,” or “Peddlers, Solicitors, and Transient Merchants Prohibited,” or other comparable statement. No person other than the property owner or tenant shall remove, deface or otherwise tamper with any sign or placard under this section. Penalty, see § 10.99

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CHAPTER 114: TATTOO AND BODY PIERCING SERVICES

Section

- 114.01 Definitions
- 114.02 Prohibitions
- 114.03 Application for license; fees; issuance
- 114.04 Inspection of facilities
- 114.05 Suspension or revocation of license
- 114.06 Consent for performing procedures on persons under 18
- 114.07 Prohibitions relating to persons under 18
- 114.08 Defenses to violations
- 114.09 Training standards; records; safety and sanitation; equipment

§ 114.01 DEFINITIONS.

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

BOARD OF HEALTH. A Board of Health established under the provisions of M.S. § 145A.03, as it may be amended from time to time. If the city does not have a Board of Health, then this term means the authority having the duties of a Board of Health in the city, including but not limited to the County Board of Health.

BODY PIERCING. Includes ear piercing except when the ear piercing procedure is performed with an ear piercing gun.

BUSINESS. Any entity that provides services for compensation.

EAR PIERCING GUN. A mechanical device that pierces the ear by forcing a disposable single-use stud or solid needle through the ear.

GUARDIAN. Has the same meaning as in § 130.15.

PARENT. Has the same meaning as in § 130.15.

TATTOO. Has the same meaning given in M.S. § 609.2246, Subd. 2, as it may be amended from time to time.

§ 114.02 PROHIBITIONS.

No person shall do any of the following:

(A) Operate a business that offers tattooing or body piercing services unless the City Council issues it a license to do so;

(B) Perform a tattooing or body piercing procedure in a manner that does not meet the safety and sanitation standards established by this chapter and any federal, state or local laws, rules or regulations;

(C) Perform a tattooing procedure, body piercing procedure, or ear piercing procedure with an ear piercing gun in a manner that does not meet the standards for appropriate disinfection and sterilization of invasive equipment or parts of equipment used in performing the procedures established by this chapter and any federal, state or local laws, rules or regulations. Penalty, see § 10.99

§ 114.03 APPLICATION FOR LICENSE; FEES; ISSUANCE.

(A) A person seeking approval to operate a business that offers tattooing or body piercing services shall apply to the city on forms the city or the Board of Health shall prescribe and provide. The applicant shall submit all information the city and the Board of Health determines is necessary to process the application. The applicant shall include the fee established under the city's Ordinance Establishing Fees and Charges authorized by § 30.11 as it may be amended from time to time, or as established by the Board of Health.

(B) To receive approval to offer tattooing or body piercing services, a business must demonstrate to the Board of Health the ability to meet the requirements established by this chapter and any federal, state or local laws, rules or regulations for safe performance of the tattooing or body piercing procedures, training of the individuals who perform the procedures, and maintenance of records.

(C) If the Board of Health determines, following an inspection conducted under § 114.04, that a business meets the requirements for approval, it shall so advise the city. The City Council may either approve or deny the license, or it may delay action for a reasonable period of time as necessary to complete any investigation of the application or the applicant it deems necessary. If the City Council shall approve the license, the City Clerk shall issue the license to the applicant. If the City Council denies the license, notice of the denial shall be given to the applicant along with notice of the applicant's right to appeal the City Council's decision. Approval remains valid for one year unless earlier suspended or revoked under § 114.05. A business's approval may be renewed. Approval is not transferable. Penalty, see § 10.99

§ 114.04 INSPECTION OF FACILITIES.

The Board of Health, or a person or another body designed by the city, shall conduct at least one inspection of a business prior to approving the business under § 114.03 to offer tattooing or

body piercing services. The Board may conduct additional inspections as necessary for the approval process. The Board of Health may inspect an approved business at any time the Board considers necessary. In an inspection, the Board of Health shall be given access to the business's premises and to all records relevant to the inspection. Penalty, see § 10.99

§ 114.05 SUSPENSION OR REVOCATION OF LICENSE.

The City Council may suspend or revoke the approval of a business to offer tattooing or body piercing services at any time it determines that the business is being operated in violation of this chapter or any federal, state or local laws, rules or regulations. Proceedings for suspensions and revocations shall be conducted in accordance with rules adopted in Chapter 110 for the suspension or revocation of business licenses.

§ 114.06 CONSENT FOR PERFORMING PROCEDURES ON PERSONS UNDER 18.

(A) No person shall perform a tattooing procedure, body piercing procedure, or ear piercing procedure with an ear piercing gun on an individual who is under 18 years of age unless consent has been given by the individual's parent, guardian, or custodian in accordance with division (B) of this section. The consent must include both the custodial and non-custodial parents, where applicable.

(B) A parent, guardian or custodian of an individual under age 18 who desires to give consent to a business to perform on the individual under age 18 a tattooing procedure, body piercing procedure, or ear piercing procedure performed with an ear piercing gun shall do both of the following:

(1) Appear in person at the business at the time the procedure is performed;

(2) Sign a document provided by the business that explains the manner in which the procedure will be performed and methods for proper care of the affected body area following performance of the procedure. Penalty, see § 10.99

§ 114.07 PROHIBITIONS RELATING TO PERSONS UNDER 18.

(A) (1) Unless consent has been given in accordance with § 114.06, no individual who is under age 18 shall obtain or attempt to obtain a tattooing service, body piercing service, or ear piercing service performed with an ear piercing gun.

(2) No individual who is under age 18 shall knowingly show or give false information concerning the individual's name, age, or other identification for the purpose of obtaining a tattooing service, body piercing service, or ear piercing service performed with an ear piercing gun.

(B) (1) No individual shall knowingly show or give any false information as to the name, age, or other identification of an individual who is under age 18 for the purpose of obtaining for

the individual under age 18 a tattooing service, body piercing service, or ear piercing service performed with an ear piercing gun.

(2) No individual shall impersonate the parent, guardian or custodian of an individual who is under age 18 for the purpose of obtaining for the individual under age 18 a tattooing service, body piercing service, or ear piercing service performed with an ear piercing gun. Penalty, see § 10.99

§ 114.08 DEFENSES TO VIOLATIONS.

(A) An operator or employee of a business that performs tattooing services, body piercing services, or ear piercing services performed with an ear piercing gun may not be found guilty of a violation of § 114.06(A) or any federal, state or local laws, rules or regulations in which age is an element of the provisions if:

(1) The individual obtaining a tattooing service, body piercing service, or ear piercing service performed with an ear piercing gun, at the time of so doing, exhibited to the operator or employee of the tattooing, body piercing, or ear piercing business a driver's or commercial driver's license or an identification card issued under state law showing that the individual was then at least age 18;

(2) The operator or employee made a bona fide effort to ascertain the true age of the individual obtaining a tattooing, body piercing, or ear piercing service by checking the identification presented, at the time of the service, to ascertain that the description on the identification compared with the appearance of the individual and that the identification had not been altered in any way; and

(3) The operator or employee had reason to believe that the individual obtaining a tattooing, body piercing, or ear piercing service was at least age 18.

(B) In any action or proceeding before a court of record in which a defense is raised under this section, the Registrar of Motor Vehicles or the Registrar's Deputy who issued a driver's or commercial driver's license or an identification card shall be permitted to submit certified copies of the records, in the Registrar's or Deputy's possession, of the issuance in lieu of the testimony of the personnel of the Bureau of Motor Vehicles at the hearing, action or proceeding.

§ 114.09 TRAINING STANDARDS; RECORDS; SAFETY AND SANITATION; EQUIPMENT.

(A) Each operator of a business that offers tattooing or body piercing services shall do all of the following:

(1) Maintain procedures for ensuring that the individuals who perform tattooing or body piercing procedures are adequately trained to perform the procedures properly;

(2) With respect to tattooing services, maintain written records that include the color, manufacturer and lot number of each pigment used for each tattoo performed;

(3) Comply with the safety and sanitation requirements for preventing transmission of infectious diseases, as established in any federal, state or local laws, rules or regulations;

(4) Require the individuals who perform tattooing and body piercing procedures to disinfect and sterilize all invasive equipment or parts of equipment used in performing the procedures by using methods that meet the disinfection and sterilization requirements established in any federal, state or local laws, rules or regulations;

(5) Ensure that weekly tests of the business's heat sterilization devices are performed to determine whether the devices are functioning properly. In having the devices tested, the operator of the business shall use a biological monitoring system that indicates whether the devices are killing microorganisms. If a test indicates that a device is not functioning properly, the operator shall take immediate remedial action to ensure that heat sterilization is being accomplished. The operator shall maintain documentation that the weekly tests are being performed. To comply with the documentation requirement, the documents must consist of a log that indicates the date on which each test is performed and the name of the person who performed the test or, if a test was conducted by an independent testing entity, a copy of the entity's testing report. The operator shall maintain records of each test performed for at least two years.

(B) Each operator of a business that offers ear piercing services performed with an ear piercing gun shall require the individuals who perform the ear piercing services to disinfect and sterilize the ear piercing gun by using chemical solutions that meet the disinfection and sterilization requirements established in any federal, state or local laws, rules or regulations. Penalty, see § 10.99

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CHAPTER 115: TOBACCO REGULATIONS

Section

- 115.01 Purpose and intent
- 115.02 Definitions
- 115.03 License
- 115.04 Fees
- 115.05 Basis for denial of license
- 115.06 Prohibited sales
- 115.07 Vending machines
- 115.08 Self-service sales
- 115.09 Responsibility
- 115.10 Compliance checks and inspections
- 115.11 Other illegal acts
- 115.12 Exceptions and defenses

- 115.99 Violations and penalty

§ 115.01 PURPOSE AND INTENT.

Because the city recognizes that many persons under the age of 18 years purchase or otherwise obtain, possess and use tobacco, tobacco products, and tobacco related devices, and the sales, possession, and use are violations of both state and federal laws; and because studies, which the city hereby accepts and adopts, have shown that most smokers begin smoking before they have reached the age of 18 years and that those persons who reach the age of 18 years without having started smoking are significantly less likely to begin smoking; and because smoking has been shown to be the cause of several serious health problems which subsequently place a financial burden on all levels of government; this chapter shall be intended to regulate the sale, possession and use of tobacco, tobacco products, and tobacco related devices for the purpose of enforcing and furthering existing laws, to protect minors against the serious effects associated with the illegal use of tobacco, tobacco products, and tobacco related devices, and to further the official public policy of the state in regard to preventing young people from starting to smoke as stated in M.S. § 144.391, as it may be amended from time to time.

§ 115.02 DEFINITIONS.

Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

COMPLIANCE CHECKS. The system the city uses to investigate and ensure that those authorized to sell tobacco, tobacco products, and tobacco related devices are following and complying with the requirements of this chapter. Compliance checks shall involve the use of

minors as authorized by this chapter. Compliance Checks shall also mean the use of minors who attempt to purchase tobacco, tobacco products, or tobacco related devices for educational, research and training purposes as authorized by state and federal laws. Compliance checks may also be conducted by other units of government for the purpose of enforcing appropriate federal, state or local laws and regulations relating to tobacco, tobacco products, and tobacco related devices.

INDIVIDUALLY PACKAGED. The practice of selling any tobacco or tobacco product wrapped individually for sale. Individually wrapped tobacco and tobacco products shall include but not be limited to single cigarette packs, single bags or cans of loose tobacco in any form, and single cans or other packaging of snuff or chewing tobacco. Cartons or other packaging containing more than a single pack or other container as described in this definition shall not be considered individually packaged.

LOOSIES. The common term used to refer to a single or individually packaged cigarette.

MINOR. Any natural person who has not yet reached the age of 18 years.

MOVEABLE PLACE OF BUSINESS. Any form of business operated out of a truck, van, automobile or other type of vehicle or transportable shelter and not a fixed address store front or other permanent type of structure authorized for sales transactions.

RETAIL ESTABLISHMENT. Any place of business where tobacco, tobacco products or tobacco related devices are available for sale to the general public. The phrase shall include but not be limited to grocery stores, convenience stores and restaurants.

SALE. Any transfer of goods for money, trade, barter or other consideration.

SELF-SERVICE MERCHANDISING. Open displays of tobacco, tobacco products or tobacco related devices in any manner where any person shall have access to the tobacco, tobacco products, or tobacco related devices, without the assistance or intervention of the licensee or the licensee's employee. The assistance or intervention shall entail the actual physical exchange of the tobacco, tobacco product, or tobacco related device between the customer and the licensee or employee. The phrase shall not include vending machines. Self-service sales are interpreted as being any sale where there is not an actual physical exchange of the tobacco between the clerk and the customer.

TOBACCO or TOBACCO PRODUCTS. Any substance or item containing tobacco leaf, including but not limited to cigarettes, cigars, pipe tobacco, snuff, fine cut or other chewing tobacco, cheroots, stogies, perique, granulated, plug cut, crimp cut, ready-rubbed, and other smoking tobacco, snuff flowers, cavendish, shorts, plug and twist tobaccos, dipping tobaccos, refuse scraps, clippings, cuttings, and sweepings of tobacco, and other kinds and forms of tobacco leaf prepared in a manner as to be suitable for chewing, sniffing or smoking.

TOBACCO RELATED DEVICES. Any tobacco product as well as a pipe, rolling papers or other device intentionally designed or intended to be used in a manner which enables the chewing, sniffing or smoking of tobacco or tobacco products.

VENDING MACHINE. Any mechanical, electric or electronic, or other type of device which dispenses tobacco, tobacco products or tobacco related devices upon the insertion of money, tokens or other form of payment directly into the machine by the person seeking to purchase the tobacco, tobacco product or tobacco related device.

§ 115.03 LICENSE.

(A) *License required.* No person shall sell or offer to sell any tobacco, tobacco products, or tobacco related device without first having obtained a license to do so from the city.

(B) *Application.* An application for a license to sell tobacco, tobacco products, or tobacco related devices shall be made on a form provided by the city. The application shall contain the full name of the applicant, the applicant's residential and business addresses and telephone numbers, the name of the business for which the license is sought, and any additional information the city deems necessary. Upon receipt of a completed application, the City Clerk shall forward the application to the City Council for action at its next regularly scheduled City Council meeting. If the City Clerk shall determine that an application is incomplete, he or she shall return the application to the applicant with notice of the information necessary to make the application complete.

(C) *Action.* The City Council may either approve or deny the license, or it may delay action for a reasonable period of time as necessary to complete any investigation of the application or the applicant it deems necessary. If the City Council shall approve the license, the City Clerk shall issue the license to the applicant. If the City Council denies the license, notice of the denial shall be given to the applicant along with notice of the applicant's right to appeal the City Council's decision.

(D) *Term.* All licenses issued under this chapter shall be valid for one calendar year from the date of issue.

(E) *Revocation or suspension.* Any license issued under this chapter may be revoked or suspended as provided in § 115.99.

(F) *Transfers.* All licenses issued under this chapter shall be valid only on the premises for which the license was issued and only for the person to whom the license was issued. No transfer of any license to another location or person shall be valid without the prior approval of the City Council.

(G) *Moveable place of business.* No license shall be issued to a moveable place of business. Only fixed location businesses shall be eligible to be licensed under this chapter.

(H) *Display*. All licenses shall be posted and displayed in plain view of the general public on the licensed premise.

(I) *Renewals*. The renewal of a license issued under this section shall be handled in the same manner as the original application. The request for a renewal shall be made at least 30 days but no more than 60 days before the expiration of the current license.

(J) *Issuance as privilege and not a right*. The issuance of a license issued under this chapter shall be considered a privilege and not an absolute right of the applicant and shall not entitle the holder to an automatic renewal of the license. Penalty, see § 115.99

§ 115.04 FEES.

No license shall be issued under this chapter until the appropriate license fee shall be paid in full. The fee for a license under this chapter shall be established in the city's Ordinance Establishing Fees and Charges, adopted pursuant to § 30.11, as it may be amended from time to time. Penalty, see § 115.99

§ 115.05 BASIS FOR DENIAL OF LICENSE.

(A) Grounds for denying the issuance or renewal of a license under this chapter includes but is not limited to the following:

(1) The applicant is under the age of 18 years.

(2) The applicant has been convicted within the past five years of any violation of a federal, state, or local law, ordinance provision, or other regulation relating to tobacco or tobacco products, or tobacco related devices.

(3) The applicant has had a license to sell tobacco, tobacco products, or tobacco related devices revoked within the preceding 12 months of the date of application.

(4) The applicant fails to provide any information required on the application, or provides false or misleading information.

(5) The applicant is prohibited by federal, state, or other local law, ordinance, or other regulation from holding a license.

(B) However, except as may otherwise be provided by law, the existence of any particular ground for denial does not mean that the city must deny the license.

(C) If a license is mistakenly issued or renewed to a person, it shall be revoked upon the discovery that the person was ineligible for the license under this chapter. Penalty, see § 115.99

§ 115.06 PROHIBITED SALES.

It shall be a violation of this chapter for any person to sell or offer to sell any tobacco, tobacco product, or tobacco related device:

(A) To any person under the age of 18 years.

(B) By means of any type of vending machine, except as may otherwise be provided in § 115.07.

(C) By means of self-service methods whereby the customer does not need to make a verbal or written request to an employee of the licensed premise in order to receive the tobacco, tobacco product, or tobacco related device and whereby there is not a physical exchange of the tobacco, tobacco product, or tobacco related device between the licensee, or the licensee's employee, and the customer.

(D) By means of loosies as defined in § 115.02.

(E) Containing opium, morphine, jimson weed, bella donna, strychnos, cocaine, marijuana, or other deleterious, hallucinogenic, toxic or controlled substances except nicotine and other substances found naturally in tobacco or added as part of an otherwise lawful manufacturing process. It is not the intention of this provision to ban the sale of lawfully manufactured cigarettes or other tobacco products.

(F) By any other means, to any other person, in any other manner or form prohibited by federal, state or other local law, ordinance provision, or other regulation. Penalty, see § 115.99

§ 115.07 VENDING MACHINES.

It shall be unlawful for any person licensed under this chapter to allow the sale of tobacco, tobacco products, or tobacco related devices by the means of a vending machine unless minors are at all times prohibited from entering the licensed establishment. Penalty, see § 115.99

§ 115.08 SELF-SERVICE SALES.

It shall be unlawful for a licensee under this chapter to allow the sale of tobacco, tobacco products, or tobacco related devices by any means where by the customer may have access to those items without having to request the item from the licensee or the licensee's employee and whereby there is not a physical exchange of the tobacco, tobacco product, or the tobacco related device between the licensee or his or her clerk and the customer. All tobacco, tobacco products, and tobacco related devices shall either be stored behind a counter or other area not freely accessible to customers, or in a case or other storage unit not left open and accessible to the general public. Any retailer selling tobacco, tobacco products, or tobacco related devices at the time this chapter is adopted shall comply with this section within 90 days following the effective date of this chapter. Penalty, see § 115.99

§ 115.09 RESPONSIBILITY.

All licensees under this chapter shall be responsible for the actions of their employees in regard to the sale of tobacco, tobacco products, or tobacco related devices on the licensed premises, and the sale of an item by an employee shall be considered a sale by the license holder. Nothing in this section shall be construed as prohibiting the city from also subjecting the clerk to whatever penalties are appropriate under this chapter, state or federal law, or other applicable law or regulation. Penalty, see § 115.99

§ 115.10 COMPLIANCE CHECKS AND INSPECTIONS.

All licensed premises shall be open to inspection by the city police or other authorized city official during regular business hours. From time to time, but at least once per year, the city shall conduct compliance checks by engaging, with the written consent of their parents or guardians, minors over the age of 15 years but less than 18 years to enter the licensed premise to attempt to purchase tobacco, tobacco products, or tobacco related devices. Minors used for the purpose of compliance checks shall be supervised by city designated law enforcement officers or other designated city personnel. Minors used for compliance checks shall not be guilty of unlawful possession of tobacco, tobacco products, or tobacco related devices when those items are obtained as a part of the compliance check. No minor used in compliance checks shall attempt to use a false identification misrepresenting the minor's age, and all minors lawfully engaged in a compliance check shall answer all questions about the minor's age asked by the licensee or his or her employee and shall produce any identification, if any exists, for which he or she is asked. Nothing in this section shall prohibit compliance checks authorized by state or federal laws for educational, research, or training purposes, or required for the enforcement of a particular state or federal law. Penalty, see § 115.99

§ 115.11 OTHER ILLEGAL ACTS.

Unless otherwise provided, the following acts shall be a violation of this chapter:

(A) *Illegal sales.* It shall be a violation of this chapter for any person to sell or otherwise provide any tobacco, tobacco product, or tobacco related device to any minor.

(B) *Illegal possession.* It shall be a violation of this chapter for any minor to have in his or her possession any tobacco, tobacco product, or tobacco related device. This division (B) shall not apply to minors lawfully involved in a compliance check.

(C) *Illegal use.* It shall be a violation of this chapter for any minor to smoke, chew, snuff or otherwise use any tobacco, tobacco product, or tobacco related device.

(D) *Illegal procurement.* It shall be a violation of this chapter for any minor to purchase or attempt to purchase or otherwise obtain any tobacco, tobacco product or tobacco related device, and it shall be a violation of this chapter for any person to purchase or otherwise obtain those items on behalf of a minor. It shall further be a violation for any person to coerce or attempt to coerce a minor to illegally purchase or otherwise obtain or use any tobacco, tobacco product, or

tobacco related device. This division (D) shall not apply to minors lawfully involved in a compliance check.

(E) *Use of false identification.* It shall be a violation of this chapter for any minor to attempt to disguise his or her true age by the use of a false form of identification, whether the identification is that of another person or one on which the age of the person has been modified or tampered with to represent an age older than the actual age of the person. Penalty, see § 115.99

§ 115.12 EXCEPTIONS AND DEFENSES.

Nothing in this chapter shall prevent the providing of tobacco, tobacco products, or tobacco related devices to a minor as part of a lawfully recognized religious, spiritual, or cultural ceremony. It shall be an affirmative defense to the violation of this chapter for a person to have reasonably relied on proof of age as described by state law.

§ 115.99 VIOLATIONS AND PENALTY.

(A) *Violations.*

(1) *Notice.* Upon discovery of a suspected violation, the alleged violator shall be issued, either personally or by mail, a citation that sets forth the alleged violation and which shall inform the alleged violator of his or her right to be heard on the accusation.

(2) *Hearings.* If a person accused of violating this chapter so requests, a hearing shall be scheduled, the time and place of which shall be published and provided to the accused violator.

(3) *Hearing Officer.* The city official designated by the City Council shall serve as the hearing officer.

(4) *Decision.* If the hearing officer determines that a violation of this chapter did occur, that decision, along with the hearing officers reasons for finding a violation and the penalty to be imposed under division (B) of this section, shall be recorded in writing, a copy of which shall be provided to the accused violator. Likewise, if the hearing officer finds that no violation occurred or finds grounds for not imposing any penalty, those findings shall be recorded and a copy provided to the acquitted accused violator.

(5) *Appeals.* Appeals of any decision made by the hearing officer shall be filed in the district court for the city in which the alleged violation occurred.

(6) *Misdemeanor prosecution.* Nothing in this section shall prohibit the city from seeking prosecution as a misdemeanor for any alleged violation of this ordinance.

(7) *Continued violation.* Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense.

(B) *Administrative penalties.*

(1) *Licenses.* Any licensee found to have violated this chapter, or whose employee shall have violated this chapter, shall be charged an administrative fine of \$75 for a first violation of this chapter; \$200 for a second offense at the same licensed premises within a 24-month period; and \$250 for a third or subsequent offense at the same location within a 24-month period. In addition, after the third offense, the license shall be suspended for not less than seven days.

(2) *Other individuals.* Other individuals, other than minors regulated by division (B)(3) of this section, found to be in violation of this chapter shall be charged an administrative fee of \$50.

(3) *Minors.* Minors found in unlawful possession of or who unlawfully purchase or attempt to purchase, tobacco, tobacco products, or tobacco related devices, shall be subject to an administrative fine, or may be subject to tobacco related education classes, diversion programs, community services, or another penalty that the city believes will be appropriate and effective. The administrative fine or other penalty shall be established by City Council ordinance upon the City Council's consultation with interested parties of the courts, educators, parents and children to determine an appropriate penalty for minors in the city. This administrative fine or other penalty may also be established from time to time by the Ordinance Establishing Fees and Charges, adopted pursuant to § 30.11, as it may be amended from time to time.

(4) *Misdemeanor.* Nothing in this section shall prohibit the city from seeking prosecution as a misdemeanor for any violation of this chapter.

(5) *Statutory penalties.* If the administrative penalties authorized to be imposed by M.S. § 461.12, as it may be amended from time to time, differ from those established in this section, then the statutory penalties shall prevail.

CHAPTER 116: ADULT ENTERTAINMENT BUSINESS ORDINANCE

Section

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§ 116.01 PURPOSE.

The purpose of this section is to regulate adult businesses which, unless closely regulated, may have serious secondary effects on the community. These secondary effects include, but are not limited to, the following: depreciation of property values, deterioration of neighborhoods, increases in vacancy rates in residential and commercial areas, increases in incidences of criminal activity, increases in litter, noise, and the interference with residential property owner's enjoyment of their property in the vicinity of such businesses. It is the intent of this section to prevent City-wide adverse impacts which can be brought about by the concentration of adult businesses in close proximity to each other or proximity to incompatible uses such as schools, churches, parks, public buildings and residentially zoned uses. It has been demonstrated in various communities that the concentration of adult businesses causes adverse impacts described above and can cause businesses and residents to move elsewhere. This section establishes reasonable and uniform regulations to prevent the concentration of adult businesses or their close proximity to incompatible uses, while permitting the location of adult businesses in certain areas.

§ 116.02 DEFINITIONS.

For the purpose of this Ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning. All words and phrases used in this ordinance which are not defused herein shall have the meaning ascribed to such words and phrases in common usage.

ADULT BUSINESS. Any establishment having as a substantial or significant portion of its stock in trade or business activity in a use such as, but not limited to the following: Adults-Only

Bookstores, Adults-Only Motion Picture Theaters, Adult Entertainment Centers, Massage Parlors, Rap Parlors, Adults-Only Cabarets or Adults-Only Saunas, where explicit sexual conduct is depicted and or sexual activity is explicitly or implicitly encouraged or tolerated.

ADULT ENTERTAINMENT BUSINESS. Synonymous with "Adult Business," as defined herein.

ADULT ENTERTAINMENT CENTER. An enclosed building or part of an enclosed building, which allows a customer to view a live person nude or in such attire, costume or clothing as to expose to view the human male or female genitalia; pubic hair; buttocks; perineum; anal or pubic regions; or, female breast, at or below the areola thereof. In addition, the viewing of a live person, in the above-described manner, after paying of any admission or fee for the viewing of same activity.

ADULTS-ONLY. Any items or activities emphasizing, depicting, describing or relating to nudity, explicit sexual conduct (whether auto-erotic, heterosexual, homosexual or otherwise), bestiality or sadomasochistic activity.

ADULTS-ONLY BOOKSTORE. An adults-only establishment having as a substantial or significant portion of its stock-in-trade and offers for sale, for any form of consideration, any one or more of the following: 1) books, magazines, periodicals, or other printed matter, or photographs, films motion pictures, video cassettes, DVDs, CD-ROMs, slides, or other visual representations that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; or 2) viewing on premises by use of motion picture devices or other coin-operated means, and other periodicals which are distinguished or characterized by their principal emphasis on matters depicting, describing or relating to nudity, explicit sexual conduct (whether auto-erotic, heterosexual, homosexual or otherwise), bestiality or sadomasochistic activity; or 3) instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities.

ADULTS-ONLY CABARETS. A nightclub, bar, restaurant, or similar establishment that regularly features live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities, or films, motion pictures, video cassettes, CD-ROMs, or other photographic reproductions in which a substantial portion of the total presentation time is devoted to the showing of material that is characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

ADULTS-ONLY MOTION PICTURE THEATER. An establishment where, for any form of consideration, films, motion pictures, video cassettes, DVDs, CD-ROMs, slides, or similar photographic reproductions are shown, and in which a substantial portion of the total presentation time is devoted to the showing of material characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas.

BOOTH. Any enclosure that is specifically offered to patrons of an Adult Business for the private viewing of any adults-only item or movie. Said definition does not include enclosures

that are used as private offices by any operator, employee or agent for attending to the tasks of their employment and are not offered for use by the public.

CUBICLE. Synonymous with "booth," as defined herein.

DOOR. Full, complete, non-transparent closure device that obscures the view or activity taking place within the enclosure.

EMPLOYEE. Means any person and all persons, including entertainers, who work in or at or render any services directly related to the operation of a public place of adult business.

ENTERTAINER. Means any person who provides adult entertainment within a public place of adult entertainment as defined in this section whether or not a fee is charged or accepted for entertainment.

ENTERTAINMENT. Means any exhibition or dance of any type, pantomime, modeling or of any performance.

MANAGER. Means any person who manages, directs, administers or is in charge of the affairs and/or the conduct of any portion of any activity within the adult business.

MASSAGE PARLOR. An establishment or place primarily in the business of providing massage services, where explicit sexual conduct is depicted and or sexual activity is explicitly or implicitly encouraged or tolerated.

NUDITY. The display of the human male or female genitalia; pubic hair; buttocks; perineum; anal or pubic regions; female breast, at or below the areola thereof, with no covering or with a less than fully opaque covering; or, male genitalia, in a discernible turgid state, with or without covering.

OBSCENE. Any material or performance is obscene if: (1) the average person, applying contemporary adult community standards, would find that, taken as a whole, it appeals to the prurient interest; and (2) the average person, applying contemporary adult community standards, would find that it depicts or describes, in a patently offensive way, ultimate sexual acts or sadomasochistic sexual acts, whether normal or perverted, actual or simulated, or masturbation, excretory functions or lewd exhibition of the genitals; and (3) taken as a whole, it lacks serious literary, artistic, political or scientific value.

OPERATOR. Any person, (whether said persons be an individual, partner, corporation, joint stock company, fiduciary, officer, director, stockholder, employee, or manager), that conducts, maintains or owns any Adult Business.

PATRON. Any customer, patron or visitor to an Adult Business who is not employed by any operator of said establishment.

RAP PARLOR. An establishment or place primarily in the business of providing non-professional conversation or similar services for adults, where explicit sexual conduct is depicted and or sexual activity is explicitly or implicitly encouraged or tolerated.

ROOM. Synonymous with "booth," as defined herein.

SADOMASOCHISTIC ACTIVITY. Flagellation or torture by or upon a nude person; a person clad in undergarments, a mask or bizarre costume. In addition, the condition of being fettered, bound or otherwise physically restrained with the intent to stimulate or arouse sexually the initiator and or the recipient.

SAUNA. An establishment or place primarily in the business of providing a steam bath and or massage services, where explicit sexual conduct is depicted and or sexual activity is explicitly or implicitly encouraged or tolerated.

SELL. Includes to solicit or receive an order for, to keep or expose for sale and to keep with intent to sell.

SEXUAL CONDUCT. Ultimate sex acts (whether auto-erotic, heterosexual, homosexual or otherwise), bestiality or sadomasochistic activity. In addition, physical contact, intended to stimulate or arouse sexually the initiator and or the recipient, with a person's unclothed genitalia, buttocks, perineum, anal or pubic regions, or female breast.

SEXUALLY ORIENTED BUSINESS-ACCESSORY. Means any business as described in the adult business definition above that meets the following requirements:

(A) Comprise less than twenty (20) percent of the floor area of the establishment in which they are located; and

(B) Comprise no more than two thousand (2000) square feet of floor area in total; and

(C) Comprise less than twenty (20) percent of the stock on hand; and

(D) Comprise less than twenty (20) percent of the gross receipts of the entire business operation from such adult business; and

(E) Not involve or include any activity except the sale or rental of merchandise.

SPECIFIED ANATOMICAL AREAS. Include any of the following, whether actual or simulated: (1) less than completely and opaquely covered: (a) human genitals or pubic region, (b) buttock, and (c) female breast below a point immediately above the top of the areola; or (2) human male genitals in a discernibly turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES. Means and includes any of the following: (1) the fondling or sexual touching of human genitals, pubic regions, buttocks, anus, or female breasts; or (2) sex acts, normal or deviant, actual or simulated, including intercourse, oral copulation, or sodomy; or (3) masturbation, actual or simulated; or (4) excretory functions as part of, or in connection with any of the activities set forth above.

UNDERAGE. Any person under eighteen (18) years of age, the legally minimum age at which one can purchase or view adults-only items.

WALL SIGN. Any flat sign which is placed against a building or other structure and attached thereto in such manner that only one side is visible.

§ 116.03 LOCATION RESTRICTIONS.

All Adult Business, except non-conforming uses as described below, must comply with the following location restrictions:

(A) All Adult Businesses shall be located within a B-2 or I-1 District.

(B) No Adult Business shall be located within the following distances:

(1) Adult businesses shall be prohibited within one thousand (1000) feet of any of the city zoned for residential purposes. Residential zones shall include the R-1, R-2, zones and any other residential zone hereafter adopted by the city.

(2) Adult businesses shall be prohibited within one thousand (1000) feet of any church, synagogue, mosque or temple. For purposes of this section, land uses for which the principal use is not a church, synagogue, mosque or temple but which include such a use as an accessory or incidental use to the principal use shall not be deemed to be a church, synagogue, mosque, or temple.

(3) Adult businesses shall be prohibited within one thousand (1000) feet of any public or private school offering general education for students between the years kindergarten through grade twelve. For purposes of this section, athletic training facilities such as gymnastics, judo, karate, and dance and similar uses shall not be deemed a school.

(4) Adult businesses shall be prohibited within one thousand (1000) feet of any child/family day care facility, center, or pre-school.

(5) Adult use businesses shall be prohibited within one thousand (1000) feet of any public park or playground. For the purposes of this section, bike paths, trails, waterways and boat launches shall not be deemed to be a public park.

(6) Adult use businesses shall be prohibited within one thousand (1000) feet of any group home facility.

(7) Adult businesses shall be prohibited from locating within five hundred (500) feet of any other adult business.

(C) Distances provided for herein shall be measured following a straight line, without regard to intervening buildings, from the nearest point of the property parcel upon which the proposed use is to be located, to the nearest point of the parcel of property or the land use district boundary line from which the proposed land use is to be separated.

(D) All Adult Businesses shall have a direct access to a hard surfaced road.

(E) No Adult Business shall be located in any temporary or portable structure.

(F) No residential structure or any other nonconforming structure shall be converted for use as an Adult Business.

(G) Minnesota Statutes 617.23 through 617.299, or its successors, shall be adhered to in addition to this Ordinance.

(H) Adult Businesses in violation of paragraphs (A), (B), (C), (D), (E) and (F) shall be permitted as non-conforming uses where said Adult Businesses were established and operated continuously prior to the effective date of this Ordinance, provided that no such Adult Business may be enlarged or increased in size or may be discontinued in use for a period of more than one-hundred eighty (180) days.

§ 116.04 CONDITIONAL USE PERMIT AND LICENSE REQUIRED.

The use of property for an Adult Business in a B-2 or I-1 District may be desired by a property owner, but could have a potentially harmful influence on other uses in this district. An Adult Business, because of its nature, may have a deleterious effect upon the use and enjoyment of adjacent properties. As such, a Conditional Use permit and an annual license is necessary to insure that these adverse effects will not contribute to the blighting or down-grading of the surrounding neighborhood areas. Thus, Adult Business shall be a Conditional Use in B-2 and I-1 Districts. No person, firm or corporation shall own or operate an adult business without having first secured a license as provided in this chapter.

(A) No Adult Business may operate within the incorporated territory of this City without first having obtained a Conditional Use permit. Requirements for a Conditional Use permit shall be in addition to all other requirements of the City of Franklin Zoning Ordinance, and shall be in addition to all other requirements of other applicable ordinances.

(B) In addition to other applicable information required by the City, an application for a license is required by this section. This application shall be submitted on a form provided by the City and include the following information:

(1) The name, residence, phone number and birth date of the applicant, if an individual; and if a corporation, the names, residences, phone number and birth dates of those owners holding more than five percent of the outstanding stock of the corporation.

(2) The name, address, phone number and birth date of the manager(s) of such an operation, if different from the owner(s).

(3) The address and legal description of the premises where the adult establishment is to be located.

(4) A statement detailing each gross misdemeanor or felony relating to a sex offence and/or the operation of adult uses and related activities of which the applicant, or in the case of a corporation, the owners of more than five percent of the outstanding stock of the corporation,

have been convicted, and whether or not the applicant has ever applied for or held a license to operate a similar type of business in other communities.

(5) The activities and types of business to be conducted.

(6) The hours of operation.

(7) The provisions made to restrict access by minors.

(8) A building plan of the premises detailing all internal operations and activities.

(C) License Fees.

(1) Each application for a license shall be accompanied by a receipt from the City for payment in full of the required fee for the license. All fees shall be paid into the general fund of the municipality. Upon rejection of any applications for a license, the City Clerk shall refund the amount paid.

(2) All licenses shall expire on the last day of March in each year. Each license shall be issued for a period of one year, except that if a portion of the license year has elapsed when the application is made, a license may be issued for the remainder of the year for a pro rated fee. In computing such fee, any unexpired fraction of a month shall be counted as one month.

(3) The annual license fee for adult businesses shall be \$1,500.00.

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

(a) Destruction or damage of the licensed premises by fire or other catastrophe;

(b) The licensee's illness;

(c) The licensee's death;

(d) A change in the legal status making it unlawful for the licensed business to continue.

(D) Granting of License.

(1) The Mayor or Police Chief, or such persons as they shall designate, shall complete their investigation within 30 days after the City Clerk receives a complete application and all license and investigation fees.

(2) If the application is for a renewal, the applicant shall be allowed to continue business until the Council has determined to renew or refuse to renew a license.

(3) If, after such investigation, it appears that the applicant and the place proposed for the business are eligible for a license under the criteria set forth in this chapter, then the license shall be issued by the City Council within 30 days after the investigation is completed. Otherwise the license shall be denied.

(4) Each license shall be issued to the applicant only and shall not be transferable to another holder. Each license shall be issued only for the premises described in the application. No license may be transferred to another premise without the approval of the City Council. If the licensee is a partnership or a corporation, a change in identity of any of the principals of the partnership or corporation shall be deemed a transfer of the license. All adult businesses existing at the time of the adoption of this chapter shall be required to obtain an annual license.

(5) An applicant for any license under this chapter shall deposit with the City at the time an application is submitted, \$500 to cover the costs involved in verifying the license application and to cover the expense of any investigation needed to assure compliance with this chapter. If the investigation and verification process is conducted outside the state of Minnesota, the City may require the actual investigation costs not exceeding \$1,500.

(C) Conditions of an Adult Business Conditional Use Permit and Annual License.

(1) Every Conditional Use permit shall be granted subject to all of the conditions of this Ordinance, and of any other applicable county, state or federal law, including Minnesota Statutes 617.23 through 617.299, or its successors.

(2) All licensed premises shall have the license posted in a conspicuous place at all times.

(3) No minors shall be permitted on the permitted premises. Provisions to restrict access by minors shall prohibit any entry or view into the portion of the premises in which the sexually oriented business takes place. All entrances to an Adult Business shall be clearly and legibly posted by a notice indicating that minors are prohibited.

(4) Every permittee shall be responsible for the conduct of the place of business and shall maintain a condition of order.

(5) No Adult Business shall allow any obviously intoxicated person on the property.

(6) Trash dumpsters shall be enclosed by a screening enclosure so as not to be accessible to the public. At no time shall trash be viewable from the public.

(7) The entire exterior grounds, including the parking lot and landscaped areas, shall be lighted in such a manner that all areas are clearly visible at all times.

(8) All exterior areas of the adult business, including buildings, landscaping and parking areas shall be maintained in a clean and orderly manner at all times.

(9) No residence or sleeping rooms shall be located on the parcel where an adult business is located.

(10) The adult business shall not conduct normal business or sponsor any special events, promotions, festivals, concerts, or similar activities that would create a demand for parking spaces beyond the number of spaces required for the business.

(11) The traffic generated by the business shall not overload the capacity of the surrounding street system and shall not create a hazard to public safety, as determined by Franklin City Council.

(12) No loudspeakers or sound equipment shall be used by an adult business for the amplification of sound to a level audible beyond the premise.

(F) No Conditional Use permit or license shall be held in existence by the mere payment of fees.

(G) Persons ineligible for an Adult Business Conditional Use permit and license. No permit or license shall be granted to or held by any person:

(1) Under eighteen (18) years of age;

(2) Who has been convicted of a felony or of violating any law of this State or local ordinance relating to sex offenses and/or adult use; or

(3) Who is not the proprietor of the establishment for which the permit is issued.

(H) Places ineligible for an Adult Business Conditional Use permit and license.

(1) No permit and license shall be granted for adult uses on any premises where a permittee has been convicted of a violation of this Chapter, or where any permit or license hereunder has been revoked for cause, until one (1) year has elapsed after such conviction or revocation.

(2) Except for uses lawfully existing at the time of the adoption of this section, no permit shall be granted for any adult use which is not in compliance with the City of Franklin Zoning Ordinance.

(3) No sexually oriented business shall locate in any place that is also used to dispense or consume alcohol, including 3-2 alcohol.

(I) Existing Adult Businesses. All existing businesses shall be required to conform with this section on or before the adoption of this Ordinance.

(J) In addition to the findings normally required for a conditional use, the following factors may be considered:

(1) That the proposed use will not be contrary to the public interest or injurious to nearby properties, and that the spirit and intent of this Ordinance will be observed.

(2) That the proposed use will not enlarge or encourage the development of a “skid row” area.

(3) That the establishment of an additional regulated use in the area will not be contrary to any program of neighborhood conservation, nor will it interfere with any program of urban renewal.

(4) That all applicable regulations of the Ordinance, other City Ordinances, State and Federal law will be observed.

§ 116.05 PHYSICAL LAYOUT.

The use of booths, rooms or cubicles in an Adult Business can, by reason or their design and intended use, facilitate the spread of sexually transmitted diseases (both fatal and non-fatal). As the City has a substantial government interest in protecting the public health, safety and welfare of its citizens and all persons within the City, the following standards have been propounded to eliminate the possibility of infection by contagious sexually transmitted diseases.

(A) No commercial building, structure, premises, or part thereof, or facility therein used by an Adult Business classified as an adult use-principal shall be so constructed, used, designed or operated for the purpose of engaging in, or permitting persons to engage in sexual activities as defined in this Ordinance.

(B) No person shall own, operate, manage, rent, lease, or exercise control of any commercial building, structure, premises, or portion or part thereof, which contains partitions between subdivisions of a room, portion or part of a building, structure or premises having an aperture which is designed or constructed to facilitate sexual activity between persons on either side of the partition.

(C) The following standards shall apply to all booths, stalls, or partitioned portions of a room, or individual rooms, used for adult uses:

(1) They must be totally accessible both to and from lighted aisles and public areas of the Adult Business;

(2) The bottom surfaces of any doors must measure at least forty-two (42) inches from the floor surfaces;

(3) No surfaces intended for seating may be located therein;

(4) No doors may be confined with or obstructed by any lock mechanism or other control-type device;

(5) They must be separated from adjacent booths, rooms or cubicles and any non-public areas by a solid wall without any opening and extending from the floor to a height of at least six (6) feet;

(6) They must be lit by light bulbs of at least twenty-five (25) watts when the Adult Business is open for business;

(7) All doors or openings must be sufficiently unobstructed such that an operator, employee or agent may determine the number of persons within any booth, room or cubicle;

(D) Only one person shall occupy a booth, room or cubicle at any time; and, at no time, shall the occupant therein engage in any type of sexual conduct resulting in the discharge of any bodily fluids while within a booth, room or cubicle.

(E) All wall and floor surfaces must be of a light-colored, non-absorbent, smooth texture that is easily cleaned.

(F) All public areas of an Adult Business must be lit by light bulbs of at least sixty (60) watts when the Adult Business is in open for business.

(G) All performances shall be on a raised stage. The stage must be raised from the surrounding floor by at least two (2) feet.

(H) All persons viewing any performance shall be at least three (3) feet from the stage.

(I) The stage on which adult entertainment is provided shall be visible from the common areas of the premises. Visibility shall not be blocked or obscured by doors, curtains, drapes, or any other obstruction whatsoever.

(J) All entrances to an Adult Business, with the exception of emergency fire exits not usable to enter the business, shall be visible from a public right-of-way.

(K) Physical layout standards for “Sexually Oriented Business-Accessory” shall be:

(1) Sexually oriented business-accessory shall be restricted from and prohibit access to minors by physical separation of such items from areas of general public access:

(a) Movie Rentals. Display areas shall be restricted from general view and shall be located within a separate room, the access of which is in clear view and under the control of the persons responsible for the operation or shall be in catalogs under the direct control and distribution of the operator.

(b) Magazines. Publications classified or qualifying as sexually oriented shall not be physically accessible to minors and shall be covered with wrapper or other means to prevent display of any material other than the publication title.

(2) Sexually oriented business-accessory activities shall be prohibited at any public show, movie, caravan, circus, carnival, theatrical or other performance or exhibition presented to the general public where minors are admitted.

§ 116.06 PROHIBITED CONDUCT.

The operator of any Adult Business shall neither participate in, nor suffer or permit any of the following prohibited acts to occur on the premises:

(A) The following standards of conduct must be adhered to by employees and entertainers of any public place of adult entertainment which offers, conducts or maintains adult entertainment:

(1) No employee or entertainer shall be unclothed or in such costume, attire or clothing as to expose any portion of the male or female pubic region, anus, buttocks, or genitals, any portion of the female breast below the top of the areola, vulva, or male genitals in a discernibly turgid state, even if completely and opaquely covered, except upon a stage at least two (2) feet above the immediate floor level and removed at least three (3) feet from the nearest patron.

(2) No employee or entertainer shall touch, fondle or caress any patron for the purpose of arousing or exciting the patron's sexual desires; sit on the patron's lap or separate a patron's legs.

(3) No employee or entertainer shall allow a patron to touch an employee or entertainer on the breast, in the pubic region, buttocks or anal region. No patron shall touch an employee or entertainer for the purpose of arousing or exciting the sexual desires of either party.

(4) No employee or entertainer mingling with patrons shall conduct any dance, performance or exhibition in or about the non-stage area of the public place of adult-entertainment unless that dance, performance or exhibition is performed at a torso-to torso distance of no less than four (4) feet from the patron or patrons for whom the dance, performance or exhibition is performed.

(B) Admission of any underage patron into or upon the premises of the Adult Business.

(C) Patronage, frequenting or loitering of any underage person in any Adult Business.

(D) Allowance of any underage person to view, accept or otherwise possess any adults-only item on the licensed premises.

(E) Employment or use of the services of any underage person in or upon the premises of the Adult Business.

(F) Drunkenness, fighting, unlawful games, riotous or disorderly conduct whatsoever, in any premises kept or occupied as an Adult Business.

§ 116.07 SALES VIOLATIONS.

(A) No operator, agent or employee shall knowingly sell, deliver or provide, or offer or agree to sell, deliver or provide any obscene writing, picture, record or other representation or embodiment of the obscene.

(B) No operator, agent or employee shall sell, deliver or provide, or offer or agree to sell, deliver or provide any obscene writing, picture, record or other representation or embodiment of the obscene after recklessly failing to exercise reasonable inspection which would have disclosed the nature or content thereof.

(C) No operator, agent or employee shall create, buy, procure or possess obscene matter or material with intent to disseminate it in violation of this Ordinance.

(D) No operator, agent or employee shall advertise or otherwise promote the sale of material represented or held out by him to be obscene, whether or not it is obscene.

(E) No operator, agent or employee shall knowingly sell, deliver or provide, or offer or agree to sell, deliver or provide any child pornography.

(F) No operator, agent or employee shall create, buy, procure or possess any child pornography with intent to disseminate it in violation of this Ordinance.

(G) No operator, agent or employee shall advertise or otherwise promote the sale of material represented or held out by him to be child pornography, whether or not it is child pornography.

(H) No person, after purchasing or otherwise obtaining an adults-only item shall sell, deliver or allow any underage person to view an adults-only item.

(I) If an operator, agent or employee believes or has reason to believe that a sale, delivery or viewing of any adults-only item is prohibited because the prospective recipient is underage, said operator, agent or employee shall (before making or allowing such sale, gift, delivery or viewing), demand presentation of some form of positive identification containing proof of age, issued by a public officer in the performance of his official duties.

(J) An operator, agent or employee may refuse to sell, deliver or allow any person to view any adults-only item, where said person is unable to produce adequate written evidence of identity and age by production of a document issued by the federal, State, or County government, or subdivision or agency thereof, including but not limited to the following documents:

- (1) A motor vehicle operator's license;
- (2) A registration certificate issued under the Federal Selective Act; or
- (3) An identification card issued to a member of the Armed Forces.

(K) Proof that the operator, employee or agent, demanded, examined and reasonably relied upon such written evidence listed in paragraph (J) above in any transaction forbidden by this Ordinance is competent evidence that may be offered as an affirmative defense to a violation of this Ordinance. In order to reasonably rely upon written evidence regarding a patron's identity and age, an operator, agent or employee shall use the prudent judgment of a reasonable and informed person, and shall scrutinize said written evidence of age and identity by doing the following:

(1) Determine if the physical description and photograph (if any) on the document presented matches that of the presenting person;

(2) Determine whether the plastic seal on the identification card is intact or broken; and,

If from the foregoing, a reasonable person would or should doubt the authenticity of the identification card, then the person offering the identification must not be sold, delivered or allowed to view any adults-only items.

(L) No operator, agent or employee shall give away or otherwise make available any adults-only item or viewing of any adults-only item for the purpose of evading any provision of this Ordinance, when the sale or viewing of said adults-only item is prohibited shall constitute unlawful selling.

(M) Offers or agreements to sell, deliver, provide or allow the viewing of any adults-only item at or within any premises when the sale or viewing of said adults-only item is prohibited shall constitute unlawful selling.

(N) The use of any other shift or device to evade any provision of this Ordinance is prohibited and shall constitute unlawful selling.

§ 116.08 HOURS OF OPERATION.

The unlimited operation of an Adult Business can, by reason of their intended use, facilitate secondary effects including but not limited to prostitution, disorderly conduct, performance of sexual acts or conduct in public, traffic congestion and parking problems. Insofar as the City has a substantial government interest in preserving character and preventing deterioration of its neighborhood and minimizing the disruptive effect of such Adult Businesses on neighborhoods, the following limitations on operation times have been propounded:

(A) Adult Businesses shall be restricted from operating between the hours of 1:01 a.m. and 6:00 a.m. No operator, employee or agent of an Adult Business shall permit any person to remain on the premises between the hours of 1:30 a.m. and 6:00 a.m.

(B) No operator, employee or agent of an Adult Business shall sell, deliver or allow any person to view any adults-only item between the hours of 10:00 p.m. and 10:00 a.m. on Mondays through Saturdays, nor on Sundays or recognized federal holidays. The time referred to shall be

either Central Standard Time or Daylight Savings Time, whichever is in effect at the time in this State.

§ 116.09 SIGNS.

The unregulated use of signs can result in secondary effects that create dangers to the public in periods of high winds or inclement weather, defeat the sign's informational or advertising functions as competitors escalate sign size and expense to attract patrons, reduce the ability of the public to interpret the intended message safely and quickly, and destroy the aesthetic quality of the community. Insofar as the City has a substantial government interest in these matters, all signs advertising or promoting the sale of adults-only items must meet the following restrictions:

(A) All signs must be flat wall signs.

(B) The amount of allowable sign area for an adult business shall be limited to a maximum of ten percent (10%) of any wall area, provided that the maximum wall area devoted to signs on any side of a building will be no larger than one hundred twenty (120) square feet.

(C) No merchandise or depictions of adults-only items shall be displayed in window areas or any other area that may be viewed from a public street, alley, public way or sidewalk located in front of the building.

(D) A one square foot sign may be placed on the door to state the hours of operation and adults-only admittance.

(E) All provisions of the Sign Regulation section of the City of Franklin Zoning Ordinance shall control except as clearly contradicted by this paragraph. In the event that the provisions conflict, this paragraph shall prevail.

§ 116.10 PUBLIC HEALTH STANDARDS.

(A) All premises operated as an Adult Business shall be kept in clean and sanitary condition and shall be kept in full compliance with regulations issued by the County Health Department or the Minnesota Department of Public Health.

(B) Any Adult Business shall keep and maintain the premises equipped with running hot and cold water, shall provide separate and adequate toilet facilities for both males and females, and shall comply with all health, sanitary, zoning and inspection requirements of the City and the State of Minnesota.

§ 116.11 INSPECTIONS.

Any Adult Business shall permit representatives of the police department, health department (City, County or State), fire department, zoning department or building department shall have the unqualified right to enter, inspect and search the premises of an Adult Business for the purpose

of insuring compliance with this Ordinance and with State statutes, at any time the Adult Business is open for business.

§ 116.12 AMORTIZATION PERIOD.

Adult Businesses in violation of any restriction or regulation contained herein, excepting any location restrictions, must come into full compliance within six (6) months from the effective date of this Ordinance.

§ 116.13 VICARIOUS LIABILITY.

(A) Every act or omission of whatsoever nature constituting a violation of any of the provisions of this Ordinance, by any employee or agent of any operator, shall be deemed and held to be the act of said operator if such act or omission either with the authorization, knowledge or approval of the operator.

(B) Every act or omission of whatsoever nature constituting a violation of any of the provisions of this Ordinance, by any employee or agent of any operator, shall be deemed and held to be the act of said operator if such act or omission occurs as a result of the operator's negligent failure to supervise the conduct of the employee or agent.

(C) Such an offense shall be punishable in the same manner as if said act or omission had been done or omitted by the operator personally.

§ 116.14 PENALTY.

(A) Any person violating any provision of this chapter is guilty of a misdemeanor and upon conviction shall be punished not more than the maximum penalty for a misdemeanor as prescribed by state law. Penalty, see § 10.99

(B) Any person violating the provisions of this Ordinance shall be subject to an offense for each and every day on which such violation continues, and each day that the offense continues shall be regarded as constituting a separate offense.

(C) Any violation of this chapter shall be a basis for the suspension or revocation of any license granted hereunder. In the event that the City Council proposes to revoke or suspend the license, the licensee shall be notified in writing of the basis for such proposed revocation or suspension. The Council shall hold a hearing for the purpose of determining whether to revoke or suspend the license, which hearing shall be within 30 days of the notice.

(D) The City Council shall determine whether to suspend or revoke a license within 30 days after the close of the hearing or within 60 days of the date of the notice, whichever is sooner, and shall notify the licensee of its decision within that period.

(E) Any prosecution for violations of this Ordinance does not prohibit the City from pursuing injunctive relief or the State Attorney's Office from pursuing criminal charges.

§ 116.15 EXCEPTIONS.

This Ordinance shall not be construed to prohibit:

(A) Plays, operas, musicals, or other dramatic works which are not obscene;

(B) Classes, seminars and lectures held for serious scientific or educational purposes;

(C) Exhibitions, performances or dances which are not obscene. For the purposes of this section, obscene is defined under Minnesota Statutes 617.241.

§ 116.16 SEVERABILITY.

If any clause, section or other part of this Ordinance shall be held invalid or unconstitutional by any Court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby, but shall remain in full force and effect.

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CHAPTER 130: GENERAL PROVISIONS

Section

General Provisions

- 130.01 Damage to property; graffiti
- 130.02 Discharging firearms
- 130.03 Curfew for Minors

- 130.99 Penalty

GENERAL PROVISIONS

§ 130.01 DAMAGE TO PROPERTY; GRAFFITI.

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

GRAFFITI. In addition to its usual and customary meaning of defacing walls or structures with messages or slogans, **GRAFFITI** shall also mean any letter, numeral, figure, emblem, insignia, picture, outline, character, spectacle, delineation, announcement, word, phrase, diagram, symbol, sketch, inscription or representation, wherein the contents thereof are visible to any member of the general public and which contains references to sexual activity, diagrams relating to sexual activity or sexual organs, references to criminal activities or groups which promote or are involved in criminal activity, swearing or fighting words, defamatory materials about any person, references to relationships, or any marking of any kind whatsoever which results in damage to, defacing of, marring of, or discoloring of any sidewalk, street, or other public surface, any vehicle, any equipment, lamp, lamp post or other city property, or of the exterior surface of a wall, fence, door, building or other structure, whether publicly or privately owned.

OWNER. Means and includes the owner of record of the subject property, whether public or private, at the time of the placement or discovery of the graffiti or at a subsequent time, the beneficial owner under a land trust, the contract purchaser, or that person or persons or trust in whose name the general taxes for the last preceding year were paid, except that **OWNER** shall not include the city.

(B) *Conduct prohibited.*

(1) It is unlawful for any person to inscribe, draw, or otherwise place or cause to be placed any graffiti upon the surface of any building, structure, wall or surface of other property that is publicly or privately owned.

(2) It shall be unlawful for any parent or legal guardian to knowingly permit any minor child in his or her custody or control to violate division (B)(1) of this section.

(3) The parent or legal guardian of a minor defendant who resides with the parent or legal guardian at the time of the offense may be held liable for any fine or condition of restitution or reparation imposed by a court upon a minor for violation of this section; provided, that minor has not paid the fine or made restitution or reparation within the time ordered by the court; and further provided that the parent or legal guardian has been served with summons or notice to appear whether in the original cause or in any subsequent proceedings arising therefrom, including sentencing or collection actions, as provided by law.

(C) Removal by owner.

(1) *Owner's responsibility.* It shall be the duty of the owner of the structure or wall or other private property upon which any graffiti is placed or made to remove, eradicate, or eliminate the inscription or representation within 30 days of the occurrence unless granted additional time by the City Council.

(2) *Notice to remove graffiti.* In the event the owner has failed to eliminate the graffiti, the owner shall be notified by certified mail or personal notice that he or she has 30 days from the date of the notice in which to remove the graffiti. In the event that charges have been filed against the person believed responsible for placement of the graffiti and the owner can show to the city that there is a reasonable likelihood that the person will be required to make restitution or restore the premises to its previous condition, the owner may be given additional time to meet the removal requirements. In no event shall the owner be granted more than a total of six months' time to remove graffiti, but any extensions shall be based solely upon a reasonable likelihood of apprehension and conviction of the person responsible. In the absence of the reasonable likelihood, the owner is responsible for removal within the time allowed in divisions (C)(1) and (2) of this section.

(3) *List of contractors and cleaning materials.* The city may make available a list of contractors in the business of removing graffiti and list of cleaning materials generally recognized in the industry as effective in the removal of graffiti. By providing lists of contractors and cleaning materials, the city does not guarantee the quality or adequacy of work performed by anyone selected by owner or the effectiveness or safety of the materials listed, and the city expressly disclaims responsibility or liability for the quality or adequacy of the work or materials or any claims for damage or injury arising therefrom.

(D) Removal by the city.

(1) The city shall have the right but not the duty to remove graffiti from the exterior of private property if the owner informs the city of the presence of the graffiti and of the owner's inability to remove it. Prior to the city entering any private property to remove graffiti, the owner must sign a statement authorizing removal by the city and agreeing to pay the reasonable costs of the removal and to allow the recording of a lien against the real estate upon which the work was

performed if the cost is not paid to the city within 30 days of the date of the invoice sent to the owner. The owner must also sign a release holding the city harmless from any claims or suits brought for damages pursuant to any adverse or injurious effects of such chemicals or from the actions taken by the city or its employees to remove the graffiti prior to the city commencing work on the property. If the property owner does not remove the graffiti within the time specified or extended time requested and granted by the city or if the city is unable to perform the work at the request of the owner, the owner shall be subject to the penalties listed in division (E) of this section.

(2) If the city performs the graffiti removal pursuant to division (D)(1) of this section, it shall be entitled to a lien and to file a notice of lien against the property upon which the work was performed for the cost of the removal.

(E) Penalty.

(1) Upon a finding of guilty for violation of division (B) of this section, an offender shall be punished as provided in § 130.99. Additionally, the court may, as a condition of probation, supervision, or conditional discharge, require that the party guilty of violating the provisions of division (B) of this section make full and complete restitution to the owner of the property for expenses incurred in the removal of the graffiti or, with the consent of the owner, restore the structure, wall, building or surface to its previous condition. In addition, the court may order as a further penalty community service in the form of time to be spent in cleaning property that has been defaced by graffiti in any location in the city.

(2) Upon a finding of guilty for violation of division (C)(1) of this section, an offender shall be punished as provided in §130.99. Each and every day that graffiti is permitted to remain beyond the time specified in division (C)(2) of this section shall constitute a separate violation.

(F) Compliance by the city.

(1) It is the intention of the city that graffiti discovered upon city property or public property under the jurisdiction and control of the city will be removed within the time periods for graffiti removal imposed upon other governmental bodies and owners of private property under this section. The City Council shall have the authority to order and direct the removal of graffiti.

(2) A designated city officer, or his or her designee, shall provide, as needed, a written report to the City Council of graffiti incidents involving city property and removal efforts by the city. The report shall include at a minimum the location of the graffiti, charges filed against or convictions of offenders where relevant, the date and methods of graffiti removal undertaken by the city and the cost of the removal. Penalty, see § 130.99

§ 130.02 FIREARMS AND BOWS REGULATIONS.

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

ARROW. Means a slender shaft, pointed at one end, or designed to have a pointed head or tip attached, and feathered at the other end.

BOW. Means a flexible, curved strip of wood, metal, fiberglass, plastic, or other material, with a cord connecting the two ends, designed to shoot arrows. This definition shall include a device popularly known as a crossbow.

FIREARM. Means a cannon, shotgun, rifle, handgun, or similar firearm of any description.

(B) Unlawful Acts.

(1) It shall be unlawful for any person while in city limits to have in possession out-of-doors or in a motor vehicle, except on a target range to which a permit has been duly issued, any firearm unless it is unloaded and contained in a gun case, or unloaded and broken down.

(2) It shall be unlawful for any individual to fire or discharge a firearm of any form of explosive, including firecrackers, skyrockets or other fireworks that are prohibited by Minnesota state law, while in the city limits.

(3) It shall be unlawful for any individual to shoot an arrow from a bow, while in the city limits or to shoot an arrow from a bow, so that the arrow will fly into the city limits.

(4) It shall be unlawful for any individual to fire or discharge any air gun, paintball gun, air rifle or other similar device commonly referred to as a B-B gun, while in the city limits.

(5) It shall be unlawful for any individual to hunt or pursue any animal or bird, whether wild or domestic at any time while in the city limits, or to shoot or discharge a firearm of any description, a bow and arrow, or any other form of weapon, potentially inimical to wildlife and dangerous to human safety, into the city limits from outside the city limits.

(C) Exceptions.

(1) This section shall not apply to that portion of the City of Franklin legally described as follows: All that portion in the Northeast Quarter of Section (2), Township One Hundred Twelve (112) North, Range Thirty-Four (34) West, City of Franklin, County of Renville, State of Minnesota. This area is exempt due to it being primarily rural and agricultural in nature.

(2) 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 or by American Legion members acting under the authority of the Legion's Commander or his designee, 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. This section shall not apply to businesses that require the discharge of

a firearm. Some examples of, but not limited to, are the Butcher or a Licensed Gunsmith. A professionally licensed person or business may set off firework displays if approved by the City.

(D) 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 § 130.99

§ 130.03 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 under the age of 15 years.* No minor under the age of 15 years shall be in or upon the public streets, alleys, parks, playgrounds or other public grounds, public places, 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.

(2) *Minors ages 15 years to 18 years.* No minor of the ages of 15 or 17 years shall be in or upon the public streets, alleys, parks, playgrounds or other public grounds, public places, public buildings; nor in or upon places of amusement, entertainment or refreshment; nor in or upon any vacant lot, between the hours of 11:00 P.M. and 5:00 a.m. the following day, 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.

(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.*

(1) It shall be unlawful for any person, firm or corporation operating or in charge of any place of amusement, entertainment or refreshment, or other place of business, to permit any minor under the age of 18 years to loiter, loaf or idle in such place during the hours prohibited by this section. . Penalty, see § 130.99

(2) This section shall not be construed as permitting the presence at any time of any person under the age of 18 years in any place where his/her presence is now prohibited by an existing law or ordinance.

(3) Whenever the owner or person in charge or in control of any place of amusement, entertainment or refreshment, or other place of business shall find persons under the age of 18 years loitering, loafing or idling in such place of business, he shall immediately order such person to leave, and if such person refuses to leave the said place of business, the operator shall immediately notify the police department and inform them of the violation.

(H) *Police authorized to arrest violators.* Any member of the police force is authorized to arrest, with or without a warrant, any person or persons violating the provisions of this section, and any child unaccompanied by parent, guardian or other adult person having lawful care of said minor child.

(I) *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. Penalty, see § 130.99

§ 130.99 PENALTY.

(A) *Generally.* Whoever violated any provision of this chapter for which no other penalty has been established shall be punished as provided in § 10.99.

(B) *Curfew penalties.*

(1) *Minors.* Any minor found to be in violation of § 130.05 may be adjudicated delinquent and shall be subject to the dispositional alternatives set forth in M.S. § 260.185, as it may be amended from time to time.

(2) *Adults.* Any adult person found to be in violation of § 130.05 shall be guilty of a misdemeanor.

CHAPTER 150: ZONING CODE

Section

- 150.01 Summary Introduction
- 150.02 Title
- 150.03 Intent and Purpose
- 150.04 Relation To City’s Comprehensive Plan
- 150.05 Standard Requirement
- 150.06 Conformity With This Ordinance
- 150.07 Building Compliance
- 150.08 Reduction of Yards or Lots Not Permitted
- 150.09 Separability
- 150.10 Authority
- 150.11 Establishment of Districts

§ 150.021. SUMMARY INTRODUCTION.

The City of Franklin Zoning Ordinance was updated and adopted on April 14, 2003, Ordinance Number 01-03. The following sections are only an excerpt of Article I, “Title, Application and Zoning Districts” of the complete Ordinance. A copy of the entire Zoning Ordinance is kept on file with the City Clerk, at the City of Franklin Office.

§ 150.02. TITLE.

This Ordinance shall be known as the “Franklin Zoning Ordinance” except as referred to herein, where it shall be known as “this Ordinance”.

§ 150.03. INTENT AND PURPOSE.

The intent of this Ordinance is to protect the public health, safety and general welfare of the community and its people through the establishment of minimum regulations in regard to location, erection, construction, alteration and use of structures and land. There regulations are established to assist the City in 1) implementing its Comprehensive Plan, 2) protecting and enhancing the natural environment and resources that currently exist within the City, 3) ensuring orderly and quality development and redevelopment, 4) protecting the quality and diversity of the City’s tax base, 5) protecting the quality of residential neighborhoods, 6) providing opportunities for an affordable and diverse housing supply, 7) managing traffic, 8) ensuring compatibility between different land uses, and 9) regulating businesses that may have adverse secondary effects on the quality of life of Franklin residents. These regulations are also established to provide for administration of this Ordinance, to provide for amendments; to prescribe penalties for violation of such regulations; and to define powers and duties of the City staff, the Zoning Board of Adjustment, the Planning Commission and the City Council in relation to the Zoning Ordinance.

§ 150.04. RELATION TO CITY’S COMPREHENSIVE PLAN.

It is the policy of the City of Franklin that the enforcement, amendment, and administration of this Ordinance be accomplished consistent with the recommendations contained in the City Comprehensive Plan, as developed and amended from time to time by the Planning Commission and City Council of the City. The Council recognizes the City Comprehensive Plan as the official policy for the regulation of land use and development in accordance with the policies and purpose herein set forth. In accordance with Minnesota Statutes Chapter 473, the City of Franklin will not approve any rezoning or other changes in these regulations that are inconsistent with the City Comprehensive Plan.

§ 150.05. STANDARD, REQUIREMENT.

Where the conditions imposed by any provisions of this Ordinance are either more or less restrictive than comparable conditions imposed by other law, ordinance, rule, or regulation of the city, state or federal government, the law, ordinance, rule or regulation which imposes the more restrictive condition, standard, or requirement shall prevail.

§ 150.06. CONFORMITY WITH THIS ORDINANCE. No structure shall be erected, converted, enlarged, reconstructed or altered, and no structure or land shall be used for any purpose nor in any manner which is not in conformity with the provisions of this Ordinance.

§ 150.07. BUILDING COMPLIANCE.

Except as herein provided, no building, structure or premises shall hereafter be used or occupied and no building permit shall be granted that does not conform to the requirements of this Ordinance.

§ 150.08. REDUCTION OF YARDS OR LOTS NOT PERMITTED.

No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.

§ 150.09. SEPARABILITY.

It is hereby declared to be the intention of the City that the several provisions of this Ordinance are separable in accordance with the following:

(A) If any court of competent jurisdiction shall adjudge any provision of this Ordinance to be invalid, such judgment shall not affect any other provisions of this Ordinance not specifically included in said judgment.

If any court of competent jurisdiction shall adjudge invalid the application of any provision of this Ordinance to a particular property, building or other structure, such judgment shall not affect the application of said provision to any other property, building or structure not specifically included in said judgment.

§ 150.10. AUTHORITY.

This Ordinance is enacted pursuant to the authority granted by the Municipal Planning Act, Minnesota Statutes, Section 462.351 to 462.363

§ 150.11. ESTABLISHMENT OF DISTRICTS. For the purpose of this Ordinance, the City of Franklin, Renville County, Minnesota, is divided into the following districts:

- (A) AG District - Agricultural District
- (B) R-1 District - Low Density Residential District
- (C) R-3 District - High Density Residential District
- (D) B-1 District - Central Business District
- (E) B-2 District - Highway Business District
- (F) M-1 District - Manufacturing Industrial District

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