CITY OF EDEN PRAIRIE
MINNESOTA

CITY CODE

(Updated 05/2019)
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INCLUDING PENALTY FOR VIOLATION

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

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

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

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

Subd. 1. "City" means the City of Eden Prairie, Minnesota, acting by or through its duly authorized representative.

Subd. 2. "City Manager" means the person duly appointed by the City Council and acting in such capacity.

Subd. 3. "Conviction" means either of the following accepted and recorded by the Court:
A. A plea of guilty; or
B. A verdict of guilty by a jury or a finding of guilty by the Court.

Subd. 4. Repealed. Source: Ordinance 3-99
Effective Date: 4-29-99

Subd. 5. "Council" and "City Council" mean the City Council of the City of Eden Prairie, Minnesota.

Subd. 6. "Crime" means conduct which is prohibited by this Code for which the violator may be sentenced to imprisonment or fine.

Subd. 7. "Ex officio member" means a person who is not counted for the purpose of determining a quorum, and has no right to vote, but shall have the right and obligation (within his discretion) to speak to any question coming before the Board, Commission or other deliberative body of which he is such member.

Subd. 8. "Intersection" means the area embraced within the prolongation or connection of the lateral curb line or, if no curb, then the lateral boundary lines of the roadways or streets which join one another at, or approximately at, right angles of the area within which vehicles traveling upon different streets joining at any other angle may come in conflict.

Subd. 9. "May" is permissive.

Subd. 10. "Misdemeanor" is defined as set forth in Minn. Stat. Section 609.02, Subd. 3, as the same may be amended from time to time.” Source: Ordinance No. 10-2013
Effective Date: 6-27-2013
Subd. 11. "Ordinance" means an ordinance duly adopted by the Council.

Subd. 12. "Person" includes all individuals, firms, partnerships, associations, corporations, limited liability companies, joint ventures, or other legal entities, however organized.

Subd. 13. "Petty Misdemeanor" is defined as set forth in Minn. Stat. Section 609.02, Subd. 4a, as the same may be amended from time to time.

Subd. 14. "Police officer," "public safety officer," and "peace officer" mean every officer, including special police, authorized to direct or regulate traffic, keep the peace, and appointed or employed for the purpose of law enforcement.

Subd. 15. "Premises" means any lot, piece or parcel of land together with improvements thereon within a continuous boundary whether publicly or privately owned, occupied or possessed.

Subd. 16. "Private property" means all property not included within the definition of public property or public place.

Subd. 17. "Public property" and "public place" mean any place, property or premises dedicated to public use, owned by the City, occupied by the City as a lessee, or occupied by the City as a street by reason of an easement, including, but not limited to, streets, parks or parking lots so owned or occupied.

Subd. 18. "Roadway" means that portion of a street improved, designed, or ordinarily used for vehicular travel. In the event a street includes two or more separate roadways, the term "roadway" as used herein shall refer to any such roadway separately but not to all such roadways collectively.

Subd. 19. "Shall" is mandatory.

Subd. 20. "Street" means the entire area dedicated to public use or contained in an easement or other conveyance or grant to the City, and shall include, but not be limited to, roadways, boulevards, sidewalks, alleys, and other public property between lateral property lines in which a roadway lies.

Subd. 21. "Violate" includes failure to comply with.

Subd. 22. "Written" and "in writing" mean any mode of representing words and letters in the English language.

SECTION 1.03. VIOLATION A MISDEMEANOR OR A PETTY MISDEMEANOR.
Every person violates a chapter, section, subdivision, paragraph or provision of this City Code when he or she performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof shall be punished as for a petty misdemeanor, except as otherwise stated in specific provisions herein, as set forth in the specific chapter in which the section, subdivision, paragraph or provision appears. Upon conviction for a crime, the violator may be convicted of either the crime charged if it is a misdemeanor or a petty misdemeanor as an included offense necessarily proved if the misdemeanor charge were proved.
SECTION 1.04. OTHERWISE UNLAWFUL.
The City Code does not authorize an act or omission otherwise prohibited by law.

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

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

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

SECTION 1.08. CITATION.
This codification of the ordinances of the City of Eden Prairie as revised and as set forth and contained in this document known as the City Code of the City of Eden Prairie, Minnesota (Revised July, 1992) shall henceforth be known as the City Code and cited thus: "CITY CODE, SECTION ______."
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ADMINISTRATION AND GENERAL GOVERNMENT

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CHAPTER 2
ADMINISTRATION AND GENERAL GOVERNMENT

SECTION 2.01. AUTHORITY AND PURPOSE.
Pursuant to authority granted by Statute and upon the recommendation of the City Manager, this Chapter of the City Code is enacted to set down for enforcement the government and good order of the City and includes a so-called "Administrative Code."

SECTION 2.02. CITY ELECTIONS.

Subd. 1. Date of Election. The regular City elections shall be held biennially on the first Tuesday after the first Monday in November and every even-numbered year beginning with the 1974 election.

Source: City Code
Effective Date: 9-17-82

Subd. 2. Terms and Transition. Two (2) Councilmen shall be elected for four (4) year terms at each biennial City election commencing in 1974. The Mayor shall be elected for a four (4) year term commencing with the City election in 1990.

Source: Ordinance No. 28-89
Effective Date: 8-31-89

SECTION 2.03. ABSENTEE BALLOT COUNTING BOARD.
The Council hereby authorizes an Absentee Ballot Counting Board and further authorizes the election judges of such Board to receive, examine, and validate absentee ballots. The further duties of such Board shall be those provided by statute.

SECTION 2.04. CODE OF ETHICS FOR PUBLIC OFFICIALS OF THE CITY.

Subd. 1. General Declaration of Policy. It is imperative that all persons acting in the public service not only maintain the highest possible standards of ethical conduct in their transaction of public business but that such standards be clearly defined and known to the public as well as to the persons acting in public service. The proper operation of democratic government requires that public officials be independent, impartial, and responsible to the people; that governmental decisions and policies be made in the proper channels of the governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. To further achieve these goals there is hereby established a Code of Ethics for public officials. The purpose of this Code is to establish ethical standards of conduct for such officials by directing public disclosure by such officials of their interest in property in the City.

Subd. 2. Scope of Persons Covered. The provisions of this Code of Ethics shall be applicable to all public officials including the Mayor, members of the Council, advisory commissions, committees and boards and staff department heads of the City, as well as candidates for the offices of Mayor and Council.

Subd. 3. Public Disclosure by Public Officials.

A. Within thirty (30) days after the effective date of this Code of Ethics each public official shall file, as a public record, in the office of the City Clerk, a signed statement disclosing any interests or rights therein possessed by such person in real property (except such person's homestead) located within the City (“disclosure statement”).

B. Each person who files as a candidate for election as Mayor or a member of the Council shall file, at the time of filing as a candidate for any such office, a disclosure statement.
C. Within thirty (30) days after a person has become a public official, such person shall file a disclosure statement, unless such person has done so pursuant to Subparagraphs A or B hereof.

D. In the event any person fails to file a disclosure statement within the times provided in Subparagraphs A, B or C hereof, the City Manager or his designee shall give written notice of the provisions of this Section to such person who shall thereafter file a disclosure statement within ten (10) days from the giving of said notice.

E. Any material change in such property interests of rights shall be disclosed by filing an amended disclosure statement within thirty (30) days after such change has occurred.

F. This Code of Ethics shall not be construed to require the filing of any information relating to any person's affiliation with, or interest in, any professional society, charitable, religious, social, fraternal, educational, recreational, public service, civic, governmental, political, or similar organization.

Subd. 4. Violation. A willful violation shall include any willful violation of any of the provisions of this Section by any person covered hereunder, except the failure to file a disclosure statement within the time provided in Subdivision 3, Subparagraphs A, B and C hereof. Such violation shall be a petty misdemeanor.

Source: City Code
Effective Date: 9-17-82

SECTION 2.05. SALARIES OF MAYOR AND COUNCIL MEMBERS.

Subd. 1. The monthly salary of the Mayor shall be $1,125.00 until December 31, 2018, and thereafter the annual salary of the Mayor shall be $14,278.00, subject to increases as provided in subdivision 3.

Source: Ordinance No. 8-2017
Effective Date: 5-25-2017
Prev. Source: Ordinance No. 25-2012
Effective Date: 7-26-2012
Prev. Source: Ordinance No. 20-2004
Effective Date: 7-29-2004

Subd. 2. The monthly salary of each Council Member shall be $895.00 until December 31, 2018, and thereafter the annual salary of each Council Member shall be $11,054.00, subject to increases as provided in subdivision 3.

Source: Ordinance No. 8-2017
Effective Date: 5-25-2017
Prev. Source: Ordinance No. 25-2012
Effective Date: 7-26-2012
Prev. Source: Ordinance No. 20-2004
Effective Date: 7-29-2004
Prev. Ordinance No. 41-92
Effective Date: 10-30-92

Subd. 3. In addition to the above,

A. Repealed.

Source: Ordinance No. 25-2012
Effective Date: 7-26-2012
Prev. Source: Ordinance No. 31-2000
Effective Date: 11-9-2000
B. The Mayor and each Council Member may attend and participate in the benefits (including food and refreshments) of the following activities which shall be deemed to constitute compensation for the Mayor and Council Members: an annual recognition dinner for Commission members; employee events including employee picnic, and Thanksgiving and Christmas luncheons; other Employee and Commission recognition events; public open houses; food and refreshments provided in conjunction with periodic business meetings with the City Manager; and food and refreshments provided immediately before or in conjunction with meetings of the Council. The benefits provided in this subsection shall become effective January 1, 2003.

Source: Ordinance No. 27-2002
Effective Date: 10-24-02

C. Following the regular City election held in 2018, and following each subsequent regular City election, the salary of the Mayor and each Council Member shall be adjusted following the City election to become effective January 1 in a percentage equal to the total percentage increase since the last salary adjustment contained in the Compensation Limit for Local Government Employees annually published by the Minnesota Office of Management and Budget, pursuant to Minn. Stat. § 43A.17.

Source: Ordinance No. 8-2017
Effective Date: 5-25-2017

SECTION 2.06. REGULAR COUNCIL MEETINGS.
Regular meetings of the Council shall be held in the Council Chambers on the days and hours fixed by resolution of the Council. A schedule of the regular meetings of the Council shall be kept on file at the City Hall. Any regular meeting to be held at a time or place different from the time or place stated in the schedule of regular meetings shall receive the same notice as a special meeting.

SECTION 2.07. SPECIAL MEETINGS.

Subd. 1. Special meetings may be called by the mayor or by any two (2) members of the Council by a writing filed with the City Clerk.

Subd. 2. Notice to Council Members. The City Clerk shall send written notice to all Council Members of the time, place and purpose of a special meeting, except an emergency meeting, at least three (3) days before the meeting.

Subd. 3. Notice to Public. For all special meetings, except emergency meetings or special meetings for which a notice requirement is otherwise expressly established by statute, the City Clerk shall post, at least three (3) days before the date of the meeting, a written notice of the date, time, place and purpose of the meeting in the City Hall where other notices are generally posted.

Subd. 4. Notice Pursuant to Special Request. Any person may file a written request for notice of special meetings with the City. A person filing a request for notice of special meetings may limit the request to notification of meetings concerning particular subjects, in which case written notice as provided below need be given to that person concerning special meetings involving those subjects only. Each written request shall expire December 31 of each year and must be refiled to remain effective. Prior to December 31 of each year, the City Clerk shall send out notices of the refiling requirement to each person who filed during the previous year. The City Clerk shall mail or otherwise deliver a written notice of special meetings, at least three (3) days before the date of the meeting, except an emergency meeting, to each person who has filed a request therefore. As an alternative to mailing notices to persons who have filed written requests, the City may publish the notice once, at least three (3) days before the meeting in the official newspaper or, if there is none, in a qualified newspaper of general circulation within the City.

Subd. 5. Actual Notice. If any person receives actual notice of a special meeting at least twenty-four (24) hours prior to the meeting, all notice requirements of this section are satisfied with respect to that person.
SECTION 2.071. EMERGENCY MEETINGS.

Subd. 1. An "emergency" meeting is a special meeting called because of circumstances that, in the judgment of the Council, require immediate consideration. In determining what constitutes an emergency, the Council shall be guided by considerations of whether the situation calls for immediate action involving the protection of the public peace, health or safety.

Subd. 2. Notice. Mailed notice to Council Members is not required for an emergency meeting. Posted public notice is not required for an emergency meeting. After notice of an emergency meeting has been given to the Council Members by telephone or any other method, the City Clerk shall make good faith efforts to provide notice of an emergency meeting by telephone or by any other method used to notify the members of the Council to each news medium which has filed a written request for such notice pursuant to Section 2.07, Subd. 4, provided such request includes the news medium's telephone number.

Subd. 3. If the Council discusses or acts upon matters not directly related to the emergency meeting, the minutes of the meeting shall include a specific description of such matters.

SECTION 2.072. RECESSED MEETINGS.

Subd. 1. If a meeting is a recessed or continued session of a previous meeting, and the time and place of the meeting was established during the previous meeting and recorded in the minutes of that meeting, then no further published or mailed notice is necessary.

SECTION 2.073. FAILURE TO COMPLY.

Failure to comply with any provision of Sections 2.07, 2.071, and 2.072 shall not constitute a violation subjecting the person who fails to comply to a fine or penalty, unless the failure to comply is willful and deliberate.

Source: Ordinance No. 55-87
Effective Date: 1-7-88

SECTION 2.08. PROCEDURE FOR ADOPTION OF ORDINANCES.

Subd. 1. Purpose. This Section is adopted to supplement statutory provisions relating thereto, provide for adequate deliberation by the Council, and also provide additional public information.

Subd. 2. Legislation. Except as otherwise provided by statute or the City Code, all legislature shall be by ordinance.

Subd. 3. Introduction and Adoption. All ordinances shall be in writing. An ordinance shall be introduced, read, and adopted by such affirmative vote of the Council as required for its adoption. An ordinance shall be read and adopted by the affirmative vote of that number of members of the Council required by law. No ordinance may be adopted, except by the unanimous vote of the Council, until the third calendar day following its introduction. Nothing contained herein shall prohibit any modification or amendment of the form or substance in which an ordinance is introduced prior to its adoption. An ordinance so modified or amended may be adopted at any time commencing on the third day following its introduction, notwithstanding the modification or amendment is made less than three (3) days prior to its adoption.

Subd. 4. Copies. Any resident of the City may obtain a copy of an ordinance which has been introduced but not adopted by the Council.

Subd. 5. Effective Date. All ordinances, except emergency ordinances, shall be effective on the day following publication in the official newspaper, unless a later date is fixed therein.

Subd. 6. Emergency Ordinances. All emergency ordinances shall contain a preamble setting forth facts demonstrating need for immediate action involving the protection of the public peace, health or safety. Emergency ordinances may be
adopted immediately upon introduction and shall be effective at once, provided that no person shall be prosecuted for violation of an emergency ordinance until (1) the day following publication thereof, or (2) such person has actual knowledge or notice of the contents of such ordinance, whichever shall first occur.

Subd. 7. Definition. "Read" and "reading" as referred to in this Section and in Council proceedings refers to "considered" by the Council.

SECTION 2.09. INTERIM EMERGENCY SUCCESSION.

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

Source: City Code
Effective Date: 9-17-82

Subd. 2. Succession to Local Offices. In the event of war, civil disturbance or a natural disaster affecting the vicinity of the City, the Mayor, Council and City Manager shall be forthwith notified by any one of said persons and by any means available to gather at the Communications Center. In the event that safety or convenience dictate, an alternative place of meeting may be designated. Those gathered shall proceed as follows:

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

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

C. They may, based on such facts, declare a state of emergency.

D. By majority vote of those persons present, regardless of number, they shall fill all positions on the Council of those persons, including the office of Mayor, upon whom notice could not be served or who are unable to be present.

E. Such interim successor shall serve until such time as the duly elected official is again available and returns to his position, or the state of emergency has passed and a successor is designated and qualifies as required by law, whichever shall occur first.

Subd. 3. Duties of the Interim Emergency Council. The members of the Interim Emergency Council shall exercise the powers and duties of their offices, and appoint other key government officials to serve during the emergency.

Source: City Code
Effective Date: 9-17-82

SECTION 2.10. Repealed.

Source: Ordinance No. 33-99
Effective Date: 10-7-99

SECTION 2.11. Renumbered to 2.26.

Source: Ordinance No. 33-99
Effective Date: 10-7-99

SECTION 2.12. Repealed.

Source: Ordinance No. 13-87
SECTION 2.13. Repealed.  
Source: Ordinance No. 1-94  
Effective Date: 5-7-87

SECTION 2.14. Renumbered to Section 2.25.  
Source: Ordinance No. 33-99  
Effective Date: 10-7-99

SECTION 2.15. Repealed.  
Source: Ordinance No. 33-99  
Effective Date: 10-7-99

SECTION 2.16. Repealed.  
Source: Ordinance No. 33-99  
Effective Date: 10-7-99

SECTION 2.17. Renumbered to 2.27.  
Source: Ordinance No. 33-99  
Effective Date: 10-7-99

SECTION 2.18. Repealed.  
Source: Ordinance No. 33-99  
Effective Date: 10-7-99

SECTION 2.19. Renumbered to 2.28.  
Source: Ordinance No. 33-99  
Effective Date: 10-7-99

SECTION 2.20. Repealed.  
Source: Ordinance No. 33-99  
Effective Date: 10-7-99

SECTION 2.21. Repealed.  
Source: Ordinance No. 33-99  
Effective Date: 10-7-99

SECTION 2.22. BOARDS, COMMISSIONS AND TASK FORCES.

Subd. 1. Generally. Except as otherwise provided with respect to a Board, Commission or Task Force, the provisions of this Section shall apply to all Boards, Commissions and Task Forces provided in this Chapter 2.

Subd. 2. Membership. Members shall be appointed by the Council who shall serve at the pleasure of the Council. Members shall be residents of the City. No member of the Council shall serve as a member.

Subd. 3. Terms of Appointment. Except for the Budget Advisory Commission, the terms of members of Boards and Commissions shall be for a period of three years each, provided however, in order to avoid the expiration of the terms of all members on the same date, the term of each member appointed may be established and stated at the time of the appointment so that an equal or approximately equal number of terms of members shall expire each year after the initial appointment of members and thereafter. Terms shall commence April 1 and shall continue for the terms appointed and until the member’s successor has been appointed and qualified. The Council may, but need not, appoint a person for the unexpired portion of the term of a member whose membership has become vacant. No person may be appointed to more than two (2) full consecutive terms, except by unanimous vote of the Council. The term of members of a Task Force shall be determined by the Council at the time the Task Force is established. The terms of members of all members of the Budget Advisory Commission shall expire December 31, 2008. Thereafter all terms shall commence on January 1 and shall continue for the terms appointed and until the member’s successor has been appointed and qualified. For the term starting January 1, 2009 the Council shall appoint four (4) members to a four (4) year term ending December 31, 2012 and three (3) members to a two (2) year term ending December 31, 2010. Thereafter, following expiration of the three (3) terms ending December 31, 2010, the term of such positions shall be four (4) years. The Council may, but need not appoint a person for the unexpired position of the term of a member whose membership has become vacant. No person may be appointed to more than two (2) full consecutive terms, except by unanimous vote of the Council.
Subd. 4. Vacancies and Removal of Members.

A. Vacancies: Membership shall become vacant upon the occurrence of any of the following:

1. Death. The death of a member.
2. Disability. A determination by the Council that the member's physical or mental disability renders the member incapable of service.
3. Resignation. The member's resignation in writing.
5. Change in Residence. Termination of a Member's residence in the City.

B. Removal from Office. A member may be removed:

1. Upon Petition of a Board, Commission or Task Force. The Board, Commission or Task Force, by a three fifths (3/5's) vote of its members, may petition to the Council to remove any member when, in its discretion, the best interests of the City would be served thereby.
2. By the Council. The Council, by a majority vote of all its members, shall have the authority, in its discretion, to remove any member.

Subd. 5. Officers. The Council shall in March each year choose a chairperson and vice-chairperson for a Board or Commission to serve for a period of one year. With the exception of the first chairperson, a chairperson must have served one year on the Board or Commission before becoming eligible for appointment as a chairperson. At the time the Council establishes a Task Force it shall choose a chairperson and vice-chairperson to serve for the duration of the Task Force. The chairperson or in his/her absence, the vice-chairperson shall preside at all meetings of the Board, Commission or Task Force of which such person is the chairperson or vice-chairperson. In the absence of a chairperson or vice-chairperson, members of a Board, Commission or Task Force may appoint an acting chairperson to act during the absence.

Subd. 6. Meetings.

A. Regular Meetings: The Council shall establish from time to time a schedule of regular meetings for a Board or Commission. A Task Force shall establish a schedule of regular meetings at its initial meeting.

B. Special Meetings. Special meetings of a Board, Commission or Task Force may be called by the chairperson or any three members of the Board, Commission or Task Force by a writing filed with the City Clerk at least three days prior to the date of the meeting. The City Clerk shall thereupon notify each member of the Board, Commission or Task Force and give such further notice as required by law.


Subd. 8. Compensation, Expenses and Appreciation. Members of the Board, Commission or Task Force shall serve without compensation, but may be reimbursed for out of pocket expenses incurred in the performance of their duties when such expenses have been authorized by the Council or the City Manager before they were incurred. The City will
coordinate an ongoing program to provide for activities and events designed to demonstrate appreciation, express recognition, acknowledge, motivate and provide for social interaction for members of Boards, Commissions, and Task Forces, including an appreciation dinner designed to recognize retiring Board and Commission members.

Source: Ordinance No. 4-2002
Effective Date: 2-14-02

SECTION 2.23. COMMISSIONS.

Subd. 1. Establishment. The following Commissions are hereby established:

A. Human Rights and Diversity Commission

B. Arts and Culture Commission (Inactivated and its duties transferred to the Parks, Recreation and Natural Resources Commission on 3/20/2012.)

C. Parks, Recreation and Natural Resources Commission

D. Heritage Preservation Commission

E. Citizen Advisory Conservation Commission

F. Budget Advisory Commission (Inactivated on 1/13/2013.)

Subd. 2. Duties and Responsibilities. The Commissions shall provide the City Staff and Council, upon request by the Council or City Manager or designee, with advice on a continuing, temporary or interim basis on such subjects and matters as requested. In addition, each Commission may act in an advisory capacity as provided hereafter:

A. Human Rights and Diversity Commission. The Human Rights and Diversity Commission shall act in an advisory capacity on matters of diversity, civil and human rights, and the Americans with Disabilities Act (“ADA”) which may include the following:

1. Enlisting the cooperation of agencies, organizations and individuals in the community to promote awareness and appreciation of diversity.

2. Reviewing and investigating alleged ADA violations reported to the City via the ADA Grievance procedures.

3. Working with community volunteers to promote the City’s Manifesto and provide response and support to victims of incidents of bias.

B. Arts and Culture Commission. The Arts and Culture Commission shall act in an advisory capacity on matters pertaining to cultural, performance and visual art programs and activities supported by the general public which may include the following:

1. Enlisting the cooperation of organizations and individuals in the community to promote community awareness and support of performance and visual arts and cultural activities.

2. Promoting partnerships with art resources throughout the metropolitan area.

3. Providing input to staff on the development of art programs and activities.
4. Providing input to staff on the development of programs that communicate and preserve the City’s cultural heritage.

5. Development of operation and maintenance of facilities related to the arts.

6. Studies for the development of facilities related to the arts.

7. Policies relating to the operation of programs and facilities related to the arts.

The Arts Commission was inactivated and its duties transferred to the Parks, Recreation and Natural Resources Commission on 3/20/2012.

C. Parks, Recreation and Natural Resources Commission. The Parks, Recreation and Natural Resources Commission shall act in an advisory capacity on matters of development and use of parks and recreation facilities; and recreation programs; preservation of natural resources; and promotion of environmental awareness which may include the following:

1. The acquisition and development of a complete system of parks and recreation facilities in the City, including:
   (a) The development of a System Plan for parks and recreation facilities.
   (b) Recommendation of studies as necessary for the development of such a System Plan.
   (c) Recommendation of policies for the implementation of the Plan.
   (d) Recommendation of a capital improvement program for the implementation of the Plan.
   (e) Recommendation of a site plan for the development of the different parcels of property which will compose the System.
   (f) Review of a development proposal for consistency with the System Plan.

2. The conduct of the complete program of recreation opportunities within the City and charging the Commission with review of development proposals, including:
   (a) Review of proposed and existing recreation programs and advice to the Recreation Staff on programming and the operation of all such opportunity.
   (b) Recommendation of policies to the Council on matters pertaining to the operation of recreation facilities and program.
   (c) Recommendation of an annual budget for the operation of said programs and facilities to the Council in time for inclusion in the budget proposal.
   (d) Cooperation and coordination of recreation and other leisure opportunity and proposals with other City Groups, school groups, community groups, and County, State and Federal agencies that have application within the City.

3. The inventory, preservation and management of natural resources within the City including:
   (a) Making a study and inventory of natural resources in the City.
(b) Recommendation of plans and policies for the preservation of natural resources in the City.

(c) Review of land use proposals that conflict with the park and open space plan.

(d) Making recommendations to the Council for action programs to ensure preservation of natural resources.

(e) Cooperation and coordination of the environmental programs and proposals with other City Groups, school groups, and County, State and Federal agencies that have application within the City.

(f) Establishing programs and dissemination of information to better inform and guide environmental choices of residents of the City.

(g) Making recommendations on management of wildlife to control the geese within DNR recommended populations.

D. Heritage Preservation Commission. The Heritage Preservation Commission (“Commission”) shall have the following duties and responsibilities; in addition to those specified in Section 11.05:

1. The Commission shall conduct a continuing survey of all areas, places, buildings, structures, or objects in the City which the Commission, on the basis of information available or presented to it, has reason to believe are significant to the cultural, social, economic, political, or architectural history of the City.

2. The Commission shall continually survey all areas to determine needed and desirable improvements of older buildings throughout the City, acting in a resource and advisory capacity to owners of historically significant sites regarding their preservation, restoration and rehabilitation.

3. The Commission shall work for the continuing education of the citizens of the City with respect to the civic and architectural heritage of the City. It shall keep current a public register of designated and proposed Heritage Preservation sites and areas along with the plans and programs that pertain to them.

4. The Commission may recommend to the Council the acceptance of contributions offered to the City and to assist the City staff in preparation of applications for grant funds to be made through the City for the purpose of Heritage Preservation.

5. The Commission will on a continuing basis collect and review City planning and development records, documents, studies, models, maps, plans, and drawings to be passed on to the State Historical Society as a permanent record of City history and development.

6. The Commission shall make no application to the National Register of Historic Places or to the State of Minnesota for the designation of a historic site or district without the consent of the Council.

E. Citizen Advisory Conservation Commission. The Citizen Advisory Conservation Commission (“CACC”) shall act in an advisory capacity to the City Council and staff about policies and practices that promote the sustainable development and conservation of Eden Prairie’s air, water, and land resources; reduction of residential and commercial solid waste; and the more efficient use of energy in the economic activities of both the public and private sectors, which may include the following.

1. The Commission shall have the following roles and responsibilities:
a. Review, examination and evaluation of the City’s operating policies and practices with the goal of improving performance in this area through the recommendation of Best Management Practices. The CACC shall recommend the inclusion of appropriate environmental conservation and protection measures into the planning process. Where environmental policy mandates of the state and local agencies require the City’s response, the CACC may serve as the body to examine alternatives and make recommendations to the City Council.

b. Provide recommendations as to oversight and accountability for municipal and private initiatives in the area of environmental policies that impact Eden Prairie’s energy and natural resources. The Commission shall serve as the liaison and monitoring body for community events and activities that are relevant to the Commission’s purpose.

c. Educate the community, including Eden Prairie schools and community groups, about the impact of advances in environmental science, engineering, product development and policies to produce a better informed citizenry about environmental conservation.

2. In pursuance of the above stated roles and responsibilities the Commission shall perform the following work tasks:

   a. Recommend best practices for energy conservation for Eden Prairie’s citizens, businesses, institutions and City government, including the 20/40/15 initiative.
   b. Encourage energy efficiency through appropriate building code improvements.
   c. Recommend opportunities to increase the City’s use of alternative energy.
   d. Recommend ways to develop a comprehensive recycling, reuse and municipal solid waste (MSW) reduction program.
   e. Recommend ways to improve water quality in Eden Prairie.
   f. Promote tree planting, native landscapes and infiltration of water runoff with rain gardens and other techniques to maintain healthy urban native landscapes and reduce water consumption.
   g. Recommend ways to reduce greenhouse gas emissions and improving air quality in Eden Prairie.
   h. Recommend ways to integrate natural resource initiatives and programs into other areas of Eden Prairie government, including other commissions and groups, to better promote natural resource management and conservation.
   i. Educate the public, professional associations, organizations, businesses and industries about improving the community’s environment, both natural and man-made.

   Source: Ordinance No. 4-2009
   Effective Date: 4-30-2009

   Source: Ordinance No. 22-2005
   Effective Date: 10-27-2005

F. Budget Advisory Commission. The Budget Advisory Commission shall consist of five to seven members-at-large appointed by the City Council. The chair and vice-chair of the commission shall be appointed by the City
Council. The commission shall act in an advisory capacity to the City Council in connection to the formation of a biennial City budget. The responsibilities of the commission shall include the following:

1. Learn about the overall policy direction for the budget as communicated by the City Council to the City Manager.
2. Interact with City Manager and City staff to learn about the City’s statutory and discretionary budgetary procedures and practices.
3. Review budget drafts, documents and other related budget information related to the City budget.
4. Attend City Council workshops, meetings, forums and other events related to the City budget.
5. Review and comment to the City Council on intermittent budget proposals prepared by the City staff.
6. Propose budgetary and operational reforms with a goal aiding the City Council in making fiscally sound budget decisions.
7. Meet as frequently as necessary to accomplish their mission.

Inactivated 1-13-2013.
Source: Ordinance No. 4-2007
Effective Date: 2-20-07

Subd. 3. Membership. Subject to subdivision 6 of this section and with the following exceptions, the membership of each Commission shall consist of not less than five (5) and not more than seven (7) members (as established by the Council from time to time):

A. The Human Rights and Diversity Commission and the Citizen Advisory Conservation Commission shall consist of five (5) to nine (9) members.

B. The Parks, Recreation and Natural Resources Commission shall consist of seven (7) to nine (9) members.

C. The Heritage Preservation Commission shall consist of seven (7) members appointed by the Council. Members shall have a demonstrated interest and/or expertise in historic preservation; be residents of the city; and, if available, at least two (2) members shall be preservation-related professionals (including the professions of history, architectural history, archeology, planning, real estate, or law) and one (1) member shall be a representative of the county Historical Society.

Source: Ordinance No. 3-2017
Effective Date: 3-16-2017

Source: Ordinance No. 2-2009
Effective Date: 3-26-2009

Subd. 4. Repealed.
Source: Ordinance No. 4-2002
Effective Date: 2-14-02

Subd. 5. Repealed.
Source: Ordinance No. 4-2002
Effective Date: 2-14-02

Subd. 6. Combining Duties of Commissions. The Council may by a resolution make a Commission inactive by
choosing not to appoint members to such Commission. If the Council makes a Commission inactive it may assign the duties of the inactive Commission to any one of the other Commissions. The Council may subsequently by resolution activate an inactive Commission and thereafter appoint members as provided herein.

Source: Ordinance No. 4-2002
Effective Date: 2-14-02

SECTION 2.24. REPEALED.

Source: Ordinance No. 4-2002
Effective Date: 2-14-2002

SECTION 2.25. PLANNING COMMISSION.

Subd. 1. Establishment. The Planning Commission is hereby established.

Subd. 2. Duties and Responsibilities. The Planning Commission shall have the following duties and responsibilities:

A. It shall function as the City’s Planning Commission and its Planning Agency which shall have all of the powers and perform all of the duties and responsibilities (of a Planning Commission and Planning Agency) as provided by law and the Code. With respect to its duties and responsibilities as a Planning Commission and Planning Agency, it shall be advisory to the Council except as other powers and duties are imposed on it by law.

B. Review and recommend additions to or modifications of park, trail, and leisure uses of land.

C. Perform other duties which the Council may assign to it.

D. The Planning Commission shall serve as the Board of Adjustments and Appeals.

Source: Ordinance No. 12-2003
Effective Date: 5-15-03

Subd. 3. Membership. The Planning Commission shall consist of not less than seven (7) and not more than nine (9) (as established by the Council from time to time) members. The members shall include one person (but not more than one and not the same person) who shall have experience in each of one of the following: heritage preservation, transportation, environment, housing or leisure services. The other members shall represent a spectrum of interests including architecture, land development, real estate, public safety, economic growth and landscape architecture.

Source: Ordinance No. 4-2002
Effective Date: 2-14-02
Prev. Ordinance No. 33-99
Effective Date: 10-7-99

SECTION 2.26. BOARD OF ADJUSTMENTS AND APPEALS.

Subd. 1. Establishment. The Board of Adjustments and Appeals (“Board”) is hereby established. The Planning Commission shall serve as the Board of Adjustments and Appeals.

Source: Ordinance No. 12-2003
Effective Date: 5-15-03

Subd. 2. Duties and Responsibilities. The Board shall hear and decide matters relating to City Code Chapters 11 (Zoning) and 12 (Subdivision Regulations [Platting] ) and other matters specified in this Section and as otherwise provided by the City Code and building and fire codes (“Building and Fire Codes”).
Source: Ordinance No. 14-2011
Effective Date: 10-27-2011

A. **Zoning, Subdivisions and Other Matters.** The following duties and procedures shall apply to Zoning, Subdivisions and other Matters:

1. **Duties.** The Board shall (1) hear all appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by an administrative officer in the enforcement of the land use regulations (zoning) and subdivision provisions of the City Code and as otherwise provided by law, (2) make recommendations to the Council when required by City Code, and (3) hear requests for adjustments (variances) from City Code requirements, deny or grant variances, and impose conditions on such variances in accordance with applicable law and the provisions of City Code Chapter 11. The Board may not permit as a variance any use that is not allowed by City Code Chapter 11 in the zoning district in which the subject property is located. The Board shall issue building moving permits pursuant to Chapter 10 of the City Code. The Director of Community Development shall have the responsibility to review and report on an appeal or petition on behalf of the Planning Commission in accordance with Minnesota Statutes.

2. **Decision by the Board.** Within sixty (60) days after the filing of a request for a variance or an appeal from an administrative order or determination, the Board shall set a date for hearing thereon and shall hear such persons as wish to be heard either in person or by agent or attorney. Notice of any such hearing shall be mailed not less than ten (10) days before the date of hearing to the person or persons who file the appeal or request and in the case of a request for a variance to each owner of property situated wholly or partly within five hundred (500) feet of the property to which the variance relates insofar as the names and addresses of such owners can be determined by the City Clerk from records available to the public. Within a reasonable time after a hearing, the Board shall make an order deciding the matter and serve a copy of such order upon the appellant or the petitioner by mail. The Board shall provide for a written record of its proceeding which shall include the minutes of its meetings, its findings and the action taken on each matter heard by it including its final order. No decision of the Board shall be final until the later of the expiration of the fifteen (15) day period provided for in Subd. 2. A.3. or completion of review by or appeal to the Council.

3. **Review or Appeal.** (1) The Council may elect to review any decision of the Board within fifteen (15) days after that decision has been made, or a decision may be appealed by the appellant or petitioner within fifteen (15) days by filing with the City Clerk an appeal to the Council from the decision of the Board. (2) The Council shall, at its next regular meeting after the filing of an appeal from a decision of the Board, set a date for hearing thereon which shall not be later than sixty (60) days after the meeting. Review shall be made upon the petition and all the files, documents and records of the proceedings in the matter. The City Clerk shall make a permanent record of the disposition of all appeals from or review of decisions of the Board.

4. **Variance Time Limitation.** Variances granted from the provisions of the City Code shall be used within one (1) year; and if not, the variance will be of no further force and effect.

B. **Special Procedures applicable to Appeals and Requests for Variances relating to Signs and Individual Sewage Treatment Systems (ISTS) and other Requests for Variances Related to Zoning.** In cases of (a) appeals and requests for variances relating to (i) signs and (ii) (ISTS) and (b) other requests for variances...
related to zoning, the following procedures and rules to the extent they may be inconsistent with City Code Section 2.26 Subd. 2. A., 2. and 3. shall apply:

1. The Board shall approve or deny the appeal or request within sixty (60) days of the filing by the appellant or the requester of a complete application with the City (“60-day period”). If the appeal or request is denied by the Board, it shall state in writing the reasons for the denial at the time it denies the appeal or request. The decision of the Board shall become final upon the earlier of (a) 15 days after the decision or (b) the end of the 60-day period.

2. The Council may elect to review the decision of the Board. The election must be made (a) within 15 days after the decision of the Board and (b) prior to the end of the 60-day period. If the Council elects to review the decision of the Board, the review by the Council shall be completed within the 60-day period. If the Council denies the appeal, request or variance, it shall state in writing the reasons for the denial at the time it denies the request.

3. The appellant or requestor may appeal a decision of the Board to the Council within ten (10) days after the decision by the Board. The Council shall complete its review of an appeal of a decision of the Board and approve or deny the appeal, request or variance within the 60-day period. If the Council denies the variance it shall state in writing the reasons for the denial.

4. The 60-day period may be extended before the end of the period by providing written notice of the extension to the appellant or requester. The notification must state the reasons for the extension and its anticipated length, which may not exceed sixty (60) days unless approved by the appellant or requester. The 60-day period may also be extended as provided by Minn. Stat. § 15.99.

Source: Ordinance No. 25-2008
Effective Date: 12-11-2008

Source: Ordinance No. 17-2005
Effective Date: 9-15-05

C. Building and Fire Codes.

1. Duties and Procedures. The following duties and procedures shall apply to the Building and Fire Codes:

   a. Building Code. The Board shall (a) hear and decide appeals of orders, decisions or determinations made relative to the application and interpretation of the State Building Code as adopted by the City, (b) conduct investigations and inquiry into matters brought before it, (c) make all decisions and findings in writing and give notice of them to the appellant with a duplicate copy to the City building official and to the State building inspector within fifteen (15) days of the decision, and (d) recommend to the Council such new legislation as is consistent therewith.

   b. Fire Code. The Board shall (a) hear and decide appeals of orders, decisions or determinations made relative to the application and interpretation of the Minnesota State Fire Code as adopted by the City, (b) conduct investigations and inquiry into matters brought before it, (c) make all decisions and findings in writing and give notice of them to the appellant with a duplicate copy to the Fire Code Official within fifteen (15) days of the decision, and (d) recommend to the Council such new legislation as may be consistent therewith.
c. Review by Council. The Council may elect to review and amend any decision of the Board relating to the building and fire codes within twenty-one (21) days following the decision.

Subd. 3. REPEALED.

SECTION 2.27. FLYING CLOUD AIRPORT ADVISORY COMMISSION.

Subd. 1. Establishment. The Flying Cloud Airport Advisory Commission (“Commission”) is hereby established.

Subd. 2. Duties and Responsibilities. The Commission shall have the following duties and responsibilities:

A. Advise the Council and the Metropolitan Airports Commission with regard to matters affecting the operation of the Flying Cloud Airport, including: the classification of the airport under federal and state law; rules and regulations of federal and state agencies governing the operation of the Airport; the ongoing monitoring and implementation of the Final Agreement Concerning Flying Cloud Airport and MAC Ordinance 51 between the City of Eden Prairie, Minnesota and Metropolitan Airports Commission, dated December 2002 (Final Agreement); other noise abatement methods to reduce the impact of aircraft noise on the community; and such other matters as the City Council may direct from time to time.

B. Cooperate with the Metropolitan Airports Commission Staff in reviewing for the benefit of the Council matters affecting the use and control of the Flying Cloud Airport, including the Final Agreement, and shall make its recommendations to the Council and the Metropolitan Airports Commission upon request with regard to any proposal affecting the use or operation of Flying Cloud Airport.

Subd. 3. Membership. The Commission shall consist of seven (7) members. One (1) member shall represent the Metropolitan Airports Commission and shall be appointed by the Chairman of the Metropolitan Airports Commission. Six (6) members shall be appointed by the Council who shall serve at the pleasure of the Council. Two (2) members appointed by the Council shall represent the interests of the Eden Prairie business community, one of whom shall represent Flying Cloud Airport businesses, neither of whom need to be residents of Eden Prairie not withstanding Section 2.22 Subd. 3 of the City Code, and four (4) members appointed by the Council shall represent the community’s interest, all of whom shall be residents of Eden Prairie.

Subd. 4. Cost Participation. Fifty percent (50%) of the financial costs associated with the administration and staffing of the Flying Cloud Airport Advisory Commission shall be provided by the Metropolitan Airports Commission.

SECTION 2.28. REPEALED.

SECTION 2.29. MUNICIPAL CEMETERY.

Source: Ordinance No. 7-2019
Effective Date: 3-14-2019

Source: Ordinance No. 12-2003
Effective Date: 5-15-03

Source: Ordinance No. 25-2005
Effective Date: 12-22-2005

Source: Ordinance No. 4-2002
Effective Date: 2-14-2002

Source: Ordinance No. 7-96
Effective Date: 3-8-96
Subd. 1. Name and location. The municipal cemetery, known as the Pleasant Hill Cemetery, is situated upon land within the City limits.

Subd. 2. Minnesota Statutes, 1990, Chapter 306. Except as otherwise provided for in this Code, the regulatory and procedural provisions of Minnesota Statutes, Chapter 306, (1986), with regard to public cemeteries, is hereby incorporated herein and adopted by reference in its entirety.

Subd. 3. Maintenance and Operation. The Manager of Parks, Recreation and Natural Resources shall advise the Council on all matters pertaining to the development and maintenance of the cemetery, including operation of the cemetery, status of records, upkeep of the grounds, annual budget for operation and upkeep thereof, and use of the cemetery perpetual care fund. The Council may adopt by resolution certain written rules and regulations pertaining to the cemetery.

Source: Ordinance No. 14-2000
Effective Date: 4-27-2000

Subd. 4. Rules and Regulations Governing Municipal Cemetery. It shall be unlawful for any person to:

A. Drive a motor vehicle into the cemetery unless attending a funeral, visiting a relative's or friend's gravesite, or carrying on maintenance work authorized by the City.

B. Drive or park any motor vehicle across or upon any grave or lot.

C. Drive any motor vehicle in excess of ten miles-per-hour within the cemetery grounds.

D. Engage in loud or boisterous talking or playing of music.

E. Bring food or refreshments into the cemetery or consume them on the grounds.

F. Allow dogs or other pets on the cemetery grounds with the exception of seeing-eye dogs.

G. Engage in peddling or soliciting the sale of any commodity within the cemetery grounds.

H. Place signs, notices, or advertisements of any kind within the cemetery grounds.

I. Bring firearms into the cemetery except by military escort accompanying a veteran's funeral or attending memorial services by police officers while in the line of duty.

Source: Ordinance No. 39-88
Effective Date: 9-29-88

SECTION 2.30. CITY DEPARTMENTS.

Subd. 1. City Manager. The City Manager shall be appointed by the Council and shall serve at the Council's pleasure. The Manager shall be the chief administrative officer of the City and all Departments of the City shall be under the overall control of the City Manager. The City Manager shall have the following general duties and responsibilities:

A. Plan the organization of City staff and assign appropriate responsibility and authority for the efficient and effective delivery of City services.

B. Prepare and administer the annual City budget; develop compensation plans and personnel policies for City staff consistent with good management practices.
C. Prepare Council agendas and information for Council meetings with appropriate staff research and recommendations.

D. Communicate effectively with council members, City staff, news media, other governmental agencies, and the public.

E. The City Manager, with the consent of the Council, shall appoint a City Attorney, who shall serve at the pleasure of the Council. The City Attorney shall perform such duties as are required by law or referred by the Council.

F. The City Manager shall appoint a City Clerk. It shall be the duty of the City Clerk to carry out the provisions of State Statute §412.151.

G. The City Manager shall appoint the Finance Manager as the City Treasurer, who shall carry out the provisions of State Statute §412.141.

Source: Ordinance No. 4-2004
Effective Date: 2-12-2004

Subd. 2. Community Development Department. A Community Development Department is hereby established. The Head of this department is the Director of Community Development. All matters relating to Assessing, Planning, Economic Development, and Housing and Human Services shall be the responsibility of this Department.

This Department shall include the Assessing Division. The manager of the Assessing Division is the City Assessor. All matters of levies and assessments shall be the responsibility of this division.

Source: Ordinance No. 4-2004
Effective Date: 2-12-2004

Subd. 3. Police Department. A Police Department is hereby established. The head of this department is the Police Chief. All matters of law enforcement, civil defense and zoning enforcement shall be the responsibility of this Department. The Chief of Police shall serve as the Chief Law Enforcement Officer of the City.

Subd. 4. Fire Department. A Fire Department is hereby established. The head of this department is the Fire Chief. All matters of fire protection and building and fire inspection shall be the responsibility of this Department.

Subd. 5. Public Works Department. A Public Works Department is hereby established. The head of this Department is the Director of Public Works. All matters relating to engineering, streets, water and sewer are the responsibility of this Department.

Subd. 6. Parks and Recreation Department. A Parks and Recreation Department is hereby established. The head of this Department is the Director of Parks and Recreation. All park and recreation facilities, recreation programs and activities, natural resources management, and municipal cemetery shall be the responsibility of this Department.

Source: Ordinance No. 1-2003
Effective Date: 2-13-2003

SECTION 2.31. RULES OF PROCEDURE FOR APPEALS AND OTHER HEARINGS.
The Council may adopt by resolution certain written rules of procedure to be followed in all administrative appeals and other hearings to be held before the Council or other bodies authorized to hold hearings and determine questions therein presented. Such rules of procedure shall be effective thirty (30) days after adoption and shall be for the purpose of establishing and maintaining order and decorum in the proceedings.

Source: City Code
SECTION 2.32. ISSUANCE OF CITATIONS.
The following employees of the City of Eden Prairie, while in the course and scope of the performance of their duties as employees, may issue citations in lieu of arrest or continued detention:

**Office of City Manager**
City Manager
City Clerk
Facilities Manager

**Community Development Department**
Community Development Director
City Planner
Sr. Planner

**Police Department**
Chief of Police
Community Service Office
Police Officers
Parking Enforcement Officer
Reserve Officers
Animal Control Officers
Zoning Administrator

**Fire Department**
Fire Chief
Fire Code Official
Deputy Fire Code Official
Fire Inspector
Manager of Inspections/Building Official
Building Inspectors

**Public Works Department**
Director of Public Works
City Engineer
Assistant City Engineer
Project Engineer
Manager of Street Maintenance
Manager of Utility Operations
Foreman/Supervisor
Engineering Technician
Environmental Coordinator

**Parks and Recreation Department**
Director of Parks and Recreation
Parks and Recreation Manager
Park Planner
Tree Inspector
Park Ranger
Foreman/Supervisor
Community Center Managers and Coordinators
Assistant Weed Inspector
Forestry Technician

Source: Ordinance No.14-2007
Effective Date: 05-10-2007

Source: Ordinance No.7-2019
Effective Date: 03-14-2019

Source: Ordinance No. 4-2004
Effective Date: 2-12-2004

Source: Ordinance No. 16-2008
Effective Date: 6-24-2008
SECTION 2.33. AUTHORITY TO OBTAIN CRIMINAL HISTORY INFORMATION.

Subd. 1. Purpose. The purpose and intent of this section is to establish regulations that will allow law enforcement access to Minnesota’s Computerized Criminal History information for specified non-criminal purposes of employment background checks for the positions described in Subd. 2 and licensing described in Subd. 3.

Subd. 2. Applicants for City Employment.

A. The City of Eden Prairie Police Department is hereby required, as the exclusive entity within the City, to do a criminal history background investigation on the applicants for the following positions unless the City Manager concludes that a background investigation is not needed: Individuals who are finalists for regular, full-time or part-time employment and paid on-call fire fighter positions with the City.

Subd. 3. Applicants for City Licenses.

A. Criminal History License Background Investigations: The City of Eden Prairie Police Department Police Department is hereby required, as the exclusive entity within the City, to do a criminal history background investigation on the applicants for the following licenses within the city: Employees of entities licensed under the following Chapters and Sections of City Code:

1. Licensing under City Code Chapter 4 relating to beer, wine and liquor;
2. Licensing under City Code Section 5.35 relating to Tobacco-related products;
3. Licensing under City Code Section 5.37 relating to Peddlers, Solicitors and Transient Merchants;
4. Licensing under City Code Section 5.40 relating to Gambling;
5. Licensing under City Code Section 5.46 relating to Therapeutic Massage Enterprises and Therapists Regulation; and
6. Licensing under City Code Section 5.71 relating to Pawnbrokers and Precious Metal Dealers.

Subd. 4. Access to Data. In conducting the criminal history background investigation in order to screen for the positions identified in Subd. 2 and licensing identified in Subd. 3, the Police Department is authorized to access data maintained in the Minnesota Bureau of Criminal Apprehensions Computerized Criminal History information system in accordance with BCA policy. Any data that is accessed and acquired shall be maintained at the Police Department under the care and custody of the chief law enforcement official or his or her designee. A summary of the results of the Computerized Criminal History data may be released by the Police Department to the hiring and licensing authority respectively, including the City Manager or other city staff involved in the hiring or licensing process.

Subd. 5. Consent of Subject. Before the investigation is undertaken, the applicant must authorize the Police Department by written consent to undertake the investigation. The written consent must fully comply with the provisions of Minn. Stat. Chap. 13 regarding the collection, maintenance and use of the information. Except for the positions set forth in Minnesota Statutes Section 364.09, the city will not reject an applicant for employment or licensing on the basis of the applicant’s prior conviction unless the crime is directly related to the position of employment or license sought and the conviction is for a felony, gross misdemeanor, or misdemeanor with a jail sentence. If the City rejects the applicant's request on this basis, the City shall notify the applicant in writing of the following:

1. The grounds and reasons for the denial.
2. The applicant complaint and grievance procedure set forth in Minnesota Statutes Section 364.06.
3. The earliest date the applicant may reapply for employment or licensure.
4. That all competent evidence of rehabilitation will be considered upon reapplication.
SECTION 2.80. RIGHT TO ADMINISTRATIVE APPEAL.
If any person shall be aggrieved by any administrative decision of the City Manager or any other City official, or any
Board or Commission not having within its structure an appellate procedure, such aggrieved person is entitled to a full
hearing before the Council upon serving a written request therefor upon the Mayor and City Manager at least five (5)
days prior to any regular Council meeting. Such request shall contain a general statement setting forth the administrative
decision to be challenged by the appellant. At such hearing the appellant may present any evidence he deems pertinent to
the appeal, but the City shall not be required to keep a verbatim record of the proceedings. The Mayor, or other officer
presiding at the hearing, may, in the interest of justice or to comply with time requirements and on his own motion or the
motion of the appellant, the City Manager, or a member of the Council, adjourn the hearing to a more convenient time or
place; but such time or place shall be fixed and determined before adjournment so as to avoid the necessity for formal
notice of reconvening. No appeal is allowed to the City Council from any personnel decision.

SECTION 2.81. FACSIMILE SIGNATURES.
The Mayor, City Manager and Treasurer are hereby authorized to request a depository of City Funds to honor an order
for payment when such instrument bears a facsimile of his signature and at least one manual signature of one of these
three, and to charge the same to the account designated thereon or upon which it is drawn. Such authority is granted only
for the purpose of permitting such officers an economy of time and effort.

SECTION 2.82. PERSONNEL RULES AND REGULATIONS.
The City Manager may promulgate personnel rules setting forth the rights, duties and responsibilities of employees. Such
rules may from time to time be amended.

SECTION 2.83. WORKER'S COMPENSATION.
All officers of the City elected or appointed for a regular term of office or to complete the unexpired portion of any such
regular term shall be included in the definition of "employee" as defined in Minnesota Statutes relating to coverage for
purposes of worker's compensation entitlement.

SECTION 2.84. SPECIAL ASSESSMENT POLICY.
The Council may, by resolution, adopt, from time to time amend, or repeal a special assessment policy to defer the
payment of special assessments for any homestead property owned by a person 65 years of age or older or retired by
virtue of a permanent and total disability for whom it would be a hardship to make the payments.

SECTION 2.85. PARTIAL PREPAYMENT OF SPECIAL ASSESSMENTS.
Subd. 1. Partial Prepayment of Assessments Permitted. After the adoption of an assessment roll pursuant to
Minnesota Statutes, 1991, Chapter 429, and before certification of said assessment roll to the County Auditor, the City
Treasurer, or other authorized official, is authorized and directed to accept partial prepayment of said assessment and reduce the amount certified to the County Auditor accordingly. Interest shall accrue upon to the date of payment of, and paid with, the partial payment except no interest shall be accrued and charged against any amount of a partial payment made within thirty (30) days from the adoption of an assessment. As provided by law, such partial prepayment may be accepted until November 30 of the year of the approval of the assessment roll.

Source: Ordinance No. 17-92
Effective Date: 6-26-92

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

SECTION 2.86. DISPOSAL OF ABANDONED MOTOR VEHICLES, UNCLAIMED PROPERTY AND EXCESS PROPERTY.

Subd. 1. Disposal of Abandoned Motor Vehicles.

A. Definitions.

1. "Abandoned motor vehicle" means a motor vehicle as defined in Minnesota Statutes, 1990, Chapter 169, that has remained for a period of more than forty-eight (48) hours on public property illegally or lacking vital component parts, or has remained for a period of more than forty-eight (48) hours on private property without the consent of the person in control of such property or in an inoperable condition such that it has no substantial potential further use consistent with its usual function unless it is kept in an enclosed garage or storage building. It shall also mean a motor vehicle voluntarily surrendered by its owner to and accepted by the City. A classic car or pioneer car, as defined in Minnesota Statutes, 1990, Chapter 168, shall not be considered an abandoned motor vehicle within the meaning of this Section. Vehicles on the premises of junk yards or automobile graveyards, which are licensed and maintained in accordance with the City Code, shall not be considered abandoned motor vehicles within the meaning of this Section.

2. "Vital component parts" means those parts of a motor vehicle that are essential to the mechanical functioning of the vehicle, including, but not limited to, the motor, drive train and wheels.

B. Custody. The City may take into custody and impound any abandoned motor vehicle.

C. Immediate Sale. When an abandoned motor vehicle is more than seven model years of age, is lacking vital component parts, and does not display a license plate currently valid in Minnesota or any other state or foreign country, it shall immediately be eligible for sale at public auction and shall not be subject to the notification, reclamation, or title provisions of this Subdivision.

D. Notice.

1. When an abandoned motor vehicle does not fall within provisions of Subparagraph C of this Subdivision, the City shall give notice of the taking within ten (10) days. The notice shall set forth the date and place of the taking; the year, make, model and serial number of the abandoned motor vehicle, if such information can be reasonably obtained; and the place where the vehicle is being held; shall inform the owner and any lienholders of their right to reclaim the vehicle under Subparagraph F of this Subdivision; and shall state that failure of the owner or lien holder to exercise their right to reclaim the vehicle and contents be deemed a waiver by them of all rights, title and interest in the vehicle and a consent to the sale of the vehicle and contents at a public auction pursuant to Subparagraph F of this Subdivision.
2. The notice shall be sent by mail to the registered owner, if any, of the abandoned motor vehicle and to all readily identifiable lien holders of record. If it is impossible to determine with reasonable certainty the identity and address of the registered owner and all lien holders, the notice shall be published once in the official newspaper. Published notices may be grouped together for convenience and economy.

E. Right to Reclaim.

1. The owner or any lienholder of an abandoned motor vehicle shall have a right to reclaim such vehicle from the City upon payment of all towing and storage charges resulting from taking the vehicle into custody within fifteen (15) days after the date of the notice required by this Subdivision.

2. Nothing in this Subdivision shall be construed to impair any lien of a garagekeeper under the laws of this State or the right of the lien holder to foreclose. For the purposes of this subparagraph E "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.

F. Public Sale.

1. An abandoned motor vehicle and contents taken into custody and not reclaimed under Subparagraph E of this Subdivision shall be sold to the highest bidder at public auction or sale, following one (1) published notice published at least seven (7) days prior to such action or sale. 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 certification of title, free and clear of all liens and claims of ownership. Before such a vehicle is issued a new certificate of title, it must receive a motor vehicle safety check.

2. From the proceeds of the sale of an abandoned motor vehicle, the City shall reimburse itself for the cost of towing, preserving and storing the vehicle, and all administrative, notice and publication costs incurred pursuant to this Subdivision. Any remainder from the proceeds of a sale shall be held for the owner of the vehicle or entitled lien holder for ninety (90) days and then shall be deposited in the General Fund of the City.

G. Disposal of Vehicles Not Sold. Where no bid has been received for an abandoned motor vehicle, the City may dispose of it in accordance with this Subdivision.

H. Contracts and Disposal.

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

2. Where the City enters into a contract with a person duly licensed by the Minnesota Pollution Control Agency, the Agency shall review the contract to determine whether it conforms to the Agency's plan for solid waste disposal. A contract that does so conform may be approved by the Agency. Where a contract has been approved, the Agency may reimburse the City for the costs incurred under the contract which have not been reimbursed.

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

Source: City Code
Effective Date: 9-17-82

2-23
Subd. 2. Disposal of Unclaimed Property.

A. Definition. "Abandoned property" means tangible or intangible property, including cash and negotiable instruments that has lawfully come into the possession of the City in the course of municipal operations, remains unclaimed by the owner, and has been in the possession of the City for at least ninety (90) days and has been declared such by a resolution of the Council.

Source: Ordinance No. 38-85
Effective Date: 12-12-85

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

Source: City Code
Effective Date: 9-17-82

C. Retention of Property for City Use or Notice and Sale. Upon adoption of a resolution declaring certain property to be abandoned property, the City Manager shall publish a notice thereof describing the same, together with the names (if known) and addresses (if known) of prior owners and holders thereof, and including a brief description of such property. The text of such notice shall also state (1) that the property will be retained by the City for City use; or (2) that a sale of the property will take place and the time, place and manner of sale of all such property is designated in the notice; or (3) in the case of cash or negotiable instruments, that the cash will be paid into the General Fund of the City and negotiable instruments will be negotiated and the cash received therefore will be paid into the General Fund of the City. In the case of a sale of the property, such notice shall be published once at least three (3) weeks prior to sale. In all other cases, the notice shall be published once within three (3) weeks after the Council resolution declaring the property to be abandoned property. In the event of a sale of the property, sale shall be made to the highest bidder at public auction or sale conducted in the manner directed by the Council in its resolution declaring property abandoned.

Source: Ordinance No. 38-85
Effective Date: 12-12-85

D. In lieu of the procedures set forth in paragraph C of this subdivision, abandoned property may be disposed of by a private sale through a nonprofit organization that has a significant mission of community service.

Source: Ordinance No. 37-97
Effective Date: 8-15-97

E. In lieu of the procedures set forth in paragraph C of this subdivision, if property is found and delivered to City as found property by the finder, it may be returned to the finder if the following conditions are met: 1) the finder must give the owner notice personally or by certified mail, which is actually received, that the property came into the finder’s possession more than six months ago and that ownership will be transferred to the finder at the end of 30 days if the owner does not claim the property; 2) if the name of the prior owner is not known, and cannot be ascertained with reasonable diligence, the finder must provide three weeks’ published legal notice in the county where the property was located; 3) if the property has an estimated value of $5,000 or less, the notice may be placed in one of two local newspapers; 4) if the property has an estimated value of more than $5,000 the finder must place the notice in the Star Tribune; 5) the notice shall describe the property, state the location that it was found, and set forth the finder’s telephone number; 6) the finder must notify the City whether the finder received any inquiries or claims; 7) the finder must submit proof of publication to the City; and 8) if the owner does not claim the property, the finder may claim the property after submitting to City an affidavit in which
finder affirms that the owner did not claim the property. If the finder fails to claim the property from City within 250 days of the date that the finder submitted the property to City, City may dispose of the property pursuant to the procedures set forth in paragraph C of this subdivision. For purposes of this section, a finder is not a holder. A City employee who finds property and delivers it to City is not a finder for the purposes of this section and the property shall not be returned to him/her. When a City employee delivers found property to City, City shall follow the procedures set forth in paragraph C of this subdivision.

Source: Ordinance No. 2-2012  
Effective Date: 1-26-2012

F. Fund and Claims Thereon. All such cash and cash from the negotiation of such negotiable instruments and all proceeds from such sale shall be paid into the General Fund of the City and expenses thereof paid therefrom. In the event the property is retained by the City for City use, the property shall be used by the City only for public purposes of the City and not for any private use. The former owner, if he makes claim within eight (8) months from the date of publication of the notice herein provided and upon application and satisfactory proof of ownership, may, in the case of property retained by the City, have the property returned to him or her; or may be paid the amount of cash or negotiables; or, in the case of property sold, may be paid the amount received therefor, less a pro rata share of the expenses of storage, publication of notice, and sale expenses, but without interest. Such payment shall be also made from the General Fund. In the case of property retained by the City for City use or in the case of property held for sale by the City, the City will not be responsible for any diminution in value of or damage to the property during the period of time in which the property is in the City's custody and control.

Source: Ordinance No. 38-85  
Effective Date: 12-12-85

Subd. 3. Disposal of Excess Property.

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

B. Surplus Property with a Total Estimated Value of Less than $25,000. If the value of the surplus property is estimated to be $25,000 or less, the City Manager may sell it either upon quotation or in the open market, in the discretion of the City Manager. If the surplus property is sold based upon quotation, the City Manager shall obtain, so far as practicable, at least two quotations which shall be kept on file for a period of at least one year after their receipt.

C. Surplus Property with a Total Estimated Value Between $25,000 and $100,000. If the value of the surplus property is estimated to exceed $25,000 but not to exceed $100,000, the City Manager may sell the surplus property upon sealed bids or by direct negotiation, by obtaining two or more quotations for the sale when possible. All quotations obtained shall be kept on file for a period of at least one year after their receipt.

D. Surplus Property with a Total Estimated Value Over $100,000. If the value of the surplus property is estimated to exceed $100,000, the City Manager shall solicit sealed bids by public notice in the manner and subject to the requirements of the law governing contracts by the City.

Source: Ordinance No. 2-2012  
Effective Date: 1-26-2012

E. Receipts from Sales of Surplus Property. All receipts from sales of surplus property under this Section shall be placed in the General Fund.
F. Notwithstanding any other requirement of this section, the City may contract to sell supplies, materials, and equipment which is surplus, obsolete, or unused using an electronic selling process in which purchasers compete to purchase the surplus supplies, materials, or equipment at the highest purchase price in an open and interactive environment pursuant to Minnesota Statutes § 471.345 Subd. 17.

Source: Ordinance No. 2010-2
Effective Date: 1-28-2010

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

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

B. It is unlawful for any person to be a purchaser of property under this Section if such purchase is prohibited by the terms of this Section.

Source: City Code
Effective Date: 9-17-82

SECTION 2.87. EMERGENCY MANAGEMENT.

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

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

Source: Ordinance No. 31-98
Effective Date: 10-16-98

SECTION 2.88. REPEALED.

Source: Ordinance No. 30-88
Effective Date: 9-29-88

SECTION 2.89. TASK FORCES.

Subd. 1. Establishment. The Council may from time to time establish specific Task Forces to study and report upon such subjects and matters as requested.

Subd. 2. Duties and Responsibilities. A Task Forces shall provide the Planning Commission, City Staff and Council, upon request by the Council or City Manager or designee, with advice on a temporary or interim basis on such subjects and matters as requested by the Council.

Subd. 3. Membership. Each Task shall consist of not less than five members.

Subd. 4. Regular Meetings. Each Task Force shall establish at its first meeting a schedule of regular meetings.

Source: Ordinance No. 8-2000
Effective Date: 3-16-2000

(Sections 2.90 through 2.98, inclusive, and reserved for future expansion.)
SECTION 2.99. VIOLATION A MISDEMEANOR.
Every person violates a section, subdivision, paragraph or provision of this Chapter when he or she performs an act thereby prohibited or declared unlawful or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof.

Source: City Code
Effective Date: 9-17-82
CHAPTER 3

MUNICIPAL AND PUBLIC UTILITIES – RULES AND REGULATIONS, RATES, CHARGES AND COLLECTIONS

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CHAPTER 3
MUNICIPAL AND PUBLIC UTILITIES -
RULES AND REGULATIONS, RATES,
CHARGES AND COLLECTIONS

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

Subd. 1. "Company" and "grantee" mean any public utility system.

Subd. 2. "Consumer" and "customer" mean any user of a utility.

Subd. 3. "Franchise" means special rights or privilege by formal agreement granted by the City to a public utility to provide utility services.

Subd. 4. "Irrigation" means the watering of shrubs, trees, sod, seeded grasses, gardens, lawns, or any other outdoor vegetation, except outdoor vegetation utilized for agricultural purposes.

Subd. 5. "Municipal utility" means any City-owned utility system, including, but not by way of limitation, water and sewerage service.

Subd. 6. "Public utility" means any non-public owned utility system, including, but not by way of limitation, electric, gas and telephone service and also Cable System service.

Subd. 7. "Reclaimed water" means water collected from rooftops, paved surfaces, or other collection devices and all water utilized more than once before re-entering the natural water cycle.

Subd. 8. "Service" means providing a particular utility to a customer or consumer.

Subd. 9. "Utility" means all utility services, whether the same be public City-owned facilities or furnished by public utility companies.

Subd. 10. "Water recirculation system" means any system, which enables a user to reuse water at least once prior to returning the water to the natural water cycle.

Source: Ordinance No. 2-2019
Effective Date: 1-31-2019

SECTION 3.02. FIXING RATES AND CHARGES FOR MUNICIPAL UTILITIES.

Subd. 1. Adoption of Rates and Charges. All rates and charges for municipal utilities, including, but not by way of limitation, rates for service, permit fees, connection and meter reading fees, disconnection fees, reconnection fees including penalties for non-payment if any, shall be fixed, determined and amended by the Council and adopted by resolution. Such resolution, containing the effective date thereof, shall be kept on file and open to inspection in the office of the City Clerk and shall be uniformly enforced.

Source: City Code
Effective Date: 9-17-82

Subd. 2. Repealed

Source: Ordinance No. 32-2012
Effective Date: 12-6-12

Prev. Source: Ordinance No. 65-84
Effective Date: 4-5-84
SECTION 3.03. FIXING RATES AND CHARGES FOR PUBLIC UTILITIES.
All rates and charges for public utilities not regulated by an agency of the State shall be fixed and determined by the Council and adopted by resolution. Upon adoption such rates and charges shall become provisions of this Chapter. Public utility company rates and charges may be fixed and determined in compliance with this Section, as follows:

Source: Ordinance No. 65-84
Effective Date: 4-5-84

Subd. 1. No rate or charge involving an increase thereof shall become effective until approved by the Council. To request such increase the public utility shall prepare its written petition setting forth the then current and proposed rates and charges, the effective date of the proposed increases (which may not be within ninety (90) days of filing the petition), and the reason or reasons necessitating the proposed increase or increases. Such petition shall be filed with the Council by serving the same upon the City Clerk in person or by certified mail, return receipt requested.

Subd. 2. Within thirty (30) days of such filing the Council shall adopt a resolution and serve the same upon the resident superintendent of the public utility in like manner as the petition may be served either approving the proposed increases or ordering a hearing thereon to be held within sixty (60) days thereof. If no such action is taken by the Council, such increase or increases shall take effect on the date stated in the public utility's petition as though approved by the Council.

Subd. 3. Prior to the hearing date, the public utility shall, without delay, comply with the City's reasonable requests for examination and copying of all books, records, documents and other information relating to the subject matter of the petition. Should the public utility unreasonably delay, fail or refuse such requests, the same shall be grounds for a continuance of the hearing date.

Subd. 4. Notice of hearing shall be in the form and manner stated in the resolution. At the hearing all persons wishing to be heard thereon shall be afforded a reasonable opportunity. Findings and a decision shall be made by the Council within fifteen (15) days after the hearing and served upon the public utility.

SECTION 3.04. CONTRACTUAL CONTENTS.
Provisions of this Chapter relating to municipal utilities shall constitute portions of the contract between the City and all consumers of municipal utility services, and every such consumer shall be deemed to assent to the same. All contracts between public utilities and consumers of utility services other than municipal shall be in strict accord with the provisions of this Chapter.

SECTION 3.05. RULES AND REGULATIONS RELATING TO MUNICIPAL UTILITIES.

Subd. 1. Billing, Payment and Delinquency. All municipal utilities shall be billed monthly or quarterly and a utilities statement or statements shall be sent to each consumer. All charges shall be delinquent if they are unpaid by the bill due date. Bills not paid by the due date shall be charged a late payment penalty of 1% per month until paid or until certified to taxes. If service is suspended due to delinquency, it shall not be restored at that location until a reconnection charge has been paid for each utility reconnected in addition to amounts owed for service and penalties.

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

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

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

B. Any charge for a municipal utility service or any other financial obligation imposed on the present owner or occupant of the premises served is unpaid after due notice thereof, or,
C. There is fraud or misrepresentation by the owner or occupant in connection with any application for service or delivery or charges therefor.

D. The owner or occupant of the premises served by the City’s municipal water service fails (a) within 10 days after written request by the City to the owner or occupant, to provide a time, within 30 days of the written request, to permit entry into the premises by the City, its employees or contractors, during normal working hours, for the purpose of repairing, replacing, modifying or equipping the premises water meter or the equipment for the reading of the meter, or (b) to permit entry into the premises by the City, its employees or contractors to repair, replace, modify or equip the water meter or the equipment for the reading of the meter at and during the time provided.

Ordinance No. 19-2006
Effective Date: 8-10-06

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

Subd. 5. Right of Entry. The City has the right to enter in and upon private property, including buildings and dwelling houses, in or upon which is installed a municipal utility, or connection therewith, at all times reasonable under the circumstances, for the purpose of reading utility meters, for the purpose of inspection and repair of meters or a utility system, or any part thereof, and for the purpose of connecting and disconnecting service.

Subd. 6. Meter Accuracy. All water utilities service shall be supplied through a meter which shall accurately measure the amount thereof supplied to any consumer. The consumer shall supply a safe and proper place for the installation of such meters. Meters shall be tested for accuracy by the City upon the request of any consumer who believes his meter to be inaccurate. If, upon test, it appears that such meter overruns to the extent of 3% or more, the City shall pay the cost of such tests and shall make a refund for overcharges collected since the last known date of accuracy but for not longer than six (6) years, on the basis of the extent of the inaccuracy found to exist at the time of the tests. If, upon test, it appears that such meter is slow to the extent of 3% or more, the consumer shall pay for undercharges since the last known date of accuracy but for not longer than six (6) years on the basis of the extent of the inaccuracy found to exist at the time of the test. If, when any meter is tested upon the demand of a consumer, it is found to be accurate or slow or less than 3% fast, the consumer shall pay the reasonable cost of such testing.

Subd. 7. Unlawful Acts.

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

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

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

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


A. Payment for service and charges provided for herein shall be the primary responsibility of the owner of the
premises served and shall be billed to the owner unless otherwise authorized in writing by the tenant and owner and consented to by the City of Eden Prairie, Minnesota. The City may collect the same in a civil action or, in the alternative and at the option of the City, as otherwise provided in this Subdivision.

Source: City Code
Effective Date: 9-17-82

B. Each such charge is hereby made a lien upon the premises served. Unpaid charges shall not be certified to the county auditor until notice has been provided to the owner of the premises involved. The notice shall be sent by first class mail and shall state that if payment is not made before the date for certification, the entire amount unpaid plus an administration fee will be certified to the county auditor for collection as other taxes are collected. The owner of the property shall have the option of paying the balance due on the account plus an administration fee until the date stated in the notice.

Source: Ordinance No. 32-2012
Effective Date: 12-6-12
Prev. Source: Ordinance No. 21-89
Effective Date: 8-17-89

SECTION 3.06. CONNECTION OR TAPPING PROHIBITED - DELINQUENT ASSESSMENTS OR CHARGES.

No permit shall be granted to tap or connect with sewer or water mains when any assessment or connection charge for such sewer or water main against the property to be connected is in default or delinquent. If such assessment or connection charges are payable in installments, no permit shall be granted unless all installments then due and payable have been paid.

SECTION 3.07. CONNECTION TO WATER AND SEWER SERVICES.

Subd. 1. Certificate Required. Pursuant to the authority conferred by Minnesota Statutes 444.075, in addition to all other charges for tapping into or connecting with the municipal sanitary sewer system or the municipal water system, including inspection of connection, street opening fees and permit fees heretofore established by City Code provisions or resolution, no connection permit shall be issued, nor shall any tap or other connection be installed, or made, with or into any municipal sanitary sewer or municipal water system of the City, either directly or indirectly, from any lot or tract of land unless the City Clerk shall have certified as follows:

A. That the lot or tract of land to be served has been assessed for the cost of construction of the main with which the connection is made, but this shall not include lots or tracts assessed under Subdivision 5 hereof;

B. If no assessment has been levied for such construction cost that proceedings for the levying of such assessment have been or will be commenced in due course, but this shall not include lots or tracts to be assessed under Subdivision 5 hereof; or,

C. That the cost of construction for the main has been paid by the developer or builder platting the lot or tract of land, but this shall not include lots or tracts served by the main which were not a part of that plat or tract developed.

Subd. 2. Additional Connection Charges. If none of the above conditions can be certified by the City Clerk, no permit to tap or make connection to any sanitary sewer or water main shall be issued unless the applicant shall pay an additional connection fee. Such additional connection fee shall be charged for sanitary sewer and water main made available by agreement with other municipalities, counties or private corporations or individuals, as well as those owned and operated by the City itself. The additional connection fee shall be equal to the average assessment levied against like kind property for a similar public improvement constructed and installed by the City provided, however, for a connection to a residential property, the connection fee shall be equal to the average assessment levied against residential parcels of one-half acre or less. The average assessment shall be determined by taking the total assessment for a similar public
improvement and dividing that total by the total number of properties assessed, such determination having regard for
construction costs current on the date of such determination. Whenever more than one (1) tap or other connection is
requested for service to any lot or tract or whenever any tap or connection is requested for a lot or tract which has
previously been part of a lot or tract for which a connection charge has already been imposed pursuant to this
Subdivision, an additional charge shall be imposed for each tap or connection requested.

Subd. 3. Separate Fund. Any sum collected and received by the City under Subdivision 2 shall be placed in a separate
fund and shall be used first to pay the normal, reasonable and current costs of operating and maintaining the municipal
sanitary sewer and municipal water system. Net revenues from time to time received in excess of such costs may be used
as otherwise provided for by law.

Subd. 4. Notice and Hearing. Before the City Manager or his designate makes a final determination of the additional
connection fee under Subdivision 2, he shall cause a written notice to be sent to the property owner affected stating the
amount of the proposed connection fee and the basis of its calculation. The notice shall also state that the owner may,
within ten (10) days of receipt of the notice, demand a hearing on the matter. If the owner requests a hearing within that
time, a hearing shall be held on the matter by the Council within a reasonable time after the date on which the request is
made. The notice shall further state that the owner may request that the charges be levied as an assessment against the lot
or tract to be served and an application for such request shall be provided with the notice. The application shall be made
within ten (10) days of receipt of the notice referred to above if no hearing is requested, or if a hearing is requested within
ten (10) days following the hearing. If as a result of the hearing, the Council finds that the proposed connection fee
complies with the requirements of Subdivision 2, it shall so determine. If it determines that the proposed fee is in excess
of an amount that would have been assessed had the property been assessed, it shall make a determination of the proper
amount of the fee with the limits specified in Subdivision 2. No connection shall be made without payment of the
connection fee unless the fee is to be assessed pursuant to Subdivision 5.

Subd. 5. Assessments. Upon application by the owner waiving his right to notice, hearing and appeal, the Council may
cause the connection fee to be levied as an assessment against the lot or tract to be served under the procedure authorized
by law with reference to other assessments for benefits of local improvements.

Subd. 6. Liability for Charge and Certification to County Auditor. All additional connection fees imposed pursuant
to this Section, including those assessed pursuant to Subdivision 5, shall be a charge against the owner of the lot or tract
of land to be served. The City Clerk shall certify all unpaid charges to the County Auditor with taxes against the lot or
tract to be served for collection as other taxes are collected.

Source: Ordinance No. 18-83
Effective Date: 6-17-83

(Sections 3.08 through 3.29, inclusive, reserved for future expansion.)

SECTION 3.30. RULES AND REGULATIONS RELATING TO WATER SERVICE.

Subd. 1. Deficiency of Water and Shutting Off Water. The City is not liable for any deficiency or failure in the
supply of water to customers whether occasioned by shutting the water off for the purpose of making repairs or
connections or by any other cause whatever. In case of fire, or alarm of fire, water may be shut off to ensure a supply for
fire fighting. In making repairs or construction of new works, water may be shut off at any time and kept off so long as
may be necessary.

Subd. 2. Repair of Leaks. It is the responsibility of the consumer or owner to maintain the service pipe from the curb
stop into the house or other building. In case of failure upon the part of any consumer or owner to repair any leak
occurring in his service pipe within twenty-four (24) hours after oral or written notice has been given the owner or
occupant of the premises, the water may be shut off and will not be turned on until a reconnection charge has been paid
and the water service has been repaired. When the waste of water is great or when damage is likely to result from the
leak, the water will be turned off if the repair is not proceeded with immediately.
Subd. 3. Abandoned Services Penalties. All service installations connected to the water system that have been abandoned or, for any reason, have become useless for further service shall be disconnected at the main. The owner of the premises, served by this service, shall pay the cost of the excavation. The City shall perform the actual disconnection and all pipe and appurtenances removed from the street right-of-way shall become the property of the City. When new buildings are erected on the site of old ones and it is desired to increase the old water service, a new permit shall be taken out and the regular tapping charge shall be made as if this were a new service. It is unlawful for any person to cause or allow any service pipe to be hammered or squeezed together at the ends to stop the flow of water or to save expense in improperly removing such pipe from the main. Also, such improper disposition thereof shall be corrected by the City and the cost incurred shall be borne by the person causing or allowing such work to be performed.

Subd. 4. Service Pipes. Every service pipe must be laid in such manner as to prevent rupture by settlement. The service pipe shall be placed not less than eight (8) feet below the surface in all cases so arranged as to prevent rupture and stoppage by freezing. Frozen service pipes between the curb stop and the building shall be the responsibility of the owner. Service pipes must extend from the curb stops to the inside of the building; or if not taken into a building then to the hydrant or other fixtures which they are intended to supply. A valve the same size as the service pipe shall be placed close to the inside wall of the building, ahead of the meter and well protected from freezing. Joints on copper tubing shall be flared and kept to a minimum. Not more than one (1) joint shall be used for a service up to seventy (70) feet in length. All joints shall be left uncovered until inspected. Minimum size connection with the water mains shall be one (1) inch in diameter.

Subd. 5. Private Water Supplies. No water pipe of the City water system shall be connected with any pump, well, pipe, tank or any device that is connected with any other source of water supply; and when such are found, the City shall notify the owner or occupant to disconnect the same and, if not immediately done, the City water shall be turned off. Before any new connections to the City system are permitted, the City shall ascertain that no cross-connections will exist when the new connection is made. When a building is connected to “City Water,” the private water supply may be used only for such purposes as the City may allow.


A. Definition. For purposes of this subdivision, a “water emergency” means a critical water deficiency declared by the Governor pursuant to Minn. Stat. § 103G.291 or a declaration by the City Manager pursuant to subsection B of this subdivision.

B. Declaration. The City Manager is authorized to declare a water emergency when he or she determines that the water pressure and available water in the City water system reaches a level which endangers the public health or safety of residents and other persons in the City.

C. Notice. Upon the declaration of a water emergency by the Governor or the City Manager, the City will immediately post notice of the emergency declaration on the principal City bulletin board and on the front page of the City website. The City will notify the public as quickly as possible of applicable water supply plans, emergency response plans, and procedures.

D. Prohibited Uses. Upon declaration of a water emergency and notification to the public, the following uses of water, whether from the City water system or a private water supply, are prohibited as long as the water emergency remains in effect:

1. Irrigation of yards, gardens, golf courses, parklands, and other non-agricultural land, except for those areas irrigated with reclaimed water.

2. Washing or spraying of sidewalks, driveways, parking areas, tennis courts, patios, or other paved areas with water from any pressurized source, including garden hoses, except to alleviate immediate health or safety hazards.

3. The use of any water-based play apparatus connected to a pressurized source.
Restaurants and other food service establishments are prohibited from serving water to their customers, unless water is specifically requested by the customer.

Operation of outdoor misting systems used to cool public areas.

The filling of swimming pools, fountains, spas, or other exterior water features.

The washing of automobiles, trucks, trailers, and other types of mobile equipment, except at facilities equipped with wash water recirculation systems, and for vehicles requiring frequent washing to protect public health, safety, and welfare.

Variance. The Director of Public Works may grant a variance from the restrictions of this subdivision where strict application of its provisions would result in serious hardship to a user. A variance may be granted only for reasons involving health or safety. An applicant may appeal the denial of a variance within five (5) days of the decision by submitting a written request for appeal to the City Clerk. The City Manager shall hear the appeal within fourteen (14) days of the date the City Clerk receives the request.

F. Violations.

1. Notice. Upon determination that a person is using water in violation of the restrictions and prohibitions imposed under this subdivision, the City will deliver a written notice to the owner of the premises on which the use is occurring. For the purpose of giving notice, the address of such owner will be determined by the City Clerk from records available to the public. The notice will describe the violation, specify the required remedy, and state that failure to comply will result in a surcharge on the water bill for the premises as provided in the following paragraph.

2. Surcharge. Failure to comply with restrictions and prohibitions imposed under this subdivision after receipt of a written notice under the preceding paragraph will result in a surcharge for water service for each day of violation in an amount determined by resolution of the City Council, which surcharge shall be added to the water bill for the premises on which such violation occurs. The City shall mail a Notice of Surcharge to the violator upon imposition of a surcharge. Continued violations after receipt of the Notice of Surcharge shall be cause for discontinuance of water service to such premises. Receipt of the Notice of Surcharge shall be presumed three (3) days after mailing by the City.

3. Citation. In addition to the surcharge provided for in the preceding paragraph, any person violating the restrictions or prohibitions imposed under this subdivision may be issued a petty misdemeanor citation.

Source: Ordinance No. 2-2019
Effective Date: 1-31-2019

Source: Ordinance No. 23-2001
Effective Date: 7-19-01

Subd. 7. Private Fire Hose Connections. Owners of structures with self-contained fire protection systems may apply for and obtain permission to connect the street mains with hydrants, large pipes, and hose couplings, for use in case of fire only, at their own installation expense and at such rates as the Council may adopt by resolution as herein provided.

Subd. 8. Opening Hydrants. It is unlawful for any person, other than members of the Fire Department or other person duly authorized by the City, in pursuance of lawful purpose, to open any fire hydrant or attempt to draw water from the same or in any manner interfere therewith. It is also unlawful for any person so authorized to deliver or suffer to be delivered to any other person any hydrant key or wrench, except for the purposes strictly pertaining to their lawful use.

Subd. 9. Repealed.
**Subd. 10. Code Requirement.** All piping, connections and appurtenances shall be installed and performed strictly in accordance with the Minnesota Plumbing Code. Failure to install or maintain the same in accordance therewith or failure to have or permit required inspection shall, upon discovery by the City, be an additional ground for termination of water service to any consumer.

**Subd. 11. Connection Fees.** Service shall be furnished only after proper application has been made and connection fees paid in full.

Source: City Code  
Effective Date: 9-17-82

**Subd. 12. Water Use Restrictions.**

A. A person may irrigate or otherwise use water from the City’s Municipal Water System for lawn areas, grass, or turf only on alternating days.

B. Alternating days means that property with an address ending in an odd number may irrigate only on odd-numbered days of the month and property with an address ending in an even number may irrigate only on even-numbered days of the month.

Source: Ordinance No. 15-2008  
Effective Date: 6-26-2008

C. No person may irrigate or otherwise use water from the City’s Municipal Water System for lawn areas, grass, or turf during the hours of 12:01 p.m. through 5:00 p.m. of any day.

D. Upon written request and approval by the City Manager, or his designee, and subject to such terms and conditions imposed by the City Manager, or his designee, with respect to such approval, the following persons may be authorized to irrigate or otherwise utilize water from the City's municipal water system for lawn areas, grass or turf at times other than as permitted in Subparagraph A and B hereof:

1. Any person owning or operating a commercial or business enterprise whose economic well-being is dependent upon irrigation of a lawn, grass or turf owned, leased or operated by it;

2. Employees and agents of the City, in such instances wherein lawn, grass or turf used for play fields or areas owned and operated by the City require more frequent irrigation to prevent unreasonable damage thereto;

3. Owners and lessees (their employees and agents) of lands newly sodded or grass seeded which requires irrigation to prevent loss of new sod, seed or immature turf or grasses for a period of thirty (30) days.

E. Failure to comply with restrictions or prohibitions imposed by this subdivision shall result in a surcharge for water service for each day of violation in an amount determined by resolution of the City Council which shall be added to the water bill for the premises on which such violation occurs. The City Manager, or his designee, shall mail a Notice of Surcharge to the violator upon imposition of a surcharge. Continued violations after receipt of the Notice of Surcharge shall be cause for discontinuance of water service to such premises. Receipt of the Notice of Surcharge shall be presumed three (3) days after mailing by the City Manager, or his designee.

F. Unlawful Act. It is a petty misdemeanor for any person to violate any provision of this Subdivision.

Source: Ordinance No. 2-2019  
Effective Date: 1-31-2019

Source: Ordinance No. 23-2001  
Effective Date: 7-19-01
SECTION 3.50. RULES AND REGULATIONS RELATING TO SEWERAGE SERVICE.

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

A. "Sewage" means water-carried waste products from residences, public buildings, institutions or other buildings or premises, including the excrement or other discharge from the bodies of human beings or animals, together with such ground water infiltration and surface water as may be present.

B. "Sewerage system" includes all street lateral, main and intersecting sewers and structures by which sewage or industrial wastes are collected, transported, treated and disposed of provided that this shall not include plumbing inside or a part of a building or premises served or service sewers from a building to the street lateral.

Subd. 2. Metered Water Not Discharged. If a portion of the water furnished to any premises is not directly or indirectly discharged into the sewerage system, the quantity of such water shall be deducted in computing the sewerage service charge or rental provided a separate meter shall be installed and operated to register the quantity so not discharged into the sewerage system and provided, also, that where it is not practicable to meter the portion of the water not discharged into the sewerage system, such adjustment may be made as shall be fair and equitable in order to determine the amount of such service charge or rental, but until such adjustment shall be effected that water consumption basis hereinbefore prescribed shall remain in full force and effect.

Subd. 3. Unlawful Discharge. It is unlawful to discharge any roof water, ground water, or any other natural precipitation into the sewer system.

Subd. 4. Unmetered Water Supply. If any premises discharge normal sewage or industrial waste into the sanitary sewerage system, either directly or indirectly, obtain part or all of the water used thereon from sources other than the City, and the water so obtained is not measured by a meter of equivalent specifications to the meters used by the City, then in such case the City shall permit the discharge of normal sewage or industrial waste into its sanitary sewerage system only when the owner of such premises or some other interested party shall at his own expense install and maintain for the purpose of metering such water supply a water meter of equivalent specifications to those installed by the City in connection with the City water system. Each water meter shall be installed to measure all water received on such premises and the above charges and rates shall be applied to the quantity of water received as measured by such meter. If, because of the nature of the source of the water supply, the City deems it impracticable to thus meter the water on any premises, the Council may by resolution establish a flat charge per month in accordance with the estimated use of water on such premises.

Subd. 5. Size, Kind and Depth of Pipe. The City may prescribe the size, kind and depth of sewerage service pipe and connections. The minimum size when placed underground shall be four (4) inches in diameter.

Source: City Code
Effective Date: 9-17-82

SECTION 3.51. RULES AND REGULATIONS RELATING TO DISCHARGES FROM SUMP PUMPS AND OTHER SOURCES INTO THE SEWERAGE SYSTEM.

Subd. 1. Purpose. The Council finds that the discharge of water from roofs, down spouts, eave troughs, rain spouts, yard drains, surfaces, groundwater, sump pumps, footing tiles or swimming pools, foundation drains, yard fountains, ponds, cistern overflow, air conditioning units or systems, areaway drains, industrial processes, and other means of transmitting natural precipitation and surface waters, collectively referred to as excess infiltration and inflow (I & I), into the sewerage system as defined by Section 3.50, Subd. 1 (B), will and has in the past overloaded the sewerage system. The owner of the interceptor sewer system and the waste water treatment facilities—Metropolitan Council Environmental Services (MCES)—has mandated that cities remove excess I & I from the system or be subject to certain fines, penalties and surcharges as imposed by MCES. Further, MCES has determined that failure to remove excess I & I could lead to a
moratorium on new connections to the sewerage system required for development and/or redevelopment. The Council, therefore, finds it essential for orderly growth in the community, fiscal responsibility, compliance with the mandated requirements of MCES and City Code requirements that the provisions of this Section be strictly enforced.

Subd. 2. Prohibition against discharges into sewerage system. No water from any roof, down spout, eave trough, rain spout, yard drain, surface, groundwater, sump pump, footing tile or swimming pool, foundation drain, yard fountain, pond, cistern overflow, air conditioning unit or system, areaway drain, industrial process, or other natural precipitation shall be discharged into the sewerage system. Dwellings and other buildings and structures which require, because of infiltration of water into basements, crawl spaces and the like, a sump pump discharge system shall have a permanently installed discharge line which shall not at any time discharge water into the sewerage system, except as provided herein. A “permanently installed discharge line” shall be one which provides for year-around discharge capacity to either an appropriate drainage area on the outside of the dwelling, building or structure (in no event shall such a drainage area include property owned by others or any public right-of-way), or is connected to the City storm sewer. The permanently installed discharge line shall consist of a rigid discharge line, without valving or quick connections for altering the path of discharge. It shall not be capable of connection or reconnection to the sewerage system.

Subd. 3. Disconnection. Any person having a roof surface, down spout, eave trough, rain spout, yard drain, surface, groundwater, sump pump, footing tile or swimming pool, foundation drain, yard fountain, pond, cistern overflow, air conditioning unit or system, areaway drain, industrial process now connected and/or discharging into the sewerage system shall immediately disconnect and/or remove same. Any disconnects or openings in the sewerage system shall be closed in an effective, workmanlike manner, as approved by the Director of Public Works. If a city drain tile or storm sewer system is available to the property, connection of said discharges to these systems shall be mandatory.

Subd. 4. Compliance and Inspection. Every person owning improved real estate that discharges into the City’s sewerage sewer system shall comply with the requirements of this Section within thirty (30) days of the Effective Date. Within thirty (30) days after notice from the City, the property owner shall contact the City Utility Division to schedule an inspection, at no cost to the property owner, of each building and the utility service lines located on such property by an inspector designated by the City. The purpose of this inspection shall be to confirm that there is no sump pump or other prohibited discharge into the sewerage system. In lieu of having the City inspect such property, the property owner may, at the property owner’s expense, furnish a certificate from a licensed plumber, in a form acceptable to the City, certifying that the property is in compliance with this Section.

Subd. 5. Additional Inspections. The City may require any building be re-inspected on a yearly basis in conjunction with water meter or other inspections and/or service calls.

Subd. 6. New home inspections. All new homes will be required to have their sump pump system inspected and be in compliance with this Section prior to issuance of a certificate of occupancy.

Subd. 7. Waivers. The Director of Public Works shall have the power and duty of hearing and deciding requests for waivers from the applicability of provisions of this Section where strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration or cause a safety problem. This may also include cases where it would not be practical or feasible to correct an otherwise prohibited discharge in the City’s sewerage system.

Application for waivers pursuant to this Section shall be addressed in writing to the Director of Public Works. The applications shall at a minimum identify the subject property, the name of the property owner/applicant, and describe in detail what characteristics of the subject property create an undue hardship. Within a reasonable time the Director of Public Works shall make a decision on the matter and send a copy of such decision to the applicant by regular mail. Upon approval of an application for a waiver, a property owner shall be allowed to discharge directly into the sewerage system for a limited time specified in the written decision and in accordance with other terms and conditions specified. The applicant will be required to pay an additional fee for the additional sewer service, along with the regular monthly charge. Fees for this service will be based on estimated yearly average amounts discharged to the sewerage system.

Subd. 8. Surcharge. A surcharge of $100.00 per month is added to every sewer bill mailed to property owners who (a) are found discharging I & I into the sewerage system; (b) have not obtained an inspection required by this Section within
30 days after notice by the City; (c) have not made necessary corrections within the time specified; or (d) are not otherwise in compliance with this Section. The surcharge shall be added every month thereafter for properties not complying with this Section until the property owner submits proof to the Director of Public Works that the property is brought into full compliance. The full amount of the surcharge shall apply regardless of whether the non-compliance has been for the entire month or a portion of it. All properties found during any yearly re-inspection to have violated this Section will be subject to a $200.00 surcharge for all months between the two most recent inspections. If the surcharge is not paid, the City reserves the right to assess the property owner the unpaid balance pursuant to Minnesota Statute Section 429.101, as amended.

Source: Ordinance No. 24-2008
Effective Date: 12-11-2008

(SECTIONS 3.52 through 3.74, inclusive, reserved for future expansion.)

SECTION 3.75. RULES AND REGULATIONS RELATING TO STORM WATER SEWER SYSTEM UTILITY.

Subd. 1. Findings and Determinations.

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

B. The system, as constructed, heretofore has been financed and paid for through the imposition of special assessments and ad valorem taxes. It is now necessary and desirable to provide an alternative method of recovering some or all of the future costs of improving, maintaining and operating the system through the imposition of charges as provided in this section.

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

Subd. 2. Storm Water Sewer System Utility Established. A municipal storm water sewer system utility (the "storm water utility") is hereby established and shall be operated pursuant to Minnesota Statutes, 1992, Section 444.075 from which revenues will be derived subject to the provisions of this Section and other laws.

Subd. 3. Definitions. Unless the context clearly indicates otherwise, the following words or phrases have the meanings given in this Subdivision.

A. "Rainfall Event." A rainfall event is a rainfall of two (2) inches within a 24 hour period.

B. "Residential Equivalent Factor (REF)." One REF is defined as the ratio of the average volume of runoff generated by one acre of a land use to the average volume of runoff generated by one acre of typical single family residential land, assuming Soil Conservation Service (SCS) "Type B" soil conditions, during a rainfall event, all as determined by the City Engineer.

Subd. 4. REF For Land Uses. The REF for each land use is as follows:

<table>
<thead>
<tr>
<th>Classification</th>
<th>Land Use</th>
<th>REF</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Single Family/Condos/Townhomes/Flats/Twinhomes/Lofts/Doubles</td>
<td>1.00</td>
</tr>
<tr>
<td>2</td>
<td>Industrial, Apartments</td>
<td>3.30</td>
</tr>
<tr>
<td>3</td>
<td>Commercial/Office/Parking/Clinics</td>
<td>4.23</td>
</tr>
</tbody>
</table>
Subd. 5. Exemptions. The following land uses are exempt from the surface water management fee:

(a) Public Right-of-way
(b) Lakes
(c) Wetlands
(d) City Property

Subd. 6. Adjustments to REF. The Council may adopt policies recommended by the City Engineer for adjustment of the REF for parcels of land based upon hydrologic data to be supplied by property owners, which data demonstrates a hydrologic response substantially different from the standards used by City to establish the REF for the use to which a parcel may be put. Adjustments to a REF shall not retroactively reduce storm water utility charges.

Subd. 7. Other Land Uses. Other land uses not listed in the foregoing table shall be classified by the City Engineer by assigning them to classes most nearly like the listed uses runoff volumes for a standard rainfall event. An appeal from the City Engineer's determination of a classification may be made to the City Council pursuant to City Code Section 2.80, provided written notice is served as provided therein not later than thirty (30) days from the date written notice of the decision of the City Engineer is given to the Owner of the property which is the subject of the classification.

Subd. 8. Setting of Rate. The rate for storm water utility charges shall be determined from time to time by the Council by resolution. In doing so, the Council shall determine and set an annual budget for the system, including management, planning, inventory, capital expenditures, personnel, equipment and operations.

Subd. 9. Determination of Charges. The storm water utility charge for a specific parcel of property shall be determined as follows: parcels on which single-family, condos, townhomes, flats, twinhomes, lofts and double, residences are situated shall be charged an amount equivalent to the rate times one-third (1/3) REF. (For determination of the charge for single-family residences it is assumed that the average of all parcels on which single-family, condos, townhomes, flats, twinhomes, lofts and double, residences are situated comprise one-third (1/3) acre.) Each other property shall be charged an amount determined by multiplying the REF applicable to the class of land use under consideration times the rate for one (1) REF times the total acres or fractions thereof of the land.

Subd. 10. Billing and Payment. Storm water utility charges shall be computed and billed periodically with, and included as a charge on, bills issued by the City for water or sewer services pursuant to Section 3.05 of the City Code. If a parcel of land subject to the storm water utility charge is not served by City water or sewer, a separate bill shall be issued every month or every three (3) months for the storm water utility charge. The rules and regulations relating to municipal utilities set forth in City Code Section 3.05 shall apply to the storm water utility.

Subd. 11. Establishment of Fund. All fees collected for the storm water utility shall be placed in a fund for the exclusive use or uses described in Subd. 8 hereof and as permitted by Minnesota Statutes, Section 444.075.

Source: Ordinance No. 41-93
Effective Date: 10-29-93

(Sections 3.76 through 3.98, inclusive, reserved for future expansion.)

SECTION 3.99. VIOLATION A MISDEMEANOR OR PETTY MISDEMEANOR.
Every person violates a section, subdivision, paragraph or provision of this Chapter when he or she performs an act thereby prohibited or declared unlawful or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof shall be punished as follows:
**Subd. 1.** Where the specific section, subdivision, paragraph or provision specifically makes violation a petty misdemeanor, he shall be punished as for a petty misdemeanor.

**Subd. 2.** As to any violation not constituting a petty misdemeanor under the provisions of Subdivision 1 hereof, he shall be punished as for a misdemeanor.

Source: City Code
Effective Date: 9-17-82
CHAPTER 4
BEER, WINE AND LIQUOR LICENSING AND REGULATION

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CHAPTER 4
BEER, WINE AND LIQUOR LICENSING AND REGULATION

SECTION 4.01. DEFINITIONS.
As used in this Chapter, unless otherwise stated in specific sections, the following words and terms shall have the meanings stated:

Subd. 1. "Alcoholic beverage" is any beverage containing more than one-half of one percent alcohol by volume.

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

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

Subd. 4. "Beer or Non-Intoxicating Malt Liquor" means intoxicating malt liquor which contains not less than one-half of one percent alcohol by volume nor more than 3.2 percent alcohol by weight.

Subd. 5. "Bowling Center" means an establishment where the primary business is bowling, other family recreational activities and equipment sales including, but not limited to, bowling, arcade games, and billiards; and where food, beverage, and vending sales are offered and served. A bowling center must have a minimum of 40 lanes of bowling available and a minimum of 50% of the bowling center’s square footage dedicated to bowling, which includes, but is not limited to, the bowling lanes, approach to the bowling lanes, settee area, mechanical area for pin machines, locker area for bowling balls, counter space for bowling business transactions, and the bowling pro shop.

Source: Ordinance No. 35-2003
Effective Date: 12-11-2003

Subd. 6. "Brewer" has the meanings given it in Minnesota Statutes Section 340A.101.

Source: Ordinance 8-2015
Effective Date: 6-25-2015

Subd. 7. "Brew Pub" is a brewer who also holds one or more retail on-sale licenses and who manufactures fewer than 3,500 barrels of malt liquor in a year, at any one licensed premises, the entire production of which is solely for consumption on tap on any licensed premises owned by the brewer, or for off-sale from those licensed premises as permitted by Minnesota Statutes Section 340A.24, subdivision 2.

Source: Ordinance 8-2015
Effective Date: 6-25-2015

Subd. 8. "Brewer Taproom" is a brewer licensed under section 340A.301, subdivision 6, clause (c), (i), or (j) who also holds a retail license to sell on-sale malt liquor produced by the brewer for consumption on the premises of or adjacent to a brewery location owned by the brewer.

Source: Ordinance 8-2015
Effective Date: 6-25-2015

Subd. 9. "Club" is an incorporated organization organized under the laws of the state for civic, fraternal, social, or business purposes, for intellectual improvement, or for the promotion of sports, or a congressionally chartered veteran’s organization, which has more than fifty (50) members; has owned or rented a building or space in a building for more than one (1) year that is suitable and adequate for the accommodation of its members; and which is directed by a board of directors, executive committee, or other similar body chosen by the members at a meeting held for that purposes.
No member, officer, agent, or employee shall receive any profit from the distribution or sale of beverages to the members of the club or their guests beyond a reasonable salary or wages fixed and voted each year by the governing body.

Subd. 10. “Cocktail Room” is an establishment on the premises of or adjacent to one distillery location owned by a distiller for the on-sale of distilled liquor produced by the distiller.

Source: Ordinance 18-2015
Effective Date: 11-26-2015

Subd. 11. “Distilled Spirits” is ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whiskey, rum, brandy, gin, and other distilled spirits, including all dilutions and mixtures thereof, for nonindustrial use.

Source: Ordinance 18-2015
Effective Date: 11-26-2015

Subd. 12. “Growler” is malt-liquor sold off-sale by a small brewer or brew pub, which has been produced and packaged by the brewer in 64-ounce containers commonly known as growlers or in 750 milliliter bottles.

Source: Ordinance 8-2015
Effective Date: 6-25-2015

Subd. 13. "Guest" means a person not a member of the club licensee but present on the club licensed premises in the company of a host member.

Subd. 14. "Host Member" means a member who is entertaining a guest who is in the member's company at all times such guest is on the licensed premises.

Subd. 15. "Hotel" is an establishment where food and lodging are regularly furnished to transients and which has a resident proprietor or manager, a dining room serving the general public at tables and facilities for seating at least one hundred (100) guests at one time and a minimum of one hundred (100) guest rooms.

Subd. 16. "Intoxicating Liquor" and "Liquor" mean ethyl alcohol and distilled, fermented, spirituous, vinous and malt liquor containing in excess of 3.2 percent of alcohol by weight.

Subd. 17. "License" means a document issued by the City to an applicant permitting him to carry on and transact the business stated therein.

Subd. 18. "License fee" means the money paid to the City pursuant to an application and prior to issuance of a license to transact and carry on the business stated therein.

Subd. 19. "Licensee" means an applicant who, pursuant to his approved application, holds a valid, current, unexpired license, which has neither been revoked nor suspended, from the City for carrying on the business stated therein.

Subd. 20. “Malt Liquor” means any beer, ale, or other beverage made from malt by fermentation and containing not less than one-half of one percent alcohol by volume.

Source: Ordinance 8-2015
Effective Date: 6-25-2015

Subd. 21. "Manufacturer" means every person who, by any process of manufacture, fermenting, brewing, distilling, refining, rectifying, blending, or by the combination of different materials, prepares or produces liquors, wine or beer for sale.

Subd. 22. "Member" means any person in good standing according to rules and regulations of the licensed club, wherever located, having evidence of current membership upon his person.
Subd. 23. “Microdistillery” is a distillery operated within the state producing premium, distilled spirits in total quantity not to exceed 40,000 proof gallons in a calendar year, which distillery is licensed under Minn. Stat. Chap 340A.

Source: Ordinance 18-2015
Effective Date: 11-26-2015

Subd. 24. "Off-sale" means the retail sale of beer or liquor in original packages for consumption off or away from the premises where sold.

Subd. 25. "On-sale" means the retail sale of beer, wine or liquor by the glass or by the drink for consumption on the premises where sold only.

Subd. 26. "Package" and "original package" mean any container or receptacle holding liquor, wine or beer, which container or receptacle is corked, capped or sealed by a manufacturer or wholesaler.

Subd. 27. "Restaurant" is an establishment, other than a hotel, under the control of a single proprietor or manager, where meals are regularly served at tables to the general public and having a seating capacity for a minimum of one hundred fifty (150) guests.

Subd. 28. “Restaurant Movie Theater” is an establishment that is both a Restaurant, as defined in Section 4.01, Subd. 27 of this Chapter, and a movie theater in which movies or motion pictures are shown.

Source: Ordinance 11-2016
Effective Date: 6-02-2016

Subd. 29. “Small Brewer” is a brewer licensed under section 340A.301, subdivision 6, clause (c), (i), or (j) who also holds a retail license to sell off-sale malt liquor at its licensed premises which has been produced and packaged by the brewer.

Source: Ordinance 8-2015
Effective Date: 6-25-2015

Subd. 30. "Wholesaler" means any person engaged in the business of selling liquor, wine or beer to retail dealers.

Subd. 31. "Wine" is sparkling and carbonated wine, wine made from condensed grape must, wine made from other agriculture products than sound, ripe grapes, imitation wine, compounds sold as wine, vermouth, cider, perry and sake, in each instance not containing less than seven percent (7%) nor more than twenty-four percent (24%) alcohol by volume for nonindustrial use.

Source: Ordinance No. 13-92
Effective Date: 6-5-92

SECTION 4.02. LICENSE REQUIRED.
It is unlawful for any person to directly or indirectly, on any pretense or by any device, sell, barter, keep for sale, charge for possession, or otherwise dispose of alcoholic beverages as part of a commercial transaction without having obtained the license or permit required by this Chapter and/or Minnesota Statutes Chapter 340A. The licenses permitted under this Chapter are as follows: Beer (4.20), Temporary Beer (4.21), Brewer Taproom and Small Brewer (4.22), Brew pub (4.23), Cocktail Room and Microdistillery Off-Sale (4.24), Intoxicating Liquor (4.30), Temporary Intoxicating Liquor (4.31), and Wine (4.40).

Source: Ordinance 18-2015
Effective Date: 11-26-2015

This Section shall not apply to (1) to possession or handling for sale or otherwise of sacramental wine or to any representative of any religious order or for use in connection with a legitimate religious ceremony; (2) to such potable
liquors as are prescribed by licensed physicians and dentists for therapeutic purposes; (3) to industrial alcohol and its compounds not prepared or used for beverage purposes; (5) to sales by manufacturers to wholesalers duly licensed as such by the State of Minnesota and to sales by wholesalers to persons holding on-sale or off-sale licenses from the City.

Source: Ordinance 8-2015
Effective Date: 6-25-2015

SECTION 4.03. LICENSE APPLICATIONS.

Subd. 1. Application. All applications shall be made at the office of the City Clerk upon forms if prescribed by the proper Department of State of Minnesota, together with such additional information as the Council may desire. If State forms are not prescribed, then applications shall be made upon forms furnished by the City. Information required may vary with the type of business organization making application. All questions asked or information required by the application forms shall be answered fully and completely by the applicant.

Source: Ordinance 18-2015
Effective Date: 11-26-2015

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

Subd. 3. Application and Investigation Fees.

A. Investigation Fee. At the time of the initial application, applicants for on-sale liquor licenses, beer licenses, on-sale wine licenses, cocktail room licenses, brewer taproom licenses and on-sale brew pub licenses shall pay a fee to the City which shall be considered an investigation fee, not refundable to applicant, to cover the costs of the City in the investigation of the application. No such fee shall be required of an applicant for a temporary beer or liquor license, a microdistillery off-sale license, a small brewer license or an off-sale brew pub license. An application is not complete until payment of the investigation fee.

Source: Ordinance 18-2015
Effective Date: 11-26-2015

B. License Fee. Prior to issuance of a license, all applicants for a license issued under this Chapter shall pay a fee to the City which shall be considered an application fee, not refundable to applicant except as provided in Section 4.07, Subd. 7 of this Chapter, to cover the costs of the City in administering the license. If the license issued is for less than a full year, the license fee shall be prorated based on the date of issuance of the license.

Source: Ordinance 8-2015
Effective Date: 6-25-2015

Subd. 4. Applications for Renewal. Applications for renewal of all licenses under this Chapter shall be made at least sixty (60) days prior to the date of expiration of the license and shall contain such information as is required by the City. This time requirement may be waived by the Council for good and sufficient cause.

Subd. 5. Corporate Applicants and Licensees. A corporate applicant, at the time of application, shall furnish the City with a list of all persons that have an interest in such corporation and the extent of such interest. The list shall name all shareholders holding more than five percent (5%) of all issued and outstanding stock of the corporation and show the number of shares held by each, either individually or beneficially for others. It is the duty of each corporate licensee to notify the City Clerk in writing of any change in legal ownership or beneficial interest in such corporation or in such
shares. The notice of such change must be given within ten (10) days of its occurrence. Any change in the ownership or beneficial interest in the shares entitled to be voted at a meeting of the shareholders of a corporate licensee, which results in the change of voting control of the corporation by the persons owning the shares therein, shall be deemed equivalent to a transfer of the license issued to the corporation. The council or any officer of the City designated by it may at any reasonable time examine the stock transfer records and minute books of any corporate licensee in order to verify and identify the shareholders, and the Council or its designated officer may examine the business records of any other licensee to the extent necessary to disclose the interest which persons other than the licensee have in the licensed business.

**Subd. 6.** Every application for the issuance or renewal of a license for the sale of intoxicating or non-intoxicating liquor must include a copy of each Summons received by the applicant under Minnesota Statutes, Section 340A.802, during the preceding year.

**SECTION 4.04. FINANCIAL RESPONSIBILITY OF APPLICANTS AND LICENSEES.**

**Subd. 1. Proof.** No alcoholic beverage license shall be issued, maintained, or renewed unless and until the applicant has provided proof of financial responsibility imposed by Minnesota Statutes, Section 340A.409, by filing with the City:

A. A certificate that there is in effect an insurance policy or pool providing minimum coverages of (1) $50,000.00 because of bodily injury to any one person in any one occurrence, and $100,000.00 because of bodily injury to two or more persons in any one occurrence, and in the amount of $10,000.00 because of injury to or destruction of property of others in any one occurrence; and (2) $50,000.00 for loss of means of support of any one person in any one occurrence and $100,000 for loss of means of support of two or more persons in any one occurrence, (an annual aggregate policy limit for dram shop liability of not less than $310,000.00 or such higher amount as specified by state statute.

   Source: Ordinance No. 14-2017  
   Effective Date: 8-17-2017

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

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

   Source: Ordinance No. 13-92  
   Effective Date: 6-5-92

**Subd. 2. Exception.** This Section does not apply to licensees identified in Minnesota Statutes Section 340A.409, Subd. 4. An applicant seeking to use this exception shall, prior to issuance of a license, provide to the City a copy of the affidavit required by statute.

   Source: Ordinance 8-2015  
   Effective Date: 6-25-2015  
   Prev. Ordinance No. 10-98  
   Effective Date: 5-1-98

**Subd. 3.** The liability insurance policy, bond or certificate of the State Treasurer required above shall provide that it may not be canceled for any cause by the licensee, the insurance company, bond company or State Treasurer without first giving thirty (30) days' notice to the municipality in writing of intention to cancel it. Such notice must be addressed to the City Clerk.

**Subd. 4. Documents Submitted to Commission.** All proofs of financial responsibility and exemption affidavits filed with the City under this Section shall be submitted by the City to the Minnesota Commissioner of Public Safety.
SECTION 4.05. PROCESSING OF APPLICATION.

Subd. 1. Investigation and Granting. Upon receipt of an application it may be referred to the Chief of Police who shall institute such investigation of the applicant and the contents of the application as is deemed necessary including, but not limited to, a criminal history check with the Bureau of Criminal Apprehension. The Council may approve any application for the period of the remainder of the then current license year or for the entire ensuing license year. All applications including proposed license periods must be consistent with this Chapter.

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

Subd. 3. Issuing. If an application is approved, the City Clerk shall forthwith issue a license pursuant thereto in the form prescribed by the City or the proper Department of the State of Minnesota, as the case may be, upon payment of the license fee. All licenses shall be on a calendar year basis unless otherwise specified herein. Licenses shall be valid only at one location and on the premises therein described.

Subd. 4. Conditional Licenses. Notwithstanding any provision of law to the contrary, the Council may, upon a finding of the necessity therefor, place such special conditions and restrictions, in addition to those stated in this Chapter, upon any license as it, in its discretion, may deem reasonable and justified.

Subd. 5. Every license shall be granted subject to the provisions of this Chapter and all other laws relating to the operation of licensee's business.

Subd. 6. No license shall be effective until a license shall be issued to a licensee under the laws of the United States or the laws of the State of Minnesota, if required by such laws.

SECTION 4.06. STANDARDS.

Subd. 1. The council may in its sole discretion, for any reasonable cause, refuse to grant any application.

Subd. 2. No license may be issued under this section to:

A. A person under twenty-one (21) years of age.
B. A person who within five (5) years of the license application has been convicted of a felony or a willful violation of a federal or state law or local ordinance governing the manufacture, sale, distribution, or possession for sale or distribution of intoxicating liquor or non-intoxicating malt liquors.

C. A person who has had an intoxicating or non-intoxicating liquor license revoked within five (5) years of the license application; or to any person who at the time of the violation owns any interest, whether as a holder of more than five percent (5%) of the capital stock of a corporation licensee, as a partner or otherwise, in the premises or in the business conducted thereon; or to a corporation, partnership, association, enterprise, business, or firm in which any such person is in any manner interested.

D. A person not of good moral character or repute.

Subd. 3. No license shall be granted to an applicant who has a direct or indirect interest in a manufacturer, brewer or wholesaler, except to a microdistillery, brew pub, brewer taproom, or small brewer, as defined in this Chapter.

Subd. 4. Except as otherwise provided in this Chapter, no license shall be granted for any building within three hundred (300) feet of any public elementary or secondary school structure or within one hundred (100) feet of any church structure.

Subd. 5. Delinquent Taxes and Charges. No license under this Chapter shall be granted for operation on any premises upon which taxes, assessments, or installments thereof are owed by the applicant and are delinquent and unpaid, except those delinquent and unpaid taxes, assessments, or installments thereof.

A. Which are the subject of an agreement between the taxpayer and the Hennepin County Treasurer that provides for the payment of the delinquent and unpaid taxes, assessments, or installments, together with any penalty and interest thereon in twelve (12) equal monthly payments commencing on or before the date the license is granted, and further provides that any unpaid amount, together with any additional penalty and interest will be paid on or before the date of the payment of the last installment, and

B. The licensee shall have entered into an agreement with the City that in the event the taxpayer has not complied with the terms of the agreement with the Hennepin County Treasurer, such noncompliance shall be sufficient grounds to suspend or revoke the license.

For the purpose of this Section, "applicant" includes persons and related persons owning, directly or indirectly, (1) at least a fifty percent (50%) beneficial interest in the proposed licensee or in an entity owning such interest in the proposed licensee or in the entity making the application and (2) at least an undivided one-half interest in the premises proposed to be licensed or at least a fifty percent (50%) beneficial interest in the entity owning such premises.
Subd. 6. Limitation on Ownership. No person shall be granted liquor or wine licenses at more than two locations. For the purpose of this Section, any person owning an interest of five percent (5%) or more of the entity to which the license is issued or such ownership by a member of his immediate family shall be deemed to be a licensee.

Source: Ordinance No. 21-96  
Effective Date: 5-31-96

Subd. 7. The Council may issue the number of licenses authorized by statute or restrict such number from time to time as it may, in its discretion, deem proper.

Source: Ordinance 8-2015  
Effective Date: 6-25-2015

SECTION 4.07. GENERAL PROVISIONS REGARDING LICENSES.

Subd. 1. Duplicate licenses. Duplicates of all original licenses under this Chapter may be issued by the City Clerk without action by the Council.

Subd. 2. Posting. All licensees shall conspicuously post their licenses in their places of business.

Source: Ordinance No. 13-92  
Effective Date: 6-5-92

Subd. 3. Premises Licensed. Unless expressly stated therein, a license issued under the provisions of this Chapter shall be valid only in the compact and contiguous building or structure situated on the premises described in the license; and all transactions relating to a sale under such license must take place within such building or structure, except that in the case of a restaurant licensed for on sale alcoholic beverages and located on a golf course, “licensed premises” means the entire golf course except for areas where motor vehicles are regularly parked or operated.

Source: Ordinance No. 24-97  
Effective Date: 5-30-97

Subd. 4. Principal Part of Business.

A. Restaurant: A licensed restaurant, including a brew pub, shall be conducted in such manner that the principal part of the business for a license year is the serving of food. For restaurants, "principal part" shall mean forty percent (40%) or more of the gross receipts.

B. Hotel. A hotel shall be conducted in such manner that, in relation to that part of the total business attributable to or derived from the serving of food and intoxicating liquors, the principal part of the business for a license year is the serving of food. For hotels, "principal part" shall mean forty percent (40%) or more of the gross receipts.

C. Bowling Center. A bowling center shall be conducted in such manner that the principal part of the business for a license year is composed of food, beverage, vending machine sales, bowling activity and other recreational activities and sales including, but not limited to, bowling, bowling equipment, arcade games, and billiards. For bowling centers, “principal part” shall mean seventy percent (70%) or more of gross receipts.

Source: Ordinance 8-2015  
Effective Date: 6-25-2015

(Prev. Ordinance No. 35-2003  
Effective Date: 12-11-2003)

(Prev. Ordinance No. 55-97  
Effective Date: 10-30-1997)
D. Restaurant Movie Theater: A licensed restaurant movie theater shall be conducted in such manner that the principal part of the business for a license year is the serving of food and the sale of movie tickets. For restaurant movie theaters, "principal part" shall mean seventy percent (70%) or more of the gross receipts.

Source: Ordinance 11-2016  
Effective Date: 6-02-2016

Subd. 5. Premises Subject to Inspection. All premises licensed under this Chapter shall at all times be open to inspection by any police officer to determine whether or not this Chapter and all other laws are being observed. All persons, as a condition to being issued such license, consent to such inspection by such officers and without a warrant for searches or seizures.

Subd. 6. Conduct on Licensed Premises. Except as herein provided, every licensee under this Chapter shall be responsible for the conduct of his place of business and shall maintain conditions of sobriety and order therein.

Subd. 7. License Fee Refund in Certain Cases. A pro-rata share of an annual license fee for a license issued under this section shall be refunded to the licensee or to the licensee's estate only under the following circumstances: the business ceases to operate because of destruction or damage, the licensee dies, the business ceases to be lawful for a reason other than a license revocation or the licensee ceases to carry on the licensed business under the license. Under any of these circumstances the license shall be deemed to have expired.

Source: Ordinance 8-2015  
Effective Date: 6-25-2015

Subd. 8. Transfer. No license shall be transferable between persons or location without the consent of the Council.

Subd. 9. Termination. Licenses shall terminate only by expiration or revocation.

Subd. 10. Amendment of licensed liquor premises. A holder of an on-sale intoxicating liquor license shall make application to the office of the City Clerk for a temporary amendment of the licensed premises, at least 60 days in advance, of any event at which the licensee proposes to amend the liquor licensed premises to provide for liquor service in a compact and contiguous area not included in the original license application. Included in that application, the licensee must submit a site plan of the compact and contiguous area from which intoxicating liquor is to be dispensed and consumed, the maximum anticipated number of guests attending the event and the total occupancy load for the area covered by the temporarily amended licensed premises. The application must include evidence of insurance for the area covered by the temporarily amended licensed premises and payment of the temporary amendment processing fee set forth in the City Fee Resolution. A security plan and parking, pedestrian circulation and traffic directional plan approved by the City Police Department and a fire safety plan approved by the City Fire Marshal may also be required, as deemed necessary by the City. The City Council will consider all such amendments to the licensed premises using the following criteria:

A. The area to be used must be immediately adjacent to the licensed premises;

B. The area will be used in connection with a special event no longer than three days in duration;

C. No more than three temporary amendments per year will be allowed for a licensee at one establishment and a special license issued to a non-profit, charitable, religious or political organization which contracts with the licensee for provision of service will be counted as part of this total;

D. Adequate measures will be taken to control access to the additional area, to ensure that alcoholic beverages will not be furnished in violation of state law or this city code to persons under the age of 21 years, obviously intoxicated persons or carried outside of the licensed premises or the temporarily expanded area;
E. Adequate measures will be taken to ensure that there will not be a violation of the city's noise ordinance;
F. The use of the additional area will not decrease available parking below that required by the zoning ordinance for the licensed premises;
G. The use of the additional area will not unreasonably impede traffic circulation;
H. The licensee has obtained adequate liability insurance for the additional area; and
I. The issuance of the temporary amendment will not be adverse to the public health, safety and welfare.

Source: Ordinance 25-2018
Effective Date: 12-13-2018

SECTION 4.08. RESTRICTIONS AND REGULATIONS.

Subd. 1. It is unlawful for any:

A. Club or any business establishment to allow the consumption or display of liquor or the serving of any liquid for the purposes of mixing liquor therewith, unless duly licensed under the provisions of this Chapter.
B. Licensee to permit anyone under the age of twenty-one (21) years to consume alcoholic beverages on the licensed premises.
C. Licensee to fail, where doubt could exist, to require adequate proof of age of a person upon licensed premises for the purpose of consuming, purchasing or procuring alcoholic beverages. Such proof of age may be established only as set forth in Minnesota Statutes Section 340A.503, Subd. 6.

Source: Ordinance 8-2015
Effective Date: 6-25-2015

D. Licensee to hinder or prevent a police officer from making an inspection to determine whether or not the provisions of this Chapter and all laws are being observed.

E. Licensee to sell beer, wine or liquor on any day or at any time when such sales are not permitted by law.

F. Licensee to permit consumption of beer, wine or liquor on licensed premises more than twenty (20) minutes after the hour when a sale thereof can legally be made.

G. Any on-sale licensee to permit any glass, bottle or other container, containing beer, wine or liquor in any quantity, to remain upon any table, bar stool or other place where customers are served, more than twenty (20) minutes after the hour when a sale thereof can legally be made.

H. Licensee to permit any gambling or gambling device upon the licensed premises except such as are licensed by the State of Minnesota.

I. Licensee to sell beer, wine or liquor to any person who is obviously intoxicated.

J. Licensee to sell, offer for sale, or keep for sale, beer, wine or liquor in any original package which has been refilled or partly refilled, except for the off-sale of malt liquor by a brew pub or small brewer as permitted by this Chapter.

Source: Ordinance 8-2015
Effective Date: 6-25-2015
K. Licensee to display beer, wine or liquor to the public during hours when sale of these beverages is prohibited.

Source: Ordinance No. 13-92
Effective Date: 6-5-92

L. Licensee to employ, hire, allow or permit any person to dance or perform, or remain in or upon the licensed premises while such person is unclothed or in such attire, costume or clothing as to expose to view any portion of the breast below the top of the areola, or any of any portion of the pubic hair, anus, cleft of the buttocks, or genitals.

Source: Ordinance No. 1-2007
Effective Date: 1-11-2007

SECTION 4.09. REVOCATION, SUSPENSION OR FINE.

Subd. 1. Violations and Penalties. Upon a finding that the holder of any license granted pursuant to this Chapter has (1) sold alcoholic beverages to another retail licensee for the purpose of resale, (2) purchased alcoholic beverages from another retail licensee for the purpose of resale, (3) conducted or permitted the conduct of gambling on the licensed premises in violation of the law, or (4) failed to comply with any applicable statute, regulation or ordinance relating to an alcoholic beverage, the Council may revoke the license, suspend the license for a period not to exceed sixty (60) days, or impose a civil penalty of up to $2,000 for each violation, or impose any combination of these sanctions. The civil penalty and/or suspension and revocation imposed pursuant to this section shall be based on the licensee’s total number of violations at the specific location, at which the violation occurred, within the preceding 24-month period as follows:

<table>
<thead>
<tr>
<th>Number of Violations</th>
<th>Penalty Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>First Violation</td>
<td>$500</td>
</tr>
<tr>
<td>Second Violation</td>
<td>$1,000</td>
</tr>
<tr>
<td>Third Violation</td>
<td>$1,500, plus two day suspension of license</td>
</tr>
<tr>
<td>Fourth Violation</td>
<td>$2,000, plus a suspension of not less than 5 days nor more than 60 days or revocation as determined by the City Council</td>
</tr>
</tbody>
</table>

Payment of the civil penalty shall be made within 30 days of issuance of the citation referred to in Subdivision 2 hereof. A suspension for a Third Violation under this section shall be served for consecutive days starting on the first Monday following the later of the expiration of the time to request a hearing under Subd. 2, if a hearing is not requested, or, if a hearing has been timely requested, the date a decision is rendered pursuant to Subd. 2.d. that a violation occurred. A suspension for a Fourth Violation under this section shall be served in the manner and at such time as decided by the City Council.

Subd. 2. Notification, Hearing and Appeal. The following notification, hearing and appeals process will apply to violations of this Section.

A. Notice. Upon discovery of a suspected violation of this Section, the alleged violator shall be issued, either personally or by mail, a citation that sets forth the alleged violations and which shall inform the alleged violator of his or her right to be heard on the accusation. The person responsible for the violation must either pay the scheduled fine or request a hearing under Subd. 2.B. of this Section. Payment of the fine constitutes admission of the violation.

B. Hearings. No suspension or revocation shall take effect until the license holder has been given an opportunity for a hearing before the hearing examiner, pursuant to Minnesota Statutes, Sections 14.57 - 14.69. Unless a hearing is required as stated in the first sentence of this Subparagraph, any person accused of violating this Section who desires a hearing must submit a request to the hearing examiner within fifteen (15) days after issuance of the citation. A hearing requested, or in the case of suspension or revocation, required, in accordance with this Section shall be scheduled by the hearing examiner for a date not to exceed forty-five (45) days from
receipt of the request or in the case of suspension or revocation, within forty-five (45) days from the date of issuance of the citation. Notice of the hearing must be served in person or by mail on the person responsible for the violation at least fifteen (15) days in advance of the hearing, unless a shorter time is accepted by all parties. Such notice shall contain the time, place and issues involved, but if by reason of the nature of the case, the issues cannot be fully stated in advance of the hearing, or if subsequent amendment of the issues is necessary, they shall be fully stated as soon as practicable, and opportunity shall be afforded to the holder of the license to present evidence and argument with respect thereto.

C. **Hearing Examiner.** The City Council may designate the entire Council, a committee of the Council, a member thereof, or an employee of the Office of Administrative Hearings to serve as hearing examiner.

D. **Decision.** If it is determined at a hearing that a violation of this Section occurred, that decision along with the reasons for finding a violation and the penalty to be imposed under this Section shall be recorded in writing, a copy of which shall be provided to the accused violator and the City Council if it is not the hearing examiner. In the case of a Fourth Violation if the City Council has designated someone other than the entire Council to serve as the hearing examiner, the hearing examiner’s decision and recommendation for the penalty to be imposed shall be referred to the City Council. The City Council shall consider the recommendation of the hearing examiner and impose a penalty within thirty days of the Council’s receipt of the decision. If it is determined at hearing that no violation occurred or finds grounds for not imposing any penalty, such findings shall be recorded and a copy provided to the acquitted violator.

E. **Appeal.** Appeal of any decision made by the hearing examiner shall be filed in Hennepin County District Court.

**Subd. 3. Continued Violation.** Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense.

**Subd. 4. Late Payment.** A late payment fee of 10% of the penalty shall be assessed for each thirty-day period in which the penalty remains unpaid after the due date.

**Subd. 5. Misdemeanor Prosecution.** Nothing in this Section shall prohibit the City from seeking prosecution as a petty misdemeanor, misdemeanor or gross misdemeanor for any violation of this Section. If the City elects to seek prosecution, an administrative penalty may also be imposed.

Source: Ordinance No. 40-99
Effective Date: 11-25-99

(Sections 4.10 through 4.19, inclusive, reserved for future expansion.)

**SECTION 4.20. BEER LICENSE REQUIRED.**

An applicant may apply for an on-sale and/or off-sale beer license required under this Chapter.

Source: Ordinance 8-2015
Effective Date: 6-25-2015

Prev. Ordinance No. 13-92
Effective Date: 6-5-92

**SECTION 4.21. TEMPORARY BEER LICENSE.**

**Subd. 1. Applicant.** A club or charitable, religious, or non-profit organization, duly incorporated as a non-profit or religious corporation and having its registered office and principal place of activity within the City (“organization”), may apply for a required temporary on-sale beer license for serving beer on and off school grounds and in and out of school buildings.
Subd. 2. Conditions.

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

B. No organization shall qualify for a temporary license for more than a total of seven (7) days in any calendar year. No more than three (3) temporary on-sale beer licenses may be issued to one (1) organization or for any one (1) location within a twelve (12) month period.

C. The Council may grant a temporary beer license on premises owned or controlled by the City, but at no time shall the Council be under any obligation whatsoever to do so. Any such license may be conditioned, qualified or restricted as the Council sees fit. If the premises to be licensed are owned or under the control of the City, the applicant shall file with the City, prior to issuance of the license, a certificate of liability insurance coverage in at least the sum of $100,000.00 for injury to any one person and $300,000.00 for injury to more than one person, naming the City as an insured during the license period.

SECTION 4.22. BREWER TAPROOM AND SMALL BREWER (GROWLER) LICENSES REQUIRED.

Subd. 1. A brewer taproom may apply for a malt liquor on-sale brewer taproom license required under this Chapter. Brewer taproom licenses are subject to all conditions and restrictions contained in Minnesota Statutes § 340A.26.

Subd. 2. A small brewer may apply for a malt liquor off-sale small brewer license required under this Chapter. Small brewer licenses are subject to all conditions and restrictions contained in Minnesota Statutes Sections 340A.28 and 340A.285.

SECTION 4.23. BREW PUB ON-SALE AND OFF-SALE (GROWLER) LICENSES REQUIRED

Subd. 1. A brew pub may apply for an intoxicating liquor or 3.2 malt liquor on-sale brew pub license for a restaurant operated in the place of manufacture required under this Chapter. On-sale brew pub licenses are subject to all conditions and restrictions contained in Minnesota Statutes Section 340A.24.

Subd. 2. A brew pub that holds an on-sale brew pub license may apply for a malt liquor off-sale brew pub license required under this Chapter. Off-sale brew pub licenses are subject to all conditions and restrictions contained in Minnesota Statutes Sections 340A.24 and 340A.285.
SECTION 4.24. COCKTAIL ROOM AND MICRODISTILLERY OFF-SALE LICENSES REQUIRED.

Source: Ordinance 18-2015
Effective Date: 11-26-2015

Subd. 1. A microdistillery may apply for a microdistillery cocktail room license for the on-sale of distilled spirits required under this Chapter. Cocktail room licenses are subject to all conditions and restrictions contained in Minnesota Statutes § 340A.22.

Subd. 2. A microdistillery may apply for a microdistillery off-sale license for the off-sale of distilled spirits required under this Chapter. Microdistillery off-sale licenses are subject to all conditions and restrictions contained in Minnesota Statutes Sections 340A.22.

(Sections 4.25 through 4.29, inclusive, reserved for future expansion.)

SECTION 4.30. LIQUOR LICENSE REQUIRED.

An applicant may apply for an on-sale intoxicating liquor license required under this Chapter for a hotel, restaurant, restaurant movie theater, bowling center, club, or congressionally chartered veteran’s organization.

Source: Ordinance 8-2015
Effective Date: 6-25-2015
Prev. Ordinance No. 13-92
Effective Date: 6-5-92

SECTION 4.31. TEMPORARY LIQUOR LICENSE.

Subd. 1. A club, charitable, religious, or other non-profit organization in existence for at least three (3) years, or to a political committee registered under Minnesota Statutes Section 10A.14 ("organization"), may apply for a temporary license required for the on-sale of intoxicating liquor in connection with a social event held within the City and sponsored by the licensee. The license may authorize the on-sale of intoxicating liquor for not more than four (4) consecutive days and may authorize on-sales on premises other than premises the licensee owns or permanently occupies. No more than (a) three (3) four-day, four (4) three-day, or six (6) two-day in any combination not to exceed twelve (12) days per year temporary on-sale intoxicating liquor licenses may be issued to any one (1) organization or for any one location, within a twelve (12) month period or (b) one (1) temporary license to any one (1) organization for any one location within any 30-day period. The license may provide that the licensee may contract for intoxicating liquor catering services with the holder of a full-year on-sale intoxicating liquor license issued by any municipality. Temporary licenses are subject to all laws and ordinances governing the sale of intoxicating liquor except those relating to insurance required by State law and/or City Code and except those which by their nature are not applicable. Temporary licenses are not valid unless first approved by the Minnesota Commissioner of Public Safety.

Source: Ordinance 8-2015
Effective Date: 6-25-2015
Prev. Ordinance No. 30-96
Effective Date: 8-16-96
**Subd. 2.** The Council may issue to the Eden Prairie Foundation a temporary license for the on-sale of intoxicating liquor in accordance with the provisions of Chapter 86, Laws 1985.

Source: Ordinance No. 13-92  
Effective Date: 6-5-92

**SECTION 4.32.** Repealed.

Source: Ordinance 8-2015  
Effective Date: 6-25-2015

 Prev. Ordinance No. 35-2003  
Effective Date: 12-11-2003

 Prev. Ordinance No. 21-2003  
Effective Date: 7-10-2003

**SECTION 4.33.** Repealed.

Source: Ordinance 8-2015  
Effective Date: 6-25-2015

 Prev. Ordinance No. 35-2003  
Effective Date: 12-11-2003

 Prev. Ordinance No. 55-97  
Effective Date: 10-31-97

 Prev. Ordinance No. 21-2003  
Effective Date: 7-10-2003

(Section 4.34 through 4.39, inclusive, reserved for future expansion.)

**SECTION 4.40. ON-SALE WINE LICENSE REQUIRED.**

Subd. 1. An applicant may apply for an on-sale wine license required under this Chapter for a restaurant or restaurant movie theater which has appropriate facilities for seating not less than fifty (50) guests at one time.

Subd. 2. Notwithstanding the prohibition contained in Section 4.02 hereof, the holder of an on-sale wine license who also holds an on-sale beer license may sell malt liquor containing in excess of 3.2% of alcohol by weight at on-sale without an additional license.

Source: Ordinance 8-2015  
Effective Date: 6-25-2015

 Prev. Ordinance No. 10-2002  
Effective Date: 4-25-2002

**SECTION 4.41.** Repealed.

Source: Ordinance 8-2015  
Effective Date: 6-25-2015

 Prev. Ordinance No. 55-97  
Effective Date: 10-31-97

 Prev. Ordinance No. 21-2003  
Effective Date: 7-10-2003

(Section 4.42 through 4.49, inclusive, reserved for future expansion.)
SECTION 4.50. SPORTS OR CONVENTION AND COMMUNITY FESTIVAL LICENSE.
Notwithstanding the restrictions set forth in Section 4.06, Subd. 4 of the City Code, the Council may authorize any holder of an on-sale license issued by the City or by an adjacent municipality to dispense liquor at any convention, banquet, conference, meeting or social affair conducted on the premises of a sports or convention facility owned by the City, or instrumentality thereof having independent policy-making and appropriating authority and located within the City. The licensee must be engaged to dispense liquor at such an event by the person or organization permitted to use the premises and may dispense liquor only to persons attending the event. The licensee shall not dispense liquor to any person attending or participating in any amateur athletic event. Such dispensing may be limited to designated areas of the facility. All such dispensing shall be subject to all laws relating thereto. The Council may authorize a holder of a retail on-sale intoxicating liquor license issued by the municipality to dispense intoxicating liquor off premises at a community festival held within the municipality. The authorization shall specify the area in which the intoxicating liquor must be dispensed and consumed, and shall not be issued unless the licensee demonstrates that it has liability insurance as prescribed by section 340A.409 to cover the event.

Source: Ordinance No. 14-2017
Effective Date: 8-17-2017

Source: Ordinance No. 7-2008
Effective Date: 3-13-2008

(Sections 4.51 through 4.59, inclusive, reserved for future expansion.)

SECTION 4.60. CLUB LICENSEE RESTRICTIONS.

Subd. 1. Unlawful Acts. The following are in addition to all other unlawful acts set forth in this Chapter relating to sales and purchases of beer or liquor. It is unlawful for any:

A. Club licensee to sell liquor or beer to any person not a member of the licensed club.
B. Club licensee to serve beer or liquor to any non-member of the licensed club unless such non-member is a guest.
C. Person who is not a member of the licensed club to purchase liquor or beer from the club.
D. Club licensee to hinder or prevent a police officer from determining compliance with this Section and Chapter and all other laws.
E. Person to refuse, upon request of a licensee or police officer, to provide information as to whether he or she is a member, guest, or host member or to give false, fraudulent, or misleading information in response to such request.

SECTION 4.61. RESTAURANT MOVIE THEATER LICENSEE REQUIREMENTS AND RESTRICTIONS.

Source: Ordinance 11-2016
Effective Date: 6-02-2016

Subd. 1. Requirements. The following are in addition to all other requirements set forth in this Chapter. Every restaurant movie theater shall:

A. Be under the control and ownership of a single person. No part of the restaurant or the movie theater, including but not limited to the property, equipment and operations, shall be owned or controlled by separate persons.
B. Consist of one stand-alone structure containing a minimum of 70,000 square feet.
C. Have a minimum of 50 tables, each with a table top containing a minimum of 433 square inches. The tables shall be permanently attached to the floor and the seats shall be permanently attached to the floor or the table. The tables shall be divided proportionately between the movie screening rooms in which alcoholic beverages are allowed.

D. Appoint a manager pursuant to Section 4.05, Subd. 2 of this Chapter, which manager shall operate both the restaurant and the movie theater.

Subd. 2. Unlawful Acts. The following are in addition to all other unlawful acts set forth in this Chapter. It is unlawful for any restaurant movie theater licensee to:

A. Offer any discounts or happy hours.

B. Allow any alcoholic beverage in any movie screening room where there are no tables.

C. Offer or sell wine or distilled spirits by the bottle.

D. Offer or sell wine in any amount exceeding 8 fluid ounces per serving.

E. Offer or sell distilled spirits in any amount exceeding 3 fluid ounces per serving.

F. Offer or sell malt liquor in any amount exceeding 24 fluid ounces per serving.

G. Offer or sell any alcoholic beverages containing more than 50% alcohol by volume.

H. Offer or sell any alcoholic beverage not in the original packaging without using a measuring device.

I. Offer or sell any alcoholic beverage to any person without requiring adequate proof of age. Such proof of age may be established only as set forth in Minnesota Statutes Section 340A.503, Subd. 6.

J. Offer or sell any more than 2 alcoholic beverages to one person in the same sale transaction.

(Sections 4.62 through 4.69, inclusive, reserved for future expansion.)

SECTION 4.70. MUNICIPAL DISPENSARY.

Subd. 1. Establishment. A Municipal Dispensary is hereby established to be operated within the City for the sale of liquor potable as a beverage and containing more than 3.2 percent of alcohol by weight. Such Dispensary shall be at such place or places as the Council shall determine and may be either leased or owned by the City. It shall be in the charge of a person known as the Manager who shall have such assistants as may be necessary. All employees, including the Manager, shall hold their positions at the pleasure of the Council.

Subd. 2. Dispensary Fund. A Liquor Dispensary Fund is hereby created into which all revenues received from the operation of the Dispensary shall be paid and from which all operating expenses shall be paid. Any surplus accumulating in this Fund may, from time to time, be transferred to the General Fund by resolution of the Council and expended for any municipal purpose.

SECTION 4.71. DAYS AND HOURS OF SALES.

Subd. 1. Beer/Non-Intoxicating Malt Liquor. Sale of beer/non-intoxicating malt liquor may be made only during those hours permitted by Minnesota Statutes Section 340A.504, Subd. 1.

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Subd. 2. Intoxicating Liquor on-sale. On-sale of intoxicating liquor may be made only during those hours permitted by Minnesota Statutes Section 340A.504, Subd. 2.

Subd. 3. Intoxicating Liquor off-sale. Off-sale of intoxicating liquor may be made only during those hours permitted by Minnesota Statutes Section 340A.504, Subd. 4.

Subd. 4. 2 a.m. The hours during which alcoholic beverages may be sold are extended to 2:00 a.m. for licensees who obtain a permit from the Commissioner of Public Safety pursuant to Minnesota Statutes § 340A.504, subd. 7.

Subd. 5. Sunday on-sale. Brew pubs, hotels, bowling centers, restaurants and clubs may apply for Sunday on-sale liquor licenses subject to, and for the hours set forth in, Minnesota Statutes Section 340A.504, Subd. 3. Taprooms may apply for Sunday on-sale malt liquor licenses subject to Minnesota Statutes Section 340A.26 for the hours set forth in Minnesota Statutes Section 340A.504, Subd. 3 for other Sunday sales. Microdistillery cocktail rooms may apply for Sunday on-sale of distilled spirits licenses subject to Minnesota Statutes Section 340A.22 for the hours set forth in Minnesota Statutes Section 340A.504, Subd. 3 for other Sunday sales.

Source: Ordinance No. 14-2017
Effective Date: 8-17-2017

Subd. 6. Sunday off-sale. Brew pubs and small brewers may apply for Sunday off-sale growler licenses subject to Minnesota Statutes Chapter 340A for the hours set forth in Minnesota Statutes Section 340A.504, Subd. 3 for Sunday on-sale.

Source: Ordinance 8-2015
Effective Date: 6-25-2015

(Sections 4.72 through 4.79, inclusive, reserved for future expansion.)

SECTION 4.80. UNLAWFUL ACTS.

Subd. 1. It is unlawful for any:

A. Person under the age of 21 years to consume any beer, wine, or liquor unless in the household of his or her parent or guardian and with the consent of the parent or guardian.

B. Person under the age of 21 years to possess any alcoholic beverage with the intent to consume it at a place other than the household of his or her parent or guardian. Possession at a place other than the household of the parent or guardian is prima facie evidence of intent to consume it at a place other than the household of the parent or guardian.

C. Person under the age of 21 years to purchase or attempt to purchase any alcoholic beverage.

Source: Ordinance No. 13-92
Effective Date: 6-5-92

D. A person under the age of 21 years to enter an establishment licensed under this Chapter for the purpose of purchasing or having served or delivered any alcoholic beverage. Persons under 21 years may enter establishments licensed under this Chapter in order to: consume meals; attend social functions that are held in a portion of the establishment where liquor is sold; and perform work for the establishment, except that persons under 18 years are prohibited from selling or serving any alcoholic beverage.

Source: Ordinance No. 24-97
Effective Date: 5-30-97
E. Person under the age of 21 years to claim to be 21 years old or older for the purpose of purchasing alcoholic beverages.

F. Person to induce person under the age of 21 years to purchase or procure any alcoholic beverage.

G. Person to consume beer, wine, or liquor on licensed premises more than twenty (20) minutes after the hour when a sale thereof can legally be made.

H. Person to purchase beer, wine, or liquor on any day or during any hour when sales are not permitted by law.

I. Person to sell, barter, furnish, or give alcoholic beverages to a person under 21 years of age except that a parent or guardian of a person under 21 years of age may give or furnish alcoholic beverages to that person solely for consumption in the household of the parent or guardian.

(Sections 4.81 through 4.89, inclusive, reserved for future expansion.)

SECTION 4.90. LICENSE FEES.
All license and investigation fees provided for in this Chapter, including, but not by way of limitation, fees for on-sale and off-sale of beer, temporary on-sale of beer, on-sale and temporary off-sale of liquor, on-sale of wine, cocktail room and microdistillery off-sale, on-sale and off-sale brewpub, brewer taproom, and small brewer shall be fixed and determined by the Council, adopted by resolution, and uniformly enforced. Such fees, may, from time to time, be amended by the Council by resolution. A copy of the resolution shall be kept on file in the office of the City Clerk and open to inspection during regular business hours.

Source: Ordinance 18-2015
Effective Date: 11-26-2015

Source: Ordinance 8-2015
Effective Date: 6-25-2015

(Sections 4.91 through 4.98, inclusive, reserved for future expansion.)

SECTION 4.99. VIOLATION A MISDEMEANOR.
Every person violates a section, subdivision, paragraph or provision of this Chapter when he or she performs an act thereby prohibited or declared unlawful or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof.

Source: Ordinance No. 13-92
Effective Date: 6-5-92
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CHAPTER 5
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SECTION 5.01. DEFINITIONS.
As used in this Chapter, the following words and terms shall have the meanings stated:

Subd. 1. "Applicant" means any person making an application for a license under this Chapter.

Subd. 2. "Application" means a form with blanks or spaces thereon to be filled in and completed by the applicant as his request for a license. The form will be furnished by the City and uniformly required as a prerequisite to the consideration of the issuance of a license for a business.

Subd. 3. "Bond" means a corporate surety document in the form and with the provisions acceptable and specifically approved by the City Attorney.

Subd. 4. "Business" means any activity, occupation, sale of goods or services, or transaction that is either licensed or regulated or both licensed and regulated by the terms and conditions of this Chapter.

Subd. 5. "License" means a document issued by the City to an applicant permitting him to carry on and transact a business.

Subd. 6. "Licensee" means an applicant who, pursuant to his application, holds a valid, current, unexpired and unrevoked license from the City for carrying on a business.

Subd. 7. "License fee" means the money paid to the City pursuant to an application and prior to issuance of a license to transact and carry on a business.

Subd. 8. “Operate” means to own, manage, or conduct, or to have control, charge, or custody over.

Source: Ordinance No. 27-2018
Effective Date: 12-13-18

Subd. 9. “Parent” means a person that owns five percent (5%) or more of an applicant or licensee (and officers, if such person is a corporation or other organization). A person (and officers, if such person is a corporation or other organization) owning five percent (5%) or more of a parent shall also be deemed a “parent.”

Source: Ordinance No. 27-2018
Effective Date: 12-13-18

Subd. 10. "Sale," "Sell" and "Sold" mean all forms of barter and all manner or means of furnishing merchandise to persons.

SECTION 5.02. APPLICATIONS.

Subd. 1. All applications shall be made at the office of the City Clerk upon forms that have been formulated by the City for such purposes.

Subd. 2. All initial applications shall be accompanied by a payment of a fee to be set by Council resolution to cover the cost of investigation as herein provided.
Subd. 3. All such applications must be subscribed, sworn to, and include, but not be limited to, the following:

A. Applicant's name, date of birth and citizenship.

B. Applicant's present address and length of time he has lived at that address.

C. Applicant's occupation and length of time so engaged.

D. Applicant's addresses and occupations for the three (3) years last preceding the date of application.

E. Names and addresses of applicant's employers, if any, for the three (3) years last preceding the date of application.

F. Whether or not applicant has ever been convicted of a felony, gross misdemeanor, or misdemeanor, including violation of a municipal ordinance but excluding traffic violations, and if so, the date and place of conviction and the nature of the offense.

G. Type of license and location of premises for which application is made.

H. At least four character references if applicant has not resided in the City for two (2) years last preceding the date of application.

I. Such other information as the Council shall deem necessary considering the nature of the business for which license application is made.

Subd. 4. It is unlawful for any applicant to intentionally make a false statement or omission upon any application form. Any false statement in such application or any willful omission to state any information called for on such application form shall, upon discovery of such falsehood, work an automatic refusal of license or, if already issued, shall render any license or permit issued pursuant thereto void and of no effect to protect the applicant from prosecution for violation of this Chapter or any part hereof.

Subd. 5. The City Clerk shall, upon receipt of each application completed in accordance herewith, forthwith investigate the truth of statements made therein and the moral character and business reputation of each applicant for license to such extent as he deems necessary. For such investigation the City Clerk may enlist the aid of the Chief of Police. The Council shall not consider an application before such investigation has been completed.

Subd. 6. Applications for renewal licenses may be made in such abbreviated form as the Council may by resolution adopt.

SECTION 5.03. ACTION ON APPLICATION, TRANSFER, TERMINATION AND DUPLICATE LICENSE.

Subd. 1. Granting. The Council may grant any application for the period of the remainder of the then current calendar year or for the entire ensuing license year. All applications, including proposed license periods, must be consistent with this Chapter.

Subd. 2. Issuing. If an application is approved, the City Clerk shall forthwith issue a license pursuant thereto in the form prescribed by the Council upon proof of ownership, payment of the appropriate license fee, and approval of the bond or insurance as to form and surety or carrier, if required. All licenses shall be on a calendar year basis unless otherwise specified herein as to particular businesses. Unless otherwise herein specified, license fees shall be pro-rated on the basis of 1/12th for each calendar month or part thereof remaining in the then current license year provided that for licenses where the fee is less than $100.00 a minimum license fee equal to one-half of the annual license fee shall be charged. Except as to licenses which are specifically City-wide, licenses shall be valid only at one location and on the
premises therein described.

Subd. 3. Transfer. No license shall be transferable between persons or locations.

Subd. 4. Termination. Licenses shall terminate only by expiration or revocation.

Subd. 5. Refusal, Revocation and Suspension. The Council may, for any reasonable cause, refuse to grant any application, revoke or suspend any license. No license shall be granted to a person of questionable moral character or business reputation. Before the revocation or suspension of any license, the Council shall give notice to the licensee and grant such licensee opportunity to be heard. Notice to be given and the exact time of hearing shall be stated in the resolution calling for such hearing.

Subd. 6. Duplicate License. Duplicates of all original licenses may be issued by the City Clerk without action by the Council.

SECTION 5.04. FIXING LICENSE FEES.
Except as otherwise herein provided, all fees for licenses under this Chapter shall be fixed and determined by the Council, adopted by resolution, and uniformly enforced. Such license fees may, from time to time, be amended by the Council by resolution. A copy of the resolution setting forth currently effective license fees shall be kept on file in the office of the City Clerk and open to inspection during regular business hours. For the purpose of fixing such fees, the Council may subdivide and categorize licenses under a specific license requirement provided that any such subdivision or categorization shall be included in the resolution authorized by this Section.

SECTION 5.05. CARRYING OR POSTING.
All solicitors shall at all times when so engaged carry their license on their person. All other licensees shall post their licenses in their place of business near the licensed activity provided, however, that in the case of machine or other device licensing the City may provide a sticker for the current license year which shall be affixed to each machine or device requiring such sticker. All licensees shall display their licenses upon demand by any officer or citizen.

SECTION 5.06. PENALTY FOR PROPERTY OWNER.
It is unlawful for any person to knowingly permit any real property owned or controlled by him to be used without a license for any business for which a license is required by this Chapter.

SECTION 5.07. RESPONSIBILITY OF LICENSEE.
The conduct of agents or employees of a licensee, while engaged in performance of their duties for their principal or employer under such license, shall be deemed the conduct of the licensee.

SECTION 5.08. CONDITIONAL LICENSES.
Notwithstanding any provision of law to the contrary, the Council may, upon a finding of the necessity therefor, place such conditions and restrictions upon a license as it, in its discretion, may deem reasonable and justified.

SECTION 5.09. RENEWAL OF LICENSES.
Applications for renewal of an existing license shall be made at least thirty (30) days prior to the date of expiration of the license and shall contain such information as is required by the City. This time requirement may be waived by the Council for good and sufficient cause.
SECTION 5.10. LICENSE DENIAL AND FIXING RATES - HEARING.

Subd. 1. Right to Deny. The Council reserves to itself the right to deny any application for a license to operate any business licensed or regulated under this Chapter where such business involves service to the public, rates charged for service, use of public streets or other public property by the applicant or the public, or the public health, safety and convenience. The Council may also consider the location of such business in making such determination provided, however, that before making such determination the Council shall hold a public hearing thereon pursuant to such notice to interested parties and the public as it may deem necessary or proper in action calling for such hearing.

Subd. 2. Rates. Where, under specific provisions of this Chapter, the Council has reserved to itself the right to fix or approve fees, rates or charges of a licensed or regulated business, such rates shall be uniform for each category or class of service; and no licensee or proprietor of a regulated business shall claim or demand payment in excess thereof.

Subd. 3. Hearing. Any applicant or licensee under this Chapter who challenges denial of a license or rates fixed or approved by the Council shall have a right to a hearing before the Council upon written request therefor. Notice of time, place and purpose of such hearing shall be given to such persons and by such means as the Council may determine in calling the hearing.

SECTION 5.11. INSURANCE REQUIREMENTS.
Whenever insurance is required by a Section of this Chapter, after approval by the Council but before the license shall be issued, the applicant shall file with the City Clerk a policy or certificate of public liability insurance showing (1) that the limits are at least as high as required, (2) that coverage is effective for at least the license term approved, and (3) that such insurance will not be canceled or terminated without thirty (30) days’ written notice served upon the City Clerk. Cancellation or termination of such coverage shall be grounds for license revocation.

Source: City Code
Effective Date: 9-17-82

SECTION 5.12. EXCEPTION.
Nothing contained in this Chapter shall require a business to obtain a license from the City where such requirement is prohibited by law.

Source: Ordinance No. 20-92
Effective Date: 6-26-92

(Sections 5.13 through 5.29, inclusive, reserved for future expansion.)

SECTION 5.30. Repealed.
Source: Ordinance No. 46-99
Effective Date: 12-30-99

SECTION 5.31. Repealed.
Source: Ordinance No. 6-95
Effective Date: 3-24-95

SECTION 5.32. Repealed.
Source: Ordinance No. 6-95
Effective Date: 3-24-95

SECTION 5.33. BUILDING CONTRACTOR.

Subd. 1. Definition. For the purpose of this Section, a “building contractor” is a person who constructs, erects, alters, reconstructs, repairs or extends a multi-family dwelling or an office or commercial building.

Subd. 2. Registration Required. It is unlawful for any person to engage in the business of a building contractor without registering, as a building contractor, in a register provided by the City.
SECTION 5.34. SCAVENGERS.

Subd. 1. Definition. The term "scavenger" means any person removing and disposing of the contents of any privy, privy box, vault, sink, cesspool, or septic tank.

Subd. 2. License Required. It is unlawful for any person to engage in the business of a scavenger without a license therefor from the City.

Subd. 3. Insurance Required. Proof of liability insurance with limits of bodily injury/property damage combined single limit of $500,000.00 shall be provided.

Subd. 4. Rules and Regulations.

A. Approved Sites. No discharge of waste from septic tanks or other similar facilities, whether by a person or a local government unit, shall be made unless such discharge is made at a site previously approved by the Chief Administrator of the Metropolitan Waste Control Commission.

B. Permit Required. Before rendering services as a scavenger to any premises in the City, the scavenger shall obtain a permit in writing from the City Clerk, which shall contain the name of the owner or occupant and the address of the premises. The fee for each such permit shall be as stated in a fee schedule adopted by the City. In case of an emergency, the scavenger may render services at any premises without a permit provided verbal notification is given in advance to the City Clerk if the emergency occurs within regular business hours and provided a permit is obtained on the next business day.

C. Location of Equipment. No scavenger shall place, store, keep or maintain any wagons, vehicles, receptacles, vessels or utensils used in connection with his business in any place in the City without first securing the written consent of all owners of property located within a radius of two hundred (200) feet of such place; and, in addition, he shall comply with all applicable statutes, regulations, and provisions of the City Code.

D. Scavenging Equipment. All substances removed from any privy, privy box, cesspool, septic tank or other vault used as part of a sanitary sewer system shall be conveyed to the place of disposal in tanks or other receptacles constructed of a metal or other non-porous material provided with at least two (2) manholes on the top thereof and an outlet at the bottom adequately capped to prevent any leakage.

E. Overnight Storage. No receptacle, tank or vehicle containing any substance such as described in the preceding Subparagraph may be stored overnight in any place in the City.

F. Spilling. No substance hauled by a scavenger shall be allowed to spill, splash, leak or become deposited on any public street or alley or on the surface of the ground.

G. Owner Responsibility. No person shall employ any other than a scavenger licensed hereunder for the purpose of cleaning any privy vault, cesspool or septic tank situated on property within the City owned, rented, operated or managed by such person.
SECTION 5.35. TOBACCO.

Subd. 1. Purpose and Findings. The Council of the City of Eden Prairie finds that substantial scientific evidence exists that the use of tobacco-related products causes cancer, heart disease and various other medical disorders, and that initiation of the use of tobacco-related products occurs primarily in adolescence. The City desires to prevent young people from starting to smoke, to encourage and assist smokers to quit, and to promote clean indoor air. The City Council further concludes that the prohibition of the sale of tobacco-related products by persons under twenty-one (21) years of age will promote the health, safety, and welfare of the residents of the City.

Subd. 2. Definitions. When used in this Section, the following terms have the following meanings:

A. “Child-resistant packaging” is defined as set forth in Code of Federal Regulations, title 16, section 1700.15(b)(1), as in effect on January 1, 2015, when tested in accordance with the method described in Code of Federal Regulations, title 16, section 1700.20, as in effect on January 1, 2015.

B. “Electronic delivery device” means any product containing or delivering nicotine, lobelia, or any other substance intended for human consumption that can be used by a person to simulate smoking in the delivery of nicotine or any other substance through inhalation of vapor from the product. Electronic delivery device includes any component part of a product, whether or not marketed or sold separately.

C. “Movable place of business” means a business whose physical location is not permanent or is capable of being moved or changed, including, but not limited to, any business that is operated from a kiosk, other transportable structure, or a motorized or nonmotorized vehicle.

D. “Nicotine or lobelia delivery product” means any product containing or delivering nicotine or lobelia intended for human consumption, or any part of such a product, that is not tobacco or an electronic delivery device as defined by this Section.

E. “Self-service merchandising” means open displays of tobacco-related products in any manner where any person shall have access to the tobacco products without the assistance or intervention of the licensee or licensee’s employee. The assistance or intervention shall entail the actual physical exchange of the tobacco products between the customer and the licensee or employee.

F. “Tobacco-related products” means tobacco, tobacco-related devices, electronic delivery devices, and nicotine or lobelia delivery products as defined in this subdivision. “Tobacco-related products” does not include any tobacco product, electronic delivery device, or nicotine or lobelia delivery product that has been approved or certified by the United States Food and Drug Administration for sale as a tobacco-cessation product, as a tobacco-dependence product, or for other medical purposes, and is marketed and sold for such an approved purpose.

G. “Tobacco” means cigarettes and any product containing, made, or derived from tobacco that is intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, or any component, part, or accessory of a tobacco product including but not limited to cigars; cheroots; stogies; perique; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco.

H. “Tobacco-related devices” means cigarette papers or pipes for smoking or other devices intentionally designed or intended to be used in a manner which enables the chewing, sniffing, smoking, or inhalation of vapors of
tobacco or tobacco products. Tobacco-related devices include components of tobacco-related devices which may be marketed or sold separately.

I. “Vending machine” means any mechanical, electric or electronic, self-service device which, upon inserting money, tokens or any other form of payment, dispenses tobacco products and including vending machines equipped with manual, electric or electronic locking devices.

Subd. 3. License Required. No persons shall keep for retail sale, sell at retail or otherwise dispose of any tobacco-related product at any place in the City without first obtaining a license therefor from the City.

Subd. 4. Exceptions. Reserved.

Subd. 5. Ineligibility.

A. No license shall be issued for the sale of tobacco-related products at a movable place of business.

Subd. 6. License Applications.

A. Application. All applications for licenses issued under this Section shall be made on forms supplied by the City. All questions asked or information required by the application forms shall be answered fully and completely by the applicant.

B. False Statements. It is unlawful for any applicant to intentionally make a false statement or omission upon any application. Any false statement in such application or any willful omission to state any information called for on such application will, upon discovery of such falsehhood, be grounds for denial or, if already issued, for revocation of the license.

C. License, Application, and Investigation Fees. Upon submission of the application, applicants for a license shall pay a fee to the City which shall be considered an application and investigation fee, not refundable to applicant, to cover the costs of the City in processing the application and the investigation thereof. Upon approval of an application, whether initial or renewal, the license will not be effective until the license fee is paid. All license, application, and investigation fees provided for in this Section shall be fixed and determined by the Council. Such fees, may, from time to time, be amended by the Council.

D. Manager or Agent. If the applicant is a firm, association, partnership, corporation, limited liability company, or joint venture, the application shall include the name of the natural person who will serve as the manager or agent of the licensed premises. Such manager or agent shall, by the terms of his or her written consent, (1) take full responsibility for the conduct of the licensed premises, and (2) serve as agent for service of notices and other process relating to the license. A licensee shall notify the City in writing within 15 days of any change in such manager or agent indicating the name and address of the new manager or agent and the effective date of such change.

E. Investigation. The City is empowered to conduct any and all investigations to verify the information on applications and renewal applications submitted under this Section, including but not limited to ordering a criminal history check pursuant to City Code Section 2.33 and conducting an inspection of any premises proposed to be licensed. Failure of an applicant to allow an inspection is grounds for denial of the license.

F. Consideration and Issuance. After the information on the application has been verified as correct by the City pursuant to subsection E above, an initial application for a license under this Section shall be presented to the City Council for issuance or denial.
1. **Issuance.** Upon the City Council’s approval of an application and the applicant’s payment of the license fee, the Licensing Technician shall issue and mail a license to the applicant at the address noted in the application.

2. **Denial.** The City Council may deny a license on the grounds set forth in Subdivision 5 of this Section and/or on the same grounds for which a license may be suspended or revoked as set forth in Subdivision 8 of this Section. A denial of an application shall be communicated to the applicant in writing. The notice of denial shall be mailed by regular mail to the applicant at the address noted on the application.

**G. Term of License.** Licenses issued under this Section will expire on December 31 of each year.

**H. Renewal of License.** Applications for renewal of all licenses issued under this Section shall be made at least sixty (60) days prior to the date of expiration of the license and shall contain such information as is required by the City. After the information on the renewal application has been verified as correct by the City pursuant to subsection E above, a renewal application for a license under this Section will be presented to the Chief of Police for issuance or denial.

1. **Issuance.** Upon approval of a renewal application and the applicant’s payment of the renewal fee, the Licensing Technician shall issue and deliver a license certificate to the applicant at the address noted in the renewal application

2. **Denial.** The Chief of Police may deny renewal of a license on the grounds set forth in Subdivision 5 of this Section and/or on the same grounds for which a license may be suspended or revoked as set forth in Subdivision 8 of this Section. A denial of a renewal application shall be communicated to the applicant in writing, including findings and conclusions supporting the decision. The notice of denial shall be mailed by regular mail to the licensee at address listed on the renewal application. A licensee may appeal a non-renewal by submitting a hearing request to the Chief of Police within ten (10) days of the date of the City’s notice of non-renewal. If a hearing request is not received by the City within ten (10) days of the date contained in the notice, the licensee’s right to a hearing shall be deemed waived. If requested, the hearing shall be held in accordance with the procedures set forth in Subdivision 8.C.2 and 8.C.3 of this Section.

**I. Change of Information.** A licensee must promptly notify the City of a change in the information or facts required to be furnished on the application for a license, even after the license has been issued. Failure to comply with this subsection is cause for suspension or revocation of the license.

**Subd. 7. Conditions, Restrictions, and Regulations**

A. A license is subject to the conditions, restrictions, and regulations in this Section, all other provisions of City Code, and all provisions of other applicable federal, state, and local laws, regulations, and ordinances.

B. A licensee is responsible for the conduct of his or her place of business and the conditions of order in it. The act of an employee of the licensed premises is deemed the act of the licensee as well, and the licensee is liable for all penalties provided by this ordinance equally with the employee.

C. The license must be posted in a conspicuous place in the premises for which it is used and must be exhibited to any person upon request.

D. No person shall sell, offer for sale, give away, furnish, or deliver any tobacco-related product to any person under twenty-one (21) years of age.
E. A licensee may sell tobacco-related products only in a direct face-to-face exchange between the licensee or the licensee’s employee and the consumer. No person shall sell or dispense any tobacco-related product through the use of vending machines or self-service merchandising. This subsection E shall not apply to retail stores which derive at least 90 percent of their revenue from tobacco and tobacco-related devices and where the retailer ensures that no person younger than twenty-one (21) years of age is present, or permitted to enter, at any time.

F. No person under eighteen (18) years of age shall sell tobacco-related products.

G. Smoking for the purposes of sampling tobacco-related products is prohibited. It shall be unlawful for any person to light, inhale, or exhale tobacco-related products within the indoor area of any establishment licensed under this Section, or for any person to allow the same.

H. The sale of any liquid, whether nor not such liquid contains nicotine, that is intended for human consumption and use in an electronic delivery device that is not contained in child-resistant packaging is prohibited.

I. Notice of the legal sales age shall be posted at each location where tobacco-related products are offered for sale. The required signage shall be posted in a manner so that it is clearly visible to anyone who is considering or making a purchase.

Subd. 8. Administrative Penalties, Suspension, and Revocation

A. Administrative Penalties.

1. If a licensee or employee of a licensee sells tobacco-related products to a person under the age of 21 years, or violates any other provision of Minnesota Statutes, Chapter 461, the licensee will be charged an administrative penalty of $75. An administrative penalty of $200 will be imposed for a second violation at the same location within twenty-four (24) months after the initial violation. For a third violation at the same location within twenty-four (24) months after the initial violation, an administrative penalty of $250 will be imposed, and the licensee’s authority to sell tobacco-related products at that location will be suspended for not less than seven (7) days. For a fourth violation at the same location within twenty-four (24) months after the initial violation, the licensee’s authority to sell tobacco-related products at that location may be revoked.

2. An individual who sells tobacco-related products to a person under the age of twenty-one (21) years will be charged an administrative penalty of $50.

3. No suspension or penalty may be imposed until the licensee or individual sought to be charged pursuant to subsection A.1 or A.2 of this subdivision has received written notice, served personally or by mail, of the alleged violation and an opportunity for a hearing in accordance with the procedures in subsection C of this subdivision.

B. Grounds for Suspension or Revocation. In addition to the penalties described in subsection A of this subdivision, the City may suspend or revoke a license issued under this Section. The following are grounds for suspension or revocation of a license:

1. Fraud, misrepresentation, or false statement contained in a license application or a renewal application;

2. Failure to comply with any applicable statute, regulation, or ordinance, including this Section, relating to the sale or use of tobacco-related products.

3. Failure to pay the amount of any penalty imposed pursuant to Subdivision 8.A of this Section within ten (10) days after notice in writing from the City of the decision to impose a penalty.
C. Procedure.

1. Notice. A suspension or revocation shall be preceded by written notice from the Chief of Police or his or her designee to the licensee and an opportunity for a hearing. The notice shall state the nature of the violation(s) or grounds for suspension or revocation and shall inform the licensee of the licensee’s right to request a hearing within ten (10) days of the date contained in the notice to dispute the suspension or revocation. The notice shall be mailed by regular mail to the licensee at the most recent address listed on the license application. If a hearing request is not received by the City within ten (10) days of the date contained in the notice, the licensee’s right to a hearing shall be deemed waived. No suspension or revocation of a license under this Section shall take effect until (a) the licensee’s time to request a hearing expires; or (b) if a hearing is requested, after the licensee is informed of the decision of the City Manager.

2. Hearing. If a hearing is requested, the Chief of Police or his or her designee shall provide written notice to the licensee of the date, time and place of the hearing. The notice shall be served in the same manner as the initial notice. The notice shall be served no less than fifteen (15) days and no more than thirty (30) days prior to the hearing. The hearing shall be held by an impartial hearing officer who shall be appointed by the Chief of Police or his or her designee. Upon conclusion of the hearing, the hearing officer shall, within ten (10) days, make his or her recommendation to the City Manager in writing. If the hearing officer’s recommendation is denial of the renewal application or suspension or revocation of the license, he or she shall include in the written recommendation his or her findings and conclusions supporting the decision.

3. Decision. Within thirty (30) days of receipt of the hearing officer’s written recommendation, the City Manager shall make a decision on whether the license shall be denied renewal, suspended or revoked. The City Manager shall inform the licensee in writing of the decision, including findings and conclusions supporting the decision, within ten (10) days.

4. Appeal. No appeal is allowed to the City Council under Section 2.80 of the City Code from a decision of the City Manager under this Section. The City Council may, on its own motion, determine to review the decision of the City Manager. Any person aggrieved by final decision of the City may seek review in district court.

Subd. 9. Violations.

A. Violation a Misdemeanor.

1. A person who commits or attempts to commit, conspires to commit or aids or abets in the commission of an act constituting a violation of this Section, whether individually or in connection with one or more other persons or as principal, agent, or accessory is guilty of a misdemeanor. A person who falsely, fraudulently, forcibly or willfully induces, causes, coerces, permits or directs another to violate a provision of this Section is guilty of a misdemeanor.

2. It is an affirmative defense to the charge of selling tobacco-related products to a person under the age of twenty-one (21) years in violation of this Section that the licensee or individual making the sale relied in good faith upon proof of age by (1) a valid driver license or identification card issued by Minnesota, another state, or a province of Canada, and including the photograph and date of birth of the licensed person; (2) a valid military identification card issued by the United States Department of Defense; or (3) in the case of a foreign national, from a nation other than Canada, by a valid passport.

B. False Identification. A person under twenty-one (21) years of age who, in connection with the purchase or attempted purchase of tobacco-related products, attempts 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, is guilty of a misdemeanor.

SECTION 5.36. LICENSING OF COLLECTORS OF SOLID, RECYCLABLE AND/OR YARD WASTE.

Subd. 1. Purpose and Findings. The Council of the City of Eden Prairie finds that the present practice of disposing of solid waste in land disposal facilities commonly referred to as landfills is unacceptable because such disposal is detrimental both in the short-range and long-range to the environment in that it causes pollution and contamination of underground and surface waters, the air and natural flora and fauna, it is harmful to the health and safety of persons and property because of the generation of noxious and dangerous odors and gases, including methane gas, the contamination of waters and air, and the blowing of airborne particles and contaminants causes social and/or economic harm to persons and property who reside, or which is, in proximity to landfills and should be done only in the absence of reasonably available alternatives.

In an effort to ameliorate and eliminate so far as possible the social, economic and physical harm caused by the disposal of solid waste in landfills, the Council of the City hereby adopts the following provisions relating to the collection of solid waste, recyclable waste and yard waste separated at its source.

Subd. 2. Definitions. The following terms, as used in this Section, shall have the following meanings:

A. Aluminum Recyclables – Aluminum recyclables means disposable containers fabricated primarily of aluminum, commonly used for beverages.

B. Association – Association means all organizations of residential dwelling owners formed for the purpose of joint management of property or services.

C. Can Recyclables – Can recyclables means disposable containers fabricated primarily of metal or tin.

D. Collection – Collection means the aggregation of Solid Waste or Recyclable Wastes from the place at which it is generated and includes all activities up to the time when the material is delivered to the final disposal site.

E. Commercial Establishment - Any premises where commercial or industrial enterprise of any kind is carried on and shall include restaurants, clubs, churches, and schools where food is prepared or served.

F. Corrugated Cardboard – Corrugated cardboard means heavy paper or cardboard material with double wall construction and corrugated separation between walls for use in packing or boxing materials.

G. Curbside Recycling Service – Curbside Recycling Service includes single and multiple family dwellings where each housing unit sets out their own refuse and recycling container for collection at the curb.

H. Disposal Facility - Disposal facility means a waste facility permitted by the Minnesota Pollution Control Agency ("MPCA") that is designed or operated for the purpose of disposing of solid waste.

I. Glass Recyclables – Glass recyclables means jars, bottles, and containers which are primarily used for packing and bottling of food and beverages.

J. Geographic Service Area - Geographic service area means that area incorporated within the boundaries of the City.
K. Licensee - Licensee means a person licensed to collect and transport solid, recyclable and/or yard waste or roll off containers as provided in this Section.

L. Multiple Family Dwelling – Multiple Family Dwelling means attached dwelling units and accessory structures containing two (2) or more dwelling units.

M. Paper Recyclables, Paper recyclables means newsprint, advertising supplements, office paper, magazines, catalogs, mixed paper, aseptic containers, gable-topped containers and uncoated paper products such as cereal, cracker, pasta, cake mix, shoe, gift, electronics and toothpaste boxes.

N. Plastic Recyclables – Plastic recyclables means plastic containers and lids from containers that are labeled #1 (Polyethylene Terephthalate, PET, or PETE), #2 (High Density Polyethylene or HDPE), #3 (Vinyl Polyvinyl Chloride or PVC), #4 (Low Density Polyethylene or LDPE), or #5 (Polypropylene or PP), excluding bottles that previously contained hazardous materials or motor oil.

O. Recyclable Waste - Recyclable waste means those components of solid waste consisting of aluminum recyclables, can recyclables, corrugated cardboard, glass recyclables, paper recyclables, plastic recyclables, organics, and other materials required to be recycled in compliance with City Ordinances, County Ordinances and Regulations, and State Statutes and Rules, each of which has been separated by a customer into a container or containers which have been designated for recyclable or organic waste.

P. Recycling – Recycling means the process of collecting Recyclable Waste for reusing these materials to prevent waste of potentially useful materials either in new products, in their original form, or in a manufacturing processes that does not cause destruction of them in a manner that precludes further use.

Q. Residential Customer - Residential customer means a person or persons who is or are customers of a Licensee and reside in a Single Family Dwelling or Multiple Family Dwelling which is used for residential purposes by one or more people, not including hotels, motels, rest homes, hospitals, or nursing homes.

R. Roll Off Containers – Roll off containers means detachable receptacles, containers, dumpsters, bins or boxes designed for collection of construction, demolition, renovation, scrap, recycling, liquid, solid waste or yard waste materials or debris.

S. Single Family Dwelling – Single family, detached dwelling and accessory structures designed for or containing one dwelling unit.

T. Solid Waste - Solid waste means garbage, refuse, sludge from a water supply treatment plant or air contaminant treatment facility, and other discarded waste materials and sludges, in solid, semisolid, liquid, or contained gaseous form, resulting from residential, industrial, commercial, mining, agricultural operations, and community activities, but does not include hazardous waste; animal waste used as fertilizer; earthen fill, boulders, rock; sewage sludge; solid or dissolved material in domestic sewage or other common pollutants in water resources, such as silt, dissolved or suspended solids in industrial waste water effluents or discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended; dissolved materials in irrigation return flows; or source, special nuclear, or by-product material as defined by The Atomic Energy Act of 1954, as amended.

U. Yard Waste - Yard waste means solid waste generated from landscaping and lawn care activities such as mowing, trimming, gardening or raking consisting of grass clippings, twigs, tree and brush clippings, straw, pine needles, tree branches, soft vegetative garden waste and leaves.

Subd. 3. License Required. It is unlawful for any person to collect solid, recyclable and/or yard waste from any person, or transport the same, without a license therefore from the City.
Subd. 4. Exception. Nothing in this Section shall prevent a person from collecting or transporting solid, recyclable and/or yard waste from the person's own residence or place of business provided the collection and transportation of the solid, recyclable and/or yard waste is conducted in accordance with Minnesota Rules Chapter 7035.0800. All solid, recyclable and/or yard waste shall be dumped or unloaded only at a disposal facility licensed by the Minnesota Pollution Control Agency.

Subd. 5. The following are conditions applicable to each Licensee for a license for the collection of solid, recyclable and/or yard waste:

A. Each Licensee is authorized to collect solid, recyclable, organic and/or yard waste within the geographical service area. The Council has by resolution divided the geographical service area into districts and established the days on which residential solid waste and recyclable collection may occur within each district. The districts so established and the days on which collection may occur within each district may from time to time be amended by the Council by resolution. No Licensee or any other person shall collect solid, recyclable and/or yard waste from residential customers on any day other than the day specified for collection in the district except to collect roll-off containers, missed pickups, a special pickup or when a holiday falls on a district collection day.

B. Each Licensee shall use vehicles or roll off containers for the collection and transportation of solid, recyclable and/or yard waste in good operating condition, of such design and so equipped so as to prevent loss in transit of liquid or solid cargo. The vehicles shall be kept clean and free from offensive odors and shall not be stopped or parked longer than reasonably necessary to collect solid, recyclable and/or yard waste.

C. No Licensee shall operate a vehicle on any city street which exceeds eight (8) tons per axle weight.

D. No Licensee shall operate in a residential district after 8:30 o'clock P.M. or before 7:00 o'clock A.M. of any day, and shall not operate in a residential district on Sunday.

E. Each Licensee shall exhibit evidence of the license in a prominent position on each vehicle used in the collection or transportation of solid, recyclable and/or yard waste.

F. Each Licensee shall be solely responsible for the provision, at its expense, of all personnel and equipment necessary to collect and transport all solid, recyclable and/or yard waste for which a license is granted by the City for delivery and disposal in accordance with the City Code and such regulations as the City may from time to time establish.

G. Each Licensee shall take all precautions necessary to protect the public against injury and shall defend, indemnify and save the City harmless from and against all liabilities, losses, damages and claims of damages (including all reasonable costs, attorneys' fees, and other expenses incident thereto) suffered or incurred by the City that may arise by reason of any act or omission on the part of the Licensee, its agents, or independent contractors, while engaged in the collection and transportation of solid, recyclable and/or yard waste. Each Licensee shall also defend, indemnify and save the City harmless from and against any and all claims, liens and claims for labor performed or material furnished incident to the said collection and transportation by Licensee including claims for material or services furnished or subcontracted for by it. Each Licensee shall also defend, indemnify, and save the City harmless from and against all liabilities, losses, damages, costs and expenses (including attorneys' fees and expenses of City), causes of action, suits, claims, demands and judgments of any nature arising from violation of any representation, agreement, warranty, covenant or condition made by Licensee or imposed upon Licensee by Section 5.36 of the City Code.

H. Each Licensee shall obtain and furnish to City evidence of all insurance required under this subdivision, covering all vehicles to be used and all operations to be performed by Licensee in collecting and transporting solid, recyclable and/or yard waste. Each policy of insurance required under this subdivision shall name the
City as an additional insured.

1. Existence of the insurance required herein shall be established by furnishing certificates of insurance issued by insurers duly licensed to do business within the State of Minnesota in force on the date of commencement of the license period, and continuing for a policy period of at least one (1) year and providing the following coverages:

   a. Public liability insurance, including general liability, automobile liability, completed operations liability, and loading and unloading liability in the following amounts.

   b. Bodily injury liability in the amount of at least $100,000 for injury or death of any one person in any one occurrence.

   c. Bodily injury liability in the amount of at least $300,000 for injuries or death arising out of any one occurrence.

   d. Property damage liability in the amount of at least $50,000 for any one occurrence.

2. Such general liability and automobile liability insurance policy or policies shall provide contractual liability insurance, specifically referring to and covering the obligation of Licensee to defend, indemnify and save harmless the City, its officials, agents and employees from alleged claims or causes of action for bodily injury or property damage as provided in Section 5.36 hereof.

3. Said general liability and automobile liability policy or policies shall contain an endorsement as follows:

   The policy to which this endorsement is attached is intended to comply with and furnish the coverages required by Section 5.36 of the City Code of the City of Eden Prairie. If anything in any other attachment, endorsement or rider conflicts with the provisions of said Section 5.36, then the provisions of said Section 5.36 shall prevail.

   Any deductible amount provided for in any part of the policy will be paid by the insurer upon establishment of legal liability of any insured, and the insurer shall be entitled to reimbursement from the insured for such deductible amount.

4. Said policies of insurance shall be furnished by a Licensee to City for examination and approval prior to the effectiveness of any license issued to a Licensee together with a certificate or certificates executed by an authorized representative of the insurer, certifying to the insurance coverage herein required, and stipulating that the policy will not be canceled nor any material change effected without first giving thirty (30) days written notice to City. After examination and approval of said policies by City, they may be returned to the Licensee, but the certificates of insurance shall be retained by City. Upon request by City, Licensee shall promptly furnish to City for examination at any time all contracts of insurance required herein. Each Licensee shall, on each anniversary date of the license, furnish City with evidence satisfactory to the City of the insurance required hereunder.

I. Each Licensee shall at all times operate its business of collecting, transporting and disposing of solid, recyclable and/or yard waste in compliance with all local, state, and federal laws. Each Licensee shall obtain and maintain all licenses, permits, or other authority required by each county in which it operates, the Minnesota Pollution Control Agency and any other governmental agency having jurisdiction over its activities.

J. Each Licensee shall impose charges for the collection of solid waste that increase with the volume or weight of the solid waste collected.
**Subd. 6.** In addition to the conditions imposed upon Licensees set forth in Subd. 5 hereof the following are conditions applicable to each Licensee for a license for the collection of solid, recyclable and/or yard waste from customers effective August 1, 1989. Each such Licensee shall:

A. Collect or provide for the collection from each customer of the Licensee of recyclable waste no less frequently than on a bi-weekly basis and solid waste no less frequently than on a weekly basis on the same day or days that the Licensee collects other forms of solid waste from such customer as described in Subd. 5(A).

B. Not deliver to, dump, or dispose of recyclable waste which has been placed in a container designated for recyclable waste on or in a disposal facility.

C. Provide for and collect yard waste from each residential customer of the Licensee at least as frequently and on such day or days as it shall collect other forms of solid waste from such residential customer between May and October.

D. A Licensee shall not deliver to, dump or dispose of yard waste on or in a Disposal Facility.

E. Make available for sale and sell at a reasonable cost to the Licensee's customers, containers for recyclable waste approved by the City.

F. The Licensee shall provide to the City a quarterly written report that includes the following information.

   1. The amount, by weight or volume, of each of the following materials collected during the preceding month from all residential customers of the Licensee in the City:
      a. Aluminum Recyclables
      b. Can Recyclables
      c. Corrugated Cardboard
      d. Glass Recyclables
      e. Paper Recyclables
      f. Plastic Recyclables
      g. All other recyclable waste
      h. Yard Waste
      i. Organic Waste
      j. All other Solid Waste

   2. Number of Single Family Households with curbside recycling service.

   3. Number of Multiple Family Households or Customers with curbside recycling service.

   4. Number of Multiple Family Households without curbside recycling service.

   5. Number of Commercial Establishments with recycling service.

G. Retain all documents evidencing the amount of the materials collected and/or received by the Licensee from the facility or facilities at which the materials have been disposed for a period of at least five (5) years. These documents shall be available for inspection by representatives of the City at all reasonable times within the County of Hennepin or a contiguous county.

H. Not impose a greater charge for the collection of solid waste upon customers who recycle than upon customers who do not recycle solid waste or any part thereof.

I. Collect or provide for the collection of recyclable waste from each commercial or business customer on request.
The recycling container must be accommodated within an existing or expanded enclosure for solid waste.

J. Collect or provide for the collection of at a minimum the following materials from all Residential Customers and Commercial Establishments who recycle:

1. Aluminum Recyclables
2. Can Recyclables
3. Corrugated Cardboard
4. Glass Recyclables
5. Paper Recyclables
6. Plastic Recyclables

K. Collect or provide for the collection of all recyclable materials from residential customers with Curbside Recycling Services using one of the following systems:

1. Single Sort System – All recyclable materials are collected in one container, or
2. Dual Sort System – All Paper Recyclables are collected separately

L. Provide one educational piece of literature or one educational flyer in a format approved by Hennepin County to each Single Family and Multiple Family Household who has Curbside Recycling Service. The educational literature or flyer must include at a minimum the materials that are collected for Curbside Recycling.

Subd. 7. Exceptions. City Code Section 5.36 is applicable to Roll Off Licensees except as follows: 5.36, Subd. 6(C) and 6(E). City Code Section 5.36 Subd. 6(A) is applicable to Roll Off Licensees unless the Roll Off Container is used for collection of construction, demolition or renovation materials.

Subd. 8. Obstructions. Pursuant to City Code Section 6.03, roll-off containers shall not be placed within the street or other public property.

Subd. 9. Penalty. Failure to perform, meet or comply with any condition or obligation imposed upon a Licensee by the City Code shall constitute a sufficient ground to withhold issuance, suspend, or revoke the license of a Licensee.

Subd. 10. Relationship of the Parties. The City shall have no responsibility or obligation whatsoever with respect to the collecting, transporting or disposal of solid, recyclable and/or yard waste, or payment for such services to any person, and nothing in this Section shall be deemed to constitute a Licensee a partner, joint venturer, agent or representative of the City or to create the relationship of employer-employee.

SECTION 5.37. PEDDLERS.

Subd. 1. Purpose. This Section is not intended to interfere with the legitimate business activities of peddlers, solicitors, and transient merchants as the same are defined herein, whether same be local or interstate. These provisions are intended only to, as nearly as possible, ferret out all illegitimate or confidence operators and to regulate and control all those who, in person, would use their unique presence on property within the City of Eden Prairie, or their unique proximity to its residents, for purposes of harassment, nuisance, theft, or other unlawful activities.

Subd. 2. Definitions. When used in this Section, the following terms have the following meanings:
A. “Non-Commercial Door-to-Door Advocate” means any person who goes door-to-door for the primary purpose of disseminating religious, political, social, or other ideological beliefs. For purposes of this Section, the term non-commercial door-to-door advocate shall include door-to-door canvassing, pamphleteering intended for non-commercial purposes, and seeking donations for which no product or service is given in return.

B. “Peddler” means any person, whether a resident of the City of Eden Prairie or not, who goes from house to house, from place to place, or from street to street, conveying or transporting goods, wares or merchandise or offering or exposing the same for sale, or making sales where payment is received immediately for future delivery to purchasers.

C. “Permit Activities” means all activities requiring a permit pursuant to this Section.

D. “Solicitor” means any person, whether a resident of the City of Eden Prairie or not, who goes from house to house, from place to place, or from street to street with the intention of taking orders or scheduling future visits for taking orders for services or goods for future delivery and payment.

E. “Transient merchant” includes any person, firm or corporation, whether as owner, agent, consignee, or employee, whether a resident of the City of Eden Prairie or not, who engages in a temporary business of selling and delivering goods, wares and merchandise within the City, and who, in furtherance of such purpose, hires, leases, uses or occupies any building, structure, motor vehicle, trailer, tent, railroad boxcar, boat, public room in hotels, lodging houses, apartments, shops, or any street, alley or other place within the City, for the exhibition and sale of such goods, wares and merchandise, either privately or at public auction, provided however that such definition does not include any person, firm or corporation who sells such goods, wares, or merchandise from within the confines of a lawfully established and operating permanent retail sales operation.

Subd. 3. Permit Required. It is unlawful for any peddler, solicitor, or transient merchant to engage in permit activities within the City of Eden Prairie without first obtaining a permit therefor in compliance with the provisions of this Section. Each peddler, solicitor, or transient merchant engaged in permit activities, whether independently or on behalf of another, must have a separate permit.

Subd. 4. Exceptions.

A. The permit requirement in Subdivision 3 and the conditions, restrictions, and regulations in Subdivision 7.A of this Section do not apply to the following: (i) the acts of persons selling personal property at wholesale to dealers in such articles, nor the delivery of newspapers, nor to the acts of merchants or their employees in delivering goods in the regular course of business, nor to the sale of farm or garden products by the person producing the same at the location where such products are produced, which production shall be proven by the vendor, nor; (ii) persons employed at a bakery, dairy or grocery making an uninvited initiatory visit in an effort to establish regular route service for future delivery of perishables.

B. The permit requirement in Subdivision 3 and the conditions, restrictions, and regulations in Subdivision 7.A of this Section do not apply to non-commercial door-to-door advocates. This exemption will not apply if the person’s exercise of constitutional rights is merely incidental to what would properly be considered a commercial activity.

C. The permit requirement in Subdivision 3 and the conditions, restrictions, and regulations in Subdivision 7.A of this Section do not apply to peddlers or solicitors who are 17 years of age or younger, who are engaged in permit activities on behalf of a public school or private school, philanthropic organization, or community organization, which private school, philanthropic organization or community organization or its parent organization is on file with the Minnesota Secretary of State as a Minnesota domestic or a foreign business organization or has filed an assumed name, where the proceeds of the sales are mainly devoted to the benefit of the children engaged in the permit activities.
D. Nothing contained in this Section prohibits any sale required by statute or by order of any court, or prevents any person conducting a bona fide auction sale pursuant to law.

Subd. 5. Ineligibility. No permit may be issued to a person who:

A. Has (i) a criminal charge, citation, or complaint that is pending or (ii) a conviction or adjudication of guilt within five years of the date of application for any violation of any federal or state statute or regulation, or of any local ordinance, which adversely reflects upon the person’s ability to conduct the business for which the permit is being sought in a legal manner. Such violations shall include, but are not limited to, burglary, theft, larceny, swindling, fraud, unlawful business practices, and any form of actual or threatened physical harm against another person.

B. Has had revoked, within the past five (5) years, any license or permit issued to the person for the purpose of conducting business as a peddler, solicitor, or transient merchant.

C. Has been denied, within the past year, any license or permit application for the purpose of conducting business as a peddler, solicitor, or transient merchant.

D. Has a bad business reputation, evidence of which shall include the existence of an enforcement action against the person by the Office of the Minnesota Attorney General or another state’s regulatory office or department (such as another state’s attorney general’s office), or other business or consumer rights office or agency, within the preceding twelve (12) months, or three (3) complaints filed with the city or another city, town, or other political subdivision against the person that resulted in a written reprimand or warning to the person within the preceding five (5) years.

E. Has failed to follow all federal, state, and local regulations, including failure to be registered, licensed, or permitted if such registration, license, or permit is required by any federal, state, or local regulation.

Subd. 6. Permit Applications

A. Application. All applications for permits issued under this Section shall be made on forms supplied by the City. All questions asked or information required by the application forms shall be answered fully and completely by the applicant.

B. False Statements. It is unlawful for any applicant to intentionally make a false statement or omission upon any application. Any false statement in such application or any willful omission to state any information called for on such application will, upon discovery of such falsehood, be grounds for denial or, if already issued, for revocation of the permit.

C. Permit, Application, and Investigation Fees. Upon submission of the application, applicants for a permit under this Section shall pay a fee to the City which shall be considered an application, investigation, and permit fee, not refundable to applicant, to cover the costs of the City in processing the application and the investigation thereof. All permit application and investigation fees provided for in this Section shall be fixed and determined by the Council. Such fees, may, from time to time, be amended by the Council.

D. Investigation. The City is empowered to conduct any and all investigations to verify the information on applications and renewal applications submitted under this Section, including but not limited to ordering a criminal history check pursuant to City Code Section 2.33.
E. **Consideration and Issuance.** After the information on the application has been verified as correct by the City pursuant to subsection D above, an initial application for a permit under this Section shall be endorsed by the Chief of Police for issuance or denial within ten (10) business days after the application is deemed to be complete.

1. **Issuance.** Upon the Chief of Police’s endorsement of his/her approval of an application, the licensing clerk shall issue and mail a permit to the applicant at the address noted in the application.

2. **Denial.** The Chief of Police may deny a permit on the grounds set forth in Subdivision 5 of this Section and/or on the same grounds for which a license may be suspended or revoked as set forth in Subdivision 8 of this Section. A denial of an application shall be communicated to the applicant in writing. The notice of denial shall be mailed by regular mail to the applicant at address listed on the application. An applicant may appeal a denial by submitting a hearing request to the Chief of Police within ten (10) days of the date of the notice of denial. If a hearing request is not received by the Chief of Police within ten (10) days of the date contained in the notice, the applicant’s right to a hearing shall be deemed waived. If timely requested, the hearing shall be held in accordance with the procedures set forth in Subdivision 8.B.2 and 8.B.3 of this Section.

F. **Term of Permit.** Permits issued under this Section will expire on December 31 of each year. A permit holder wishing to obtain a new permit following expiration of a permit must make a new application to the City in accordance with the requirements of this Subdivision 6.

G. **Change of Information.** A permit holder must promptly notify the City of a change in the information or facts required to be furnished on the application for a permit, even after the permit has been issued. Failure to comply with this subsection is cause for suspension or revocation of the license.

**Subd. 7. Conditions, Restrictions, and Regulations.**

A. **General Permit Provisions.**

1. Each person engaged in permit activities must be permitted as provided herein and may not be accompanied by a person who is not permitted while engaging in such activities. No permit may be transferred between persons or businesses.

2. Each person engaged in permit activities must carry the City issued permit on his or her person and must display the permit between the waist and the neck on the front of his or her outer garment while engaged in permit activities.

3. The permit issued by the City is the property of the City and must be returned to the City within seven (7) days of its expiration.

4. Each person engaged in permit activities must provide a sales slip, receipt, or other documentation to any person to whom they make a sale, or from whom they take an order or receive funds. The sales slip, receipt, or documentation must include the name of the person engaged in permit activities, his or her affiliated organization, the organization’s address and phone number, and a description of the transaction.

5. No person engaged in permit activities shall state or imply that the City, by issuance of a permit, has endorsed his/her activities or products.

6. No person shall conduct permit activities in any city park without prior written authorization from the City Manager or his/her designee.
B. **Restrictions.** Whether or not a permit is required under this Section, no peddler, solicitor, transient merchant, non-commercial door-to-door advocate, any person acting on his or her behalf, or other person engaged in similar activities shall, while engaged in such activities:

1. Shout, cry out, blow a horn, ring a bell, or use any sound amplifying device upon any of the streets, alleys, parks or other public places of the City or upon private property where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the streets, avenues, alleys, parks, or other public places.

2. Enter in or upon the property of another or attempt to enter in or upon the property of another if a placard or sign has been posted excluding peddlers and solicitors. The printed placard or sign must bear the notice: “Peddlers and Solicitors Prohibited”. Such placard shall be at least 3-3/4 inches long and 3-3/4 inches wide and the printing thereon shall not be smaller than 48-point type. No person other than the person occupying such property shall remove, injure or deface such placard or sign.

3. Enter in or upon the property of another or attempt to enter in or upon the property of another before 9:00 a.m. or after 9:00 p.m. local time year-round.

4. Obstruct the free flow of traffic, either vehicular or pedestrian in any public right of way.

5. Make false or misleading statements about the activities or the products or services being sold.

6. State or imply that the City has endorsed his/her activities or products.

7. Operate in a manner a reasonable person would find harassing, intimidating, abusive or threatening.

8. Operate in a manner a reasonable person would find offensive, obscene, or abusive, push open a door not opened by an occupant, place any portion of the person’s body through an opened doorway without the invitation of an occupant, or physically attempt to stop an occupant from closing a door.

9. Enter onto the property of another through any side or rear yard or attempt to make contact with a person at any point other than the main point of entrance of the building or property being approached.

10. Remain on the property of another after instructed to leave.

11. Act in a manner that threatens the health, safety, or welfare of any person or the general public.

**Subd. 8. Suspension or Revocation**

A. **Grounds for Suspension or Revocation.** The City may suspend or revoke a permit issued under this Section. The following are grounds for suspension or revocation of a permit:

1. Fraud, misrepresentation, or false statement contained in a permit application or a renewal application;

2. Fraud, misrepresentation, or false statement made in the course of carrying on permit activities;

3. Failure to comply with City ordinances or state law;

4. A pending criminal charge, citation, or complaint, or a conviction or other adjudication of guilt, for any violation of any federal or state statute or regulation, or of any local ordinance, which adversely reflects upon the person’s ability to conduct the business for which the permit is being sought in a legal
manner. Such violations shall include, but are not limited to, burglary, theft, larceny, swindling, fraud, unlawful business practices, and any form of actual or threatened physical harm against another person.

5. The existence of any grounds for denial of a permit identified in Subdivision 5 of this Section, which existed at the time the permit was issued or arose subsequent to the issuance of the permit.

B. Procedure.

1. **Notice.** A suspension or revocation shall be preceded by written notice from the Chief of Police or his or her designee to the permit holder and an opportunity for a hearing. The notice shall state the nature of the violation(s) or grounds for suspension or revocation and shall inform the permit holder of his or her right to request a hearing within ten (10) days of the date contained in the notice to dispute the suspension or revocation. The notice shall be mailed by regular mail to the permit holder at the most recent address listed on the permit application. If a hearing request is not received by the City within ten (10) days of the date contained in the notice, the permit holder’s right to a hearing shall be deemed waived. No suspension or revocation of a permit under this Section shall take effect until (a) the permit holder’s time to request a hearing expires; or (b) if a hearing is requested, after the permit holder is informed of the decision of the City Manager.

2. **Hearing.** If a hearing is requested, the Chief of Police or his or her designee shall provide written notice to the permit holder of the date, time and place of the hearing. The notice shall be served in the same manner as the initial notice. The notice shall be served no less than fifteen (15) days and no more than thirty (30) days prior to the hearing. The hearing shall be held by an impartial hearing officer who shall be appointed by the Chief of Police or his or her designee. Upon conclusion of the hearing, the hearing officer shall, within ten (10) days, make his or her recommendation to the City Manager in writing. If the hearing officer’s recommendation is denial, suspension or revocation, he or she shall include in the written recommendation his or her findings and conclusions supporting the decision.

3. **Decision.** Within thirty (30) days of receipt of the hearing officer’s written recommendation, the City Manager shall make a decision on whether the permit will be denied, suspended or revoked. The City Manager shall inform the permit holder in writing of the decision, including findings and conclusions supporting the decision, within ten (10) days.

4. **Appeal.** No appeal is allowed to the City Council under Section 2.80 of the City Code from a decision of the City Manager under this Section. The City Council may, on its own motion, determine to review the decision of the City Manager.

C. **Emergency.** If, in the discretion of the City Manager, imminent harm to the health or safety of the public may occur because of the actions of any person permitted under this Section, the City Manager may immediately suspend the person’s permit and in such event shall provide notice to the person of the right to a post-suspension hearing pursuant to the procedures in subsection B of this Subdivision 8.

**Subd. 9. Violation a Misdemeanor.** A person who commits or attempts to commit, conspires to commit or aids or abets in the commission of an act constituting a violation of this Section, whether individually or in connection with one or more other persons or as principal, agent, or accessory is guilty of a misdemeanor. A person who falsely, fraudulently, forcibly or willfully induces, causes, coerces, permits or directs another to violate a provision of this Section is guilty of a misdemeanor.
SECTION 5.38. Repealed.  
Source: Ordinance No. 6-95  
Effective Date: 3-24-95

SECTION 5.39. Repealed.  
Source: Ordinance No. 34-90  
Effective Date: 10-5-90

SECTION 5.40. GAMBLING.

Subd. 1. Purpose. The purpose of this section is to regulate and control the conduct of certain gambling activities pursuant to the provisions of the Minnesota Statutes, 1990, Sections 349.11 - .22 inclusive.

Subd. 2. Definitions. For the purposes of this section the terms used herein shall have the meanings defined or as used in Minnesota Statutes, 1990, Sections 349.11 - .22 inclusive.

Subd. 3. Prohibition. There shall be no gambling in the City except in accordance with the provisions of this section and the provisions of Minnesota Statutes, 1990, Sections 349.11 - .22, inclusive, and rules adopted pursuant thereto.  
Source: Ordinance No. 44-89  
Effective Date: 12-21-89

Subd. 4. Exceptions. The provisions of this section shall not apply to the limited gambling activities described in Minnesota Statutes, 1990, Section 349.166 provided there is compliance with all conditions imposed by that section and the rules and regulations of the Board relating thereto.  
Source: Ordinance No. 1-92  
Effective Date: 1-31-92

Subd. 5. Approval by Council. All forms of lawful gambling authorized by Minnesota Statutes, 1990, Sections 349.11 - .22 may be approved by the Council subject to the provisions of this section of the Code and law.  
Source: Ordinance No. 44-89  
Effective Date: 12-21-89

Subd. 6. Application. An Organization or person seeking to obtain a premises or bingo hall license from the Board shall file in the Office of the City Clerk an executed, complete duplicate application, together with all exhibits and documents accompanying the application as filed with the Board. The application and accompanying exhibits and documents shall be filed in the Office of the City Clerk not later than three (3) days after they have been filed with the Board. Upon filing the application with the City, applicant shall pay to the City an amount determined by resolution of the Council as and for an investigation fee.

Subd. 7. Conditions. A premises permit or bingo hall license shall be disapproved if the issuing thereof would result in a violation of any of the following conditions:  
Source: Ordinance No. 1-92  
Effective Date: 1-31-92

A. Lawful gambling shall be limited to four (4) premises within the City, plus one (1) premise for each 10,000 persons residing therein in excess of 40,000. Each premise must be owned by an Organization, except those at which lawful gambling is conducted by an Organization which was licensed by the Board to conduct, and conducted, lawful gambling in the City on June 30, 1994, provided however, such Organization is limited to conducting lawful gambling in a single premise at any time.  
Source: Ordinance No. 24-94  
Effective Date: 7-21-94

B. No more than one (1) Organization may lease or own (through joint or other multiple ownership arrangement) a
premise for the purpose of conducting lawful gambling thereon except those premises at which lawful gambling could occur pursuant to a license or permit issued by the Board prior to November 1, 1989.

C. Notwithstanding the conditions of this subdivision a licensed Organization may conduct lawful gambling in accordance with the exceptions described in Minnesota Statutes, 1990, Section 349.18, Subd. 2.

Source: Ordinance No. 1-92
Effective Date: 1-31-92

Subd. 8. Tax.

A. There is hereby imposed a tax on all lawful gambling conducted in the City by Organizations licensed by the Board at the rate specified in this subdivision.

Source: Ordinance No. 44-89
Effective Date: 12-21-89

B. An Organization's receipts from lawful gambling that is exempt from licensing under Minnesota Statutes, 1990, Section 349.166 are not subject to the tax imposed by this section.

Source: Ordinance No. 1-92
Effective Date: 1-31-92

C. The tax is one percent (1%) of the gross receipts of a licensed Organization from lawful gambling less prizes actually paid out.

D. The tax imposed by this subdivision shall be paid by the Organization on a monthly basis and shall be reported on a copy of the gambling tax return filed with the Board each month. The report shall be an exact duplicate of the report filed with the Board without deletions or additions and must contain the signatures of Organization officials as required on the report form.

E. The tax return and payment of the tax due must be postmarked or, if hand-delivered, received in the office of the Finance Director of the City on or before the last business day of the month following the month for which the report is made.

An incomplete tax return will not be considered timely filed unless corrected and returned by the due date for filing. Delays in mailing, mail pickups, and postmarking are the responsibility of the Organization.

The tax return and tax payment shall be delivered to:
Finance Director
8080 Mitchell Road
Eden Prairie, MN 55344-2230

There shall be an interest charge of eight percent (8%) on all overdue taxes owed by an Organization under this section.

Source: Ordinance No. 44-89
Effective Date: 12-21-89

F. The Council shall disapprove any pending application for renewal or original issue of a premises permit or bingo hall license for any Organization or person which owes delinquent taxes to the City. Further, the Finance Director may notify the Board of any Organization owing delinquent gambling taxes to the City and may request that the Board revoke or suspend the Organization's premises permit or license. The Council shall not issue or renew any on-sale or off-sale alcoholic beverage license, bottle club permit, or food license to any Organization which owes delinquent gambling taxes to the City. The above remedies are not exclusive and shall be in addition to any other powers and remedies provided by law.
Subd. 9. Expenditures for Lawful Purposes.

A. Each Organization licensed to conduct lawful gambling within the City pursuant to Minnesota Statutes, 1990, Section 349.213 must contribute ten percent (10%) of its net profits derived from lawful gambling in the City to a fund administered and regulated by the City without cost to the fund for disbursement by the City of such receipts for lawful purposes.

B. Each Organization licensed to conduct lawful gambling within the City pursuant to Minnesota Statutes, 1990, Section 349.16 must expend thirty percent (30%) of its expenditures for lawful purposes conducted or located within the City's trade area. The thirty percent (30%) of its expenditures shall be in addition to the ten percent (10%) of its net profits contributed to the City pursuant to Subd. 9. A. hereof. The City's trade area is hereby defined to be the geographical limits of the City and the geographical limits of each City contiguous to the City to-wit: the cities of Bloomington, Edina, Minnetonka, Chanhassen, Shakopee, and Savage, Minnesota.

Subd. 10. Records and Reports.

A. Organizations licensed by the Board shall file with the City's Finance Director one (1) copy of all records and reports required to be filed with the Board pursuant to Minnesota Statutes, 1990, Sections 349.11 - .22 and rules and regulations adopted pursuant thereto. Such records and reports shall be filed on or before the day they are required to be filed with the Board.

B. Every gambling occasion in the City conducted by an Organization shall be open to inspection by the City's police officers and other employees.

C. The City's police officers and employees may inspect at any reasonable time without notice or search warrant all records of a licensed Organization including gambling accounts and other bank records required by the Board to be maintained and preserved.

SECTION 5.41. GASFITTER.

Subd. 1. License and Registration Required. It is unlawful for any person to install, alter or repair any gas piping for illuminating or fuel gas or install, alter, repair or service any gas burning devices connected thereto in or for any building or structure in the City (“gasfitter”) without (a) holding either a master’s certificate of competency issued by the Minneapolis Board of Examiners of Plumbers, a certificate of competency issued by the City of Eden Prairie, or a gasfitter’s license issued by any of the following cities: Minneapolis, St. Paul, Bloomington, Duluth, St. Cloud, or Rochester and (b) registration, as a gasfitter, in a register provided by the City.

SECTION 5.42. WATER SOFTENER AND WATER FILTERING EQUIPMENT INSTALLERS.

Subd. 1. Registration Required. It is unlawful for any person not a duly licensed plumber to engage in the business of
installing water softeners and water filtering equipment (“installer”) without registering, as an installer, in a register provided by the City.

Source: Ordinance No. 46-99
Effective Date: 12-30-99

SECTION 5.43. HEATING AND VENTILATION CONTRACTOR.

Subd. 1. Registration Required. It is unlawful for any person other than an owner for personal use and occupancy to install, alter, reconstruct or repair any heating, ventilating, comfort cooling or refrigeration equipment (“installer”) without registering, as an installer, in a register provided by the City.

Source: Ordinance No. 46-99
Effective Date: 12-30-99

SECTION 5.44. INDIVIDUAL SEWAGE SYSTEM INSTALLERS.

Subd. 1. Registration Required. It is unlawful for any person to install or construct sewage disposal systems (“installer”) without registering, as an installer, in a register provided by the City.

Source: Ordinance No. 46-99
Effective Date: 12-30-99

SECTION 5.45. REPEALED.

Source: Ordinance 13-2004
Effective Date: 5-6-2004

SECTION 5.46 THERAPEUTIC MASSAGE ENTERPRISES AND THERAPISTS REGULATION.

Source: Ordinance 28-2018
Effective Date: 12-13-2018

Source: Ordinance 16-2015
Effective Date: 11-26-15

Source: Ordinance 4-2013
Effective Date: 1-17-2013

Subd. 1. Findings. The Council makes the following findings regarding the need to license therapeutic massage enterprises and therapists and to prohibit all other types of massage businesses and services to the public:

A. Persons who have bona fide and standardized training in therapeutic massage, health, and hygiene can provide a legitimate and necessary service to the general public.

B. Health and sanitation regulations governing therapeutic massage enterprises and therapists can minimize the risk of the spread of communicable diseases and can promote overall health and sanitation.

C. License qualifications for the restrictions on therapeutic massage enterprises and therapists can minimize the risk that such businesses and persons will facilitate prostitution and other criminal activity in the community.

D. Massage services provided by persons with no specialized and standardized training in massage can endanger citizens by facilitating the spread of communicable diseases, by exposing citizens to unhealthy and unsanitary conditions, and by increasing the risk of personal injury.
E. Massage businesses which employ persons with no specialized and standardized training can tax City law-enforcement services, because such businesses are more likely to be operated as fronts for prostitution and other criminal activity than operations established by persons with standardized training.

F. The training of professional massage therapists at accredited institutions is an important means of ensuring the fullest measure of protecting the public health, safety, and welfare.

Subd. 2. Definitions. When used in this Section, unless otherwise stated in specific subsections, the following words and terms shall have the meanings stated:

A. “Accredited Institution” – an educational institution holding accredited status from the North Central Association of Colleges and Schools (NCA) or another regional accrediting agency approved by the United States Department of Education or licensed by the Minnesota Office of Higher Education.

B. “Accredited Program” – a professional massage program accredited by the Commission on Massage Therapy Accreditation (COMTA), or a comparable national or regional organization that evaluates program compliance with quality and competency standards through a process of periodic review and self-study.

C. “Clean” – the absence of dirt, grease, rubbish, garbage, and other offensive, unsightly, or extraneous matter.

D. “Good repair” – free of corrosion, breaks, cracks, chips, pitting, excessive wear and tear, leaks, obstructions, and similar defects so as to constitute a good and sound condition.

E. “Immediate Family Member” – spouse, domestic partner, cohabitant, child, stepchild, grandchild, parent, stepparent, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandparent, great grandparent, brother, sister, half-brother, half-sister, stepsibling, brother-in-law, sister-in-law, aunt, uncle, niece, nephew, or first cousin (that is, a child of an aunt or uncle).

F. “Massage” – any method of pressure on, or friction against, or the rubbing, stroking, kneading, tapping, pounding, vibrating, stimulating, or rolling of the external parts of the human body with the hands or with the aid of any mechanical or electrical apparatus, or other appliances or devices, with or without such supplementary aids as rubbing alcohol, liniment, antiseptic, oil, powder, cream, lotion, ointment, or other similar preparations provided these acts are not committed with sexual intent.

G. “Massage Therapist” – an individual who practices or administers massage to the public.

H. “Therapeutic Massage Enterprise” – a person who operates a business which employs or hires therapeutic massage therapists licensed in accordance with this Section to provide massage to the public. The owner/operator of a therapeutic massage enterprise need not be licensed as a therapeutic massage therapist if he or she does not at any time practice or administer massage to the public.

I. “Within the City” – includes physical presence as well as telephone referrals such as phone-a-massage operations in which the business premises, although not physically located within the City, serves as a point of assignment of employees who respond to requests for services from within the City.

Subd. 3. License Required.

A. Therapeutic Massage Enterprise License. It is unlawful for any person to operate, engage in, or carry on, within the City, massage services for the public for consideration without first having obtained a license from the City pursuant to this Section.
B. **Massage Therapist License.** It is unlawful for any individual to practice, administer, or provide massage services to the public for consideration within the City without first having obtained a license from the City pursuant to this Section.

**Subd. 4. Exceptions.**

A. Neither a therapeutic massage enterprise license nor a massage therapist license is required for the following persons and places:

1. Persons duly licensed by this state to practice medicine, surgery, osteopathy, chiropractic, physical therapy or podiatry, provided the massage is administered in the regular course of the medical business and not provided as part of a separate and distinct massage business.

2. A person hired or employed by, and exclusively provides treatment on the premises of, a medical professional licensed under Minnesota Statutes Chapters 147 or 148 or a dental professional licensed under Minnesota Statutes Chapter 150A. A massage therapist operating under this exemption is not limited to providing treatment of patients of the medical or dental professional.

3. Persons duly licensed by this state as beauty culturists or barbers, provided such persons do not hold themselves out as giving massage treatments, and provided the massage by beauty culturists is limited to the head, hand, neck and feet, and the massage by barbers is limited to the head and neck.

4. Athletic trainers, certified by the National Association of Athletic Trainers (NAAT), when working with an amateur, semiprofessional or professional athlete or athletic team.

5. Students of an accredited institution who are performing massage services in the course of a clinical component of an accredited program of study, provided that the students are performing the massage services at the location of the accredited institution and provided the students are identified to the public as students of massage therapy. Students of an accredited institution who are performing massage services at clinics or other facilities located outside of the accredited institution shall have at least one hundred fifty (150) hours of certified therapeutic massage training at the accredited institution prior to performing the therapy outside of the institution and shall be identified to the public as a student of massage therapy.

6. Persons providing “chair massage” are not required to obtain a therapeutic massage enterprise license/massage therapist license if the following requirements are met:

   a. The massage is provided in a place of business where the massage can easily be seen by any employee or visitor on the premises;

   b. The location does not hold a license to sell alcoholic beverages;

   c. Each recipient of a massage remains in an upright position, either sitting or standing; and

   d. Each recipient of a massage remains in the normal, daytime attire worn when entering the business and does not remove any clothing except outerwear, such as a coat or jacket.

7. Persons who are (1) hired or employed by a medical professional licensed under Minnesota Statutes Chapters 147 or 148 or a dental professional licensed under Minnesota Statutes Chapter 150A and (2) providing massage services on behalf of the medical or dental professional at a facility established for the hospitalization or care of persons that is licensed by the Minnesota Department of Health.
B. A therapeutic massage enterprise license is not required for the following places:

1. Places licensed by the State of Minnesota as a “Salon” pursuant to Minnesota Statutes Section 155A.29.

2. Places licensed by the Minnesota Department of Health that are established for the hospitalization or care of persons.

Subd. 5. Ineligibility.

A. **Therapeutic Massage Enterprise License.**

1. No therapeutic massage enterprise license shall be issued to a person who:
   a. Is not eighteen (18) years of age or older at the time the application is submitted to the City;
   b. Has pending a criminal charge, citation, or complaint for any violation of federal or state statute or regulation, or of any local ordinance, which adversely reflects upon the person’s ability to conduct the therapeutic massage enterprise in a legal manner, which violations shall include, but are not limited to, prostitution or the solicitation, inducement, or promotion thereof, sex trafficking, criminal sexual conduct, assault, disorderly conduct, or the possession or sale of a controlled substance;
   c. Has been convicted of any crime directly related to the occupation licensed as prescribed by Minnesota Statutes, Section 364.03, subdivision 2, and who has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties and responsibilities of a licensee as prescribed by Minnesota Statutes, Section 364.03, subdivision 3;
   d. Is not a citizen of the United States or a resident alien, or is legally prohibited from working in the United States;
   e. Is not the real party in interest of the enterprise;
   f. Has knowingly misrepresented or falsified information on the license application;
   g. Does not meet the definition of therapeutic massage enterprise in Subdivision 2 of this Section;
   h. Has had an interest in, or has persons investing in, the business, building, premises, fixtures, furniture or equipment that had an interest in, as an individual or as part of a firm, association, partnership, corporation, limited liability company, or joint venture, a massage-related license that was revoked or suspended within the last five (5) years of the date the license application is submitted to the City;
   i. Is the Immediate Family Member of a person whose massage-related license has been suspended or revoked in the past five (5) years;
   j. Has been denied a therapeutic massage enterprise license by the City within one (1) year of the date of the license application;
k. Does not provide all information required by the application or such other information as the City may require; or

l. Does not have one (1) or more massage therapists employed by or affiliated with the therapeutic massage enterprise who is licensed by the City at the time the therapeutic massage license is issued.

m. Is a corporation, partnership, or other organization which has a parent that meets a condition set forth in subparagraphs a through l of this Subdivision 5.A.1.

n. Does not have, or at the time of issuance of a license does not plan to have, at least one permanent physical premises in the City on which the therapeutic massage enterprise will be located.

2. No therapeutic massage enterprise shall be licensed if:

a. Such enterprise is located on property on which taxes, assessments, or other financial claims to the State, County, School District, or City are due and delinquent. In the event a suit has been commenced by a person having an interest in the property under Minnesota Statutes Sections 278.01 - 278.13 questioning the amount or validity of taxes, the Council may on application waive strict compliance with this provision; no waiver may be granted, however, for taxes or any portion thereof, which remain unpaid for a period exceeding one (1) year after becoming due.

b. The location of such enterprise is not in conformance with the land use regulations of the City Code unless such enterprise is a legal, nonconforming use.

c. The property on which the enterprise is or is to be conducted is owned by, operated by, or leased to a person who is ineligible for a license, except that a property owner who is under the age of 18 shall not make the premises ineligible under this subparagraph.

B. Massage Therapist License.

1. No massage therapist license shall be issued to a person who:

a. Is not eighteen (18) years of age or older at the time the application is submitted to the City;

b. Has pending a criminal charge, citation, or complaint for any violation of federal or state statute or regulation, or of any local ordinance, which adversely reflects upon the person’s ability to conduct the licensed occupation in a legal manner, which violations shall include, but are not limited to, prostitution or the solicitation, inducement, or promotion thereof, sex trafficking, criminal sexual conduct, assault, disorderly conduct, or the possession or sale of a controlled substance;

c. Has been convicted of any crime directly related to the occupation licensed as prescribed by Minnesota Statutes Section 364.03, subdivision 2, and who has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties and responsibilities of a licensee as prescribed by Minnesota Statutes Section 364.03, subdivision 3;

d. Is not a citizen of the United States or a resident alien, or is legally prohibited from working in the United States;
e. Has knowingly misrepresented or falsified information on the license application;

f. Is not affiliated with, employed by, or does not own a therapeutic massage enterprise licensed by the City or a Salon licensed by the State pursuant to Minnesota Statutes Section 155A.29;

g. Does not provide to the City proof of current insurance coverage of one million dollars ($1,000,000) for personal liability in the practice of massage;

h. Does not provide to the City proof that he or she has completed six hundred (600) hours of certified therapeutic massage training from a bona fide school that has been approved by the City, or has at least two (2) years of full-time experience working as a massage therapist at a licensed therapeutic massage enterprise or other licensed business approved by the City;

i. Does not meet the definition of Massage Therapist in Subdivision 2 of this Section;

j. Has had an interest in, individually or as part of a firm, association, partnership, corporation, limited liability company, or joint venture, or has a massage-related license that was revoked or suspended within the last five (5) years of the date the license application is submitted to the City;

k. Is the Immediate Family Member of a person whose massage-related license has been suspended or revoked in the past five (5) years;

l. Has been denied a massage therapist license by the City within one (1) year of the date of the license application; or

m. Does not provide all information required by the license application or such other information as the City may require.

**Subd. 6. License Applications.**

A. **Application.** All applications for licenses issued under this Section shall be made on forms supplied by the City. All questions asked or information required by the application forms shall be answered fully and completely by the applicant.

B. **Insurance.**

1. Each applicant for a therapeutic massage enterprise license shall file with the City a public liability insurance policy or certificate of insurance from a company authorized to do business in the State of Minnesota, insuring the applicant against any and all loss arising out of the use, operation, or maintenance of the therapeutic massage enterprise. The policy of insurance shall be in limits of not less than $1,000,000.00.

2. Each applicant for a massage therapist license shall file with the City a current certificate of insurance providing coverage of one million dollars ($1,000,000) for personal liability in the practice of massage.

3. Failure to keep in full force and effect the insurance required by this Section is grounds for revocation of the license.
C. **Property Ownership and Leases.** Each applicant for a license shall provide, for the property on which the licensed business will operate, (1) such information as is requested by the City to establish the record owner of the property, and (2) copies of all leases currently in effect.

D. **False Statements.** It is unlawful for any applicant to intentionally make a false statement or omission upon any application. Any false statement in such application or any willful omission to state any information called for on such application will, upon discovery of such falsehood, be grounds for denial or, if already issued, for revocation of the license.

E. **License, Application, and Investigation Fees.** Upon submission of the application, applicants for a license under this Section shall pay a fee to the City which shall be considered an application and investigation fee, not refundable to applicant, to cover the costs of the City in processing the application and the investigation thereof. Upon approval of an application, whether initial or renewal, the license will not be effective until the license fee is paid. All license, application, and investigation fees provided for in this Section shall be fixed and determined by the Council. Such fees, may, from time to time, be amended by the Council.

F. **Manager or Agent.** If the applicant is a firm, association, partnership, corporation, limited liability company, or joint venture, the application shall include the name of the person who will serve as the manager or agent of the licensed premises. Such manager or agent shall, by the terms of his or her written consent, (1) take full responsibility for the conduct of the licensed premises, and (2) serve as agent for service of notices and other process relating to the license. Such manager or agent must be a person who, by reason of age, character, reputation and other attributes would meet the standards established in Subdivision 5.A of this Section. A licensee shall notify the City in writing within 15 days of any change in such manager or agent indicating the name and address of the new manager or agent and the effective date of such change.

G. **Investigation.** The City is empowered to conduct any and all investigations to verify the information on applications and renewal applications submitted under this Section, including but not limited to ordering a criminal history check pursuant to City Code Section 2.33 and conducting an inspection of any premises proposed to be licensed. Failure of an applicant to allow an inspection is grounds for denial of the license.

H. **Consideration and Issuance.** After the information on the application has been verified as correct by the City pursuant to subsection G above, an initial application for a license under this Section shall be presented to the City Council for issuance or denial.

1. **Issuance.** Upon the City Council’s approval of an application and the applicant’s payment of the license fee, the City shall issue and mail a license certificate to the applicant at the address noted in the application.

2. **Denial.** The City Council may deny a license on the grounds set forth in Subdivision 5 of this Section and/or on the same grounds for which a license may be suspended or revoked as set forth in Subdivision 8 of this Section. A denial of an application shall be communicated to the applicant in writing, including findings and conclusions supporting the decision. The notice of denial shall be mailed by regular mail to the licensee at address listed on the application.

I. **Term of License.** Licenses issued under this Section will expire on December 31 of each year.

J. **Renewal of License.** Applications for renewal of all licenses issued under this Section shall be made at least sixty (60) days prior to the date of expiration of the license and shall contain such information as is required by the City. After the information on the renewal application has been verified as correct by the City pursuant to subsection G above, a renewal application for a license under this Section will be presented to the Chief of Police for issuance or denial.
1. **Issuance.** Upon approval of a renewal application and the applicant’s payment of the renewal fee, the City shall issue and deliver a license certificate to the applicant at the address noted in the renewal application.

2. **Denial.** The Chief of Police may deny renewal of a license on the grounds set forth in Subdivision 5 of this Section and/or on the same grounds for which a license may be suspended or revoked as set forth in Subdivision 8 of this Section. A denial of a renewal application shall be communicated to the applicant in writing, including findings and conclusions supporting the decision. The notice of denial shall be mailed by regular mail to the licensee at address listed on the renewal application. A licensee may appeal a non-renewal by submitting a hearing request to the Chief of Police within ten (10) days of the date of the City’s notice of non-renewal. If a hearing request is not received by the City within ten (10) days of the date contained in the notice, the licensee’s right to a hearing shall be deemed waived. If requested, the hearing shall be held in accordance with the procedures set forth in Subdivision 8.B.2 and 8.B.3 of this Section.

K. **Change of Information.** A licensee must promptly notify the City of a change in the information or facts required to be furnished on the application for a license, even after the license has been issued. Failure to comply with this subsection is cause for suspension or revocation of the license.

**Subd. 7. Conditions, Restrictions, and Regulations**

A. **Compliance with Law.** A license is subject to the conditions, restrictions, and regulations in this Section, all other provisions of City Code, and all provisions of other applicable federal, state, and local laws, regulations, and ordinances.

B. **Conduct of Business.** A licensee is responsible for the conduct of his or her place of business and the conditions of order in it. The act of an employee of the licensed premises is deemed the act of the licensee as well, and the licensee is liable for all penalties provided by this ordinance equally with the employee, except criminal penalties.

C. **Posting.** A therapeutic massage enterprise license issued shall be posted in a conspicuous place on the premises for which it is used. A person licensed as a massage therapist shall have readily available a current license issued by the City at all times therapeutic massage services are rendered.

D. **Premises Licensed.** A therapeutic massage enterprise license is only effective for the compact and contiguous space specified in the approved license application. If the licensed premises is enlarged, altered, or extended, the licensee shall inform the City within 15 days of such change. A massage therapist license shall entitle the licensed therapist to perform on-site massage at a business, public gathering, private home, or other site not on the therapeutic massage enterprise premises, excluding hotel or motel guest rooms.

E. **Employment of Unlicensed Massage Therapists Prohibited.** No therapeutic massage enterprise shall employ or use any person to perform massage who is not licensed as a massage therapist under this Section, unless the person is specifically exempted from obtaining a massage therapist license pursuant to Subdivision 4 of this Section.

F. **Affiliation With Enterprise Required.** A massage therapist shall be employed by, affiliated with, or own a therapeutic massage enterprise licensed by the City or a Salon licensed by the State pursuant to Minnesota Statutes Section 155A.29, unless a person or place is specifically exempted from obtaining a massage therapist license or a therapeutic massage enterprise license in Subdivision 4 of this Section.

G. **Hours of Operation.** No customers or patrons may be allowed to enter the licensed premises after 10:00 p.m. and before 7:00 a.m. daily. No customers or patrons may be allowed to remain on the licensed premises after
10:00 p.m. and before 7:00 a.m. daily. No massage therapist shall perform massage services after 10:00 p.m. and before 7:00 a.m. daily.

H. Premises Subject to Inspection. During any hours in which any person is present on the licensed premises, the premises licensed under this Section shall be open to inspection by any duly authorized representative of the City to determine whether or not this Section and all other laws are being observed. All persons, as a condition to being issued such license, consent to such inspection and without a search warrant. Upon demand by a health, building or license inspector or police officer, a person engaged in providing services in a premises licensed under this Section shall identify himself/herself giving his/her true legal name and his/her correct address.

I. Conduct on Licensed Premises. Except as herein provided, every licensee under this Section shall comply with the following:

1. Coverage of Genitals During Massage. The licensee shall require that the person who is receiving the massage shall at all times have his or her genitals covered with non-transparent material or clothing.

2. Therapist Clothing Requirements. Any massage therapist performing massage shall at all times have his or her breasts, buttocks, anus, and genitals covered with a non-transparent material or clothing.

3. Effect of License Suspension or Revocation. No licensee shall solicit business or offer to perform massage services while under license suspension or revocation by the City.

4. Massage of Certain Body Parts Prohibited. At no time shall the massage therapist intentionally massage or offer to massage the breast, anus, penis, scrotum, mons veneris, vulva, or vaginal area of a person or commit any other act with sexual intent.

J. Condition and Maintenance of Premises.

1. Cleanliness. Floors, walls, other structures, and equipment in massage rooms, restrooms and bathrooms used in connection with the massage business shall be kept clean and in a state of good repair and sanitary at all times. Linens and other materials shall be stored at least six (6) inches off the floor in areas protected from contamination. Sanitary towels, wash cloths, cleaning agents and toilet tissue shall be made available for each customer.

2. Restrooms. Restrooms used in connection with the therapeutic massage enterprise shall be provided with mechanical ventilation with two (2) cfm per square foot of floor area, a minimum of twenty (20) foot candles of illumination, a hand-washing sink equipped with hot and cold running water under pressure, single-use paper towels or other approved drying device and a soap dispenser.

3. Storage. Licensed premises shall have a janitor’s closet for the storage of cleaning supplies. This closet shall have mechanical ventilation with two (2) cfm per square foot of floor area and a minimum of twenty (20) foot candles of illumination. The closet shall include a mop sink. For licensees operating a therapeutic massage enterprise as a home occupation, in lieu of a janitor’s closet, all cleaning supplies shall be stored separate away from the bathroom and massage room and away from other equipment and supplies used in conjunction with the business.

4. Lockers. Either individual lockers or secured areas designated for storage shall be made available for use by employees and patrons for their personal items while on the premises.

5. Hand Washing Required. A separate hand-sink shall be easily accessible and used by a massage therapist before administering massage on each patron and when hands are soiled.
6. **Linens.** The furniture upon which the patron reclines while receiving a massage shall either be covered with clean linen or be washed after each use with a cleaning agent sufficient to prevent the spread of disease. Linens and towels shall be changed after each use and laundered by a commercial cleaning establishment or in approved laundry facilities on the premises. For licensees operating a therapeutic massage enterprise as a home occupation, linens and towels shall be washed separate from personal articles. Single-use linens shall be discarded after each use.

K. **Transfer.** The license issued is for the person or the premises named on the approved license application. No transfer of a license shall be permitted from place to place or from person to person without complying with the requirements of an original application.

L. **Home Occupation.** Whenever a therapeutic massage enterprise is operated in a residential area as a home occupation, the person(s) conducting the business shall comply with the provisions of City Code Chapter 11 relating to home occupations.

M. **Proof of Local Residency Required.** In the case of a therapeutic massage enterprise, the licensee, managing partner or manager of the licensed premises must show proof of residency acceptable to the City in one of the following Minnesota counties: Anoka, Carver, Dakota, Hennepin, Ramsey, Rice, Scott, Washington or Wright. In the case of a massage therapist, the licensee must show proof of residency acceptable to the City in one of the following Minnesota counties: Anoka, Carver, Dakota, Hennepin, Ramsey, Rice, Scott, Washington or Wright.

N. **Posting Rates.** A therapeutic massage enterprise must post its service rates in a prominent place in the entrance or lobby of the business.

O. **Illegal Activities.** A therapeutic massage enterprise licensee shall be strictly responsible for the conduct of the business, including conduct of any employee or agent of the licensee on the licensed premises.

**Subd. 8. Suspension or Revocation.**

A. **Grounds for Suspension or Revocation.** The City may suspend or revoke a license issued under this Section. The following are grounds for suspension or revocation of a license:

1. Fraud, misrepresentation, or false statement contained in a license application or a renewal application;

2. Fraud, misrepresentation, or false statement made in the course of carrying on the therapeutic massage enterprise;

3. Failure to comply with City ordinances or state law;

4. Conviction of the owner, manager, lessee, or an employee of the therapeutic massage enterprise, or the holder of a massage therapist license, of a violation of any ordinance or state or federal statute, arising on the licensed premises;

5. Any pending criminal charge, citation, or complaint against the owner, manager, lessee or an employee of the therapeutic massage enterprise, or the holder of massage therapist license, for a violation of any ordinance or state or federal statute which adversely reflects upon the person’s ability to conduct the licensed occupation in a legal manner, which violations shall include, but are not limited to, prostitution or the solicitation, inducement, or promotion thereof, sex trafficking, criminal sexual conduct, assault, harassment, disorderly conduct, or the possession or sale of a controlled substance.

6. Conviction or adjudication of guilt of the owner, manager, lessee or an employee of the therapeutic massage enterprise, or the holder of a massage therapist license, of a violation of any ordinance or state
or federal statute which adversely reflects upon the person’s ability to conduct the licensed occupation in a legal manner, which violations shall include, but are not limited to, prostitution or the solicitation, inducement, or promotion thereof, sex trafficking, criminal sexual conduct, assault, harassment, disorderly conduct, or the possession or sale of a controlled substance;

7. Conducting the therapeutic massage enterprise in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the community; or

8. Habitual drunkenness or intemperance or the use of drugs on the licensed premises by any employee or patron including, but not limited to the use of drugs defined in either federal or state laws, barbiturates, hallucinogenic drugs, amphetamines, Benzedrine, Dexedrine, or other sedatives, depressants, stimulants, tranquilizers or synthetic drugs.

9. The existence of any grounds for denial of a license identified in Subdivision 5 of this Section, which existed at the time the license was issued or arose subsequent to the issuance of the license.

B. Procedure.

1. Notice. A suspension or revocation shall be preceded by written notice from the Chief of Police or his or her designee to the licensee and an opportunity for a hearing. The notice shall state the nature of the violation(s) or grounds for suspension or revocation and shall inform the licensee of the licensee’s right to request a hearing within ten (10) days of the date contained in the notice to dispute the suspension or revocation. The notice shall be mailed by regular mail to the licensee at the most recent address listed on the license application. If a hearing request is not received by the City within ten (10) days of the date contained in the notice, the licensee’s right to a hearing shall be deemed waived. No suspension or revocation of a license under this Section shall take effect until (a) the licensee’s time to request a hearing expires; or (b) if a hearing is requested, after the licensee is informed of the decision of the City Manager.

2. Hearing. If a hearing is requested, the Chief of Police or his or her designee shall provide written notice to the licensee of the date, time and place of the hearing. The notice shall be served in the same manner as the initial notice. The notice shall be served no less than fifteen (15) day and no more than thirty (30) days prior to the hearing. The hearing shall be held by an impartial hearing officer who shall be appointed by the Chief of Police or his or her designee. Upon conclusion of the hearing, the hearing officer shall, within ten (10) days, make his or her recommendation to the City Manager in writing. If the hearing officer’s recommendation is denial of the renewal application or suspension or revocation of the license, he or she shall include in the written recommendation his or her findings and conclusions supporting the decision.

3. Decision. Within thirty (30) days of receipt of the hearing officer’s written recommendation, the City Manager shall make a decision on whether the license shall be denied renewal, suspended or revoked. The City Manager shall inform the licensee in writing of the decision, including findings and conclusions supporting the decision, within ten (10) days.

4. Appeal. No appeal is allowed to the City Council under Section 2.80 of the City Code from a decision of the City Manager under this Section. The City Council may, on its own motion, determine to review the decision of the City Manager.

Subd. 9. Violation a Misdemeanor. A person who commits or attempts to commit, conspires to commit or aids or abets in the commission of an act constituting a violation of this Section, whether individually or in connection with one or more other persons or as principal, agent, or accessory is guilty of a misdemeanor. A person who falsely, fraudulently,
forcibly or willfully induces, causes, coerces, permits or directs another to violate a provision of this Section is guilty of a misdemeanor.

(Sections 5.47 through 5.59, inclusive, reserved for future expansion.)

SECTION 5.60. KENNELS.

Subd. 1. The provisions of Minnesota Statutes, 1992, Sections 347.35 and 347.37, are hereby incorporated herein and adopted by reference.

Subd. 2.

A. “Dog” means a canine of either male or female gender.

B. “Cat” means a feline of either male or female gender.

C. “Owner” means any person owning, keeping or harboring a dog or cat.

D. “Private kennel” means a place where more than two (2) dogs or two (2) cats over six (6) months of age are kept by their owner for no commercial purpose provided that the total number of dogs and cats over six (6) months of age shall not exceed five (5) in any private kennel.

E. “Commercial kennel” means a place where any number of dogs and/or cats of any age are kept, confined, or congregated for the purpose of selling, boarding, breeding, training, treating or grooming. A Commercial Kennel does not include a Private kennel as defined in Subd. 2, D above.

Source: Ordinance 27-2016
Effective Date: 11-24-2016

Subd. 3. License Required. No person shall own, harbor, keep or allow the keeping of more than two (2) dogs or more than two (2) cats over the age of six (6) months on his or her premises without first obtaining either a commercial or private kennel license.

Subd. 4. License Restrictions.

A. An application for a kennel license shall be submitted to the City Clerk accompanied by the appropriate fee. The applicant must also submit an acknowledgment form signed by at least one (1) of the property owners of each parcel within two hundred (200) feet of the land where the kennel will be established. The form shall state that the applicant has notified the property owners of the application and that they may contact the City with any comments they might have.

B. A kennel license may be issued after an inspection reveals that adequate safeguards are present to protect the surrounding neighborhood from nuisances and to insure compliance with this section. A license may not be issued if the kennel does not comply with the applicable State health and maintenance standards promulgated pursuant to Minnesota Statutes, 1992, Section 347.35

C. A license shall be issued for a maximum of one (1) year and shall expire on December 31 of each year. A license may be revoked because of a violation of this section or any other relevant law, ordinance, or regulation.

D. All licensed commercial kennels within the City are subject to inspections as provided in Minnesota Statutes, 1992, Section 347.37. A license violation not corrected within ten (10) days after notice will be grounds for revocation of the license.

Source: Ordinance 23-94
SECTION 5.70. COMMERCIAL STABLES.

Subd. 1. Definitions. As used in this Section, the following words shall have the meanings stated:

A. "Agricultural building" means a structure designed and constructed to house equines, farm implements, hay, grain, or other horticultural products.

B. "City Inspector" means any individual appointed by the City Manager to inspect commercial stables.

C. "Commercial stable" means a place where five (5) or more equines are kept for remuneration or hire.

D. "Commercial stable property" means all of the contiguous property upon which the commercial stable is operated.

E. "Cruelty" means every act, omission, or neglect which causes or permits unnecessary or unjustifiable pain, suffering, injury, or death to an equine.

F. "Equine" means horses, ponies, mules, or donkeys.

G. "Neglect" means failing to provide the minimum care required for the health and well-being of an equine.

H. "Residential subdivision" means a subdivision as defined by City Code, Chapter 12, Section 12.03, Subdivision 17, which is residential in character.

I. "Shelter" means an enclosure with at least three (3) sides and with a roof suitable for protecting equines from extremes in weather.

Subd. 2. License Required. It is unlawful for any person to operate or maintain a commercial stable within the City without a license therefor from the City. A license shall be obtained in the manner specified in Sections 5.02 through 5.10. Commercial stables in existence at the time of adoption of this Section shall be required to apply for and obtain a commercial stable license within two (2) years of the effective date of this Section.

Subd. 3. Regulations and Requirements for All Commercial Stables.

A. A commercial stable shall be located and operated only where permitted by Chapter 11, Section 11.10, Subdivision 2(E) or where such commercial stable existed at the effective date of this Section.

B. No commercial stable shall be operated upon a lot of less than ten (10) acres.

C. Manure and other waste materials shall be removed and distributed so as to eliminate offensive odors, insect and rodent problems or any condition which otherwise operates as a public or private nuisance. The storage of manure and other waste materials must be located a minimum of one hundred (100) feet from any residential structure; or any lake, pond, river, stream or other body of water; or well; or property line.

D. All areas designated for equine sheltering shall be located at least fifty (50) feet from the property line, but such areas shall be located a minimum of one hundred (100) feet from an existing residential subdivision. Any agricultural building or shelter which was being used in a commercial stable prior to the effective date of this Section is not required to comply with the requirements of this Subparagraph provided, however, that such
agricultural building or shelter does not constitute a public nuisance.

E. Fences shall be constructed and maintained so as to adequately and safely contain equines at all times.

F. One agricultural building upon the commercial stable property shall be permitted to contain within such building no more than one (1) caretaker's unit.

G. The ratio of equines to acres of land use for running, exercising, or feeding equines shall be no more than four (4) to one (1).

H. All equines shall be provided shelter sufficient to protect against potentially injurious weather. All such shelters shall be structurally sound, provide sufficient ventilation, and be maintained in good repair.

I. Equine stalls shall provide sufficient space for the equine to lie or roll with a minimum danger of injury to itself. Stalls shall be cleaned and kept dry to the extent that the animal is not required to lie or stand in fluids. Bedding shall be provided in all stalls, kept reasonably clean, and periodically changed. The nature of the bedding shall not pose a health hazard to the animal.

J. Stalled equines shall be provided an adequate opportunity for at least one (1) hour of exercise daily unless exercise is restricted by a licensed veterinarian.

K. No person shall neglect or cause cruelty to an equine.

L. All equines shall be provided with adequate health care.

M. All equines shall be provided with a sufficient quantity and quality of food to allow for normal growth and the maintenance of body weight.

N. All equines shall be provided or given access to clean, potable water in sufficient quantity to satisfy the animal's health needs. Snow or ice shall not be considered a water source.

**Subd. 4. Inspections.** The Zoning Administrator or designee shall inspect every commercial stable no less than twice per year or as frequently as the City may deem necessary to ensure compliance with the terms of Subdivision 3 and any conditions of the license for such commercial stable. Any person who operates a commercial stable shall, upon request of the Zoning Administrator or designee, permit access to all parts of the commercial stable for the purpose of inspection. The Zoning Administrator or designee shall prepare a report of every inspection of a commercial stable. A copy of such report shall be mailed to the person operating the commercial stable and forwarded to the Council prior to the Council's review of a license application or renewal.

Source: Ordinance No. 34-83
Effective Date: 8-26-83

**SECTION 5.71. PAWNBROKERS AND PRECIOUS METAL DEALERS.**

Source: Ordinance No. 23-2018
Effective Date: 12-13-2018

**Subd. 1. Purpose.** The Council finds that pawnbrokers and precious metal dealers potentially provide an opportunity for the commission and concealment of crimes. Such businesses have the ability to receive and transfer stolen property easily and quickly. The Council also finds that consumer protection regulation is warranted in transactions involving pawnbrokers and precious metal dealers. The purpose of this section is to prevent pawnbroking and precious metal businesses from being used as facilities for commission of crimes and to ensure that such businesses comply with basic consumer protection standards, thereby protecting the public health, safety and general welfare of the citizens of the City.
Subd. 2. Definitions. When used in this Section, the following terms have the following meanings:

A. “Goods” means goods as defined in Minnesota Statutes Section 336.9102(a)(44).

B. “Item containing precious metal” means an item made in whole or in part of metal and containing more than one percent by weight of silver, gold, or platinum.

C. “Minor” means any natural person under the age of 18 years.

D. “Oversized items” means large items such as cars, boats, and other motorized vehicles and motorized equipment.

E. “Pawnbroker”
   1. “Pawnbroker” means a person engaged in whole or in part in the business of lending money on the security of pledged goods left in pawn, or in the business of purchasing tangible personal property to be left in pawn on the condition that it may be redeemed or repurchased by the seller for a fixed price within a fixed period of time.
   2. The following are exempt from the definition of “pawnbroker”: any bank regulated by the State of Minnesota, the comptroller of the currency of the United States, the Federal Deposit Insurance Corporation, the board of governors of the Federal Reserve System or any other federal or state authority and their affiliates; any bank or savings association whose deposits or accounts are eligible for insurance by the Federal Deposit Insurance Corporation or any successor to it and all affiliates of those banks and savings associations; any state or federally chartered credit union; and any industrial loan and thrift company or regulated lender subject to licensing and regulation by the Department of Commerce of the State of Minnesota.

F. “Pawnshop” means the location at which or premises in which a pawnbroker regularly conducts business.

G. “ Pawn transaction” means any loan on the security of pledged goods or any purchase of pledged goods on the condition that the pledged goods are left with the pawnbroker and may be redeemed or repurchased by the seller for a fixed price within a fixed period of time.

H. “Pledged Goods” means tangible personal property other than choses in action, securities, bank drafts, or printed evidence of indebtedness, that are purchased by, deposited with, or otherwise actually delivered into the possession of a pawnbroker in connection with a pawn transaction.

I. “Precious metal dealer” means any person engaging in the business of buying secondhand items containing precious metal, including, but not limited to, jewelry, watches, eating utensils, candlesticks, and religious and decorative objects.

J. “Precious metals” means silver, gold, or platinum.

K. “Secondhand item” means tangible personal property, excluding motor vehicles, which has been previously used, rented, owned, or leased.

Subd. 3. License Required. No person shall engage in the trade or business of pawnbroker or precious metal dealer within the City unless such person is licensed under this Section. Any pawn transaction made without benefit of a license is void. A separate license is required for each place of business. More than one license may be issued to a person upon compliance with this Section for each license.
Subd. 4. Exceptions for Precious Metal Dealers. Precious metal dealers, that are not also pawnbrokers, conducting the following transactions are not required to obtain a license under this Section.

A. Transactions at occasional “garage” or “yard” sales, or estate sales or farm auctions held at the decedent’s residence, except that precious metal dealers must comply with the requirements of Minnesota Statutes Sections 325F.734 to 325F.742 for these transactions.

B. Transactions regulated by Minnesota Statutes Chapter 80A.


D. Transactions involving the purchase of precious metal grindings, filings, slag, sweeps, scraps, or dust from an industrial manufacturer, dental lab, dentist, or agent thereof.

E. Transactions involving the purchase of photographic film, such as lithographic and x-ray film or silver residue or flake recovered in lithographic and x-ray film processing.

F. Transactions involving coins, bullion, or ingots.

G. Transactions in which the secondhand item containing precious metal is exchanged for a new item containing precious metal and the value of the new item exceeds the value of the secondhand item, except that a person who is a precious metal dealer by engaging in a transaction which is not exempted by this Section must comply with the requirements of Minnesota Statutes Sections 325F.734 to 325F.742.

H. Transactions between precious metal dealers if both dealers are licensed under Minnesota Statutes Section 325F.733, or if the seller’s business is located outside of the state and the item is shipped from outside the state to a dealer licensed under Minnesota Statutes Section 325F.733.

I. Transactions in which the buyer of the secondhand item containing precious metal is engaged primarily in the business of buying and selling antiques, and the items are resold in an unaltered condition, except for repair, and the items are resold at retail, and the buyer paid less than $2,500 for secondhand items containing precious metals purchased within any period of twelve (12) consecutive months.

Subd. 5. Ineligibility.

A. Persons Ineligible. No license may be issued to or held by any person who:

1. Is not a citizen of the United States or a resident alien, or is legally prohibited from working in the United States;

2. Is a under the age of eighteen (18) at the time the application is filed.

3. Has pending a criminal charge, citation, or complaint for any violation of federal or state statute or regulation, or of any local ordinance, which adversely reflects upon the person’s ability to conduct the licensed occupation in a legal manner, which violations shall include, but are not limited to, theft, receiving stolen property, and fraudulent business practices.

4. Has been convicted of any crime directly related to the licensed occupation and has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties of pawnbroker or precious metal dealer as prescribed by Minnesota Statutes Section 364.03, Subdivision 3.

5. Holds a liquor license issued under City Code or State law.
6. Is not the real party in interest or beneficial owner of the business operated under the license, or
7. Has had a pawnbroker or precious metal dealer’s license revoked in any jurisdiction within five (5) years of the license application, or
8. Is a corporation, partnership or other organization which has a parent who is or meets a condition set forth in subparagraphs 1 through 7 of this Subdivision 5.A.

B. **Places Ineligible.** No license may be issued for:

1. Any place or any business ineligible for a license under City or County ordinance or State law.
2. Operation in any location not permitted by City Code Chapter 11.
3. A place or business which holds a liquor license issued under City Code or State law.
4. Operation on any premises on which taxes, assessments or other financial claims of the City or other government agency are delinquent and unpaid, except if an action has been commenced pursuant to the provisions of Minnesota Statutes Chapter 278, questioning the amount or validity of taxes, the Council may on application by the licensee waive strict compliance with this provision; no waiver may be granted, however, for taxes, or any portion thereof, which remain unpaid for a period exceeding one (1) year after becoming due unless such one (1) year period is extended through no fault of the licensee.
5. Any business if the property on which the business is or is to be conducted is owned by, operated by, controlled by, or leased to a person who is ineligible for a license, except that a property owner who is a minor shall not make the premises ineligible under this subparagraph.

**Subd. 6. License Applications.**

A. **Application.** All applications for licenses issued under this Section shall be made on forms supplied by the City. All questions asked or information required by the application forms shall be answered fully and completely by the applicant.

B. **Insurance.**

1. Each applicant for a license shall file with the City a public liability insurance policy or certificate of insurance from a company authorized to do business in the State of Minnesota, insuring the applicant against any and all loss arising out of the use, operation, or maintenance of the licensed business. The policy of insurance shall be in limits of not less than $1,000,000.00.
2. Failure to keep in full force and effect the insurance required by this Section is grounds for revocation of the license.

C. **Property Ownership and Leases.** Each applicant for a license shall provide, for the property on which the licensed business will operate, (1) such information as is requested by the City to establish the record owner of the property, and (2) copies of all leases currently in effect.

D. **False Statements.** It is unlawful for any applicant to intentionally make a false statement or omission upon any application. Any false statement in such application or any willful omission to state any information called for on such application will, upon discovery of such falsehood, be grounds for denial or, if already issued, for suspension or revocation of the license.
E. **License, Application, and Investigation Fees.** Upon submission of the application, applicants for a pawnshop or precious metal dealer license shall pay a fee to the City which shall be considered an application and investigation fee, not refundable to applicant, to cover the costs of the City in processing the application and the investigation thereof. Upon approval of an application, whether initial or renewal, the license will not be effective until the license fee is paid. All license, application, and investigation fees provided for in this Section shall be fixed and determined by the Council. Such fees, may, from time to time, be amended by the Council.

F. **Manager or Agent.** If the applicant is a firm, association, partnership, corporation, limited liability company, or joint venture, the application shall include the name of the person who will serve as the manager or agent of the licensed premises. Such manager or agent shall, by the terms of his or her written consent, (1) take full responsibility for the conduct of the licensed premises, and (2) serve as agent for service of notices and other process relating to the license. Such manager or agent must be a person who, by reason of age, character, reputation and other attributes would meet the standards established in Subdivision 5.A of this Section. A licensee shall notify the City in writing within 15 days of any change in such manager or agent indicating the name and address of the new manager or agent and the effective date of such change.

G. **Bond.** At the time of filing an application for a license, the applicant shall file a bond in the amount of $5,000 with the City Clerk. The bond, with a duly licensed surety company as surety thereon, must be approved as to form by the City attorney. The bond must be conditioned that the licensee shall observe the ordinances of the City, in relation to the business of pawnbroker and precious metal dealer, and that the licensee will account for and deliver to any person legally entitled thereto any property which may have come into the possession of the licensee as pawnbroker or precious metal dealer or in lieu thereof such licensee shall pay the person or persons the reasonable value thereof.

H. **Investigation.** The City is empowered to conduct any and all investigations to verify the information on applications and renewal applications submitted under this Section, including but not limited to ordering a criminal history check pursuant to City Code Section 2.33 and conducting an inspection of any premises proposed to be licensed. Failure of an applicant to allow an inspection is grounds for denial of the license.

I. **Consideration and Issuance.** After the information on the application has been verified as correct by the City pursuant to subsection H above, an initial application for a license under this Section shall be presented to the City Council for issuance or denial.

1. **Issuance.** Upon the City Council’s approval of an application and the applicant’s payment of the license fee, the City shall issue and mail a license certificate to the applicant at the address noted in the application.

2. **Denial.** The City Council may deny a license on the grounds set forth in Subdivision 5 of this Section and/or on the same grounds for which a license may be suspended or revoked as set forth in Subdivision 8 of this Section. A denial of an application shall be communicated to the applicant in writing, including findings and conclusions supporting the decision. The notice of denial shall be mailed by regular mail to the licensee at address listed on the application.

J. **Term of License.** Licenses issued under this Section will expire on December 31 of each year.

K. **Renewal of License.** Applications for renewal of all licenses issued under this Section shall be made at least sixty (60) days prior to the date of expiration of the license and shall contain such information as is required by the City. After the information on the renewal application has been verified as correct by the City pursuant to subsection H above, a renewal application for a license under this Section will be presented to the Chief of Police for issuance or denial.
1. **Issuance.** Upon approval of a renewal application and the applicant’s payment of the renewal fee, the City shall issue and deliver a license certificate to the applicant at the address noted in the renewal application.

2. **Denial.** The Chief of Police may deny renewal of a license on the grounds set forth in Subdivision 5 of this Section and/or on the same grounds for which a license may be suspended or revoked as set forth in Subdivision 8 of this Section. A denial of a renewal application shall be communicated to the applicant in writing, including findings and conclusions supporting the decision. The notice of denial shall be mailed by regular mail to the licensee at address listed on the renewal application. A licensee may appeal a non-renewal by submitting a hearing request to the Chief of Police within ten (10) days of the date of the City’s notice of non-renewal. If a hearing request is not received by the City within ten (10) days of the date contained in the notice, the licensee’s right to a hearing shall be deemed waived. If requested, the hearing shall be held in accordance with the procedures set forth in Subdivision 8.B.2 and 8.B.3 of this Section.

L. **Change of Information.** A licensee must promptly notify the City of a change in the information or facts required to be furnished on the application for a license, even after the license has been issued. Failure to comply with this subsection is cause for suspension or revocation of the license.

M. **Transfer of License.** Each license shall be issued only to the applicant and for the premises described in the application. No license may be transferred to another person or place without application to the City in the same manner as an application for a new license. The transfer of 25% or more of the ownership interests, or a controlling interest, whichever is less, of a licensee or a parent shall be deemed a transfer of the license. Transfer of a license without prior City approval is a ground for revocation or suspension of the license. In addition, each day the licensee operates under the license after a transfer has taken place without obtaining City approval is be a separate violation of this ordinance.

N. **Death of Licensee.** In the case of the death of a licensee who is a natural person, the personal representative of the licensee may continue operation of the business for not more than ninety (90) days after the licensee's death.

**Subd. 7. Conditions, Restrictions, and Regulations.**

A. **Generally.** Every license is subject to the conditions, restrictions, and regulations in the following paragraphs, all other provisions of this Section, and of any other applicable provisions of the City Code or State law.

B. **Maintenance of Peace.** Every licensee is responsible for the conduct of its place of business and the conditions of order in it. The act of any employee of the licensee shall be deemed the act of the licensee as well, and the licensee shall be liable for all penalties provided by this ordinance equally with the employee, except criminal penalties.

C. **Display of License.** Every license must be posted in a conspicuous place in the premises for which it is used.

D. **Record Keeping.**

1. **Electronic Recording.** At the time of a receipt of property, a licensee shall immediately record, in an electronic format approved by the Police Department, the following information:
a. An accurate description of the property including, but not limited to, any trademark, identification number, serial number, model number, brand name, or other identifying mark.

b. A photograph that clearly depicts the property received.

c. The date and time the item of property was received by the licensee.

d. The name, address, residence telephone number, date of birth, and reasonably accurate physical description, including height, sex and race, of the person from whom the property was received.

e. A photograph that clearly depicts the person from whom the property was received.

f. The amount of money loaned upon or paid for the property.

g. The identification number from one of the following forms of identification of the person from whom the property was received:

1. a valid Minnesota photo driver's license;

2. a valid Minnesota photo Identification Card;

3. if the person is not a Minnesota resident, a valid photo identification card issued by the state (or province of Canada) of residency of the person from whom the property was received, and one other valid form of identification.

h. The amount paid or advanced.

i. The maturity date of a pawn transaction and the amount due.

j. The monthly and annual interest rates, including all pawn fees and charges.

The licensee shall make this information available at all reasonable times for inspection by the Police Department. This information shall be retained by the pawnbroker or precious metal dealer for at least three (3) years.

2. Daily Reports. For the types of items listed below, the licensee must submit to the Police Department on a daily basis a list of the following specific items purchased or received that day. The list must be in the format approved by the Police Department and must contain all of the information described above in subsection D.1.

a. Any item with a serial number, identification number, or “Operation Identification” number;

b. Cameras;

c. Electronic, audio, video or radar detection equipment;

d. Precious jewelry, gems and metals;

e. Artist-signed or artist-attributed works of art;
f. Firearms, for which a dealer’s license to deal in, is required by the laws of the State of Minnesota or the United States of America.

g. Any item not included in a – f above which the pawnbroker or precious metal dealer intends to sell for more than $200, except for furniture and kitchen or laundry appliances.

3. **Holding Period.** Any item received by the pawnbroker or precious metal dealer for which a report to the Police Department is required shall not be sold or otherwise transferred, or in the case of precious metal, melted down or dismantled, for thirty (30) days after the date of such report to the police. However, a person may redeem a pawned item seventy-two (72) hours after the item was received by the pawnbroker or precious metal dealer, excluding Sundays and legal holidays.

E. **Video or Photographic Record.** A pawnbroker or precious metal dealer must install and maintain on the licensed premises video surveillance cameras, still digital cameras, or similar devices positioned to record or photograph a frontal view showing a readily identifiable image of the face of each person selling or pawning any property. The video camera or still digital camera must be kept in operating condition and must be shown upon request to a properly identified law enforcement officer for inspection. The camera must record and display the accurate date and time. The video camera or still digital camera must be turned on at all times when the licensed premises is open for business. Recordings and images required by this paragraph must be retained by the pawnbroker or precious metal dealer for thirty (30) days and shall at all reasonable times be open to the inspection of any properly identified law enforcement officer.

F. **Receipts.** The licensee shall provide a receipt to the seller or pledger of any item of property received, which shall be numbered to correspond to the entry in the licensee’s records and shall include:

1. The name, address, and phone number of the licensee.
2. The date on which the item was received by the licensee.
3. A description of the item received and amount paid to the pledger or seller in exchange for the item pawned or sold, and whether it was pawned or sold.
4. The signature of the licensee or agent.
5. If the property can be redeemed,
   a. The last regular business day by which the item must be redeemed by the pledger without risk that the item will be sold and the amount necessary to redeem the property on that date.
   b. The annual rate of interest charged on pawned items received.
6. The name and address of the seller or pledgor.

G. **Stolen or Lost Property.** A pawnbroker or precious metal dealer must report to the Police Department any item pledged or received, or sought to be pledged or received, if the pawnbroker or precious metal dealer has reason to believe that the article was stolen or lost.

H. **Police Restrictions on Sale or Redemption.** Whenever the Police Department notifies the licensee not to sell an item, the item shall not be sold or removed from the licensed premises until authorized to be released by the Police Department.

I. **Inspection of Items.**
1. **Inspection by City.** The pawnbroker or precious metal dealer shall, at all times during the term of the license, allow the Police Department to enter the premises where the pawnbroker or precious metals dealer business is located and any other premises where items purchased or received as part of the business are stored, for the purpose of inspecting such premises and the property therein to locate items suspected or alleged to have been stolen or otherwise improperly disposed of.

2. **Inspection by Claimants.** Additionally, all the items coming into possession of the licensee shall at all times be open to inspection and right of examination of any person claiming to have been the owner thereof or claiming to have any interest therein, when such person is accompanied by a properly identified law enforcement officer.

J. **Payment by Check.** Payment by the licensee for any articles deposited, left, purchased, pledged or pawned, shall be made only by check, draft, or other negotiable or nonnegotiable instrument or order of withdrawal which is drawn against funds held by a financial institution.

K. **Gambling.** No licensee may keep, possess, or operate, or permit the keeping, possession, or operation on the licensed premises of dice, slot machines, roulette wheels, punchboards, blackjack tables, or pinball machines which return coins or slugs, chips, or tokens or any kind, which are redeemable in merchandise or cash. No gambling equipment authorized under Minnesota Statutes Chapter 349 may be kept or operated and no raffles may be conducted on the licensed premises and/or adjoining rooms. The purchase of lottery tickets may take place on the licensed premises as authorized by the director of the lottery pursuant to Minnesota Statutes Chapter 349A.

L. **Oversized Items.** All items must be stored within the licensed premises building, except the City may permit the licensee to designate one (1) locked and secured warehouse building within the City within which the licensee may store oversized items. No item may be stored in the designated warehouse building that is not reported in the record pursuant to subparagraph D above. The licensee shall permit immediate inspection of the warehouse at any time during business hours by the Police Department. Oversized items may not be stored in parking lots or other outside areas. All provisions in this subparagraph regarding recordkeeping and reporting shall apply to oversized items.

M. **Off-Site Sales/Storage.** All items accepted by a licensee at a licensed location in the City shall be for pledge or sale through a licensed location in the City. No licensee under this Section shall sell any items which are transferred from a non-licensed facility or a licensed facility outside the City.

N. **Restrictions on Weapons.**

1. A pawnbroker or precious metal dealer may not receive as a pledge, accept for consignment or sale, or otherwise deal in any firearm for which a dealer’s license to deal in, is required by the laws of the State of Minnesota or the United States of America unless the pawnbroker or precious metal dealer holds such a firearms dealer’s license.

2. A pawnbroker or precious metal dealer may not receive as a pledge or otherwise, or accept for consignment or sale, a firearm which a person is prohibited from possessing or transferring pursuant to the laws of the State of Minnesota or the United States of America.

O. **Printed Pawn Tickets.** The pledgor or seller in a pawn transaction shall sign a pawn ticket and receive an exact copy of the pawn ticket. The following shall be printed on all pawn tickets:

1. “Any personal property pledged to a pawnbroker within this state is subject to sale or disposal when there has been no payment made on the account for a period of not less than sixty (60) days past the
date of the pawn transaction, renewal, or extension; no further notice is necessary. There is no obligation for the pledgor to redeem pledged goods,

2. The pledgor of this item attests that it is not stolen, it has no liens or encumbrances against it, and the pledgor has the right to sell orpawn the item,

3. This item is redeemable only by the pledgor to whom the receipt was issued, or any person identified in a written and notarized authorization to redeem the property identified in the receipt, or a person identified in writing by the pledgor at the time of the initial transaction and signed by the pledgor. Written authorization for release of property to persons other than the original pledgor must be maintained along with the original transaction record,” and

4. A blank line for the pledgor’s signature.

P. Effect of Nonredemption.

1. A pledgor shall have no obligation to redeem pledged goods or make any payment on a pawn transaction. Pledged goods not redeemed within at least sixty (60) days of the date of the pawn transaction shall automatically be forfeited to the pawnbroker, and qualified right, title, and interest in and to the goods shall automatically vest in the pawnbroker.

2. The pawnbroker’s right, title, and interest in the pledged goods under paragraph 1. is qualified only by the pledgor’s right, while the pledged goods remain in possession of the pawnbroker and not sold to a third party, to redeem the goods by paying the loan plus fees and/or interest accrued up to the date of redemption.

3. A pawn transaction that involves holding only the title to the property is subject to Minnesota Statutes Chapters 168A or 336.

Q. Permitted Charges.

1. Notwithstanding any other statute, ordinance, rule, or regulation, a pawnbroker may contract for and receive a pawnshop charge not to exceed three percent per month of the principal amount advanced in the pawn transaction plus a reasonable fee for storage and services. A fee for storage and services may not exceed $20 if the property is not in the possession of the pawnbroker.

2. The pawnshop charge allowed under Subdivision 7.Q.1. shall be deemed earned, due, and owing as of the date of the pawn transaction and a like sum shall be deemed earned, due, and owing on the same day of the succeeding month. However, if full payment is made more than two weeks before the next succeeding date the pawnbroker shall remit one-half of the pawnshop charge for that month to the pledgor.

3. Interest shall not be deducted in advance, nor shall any loan be divided or split so as to yield greater interest or fees than would be permitted upon a single, consolidated loan or for otherwise evading any provisions of this section.

4. Any interest, charge, or fees contracted for or received, directly or indirectly, in excess of the amount permitted under this Subdivision 7.Q., shall be uncollectible and the pawn transaction shall be void.

5. A schedule of charges permitted by this paragraph shall be posted on the pawnshop premises in a place clearly visible to the general public.

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R. **Records; Prohibitions.** A pawnbroker and any clerk, agent, or employee of a pawnbroker may not:

1. Make any false entry in the records of pawn transactions.

2. Falsify, obliterate, destroy, or remove from the place of business the records, books, or accounts relating to the licensee’s pawn transactions.

3. Refuse to allow the appropriate law enforcement agency, the attorney general, or any other duly authorized state or federal law enforcement officer to inspect the pawn records or any pawn goods in the person’s possession during the ordinary hours of business or other times acceptable to both parties.

4. Fail to maintain a record of each pawn transaction for three (3) years.

5. Accept a pledge or purchase property from a person under the age of eighteen (18) years.

6. Make any agreement requiring the personal liability of a pledgor or seller, or waiving any provision of this Section, or providing for a maturity date less than one month after the date of the pawn transaction.

7. Fail to return pledged goods to a pledgor or seller, or provide compensation as set forth in Minnesota Statutes Section 325J.09 upon payment of the full amount due the pawnbroker unless either the date of redemption is more than 60 days past the date of the pawn transaction, renewal, or extension and the pawnbroker has sold the pledged goods pursuant to Minnesota Statutes Section 325J.06, or the pledged goods have been taken into custody by a court or a law enforcement officer or agency.

8. Sell or lease, or agree to sell or lease, pledged or purchased goods back to the pledgor or seller in the same, or a related, transaction.

9. Sell or otherwise charge for insurance in connection with a pawn transaction.

10. Remove pledged goods from the pawnshop premises or other storage place approved by the City at any time before the expiration of the redemption period pursuant to Subdivision 7.S. of this Section. However, (i) a pawnbroker is permitted to return pledged goods to the borrower at any time during the redemption period, (ii) a pawnbroker is permitted to sell the pledged goods or remove the pledged goods from the pawnshop premises or other storage at any time after the expiration of the redemption period set forth in Subdivision 7.S., and (iii) a pawnbroker who purchases goods not involving a pawn transaction is permitted to sell or remove the purchased goods from the pawnshop premises or other storage 31 days or later from the purchase transaction date.

S. **Redemption; Risk of Loss.** Any person to whom the receipt for pledged goods was issued, or any person identified in a written and notarized authorization to redeem the pledged goods identified in the receipt, or any person identified in writing by the pledgor at the time of the initial transaction and signed by the pledgor shall be entitled to redeem or repurchase the pledged goods described on the ticket. In the event the goods are lost or damaged while in possession of the pawnbroker, the pawnbroker shall compensate the pledgor, in cash or replacement goods acceptable to the pledgor, for the fair market value of the lost or damaged goods. Proof of compensation shall be a defense to any prosecution or civil action.

T. **Motor Vehicle Title Pawn Transactions; Special Provisions.**

1. In addition to the other requirements of this Section, a pawnbroker who holds a title to a motor vehicle as part of a pawn transaction shall:
a. Be licensed as a used motor vehicle dealer under Minnesota Statutes Section 168.27, and post such license on the pawnshop premises;

b. Verify that there are no liens or encumbrances against the motor vehicle with the Minnesota Department of Public Safety; and

c. Verify that the pledgor has automobile insurance on the motor vehicle as required by law.

2. A pawnbroker may not sell a motor vehicle covered by a pawn transaction until ninety (90) days after recovery of the motor vehicle.

**Subd. 8. Suspension or Revocation**

A. **Grounds for Suspension or Revocation.** The City may suspend or revoke a license issued under this Section. The following are grounds for suspension or revocation of a license:

1. Fraud, misrepresentation, or false statement contained in a license application or a renewal application;

2. Fraud, misrepresentation, or false statement made in the course of carrying on the licensed business;

3. Failure to comply with City ordinances or state law;

4. Conviction of the owner, manager, lessee, or an employee of the business of a violation of any ordinance or state or federal statute, arising on the licensed premises;

5. A pending criminal charge, citation, or complaint, or a conviction or other adjudication of guilt, of the owner, manager, or an employee of the licensed business of a violation of any ordinance or state or federal statute which adversely reflects upon the person’s ability to conduct the licensed occupation in a legal manner, which violations shall include, but are not limited to, theft, receiving stolen property, and fraudulent business practices.

6. Conducting the licensed business in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the community; or

7. The existence of any grounds for denial of a license identified in Subdivision 5 of this Section, which existed at the time the license was issued or arose subsequent to the issuance of the license.

B. **Procedure.**

1. **Notice.** Except as provided in subsection D below, a suspension or revocation shall be preceded by written notice from the Chief of Police or his or her designee to the licensee and an opportunity for a hearing. The notice shall state the nature of the violation(s) or grounds for suspension or revocation and shall inform the licensee of the licensee’s right to request a hearing within ten (10) days of the date contained in the notice to dispute the suspension or revocation. The notice shall be mailed by regular mail to the licensee at the most recent address listed on the license application. If a hearing request is not received by the City within ten (10) days of the date contained in the notice, the licensee’s right to a hearing shall be deemed waived. No suspension or revocation of a license under this Section shall take effect until (a) the licensee’s time to request a hearing expires; or (b) if a hearing is requested, after the licensee is informed of the decision of the City Manager.
2. **Hearing.** If a hearing is requested, the Chief of Police or his or her designee shall provide written notice to the licensee of the date, time and place of the hearing. The notice shall be served in the same manner as the initial notice. The notice shall be served no less than fifteen (15) day and no more than thirty (30) days prior to the hearing. The hearing shall be held by an impartial hearing officer who shall be appointed by the Chief of Police or his or her designee. Upon conclusion of the hearing, the hearing officer shall, within ten (10) days, make his or her recommendation to the City Manager in writing. If the hearing officer’s recommendation is denial of a renewal application, suspension or revocation, he or she shall include in the written recommendation his or her findings and conclusions supporting the decision.

3. **Decision.** Within thirty (30) days of receipt of the hearing officer’s written recommendation, the City Manager shall make a decision on whether the license shall be denied renewal, suspended or revoked. The City Manager shall inform the licensee in writing of the decision, including findings and conclusions supporting the decision, within ten (10) days.

4. **Appeal.** No appeal is allowed to the City Council under Section 2.80 of the City Code from a decision of the City Manager under this Section. The City Council may, on its own motion, determine to review the decision of the City Manager.

C. **Preexisting Contracts.** No expiration, revocation, suspension, or surrender of any license shall impair or affect the obligation of any preexisting lawful contract between the licensee and any pledgor.

D. **Immediate Temporary Suspension.** Any conviction of the licensee or an employee of the licensee for theft, burglary, robbery, receiving stolen property, or any other crime or violation involving stolen property shall result in the immediate suspension of the license until a hearing can be held on in accordance with subsection B of this subdivision. The hearing on the suspension shall be held within five (5) business days of the date of the temporary suspension.

**Subd. 9. Violation a Misdemeanor.** A person who commits or attempts to commit, conspires to commit or aids or abets in the commission of an act constituting a violation of this Section, whether individually or in connection with one or more other persons or as principal, agent, or accessory is guilty of a misdemeanor. A person who falsely, fraudulently, forcibly or willfully induces, causes, coerces, permits or directs another to violate a provision of this Section is guilty of a misdemeanor.

**SECTION 5.72 LICENSING OF RENTAL HOUSING.**

**Subd. 1. Purpose.** It is the purpose of this ordinance to protect the public health, safety and welfare of citizens of the City who have as their place of abode a living unit furnished to them for the payment of a rental charge to another by adopting licensing regulations for all rental dwellings in the city.

**Subd. 2. Definitions.**

A. “Administrative Authority” means the Fire Chief, Building Official, or their designee.

B. “Operate” means to charge a rental charge or other form of compensation for the use of a unit in a rental dwelling.

C. “Rental Dwelling” means any rental dwelling with one or more living units. “Rental dwelling” does not include hotels, motels, hospitals and homes for aged.
Subd. 3. License Required. No person, firm, partnership, corporation or other legal entity shall operate a rental dwelling in the City without first having obtained a license. The license is issued each year and is valid until the date of expiration.

Subd. 4. Application for Licenses. Applications for licenses shall be made in writing on forms provided by the City and accompanied by the fee amounts as established by the City Council. Such application shall be submitted at least sixty (60) days prior to the expiration date of the license, and shall specify the following:

A. Name and address of the owner of the rental dwelling.
B. Name and address of any operator or agent actively managing said rental dwelling.
C. Name and address of all partners if the registrant is a partnership.
D. Name and address of all officers of the corporation if the registrant is a corporation.
E. Name and address of the vendee if the rental dwelling is owned or being sold on a contract for deed.
F. Legal address of the rental dwelling.
G. Number and kind of units within the rental dwelling classified as dwelling units, tenement units, or rooming units or other.
H. Name and address of on site operating manager if any.

Subd. 5. Application, Execution. The application shall be subscribed and sworn to be the applicant before an officer duly qualified to take oaths and shall be made by the owner if such owner is a natural person; if the owner is a corporation by an officer thereof; if a partnership by one of the partners; and if an unincorporated association, by the manager or managing officer thereof.

Subd. 6. License Renewal. Notwithstanding the application signature requirements of Subdivision 5, renewals of the license as required annually by this code may be made by filling out the required renewal form furnished by the Administrative Authority to the owner, operator or agent of a rental dwelling and mailing said form together with the required registration fee to the Administrative Authority.

Subd. 7. License Fees. Such license fees shall be in the amount set by the City Council from time to time.

Subd. 8. Posting. Every registrant of a rental dwelling shall post the annual license issued by the Administrative Authority. The annual license shall be conspicuously posted (in a frame with a glass covering) by the registrant, in a public corridor, hallway or lobby of the rental dwelling for which they are issued.

Subd. 9. Maintenance Standards. Every rental dwelling shall maintain the standards in the City Code, Chapter 9, Section 9.11 in addition to any other requirement of the ordinance of the City or special permits issued by the City, or the laws of the State of Minnesota.

Subd. 10. Revocation or Suspension.

A. Every license or permit issued under this ordinance is subject to the right, which is hereby expressly reserved, to suspend or revoke the same should the license holder or their agents, employees, representatives or lessees directly or indirectly operate or maintain rental dwellings contrary to the provisions of this Article or any other City Code provision, or any permit issued by the City or the laws of the State of Minnesota.
B. The license may be suspended or revoked by the City Council after a written notice is sent to the license holder specifying the ordinance or law violations with which they are charged. This notice shall also specify the date for hearing before the City Council, which shall not be less than 10 days from the date of the notice.

C. At such hearing before the City Council, the license holder or their attorneys may submit and present witnesses on their behalf.

D. After a hearing the City Council may suspend or revoke the license if they deem it necessary to protect the public health, safety or general welfare.

Subd. 11. Summary Action. When the condition of the rental dwelling of any license holder or their agent, representative, employee or lessee is detrimental to the public health, safety and general welfare as to constitute a nuisance, fire hazard or other unsafe or dangerous condition and thus give rise to an emergency, the Administrative Authority shall have the authority to summarily condemn or close off such area of the rental dwelling.

Any person aggrieved by a decision of the Administrative Authority to cease business or revoke or suspend the license or permit shall be entitled to appeal to the City Council immediately, by filing a Notice of Appeal. The Administrative Authority shall schedule a date for hearing before the City Council and notify the aggrieved person of the date.

The hearing shall be conducted in the same manner as if the aggrieved person had not received summary action. The decision of the Administrative Authority shall not be voided by the filing of such appeal. Only after the City Council has held its hearing will the decision of the Administrative Authority be affected.

Subd. 12. Applicable Laws. Licenses shall be subject to all of the ordinances of the City and the State of Minnesota relating to rental dwellings; and this ordinance shall not be construed or interpreted to supersede or limit any other such applicable ordinance or law.

Subd. 13. Rental Dwelling Licenses; Conduct On Licensed Premises. It shall be the responsibility of the rental license holder to take appropriate action to prevent conduct by tenants or their guests on the licensed premises which is hereby deemed to be disorderly, (hereinafter referred to as a “Disorderly Use Violation”) in violation of any of the following statues or ordinances:

A. Minnesota Statutes, Sections 609.75 through 609.76, which prohibit gambling;

B. Minnesota Statutes, Sections 609.321 through 609.324, which prohibits prostitution and acts relating thereto;

C. Minnesota Statutes, Sections 152.01 through 152.025, and Section 152.027, Subdivisions 1 and 2, which prohibit the unlawful sale or possession of controlled substances;

D. Minnesota Statutes, Section 340A.401, which prohibits the unlawful sale of alcoholic beverages;

E. Minnesota Statutes, Section 609.72, and Chapter 9, Section 9.30 of this Code, which prohibits disorderly conduct when the violation disturbs the peace and quiet of the occupants of at least one unit on the licensed premises or other premises, other than the unit occupied by the person(s) committing the violation;

F. Minnesota Statutes, Sections 97B.021, 97B.045, 609.66 through 609.67 and 624.712 through 624.716 which prohibit the unlawful possession, transportation, sale or use of a weapon.


A. Upon determination by the Administrative Authority that a Disorderly Use Violation occurred on the licensed premises, as described in Subdivision 13 above, the City shall notify the licensee by certified mail of the violation and direct the licensee to take appropriate action to prevent further violations.
B. If a second Disorderly Use Violation occurs on the licensed premises by the same tenant, a family member, a roommate, or a guest of the tenant within twelve (12) months of an incident for which the notice in Subdivision 13A above was given, the City shall notify the licensee by certified mail of the violation and shall also require the licensee to submit a written report of the actions taken, and proposed to be taken, by the licensee to prevent disorderly use of the premises. This written report shall be submitted to the City within seven (7) days of receipt of the notice (excluding holidays) of disorderly use of the premises.

C. If a third Disorderly Use Violation occurs on the licensed premises by the same tenant, a family member, a roommate, or a guest of the tenant within twelve (12) months after the second of any two (2) previous instances of disorderly use for which notices were sent to the licensee pursuant to this section, the rental dwelling license for the unit occupied by the involved tenant may be suspended by the City Council. The initial suspension may be for up to sixty (60) days. If another disorderly use violation occurs on the licensed premises by the same tenant, a family member, a roommate, or a guest of the tenant within twelve (12) months after the end of a suspension period, the City Council may suspend the rental dwelling license for the unit occupied by the involved tenant for up to one hundred twenty (120) days. In lieu of a suspension, the City Council may impose a fine equivalent to the rent for the suspension period.

D. It shall not be considered an instance of disorderly use if the tenant is evicted or voluntarily vacates the licensed premises prior to the hearing before the City Council and within two (2) full calendar months after the determination by the Administrative Authority that disorderly use has occurred and notice of the determination has been sent to the licensee.

Subd. 15. Multiple Suspensions. If the license of more than one dwelling unit in a licensed premises is suspended within twelve (12) months, the period of suspension for the second and subsequent dwelling units licensed that are suspended may be doubled for the suspension period specified in Subdivision 14 above.

Source: Ordinance No. 7-2006
Effective Date: 3-2-2006

SECTION 5.73 DOMESTIC PARTNERSHIPS

Subd. 1. Purpose and Findings. The City of Eden Prairie authorizes and establishes a voluntary program of registration of domestic partners. The domestic partnership registry is a means by which unmarried, committed couples who reside in Eden Prairie and who share a life and home together may document their relationship. Eden Prairie’s Domestic Partnership ordinance is a City ordinance and does not create rights, privileges, or responsibilities that are available to married couples under state or federal law. The City of Eden Prairie cannot provide legal advice concerning domestic partnerships. Applicants and registrants may wish to consult with an attorney for such advice including but not limited to: wills, medical matters, finances and powers of attorney, children and dependents, medical, health care and employment benefits.

Subd. 2. Definitions. The following words and phrases used in this Section have the meanings given in this Section.

A. Domestic Partner. Any two adults who meet all the following:

1. Are not related by blood closer than permitted under marriage laws of the state.
2. Are not married.
3. Are competent to enter into a contract.
4. Are jointly responsible to each other for the necessities of life.

5. Are committed to one another to the same extent as married persons are to each other, except for the traditional marital status and solemnities.

6. Do not have any other domestic partner(s).

7. Are both at least 18 years of age.


B. Domestic Partnership. The term “domestic partnership” shall include, upon production of valid, government-issued documentation, in addition to domestic partnerships registered with the City of Eden Prairie, and regardless of whether partners in either circumstance have sought further registration with the City of Eden Prairie:

1. Any persons who have a currently-registered domestic partnership with a governmental body pursuant to state, local or other law authorizing such registration. The term domestic partnership shall be construed liberally to include unions, regardless of title, in which two individuals are committed to one another as married persons are traditionally committed, except for the traditional marital status and solemnities.

2. Marriages that would be legally recognized as a contract of lawful marriage in another local, state or foreign jurisdiction, but for the operation of Minnesota law.

Subd 3. Registration of Domestic Partnerships.

A. The City Clerk shall accept an application in a form provided by the City to register domestic partners who state in such application that they meet the definition of domestic partners.

B. The City Clerk shall charge an application fee for the registration of domestic partners and shall charge a fee for providing certified copies of registrations, amendments, or notices of termination. The fees required by this Section shall be in the amount set forth in the Fee Resolution adopted by the City Council, as the same may be amended from time to time.

C. The City Clerk shall provide each domestic partner with a registration certificate. The registration certificate shall not be issued prior to the third working day after the date of the application.

D. This application and certificate may be used as evidence of the existence of a domestic partner relationship.

E. The City Clerk shall keep a record of all registrations of domestic partnership, amendments to registrations and notices of termination. The records shall be maintained so that amendments and notices of termination are filed with the registration of domestic partnership to which they pertain.

F. The application and amendments thereto, the registration certificate, and termination notices shall constitute government data and will be subject to disclosure pursuant to the terms of the Minnesota Government Data Practices Act.

Subd. 4 Amendments. The City Clerk may accept amendments for filing from persons who have domestic partnership registrations on file, except amendments which would replace one of the registered partners with another individual.
Subd 5. Termination of Domestic Partnership. Domestic partnership registration terminates when the earliest of the following occurs:

1. One of the partners dies; or

2. Forty-five days after one partner: a) sends the other partner written notice, on a form provided by the City, that he or she is terminating the partnership; and b) files the notice of termination and an affidavit of service of the notice on the other partner with the City Clerk.

SECTION 5.74. COAL TAR-BASED SEALANT PRODUCTS.

Subd. 1. Purpose. The City of Eden Prairie finds that lakes, rivers, streams and other bodies of water are natural assets which enhance the environmental, recreational, cultural and economic resources and contribute to the general health and welfare of the community. The use of sealers on asphalt driveways is a common practice. Scientific studies on the use of driveway sealers have demonstrated a relationship between stormwater runoff and certain health and environmental concerns. The purpose of this ordinance is to regulate the use of coal-tar based sealer products within the City of Eden Prairie, in order to protect, restore, and preserve the quality of its waters.

Subd. 2. Definitions. For the purpose of this section, certain terms and words are defined as follows:

1. Asphalt-Based Sealer. A petroleum-based sealer material that is commonly used on driveways, parking lots, and other surfaces and which does not contain coal tar.

2. Coal Tar. A byproduct of the process used to refine coal, the carbonization of coal for the steel industry or the gasification of coal to make coal gas. Coal tar contains high levels of polycyclic aromatic hydrocarbons (PAHs).

3. Coal Tar Based Sealer. A sealer material containing coal tar which is commonly used on driveways, parking lots and other surfaces.

4. MPCA. The Minnesota Pollution Control Agency.

5. PAHs. Polycyclic Aromatic Hydrocarbons. A group of organic chemicals formed during the incomplete burning of coal, oil, gas, or other organic substances. Present in coal tar and believed harmful to humans, fish, and other aquatic life.

Subd. 3. Prohibitions.

1. No person shall apply any coal tar-based sealer to any driveway, parking lot, or other surface within the City of Eden Prairie.

2. No person shall contract with any commercial sealer product applicator, residential or commercial developer, or any other person for the application of any coal tar-based sealer to any driveway, parking lot, or other surface within the City.

3. No commercial sealer product applicator, residential or commercial developer, or other person shall direct any employee, independent contractor, volunteer, or other person to apply any coal tar-based sealer to any driveway, parking lot, or other surface within the City.

Subd. 4. Exclusions. Upon the express written approval from both the City and the MPCA, a person conducting bona fide research on the effects of coal tar-based sealer products or PAHs on the environment shall be exempt from the prohibitions of this Section 5.73.
**Subd. 5. Asphalt-Based Sealcoat Products.** The provisions of this ordinance shall only apply to use of coal tar-based sealer in the City and shall not affect the use of asphalt-based sealer products within the City.

**Subd. 6. Severability.** If any provision of this ordinance is found to be invalid for any reason by a court of competent jurisdiction, the validity of the remaining provisions shall not be affected.”

Source: Ordinance No. 9-2012
Effective Date: 05-10-2012

**SECTION 5.75. STORMWATER ILLICIT DISCHARGE AND CONNECTIONS.**

**Subd. 1. Declaration of Policy and Purpose.** The purpose of this section is to set forth minimum requirements for stormwater management that will diminish threats to public health, safety, public and private property, and natural resources of the community by establishing standards that protect the city's lakes, ponds, wetlands, and streams from pollutants carried in urban runoff. This ordinance establishes methods for controlling the introduction of pollutants into the Municipal Separate Storm Sewer System (MS4) in order to comply with the requirements of the National Pollutant Discharge Elimination System (NPDES) permit process.

**Subd. 2. Definitions.** For the purposes of this Section, the following terms, phrases, and words shall have the meanings stated below.

A. Illicit connection. Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any non-stormwater discharge such as sewage, process wastewater, and wash water, and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency.

B. Illicit discharge. Any direct or indirect non-stormwater discharge to the storm sewer system except as exempted in Subd. 4 of this ordinance.

C. Municipal Separate Storm Sewer System (MS4). A stormwater conveyance or unified stormwater conveyance system (including without limitation roads with drainage systems, municipal streets, catch basins, stormwater detention facilities, curbs, gutters, ditches, natural or man-made channels or storm drains that are located within the corporate limits of Eden Prairie, MN and are owned or operated by the City, State, County or other public body.

D. MPCA. The Minnesota Pollution Control Agency.

E. NPDES. The National Pollutant Discharge Elimination System (NPDES) permit program which controls water pollution by regulating sources that discharge pollutants into waters of the United States.

F. Pollutant. Any man-made or man-induced alteration of the chemical, physical, biological, thermal and/or radiological integrity of the water which has the potential to harm human life, aquatic life, terrestrial plant life and/or wildlife.

G. Stormwater. Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation and resulting from such precipitation.

H. Stormwater System. A Stormwater System includes any stormwater facility, drainage work or improvement that is designed to transport, convey or control the flow of stormwater or that improves or controls the water quality of stormwater. This shall include but is not limited to, outfalls, inlets, outlets, conduits, pipes, curbs, municipal
streets, catch basins, gutters, ditches, pumping stations, manholes, structures, channels, retention or detention basins, infiltration areas, filtration systems and other structural components and equipment that are used for managing storm drainage or surface water. Stormwater Systems include both Public and Private Systems.

1. Public Stormwater Systems are those Stormwater Systems that are under the control and/or ownership of the city, county, state or federal government. Public Stormwater Systems includes all Waters of the State located within the City that are used for managing the surface water system.

2. Private Stormwater Systems are those Stormwater Systems that are not under the control or ownership of the city, county, state and/or federal government.

I. Surface water or waters. All streams, lakes, ponds, marshes, wetlands, reservoirs, springs, rivers, drainage systems, waterways, watercourses, or irrigation systems, whether natural or artificial, public or private.

J. Wastewater. Any water or other liquid waste, other than uncontaminated stormwater, that has been used, such as for washing, flushing, or in a manufacturing process, and so contains waste products, discharged from a facility and collected in a sewer system and conveyed to a sewage treatment plant for processing.

Subd. 3. Stormwater and urban runoff control. All water entering the stormwater system will be protected from illegal disposal/dumping and illicit discharges and connections.

A. Illegal disposal/dumping. No person shall throw, drain or otherwise discharge, cause or allow others under its control to throw, drain or otherwise discharge into a Stormwater System any pollutants or waters containing any pollutants other than stormwater.

B. Illicit discharges and connections.

1. No person shall cause any illicit discharge to enter a Stormwater System.

2. No person shall use any illicit connection to intentionally convey non-stormwater to a Stormwater System.

3. The construction, use, maintenance or continued existence of illicit connections to a Stormwater System is prohibited. This prohibition includes, without limitation; illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

Subd. 4. Exemptions. The following activities shall be exempt from Subd. 3.

A. Discharge of non-stormwater discharge that is authorized by an NPDES permit, Notice of Intent, waiver, or wastewater discharge order issued to the discharger and administered under the authority of the U.S. Environmental Protection Agency (EPA) or MPCA.

B. Firefighting activities or other activities necessary to protect public health and safety.

C. Dye testing, but such testing requires written notification to the City Engineering Department prior to the time of the test.

D. Water line flushing or flushing of other potable water sources.

E. Landscape irrigation or lawn watering.
F. Residential car washing,

G. Diverted stream flows that have a Permit from the Minnesota Department of Natural Resources (DNR) or MPCA,

H. Uncontaminated ground water infiltration,

I. Foundation or footing drains that discharge uncontaminated groundwater,

J. Crawl space pumps,

K. Air conditioning condensation,

L. Noncommercial washing of vehicles,

M. Natural wetland flows,

N. Dechlorinated swimming pool water,

O. Street wash water discharged that is necessary for health or safety purposes and not in violation of any other provisions of city code,

P. Flows from riparian habitats and wetlands, and

Q. Any other water source not containing a pollutant.

Subd. 5. Good Housekeeping Provisions. Any owner or occupant of property within the City shall comply with the following good housekeeping requirements.

A. No person shall leave, deposit, discharge, dump or otherwise introduce pollutants in an area where discharge to streets or the storm drain system occurs.

B. For pools greater than 1,000 gallons in size, water shall sit a minimum of seven (7) days without the addition of chlorine to allow for chlorine to evaporate before discharge.

C. Any facility subject to a MPCA General Stormwater Permit for Industrial or Construction Activity shall comply with all provisions of such permit including the creation of a Stormwater Pollution Prevention Plan (SWPPP). The Proof of Coverage from the MPCA of the Stormwater Permit must be submitted to the City before any discharge occurs under the permit. Proof of compliance with said permit shall be provided in a form acceptable to the city upon the City’s request.

D. As soon as any person responsible for a facility or operation has information of any known or suspected release of materials that are resulting or may result in illegal discharges or pollutants discharging into a Stormwater System, said person shall take steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the City in person or by phone or facsimile no later than the next business day.

Subd. 6. Public Waters Protection. Every person owning property through which Public Waters pass, as defined in Minn. Stat. §103G.005, Subd. 15, or such person’s lessee, shall keep and maintain that part of the public waters within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly
retard the flow of water through the public waters. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to public waters, so that such structures will not become a hazard to the use, function, or physical integrity of the public waters.

**Subd. 7. Inspection, Monitoring and Testing.**

A. The city shall be permitted to enter and inspect all Stormwater Systems as necessary to determine compliance with this ordinance. If security measures are in force which require proper identification and clearance before entry into its premises, the discharger shall make necessary arrangements to allow access to representatives of the City.

B. Facility operators shall allow the city ready access to all parts of its Stormwater System for the purposes of inspection, sampling, testing, examination and copying of records that must be kept under the conditions of a NPDES Permit to discharge stormwater.

C. The city shall have the right to set up at any Stormwater System devices necessary in the opinion of the City to conduct monitoring, sampling and/or dye testing of the facility's stormwater discharge.

D. The city has the right to require the discharger to install monitoring equipment as the City deems necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure storm water flow and quality shall be calibrated to ensure their accuracy.

E. If the city has been refused reasonable access to any Stormwater System and the City is able to demonstrate probable cause to believe that there may be a violation of this section, or that there is a need to inspect and/or sample to verify compliance with this chapter or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the city may seek issuance of a search warrant from any court of competent jurisdiction.

**Subd. 8. Violations and Penalties.** It shall be unlawful to violate any provision or fail to comply with any of the requirements of this ordinance.

A. The city may, without prior notice, suspend Stormwater System access to any building/site when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the storm sewer system or surface waters.

B. In the event the violation constitutes an immediate danger to public health or safety, the City is authorized to enter upon the subject property without giving prior notice to take any and all measures necessary to abate the violation and/or restore the property.

C. Failure to comply with a suspension order issued in an emergency will result in any process deemed necessary to prevent or minimize damage to the storm sewer system or surface waters, or to minimize danger to persons.

**Subd. 9. Violation deemed a Public Nuisance.** In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this ordinance is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

**Subd. 10. Cost of Abatement of the Violation.** Within 30 days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within 7 days. If the amount due is not paid within a timely manner as determined by the decision of the municipal authority or by the expiration of the time in which to file an appeal, the City
may assess the charges against the property. Any person violating any of the provisions of this article shall become liable to the city by reason of such violation.

**Subd. 11. Remedies not Exclusive.** The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the city to seek cumulative remedies. The City may recover all attorney's fees court costs and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.

**Subd. 12. Compatibility with Other Regulations.** This ordinance is not intended to modify or repeal any other ordinance, rule, regulation, or other provision of law. The requirements of this ordinance are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.

**Subd. 13. Severability.** If any provision of this ordinance is found to be invalid for any reason by a court of competent jurisdiction, the validity of the remaining provisions shall not be affected.

**Subd. 14. Ultimate Responsibility.** The standards set forth herein and promulgated pursuant to this ordinance are minimum standards; therefore this ordinance does not intend or imply that compliance by any person will ensure that there will be no contamination, pollution, or unauthorized discharge of pollutants.

Source: Ordinance No. 13-2012
Effective Date: 06-14-2012

**SECTION 5.76. MOBILE FOOD VENDORS.**

Source: Ordinance No. 15-2015
Effective Date: 11-26-15

**Subd. 1. Purpose.** It is the purpose of this Section to protect the public health, safety and welfare through the regulation of mobile food vendors.

**Subd. 2. Definitions.** When used in this Section, the following terms have the following meanings:

A. “City Manager” means the City Manager and his or her designee.

B. “Food and beverage service establishment” means a building, structure, enclosure, or any part of a building, structure, or enclosure used as, maintained as, advertised as, or held out to be an operation that prepares, serves, or otherwise provides food or beverages, or both, for human consumption.

C. “Food stand” means all of the following:

1. “Food cart” means a food and beverage service establishment that is a nonmotorized vehicle self-propelled by the operator.

2. “Mobile food unit” means a food and beverage service establishment that is a vehicle mounted unit, either motorized or trailered.

3. “Seasonal permanent food stand” means a food and beverage service establishment which is a permanent food service stand or building, but which operates no more than 21 days annually.

4. “Seasonal temporary food stand” means a food and beverage service establishment that is a food stand
which is disassembled and moved from location to location, but which operates for no more than 21 days annually at any one location.

D. “Location” means for purposes of this Section, one unit of a recorded plat, subdivision, or registered land survey, or a recorded parcel described by metes and bounds.

E. “Special event food stand” means a food and beverage service establishment which is used in conjunction with special events, and which operates no more than three times annually for no more than ten total days at all locations within the City.

F. “Special events” means weddings, anniversary parties, birthday parties, employee parties, graduation parties and other similar events.

Subd. 3. Regulations. All food stands and special event food stands shall comply with the following:

A. State License. All food stands and special event food stands shall hold a valid license from the Minnesota Department of Health or Hennepin County Health as applicable and post such license in the food stand or special event food stand.

B. Mobile Food Unit. Mobile food units may operate no more than 21 days annually at any location unless operated by a permanent business located in the City of Eden Prairie or an affiliate of such business, licensed under Minnesota Statutes Chapter 157 or Chapter 28A, and readily movable, without disassembling, for transport to another location.

C. Locations. All food stands and special event food stands shall operate only in the following locations:

1. Food stands may operate only in the office zoning district set forth in City Code Section 11.20, the industrial zoning district set forth in City Code Section 11.30, and the rural zoning district set forth in City Code Section 11.10.

2. Except as provided otherwise below and subject to the restrictions below, special event food stands may operate in any zoning district.

D. Hours. All food stands and special event food stands shall operate only during the following hours:

1. Food stands may operate only between the hours of 6 a.m. and 12 a.m. (midnight).

2. Special event food stands may operate only between the hours of 6 a.m. and 12 a.m. (midnight) except within residential zoning districts, including TOD-R, where the hours of operation shall be between 7 a.m. and 10 p.m.

E. Written Permission. All food stands and special event food stands shall operate on private property only with written consent from the person who owns or controls the property.

F. Public Property. Food stands and special event food stands shall not operate on public streets or public right-of-ways. Food stands and special event food stands may operate in City parks only with written approval from the City Parks and Recreation Director.

G. Storage. All food stands and special event food stands shall be stored in compliance with all regulations relating to storage in the applicable zoning district.
H. **Gray Water.** All food stands and special event food stands shall dispose of gray water daily. Gray water may not be drained into City storm water drains.

I. **Size.** All food stands and special event food stands shall have a maximum length of no more than 30 feet.

J. **Signs.** All food stands and special event food stands shall display all signs in compliance with the requirements of the City Code.

K. **Fire Extinguishers.** All food stands and special event food stands shall have at least one 2A:20BC fire extinguisher in the stand. If deep frying occurs in the stand, then the stand must have at least one Class K fire extinguisher in the stand. Each fire extinguisher must display an inspection tag dated within the past 12 months.

L. **Laws.** All food stands and special event food stands shall comply with all applicable federal, state and local laws, ordinances, regulations, parking zones, and posted signs.

M. **Power.** All food stands and special event food stands shall provide a power supply that meets all Federal, State and Local regulations.

N. **Propane.** All food stands and special event food stands shall secure all propane tanks and provide adequate ventilation.

O. **Precautions.** All food stands and special event food stands shall take all precautions necessary to protect the public against injury.

P. **Indemnification.** All food stands and special event food stands shall defend, indemnify and save the City, its officials, agents and employees, harmless from and against all liabilities, losses, damages and claims of damages (including all reasonable costs, attorneys' fees, and other expenses incident thereto) suffered or incurred by the City, its officials, agents and employees, that may arise by reason of any act or omission on the part of the operator, its agents, or independent contractors, while engaged in operations under this Section.

Q. **Insurance.** All food stands and special event food stands shall maintain all insurance required under this subdivision, covering all vehicles, structures, food stands and special event food stands used and all operations performed under this Section. All food stands and special event food stands shall maintain evidence of such insurance in the food stand and/or special event food stand and present such insurance on request by the City.

1. The insurance required herein shall be issued by insurers duly licensed to do business within the State of Minnesota, be in force and effect on the dates of operation and provide the following coverages:
   a. Commercial general liability insurance, with a limit of not less than one million dollars ($1,000,000.00) each occurrence. If such insurance contains an annual aggregate limit, the annual aggregate limit shall be not less than two million dollars ($2,000,000.00);
   b. Automobile liability insurance with a limit of not less than $2,000,000 combined single limit. The insurance shall cover liability arising out of any auto, including owned, hired, and non-owned vehicles;
   c. Food products liability insurance, with a limit of not less than one million dollars ($1,000,000.00) each occurrence;
   d. Public liability insurance, with a limit of not less than one million dollars ($1,000,000.00) each occurrence;
Property damage insurance, with a limit of not less than one million dollars ($1,000,000.00) each occurrence; and

Workers’ compensation insurance (statutory limits) or evidence of exemption from state law.

2. Such insurance policy or policies shall provide contractual liability insurance, specifically referring to and covering the obligation to defend, indemnify and save harmless the City, its officials, agents and employees from alleged claims or causes of action for bodily injury or property damage as provided in this Section 5.76.

3. Said policy or policies shall contain an endorsement as follows: “The policy to which this endorsement is attached is intended to comply with and furnish the coverages required by Section 5.76 of the City Code of the City of Eden Prairie. If anything in any other attachment, endorsement or rider conflicts with the provisions of said Section 5.76, then the provisions of said Section 5.76 shall prevail. Any deductible amount provided for in any part of the policy will be paid by the insurer upon establishment of legal liability of any insured, and the insurer shall be entitled to reimbursement from the insured for such deductible amount.”

Subd. 4. Violations and Penalties.

A. Misdemeanor. A person who commits or attempts to commit, conspires to commit or aids or abets in the commission of an act constituting a violation of this Section, whether individually or in connection with one or more other persons or as principal, agent, or accessory is guilty of a misdemeanor. A person who falsely, fraudulently, forcibly or willfully induces, causes, coerces, permits or directs another to violate a provision of Section is guilty of a misdemeanor.

B. Public Nuisance. Any condition caused or permitted to exist in violation of any of the provisions of this Section is a threat to public health, safety, and welfare, and is declared and deemed a public nuisance. The City may exercise any remedy available at law or in equity to abate, enjoin, or otherwise compel the cessation of such nuisance and shall be entitled to recover its costs and expenses, including reasonable attorney fees, so incurred.

C. Remedies not Exclusive. The remedies listed in this Section are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the city to seek cumulative remedies. The City may recover all attorney fees, court costs and other expenses associated with enforcement of this Section.

Subd. 5. Severability. If any provision of this Section is found to be invalid for any reason by a court of competent jurisdiction, the validity of the remaining provisions shall not be affected.

SECTION 5.77. SEXUALLY ORIENTED BUSINESSES.  

Subd. 1. Purpose and Findings.

A. Purpose. The purpose of this section is to prescribe licensing requirements for sexually oriented businesses to protect the public health, safety, and welfare and to prevent criminal activity and the spread of sexually transmitted diseases.

B. Findings. The Eden Prairie City Council makes the following findings regarding the effect sexually oriented businesses have on the character of the City’s neighborhoods. These findings are based on the experiences of other cities where the businesses are located, as studied by staff.
1. Sexually oriented businesses can contribute to an increase in criminal activity in the area in which such businesses are located, increasing the demands on City crime-prevention programs and law enforcement services.

2. Sexually oriented businesses can be used as fronts for prostitution and other criminal activity. The experience of other cities indicates that proper management and operation of such businesses can minimize this risk.

3. Sexually oriented businesses can increase the risk of exposure to communicable diseases including acquired immune deficiency syndrome (AIDS), for which there is currently no cure. Experiences of other cities indicate that such businesses can facilitate the spread of communicable diseases by virtue of the design and use of the premises, endangering not only the patrons of such establishments but also the general public.

4. Sexually oriented businesses can cause or contribute to public health problems by the presence of live adult entertainment in conjunction with food or drink or both on the same premises.

5. A licensing and regulatory scheme as prescribed in this Section can minimize the risk of criminal activity and public health problems and can aid in monitoring sexually oriented businesses for other adverse secondary effects on the community.

Subd. 2. Definitions. When used in this Section, the following terms have the following meanings:

A. “Sexually oriented business” means:

1. a business that meets any of the following criteria, measured on a daily, weekly, monthly, or yearly basis:
   a. has more than 25% of its inventory, stock-in-trade, or publicly displayed merchandise in sexually oriented materials;
   b. devotes more than 25% of its floor area (not including storerooms, stock areas, bathrooms, basements, or any portion of the business not open to the public) to sexually oriented materials; or
   c. derives more than 25% of its gross revenues from sexually oriented materials; or

2. a business that engages for any length of time in a sexually oriented use as defined in subsection C below or any other use that has an emphasis on specified sexual activities or specified anatomical areas.

B. “Sexually oriented materials” means visual, printed, or audio materials, and other objects or devices, that:

1. contain, depict, simulate or describe specified sexual activities or specified anatomical areas; or

2. are marketed for use in conjunction with, or are primarily used only with or during, specified sexual activities; or

3. are designed for sexual stimulation.

C. “Sexually oriented use” means any of the following activities and businesses, even if the activity exists for only a short time:
1. “Adult body painting studio” means an establishment or business that provides the service of applying paint, ink, or other substance, whether transparent or non-transparent, to the body of a patron when the person is nude.

2. “Adult bookstore” means an establishment or business used for the barter, rental, or sale of items consisting of printed matter, pictures, slides, records, audio, video, or other digital media, movies, or motion picture film if it meets the criteria established in subsection A above.

3. “Adult cabaret” means a business or establishment that provides dancing or other live entertainment distinguished or characterized by an emphasis on: (1) the depiction of nudity, specified sexual activities, or specified anatomical areas; or (2) the presentation, display, or depiction of matter that seeks to evoke, arouse, or excite sexual or erotic feelings or desire.

4. “Adult companionship establishment” means a business or establishment that provides the service of engaging in or listening to conversation, talk, or discussion distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

5. “Adult conversation/rap parlor” means a business or establishment that provides the services of engaging in or listening to conversation, talk, or discussion distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

6. “Adult health/sport club” means a health/sport club that is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

7. “Adult hotel or motel” means a hotel or motel that presents material distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas.

8. “Adult massage parlor/health club” means a massage parlor or health club that provides massage services distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

9. “Adult mini-motion picture theater” means a business or establishment with a capacity of less than 50 persons that as a prevailing practice presents on-premises viewing of movies, motion pictures, or other material distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

10. “Adult modeling studio” means a business or establishment that provides live models who, with the intent of providing sexual stimulation or sexual gratification, engage in specified sexual activities or display specified anatomical areas while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted.

11. “Adult motion picture arcade” means any place to which the public is permitted or invited where coin or slug-operated or electronically, electrically, or mechanically controlled or operated still or motion picture machines, projectors, or other image-producing devices are used to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.

12. “Adult motion picture theater” means a motion picture theater with a capacity of 50 or more persons that as a prevailing practice presents material distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas for observation by patrons.
13. “Adult novelty business” means an establishment or business that has a variety of items for sale if it meets the criteria established in subsection A.1.a above.

14. “Adult sauna” means a sauna that excludes minors by reason of age, and that provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, if the service provided by the sauna is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

15. “Adult steam room/bathhouse facility” means a building or portion of a building used for providing a steam bath or heated bathing room used for the purpose of pleasure, bathing, relaxation, or reducing, if the building or portion of a building restricts minors by reason of age and if the service provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

D. “Specified anatomical areas” means:

1. less than completely and opaquely covered human genitals, pubic area, buttock, anus, or female breast below a point immediately above the top of the areola; and

2. human male genitals in a state of sexual arousal, whether or not completely and opaquely covered.

E. “Specified sexual activities” means:

1. Actual or simulated: sexual intercourse; oral copulation; anal intercourse; oral-anal copulation; bestiality; direct physical stimulation of unclothed genitals; flagellation or torture in the context of a sexual relationship; the use of excretory functions in the context of a sexual relationship; anilingus; coprophagy; coprophilia; cunnilingus; fellatio; necrophilia; pedophilia; piquerism; or zooerastia;

2. Clearly depicted human genitals in the state of sexual stimulation, arousal, or tumescence;

3. Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation;

4. Fondling or touching of nude human genitals, pubic regions, buttocks, or female breasts, except touching the buttocks of a person receiving a massage if done upon the person’s request and only for medical purposes such as relieving pain or muscle soreness;

5. Situations involving a person or persons, any of whom are nude, who are clad in undergarments or in sexually revealing costumes and engaged in the flagellation, torture, fettering, binding, or other physical restraint of any person;

6. Erotic or lewd touching, fondling, or other sexually oriented contact with an animal by a human being; or

F. Human excretion, urination, menstruation, or vaginal or anal irrigation.

Subd. 3. License Required. It is unlawful for any person to own or operate a sexually oriented business within the City of Eden Prairie without first obtaining a license in compliance with the provisions of this Section.

Subd. 4. Exceptions. This Section does not regulate the following:

A. Material with significant literary content or social commentary;
B. A business where sexually oriented materials are sold, bartered, distributed, leased, furnished, or otherwise provided for off-site use or entertainment, if the sexually oriented material on each item is blocked from view by an opaque cover as required under Minnesota Statutes § 617.293, and each item is in an area accessible only by an employee of the business;

C. A person or organization exempted under Minnesota Statutes § 617.295;

D. Activity regulated under Minnesota Statutes § 617.202;

E. Displaying works of art showing specified anatomical areas, so long as no sexually oriented materials are for sale, and the business does not have a liquor license; and

F. Movies rated G, PG, PG-13, NC-17, or R.

Subd. 5. Ineligibility.

A. Persons Ineligible. No license may be issued to a person who:

1. Is not a citizen of the United States or a resident alien, or is legally prohibited from working in the United States;

2. Is not eighteen (18) years of age or older at the time the application is filed;

3. Has pending a criminal charge, citation, or complaint for any violation of federal or state statute or regulation, or of any local ordinance, which adversely reflects upon the person’s ability to conduct the sexually oriented business in a legal manner, which violations shall include, but not be limited to, prostitution or the solicitation, inducement, or promotion thereof, sex trafficking, criminal sexual conduct, assault, disorderly conduct, or the possession or sale of a controlled substance;

4. Has been convicted of a crime directly related to the licensed occupation and has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties of the owner, operator, or manager of a sexually oriented business under Minn. Stat. § 364.03, subd. 3;

5. Holds a liquor license issued under City Code or State law;

6. Is not the real party in interest or beneficial owner of the business operated under the license;

7. Has been denied, within the last year, any license application for the purpose of conducting a sexually oriented business;

8. Has had a license for a sexually oriented business or similar business revoked in any jurisdiction within five (5) years of the license application; or

9. In the case of an individual, is not a resident of the metro area; in the case of a partnership, the managing partner is not a resident of the metro area; or in the case of a corporation, the manager is not a resident of the metro area. The required residency must be established by the time the license is issued and maintained throughout the existence of the license and all renewals. The time for establishing residency within the metro area may, for good cause, be extended by the licensing authority. For the purposes of this paragraph, “metro area” means the seven-county metropolitan area defined by Minnesota Statutes § 473.121, subd. 2.
B. **Places Ineligible.** No license shall be issued for:

1. A place or business ineligible for a license under City ordinance or state law;
2. Operation in any location not permitted by City Code Chapter 11;
3. A place or business that is currently licensed by the City as a pawnshop or therapeutic massage enterprise;
4. A place or business that holds a liquor license;
5. Operation on any premises on which taxes, assessments or other financial claims of the City or other government agency are delinquent and unpaid, except if an action has been commenced pursuant to the provisions of Minnesota Statutes Chapter 278, questioning the amount or validity of taxes, the Council may on application by the licensee waive strict compliance with this provision; no waiver may be granted, however, for taxes, or any portion thereof, which remain unpaid for a period exceeding one (1) year after becoming due unless such one (1) year period is extended through no fault of the licensee.
6. A place or business if the property on which the business is or is to be conducted is owned by, operated by, or leased to a person who is ineligible for a license, except that a property owner who is under the age of eighteen (18) shall not make the premises ineligible under this subparagraph.

**Subd. 6. License Applications**

A. **Application.** All applications for licenses issued under this Section shall be made on forms supplied by the City. All questions asked or information required by the application forms shall be answered fully and completely by the applicant.

B. **Insurance.** Each applicant shall file with the City a public liability insurance policy or certificate of insurance from a company authorized to do business in the State of Minnesota, insuring the applicant against any and all loss arising out of the use, operation, or maintenance of the sexually oriented business. The policy of insurance shall be in limits of not less than $1,000,000. Failure to keep in full force and effect the insurance required by this Section is grounds for suspension or revocation of the license.

C. **Property Ownership and Leases.** Each applicant for a license shall provide, for the property on which the licensed business will operate, (1) such information as is requested by the City to establish the record owner of the property, and (2) copies of all leases currently in effect.

D. **False Statements.** It is unlawful for any applicant to intentionally make a false statement or omission upon any application. Any false statement in such application or any willful omission to state any information called for on such application will, upon discovery of such falsehood, be grounds for denial or, if already issued, for suspension or revocation of the license.

E. **License, Application, and Investigation Fees.** Upon submission of the application, applicants for a license for a sexually oriented business shall pay a fee to the City which shall be considered an application and investigation fee, not refundable to applicant, to cover the costs of the City in processing the application and the investigation thereof. Upon approval of an application, whether initial or renewal, the license will not be effective until the license fee is paid. All license application and investigation fees provided for in this Section shall be fixed and determined by the Council. Such fees, may, from time to time, be amended by the Council.
F. **Manager or Agent.** If the applicant is a firm, association, partnership, corporation, limited liability company, or joint venture, the application shall include the name of the natural person who will serve as the manager or agent of the licensed premises. Such manager or agent shall, by the terms of his or her written consent, (1) take full responsibility for the conduct of the licensed premises, and (2) serve as agent for service of notices and other process relating to the license. Such manager or agent must be a person who, by reason of age, character, reputation and other attributes would meet the standards established in Subdivision 5.A of this Section. A licensee shall notify the City in writing within 15 days of any change in such manager or agent indicating the name and address of the new manager or agent and the effective date of such change.

G. **Investigation.** The City is empowered to conduct any and all investigations to verify the information on applications and renewal applications submitted under this Section, including but not limited to ordering a criminal history check pursuant to City Code Section 2.33 and conducting an inspection of any premises proposed to be licensed. Failure of an applicant to allow an inspection is grounds for denial of the license.

H. **Consideration and Issuance.** After the information on the application has been verified as correct by the City pursuant to subsection G above, an initial application for a license under this Section shall be presented to the City Council for issuance or denial.

1. **Issuance.** Upon the City Council’s approval of an application and the applicant’s payment of the license fee, the City shall issue and mail a license certificate to the applicant at the address noted in the application.

2. **Denial.** The City Council may deny a license on the grounds set forth in Subdivision 5 of this Section and/or on the same grounds for which a license may be suspended or revoked as set forth in Subdivision 8 of this Section. A denial of an application shall be communicated to the applicant in writing, including findings and conclusions supporting the decision. The notice of denial shall be mailed by regular mail to the licensee at address listed on the application.

I. **Term of License.** Licenses issued under this Section will expire on December 31 of each year.

J. **Renewal of License.** Applications for renewal of all licenses issued under this Section shall be made at least sixty (60) days prior to the date of expiration of the license and shall contain such information as is required by the City. After the information on the renewal application has been verified as correct by the City pursuant to subsection G above, a renewal application for a license under this Section will be presented to the Chief of Police for issuance or denial.

1. **Issuance.** Upon approval of a renewal application and the applicant’s payment of the renewal fee, the City shall issue and deliver a license certificate to the applicant at the address noted in the renewal application.

2. **Denial.** The Chief of Police may deny renewal of a license on the grounds set forth in Subdivision 5 of this Section and/or on the same grounds for which a license may be suspended or revoked as set forth in Subdivision 8 of this Section. A denial of a renewal application shall be communicated to the applicant in writing, including findings and conclusions supporting the decision. The notice of denial shall be mailed by regular mail to the licensee at address listed on the renewal application. A licensee may appeal a non-renewal by submitting a hearing request to the Chief of Police within ten (10) days of the date of the City’s notice of non-renewal. If a hearing request is not received by the City within ten (10) days of the date contained in the notice, the licensee’s right to a hearing shall be deemed waived. If requested, the hearing shall be held in accordance with the procedures set forth in Subdivision 8.B.2 and 8.B.3 of this Section.
K. **Change of Information.** A licensee must promptly notify the City of a change in the information or facts required to be furnished on the application for a license, even after the license has been issued. Failure to comply with this subsection is cause for suspension or revocation of the license.

**Subd. 7. Conditions, Restrictions, and Regulations.**

A. **Compliance with Law.** A license is subject to the conditions, restrictions, and regulations in this Section, all other provisions of City Code, and all provisions of other applicable federal, state, and local laws, regulations, and ordinances.

B. **Conduct of Business.** A licensee is responsible for the conduct of his or her place of business and the conditions of order in it. The act of an employee of the licensed premises is deemed the act of the licensee as well, and the licensee is liable for all penalties provided by this ordinance equally with the employee, except criminal penalties.

C. **Posting.** The license must be posted in a conspicuous place in the premises for which it is used.

D. **Minimum age.**

1. No owner, manager, or employee may allow a person under the age of 18 to enter the business.

2. No owner, manager, or employee may allow a person under the age of 18 to have access to sexually oriented materials, whether by sight, purchase, touch, or another means.

E. **Employment of Persons Under 18 Prohibited.** No owner or manager may employ a person under the age of 18 on the licensed premises.

F. **Conduct on Licensed Premises.**

1. No owner, manager, or employee may allow sexually oriented materials or entertainment to be visible or perceivable in any manner, including aurally, at any time from outside of the business.

2. No owner, manager, or employee may allow a patron, employee, or other person on the premises to physically contact, in public view, a specified anatomical area of himself or herself, or of another person, except that a live performer may touch himself or herself.

3. A live performer must remain at all times a minimum distance of 10 feet from members of the audience, and must perform on a platform intended for that purpose, that must be raised at least two feet from the level of the floor on which the audience is located. No performer may solicit or accept money, a tip, or other item from a member of the audience.

G. **Premises Licensed.**

1. No sexually oriented business may have booths, stalls, partitioned portions of a room, or individual rooms, except as follows:

   a. Restrooms are allowed as long as they are no larger than reasonably necessary to serve the purposes of a restroom, no other activities are provided or allowed in the rooms, and there are no chairs, benches, or reclining surfaces in the rooms; and
b. Storage rooms and private offices are allowed, if the storage rooms and offices are used solely for running the business and no person other than the owner, manager, and employees is allowed in them.

2. No sexually oriented business may exceed 10,000 square feet in gross floor area.

3. A sexually oriented business license is only effective for the compact and contiguous space specified in the approved license application and may not be enlarged, altered, or extended without application to the City to amend the license.

H. Hours of Operation. A sexually oriented business may not be open for business to the public:

1. between 1:00 a.m. and 8:00 a.m., on the days of Monday through Saturday; and

2. between 1:00 a.m. and 12:00 noon, on Sundays.

I. Transfer of License. The license issued is for the person or the premises named on the approved license application. No transfer of a license shall be permitted from place to place or from person to person without complying with the requirements of an original application for the license.

Subd. 8. Suspension or Revocation.

A. Grounds for Suspension or Revocation. The City may suspend or revoke a license issued under this Section. The following are grounds for suspension or revocation of a license:

1. Fraud, misrepresentation, or false statement contained in a license application or a renewal application;

2. Fraud, misrepresentation, or false statement made in the course of carrying on the sexually oriented business;

3. Failure to comply with City ordinances or state law;

4. Conviction of the owner, manager, lessee, or an employee of the sexually oriented business of a violation of any ordinance or state or federal statute, arising on the licensed premises;

5. A pending criminal charge, citation, or complaint, or a conviction or other adjudication of guilt, of the owner, manager, or an employee of the sexually oriented business of a violation of any ordinance or state or federal statute which adversely reflects upon the person’s ability to conduct the licensed occupation in a legal manner, which violations shall include, but are not limited to, prostitution or the solicitation, inducement, or promotion thereof, sex trafficking, criminal sexual conduct, assault, harassment, disorderly conduct, or the possession or sale of a controlled substance;

6. Conducting the sexually oriented business in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the community; or

7. Habitual drunkenness or intemperance or the use of drugs on the licensed premises by employees or customers of the business, including but not limited to the use of controlled substances as defined in either federal or state laws, barbiturates, hallucinogenic drugs, amphetamines, Benzedrine, Dexedrine, or other sedatives, depressants, stimulants, tranquilizers or synthetic drugs.
8. The existence of any grounds for denial of a license identified in Subdivision 5 of this Section, which existed at the time the license was issued or arose subsequent to the issuance of the license.

B. Procedure.

1. Notice. A suspension or revocation shall be preceded by written notice from the Chief of Police or his or her designee to the licensee and an opportunity for a hearing. The notice shall state the nature of the violation(s) or grounds for suspension or revocation and shall inform the licensee of the licensee’s right to request a hearing within ten (10) days of the date contained in the notice to dispute the suspension or revocation. The notice shall be mailed by regular mail to the licensee at the most recent address listed on the license application. If a hearing request is not received by the City within ten (10) days of the date contained in the notice, the licensee’s right to a hearing shall be deemed waived. No suspension or revocation of a license under this Section shall take effect until (a) the licensee’s time to request a hearing expires; or (b) if a hearing is requested, after the licensee is informed of the decision of the City Manager.

2. Hearing. If a hearing is requested, the Chief of Police or his or her designee shall provide written notice to the licensee of the date, time and place of the hearing. The notice shall be served in the same manner as the initial notice. The notice shall be served no less than fifteen (15) day and no more than thirty (30) days prior to the hearing. The hearing shall be held by an impartial hearing officer who shall be appointed by the Chief of Police or his or her designee. Upon conclusion of the hearing, the hearing officer shall, within ten (10) days, make his or her recommendation to the City Manager in writing. If the hearing officer’s recommendation is denial of a renewal application or suspension or revocation of a license, he or she shall include in the written recommendation his or her findings and conclusions supporting the decision.

3. Decision. Within thirty (30) days of receipt of the hearing officer’s written recommendation, the City Manager shall make a decision on whether the license shall be denied renewal, suspended or revoked. The City Manager shall inform the licensee in writing of the decision, including findings and conclusions supporting the decision, within ten (10) days.

4. Appeal. No appeal is allowed to the City Council under Section 2.80 of the City Code from a decision of the City Manager under this Section. The City Council may, on its own motion, determine to review the decision of the City Manager.

Subd. 11. Violation a Misdemeanor. A person who commits or attempts to commit, conspires to commit or aids or abets in the commission of an act constituting a violation of this Section, whether individually or in connection with one or more other persons or as principal, agent, or accessory is guilty of a misdemeanor. A person who falsely, fraudulently, forcibly or willfully induces, causes, coerces, permits or directs another to violate a provision of this Section is guilty of a misdemeanor.

(Sections 5.78 through 5.98, inclusive, reserved for future expansion.)

SECTION 5.99. VIOLATION A MISDEMEANOR.

Every person violates a section, subdivision, paragraph or provision of this Chapter when he or she performs an act thereby prohibited or declared unlawful or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof.
CHAPTER 6

STREETS AND SIDEWALKS GENERALLY

(This chapter contains provisions as to definitions, application and scope relating to chapters 7 and 8 as well as this chapter.)

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CHAPTER 6
STREETS AND SIDEWALKS GENERALLY
(THESE CHAPTER CONTAINS PROVISIONS AS TO DEFINITIONS, APPLICATION AND SCOPE RELATING TO CHAPTERS 7 AND 8 AS WELL AS THIS CHAPTER.)

SECTION 6.01. DEFINITIONS.

Except as otherwise defined in the City Code or where the context clearly indicates a contrary intent, the words and terms defined in Minnesota Statutes Chapter 169, Minnesota Statutes Chapter 237, and Minnesota Administrative Rules Chapter 7819, all as amended from time to time, shall be applicable to City Code Chapters 5, 6, 7 and 8. Wherever reference is made to an individual or position in this Chapter, it shall mean the individual or person or his/her designee. The following words, terms and phrases, as used herein, have the following meanings unless the context clearly indicates otherwise:

Subd. 1. “Abandoned Facility” - a facility no longer in service or physically disconnected from a portion of the operating facility, or from any other facility, that is in use or still carries service; or a facility that is declared abandoned by the right-of-way user.

Subd. 2. “Applicant” - any person requesting permission from the City to excavate or obstruct a public right-of-way or to place a new wireless support structure or collocate small wireless facilities on wireless support structures in the public right-of-way.

Subd. 3. “Collocate” or “Collocation” – to install, mount, maintain, modify, operate, or replace a small wireless facility on, under, within, or adjacent to an existing wireless support structure that is owned privately or by a local government unit.

Subd. 4. “Delay Penalty” - the monetary penalty imposed by the City as a result of unreasonable delays in permitted work within the right-of-way, including but not limited to construction, excavation, obstruction, patching, or restoration.

Subd. 5. “Director” - the City’s Director of Public Works or his or her designee.

Subd. 6. “Emergency” - a condition that poses a clear and immediate danger to life or health; may result in a significant loss of property; or requires immediate repair or replacement in order to restore service to a customer.

Subd. 7. “Equipment” - any tangible asset located within the right-of-way that is used in the process of construction, installation, repair, or maintenance.

Subd. 8. “Excavate” - to dig into or in any way remove, physically disturb, or penetrate any part of a public right-of-way.

Subd. 9. “Facility” or “Facilities” - any tangible asset(s) in the right-of-way required to provide utility service, including wireless service. The term does not include facilities to the extent the location and relocation of such facilities are preempted by Minnesota Statutes Section 161.45 governing utility facility placement in state trunk highways.

Subd. 10. “Ground-Mounted Equipment” – equipment used in the operation of a wireless facility that is located
on the ground and protrudes above the surface elevation of the ground.

**Subd. 11. “High Density Corridor”** - a designated portion of the public right-of-way within which telecommunications right-of-way users having multiple and competing facilities may be required to build and install facilities in a common conduit system or other common structure.


**Subd. 13. “Micro Wireless Facility”** – a small wireless facility that is no larger than 24 inches long, 15 inches wide, and 12 inches high, and whose exterior antenna, if any, is no longer than 11 inches.

**Subd. 14. “Obstruct”** - to place any tangible object upon a public right-of-way so as to hinder free and open passage over that or any part of the right-of-way.

**Subd. 15. “Patch or Patching”** - a method of pavement replacement that is temporary in nature. A patch consists of: (1) the compaction of the subbase and aggregate base, and (2) the replacement, with the same grade of material, of the existing pavement for a minimum of two feet beyond the edges of the excavation in all directions.

**Subd. 16. “Pavement”** - any type of improved surface that is within the public right-of-way and that is paved or otherwise constructed with paver blocks, bituminous, concrete, aggregate, or gravel.

**Subd. 17. “Permit Holder”** - any person to whom a right-of-way permit or small wireless facility permit has been granted by the City.

**Subd. 18. “Person”** - all firms, partnerships, associations, limited liability companies, corporations, and natural persons.

**Subd. 19. “Potholing”** - excavating the area above an underground facility to determine the precise location of the underground facility without damage to it, before excavating within two feet of the marked location of the underground facility.

**Subd. 20. “Public Right-of-Way”** - the area on, below, or above a public roadway, highway, street, cartway, bicycle lane, trail, and public sidewalk in which the City has an interest, including other dedicated rights-of-way for travel purposes and utility easements of the City.

**Subd. 21. “Public Utility Structure”** – includes a utility pole and any structure or pole supporting wires for communication or transmission of data or roadway lighting.

**Subd. 22. “Restore” or “Restoration”** - the process by which the right-of-way and surrounding area, including pavement, foundation, surfacing, and ground vegetation are returned to the same condition and life expectancy that existed before excavation.

**Subd. 23. “Right-of-Way Management Costs”**

(a) The actual costs the City incurs in managing its public rights-of-way, including such costs, if incurred, as those associated with registering applicants; issuing, processing, and verifying right-of-way or small wireless facility permit applications; inspecting job sites and restoration projects; maintaining, supporting, protecting, or moving user equipment during public right-of-way work; determining the adequacy of right-of-way restoration; restoring work inadequately performed after providing notice and the opportunity to correct the work; and revoking right-of-way or small wireless facility permits.

(b) Management costs do not include:
(1) payment by a telecommunications right-of-way user for the use of the public right-of-way;
(2) unreasonable fees of a third-party contractor used by the City as part of managing its public rights-of-way, including but not limited to any third-party contractor fee tied to or based upon customer counts, access lines, revenue generated by the telecommunications right-of-way user, or revenue generated for a local government unit; or
(3) the fees and cost of litigation relating to the interpretation of this Section or of Minnesota Statutes Sections 237.162 or 237.163, or the City’s fees and costs related to appeals taken pursuant to section 237.163, subdivision 5.

Subd. 24. “Right-of-Way Permit” – a permit to perform work in a public right-of-way, whether to excavate or obstruct the right-of-way.

Subd. 25. “Right-of-Way User” – (1) a telecommunications right-of-way user; or (2) a person owning or controlling a facility in the public right-of-way that is used or is intended to be used for providing utility service, and who has a right under law, franchise, or ordinance to use the public right-of-way.

Subd. 26. “Service” or “Utility Service” - includes (1) services provided by a public utility as defined in Minnesota Statutes section 216B.02, subdivisions 4 and 6; (2) services of a telecommunications right-of-way user, including the transporting of voice or data information; (3) services provided by a cable communications system as defined in Minnesota Statutes, Chapter 238; (4) natural gas or electric energy or telecommunications services provided by a local government unit; (5) services provided by a cooperative electric association organized under Minnesota Statutes, Chapter 308A; (6) water, sewer, steam, cooling, or heating services; (7) pipeline, community antenna television, fire and alarm communications, electricity, light, energy, or power services; (8) the services provided by a public service corporation organized pursuant to Minnesota Statutes, Chapter 301B; and (9) the services provided by a district heating or cooling system.

Subd. 27. “Service Lateral” – an underground facility that is used to transmit, distribute, or furnish gas, electricity, communications, or water from a common source to an end-use customer. A service lateral is also an underground facility that is used in the removal of wastewater from a customer’s premises.

Subd. 28. “Small Wireless Facility” – “Small wireless facility” means:
(a) a wireless facility that meets both of the following qualifications:
   (1) each antenna is located inside an enclosure of no more than six cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all its exposed elements could fit within an enclosure of no more than six cubic feet; and
   (2) all other wireless equipment associated with the small wireless facility, excluding electric meters, concealment elements, telecommunications demarcation boxes, battery backup power systems, grounding equipment, power transfer switches, cutoff switches, cable, conduit, vertical cable runs for the connection of power and other services, and any equipment concealed from public view within or behind an existing structure or concealment, is in aggregate no more than 28 cubic feet in volume; or
(b) a micro wireless facility.

Subd. 29. “Small Wireless Facility Permit” – a permit to place a new wireless support structure or collocate small wireless facilities on wireless support structures in the public right-of-way.

Subd. 30. “Telecommunications Right-of-Way User” – a person owning or controlling a facility in the public right-of-way, or seeking to own or control a facility in the public right-of-way, that is used or intended to be used for providing wireless service, or transporting telecommunications or other voice or data information.

Subd. 31. “Trench” - an excavation in the right-of-way having a length equal to or greater than the width of the right-of-way for the sections of roadway where the work is occurring, including a directional bore.

Subd. 32. “Utility Pole” – a pole that is used in whole or in part to facilitate telecommunications or electric service.
Subd. 33. “Wireless Facility” –
(a) “Wireless facility” means equipment at a fixed location that enables the provision of wireless services between user equipment and a wireless service network, including:
   (1) equipment associated with wireless service;
   (2) a radio transceiver, antenna, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration; and
   (3) a small wireless facility.
(b) “Wireless facility” does not include:
   (1) wireless support structures;
   (2) wireline backhaul facilities; or
   (3) coaxial or fiber-optic cables (i) between utility poles or wireless support structures, or (ii) that are not otherwise immediately adjacent to or directly associated with a specific antenna.

Subd. 34. “Wireless Service” – any service using licensed or unlicensed wireless spectrum, including the use of Wi-Fi, whether at a fixed location or by means of a mobile device, that is provided using wireless facilities. Wireless service does not include services regulated under Title VI of the Communications Act of 1934, as amended, including cable service under United States Code, title 47, section 522, clause (6).

Subd. 35. “Wireless Support Structure” – a new or existing structure in a public right-of-way designed to support or capable of supporting small wireless facilities, as reasonably determined by the City.

Subd. 36. “Wireline Backhaul Facility” – a facility used to transport communications data by wire from a wireless facility to a communications network.

SECTION 6.02. APPLICATION AND SCOPE. Source: Ordinance 12-2016 Effective Date: 6-23-2016

Except as otherwise stated therein, the provisions of Chapters 5, 6, 7, and 8 are applicable to all users of the streets, public ways, rights-of-way and roadways within the City, including but not limited to those owned or operated by the United States, the State of Minnesota, or any county, town, city, district, or other political subdivision located wholly or partially within the corporate limits of the City.

SECTION 6.03. RIGHT-OF-WAY PERMITS. Source: Ordinance 15-2017 Effective Date: 9-14-2017 Source: Ordinance 12-2016 Effective Date: 6-23-2016

Subd. 1. Permit Required. Except as otherwise provided in the City Code, no person may temporarily or permanently obstruct or excavate any public right-of-way without first having obtained a right-of-way permit from the City.

Subd. 2. Permit Applications.

A. A written application for a right-of-way permit shall be submitted to the Public Works Department at least two weeks prior to the anticipated project start date. The application shall be made on a form provided by the City and shall include all required attachments, a scaled drawing showing the location and area of the proposed project and the location of all proposed facilities, a traffic control plan, a restoration plan, a timeline for the proposed project, and, if requested by the Director, a scaled drawing showing the location of all known existing facilities and a public notification plan. All such applications shall be consistent with the provisions of this Chapter and good engineering, safety, and maintenance practices shall be followed for the work or activity conducted under the right-of-way permit.
B. The application shall require the applicant to defend, indemnify and hold the City harmless from all liability or claims of liability for bodily injury or death to persons, or for property damage, for those claims specified in Minnesota Rule 7819.1250, subpart 2.

C. If the City has suffered any undisputed loss, damage, or expense because of the applicant’s prior excavations or obstructions of the public right-of-way or any emergency actions relating thereto, the Director may require the applicant to reimburse the City for such expense before considering a new permit application for approval.

D. Before granting any permit under any of the provisions of this Chapter, the Director may impose such insurance, bonding, letter of credit, cash deposit, or other financial security requirements thereon as deemed necessary to properly safeguard persons or property exposed to the work or activity. Such insurance shall also protect the City and its employees from any suit, action or cause of action arising by reason of such work or activity.

E. If requested by the Director, an applicant for a right-of-way permit shall provide mapping information in accordance with Minnesota Rules 7819.4000 and 7819.4100.

Subd. 3. Issuance of Permit and Conditions. Upon the Director’s determination that the applicant has satisfied the requirements of this Section, the Director shall issue the right-of-way permit subject to the terms and conditions of this Chapter. The Director may impose reasonable conditions upon the issuance of the right-of-way permit and the performance of the permit holder to protect the health, safety, and welfare of the public or when necessary to protect the right-of-way and its current use. In addition, a permit holder shall comply with all requirements of local guide specifications and standard details as well as all local, state and federal laws, including but not limited to Minnesota Statutes Chapter 216D and Minnesota Rules Chapter 7560 (Gopher One Call Excavation Notice System).

Subd. 4. Permit Fees. The City shall establish a right-of-way permit fee in an amount sufficient to recover City costs. The City shall impose the permit fee at the time it issues a right-of-way permit. The City, in its sole discretion, may require payment of the permit fee: (1) at the time of permit issuance; (2) within thirty (30) days of billing; or (3) through an annual billing. Failure to pay permit fees when due may result in suspension or revocation of a right-of-way permit. Permit fees paid for a permit that has been revoked by the Director are not refundable. Unless otherwise agreed to in a franchise agreement, permit fees may be charged separately from and in addition to the franchise fees imposed on a right-of-way user in the franchise agreement.

Subd. 5. Permit Display. Right-of-way permits issued under this Chapter shall be conspicuously displayed or otherwise available at all times at the indicated work site and shall be available for inspection by the Director.

Subd. 6. Permit Extensions. A right-of-way permit is valid only for the area of the public right-of-way specified in the permit and for the dates specified in the permit. No permit holder may do any work outside of the area specified in the permit or begin its work before the permit start date or continue working after the permit end date. Any permit holder desiring to obstruct or excavate an area greater than that specified in the permit or desiring to perform work on dates not specified in the permit shall apply for a new or extended right-of-way permit and pay any additional fees required by the City. The permit holder shall obtain the new or extended permit before performing any work not allowed by the original permit.

Subd. 7. Denial of Permit. The City may deny a right-of-way permit for failure to meet the requirements and conditions of this Section, if the applicant has existing facilities in the right-of-way that are in a state of structural or aesthetic disrepair, or if the City determines that the denial is necessary to protect the health, safety, and welfare of the public or when necessary to protect the right-of-way and its current use. The City shall notify the applicant in writing within three (3) business days of its decision to deny the permit. Upon denial, the applicant may cure the deficiencies identified by the City and resubmit its application. If the applicant resubmits the application within thirty (30) days of receiving written notice of the denial, no additional filing or processing fee shall be required. The City shall approve or deny the revised application within thirty (30) days after the revised application is submitted.

Subd. 8. Standards for Construction or Installation.
A. **General Standards.** Excavation, backfilling, patching, restoration, and all other work performed in the right-of-way must be done in conformance with all applicable Minnesota Statutes and Administrative Rules, including without limitation Rules 7819.5000 and 7819.5100, all requirements of the City Code, and local guide specifications and standard details that are consistent with Minnesota Statutes Sections 237.162 and 237.163. Installation of service laterals must be performed in accordance with Minnesota Rules Chapter 7560 and the City Code. The permit holder shall comply with the following additional standards when performing the work authorized under the right-of-way permit:

1. Take such precautions as are necessary to avoid creating unsanitary conditions.
2. Conduct the operations and perform the work in a manner that insures the least obstruction to and interference with traffic.
3. Take adequate precautions to insure the safety of the general public and those who require access to abutting property.
4. Notify adjoining property owners prior to commencement of work which may disrupt the use of and access to such adjoining properties.
5. Comply with the Minnesota Manual of Uniform Traffic Control Devices at all times during construction or installation.
6. Exercise caution at all times for the protection of persons, including employees, and property.
7. Protect and identify excavations and work operations with barricade flags and, if required, by a flag person in the daytime and by warning lights at night.
8. Provide proper trench protection as required by the Occupational Safety and Health Administration in order to prevent cave-ins endangering life.
9. Protect the root growth of trees and shrubbery.
10. If possible, provide for space in the installation area for other right-of-way users.
11. Maintain access to all properties and cross streets as possible during construction and installation and maintain emergency vehicle access at all times.
12. Maintain alignment and grade unless otherwise authorized by the City. Changes not approved by the City will require removal and reconstruction.
13. During plowing or trenching of facilities, a warning tape must be placed at a depth of twelve (12) inches above copper cables with over two hundred (200) pairs and above fiber facilities.
14. Below concrete or bituminous paved road surfaces, directional bore facilities must be installed in conduit of a type determined by the permit holder.
15. The placing of all facilities must comply with the National Electric Safety Code, as incorporated by reference in Minnesota Statutes section 326B.35.
16. At the direction of the Director, facilities being installed or relocated within a high density corridor shall be placed in a common conduit system or share other common structures.
17. A Minnesota licensed surveyor shall be used to locate property lines, install property pins, and replace any destroyed property pins at corners.
18. Excavations, trenches, and jacking pits off the roadway or adjacent to the roadway or curbing shall be sheathed and braced depending upon location and soil stability and as directed by the City.

19. Excavations, trenches, and jacking pits shall be protected when unattended to prevent entrance of surface drainage.

20. All backfilling must be placed in six inch (6") layers at optimum moisture and compacted with the objective of attaining ninety-five percent (95%) of Standard Proctor. Compaction shall be accomplished with hand, pneumatic, or vibrating compactors as appropriate.

21. Backfill material shall be subject to the approval of the Director. The Director may permit backfilling with the material from the excavation provided such material is acceptable to the Director.

22. Compacted backfill shall be brought to bottom of the aggregate base of the approved street section.

23. All work performed in the right-of-way shall be done in conformance with local guide specifications and standard details, unless a less stringent standard is approved by the Director.

24. Street and pedestrian traffic shall be maintained throughout construction unless provided otherwise by the permit.

25. No lugs damaging to roadway surfaces may be used.

26. Dirt or debris must be periodically removed during construction, which may require the use of a mechanical sweeper.

27. Above-ground utility markers may not be installed except as authorized by the Director.

28. Above-ground utility cabinets, pedestals, and boxes shall be identified with a durable external sign or marker reflecting the name and contact information of the owner of the facility.

29. Other reasonable standards and requirements of the Director.

B. Standards for Installation of Underground Utilities. The right-of-way permit holder shall comply with the following standards when installing facilities underground:

1. Buried fiber facilities shall be at a minimum depth of three (3) feet and a maximum depth of four (4) feet unless an alternate location is approved in advance by the Director. Buried copper facilities below concrete or bituminous paved road surfaces must be placed at a minimum depth of three (3) feet and a maximum depth of four (4) feet. Other buried copper facilities must be placed at a minimum depth of thirty (30) inches and a maximum depth of four (4) feet.

2. Crossing of streets and hard surfaced driveways shall be directional bored unless otherwise approved by the Director.

3. If construction is open cut, the permit holder must install the visual tracers within twelve (12) inches and over buried facilities. If other construction methods are used, substitute location methods will be considered.

4. The permit holder shall register with Gopher State One Call and comply with the requirements of that system.

5. Compaction in a trench shall be ninety-five percent (95%) of Standard Proctor and copies of test results must be submitted to the Director. Tests will be required at the discretion of the Director. Tests must be conducted by an independent testing firm at locations approved by the Director. The Director may require recompaction and new tests if densities are not met.
6. The facilities shall be located so as to avoid traffic signals and signs, which are generally placed a minimum of three (3) feet behind the curb.

7. When utilizing trenchless installation methods to cross an area in which a municipal utility is located, and when directed by the City, the permit holder shall excavate an observation hole over the utility to ensure that the City utility is not damaged.

8. All junction boxes or access points shall be located no closer than ten (10) feet from City hydrants, valves, manholes, lift stations, or catch basins unless an alternate location is approved by the City.

9. Underground facilities shall not be installed between a hydrant and an auxiliary valve.

10. Buried telecommunications facilities must have a locating wire or conductive shield, except for dielectric cables.

11. Buried fiber facilities must be placed in a conduit of a type determined by the right-of-way user unless the permit holder obtains a waiver from the City.

C. Standards for Installation of Overhead Facilities. The right-of-way permit holder shall comply with the following standards when installing facilities, other than small wireless facilities, overhead:

1. All wires shall be a minimum of eighteen (18) feet above paved surfaces and at a location that does not interfere with traffic signals, overhead signs, or street lights.

2. Facilities shall be co-located on poles where possible.

3. Placing overhead facilities on both sides of the right-of-way is prohibited unless specifically approved by the Director.

D. Trenchless Excavation. A right-of-way permit holder employing trenchless excavation methods, including but not limited to horizontal directional drilling, shall follow all requirements set forth in Minnesota Statutes Chapter 216D and Minnesota Rules Chapter 7560, and shall employ potholing or open cutting over existing underground utilities before excavating as determined by the City.

E. Location of Facilities.

1. Location. Placement, location, and relocation of facilities must comply with local guide specifications and standard details and other applicable laws, and with Minnesota Rules 7819.3100, 7819.5000, and 7819.5100.

2. Corridors. The City may assign specific corridors within the right-of-way, or any particular segment thereof, for each type of facility that is or, pursuant to current technology, the City expects will someday be located within the right-of-way. All right-of-way permits issued by the City involving the installation or replacement of facilities shall designate the proper corridor for the facilities at issue. Facilities being installed or relocated within a high density corridor shall be placed in a common conduit system or share other common structures.

3. Limitation of Space. To protect the health, safety, and welfare of the public or when necessary to protect the right-of-way and its current use, the Director shall have the power to prohibit or limit the placement of new or additional facilities within the right-of-way. The Director shall strive 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.

A. Purpose and Findings. The City desires high quality wireless services to accommodate the needs of residents and businesses. At the same time, the City strives to minimize the negative impacts that small wireless facilities can create. These negative impacts include, but are not limited to, interference with right-of-way user sight lines, impacts to right-of-way user circulation, incompatible aesthetics with the surrounding area, fall zone risk, clear zone risk, creating navigation obstacles, interference with future travel way expansion plans, interference with the delivery of other utility services, interference with stormwater management facilities, and increased noise pollution.

To minimize these negative impacts, any person desiring to place a new wireless support structure in the right-of-way or collocate small wireless facilities on existing privately-owned wireless support structures in the right-of-way shall first obtain a small wireless facility permit from the City. Any person desiring to collocate small wireless facilities on existing wireless support structures owned or controlled by the City shall first enter into a standard small wireless facility collocation agreement. The purpose of these requirements is to comply with Minnesota Statutes Sections 237.162 and 237.163 while at the same time protecting the public health, safety, and welfare.

The City will consider impacts to the public health, safety and welfare when reviewing a small wireless permit application and a request to enter into a small wireless facility collocation agreement. The public health, safety and welfare can be best accommodated by locating small wireless facilities in the following order, which affords the greatest protection of the public:

1. Locate outside of the right-of-way.
2. Locate in the right-of-way on or adjacent to Principal Arterial, Other Arterial, Major Collector, or Minor Collector roads, as classified by the Metropolitan Council Functional Classification System.
3. Collocate on existing wireless support structures within the right-of-way.
4. Locate on a new wireless support structure within the right-of-way that replaces an existing wireless support structure of the same height.
5. Locate on a new wireless support structure within the right-of-way that replaces an existing wireless support structure whose height is less than or equal to 50 feet.
6. Locate on a new wireless support structure within the right-of-way whose height is similar to nearby structures.
7. Locate on a new wireless support structure within the right-of-way whose height is less than or equal to 50 feet.

The City will also consider factors such as aesthetic compatibility of the small wireless facility with surrounding structures, ability to eliminate, underground, or screen ground-mounted equipment, dangers within the small wireless facility fall zone, distance of the small wireless facility from roads, sidewalks, trails and bicycle lanes, and future roadway, pedestrian, bicycle, water, wastewater, and stormwater improvement plans for the site before issuing small wireless facility permit or entering into a standard small wireless facility collocation agreement.

B. Small Wireless Facility Permit. No person may place a new wireless support structure within the right-of-way or collocate a small wireless facility on an existing privately-owned wireless support structure in the right-of-way without first obtaining a small wireless facility permit from the City.

1. Permit Application and Fee. A written application for a small wireless facility permit shall be submitted to the Director on a form provided by the City. The applicant shall pay an application fee in
the amount set forth in the Fee Resolution adopted by the City Council, as the same may be amended from time to time. The application will be processed in accordance with the requirements of Minnesota Statutes § 237.163, subd. 3c(b) and (c).

2. **Consolidated Permit Application.** An applicant may file a consolidated permit application to collocate up to fifteen (15) small wireless facilities, provided that the small wireless facilities in the application:

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

(b) consist of substantially similar equipment; and

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

3. **Permission from Owner.** If the applicant seeks to collocate a small wireless facility on an existing wireless support structure, the applicant shall, at the time of application, provide the City with proof that it has obtained the necessary authority from the owner of the wireless support structure to collocate the small wireless facility on the structure.

4. **Issuance of Permit and Conditions.** Upon the Director’s determination that the applicant has satisfied the requirements of this Section, the Director shall issue the small wireless facility permit. The Director may condition permit approval on compliance with the following:

(a) generally applicable and reasonable health, safety, and welfare regulations consistent with the City’s authority to manage its public right-of-way;

(b) reasonable accommodations for decorative wireless support structures or signs; and

(c) any reasonable restocking, replacement, or relocation requirements when a new wireless support structure is placed in the right-of-way.

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

5. **Permit Denial.** The Director may deny a small wireless facility permit if he or she reasonably determines that the applicant has not satisfied the requirements of this Section or that approval of the permit would be contrary to generally applicable and reasonable health, safety, and welfare regulations. The City shall notify the applicant in writing within three (3) business days of its decision to deny the permit. Upon denial, the applicant may cure the deficiencies identified by the City and resubmit its application. If the applicant resubmits the application within thirty (30) days of receiving written notice of the denial, no additional filing or processing fee shall be required. The City shall approve or deny the revised application within thirty (30) days after the revised application is submitted.

6. **Term.** The term of a small wireless facility permit shall be equal to the length of time that the small wireless facility is in use, unless earlier revoked under this Section.

7. **Obstruction or Excavation.** A small wireless facility permit holder whose approved work in the right-of-way involves obstruction or excavation of the right-of-way shall also obtain a right-of-way permit from the City.

8. **Requirements for New Wireless Support Structures.** New wireless support structures that comply
with the following requirements may be placed in the right-of-way after the issuance of a small wireless facility permit:

(a) A new wireless support structure shall not exceed fifty (50) feet above ground level, subject to the requirements of City Code Chapter 11, and shall be separated from other wireless support structures by a minimum of six hundred (600) feet.

(b) Notwithstanding subsection (i), a new wireless support structure that replaces an existing wireless support structure that is higher than 50 feet above ground level may be placed at the height of the existing wireless support structure, subject to the requirements of City Code Chapter 11.

(c) The diameter of a new wireless support structure that replaces an existing wireless support structure shall not exceed the diameter of the existing wireless support structure by more than fifty percent (50%).

(d) Wireless facilities constructed in the right-of-way after May 31, 2017 shall not extend more than ten (10) feet above an existing wireless support structure in place as of May 31, 2017.

9. **Requirements for Small Wireless Facilities.** A small wireless facility that complies with the following requirements may be located on a new wireless support structure within the right-of-way or collocated on an existing privately-owned wireless support structure within the right-of-way after issuance of a small wireless facility permit:

(a) The small wireless facility shall have limited exposed cabling and mounting hardware. It shall also match the wireless support structure it is attached to in color and, as close as practicable, in material and design.

(b) The small wireless facility shall not interfere with public safety wireless telecommunications.

(c) Small wireless facilities in the right-of-way shall be removed and relocated at the City’s request and at no cost to the City when the Director determines that removal and relocation is necessary to prevent interference with: (1) present or future City use of the right-of-way for a public project; (2) the public health, safety, or welfare; or (3) the safety and convenience of travel over the right-of-way.

(d) A small wireless facility attached to an existing wireless support structure shall not block light emanating from the wireless support structure and shall not otherwise interfere with the original use of the wireless support structure.

(e) Ground-mounted equipment associated with the small wireless facility is prohibited unless the applicant can show that ground-mounted equipment is necessary for operation of the small wireless facility. If ground-mounted equipment is necessary, it shall comply with the provisions of City Code Section 11.06, subd. 9, and shall also meet the following standards:

(i) Ground-mounted equipment shall be placed below grade unless not technically feasible;

(ii) Ground-mounted equipment shall not disrupt traffic or pedestrian circulation and shall not interfere with vehicle and pedestrian intersection sight lines;

(iii) Ground-mounted equipment shall not create a safety hazard;
(iv) If placed above grade, ground-mounted equipment shall be separated from the nearest ground-mounted equipment on the same block face by a minimum of 330 feet unless the equipment is placed underground, or unless waived by the Director; and

(v) If placed above grade, ground-mounted equipment shall be limited to three (3) feet in height and twenty-eight (28) cubic feet in cumulative size.

10. **Exemptions.** No small wireless facility permit is required to conduct the following activities in the right-of-way:

   (a) routine maintenance of a small wireless facility;

   (b) replacement of a small wireless facility that is substantially similar or smaller in size, weight, height, and wind or structural loading than the small wireless facility being replaced; or

   (c) installation, placement, maintenance, operation, or replacement of micro wireless facilities that are suspended on cables strung between existing utility poles in compliance with national safety codes.

If any of the above activities will obstruct the right-of-way, the small wireless facility permit holder shall provide notification to the City at least ten (10) days in advance of such activity.

C. **Collocation on City-Owned Wireless Support Structure.** No person may collocate a small wireless facility on an existing wireless support structure owned or controlled by the City without first entering into a Standard Small Wireless Facility Collocation Agreement with the City.

D. **New Structures.** The erection in the public right-of-way of a new public utility structure to support wireless facilities other than small wireless facilities is prohibited, except where the Director determines there is a need for additional roadway lighting, emergency warning siren, or other infrastructure that must be supported by a public utility structure. Any new structure erected to support wireless facilities other than small wireless facilities allowed by the City under this paragraph and any associated or attached equipment must comply with the requirements of this Section.

E. **Other Wireless Facilities.** A telecommunications right-of-way user who desires to place a new public utility structure or wireless facilities other than small wireless facilities in the right-of-way shall enter into a license agreement with the City for use of space that sets forth such terms and conditions as the City deems appropriate and shall obtain any necessary right-of-way permit.

**Subd. 10. Compliance with Chapter 11.** In addition to the requirements of this Section, persons placing facilities in the public right-of-way shall comply with all applicable permitting and other requirements imposed under Chapter 11 of this Code. Where the provisions of this Section are more restrictive than the provisions of Chapter 11, the provisions of this Section shall apply.

**Subd. 11. Restoration of Right-of-Way.** The right-of-way permit holder shall patch and restore the right-of-way to the satisfaction of the Director.

A. **Timing.** All work to be done under the right-of-way permit and all required patching and restoration of the right-of-way must be completed within the dates specified in the right-of-way permit.

B. **Duty to correct defects.** The right-of-way permit holder shall correct any defects in patching or restoration performed by the right-of-way permit holder or its agents. Upon notification from the Director, the right-of-way permit holder shall correct all such defects as required by the Director. Correction work shall be completed
within five (5) 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.

C. **Failure to restore.** If the right-of-way permit holder 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 City may complete the restoration. The right-of-way permit holder shall reimburse the City for its reasonable costs incurred in completing the restoration and shall pay any delay penalty and/or degradation fee imposed by the City within thirty (30) days of invoice from the City. If a right-of-way permit holder fails to pay as required, the City may deny future right-of-way permit applications.

**Subd. 12. Delay Fee.** The City may establish and impose a delay fee for unreasonable delays in right-of-way excavation, obstruction, patching, or restoration, or for work not completed prior to right-of-way permit expiration. The delay fee and associated fees shall be established from time to time by City Council resolution. No delay fee shall be imposed if the delay is due to circumstances beyond the control of the permit holder, including without limitation inclement weather, acts of God, or civil strife.

**Subd. 13. Inspection.**

A. **Notice of Completion.** When the work under any right-of-way or small wireless facility permit is completed, the permit holder shall furnish a completion certificate and as-built drawings in accordance with Minnesota Rule 7819.1300 if requested by the Director.

B. **Site Inspection.** The permit holder shall make the work site available for inspection by the Director or other City personnel and to all others authorized by law at all times during the execution of and upon completion of the work.

C. **Authority of Director.**

1. The Director may order the immediate cessation of any work which the Director determines, in the Director’s reasonable discretion, poses a serious threat to the life, health, safety, or well-being of the public.

2. The Director may issue an order to the permit holder requiring the correction of any work that does not conform to the terms of the right-of-way permit or small wireless facility permit or other applicable laws, standards, conditions, or codes. The order shall inform the permit holder that failure to correct the violation may result in revocation of the right-of-way permit or small wireless facility permit. If the permit holder does not correct the violation to the satisfaction of the Director within ten (10) days after issuance of the order, the Director may revoke the right-of-way permit or small wireless facility permit.

**Subd. 14. Work Done Without a Permit.** Except as provided in this subdivision 14, any person who obstructs or excavates the public right-of-way without a right-of-way permit issued by the City or collocates a small wireless facility on any wireless support structure shall be guilty of a misdemeanor as provided in Chapter 1 and in Section 6.99 of this Chapter.

A. **Emergency Situations.** A right-of-way user shall immediately notify the City of any event concerning its facilities that it considers to be an emergency and may take any actions reasonable and necessary to respond to the emergency. Within two (2) business days after the occurrence of the emergency, the right-of-way user shall apply to the City for the necessary right-of-way and/or small wireless facility permit(s), pay the fees associated therewith, and fulfill the rest of the requirements necessary to bring itself into compliance with this Chapter for the actions it took in response to the emergency.
If the City becomes aware of an emergency concerning facilities in the right-of-way, the City will make reasonable attempts to contact the owner of each facility affected, or potentially affected, by the emergency. In any event, the City may take whatever action it deems necessary to respond to the emergency. If the emergency was caused by a facility or facilities, the owner thereof shall reimburse the City for its costs in responding to the emergency.

B. **Non-Emergency Situations.** Except in an emergency, any person who obstructs or excavates a public right-of-way without first having obtained a right-of-way permit must subsequently obtain a right-of-way permit. The fee for a subsequently issued right-of-way permit shall be established from time to time by City Council resolution. The permit holder shall also pay all the other fees required by the City Code, deposit with the City the fees necessary to correct any damage to the right-of-way, and comply with all other requirements of this Chapter.

**Subd. 15. Damage to Other Facilities.**

A. When the City performs work in the right-of-way that requires the alteration or relocation of an existing facility, the Director shall notify the facility owner as soon as is reasonably possible. The facility owner shall reimburse the City for its costs associated with such alteration or relocation within thirty (30) days from the date of billing.

B. Each facility owner shall be responsible for the cost of repairing any facilities in the right-of-way which it or its facilities damage. Each facility owner shall be responsible for the cost of repairing any damage to the facilities of another caused during the City’s response to an emergency caused by that owner’s facilities.

**Subd. 16. Revocation of Permits.**

A. **Substantial Breach.** The City may revoke any right-of-way permit or small wireless facility permit if the permit holder substantially breaches any of the terms and conditions of any applicable statute, ordinance, rule or regulation, or any condition of the right-of-way permit or small wireless facility permit. A substantial breach includes, but is not limited to, the following:

1. The violation of any material provision of the right-of-way permit or small wireless facility permit;

2. The attempt to evade any material provision of the right-of-way permit or small wireless facility 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 right-of-way or small wireless facility permit application;

4. The failure to complete the work in a timely manner unless a permit extension has been obtained or unless the failure to complete work is due to reasons beyond the permit holder’s control; or

5. The failure to timely correct work that is the subject of an order issued by the Director under subdivision 13.C of this section.

B. **Written Notice of Breach.** If the Director determines that the permit holder has committed a substantial breach of a term or condition of any statute, ordinance, rule, regulation, or any condition of the right-of-way permit or small wireless facility permit, the Director may notify the permit holder of the breach in writing and demand that the permit holder remedy the violation. The notice and demand shall inform the permit holder that continued violations may result in revocation of the right-of-way permit or small wireless facility permit. In the notice and demand, the Director may also impose additional or revised conditions on the right-of-way permit or small wireless facility permit to mitigate and remedy the breach.

C. **Response to Notice of Breach.** Within two (2) business days of receiving the written notice and demand, the permit holder shall provide the City with its plan to cure the breach. Any failure to respond to the notice, to
submit an acceptable plan, or to implement the approved plan shall be grounds for immediate revocation of the right-of-way permit or small wireless facility permit.

D. **Revocation.** The City shall notify the permit holder in writing of revocation of the right-of-way permit or small wireless facility permit within three (3) business days of the decision to revoke the permit.

E. **Reimbursement of City Costs.** Upon revocation of a right-of-way permit or small wireless facility permit, the permit holder shall reimburse the City for its reasonable costs incurred because of the revocation, including but not limited to restoration costs, collection costs, and attorney fees.

**Subd. 17. Exemptions.** The following persons are exempt from the requirements of this Section:

A. City employees acting within the course and scope of their employment and contractors acting within the course and scope of a contract with the City;

B. Persons who install mailboxes in the public right-of-way in accordance with requirements of the U.S. Postal Service;

C. Persons who temporarily place residential household refuse containers in the public right-of-way for the collection of solid waste or recyclables in accordance with the provisions of Sections 5.36 and 9.01 of the City Code.

**Subd. 18. Right-of-Way Vacation.** If the City vacates a public right-of-way that contains facilities, the facility owner’s rights in the vacated right-of-way are governed by Minnesota Rule 7819.3200.

**Subd. 19. Abandoned Facilities.** A right-of-way user shall notify the City when facilities are to be abandoned. A right-of-way user who has abandoned facilities in a public right-of-way shall remove them from the right-of-way if required in conjunction with other right-of-way repair, excavation, or construction, unless the Director waives this requirement.

**Subd. 20. Non-Completion or Abandonment of Work.** Work shall progress expeditiously to completion in accordance with any time limitation specified in the right-of-way permit or small wireless facility permit so as to avoid unnecessary inconvenience to the public. In the event that the permit holder fails to timely complete the work in accordance with the terms of the right-of-way permit or small wireless facility permit or ceases or abandons the work without due cause, the City may, after six (6) hours’ notice in writing to the permit holder of its intention to do so, correct the work, fill any excavation, and repair the public right-of-way in a manner that it deems necessary to protect the safety and welfare of the public. The City shall make or contract for all temporary and permanent repairs, including but not limited to backfilling, compacting, and resurfacing, and the permit holder shall reimburse the City for all costs incurred for such work. If the permit holder fails to reimburse the City within thirty (30) days of billing, the City may do any or all of the following: (1) reimburse itself from the proceeds from any cash deposit, letter of credit, bond, or other security given by the permit holder; (2) deny the permit holder any future right-of-way permits or small wireless facility permits; and (3) impose a delay penalty.

**Subd. 21. Right-of-Way Prohibitions.** The following actions are prohibited in the public right-of-way:

A. **Dumping in Streets.** It is a misdemeanor for any person to throw or deposit in any public right-of-way any solid, recyclable, or yard waste, including but not limited to nails, dirt, glass, cans, discarded cloth or clothing, construction debris, metal scraps, garbage, leaves, grass or tree limbs, paper or paper products, shreds or rubbish, oil, grease, petroleum products or other automotive fluids or to empty any water containing salt or other injurious chemical thereon. It is a violation of this Section to haul any such material inadequately enclosed or covered thereby permitting the same to fall upon the street.

B. **Fires.** It is a misdemeanor for any person to build or maintain a fire upon a public right-of-way.
C. **Signs.** It is a misdemeanor for any person to place or maintain a sign within any public right-of-way except as otherwise permitted by City Code Section 11.70, subdivision 3.D.

D. **Placing Snow or Ice in a Public Right-of-Way.** It is a misdemeanor for any person not acting under a specific contract with the City or without written permission from the Director to remove snow or ice from private property or a private driveway and cause the same to obstruct, encroach upon, encumber, or interfere wholly or partially with any public right-of-way, including but not limited to a public roadway, street, sidewalk, walkway, bike or trail way, easement, park, or other public property.

Where permission is not granted by the Director, the City may remove the snow or ice from the public right-of-way and the person shall be initially responsible for payment of all direct and indirect costs of removing the snow or ice from the street. If not paid within thirty (30) days of invoice, collection shall be by civil action or assessment against the property as any other special assessment.

E. Each day that any person continues in violation of this subdivision 21 shall be a separate offense and punishable as such.

**Subd. 22. Indemnification and Liability.** By applying for and accepting a right-of-way permit or small wireless facility permit under this section, a permit holder agrees to defend and indemnify the City in accordance with the provisions of Minnesota Rule 7819.1250.

**Subd. 23. Appeal.**

A. A right-of-way user or potential right-of-way user that has been denied a right-of-way permit, has had a right-of-way permit revoked, or believes that the fees imposed by the City in connection with the right-of-way permit do not comply with the requirements of Minnesota Statutes § 237.163, subd. 6, 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 imposition shall be in writing and supported by written findings establishing the reasonableness of the decision.

B. A telecommunications right-of-way user that has been denied a small wireless facility permit, has had a small wireless facility permit revoked, or believes that the fees imposed by the City in connection with the small wireless facility permit do not comply with the requirements of Minnesota Statutes § 237.163, subd. 6, may appeal the denial, revocation, or fee imposition to the City Manager. Such appeal shall be taken by filing with the City Clerk within ten (10) days after the denial, revocation, or fee imposition, a written statement requesting a hearing before the City Manager and setting forth fully the grounds for the appeal. A hearing shall be held within fifteen (15) days of receipt of the request. Notice of the hearing shall be given by the City Clerk in writing, setting forth the time and place of hearing. Such notice shall be mailed, postage prepaid, to the applicant or permit holder at his/her/its last known address at least five (5) days prior to the date set for hearing.

**Subd. 24. Right-of-Way Management Costs.** In addition to the permit fees outlined in this Chapter, the City reserves the right to charge right-of-way users for its right-of-way management costs to the extent that such charges are allowed under state law. Telecommunications right-of-way users shall be responsible for payment of real or property taxes attributable to their equipment in the public right-of-way.

**Subd. 25. Reservation of Regulatory and Police Powers.** A permit holder’s 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.
SECTION 6.04. TRAFFIC AND PARKING CONTROL.

Subd. 1. Traffic Control Devices. No device, sign or signal shall be erected or maintained for traffic or parking control unless the Director of Public Works shall first have given written approval and directed the same except as otherwise provided in this Section provided that when traffic and parking control is marked or sign-posted, such marking or sign-posting shall attest to appropriate action thereon.

Subd. 2. Temporary Restrictions. The City, acting through the Chief of Police or Director of Public Works, may temporarily restrict traffic or parking for any private, public or experimental purposes.

Subd. 3. Traffic Restrictions and Prohibitions. It is a misdemeanor for any person to drive a vehicle contrary to lane restrictions or prohibitions painted on any street or contrary to sign-posted, fenced, or barricaded restrictions or prohibitions.

Subd. 4. Parking Restrictions and Prohibitions. It is unlawful for any person to park a vehicle, except an emergency vehicle or public agency vehicle carrying out official work or activities, contrary to lane restrictions or prohibitions painted on any curb or contrary to sign-posted, fenced, or barricaded restrictions or prohibitions.

Subd. 5. Damaging or Moving Markings. It is a misdemeanor for any person to deface, mar, damage, move, remove, or in any way tamper with any structure, work, material, equipment, tools, sign, signal, barricade, fence, painting or appurtenance in any street unless such person has written permission from the City or is an agent, employee or contractor for the City or other authority having jurisdiction over a particular street and acting within the authority or scope of a contract with the City or such other public authority acting within its proper scope and jurisdiction.

SECTION 6.05 – 6.07. DELETED.

SECTION 6.08. LOAD LIMITS.
The Director of Public Works may, at his discretion, impose upon vehicular traffic on any part or all of any City street such load limits as may be necessary or desirable. Such limits and the specific extent or weight to which loads are limited shall be clearly and legibly sign-posted thereon. It is a misdemeanor for any person to operate a vehicle on any City street in violation of the limitation so posted.

Source: Ordinance 12-2016
Effective Date: 6-23-2016

SECTION 6.09 – 6.19. DELETED.

SECTIONS 6.09 THROUGH 6.19, INCLUSIVE, RESERVED FOR FUTURE EXPANSION.

SECTION 6.20 PARADES, RACES AND PUBLIC ASSEMBLIES.

Subd. 1. Purpose and Findings. The Council finds that persons and groups have a right to organize and participate in peaceful assemblies on the streets, sidewalks, walkways and parks in the City and to engage in assembly near the object of their protest so that they may be seen and heard, subject to reasonable restrictions designed to protect public safety, persons and property, and to accommodate the interests of persons not participating in the assembly to use the street, sidewalk or walkway to travel to their intended destinations and to use the parks for recreational purposes. Races, parades and public assemblies on public grounds, including but not limited to outdoor concerts, rallies, festivals, demonstrations, and ceremonies can potentially result in:
A. A danger to the safety and welfare of persons using public rights-of-way, including, but not limited to pedestrians, motorists, persons entering and leaving motor vehicles and buildings, and persons performing essential traffic control and emergency services;

B. Excessive noise likely to distract motorists and disturb the public peace;

C. A danger to the safety of the participants, as well as other persons in their vicinity;

D. Territorial disputes between competing users of public property; and

E. Damage to public parks, public grounds, streets, walkways, property and facilities.

It is the purpose of this ordinance to:

1. Protect the safe movement of pedestrian and vehicular traffic contiguous to the site of the expressive activity by advance planning and appropriate staffing;

2. Protect the rights of persons engaging in expressive activities in public areas to be free from danger, interruption, or disruption;

3. Protect the general public by adequate staffing of necessary police, fire and rescue resources so that the diversion of resources to a public assembly does not impair the ability of emergency responders to provide adequate services throughout the City;

4. Protect the quiet enjoyment of private property and the dedicated use of public property;

5. Coordinate multiple, competing uses of limited public space;

6. Prevent use of public property, public grounds or facilities in a manner that is potentially dangerous, unlawful or impermissible under City, County, State or Federal laws, rules or regulations;

7. Provide a mechanism by which there is financial accountability for private use of public property, public grounds or facilities so as to preserve that property for the benefit of the public; and

8. Recover the costs to the City attributable to private use of public property.

Subd. 2. Definitions. The following words and terms when used in this Section shall have the following meanings unless the context clearly indicates otherwise:

A. **Event or Planned Event** – a parade, race or public assembly as hereinafter defined.

B. **Parade** – any procession of pedestrians, vehicles or animals or any combination thereof traveling in unison along or upon a street, road or highway within the City which is organized and conducted for the purposes of attracting the attention of the general public or expressing or celebrating views or ideas by use of verbal, visual, literary or auditory means of communication. A ’parade’ shall not mean a procession of vehicles operated in compliance with ordinary traffic laws or a procession of pedestrians along or upon a public sidewalk or private property, or alongside a public street, road or highway in compliance with ordinary traffic laws.

C. **Person** - one (1) or more natural persons; a partnership, including a limited partnership; a corporation; a trust; any other business organization; or association of any of the above.
D. **Public Assembly** – any ceremony, show, pageant, fair, exhibit, promotion, block party, demonstration, picket line, rally or other gathering on public grounds in a place open to the general public where the person or group conducting or organizing the event reasonably anticipates that fifty (50) or more persons will participate in the assembly. A public assembly does not include any immediate and spontaneous expression of views in response to a public event occurring within the preceding five (5) days.

E. **Race** – any scheduled public event or gathering of persons for a planned athletic event that moves upon a public street, sidewalk or other public grounds from one location to another such as bicycle or running races, which may potentially interfere with the normal flow or regulation of vehicular or pedestrian traffic.

F. **School (K-12)** – establishments primarily engaged in providing instructional services to elementary or secondary students with a curriculum that complies with state regulations, including public schools governed by an elected school board, private schools and charter schools.

**Subd. 3. Permit Required and Voluntary Registration.** A permit shall be required before any race, parade or public assembly may be conducted on public property within the City. No person shall conduct or engage in any parade, race or public assembly without a permit issued by the Chief of Police. Any person or group organizing or conducting a public assembly for which a permit is not required by this Section may voluntarily register that event with the Chief of Police at no charge.

**Subd. 4. Permit Application.**

A. **Filing.** A person seeking issuance of a permit required by this Section must file a signed and completed application with the Chief of Police on the forms provided by the Police Department. In order to allow sufficient time for an appeal from a permit denial, it is suggested that applications be filed at least sixty (60) days prior to the event. Nevertheless, any fully completed, signed application filed within the minimum filing periods set forth below will be accepted during business hours as follows:

1. For events involving two hundred (200) or more persons or thirty (30) or more animals, not less than seven (7) business days prior to the planned event;

2. For any event that will make use of any portion of a public roadway, street or highway, not less than seven (7) business days prior to the planned event; and

3. For all other public assemblies, not less than four (4) business days prior to the planned event.

The Chief of Police may waive the minimum filing period for good cause shown if, after due consideration of the date, time, place and nature of the event the anticipated number of participants, and the City services required in connection with the event, it is determined that the waiver will not adversely impact the public health, safety or welfare.

B. **Contents.** The application for a permit under this Section shall request the following information:

1. The name, address, e-mail address, facsimile and telephone number of the person, group or entity responsible for the sponsorship of the event.

2. The names, addresses, e-mail addresses, facsimile and telephone numbers of the headquarters of the organization for which the event is to be conducted, if any, and the name(s) of the person(s) within that organization responsible for the event.
3. A letter of authorization from the person organizing the event, or on whose behalf the event is being organized, if different from the Applicant.

4. The names, addresses, e-mail addresses, facsimile and telephone numbers of the persons who will act as the coordinators responsible for the event.

5. The names, addresses, and telephone numbers of any sound technicians for the event.

6. The date and hours when the event will start and terminate, including set-up and teardown times.

7. A description of the planned activities, including the approximate number of participants, the type and number of any animals or vehicles involved and the approximate number of spectators and guests reasonably anticipated.

8. Where the Chief of Police determines based upon an assessment of the location, date, time of day, concentration of persons, vehicles, animals or equipment, use of sound amplification equipment or other equipment generating noise, vibration, dust or smoke, that the event appears likely to interfere with the safe and orderly movement of pedestrian or vehicular traffic contiguous to its route or location, interfere with the movement of firefighting equipment or ambulance service, lack adequate essential facilities for the health and safety of participants, or unreasonably interfere with the quiet enjoyment of neighboring properties or the dedicated use of the public property on which the planned event is to be situated, the Chief of Police may require, without reference to or consideration of the content of the expressive activity, views expressed or anticipated to be expressed or the response it may provoke, one or more of the following:

   (a) A site plan for the location of the event, the route to be traveled, if any, including the starting point and the termination point, and the maximum and minimum speeds of any travel. A required site plan shall also describe the amount of the public right of way, sidewalk, walkway, park or other public ground that will be occupied by the participants, guests and onlookers of the event, including any loading or unloading areas.

   (b) A parking, pedestrian circulation and traffic directional plan.

   (c) A neighborhood notification plan for any properties within five-hundred (500) feet of the property lines of the site of an event to be held at a single location covering two square blocks or less, or along the route of any race, march or parade, along with a signed statement by the Applicant attesting that the Applicant will send by regular mail or hand-delivery notice of the date, time, location and size of the event to the owners or occupants of those properties at least forty-eight (48) hours prior to the commencement of the event.

9. A description of any tents, stages, platforms, temporary structures, devices, tables, booths, first-aid or relief stations, dumpsters, fencing, portable toilets, signs, or banners to be used in conjunction with the event and their proposed location.

10. A description of any sound amplification equipment and its positioning and other mechanical or electronic equipment to be used in connection with the event.

11. A description of any public facilities or equipment to be utilized.

12. A description of the Applicant’s plan to clean up and restore the site.

13. A description of any food or beverage service provided to the public or event participants.
14. A description of any merchandise sales or fundraising.

15. Name of the last city or town in which any parade, race, outdoor concert, or public assembly was conducted by the Applicant or the person on whose behalf the event is to be conducted and whether or not the Applicant has had a parade, race, outdoor concert or public assembly permit or license revoked within the preceding five (5) years.

16. Such other information as the Chief of Police requires in order to make a fair determination as to whether or not a permit should issue.

C. Indemnification. The permit application for all events shall provide and require an indemnification agreement signed by the Applicant which shall read as follows:

“In consideration for the use of public grounds and the grant of a permit for the purposes set forth in this Application, the Applicant agrees to defend, indemnify and hold harmless the City, its officers, agents, and employees against any and all claims, suits, actions, debts, losses, damages, costs, charges, and personal injury, including death, resulting directly or indirectly from any act of negligence, either active or passive, on the part of the Applicant in the Applicant’s use of public property specified in the Application.”

Subd. 5. Fees.

A. Permit Fees. Permit fees for events shall be $15.00 per day, and the permit fee shall be submitted with the application. Additional permits and fees may be required if the event includes public facility rental, tents or other attributes subject to separate regulation.

B. Contractual Police Overtime Deposit. A fee for contractual police overtime must be paid prior to issuance of the permit if the Chief of Police determines, based upon the event’s size, date, time of day, location, concentration of persons, vehicles, animals or equipment, that additional police services, over and above that which can be provided by regularly scheduled on-duty police personnel, is necessary to protect the public health, safety and welfare. In making this determination, the Chief of Police may not reference or consider the content of the expressive activity or views expressed or anticipated to be expressed or the response it may provoke. The fee for contractual police overtime shall be based upon the established contractual overtime rates for the patrol and supervisory officers available, which include regular salary, plus regular fringe benefits. Contractual police overtime rates shall be those established by the City’s annual fee resolution.

C. Other City Staff Overtime Deposit. A fee for estimated City staff overtime must be paid prior to issuance of the permit if the Chief of Police determines, based upon the event’s size, date, time of day, location, concentration of persons, vehicles, animals or equipment, that additional City staffing is necessary to protect the public health, safety and welfare. In making this determination, the Chief of Police may not reference or consider the content of the expressive activity or views expressed or anticipated to be expressed or the response it may provoke. The fee for City staff overtime shall be based upon the actual overtime rates for the City staff available to serve the event, which shall include regular salary, plus regular fringe benefits. City staff overtime rates shall be those established by the City’s annual fee resolution.

Subd. 6. Exemptions from Permit Fee and Application.

A. Council Findings on Exemptions. The Council makes the following findings regarding the need to exempt certain persons from paying a permit fee and submitting a permit application for public assemblies:

1. Schools conduct and sponsor several public assemblies, such as outdoor concerts, athletic competition, field trips and music events on a regular basis, including marching band events, sporting events with musical components, art festivals, and student fund-raisers on property owned or leased by the school
or used pursuant to a written agreement with the City. A permit application and fee for each such event would adversely impact the events, which benefit the community as a whole, and, in most cases, would represent a transfer of public monies between governmental units without any corresponding benefit to the community.

2. The City and other governmental agencies acting within the scope of their functions, sponsor many public assemblies. Payment of permit fees for each such City or other governmental agency sponsored event would adversely impact the events and would represent an internal transfer of public monies for no justifiable reason.

B. Exemptions from Permit Fees for Public Assemblies. In light of the Council findings, the following persons are exempt from the fee for a permit under this Section for public assemblies, not including races or parades:

1. Schools conducting public assemblies on property described in Subdivision 6 (A) (1) under the immediate direction and supervision of proper school authorities;

2. Holders of a City Large Group Use permit, interim use permit or a written use agreement with the City for a planned event where the activities are limited to the authorized use set forth in the permit or agreement;

3. Persons who have entered into a rental or use agreement with the City for use of City parks or facilities or persons who have entered into a rental or use agreement with another governmental agency or who have been issued a permit from another governmental agency for use of parks or facilities located within the City which are owned or operated by said governmental agency; and

4. The City for City sponsored events or other governmental agencies for events sponsored by such agency acting within the scope of its functions;

C. Exemptions from Permit Application for Public Assemblies; Registration. Those persons exempt from a permit fee in subpart (B) of this Subdivision, shall not be required to complete a permit application. However, whenever amplified sound is a component of the event or the event may potentially interfere with the normal flow of traffic, the exempt person must register with the City providing notice of the planned public assembly at least five (5) business days prior to the proposed event. The registration notice shall include the name and phone number of the person sponsoring or conducting the event; the date and time of the event; the location of the event; a description of any sound amplification equipment, or other mechanical or electronic equipment to be used in connection with the event; and such other information as the Chief of Police requires in the interest of the public health, safety and welfare.

D. Responsibilities of Exempt Event Sponsors. Those persons exempt from a permit fee and application in subpart (B) of this Subdivision are nonetheless subject to all applicable state laws and City Code provisions, including without limitation City Code: Section 9.04 (rules and regulations governing public parks); Section 9.34 (obstructions on public property); Section 9.30 (disorderly conduct generally); Section 9.31 (disorderly conduct on school grounds and in school buildings); Section 9.41 (noise); Section 9.35 (curfew); Section 5.37 (peddlers); Section 6.03, subd. 21 (obstruction in streets) and may be required to pay the cost of any law enforcement services over and above the level of City services available with regular on-duty staffing that are directly attributable to their event. The City’s cost of repair, clean-up, or replacement of City property, public grounds or facilities damaged as a direct result of the event shall also be recoverable from the exempt event sponsor, as well as any City liability to third parties resulting from the exempt person’s event.

Subd. 7. Permit Application Verification and Consideration

A. Application Consideration. An application for a permit pursuant to this Section shall be submitted to the Chief of Police. The Chief of Police is empowered to conduct and shall conduct investigations to verify the
information on the application. The Chief of Police shall then route the application to the Director of Community Development, Fire Chief, Director of Parks and Recreation and City Traffic Engineer for review and consideration based upon the applicable laws or regulations relating to the proposed public event and an assessment of the event’s likely impact on the public health, safety and welfare. The Chief of Police may place conditions on a permit as may be necessary to ensure adequate parking and traffic circulation, to minimize impacts on adjacent property, to ensure compliance with all applicable laws and to otherwise protect the health, safety and welfare of the community. A permit shall be issued when it is found by the Chief of Police that:

1. The conduct of the event will not substantially interrupt the safe and orderly movement of other pedestrian or vehicular traffic contiguous to its route or location;
2. The conduct of the event will not interfere with the movement of fire fighting equipment;
3. The conduct of the event will not require the diversion of so great a number of City police resources as to pose an adverse impact on the health, welfare and safety of the public;
4. The concentration of vehicles, persons and animals at public assembly points of an event will not unduly interfere with proper fire and police protection of, or ambulance service to, areas contiguous to such event;
5. The conduct of the event is not reasonably likely to cause injury to persons or property;
6. Adequate sanitation and other required health facilities are or will be made available in or adjacent to any public assembly areas of the event;
7. There are sufficient parking places near the beginning and end sites of the public assembly areas of the event;
8. The Applicant has paid all fees required under this Section;
9. The event is not being held for the primary purpose of advertising or selling any product or service and is not designed to be held purely for commercial purposes;
10. No event permit application for the same time and location is already granted, or has been received and will be granted, and no event listed in Subdivision 6 (B) is already scheduled for the same time and location. In the case of competing applications simultaneously under consideration for the same time and location, the Chief of Police will use an impartial, blind lottery to determine which Applicant is entitled to the permit.

B. **Approval or Denial.** The Chief of Police shall act promptly upon a completed permit application but in no event shall fail to grant or deny a permit more than twenty (20) days after his receipt or less than forty-eight (48) hours prior to the event without the written consent of the Applicant. If the application is denied, in whole or in part, the Chief of Police shall notify the Applicant of his determination in writing, setting out the specific reason therefore. The notice shall be mailed, e-mailed, or sent by facsimile to the Applicant at the street address, e-mail address, or facsimile number provided in the application and it shall inform the Applicant of the Applicant’s right, within twenty (20) days after the date the notice was mailed to request an administrative review by the City Manager or the City Manager’s designated representative of the Chief of Police’s determination. The Chief of Police in denying an application for a permit may authorize an alternative permit for the parade, race, or public assembly at a date, time, location, route or under conditions different from that named by the Applicant. An Applicant desiring to accept an alternative permit shall, within five (5) days after notice of the denial, file a written notice of acceptance with the Chief of Police.
C. **Administrative Review.** An Applicant has a right to request an administrative review by the City Manager or the City Manager’s designated representative of the Chief of Police’s determination to deny a permit within twenty (20) days after the date the notice of denial was mailed by serving the City Manager with a written request for administrative review along with all documents and written arguments serving as a basis for the Applicant’s position. If a request for administrative review is timely received by the City Manager, the City Manager or the City Manager’s designee shall issue a written decision, setting forth the reasons therefore within a reasonable period, in no case later than twenty (20) days from the date of receipt of the request for administrative review by the City Manager or the City’s Manager’s designated representative. The decision of the City Manager shall be mailed to the Applicant at the address on the permit application. Exhaustion of administrative remedies is not a precondition to judicial review.

**Subd. 8. Permit Restrictions and Permit Revocation.**

A. **Limitations.** The Applicant, along with any person acting under the Applicant’s control or direction, must conduct and control the event so that it remains at all times in complete conformity with all conditions set forth in the approved permit application.

B. **Application of Other Laws.** In addition to the provisions of this Section, parades, races and public assemblies shall be subject to all other applicable state laws and City Code provisions, including without limitation City Code: Section 9.04 (rules and regulations governing public parks); Section 9.34 (obstructions on public property); Section 9.30 (disorderly conduct generally); Section 9.31 (disorderly conduct on school grounds and in school buildings); Section 9.41 (noise); Section 9.35 (curfew); Section 5.37 (peddlers); and Section 6.03, subd. 21 (obstruction in streets).

C. The Chief of Police shall have the authority to revoke a permit issued hereunder instantly upon violation of the conditions or standards for issuance as set forth in this Section, violation by any participant of City Code or state law, or in case of a public emergency.

**Subd. 9. Prohibitions.**

A. No person shall stage, present, conduct or start any event without first obtaining a permit as required by this Section.

B. No person shall unreasonably hamper, obstruct, or impede or interfere with any permitted event or person, animal or vehicle participating therein. No driver of any vehicle shall drive between the vehicles, persons or animals comprising a parade or race when such parade or race is in motion. The Chief of Police shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along the route of the race or parade in areas contiguous thereto and shall post signs to such effect and it shall be unlawful for any person to park or leave a vehicle unattended in violation thereof.

C. No person shall participate in an event for which the person knows or reasonably should have known that a required permit has not issued.

D. No person in charge of, or responsible for the conduct of, a permitted event shall intentionally violate any condition of the permit.

E. No person shall intentionally engage in, participate in, aid or start any event that poses a substantial hazard to the public safety.

F. No persons participating in an event shall utilize sound amplification equipment at decibel levels that exceed those limits imposed by Section 9.41 unless otherwise specifically authorized in the permit.
G. No person participating in an event shall possess any length of lumber, wood or wood lath unless it is one-fourth (1/4) inch or less in thickness and two (2) inches or less in width, or if not rectangular, not more than three-quarters (3/4) inch in its thickest dimension.

Source: Ordinance 20-2008
Effective Date: 8-28-2008

Source: Ordinance 14-2006
Effective Date: 5-25-2006

SECTION 6.21. SNOW AND ICE REMOVAL.

Subd. 1. Purpose. The purpose of this ordinance is to require Owners and Occupants of real property to remove snow and ice from public Sidewalks and Trails that are adjacent to and abutting the public street system to prevent a public nuisance affecting the safety of the general public.

Subd. 2. Definitions. The following words, terms and phrases, when used in this section shall have the meanings ascribed to them in this subsection, except when the context clearly indicates a different meaning:

A. “Daytime” for purposes of this section shall be the period of time from 8:00 a.m. to 5:00 p.m.

B. “Department” shall mean the City of Eden Prairie Department of Public Works.

C. “Last known address” shall mean the address for the Owner or Occupant as shown on the records of the Hennepin County Taxpayer’s Services Department.

D. “Occupant” shall mean the tenant or tenants with respect to one or two family dwellings, the manager or person having care, custody or control of the building or lot with respect to three family or larger dwellings, commercial premises, industrial premises, vacant lots or unoccupied buildings.

E. “Owner” shall mean the fee owner and/or manager/agent of the building or lot as listed on the records of the Hennepin County Taxpayer’s Services Department.

F. “Sidewalk” shall mean that 5-foot strip adjacent to or a portion of a street or highway right of way which is improved for pedestrian use and which is adjacent to the side yard or the front yard of a lot, constructed of concrete.

G. “Trail” shall mean that 8 or 10-foot strip adjacent to or a portion of a street or highway right of way which is designated as a public recreational Trail for use by pedestrians and bicyclists, constructed of asphalt.

Subd. 3. Requirements for Removal of Snow and Ice.

A. The Owner or Occupant having the care, custody and control of any building that is a one-or two-family dwelling shall cause snow and/or ice to be removed from the public Sidewalk or Trail abutting or adjoining the lot upon which such building is situated, within the first twenty four (24) hours after the cessation of the precipitation “unless the City assumes responsibility for causing snow and/or ice to be removed from a particular Trail or Sidewalk. The City shall identify any such Trails or Sidewalks on a map entitled Sidewalk and Trail Plowing Designation” kept on file and open for public inspection in the office of the City Engineer. Said map may be revised by the City at any time and the City need not provide notification of revisions. It shall be the responsibility of each Owner or Occupant to determine if the City has assumed responsibility for particular Trails or Sidewalks.
B. The Owner or Occupant having the care, custody or control of any building or lot (except one-and two-family dwellings) shall cause snow and/or ice to be removed from the public Sidewalk or Trail abutting or adjoining the lot upon which such building is situated, within the first eight (8) hours of daytime after the cessation of precipitation, unless the City assumes responsibility for causing snow and/or ice to be removed from a particular Trail or Sidewalk. The City shall identify any such Trails or Sidewalks on a map entitled “Sidewalk and Trail Plowing Designation” kept on file and open for public inspection in the office of the City Engineer. Said map may be revised by the City at any time and the City need not provide notification of revisions. It shall be the responsibility of each Owner or Occupant to determine if the City has assumed responsibility for particular Trails or Sidewalks.

C. Snow and ice shall be removed from the entire 5-foot width of Sidewalks. A width of 5-feet of snow and ice shall be removed from 8-foot width Trails.

D. Trails that are behind and/or between homes are specifically excluded from Owner or Occupant responsibility for snow and ice removal.

E. The location of Sidewalks and Trails and the snow and ice removal requirements established by this ordinance are identified on the map entitled “Sidewalk and Trail Plowing Designation”. The map is on file and open for public inspection in the office of the City Engineer. An unofficial image of the map is available on the City’s website at www.edenprairie.org.

Subd. 4. Nuisance. Snow and/or ice which are allowed to remain upon any Sidewalk or Trail within the City referred to in Subdivision 3 above for a period longer than is allowed by this section shall be declared a nuisance. The Department is authorized to remove the snow and/or ice or arrange for the removal of the same and charge the costs incurred against the abutting property Owner or Occupant.

Subd. 5. Notice. Before the Department removes the snow and/or ice, it shall serve or cause to be served upon the Owner or Occupant of the abutting property a written notice informing the Owner or Occupant that the snow and/or ice has not been removed from the Sidewalk or Trail pursuant to this section. Such notice shall describe the location of the snow and/or ice and inform the Owner or Occupant that the Department will inspect the property no earlier than twenty four (24) hours from the date of the notice to ascertain whether a nuisance exists. If upon inspection by the Department the Sidewalk or Trail is found to be in violation of this section, the Department may immediately schedule removal of the snow and/or ice by the Department or private contractor.

Subd. 6. Service of Notice. Service of the notice may be completed by personal service, service by mail or by posting.

A. Personal service. Service of the notice may be completed by personal delivery of a copy to the Owner or Occupant or, in situations where the Owner or Occupant is not available, by leaving a copy of the notice with some person of suitable age and discretion at the Owner’s or Occupant’s last known address or, if applicable, by leaving a copy with the person of suitable age and discretion at the premises where the nuisance exists.

B. Service by Mail. Service of the notice may also be accomplished by mailing the notice to the last known address of the Owner or Occupant. Service by mail is complete upon mailing.

C. Service by Posting. Service of the notice may also be completed by posting a copy thereof in a conspicuous place upon the premises where the nuisance exists.

Subd. 7. Removal by City; Assessment of Costs. If after twenty four (24) hours following service of such notice the snow and/or ice has not been removed, the City may cause its removal by the Department or private contractor. An accurate record of the costs incurred therein shall be kept by the Department. The total cost of this removal, including administrative costs, shall be charged to the Owner or Occupant of the lot abutting the Sidewalk or Trail from which the City has removed snow and/or ice. If said charges are not paid within thirty (30) days after a bill of the charges has been
mailed to the last known address of Owner or Occupant, the City Council may assess and levy, and cause to be collected, the amount of such charges as a special assessment upon and against the property and buildings involved, in the manner as provided by Minn. Stat. § 429.101 or any similar provision hereafter enacted. Such assessments shall be paid in a single installment.

Subd. 8. Non-liability of City. No claim shall be made against the City due to failure of any Owner or Occupant to comply with this section.

(Sections 6.22 through 6.98, inclusive, reserved for future expansion.)

SECTION 6.99. VIOLATION A MISDEMEANOR OR PETTY MISDEMEANOR.
Every person violates a section, subdivision, paragraph or provisions of this Chapter when he or she performs an act thereby prohibited or declared unlawful or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof shall be punished as follows:

Subd. 1. Where the specific section, subdivision, paragraph or provision specifically makes violation a misdemeanor, he shall be punished as for a misdemeanor; where a violation is committed in a manner or under circumstances so as to endanger or be likely to endanger any person or property, he shall be punished as for a misdemeanor; where he stands convicted of violation of any provision of this Chapter, exclusive of violations relating to the standing or parking of an unattended vehicle, within the immediate preceding twelve-month period for the third or subsequent time, he shall be punished as for a misdemeanor.

Subd. 2. As to any violation not constituting a misdemeanor under the provisions of Subd. 1 hereof, he shall be punished as for a petty misdemeanor.

Source: City Code
Effective Date: 9-17-82
CHAPTER 7
TRAFFIC REGULATIONS

(SEE CHAPTER 6 FOR DEFINITIONS, SCOPE AND APPLICATION RELATING TO THIS CHAPTER)

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CHAPTER 7

TRAFFIC REGULATIONS

(SEE CHAPTER 6 FOR DEFINITIONS, SCOPE AND APPLICATION RELATING TO THIS CHAPTER)

SECTION 7.01. MINNESOTA STATUTES CHAPTERS 169 AND 171 ADOPTED BY REFERENCE.

Except as otherwise provided in this Chapter or in Chapters 6 and 8 of this Code, the regulatory and procedural provisions of Minnesota Statutes, 1990, Chapter 169 and Chapter 171, are hereby incorporated herein and adopted by reference including the penalty provisions thereof.

Source: Ordinance No. 2-88
Effective Date: 2-18-88

SECTION 7.02. TRUCK ROUTE.

It is unlawful for any person to drive a tractor, agricultural implement, truck over 9,000 pounds gross vehicle weight, truck-trailer, tractor-trailer or truck tractor in through traffic upon any street except those which have been designated and sign-posted as truck routes. For the purpose of this Chapter, "through traffic" means traffic originating without the City and with a destination without the City, as distinguished from "local traffic" which means traffic either originating or having a destination within the City.

SECTION 7.03. EXHIBITION DRIVING.

**Subd. 1. Prima Facie Evidence.** It is prima facie evidence of exhibition driving when a motor vehicle stops, starts, accelerates, decelerates, or turns at an unnecessary rate of speed so as to cause tires to squeal, gears to grind, soil to be thrown, engine backfire, fishtailing or skidding, or, as to two-wheeled or three-wheeled motor vehicles, the front wheel to lose contact with the ground or roadway surface.

**Subd. 2. Unlawful Act.** It is a misdemeanor for any person to do any exhibition driving on any street, parking lot, or other public property except when an emergency creates necessity for such operation to prevent injury to persons or damage to property.

SECTION 7.04. ONE-WAY STREETS.

The Council may designate streets as one-way streets.

SECTION 7.05. LEFT TURNS PROHIBITED.

The City Manager or his designee may, at his discretion and with the consent of the Council, prohibit left turns entirely or during specified hours at certain intersections. It is unlawful for any person to make a left turn at any intersection sign-posted prohibiting the same or make a left turn during the hours of such sign-posted prohibition.

SECTION 7.06. SNOWMOBILES.

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

A. "Operate" means to ride in or on and control the operation of a snowmobile.

B. "Operator" means every person who operates or is in actual physical control of a snowmobile.

C. "Owner" means a person other than a lien holder having the property in or title to a snowmobile entitled to the use or possession thereof.
D. "Right-of-way" means the entire strip of land traversed by a highway or street in which the public owns the fee or an easement for roadway purposes.

E. "Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel including the shoulder.

F. "Safety or deadman throttle" means a device which, when pressure is removed from the engine accelerator or throttle, causes the motor to be disengaged from the driving track.

Source: City Code
Effective Date: 9-17-82

G. "Snowmobile" means a self-propelled vehicle designed for travel on snow or ice steered by skis or runners.

Subd. 2. Operation on Streets and Highways.

A. It is a misdemeanor for any person to operate a snowmobile within the right-of-way of any trunk, County State-aid, County highway, or other street or roadway within the City of Eden Prairie, except as hereinafter permitted.

B. A snowmobile may make a direct crossing of a highway or street when it is on an approved snowmobile trail and provided:

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

2. The snowmobile is brought to a complete stop before crossing the shoulder or main traveled way of the highway or street.

3. The operator yields the right-of-way to all oncoming roadway traffic and pedestrians.

4. In crossing a divided street or highway, the crossing is made only at an intersection of such street or highway with another public street or highway.

5. Both front and rear lights are on if the crossing is made between the hours of one-half hour after sunset to one-half hour before sunrise or in conditions of reduced visibility.

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

Source: Ordinance No. 34-89
Effective Date: 10-19-89

D. No snowmobile shall be operated on streets or highways at a speed exceeding ten (10) miles per hour.

E. 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.

F. Notwithstanding any prohibition in this Section, a snowmobile may be operated on a public thoroughfare in an emergency during the period of time when and at locations where snow upon the roadway renders travel by automobile impractical.
Subd. 3. Operation Generally. Except as otherwise specifically permitted and authorized, it is a misdemeanor for any person to operate a snowmobile within the limits of the City:

A. On a public sidewalk or walkway provided or used for pedestrian travel.

B. On private property of another without lawful authority or consent of the owner or occupant.

C. On any publicly owned lands and frozen waters including but not limited to school grounds, park property, playgrounds, recreation areas, golf courses and lakes except areas authorized for such use by the proper public authority in which case such use should be lawful, and snowmobiles may be driven in and out of such areas by the shortest route. Authorized areas in the City owned and/or regulated by the City including frozen waters shall be designated by Council resolution. Operation on public lands and frozen waters where authorized will be regulated by the provisions of this Section governing operation on streets and highways except as follows:

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<th>Maximum Speed Limits</th>
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<tr>
<td>Public Lands</td>
<td>30 mph</td>
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<tr>
<td>Frozen Waters</td>
<td>50 mph</td>
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D. At a rate of speed greater than reasonable or proper under all the surrounding circumstances. Racing is prohibited unless specifically authorized as a part of an organized event by permit issued by the City Manager.

E. At any place in a careless, reckless, or negligent manner so as to endanger the person or property of another or to cause injury or damage thereto.

F. To tow any person or thing on a public street or highway except through the use of a rigid tow bar attached to the rear of the snowmobile.

G. At a speed greater than ten (10) miles an hour when within one hundred (100) feet of any lakeshore except in channels or of fishermen, ice houses or skating rinks; nor shall operation be permitted within one hundred (100) feet of any sliding area nor where the operation would conflict with the lawful use of property or would endanger other persons or property.

H. In a manner so as to create a loud, unnecessary or unusual noise which disturbs, annoys or interferes with the peace and quiet of other persons.

I. During the hours from 11:00 o'clock P.M. to 7:00 o'clock A.M. of any day except as a means of transportation to the residence of the operator and then at a reduced speed.

Subd. 4. Equipment. It is a misdemeanor for any person to operate a snowmobile any place within the City unless it is equipped with the following:

A. Standard mufflers which are properly attached and in constant operation and which reduce the noise of operation of the motor to the minimum necessary for operation. No person shall use a muffler cutout, by-pass, straight pipe or similar device on the snowmobile motor; and the exhaust system shall not emit or produce a sharp popping or crackling sound.

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

C. A safety or so-called "deadman" throttle in operating condition so that when pressure is removed from the accelerator or throttle, the motor is disengaged from the driving track.
D. At least one (1) clear lamp attached to the front with sufficient intensity to reveal persons and vehicles at a distance of at least one hundred (100) feet ahead during the hours of darkness and under normal atmospheric conditions. Such headlamp shall be so aimed that glaring rays are not projected into the eyes of an oncoming vehicle operator. It shall also be equipped with at least one (1) red tail lamp having a minimum candle power of sufficient intensity to exhibit a red light plainly visible from a distance of five hundred (500) feet to the rear during the hours of darkness under normal atmospheric conditions. The equipment is to be in operating condition when the vehicle is operated between the hours of one-half hour after sunset to one-half hour before sunrise or at times of reduced visibility.

E. Reflective material at least sixteen (16) inches on each side forward of the handlebars so as to reflect or beam light at a ninety (90) degree angle.

Subd. 5. Application of Other Laws. City Code provisions relating to vehicular traffic shall apply to the operation of snowmobiles upon streets and highways; and Minnesota Statutes, 1990, Sections 84.81 through 84.89, and Minnesota Statutes, 1990, Chapter 169, are hereby adopted by reference except those provisions which by their nature have no application.


A. It is unlawful for any person under fourteen (14) years of age to operate on streets, highways, public lands or frozen water or make a direct crossing of a street or highway as the operator of a snowmobile unless accompanied by parent or guardian. A person fourteen (14) years of age or older but less than eighteen (18) years of age may operate a snowmobile on streets, highways, public lands or frozen waters as permitted under this Section and make a direct crossing of a street or highway only if he has in his immediate possession a valid snowmobile safety certificate issued by the Commissioner of Natural Resources.

B. It is unlawful for the owner of a snowmobile to permit the snowmobile to be operated contrary to the provisions of this Section.

Subd. 7. Leaving Snowmobile Unattended. Every person leaving a snowmobile in a public place shall lock the ignition, remove the key and take the same with him.

Subd. 8. Chasing Animals Forbidden. It is a misdemeanor to intentionally drive, chase, run over or kill any animal, wild or domestic, with a snowmobile.

Source: City Code
Effective Date: 9-17-82

Subd. 9. Operation of Snowmobiles While Under the Influence of Alcohol or a Controlled Substance. It is unlawful for any person to operate or to be in physical control of any snowmobile in the City while under the influence of alcohol or a controlled substance or under the influence of a combination of alcohol and a controlled substance. The definitional and regulatory provisions of Minnesota Statutes, 1990, Sections 84.91 and 84.911 are hereby incorporated herein and adopted by reference, including the penalty provisions thereof.

Source: Ordinance No. 18-92
Effective Date: 6-26-92

SECTION 7.07. RECREATIONAL MOTOR VEHICLES.
It is a misdemeanor for any person to operate a recreational motor vehicle upon frozen waters within the limits of the City. The definitional and regulatory provisions of Minnesota Statutes, 1990, Sections 84.90 through 84.929, are hereby incorporated herein and adopted by reference including the penalty provisions thereof.

Source: Ordinance No. 34-89
Effective Date: 10-19-89
SECTION 7.08. USE OF PRIVATE PROPERTY TO AVOID TRAFFIC SIGNALS AND DEVICES.
It shall be unlawful for any person to operate a motor vehicle on or across private property for the purpose of avoiding a traffic control signal or an official traffic control device. The definitions of "traffic control signal" and "official traffic control device" that are found in Minnesota Statutes, 1990, Section 169.01, are hereby incorporated herein and adopted by reference.

Source: Ordinance No. 44-86
Effective Date: 8-6-86

(Sections 7.09 through 7.19, inclusive, reserved for future expansion.)

SECTION 7.20. BICYCLE WAYS.

Subd. 1. Definitions. The following terms as used in this Section shall have the meanings stated:
A. "Bicycle ways" mean those designated pursuant to Subdivision 2 hereof.
B. "Motor vehicle" means every vehicle which is self-propelled. Motor vehicle does not include a vehicle moved solely by human power.

Subd. 2. All public sidewalks, trails and paths, or parts thereof within the City having an improved surface of concrete, blacktop, bituminous or similar material but excluding therefrom all streets, roads, and highways are hereby designated bicycle ways pursuant to Minnesota Statutes, 1990, Section 160.263.

Subd. 3. The Director of Parks and Recreation shall designate and maintain all bicycle ways by appropriate signs and markings.

Subd. 4. It is unlawful for any person to operate a motor vehicle or ride a horse or other animal on or over the improved surface of a bicycle way within the City except when crossing the same and except members, employees, or agents of the City while acting as a peace officer or maintaining a bicycle way. Nothing herein shall limit the use of bicycle ways for pedestrian access or travel.

Source: City Code
Effective Date: 9-17-82

(Sections 7.21 through 7.98, inclusive, reserved for future expansion.)

SECTION 7.99. VIOLATION A MISDEMEANOR OR PETTY MISDEMEANOR.
Every person violates a section, subdivision, paragraph or provision of this Chapter when he or she performs an act thereby prohibited or declared unlawful or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof shall be punished as follows:

Subd. 1. Where the specific section, subdivision, paragraph or provision specifically makes a violation a misdemeanor, he shall be punished as for a misdemeanor; where a violation is committed in a manner or under circumstances so as to endanger or be likely to endanger any person or property, he shall be punished as for a misdemeanor; where he stands convicted of violation of any provision of this Chapter, exclusive of violations relating to the standing or parking of an unattended vehicle, within the immediate preceding twelve-month period for the third or subsequent time, he shall be punished as for a misdemeanor.

Subd. 2. As to any violations not constituting a misdemeanor under the provisions of Subd. 1 hereof, he shall be punished as for a petty misdemeanor.
Subd. 3. As to any violation of a provision adopted by reference, he shall be punished as specified in such provision so adopted.

Source: City Code
Effective Date: 9-17-82
CHAPTER 8
PARKING REGULATIONS

(SEE CHAPTER 6 FOR DEFINITIONS, SCOPE AND APPLICATION RELATING TO THIS CHAPTER.)

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CHAPTER 8
PARKING REGULATIONS

(SEEN CHAPTER 6 FOR DEFINITIONS, SCOPE
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SECTION 8.01. LIABILITY OF OWNER.
When proof that the particular vehicle described in this Chapter together with proof that the defendant named in the complaint or citation was at the time of such parking the registered owner of such vehicle, such proof shall, in any prosecution charging a violation of this Chapter, constitute prima facie evidence that the registered owner of such vehicle was the person who parked or placed such vehicle at the point where such violation occurred.

SECTION 8.02. GENERAL PARKING PROHIBITIONS.
It is unlawful for any person to stop, stand or park a vehicle except when necessary to avoid conflict with other traffic or in compliance with the specific directions of a police officer or traffic control device in any of the following places: (1) in a sign-posted fire lane; (2) in any alley except for loading or unloading and then only so long as reasonably necessary for such loading and unloading to or from adjacent premises; (3) on any boulevard which has been curbed; or (4) within three feet of the edge of a driveway except on cul-de-sacs where parking to the edge of driveway shall be allowed.

SECTION 8.03. UNAUTHORIZED REMOVAL.
It is unlawful for any person to move a vehicle not owned by such person into any prohibited area or away from a curb such distance as is unlawful.

SECTION 8.04. CAMPING AND SLEEPING.
It is unlawful for any person, for camping, living, or sleeping purposes, to stop, stand or park any vehicle on or within the limits of any street, as street is defined in City Code Section 11.02, except where signs are erected designating the place as a campsite.

Source: Ordinance No 17-2015
Effective Date: 11-26-15

SECTION 8.05. PARALLEL PARKING.
Except where angle parking is specifically allowed and indicated by curb marking or sign-posting or both, each vehicle stopped or parked upon a two-way road where there is an adjacent curb shall be stopped or parked with the right-hand wheels of the vehicle parallel with and within twelve (12) inches of the right-hand curb; and where painted markings appear on the curb or the street, such vehicle shall be within such front and rear markings provided that upon a one-way roadway all vehicles shall be so parked except that the left-hand wheels of the vehicle may be parallel with and within twelve (12) inches from the left-hand curb, but the front of the vehicle in any event and with respect to the remainder of the vehicle shall be in the direction of the flow of traffic upon such one-way street. It is unlawful to park in violation of this Section.

SECTION 8.06. ANGLE PARKING.
Where angle parking has been established on a public street or in a public on private parking lot and is allowed as shown by curb marking or sign-posting or both, each vehicle stopped or parked shall be at an angle of approximately forty-five (45) to sixty (60) degrees with the front wheel touching the curb and within any parking lines painted on the curb or street provided that the front wheel not touching the curb shall be the portion of the vehicle furthest in the direction of one-way traffic. It is unlawful to park in violation of this Section.

SECTION 8.07. PARKING HOURS AND SIGNAGE.
Parking on streets shall be limited as follows:

Subd. 1. It is unlawful for any person to stop, park or leave standing any vehicle upon any street for a continuous period in excess of twenty-four (24) hours.
Subd. 2. The City Manager may designate certain streets, blocks or portions of streets or blocks as prohibited parking zones or five-minute, ten-minute, fifteen-minute, thirty-minute, one-hour, two-hour, four-hour, six-hour, eight-hour, morning or afternoon rush hour limited parking zones and shall mark by appropriate signs any zones so established. Such zones shall be established whenever necessary for the convenience of the public or to minimize traffic hazards and preserve a free flow of traffic. It is unlawful for any person to stop, park or leave standing any vehicle in a prohibited parking zone for a period of time in excess of the sign-posted limitation or during sign-posted hours of prohibited parking. The City Manager may post signs which shall designate one-way traffic for entrance or exit at any entrance to a private parking lot from a public street; and the driver of any vehicle entering or leaving any such lot shall comply with any such sign.

Subd. 3. Whenever the owner or person who is in lawful possession of property is required by City Code provisions, by the conditions precedent or applicable to the issuance of a use or occupancy permit, or by order of the Fire Chief or Chief of Police to maintain driveways, access lanes, or other areas unobstructed by parked or stopped vehicles for the purpose of insuring ingress or egress for police, fire and emergency vehicles, the owner or person in lawful possession of such property shall place or cause to be placed a sign or signs and yellow paint curbing as follows:

A. A sign or signs shall be placed at appropriate locations within thirty (30) days after notification under the supervision of the Fire Chief or Chief of Police.

B. Any such sign shall be placed in such a position that it is visible to anyone attempting to use the way, lane or area for parking and shall state: “No Parking Fire Lane – By Order of Fire Chief.”

C. Any such sign shall be permanent and non-portable except when a temporary sign is approved by written order of the Fire Chief or Chief of Police. Such sign shall not be smaller than twelve (12) inches high and shall be white with red lettering that is at least two (2) inches high or as approved by the Fire Chief.

D. At the entrance to a business or an establishment where any such sign has been placed as set forth in this Section, exception may be made for persons who discharge passengers from their vehicles at such an entrance.

E. All curbing which borders on or is adjacent to any such way, lane or area shall be painted yellow and maintained as directed by the Fire Chief or Chief of Police.

Source: Ordinance No.7-2019
Effective Date: 3-14-2019

Source: Ordinance No.42-99
Effective Date: 12-16-99

Subd. 4. It is unlawful for any person to remove, erase or otherwise obliterate any mark or sign placed upon a tire or other part of a vehicle by a police officer for the purpose of measuring the length of time such vehicle has been parked.

Subd. 5. For the purpose of enforcement of this Section, any vehicle moved less than one (1) block in a limited parking zone shall be deemed to have remained stationary.

SECTION 8.08. TRUCK PARKING.

Subd. 1. It is unlawful to park a detached semi-trailer upon any street, City-owned parking lot, or other public property.

Source: City Code
Effective Date: 9-17-82

Subd. 2. It is unlawful to park a semi-trailer, truck-tractor, or a combination thereof, or any vehicle licensed with a commercial license and of more than 9,000 pounds gross vehicle weight, or any vehicle designed, used or maintained for
towing other motor vehicles or equipment upon any street, alley, private road, parking lot, driveway or upon any public or private property which is within an area zoned as a residential district except for the purpose of loading or unloading the same.

Source: Ordinance No. 28-83
Effective Date: 7-22-83

Subd. 3. It is unlawful to park a truck of more than 9,000 pounds gross vehicle weight upon any street in the business district which has been duly sign-posted prohibiting the same, but parking of such vehicle for a period of not more than twenty (20) minutes shall be permitted in such space for the purpose of necessary access to abutting property while actively loading or unloading when such access cannot reasonably be secured from an alley or from an adjacent street where truck parking is not so restricted.

Subd. 4. It is unlawful to park a truck or other vehicle using or equipped with a trailer or extended body or other extension or projection beyond the original length of such vehicle or any passenger bus diagonally along any street except for a time sufficient to load or unload; and in such case only parallel parking shall be permitted provided, however, that a truck may stand backed up to the curb if the weight or bulk of the load makes parallel parking impracticable but then only for a period of time sufficient to load or unload.

Subd. 5. Parking of commercial vehicles is permitted in duly designated and sign-posted loading zones and in alleys for a period of up to twenty (20) minutes provided that such alley parking does not prevent the flow of traffic therein, all of which shall be for the purpose of access to abutting or adjacent property while actively loading or unloading.

Source: City Code
Effective Date: 9-17-82

SECTION 8.09. PARKING RULES IN PARKING LOTS AND RAMPS.
The City Manager may limit the sizes and types of motor vehicles to be parked, hours of parking, and prescribed methods of parking in City owned parking lots and ramps provided that such limitations and restrictions are marked or sign-posted. It is unlawful to park or leave standing any vehicle in any City-owned parking lot or ramp contrary to marked or sign-posted restrictions. It is unlawful to drive in a direction prohibited by "one-way" signs or arrows in any City-owned parking lot or ramp.

Source: Ordinance No. 43-86
Effective Date: 8-6-86

SECTION 8.10. IMPOUNDING AND REMOVING VEHICLES.
When any police officer finds a vehicle standing upon a street or City-owned parking lot in violation of any parking regulation, such officer is hereby authorized to require the driver or other person in charge of such vehicle to remove the same to a position in compliance with this Chapter. When any police officer finds a vehicle unattended upon any street or City-owned parking lot in violation of any parking regulation, such officer is hereby authorized to impound such unlawfully parked vehicle, to provide for the removal thereof and to remove the same to a convenient garage or other facility or place of safety provided that if any charge shall be placed against such vehicle for cost of removal or storage or both by anyone called upon to assist therewith, the same shall be paid prior to removal from such place of storage or safekeeping.

SECTION 8.11. LOADING ZONES.
The Council may, by resolution, establish loading zones to be used for the specific purpose of loading or unloading merchandise from a commercial vehicle or vehicles temporarily being utilized in the transport of merchandise. Such loading zones shall be installed by order of the City Manager where in the judgment of the Council a commercial loading zone is justified and duly sign-posted.
SECTION 8.12. UNATTENDED VEHICLE.

Subd. 1. It is unlawful for any person to leave a motor vehicle unattended while the engine is running.

Subd. 2. It is unlawful for any person to leave a motor vehicle unattended with the key in the ignition provided, however, that public road maintenance or public safety emergency equipment, which by its nature is difficult to restart, may be kept running if the vehicle is secured and locked so as to prevent access to its driving controls by the public. If the ignition is secured by a key, such key shall be removed from the vehicle.

SECTION 8.13. VEHICLE REPAIR ON STREET.
It is unlawful for any person to service, repair, assemble or dismantle any vehicle parked upon a street or attempt to do so except to service such vehicle with motor fuel or to provide emergency repairs thereon but in no event for more than twenty-four (24) hours.

SECTION 8.14. PARKING FOR THE PURPOSE OF ADVERTISING OR SELLING VEHICLE.
It is unlawful for any person to park a vehicle on any street for the purpose of advertising such vehicle for sale.

SECTION 8.15. SNOW ACCUMULATION.
It is unlawful for any person to park a vehicle on any street after a continuous or intermittent snowfall during which there has been an accumulation of two (2) inches or more of snow on any street and until the same has been plowed or removed to the full width of the roadway thereon.

Source: City Code
Effective Date: 9-17-82

SECTION 8.16. PHYSICALLY HANDICAPPED PARKING.

Subd. 1. Statutory parking privileges for physically handicapped shall be strictly observed and enforced. All handicapped parking signs are to be permanently affixed. The handicapped parking sign shall be approximately 18" x 24" or larger with a blue background and white letters bearing the handicapped insignia and shall state - HANDICAPPED PARKING - STATE PERMIT REQUIRED - POLICE WILL ENFORCE. Police officers are authorized to tag vehicles on either private or public property in violation of such statutory privileges. Police officers are also authorized to tag any vehicles blocking access to handicapped parking spaces even though they are not actually parking in the space.

Subd. 2. It is unlawful for any person, whether or not physically handicapped, to stop, park, or leave standing a motor vehicle (1) in a sign-posted fire lane at any time or (2) in lanes where and during such hours as parking is prohibited to accommodate heavy traffic during morning and afternoon rush hours.

Source: Ordinance No. 69-84
Effective Date: 4-5-84

SECTION 8.17. PARKING ON PRIVATE PROPERTY WITHOUT CONSENT.
It is a misdemeanor to park or abandon a motor vehicle on the property of another or upon an area developed as an off-street parking facility without the consent of the owner, lessee or person in charge of any such property or facility.

Source: City Code
Effective Date: 9-17-82

(Sections 8.18 through 8.98, inclusive, reserved for future expansion.)

SECTION 8.99. VIOLATION A MISDEMEANOR OR PETTY MISDEMEANOR.
Every person violates a section, subdivision, paragraph or provision of this Chapter when he or she performs an act thereby prohibited or declared unlawful or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof shall be punished as follows:
Subd. 1. Where the specific section, subdivision, paragraph or provision specifically makes a violation a misdemeanor, he shall be punished as for a misdemeanor; where a violation is committed in a manner or under circumstances so as to endanger or be likely to endanger any person or property, he shall be punished as for a misdemeanor; where he stands convicted of violation of any provision of this Chapter, exclusive of violations relating to the standing or parking of an unattended vehicle, within the immediate preceding twelve-month period for the third or subsequent time, he shall be punished as for a misdemeanor.

Subd. 2. As to any violation not constituting a misdemeanor under the provisions of Subd. 1 hereof, he shall be punished as for a petty misdemeanor.

Source: City Code  
Effective Date: 9-17-82
CHAPTER 9

PUBLIC PROTECTION, CRIMES AND OFFENSES

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CHAPTER 9
PUBLIC PROTECTION, CRIMES AND OFFENSES

SECTION 9.01. STORAGE, DEPOSIT AND COLLECTION OF REFUSE, YARD WASTE, RECYCLABLE WASTE AND SOLID WASTE

Subd. 1. Purpose and Findings. The Council of the City of Eden Prairie finds that the practice of disposing of Recyclable Waste in land disposal facilities commonly referred to as landfills is unacceptable because such disposal is detrimental to the long-term capacity of public and private landfills and is detrimental to the environment in that it causes pollution and contamination of underground and surface waters, air and natural flora and fauna; is harmful to the health and safety of persons and property because it generates noxious and dangerous odors and gases, including methane gas and; blowing of airborne particles and contaminants causes social and/or economic harm to persons who reside, and property which is, in proximity to landfills and should be done only in the absence of reasonably-available alternatives. In an effort to extend the life of landfill capacity as well as to ameliorate the social, economic and physical harm caused by the disposal of Recyclable Waste in landfills, the Council of the City hereby adopts the following provisions relating to Recyclable Waste.

Subd. 2. Definitions. For purposes of this subsection, the following terms have the meanings indicated:

A. Association – Association means all cooperative organizations of residential dwelling owners formed for the purpose of joint management of property or services.

B. Collection – Collection means the aggregation of Solid Waste or Recyclable Wastes from the place at which it is generated and includes all activities up to the time when the material is delivered to the facility designated by the owner of the Single Family Dwelling, Multiple Family Dwelling, Commercial Establishment or Licensee.

C. Compost - The product of a managed process through which microorganisms naturally break down organic materials, including Yard Waste, fruit or vegetable matter, eggshells or coffee grounds, by bacteria, fungi and other organisms into more available forms suitable for application to the soil and is used to improve soil structure and provide nutrients to the soil.

D. Compost Area – A defined area used for composting.

E. Composting - Any above ground microbial process that converts decaying organic materials to compost, humus or mulch by decomposition of material through an aerobic process providing adequate oxygen and moisture.

F. Garden – A well-defined ground area used for cultivation of flowers, vegetables and shrubs.

G. Yard Waste - Yard waste means solid waste generated from landscaping and lawn care activities such as mowing, trimming, gardening or raking consisting of grass clippings, twigs, tree and brush clippings, straw, pine needles, tree branches, soft vegetative garden waste and leaves.

The definitions applicable to Section 5.36 shall govern any terms used but not defined herein.

Subd. 3. Storage.

A. Storage containers for Single Family Dwellings, Multiple Family Dwellings or Commercial Establishments must be stored at least twenty (20) feet from the property line. Storage containers stored within a front yard must be screened from the public street with an opaque fence or coniferous landscape material. For the purposes of this ordinance, a corner lot shall be defined as having two front yards.
B. Storage containers for Solid Waste, Recyclable Materials or Yard Waste may be set curbside 24 hours prior to the scheduled pickup. The storage containers must be removed from curbside within 24 hours after the scheduled pickup.

C. It is unlawful for the owner or occupant of a Single Family Dwelling to store Solid Waste at the dwelling for more than one week unless it is being composted in accordance with the provisions of Subd. 7 herein. All such storage shall be in five to one hundred gallon metal or plastic containers with tight-fitting covers, which shall be maintained in a clean and sanitary condition.

D. It is unlawful for the owner or occupant of a Single Family, Multiple Family Dwelling or Commercial Establishment to store Yard Waste at the dwelling or establishment for more than one week unless it is being composted in accordance with the provisions of Subd. 7 herein.

E. It is unlawful for the owner or occupant of a Multiple Family Dwelling to store Solid Waste at the dwelling for more than one (1) week unless it is being composted in accordance with the provisions of Subd. 7 herein. All such storage shall be in containers as for Single-Family Dwellings, except that so-called "dumpsters" or Roll Off Containers with tight-fitting covers may be substituted.

F. It is unlawful for the owner or occupant of a Commercial Establishment to store Solid Waste at the establishment for more than one week unless it is being composted in accordance with the provisions of Subd. 7 herein. All such storage shall be in containers as for Single Family Dwellings, except that so-called "dumpsters" or Roll Off Containers with tight-fitting covers may be substituted.

G. It is unlawful to store Solid Waste, except fruit or vegetable waste, eggshells or coffee grounds, in a Compost Area pursuant to Subd. 7 hereof, unless it is drained and wrapped and in enclosed containers with tight-fitting covers.

H. No Yard Waste or Solid Waste may be buried without prior written permission from the City of Eden Prairie.

I. Only one (1) Roll Off Container for collection of Solid Waste or construction debris is allowed for Single Family Dwelling at a single time and for no more than 90 days unless previously approved in writing by the City Manager or his/her designee.

J. Roll Off Containers shall be placed on a hard surfaced driveway when feasible. If the Roll-Off Container must be placed on a grassed or landscaped surface in accordance with the Permit conditions approved under City Code Section 6.03, the surface shall be stabilized by seeding (if prior to September 15), sodding, mulching, or other equivalent measure pre-approved in writing by the City within 60 days of removal of the Roll Off Container unless approved otherwise in writing by the City Manager or his/her designee.

Subd. 4. Recyclable Waste Collection – Multiple Family. Owners, Associations or other management entities for Multiple Family Dwellings must, by, or not later than July 1, 2008, make available to the occupants of all dwelling units on the premises services for the Collection of Recyclable Waste which accumulates on the premises in accordance with the following provisions.

A. Schedule. The Collection services must be available on the premises and must be provided on a regularly-scheduled basis. The owner and owner’s employees may provide the Collection services personally, or the owner may utilize a Licensee as in Section 5.36.

B. Recycling Information Required. The owner of a Multiple Family Dwelling must provide information to the occupants of each dwelling unit which notifies the occupants of the availability of Collection services, clearly describes and lists the procedures required to prepare the Recyclable Waste for Collection, and identifies the dates and times of Collection.
C. **Container Requirements.** The owner of a Multiple Family Dwelling must provide containers for the Collection of Recyclable Waste and must maintain the containers in a clean and sanitary condition. The containers must be sufficient in number and size to meet the demands for recycling services created by the occupants. The owner must replace stolen or broken containers and purchase additional containers as needed. Containers must be placed in a location on the premises which permits access for Collection purposes but which does not obstruct pedestrian or vehicular traffic and must comply with the City's zoning ordinance.

D. **Transportation and Disposal.** Upon Collection by the owner, owner’s employees, or Licensee, Recyclable Wastes must be delivered to a recyclable material processing center, an end market for sale or reuse, or to an intermediate Collection center for later delivery to a processing center or end market. It is unlawful for any person to transport for disposal or to dispose of Recyclable Waste in a solid waste disposal facility. Recyclable Wastes must be transported in a covered vehicle so that the recyclables do not drop or blow onto any public or private property during transport.

**Subd. 5. Recyclable Waste Collection-- OFC, I-2, I-5, I-Gen, C-Com, N-Com, C-Reg, C-Reg-Ser, C-Hwy, TC.** This Subdivision is applicable to all properties which have been issued a building permit for new construction after the effective date of the ordinance. Owners, Associations or other management entities for properties located within the OFC, I-2, I-5, I-Gen, C-Com, N-Com, C-Reg, C-Reg-Ser, C-Hwy, TC zoning districts shall provide to all occupants services for the Collection of Recyclable Waste which accumulates on the premises in accordance with the following provisions:

A. **Schedule.** Collection services must be available on the premises and must be provided on a regularly-scheduled basis. The Owner, Association or management entity may provide the Collection services or may utilize a person licensed pursuant to City Code Section 5.36.

B. **Recycling Information Required.** The Owner, Association or management entity of all properties zoned OFC, I-2, I-5, I-Gen, C-Com, N-Com, C-Reg, C-Reg-Ser, C-Hwy, TC shall provide notice to the occupants of each unit which provides information on the availability of Collection services, clearly describes and lists the procedures required to prepare the Recyclable Waste for Collection, and identifies the dates and times of Collection.

C. **Container Requirements.** The Owner, Association or management entity of all properties zoned OFC, I-2, I-5, I-Gen, C-Com, N-Com, C-Reg, C-Reg-Ser, C-Hwy, TC shall provide containers for the Collection of Recyclable Waste and shall maintain the containers in a clean and sanitary condition. The containers shall be sufficient in number and size to meet the demands for recycling services created by the owners or tenants. The Owner, Association or management entity shall replace stolen or broken containers and purchase additional containers as needed. Containers shall be placed in a location on the premises which permits access for Collection purposes but which does not obstruct pedestrian or vehicular traffic and must comply with City Code Section 11.03, Subd. 3, L.

D. **Transportation and Disposal.** Upon Collection Recyclable Wastes shall be delivered to a recyclable material processing center, an end market for sale or reuse, or to an intermediate Collection center for later delivery to a processing center or end market. It is unlawful for any person to transport for disposal or to dispose of Recyclable Waste in a solid waste disposal facility. Recyclable Wastes must be transported in a covered vehicle so that the recyclables do not drop or blow onto any public or private property during transport.

Source: Ordinance No. 10-2010
Effective Date: 6-24-2010

**Subd. 6. Anti-scravenging.** It is unlawful for any person other than the owner or owner’s authorized employees or contractors to scavenge, collect, remove, or dispose of Solid Waste and/or Recyclable Waste after the materials have been placed or deposited for Collection at the curb or in areas designated for the separation of Recyclable Waste.
Subd. 7. Compost Requirements. It is prohibited for any person to engage in Composting on public, commercial, office or industrial property without prior written permission from the City. It is prohibited for the owner or occupant of a Single Family or Multiple Family Dwelling to engage in Composting except as hereinafter provided.

A. A Compost Area shall be established in such a manner so as not to create an odor or other condition that is a nuisance;

B. A Compost Area may consist only of Yard Waste, fruit or vegetable waste, eggshells or coffee grounds generated from the site on which the compost is located.

C. A Compost Area may not occupy any front yard setback and must be ten (10) feet from any side or rear yard lot line.

D. Fruit or vegetable waste, eggshells or coffee grounds must be enclosed in a container or other manner which will prevent animals from disturbing or removing the contents.

E. A Compost Area shall not be larger than .025 to the total lot area and in no case exceed five hundred (500) square feet or four (4) feet in height. Every Compost Area must be contained within a fenced area or enclosed container, except a Compost Area consisting of yard waste not exceeding eighteen (18) inches in height may be placed upon a Garden without a fence or closed container.

Subd. 8. Deposit of Solid Waste. It is unlawful for any person to deposit Solid Waste from any source, rubbish, offal, or the body of a dead animal in any place other than a sanitary landfill or licensed disposal facility.

Subd. 9. Solid Waste Collection Contract. Every occupant of Single Family Dwellings, Multiple Family Dwellings, and Commercial Establishments shall be a party to, or the beneficiary of, a contract for the collection of the Solid Waste generated on or within such Single Family Dwelling, Multiple Family Dwelling, or Commercial Establishment.

Subd. 10. Penalties for Violation. Violation of this subsection is a Petty Misdemeanor. A fourth or subsequent violation of this subsection is a Misdemeanor.

Source: Ordinance No. 6-2008
Effective Date: 3-13-2008

SECTION 9.02. ANIMAL WASTE.
It is unlawful for any person who owns, harbors or has custody of a dog, cat or other animal to cause or permit such animal to defecate on any public property or, without the consent of the owner, to defecate on any private property unless such person immediately removes the excrement and properly disposes of it. It shall also be unlawful for such person to cause or permit such animal to urinate on private property without the consent of the owner.

Source: Ordinance No. 23-94
Effective Date: 7-22-94

SECTION 9.03. TOILET INSTALLATION REQUIRED.
It is the duty of every owner or occupant of any property within the City on which is situated a dwelling house or business building and which property abuts a street in which there are City sewer mains to install a toilet in such dwelling or business building and make connection thereof with such sewer mains. The City shall serve written notice upon said owner or occupant requiring the installation of toilet facilities upon premises described in said notice and connection thereof with the sewer mains, all of which shall be done within thirty (30) days after service of such written notice. Whenever any owner or occupant shall default in compliance with such written notice, the Council may by resolution direct that a toilet be installed and connection made with the sewer mains and that the actual cost of such installation be paid in the first instance out of the General Revenue Fund and assessed against the property so benefitted. After such installation and connection is completed by order of the Council, the City shall serve a written notice of intention to make an assessment therefor. If such assessment is not paid within ten (10) days, the City shall certify the amount thereof to the
County Auditor in the same manner as with other special assessments provided that the Council may by resolution provide that the assessment be spread over a term of five (5) years upon written request by the owner of the property. However, if sewage disposal facilities are presently in operation on such premises, no connection shall be required until such time as such facilities fail to be operable; and at the time of such installation an adequate water supply shall be provided from either City water mains or a private well.

SECTION 9.04. RULES AND REGULATIONS GOVERNING PUBLIC PARKS.

Subd. 1. Purpose. The purpose of this Section is to secure the quiet and orderly use and enjoyment of the public parks of the City.

Subd. 2. Definitions. For the purposes of this Section, the following terms shall have the following meanings:

A. "Director" means the person holding the position of Director of Parks and Recreation of the City.

B. “Large group use facilities” means the following facilities within the City’s parks: All park shelters larger than 200 square feet, trails, and all athletic fields, and courts.

C. "Motor vehicle" means every vehicle which is self-propelled. Motor vehicle does not include a vehicle moved solely by human power.

D. “Non-resident sponsored group” means two or more persons who engage in a cooperative or coordinated activity in or on a park and who are sponsored, or organized by, or under the direction or control of, one (or more) person(s), business(es) or non-profit organization(s) or other entity (“Sponsor”), for the purpose of engaging in a cooperative or coordinated activity in or on a park. A Sponsor as used in this definition does not include a (a) natural person who is a resident of the City or (b) business or non-profit organization which, (i) conducts a business, service or activity and (ii) occupies and maintains a physical property having an address, within the City.

E. “Paint ball gun” means every device by which a person may expel a thin-skinned, paint-filled, gelatin capsule known as a paint ball.

F. “Park” means any open or enclosed land and improvements or facility wherever located which is owned, leased, operated, or controlled by the City and which is reserved, designated or used for a playground, picnic area, beach, or other recreational facility. “Park” also means waters surrounded by parks and/or adjacent to beaches which are delineated as swimming areas by placement of marker buoys.

G. "Pet" means any domesticated small animal including but not limited to dogs, cats and birds kept by a person for pleasure or utility.

H. "Recreational motor vehicle" means a snowmobile, mini-bike, motor home, go-cart, and all-terrain vehicles.

I. “Resident sponsored large group” means more than 20 persons who engage in a cooperative or coordinated activity in or on a park and who are sponsored, organized by, or under the direction or control (for the purpose of engaging in a cooperative or coordinated activity) of, a (or more) natural person(s), who is a resident of the City or a business(es), non-profit organization(s) or other entity, which (a) conducts or provides a business, service or activity and (b) occupies and maintains a physical property having an
address within the City.  

J. "Roadway or street" means that portion of a way or path improved for vehicular traffic exclusive of the sidewalk or shoulder.

K. "Roller skates" means roller skates, in-line skates, or roller skis.

L. "Vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a highway except devices used exclusively upon stationary rail or tracks.

M. "Watercraft" means any contrivance used or designed for navigation on water.

Subd. 3. Hours of Operation. Parks shall be operated from 6:00 o'clock A.M. to 10:00 o'clock P.M. each day and shall be closed from 10:00 o'clock P.M. to 6:00 o'clock A.M. each day or as posted with the exception of Miller Park and Round Lake Park which are allowed to remain open until 10:30 P.M. from April 1 through October 31.

Subd. 4. It is a petty misdemeanor for any person in a park to:

A. Camp in or erect or maintain a tent or other shelter when a park is closed except fish or dark houses on park waters or as authorized by permit.

B. Swim in waters or use a beach or other play areas of any park at any time such park is closed or during such time as such beach or play area is closed pursuant to notice posted by the Director.

C. Practice or engage in golf or golfing except in areas designated by the Director.

D. Start or permit a fire to burn except in areas designed for such purposes and then only in fire rings, fire scars, portable stoves, or grills. Any person who starts or permits a fire to burn as authorized in this Subdivision shall extinguish it completely before leaving the park and shall dispose of the residue or refuse therefrom in a trash container. Smoking of cigarettes, cigars or pipes shall not constitute a fire as that term is used herein.

E. Kill, trap, pursue, catch or remove any wildlife except as may be authorized by permit.

F. Introduce any plant into a park except as authorized by permit.

G. Permit a pet to enter or go upon beaches, buildings, structures, skating rinks or cross country ski trails; permit a pet to disturb, harass or interfere with any park visitor or park employee or his property; or to tether any animal to any tree, plant, building or park equipment within the park.

H. Have custody or control of any dog or domestic pet without possessing an appropriate device for cleaning up pet feces and disposing of the feces as required by City Code Section 9.02.
I. Operate any motor vehicle at a speed in excess of twenty (20) miles per hour or the posted speed limit; operate any motor vehicle in an area other than a street, roadway or parking area; or operate any recreational motor vehicle in an area other than an area designed by the Director.

J. Perform non-emergency motor vehicle maintenance or dump motor oil within the park.

K. Park or leave a motor vehicle with or without a boat trailer in other than an established or designated parking area; park an unattended boat trailer in any parking space; park or leave a motor vehicle in a parking area when the park is closed; or violate posted directions or instructions of any park attendant at a designated parking area.

L. Launch any watercraft upon any waters except at posted launch areas; dock or store any boat other than a City-owned boat within any park while the park is closed.

M. Fish on or from a beach, or in waters delineated as swimming areas or boat marinas by placement of buoys, or in waters within one hundred (100) feet thereof.

N. Cut a hole in the ice of any park waters larger than twelve (12) inches in diameter except a hole covered by a fish or dark house provided that upon removal of the fish or dark house such hole is secured in such a manner as to prevent a person from falling into it and except as authorized by permit.

O. Use a sled, toboggan, hockey stick or puck in or on free skating rinks provided nothing herein shall prohibit the use of hockey sticks and pucks in hockey rinks.

P. Ride or permit an equine under such person's control on or in any park except on or in any street, shoulder or ditch thereof, trail, or other area designated by the Director provided, however, whenever a trail through a park for riding equines has been designated by the Director, the riding of an equine in such park or the bringing into such park of an equine shall be limited to such trail.

Q. Serve, possess, or consume liquor except beer or wine (included in this exception is beer which contains in excess of 3.2 percent of alcohol by weight); to possess a beer keg or serve or consume beer from a beer keg unless a permit has been obtained therefor from the City; to serve, possess or consume beer or wine (including beer which contains in excess of 3.2 percent of alcohol by weight) in that part of Round Lake Park situated north of Valley View Road and in the Flying Cloud Athletic Field unless a permit has been obtained therefor from the City; or to serve, possess, or consume any alcoholic beverage in any public beach area.

R. Sell or offer for sale any article or service in any park without a permit provided, however, this prohibition shall not apply to any such sale or offer for sale by the City, its agents, employees, and its concessionaires and their agents and employees.
S. Construct or place any type of structure including but not limited to deer tree stands, playhouses, treehouses, temporary storage buildings, motorcycle or bicycle launches, temporary shelters, tents, tarps, canopies, or other such devices upon park land without a permit.

T. Set up or use a trampoline.

U. Tamper with or move park equipment, property or facilities including but not limited to picnic tables, boats, lifeguard chairs, garbage containers and portable bathrooms.

Source: Ordinance No. 42-85
Effective Date: 1-16-86

V. Use air mattresses, inner tubes, or other inflated articles or flotation equipment in any park lakes except that air mattresses may be used in areas specifically marked and designated by the City for air mattresses. This Subdivision shall not apply to inflatable boats used on park lakes pursuant to a Minnesota State Water Craft License or Permit.

Source: Ordinance No. 43-87
Effective Date: 1-14-88

W. Swim outside of the marked designated boundaries of park swimming beaches.

X. Operate any fuel-powered model aircraft, boat, rockets or similar toy within a park without a permit.

Y. Use park facilities, such as picnic areas, ballfields, tennis courts, or volleyball courts which have been reserved by another party; or to conduct picnic activity at reservation picnic sites in violation of a permit.

Source: Ordinance No. 42-85
Effective Date: 1-16-86

Z. Possess glass containers; or deposit, scatter, drop, or abandon bottles, cans, glass, coals, ashes, sewage, water, or other material on park property except in receptacles provided for such purpose.

Source: Ordinance No. 20-2002
Effective Date: 7-11-2002

AA. Moor or dock any boat to public docks, rafts, buoys or ropes which are part of a designated swimming area.

Source: Ordinance No. 43-87
Effective Date: 1-14-88

AB. Deposit in public trash receptacles any household refuse, including all organic material resulting from the manufacture, preparation, or serving of food or food products; spoiled, decayed or waste products from any source; bottles, cans or glassware; paper or paper products; crockery; ashes; rags; discarded clothing; tree or lawn clippings; leaves; weeds; waste resulting from building construction, remodeling or demolition; and other waste products, unless such refuse is the result of activities in the park in which such public receptacles are located.

Source: Ordinance No. 11-91
Effective Date: 5-3-91

AC. Use a tennis court or basketball court while not wearing tennis shoes.

AD. Play continuously upon a tennis court or basketball court for more than one (1) hour while others are waiting to use the court.
AE. Fail to vacate any court which is scheduled for use by a City or physical education class.

AF. Use a bicycle, roller skates, skateboard or scooter, or allow a dog to be, on a tennis or basketball court.

AG. Give or take a private lesson on a tennis or basketball court without prior authorization.

AH. Play hockey on a tennis or basketball court.

Source: Ordinance No. 2-94
Effective Date: 2-18-94

AI. Go in, into, on or upon any part or area of a park, including but not limited to, ball and play fields, sliding hills, playgrounds, or swimming beaches on or with respect to which a sign is placed containing information that such a part or area of a park is closed.

Source: Ordinance No. 5-96
Effective Date: 3-8-96

AJ. Smoke, chew, or otherwise ingest a tobacco-related product as defined in Section 5.35, Subd. 2.C., in an area which has been declared to be a non-smoking area by the Director, and which has been sign-posted accordingly.

Source: Ordinance No. 22-96
Effective Date: 5-31-96

AK. Dig or excavate soil.

Source: Ordinance No. 25-99
Effective Date: 9-30-99

AL. Disregard or disobey any park regulations that are legally posted by the Director of Parks and Recreation.

Source: Ordinance No. 20-2002
Effective Date: 7-11-2002

AM. On public property, have possession, fire or discharge, or cause to be fired or discharged across, in, or into any portion of park any gun or firearm, spear, bow and arrow, cross bow, sling shot, air, spring, or gas weapon, paint ball gun or variation thereof, or any other dangerous weapon or projectile, except for purposes designated by the Director.

Source: Ordinance No. 2-2003
Effective Date: 2-27-2003

Subd. 5. Permits.

A. Wherever in this Section provision is made for authorization of an activity by permit, the granting and issuance of such permit shall be by the Director. Issuance of a permit shall be subject to and governed by the policies and guidelines for community use of parks and recreation rental facilities as adopted by the Council from time to time.

Source: Ordinance No. 3-2007
Effective Date: 2-15-2007

B. A person seeking issuance of a permit shall file an application with the Director. The application shall state:

1. Name and address of the applicant and the person sponsoring the activity if any.

2. The activity, time and area for which a permit is requested.
3. An estimate of the anticipated attendance, if applicable.

4. Any other information which the Director shall find reasonably necessary for a determination as to whether a permit should be issued.

C. The Director shall issue a permit when he determines that:

1. The proposed activity or use will not interfere with or detract from the promotion of public health, welfare, safety, recreation or public enjoyment.

2. The proposed activity will not entail unusual, extraordinary, or burdensome expense for police protection by the City.

3. Any facilities desired have not been reserved for some other use at the time sought by applicant.

4. Payment of such fees as shall be prescribed by the Council from time to time by resolution has been made.

Source: City Code
Effective Date: 5-17-82

5. The proposed activity or use will not be contrary to the policies and guidelines for community use of parks and recreation rental facilities as adopted by the Council from time to time.

Source: Ordinance No. 3-2007
Effective Date: 2-15-2007

D. Use of a Park by the holder of, and pursuant to, a permit shall have priority over use by any other person.

Source: Ordinance No. 3-2007
Effective Date: 2-15-2007

Subd. 6. Recreational Motor Vehicles. It is a misdemeanor for any person, to operate a recreational motor vehicle, which includes, but is not limited to, snowmobiles, trail bikes, or other all-terrain vehicles, hovercrafts, or motor vehicles licensed for highway operation being used for off-road recreational purposes, in parks within the limits of the City. This subdivision shall not apply to recreational motor vehicles operated by enforcement, emergency and resource management personnel acting in the performance of their duties. The definition and regulatory provisions of Minnesota Statutes § 84.90 through 84.929 are hereby incorporated and adopted by reference, including the penalty provisions thereof.

Source: Ordinance No. 20-2002
Effective Date: 7-11-2002

Subd. 7. Non-Resident Sponsored Group Use Prohibited. Use of a park by a Non-resident sponsored group is prohibited.

Source: Ordinance No. 3-2007
Effective Date: 2-15-2007

Subd. 8. Permits Required for Resident Sponsored Large Group. Use of a Large group use facility by a Resident sponsored large group is prohibited without first obtaining a permit for the use of a park.

Source: Ordinance No. 3-2007
Effective Date: 2-15-2007
SECTION 9.05. MINNESOTA STATE FIRE CODE AND OTHER FIRE REGULATIONS.

Source: Ordinance No. 7-2019
Effective Date: 3-14-2019

Subd. 1. Adoption. Pursuant to Minnesota Statutes Section 299F.011 and Minnesota Rules Chapter 7511, the Minnesota State Fire Code which incorporates by reference and amends certain provisions of the International Fire Code (collectively referred to herein as “MSFC”), is hereby adopted as the fire code for the City for the purpose of prescribing regulations governing conditions hazardous to life and property from fire and explosion. Except for deletions, modifications or amendments by this Section, every provision contained in the MSFC, together with appendices A, B, C, D, E, F, G, H, I, K, and L, is adopted and made a part of this Section 9.05 and shall be known and may be cited as the “Fire Code” of the City. This Section incorporates the MSFC and adopts future amendments in accordance with Minn. Stat. § 645.31, subd. 2. One copy of the most current edition of the MSFC shall be marked as the official copy and will be kept on file in the office of the City Clerk.

Subd. 2. Enforcement.

A. Pursuant to MSFC Section 103.1, the department of fire prevention is hereby established within the City under the direction of the Fire Code Official. The MSFC and any state statutes pertaining to fire and life safety shall be enforced by the department of fire prevention. Members of the department of fire prevention shall be City employees and may be appointed and removed by the Fire Chief with the consent of the City Manager.

B. The Fire Chief is hereby appointed as the Fire Code Official for the City. The Fire Code Official may appoint a Deputy Fire Code Official and other related technical officers, inspectors, and other employees as necessary.

Subd. 3. Amendments to the MSFC. The MSFC is amended as follows:

A. Amendments to Chapter 5 - FIRE APPARATUS ACCESS ROADS.

1. 503.3 “Marking” is amended in its entirety to read as follows:

   503.3 Marking Fire Lanes. The marking of fire lanes on private and public property shall be designated by the Fire Chief and City Code, Chapter 8, section 8.07, Subd. 3.

2. 506.1 “Where required” is amended to add the following sentence at the end of the section:

   Key boxes shall be installed per the manufacturer’s suggested installation recommendations or as approved by the Fire Code Official.

B. Amendment to Chapter 6 – BUILDING SERVICES AND SYSTEMS

1. 609.3.3 “Cleaning” is amended to add the following new subsection:

   609.3.3.4 System Inspection Records. Contractors who perform inspection, testing, or maintenance services on commercial kitchen hoods within the City must electronically submit all compliant and non-compliant reports to the Fire Department by a method approved by the Fire Code Official, which may include payment of a fee as prescribed by the City Fee Resolution.

C. Amendments to Chapter 9 - FIRE PROTECTION SYSTEMS.
1. **901.6.2 “Records”** is amended to add the following new subsection:

**901.6.2.2 System Inspection Records.** Contractors who perform inspection, testing, or maintenance services on fire and life safety systems within the City must electronically submit all compliant and non-compliant reports to the Fire Department by a method approved by the Fire Code Official, which may include payment of a fee as prescribed by the City Fee Resolution.

2. **904.11 “Commercial Cooking Systems”** is amended to add the following exception:

Exception: The requirement for protection does not include steam kettles and steam tables or equipment which as used do not create grease-laden vapors. The requirement shall not apply to Group R3 occupancies and individual units within Group R1 occupancies.

3. **Section 907 “Fire Alarm and Detection Systems”** is amended to add the following new subsection:

**907.10 Dialers.** Dialers used to communicate fire alarm signals to a central monitoring station shall be capable of sending all addressable signals of the fire alarm panel that are required by the Fire Code Official.

D. Amendment to Chapter 10 - MEANS OF EGRESS.

1. **1001.2 “Minimum requirements”** is amended to add the following sentence at the end of the section:

No exit or part thereof shall be altered in any way unless in conformance with Chapter 10 of the City Code.

E. Amendment to Chapter 31 - TENTS AND OTHER MEMBRANE STRUCTURES.

1. **3104.20 “Standby Personnel”** is amended to add the following sentence at the end of the section:

Standby personnel shall be firefighters unless otherwise approved by the Fire Chief.

F. Amendment to Chapter 57 – FLAMMABLE AND COMBUSTIBLE LIQUIDS.

1. **5704.1 “General”** is amended to add the following paragraphs:

The provisions of this section which prohibit the storage of flammable or combustible liquids in outside above ground tanks are applicable to all residential zoning districts of the City. Above ground tanks in all other districts shall meet the standards of UL 2085 and this section for an insulated and protected tank.

A permit from the Fire Department is required for temporary installations of flammable or combustible liquid tanks used for construction purposes.

G. Amendment to Chapter 61 – LIQUEFIED PETROLEUM GASES.

1. Chapter 61 is amended to add the following new section 6103:

**6103.1 Permit.** An installer must obtain a permit and plan approval from the Fire Department prior to installation of a single container or an aggregate of
interconnected containers of 500 or more gallons water capacity.

6103.2 Protection. All single container installations with a total water storage capacity of 2,000 gallons or greater, and interconnected containers in the aggregate greater than 2,000 gallons, shall be protected by one or more of the following methods:

1. Buried in an approved manner.
2. Mounded in an approved manner.
3. By a system for application of water approved by the Fire Code Official.
4. By other means approved by the Fire Code Official.

H. Amendment to Appendix K – FIRES OR BARBEQUES ON BALCONIES OR PATIOS.

1. 1.1 “Open Flame Prohibited” is amended in its entirety to read as follows:

1.1 Open Flame Prohibited. In any structure containing three or more dwelling units, with at least two vertically stacked, no person shall kindle, maintain, or cause any fire or open flame on any balcony above ground level, or on any ground floor patio within 15 feet of the structure.

Subd. 4. Modifications. The Fire Code Official shall have the authority to modify any application of the provisions of the MSFC upon request in writing by the owner or licensee or his or her duly authorized agent, wherein there are particular difficulties in the way of carrying out a strict interpretation of the MSFC, provided that the spirit of the MSFC shall be observed, public safety secured, and substantial compliance achieved. The reasons for each such modification when granted or allowed, and the decision of the Fire Code Official thereon shall be entered upon the records of the Fire Department and a copy thereof furnished to each such applicant.

Subd. 5. Central Fire Alarm System. Every school building, dormitory, hospital, nursing or rest home, hotel, motel, or boarding home, and such other premises similarly used, which are designated in writing by the Fire Code Official upon notice to the owners thereof, shall install and maintain a fire alarm system which is connected directly to a central alarm station. Any such structure erected or established hereafter shall be connected to the above described system before the commencement of any such use, or uses, therein.

Subd. 6. Permits.

A. For any permit required or authorized by the MSFC or this Section, the following provisions apply:

1. Application. Permit applications must be made to the Fire Department on forms prescribed by the City. All questions asked or information required by the application forms shall be answered fully and completely by the applicant. The applicant must comply with applicable laws, regulations, ordinances, and any additional requirements of the City.

2. Denial. The Fire Code Official may deny any permit application when the activity for which the permit is sought violates any applicable law, statute, rule, regulation, or ordinance or is contrary to the public health, safety, or welfare.

3. Conditions. Any permit may be subject to conditions that protect the public health, safety and welfare.
PERMIT FEES

4. **Permit Fee.** Upon submission of a permit application, the applicant must pay a permit fee to the City.

5. **Revocation.** A permit is subject to revocation for failure to comply with permit conditions or failure to comply with any other applicable law, rule, regulation, or ordinance.

B. The Building Official and the Fire Chief shall act as a committee to determine and specify, after giving affected persons an opportunity to be heard, any new materials, processes or occupancies which will require permits, in addition to those now enumerated in MSFC or this Section. The Fire Code Official will post such list of required permits on the Fire Department website and distribute copies thereof to interested persons.

**Subd. 7. Emergency Service Costs.**

A. **Costs.** Every person, firm or corporation that is not a resident of the City or the owner of real property in the City subject to real property taxes, shall be liable for all the costs of emergency services, including but not limited to: fire, prevention, extinguishing, rescue, medical, clean up and related services, provided to the person, firm or corporation by the City or contracted for by the City.

B. **Assessment.** Any cost herein which is not paid within 60 days of being billed may be certified to the county auditor of any county in which the person, firm or corporation owns real property in the State of Minnesota and shall be collected together with property taxes levied against the property. In order to certify a charge to the auditor, the City shall on or before September 15 provide written notice to the property owner of the City’s intention to certify the charge to the auditor. This provision does not limit in any way the City’s right to collect said costs in any other method available in law or equity.

**Subd. 8. Open Burning.** Open burning, recreational fires, and ground thawing/construction material heating operations within the City are subject to all applicable federal, state, and local laws and regulations including but not limited to the provisions of Minnesota Statutes Sections 88.15 through 88.195, the MSFC, and the City Code.

A. **Open Burning.** Open burning within the City of Eden Prairie shall be prohibited except for the following.

1. **Prairie Burns.** Natural or restored prairie areas may be burned for management purposes if the following requirements are met:
   a. A management plan is in effect. The plan must be on file with the Fire Department and approved by the City Forester.
   b. Trained firefighting crews are present at the burn. The Fire Chief must approve the crews.
   c. An open burning permit is obtained from the Fire Department.
   d. All Fire Department rules are followed.

2. **Minnesota River Flood Debris Burns.** A property owner may remove debris left on the Minnesota River bank and flood plain by flood waters by open burning. An open burning permit must be obtained from the Fire Department.

3. **Recreational Fires.** An open burning permit is not required for recreational fires within the City. No more than one recreational fire is allowed on a parcel of record or lot at one time. All Fire Department rules must be followed. Recreational fires are prohibited when a burning ban or air quality alert is in effect.
4. **Ground Thawing/Construction Material Heating.** All ground thawing and construction material heating (such as sand piles and water for masonry work) shall be done with LP or natural gas. No open burning permit is required. No burning of combustible materials such as wood or construction debris is allowed.

5. **Special Permits.** The Fire Code Official is authorized to issue special open burning permits for circumstances that may include, but are not limited to, fire department training fires, catastrophic event debris disposal, and other similar circumstances protective of the public health, safety, and welfare.

B. **Open Burning Permit.** In addition to the provisions and requirements of subdivision 6 of this Section, open burning permits shall be subject to the following:

1. In determining whether to issue or deny an open burning permit application, the Fire Code Official may consider such factors as atmospheric conditions, proximity of the proposed fire to structures and other combustibles, the potential of fire spreading, and air quality.

2. An open burning permit is subject to the condition that no burning may occur when there is a burning ban or air quality alert in effect.

3. An open burning permit is subject to revocation by the Fire Code Official or an officer of the Minnesota Department of Natural Resources for the following reasons: a fire hazard existing or developing during the course of the burn; violation of permit conditions during the course of the burn; pollution or nuisance conditions developing during the course of the burn; a fire smoldering with no flame; or the failure to have an attendant present during the course of the burn.

C. **Costs.** Open burning permit holders or persons hosting a recreational fire will be responsible for all costs incurred as a result of the burn or recreational fire, including, but not limited to, fire suppression and administrative fees.

**Subd. 9. Appeals.** Whenever the Fire Code Official shall disapprove any application or refuse to grant a permit applied for or when it is claimed that a provision of the MSFC does not apply, or that it has been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the Fire Code Official to the Board of Adjustments and Appeals within thirty (30) days from the date of the decision.

**SECTION 9.06. PROHIBITED DRUGS AND DRUG PARAPHERNALIA.**

**Subd. 1. Adoption by Reference.** The provisions of Minnesota Statutes, 1990, Chapter 152, Uniform Controlled Substances Act, are hereby incorporated herein and adopted by reference except Sections 152.01, Subd. 18; 152.092 through 152.096; and 152.15.

Source: Ordinance No. 70-84  
Effective Date: 4-5-84

**Subd. 2. Drug Paraphernalia.** Possession, Manufacture, Delivery and Advertisement Prohibited.

A. **Definitions.**

1. **Drug Paraphernalia.** "Drug Paraphernalia" means all equipment, products, and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of Minnesota Statutes, 1990, Chapter 152. It includes, but is not limited to:
(a) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.

(b) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.

(c) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance.

(d) Testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances.

(e) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances.

(f) Diluents and adulterants, such as quinine, hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances.

(g) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from or in otherwise cleaning or refining marihuana.

(h) Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances.

(i) Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances.

(j) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances.

(k) Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body.

(l) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marihuana, cocaine, hashish or hashish oil into the human body, such as:

   (1) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls.

   (2) Water pipes.

   (3) Carburetion tubes and devices.

   (4) Smoking and carburetion masks.

   (5) Roach clips: meaning objects used to hold burning material such as a marihuana cigarette that has become too small or too short to be held in the hand.

   (6) Miniature cocaine spoons and cocaine vials.

   (7) Chamber pipes.

   (8) Carburetor pipes.

   (9) Electric pipes.

   (10) Air-driven pipes.

   (11) Chillums.

   (12) Bongs.

   (13) Ice pipes or chillers
2. Other terms. Other terms are as defined in Minnesota Statutes, 1990, Section 152

3. Evidence. In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:

(a) Statements by an owner or by anyone in control of the object concerning its use.

(b) Prior convictions, if any, of an owner or of anyone in control of the object under any State or Federal law relating to any controlled substance.

(c) The proximity of the object in time and space to a direct violation of this Act.

(d) The proximity of the object to controlled substances.

(e) The existence of any residue of controlled substances on the object.

(f) Direct or circumstantial evidence of the intent of an owner or of anyone in control of the object to deliver it to persons whom he knows or should reasonably know intend to use the object to facilitate a violation of Minnesota Statutes, 1990, Chapter 152; the innocence of an owner or of anyone in control of the object as to a direct violation of Minnesota Statutes, 1990, Chapter 152, shall not prevent a finding that the object is intended for use or designed for use as drug paraphernalia.

(g) Instructions, oral or written, provided with the object concerning its use.

(h) Descriptive materials accompanying the object which explain or depict its use.

(i) National and local advertising concerning its use.

(j) The manner in which the object is displayed for sale.

(k) Whether the owner or anyone in control of the object is a legitimate supplier of like or related items to the community such as a licensed distributor or dealer of tobacco products.

(l) Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise.

(m) The existence and scope of legitimate uses for the object in the community.

(n) Expert testimony concerning its use.

Source: City Code
Effective Date: 9-17-82

B. Prohibitions.

1. Possession of Drug Paraphernalia. It is unlawful for any person to use or to possess with intent to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of Minnesota Statutes, 1990, Chapter 152. A violation of this Section is a petty misdemeanor.

2. Manufacture or Delivery of Drug Paraphernalia. It is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate,
grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of Minnesota Statutes, 1990, Chapter 152. A violation of this Section is a misdemeanor.

4. Delivery of Drug Paraphernalia to a Minor. Any person eighteen (18) years of age or over who violates this Subparagraph B by delivering drug paraphernalia to a person under eighteen (18) years of age who is at least three (3) years his junior is guilty of a gross misdemeanor.

5. Advertisement of Drug Paraphernalia. It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia. A violation of this Section is a misdemeanor.

Source: Ordinance No. 28-86
Effective Date: 2-19-86

C. Civil Forfeiture. All drug paraphernalia as defined by Subparagraph A of this Subdivision 1 is subject for forfeiture, subject to the provisions set forth in Minnesota Statutes, 1990, Section 152.19, Subdivision 2 and Subdivision 4, in the same manner as if said forfeiture were pursuant to Minnesota Statutes, 1990, Chapter 152.

Source: City Code
Effective Date: 9-17-82

SECTION 9.07. ANIMAL REGULATIONS AND LICENSES.

Subd. 1. The provisions of Minnesota Statutes, 346.47 are hereby incorporated herein and adopted by reference.

Subd. 2. Definitions. As used in this Section, unless the context otherwise indicates:

A. "Animal" includes, any mammal, reptile, amphibian, fish, bird (including all fowl and poultry) or other member commonly accepted as part of the animal kingdom.

Source: Ordinance No. 11-2017
Effective Date: 7-20-2017

B. "Animal Control Officer" means any person designated by the City to enforce this Section.

C. "At large" means whenever an animal is off the premises of its owner unless controlled by a leash not to exceed six (6) feet in length with the following exception: while on the private property of another with the landowner's permission, provided the animal owner is present.

D. "City animal shelter" means any suitable kennel facility used to confine animals which have been impounded under the provisions of this Section.

E. "Owner" means any person or persons, firm, association, or corporation owning, keeping, or harboring an animal or the parent or guardian of a person under 18 years of age who owns, harbors, keeps, or has custody of an animal.

F. "Tag" means a license tag issued by the City of Eden Prairie required hereunder to be procured by every owner of each dog.
G. "Veterinary hospital" means a place for treatment, hospitalization, surgery, care and boarding of animals and birds, which place is owned and operated by a veterinarian licensed by the State of Minnesota.

Subd. 3. License Required. Except as hereinafter provided, it is unlawful for the owner of any dog over six (6) months of age to fail to license such dog. New residents to the City must license their dogs within thirty (30) days after they move into the City. Licenses shall be issued by the City Clerk upon payment of the license fee and upon receipt by the Clerk of a certification from a licensed veterinarian showing that the dog to be licensed has been given a vaccination against rabies in compliance with this Section. Such license shall be for the whole or unexpired portion or the year for which the same is issued and shall expire December 31 following. No separate license shall be required for a dog owned by a commercial kennel. Each commercial kennel owner must, however, comply with vaccination provisions of this Section.

Subd. 4. License and Impounding Fees. License, impounding and maintenance fees shall be fixed and determined by the Council, adopted by resolution, and uniformly enforced. Such fees may, from time to time, be amended by the Council by resolution. A copy of the resolution setting forth currently effective fees shall be kept on file in the office of the City Clerk and open to inspection during regular business hours.

A. Dog licenses shall be issued free of charge to owners of guide dogs when actually used to guide blind persons.

Subd. 5. Tag and Collar.

A. Upon presentment of required certificates and payment of the license fee, the City Clerk shall provide and furnish the owner of each licensed dog a tag upon which there shall be stamped or engraved the registered number of the dog, the words "Eden Prairie, MN," and the year when licensed. Every owner shall be required to provide each dog with a collar to which the license tag must be affixed and shall see that the collar and tag are constantly worn. In case a dog tag is lost or destroyed, a duplicate or new tag will be issued by the City Clerk upon proof that such dog was licensed and upon the payment of the appropriate fee for such duplicate. Dog tags shall not be transferable from one dog to another and no refunds shall be made on any dog license fee because of the death of the dog or the owner leaving the City before expiration of the license.

B. It is unlawful for any person, except the owner, authorized agent, or Animal Control Officer, to remove a collar from an animal in the City, except under such circumstances where it is necessary to free an animal from an entanglement which threatens its health or life, or by a licensed veterinarian to whom the animal has been brought for care and treatment. Any person removing a collar from an animal, except as previously described, shall immediately notify the owner, and if the owner's name is not on the tag attached to the collar, then the City Police Department.

Subd. 6. Barking and At Large.

A. It is unlawful for the owner of any animal to permit such animal to be at large.

B. No person owning, operating, having charge of, or occupying any building or premises shall keep or allow to be kept, any animal which shall, by any noise, unreasonably disturb the peace and quiet of any person in the vicinity. The phrase "unreasonably disturb the peace and quiet" shall include, but is not limited to, the creation of any noise by any animal or animals which can be heard by any person, including a law enforcement officer or Animal Control Officer, from a location outside of the building or premises where the animal is being kept and which animal noise occurs repeatedly over at least a ten (10) minute period of time, with the total number of noises emitted exceeding thirty (30).

Subd. 7. Female Animals. Every female animal in heat shall be confined within a building or secure enclosure and allowed to be out of such confinement only when the owner of the animal remains in the area and assures that no nuisance is created by the animal's presence out of confinement, provided that no breeding shall take place unless the animal is inside a building.
Subd. 8. Animal Shelter. Any animal found in violation of subdivisions 10, 11 or 15 of this Section; at large; or failing to display proper license while on public property may be taken up by the Animal Control Officer or other such officers designated by the City, and placed in the City Animal Shelter and then confined in a humane manner, and an accurate record of the time of such placement shall be kept on each animal. Every animal so placed in the City Animal Shelter shall be held pursuant to the provisions of Minnesota Statutes, Chapter 346.

Subd. 9. Notice of Impounding. Upon the impoundment of any animal, reasonable effort shall be made to notify the owner; or if the owner of the animal is unknown, a record of impoundment shall be available at the City Police Department for the period of impoundment.

Subd. 10. Disposition of Certain Animals. If any animal in the City is diseased, rabid or exposed to rabies, vicious, dangerous, or believed to be mortally wounded, and if such animal cannot be impounded after a reasonable effort, or cannot be impounded without serious risk to the person attempting to impound such animal, it may be immediately killed by an Animal Control Officer or police officer without notice to the owner.

Subd. 11. Muzzling Proclamation. Whenever the prevalence of rabies renders such action necessary to protect the public health and safety, the Mayor may issue a proclamation ordering every person owning or keeping an animal to confine it securely on his premises unless it is muzzled so that it cannot bite. Alternatively, the proclamation may require a booster vaccination for rabies for all animals in the City. No person shall violate such proclamation and any unmuzzled animal running at large during the time fixed in the proclamation may be killed by the Animal Control Officer or any police officer without notice to the owner.

Subd. 12. Animal Bite. Whenever any animal owner in the City learns that his animal has bitten any human being, that owner shall immediately notify the City Police Department and such animal shall immediately be quarantined for at least ten (10) days.

A. If the owner has shown proof that such animal is currently vaccinated against rabies and has agreed to keep said animal separate from other animals and indoors at all times during the quarantine period, such animal may be quarantined at the owner's residence.

B. If the animal is not currently vaccinated against rabies, such animal shall be quarantined in a Veterinary Hospital or at the City Animal Shelter for a period of ten (10) days.

C. If the owner cannot be advised of the animal bite within the following two (2) hours, or if the owner fails to quarantine the animal as required by this subdivision, an Animal Control Officer or a police officer shall cause such animal to be impounded. If the animal is found to be rabid, it shall be destroyed. If the animal is not found to be rabid, it shall be returned to its owner after the payment of the impoundment fee. If the owner does not pay such fee within five (5) days of notification to claim or retrieve the animal, the animal may be disposed of as provided in this Section.

Subd. 13. Records. The Animal Control Officer shall keep an account of animals impounded at the City Animal Shelter as required by Minnesota Statutes Section 346.47 and of their disposition. He shall turn over accounts to the City Clerk.

Subd. 14. Rabies Vaccination. The owner of a cat or dog shall procure a vaccination against rabies, and such animal shall be re-vaccinated thereafter so as to be immunized against rabies at all times. Vaccination shall be performed and written certification issued only by a doctor licensed to practice veterinary medicine in the state in which the animal is vaccinated. No license shall be granted for a dog which has not received a rabies vaccination.

Subd. 15. Care and Maintenance Required. No owner shall fail to provide any animal with sufficient good food and water, proper shelter and protection from the weather, veterinary care when needed to prevent suffering, and humane care and treatment. Areas in which animals are kept shall be maintained in a reasonably clean and sanitary condition, consistent with the applicable requirements of Minnesota Rules Chapter 1721, including the timely removal of feces.
urine, and food scraps. No person shall allow odors associated with an animal to emit outside the boundary of the premises on which the animal is kept. No person shall beat, treat cruelly, torment, or otherwise abuse any animal, or cause or permit any animal fights. No owner of an animal shall abandon such animal.

Source: Ordinance No. 11-2017  
Effective Date: 7-20-2017

**Subd. 16. Exemption From Provisions.** Any dog under the control of any public law enforcement agency and which is used by such agency in law enforcement activities is exempt from the provisions of this section, provided, however, that such dog must be properly vaccinated against rabies as required in Subd. 14.

**Subd. 17. Interference With Officers.** It shall be a violation of this Section for any unauthorized person to break open an Animal Shelter or attempt to take from any Animal Control Officer any animal taken up by such officer in compliance with this Section, or in any manner to interfere with or hinder such officer in the discharge of his duties under this Section.

**Subd. 18. Wild/Exotic Animals Prohibited.** No person shall keep, maintain or harbor within the City any of the following animals:

A. Any animal or species prohibited by Minnesota or Federal Law;

B. Any non-domesticated animal or species including, but not limited to, the following:

1. Any skunk, whether captured in the wild, domestically raised, de-scented or not de-scented, vaccinated against rabies or not vaccinated against rabies;

2. Any large cat of the family Felidae, such as lions, tigers, jaguars, leopards, cougars and ocelots, except commonly accepted domesticated house cats;

3. Any member of the family Canidae, such as wolves, foxes, coyotes, dingoes and jackals, except commonly accepted domesticated dogs;

4. Any crossbreed, such as the crossbreeds between dogs and coyotes and coyotes or dogs and wolves, not including crossbred domesticated animals;

5. Any poisonous pit viper, such as a rattlesnake, coral snake, water moccasin or cobra;

6. Any raccoon;

7. Any other animal not listed above, but which is not naturally tame or gentle, but is of a wild nature or disposition and which, because of its size, vicious nature or other characteristics would constitute a danger to human life or property. Included herein are animals for which no rabies vaccination has been approved by the State Health Department. Provided, however, that this section shall not apply to falconers or bird banders licensed by the Department of Natural Resources and the U.S. Fish and Wildlife permit.

**Subd. 19. Dog Enclosures.**

A. As used in this subdivision, the term "dog enclosure" means any enclosure constructed for shutting in or enclosing dogs and having an area less than 2,000 square feet.

B. Dog enclosures must be screened from view of adjacent property.
C. A dog enclosure shall not be placed closer than ten (10) feet to any lot line, except no dog enclosure shall be placed in a front yard, and in no event shall a dog enclosure be placed closer that 50 feet of any dwelling unit other than the owner's property.

D. Dog enclosures shall be maintained in a reasonably clean and sanitary condition, consistent with the requirements of Minnesota Rule 1721.0520, subpart 5.G, including the timely removal of feces, urine, and food scraps. No person shall allow odors associated with a dog to emit outside the boundary of the premises on which the dog is kept.

Source: Ordinance No. 11-2017
Effective Date: 7-20-2017

E. This subdivision shall be applicable to all dog enclosures constructed after the effective date hereof. Any owner of an existing dog enclosure which is a nuisance or source of filth may be required to comply with this section by notice of compliance given by the City Manager. Failure to comply with such a notice within thirty (30) days of issuance shall be a violation of this subdivision.

Source: Ordinance No. 23-94
Effective Date: 7-22-94

Subd. 20. Adoption of Statues by Reference. Minnesota Statutes §§ 347.50-.347.56 inclusive are hereby adopted by reference. One copy marked as the official copy shall be filed for use and examination by the public in the office of the City Clerk.

Source: Ordinance No. 21-2006
Effective Date: 8-24-2006

Subd. 21. Procedures for Determination of Dangerous, Potentially Dangerous Dogs and Destruction of Dogs. When the Chief of Police has determined that a dog is dangerous or potentially dangerous or when destruction of a dog is authorized under Minnesota Statutes § 347.56, the procedures specified in Minnesota Statutes § 347.541 shall be followed. A decision by the Hearing Officer shall be final.

Source: Ordinance No. 6-2009
Effective Date: 6-30-2009

SECTION 9.08. ANIMALS AND FOWL - KEEPING, TRANSPORTING, TREATMENT, HOUSING.

Subd. 1. Definitions. As used in this Section, the following definitions shall apply:

A. "Animals" include farm animals and all other animals, reptiles and feathered birds or fowl except horses, ponies, dogs, cats, gerbils, hamsters and caged household birds.

B. “Domestic animals” means horses, ponies, dogs, cats, gerbils, hamsters, caged household birds, female chickens, and other animals commonly kept as domesticated household pets.

C. "Farm animals" mean cattle, mules, sheep, goats, swine, ducks, geese, turkeys, chickens, and guinea hens.

Source: Ordinance No. 11-2017
Effective Date: 7-20-2017

Subd. 2. Keeping. It is unlawful for any person to keep or harbor any animal not in transit except (1) farm animals kept in that portion of the City where they are a conforming or non-conforming use under City Code Chapter 11, or (2) animals kept as a part of a show licensed under the City Code, or (3) animals used in a parade for which a permit has been issued under the City Code, or (4) animals kept in a laboratory for scientific or experimental purposes, or (5) animals kept in an animal hospital or clinic for treatment by a licensed veterinarian, or (6) domestic animals kept in compliance with any other applicable section of the City Code.”
Subd. 3. Animals in Transit. It is unlawful for any person to transport animals unless they are (1) confined within a vehicle, cage or other means of conveyance or (2) restrained by means of bridles, halters, ropes or other means of individual restraint.

Subd. 4. Treatment. It is unlawful for any person to treat an animal in a cruel or inhumane manner.

Subd. 5. Housing. It is unlawful for any person to keep any animal in any structure infested by rodents, vermin, flies or insects, provided however this provision does not apply to honey bees kept pursuant to City Code Section 9.73.

Subd. 6. Trespasses. It is unlawful for any person to herd, drive or ride any animal over and upon any grass, turf, boulevard, City park, cemetery, garden or lot without specific permission therefor from the owner.

Subd. 7. Fences.

A. It is unlawful for the owner and occupant of any land used as an enclosure for any horses, ponies or farm animals to fail to construct and maintain a fence thereon in at least as good condition of repair and up to standards specified for a legal fence in Minnesota Statutes, Section 344.02.

B. It is unlawful for the owner and occupant of any land used as an enclosure for any horse, pony or farm animal to fail, while such land is occupied by any such animal, to keep gates thereon securely closed; and any gate not so kept shall be presumed to be the act of the owner and occupant.

Source: City Code
Effective Date: 9-17-82

Subd. 8. Running at Large. It is unlawful for the owner, or parents or guardian of such owner under eighteen (18) years of age, of a horse, pony or farm animal, to allow such horse, pony or farm animal to run at large.

Source: Ordinance No. 28-86
Effective Date: 2-19-86

SECTION 9.09. HARASSMENT OF DOGS USED FOR PUBLIC SAFETY PURPOSES.
It shall be unlawful to interfere or meddle with any dog being used by the Eden Prairie Police Department or any other peace officer in the performance of any of the functions or duties of the Department or of such officer. No person shall torture, harass, tease, torment, beat, kick, strike, mutilate, injure, disable or kill any dog being used by the Eden Prairie Police Department or any other peace officer in the performance of any of the functions or duties of the Department or of such officer.

Source: Ordinance No. 49-86
Effective Date: 9-17-86

SECTION 9.10. FIRE AND BURGLAR, ROBBERY AND SAFETY ALARMS.

Subd. 1. Purpose. The purpose of section 9.10 A and 9.10 B are to protect the police and fire services of the City from misuse and to provide for the maximum possible service to alarm users. The ordinance is intended to provide for the regulation of Burglar, Robbery and Safety Alarm Systems and Fire Alarm Systems, establish a fee for false alarms in order to improve the reliability of such systems and reduce or eliminate false alarms. Section 9.10 A regulates Fire Alarm Systems. Section 9.10 B regulates Burglar, Robbery and Safety Alarm Systems.

Source: Ordinance No. 10-2019
Effective Date: 4-25-2019

Subd. 2. Definitions. The following terms as used in sections 9.10 A and 9.10 B shall have the meanings stated:

B. “Alarm Initiating Device” means a device that is designed to respond either manually or automatically to the presence of smoke, fire, or the activation of a fire suppression system.

C. "Alarm user" means the person in control of any alarm system.

D. “Burglar, Robbery and Safety Alarm System” means and includes any alarm installation designed to be used for safety on the premises which contain the alarm installation including the prevention or detection of burglary or robbery.

E. “Central Station Company” means any company that receives signals from any alarm system and transmits to the “Police/Fire Communications Center” any request for service as a result of these signals.

F. “Enforcement Official” means the Fire Chief or his designated representative.

G. "False alarm" means an audio, visual or electronically transmitted alarm signal eliciting a response by fire and police personnel when a situation requiring a response does not in fact exist and which is caused by the activation of the alarm system through mechanical failure, alarm malfunction, improper installation or the inadvertence of the alarm user or lessee of an alarm system or of his or her employees or agents. False alarms do not include alarms caused by climatic conditions such as tornadoes, thunderstorms, violent conditions of nature or any other conditions which are clearly beyond the control of the alarm manufacturer, installer or alarm user.

H. “Fire Alarm System” means and includes any alarm installation designed to be used for the prevention or detection of fire on the premises which contain the alarm installation including monitoring of water flow alarms for fire sprinkler systems.

I. “Fire Protection Business” means any individual, partnership, corporation or other entity that is appropriately licensed in the state to install or causes to be installed, permits to be installed, alters, maintains, repairs, replaces, services, provides runner services or monitors any Fire Alarm System, fire sprinkler system or special fire protection system.

J. “Monitored System” means a Fire Alarm System that is connected pursuant to NSPA 72 or MFC to a Central Station Monitoring Company that receives signals from the Fire Alarm System or fire sprinkler system and notifies the appropriate person or agency depending on the type of alarm signal received.

K. “Police/Fire Communications Center” is the City facility used to receive emergency requests for service and general information from the public to be dispatched to respective police/fire units.

L. “Qualified Fire Alarm Technician” means any person licensed by the State of Minnesota to inspect, install, repair or perform maintenance on Fire Alarm Systems.

M. “Required Fire Alarm System” means a fire alarm system, including fire sprinkler system water flow monitoring, that is required to be installed and maintained by the Adopted Codes.

N. “UL Certificate/Certification” means a certificate issued by UL that indicates that a Fire Alarm System meets the NFPA 72 code requirements for a central station monitored Fire Alarm System.

O. “User fee” means a charge payable to the City of Eden Prairie, to defray the expenses of responding to a false fire alarm.

SECTION 9.10 A. FIRE ALARM SYSTEM.
Subd. 1. False Alarm Fees.

A. Non-Required Fire Alarm System. A Fire Alarm System that is not a Required Fire Alarm System which reports more than three (3) false alarms to the City in a single calendar year will cause the alarm user to be charged a user fee for each false alarm in excess of three (3) per calendar year. The fee charged shall be in accordance with the fee schedule adopted by the City Council.

B. Required Fire Alarm System. A Fire Alarm System that is a Required Fire Alarm System which reports a more than three (3) false alarms to the City in a single calendar year will cause the alarm user to be charged a user fee for each false alarm in excess of three (3) per calendar year. The fee charged shall be in accordance with the fee schedule adopted by the City Council.

C. Appeal of User Fee. A Fire Alarm system alarm user who is required by the City to pay a user fee as the result of a false alarm may by written notice appeal the false alarm charge to the City Manager within ten (10) days of notice from the City of the false alarm charge. The decision of the City Manager shall be final.

Subd. 2. Payment of User Fee.

A. Payment of user fees provided for under Section 9.10 A. Subd. 1 must be paid to the City within thirty (30) days from the date of notice by the City to the alarm user. Failure to pay the fee within thirty (30) days’ notice will cause the alarm user to be considered delinquent and subject to a late payment charge in accordance with the fee schedule adopted by the City Council.

B. All delinquent charges for user fees computed as provided in paragraph A above shall be forwarded to the City Clerk who shall prepare a roll each year of the delinquent amounts against the respective properties serviced, which roll shall be delivered to the City Council for certification to the County Auditor on or before October 15 of each year. Prior to delivery of the roll to the City Council, the City Clerk shall give written notice to the property owner on or before September 15th of the City’s intention to certify the charges to the auditor.

Subd. 3. Automatic Dialing Devices Prohibited.

A. No automatic dialing devices initiating a pre-recorded emergency alarm message shall be connected to the Police/Fire Communications Center through any telephone line or other electronic means, except when authorized by the City Manager or his or her designee.

B. Remote automatic alarm systems and other related devices shall not be installed in such a manner that an automatic alarm signal is connected to the 911 trunks. Under specific circumstances, automatic devices with two-way voice communication may be permitted if the Fire Chief finds that the device complies with Section 7580.0800 Subpart 5 of the Minnesota Administrative Rules and is otherwise in compliance with the requirements of federal, state and local laws and regulations.

Subd. 4. System Certification and Inspection, Testing, and Maintenance.

A. System Certification. All required Fire Alarm Systems installed after January 1, 1986 shall have a UL72 certificate. All required Fire Alarm Systems that are updated, modified or replaced must have a UL72 certificate issued certifying that the Fire Alarm System is in compliance with Adopted Codes. The certificate shall be signed by a Qualified Fire Alarm Technician.

Source: Ordinance No. 7-2019
Effective Date: 3-14-2019
B. Inspection, Testing and Maintenance.

1. The Fire Alarm System alarm user shall have all Fire Alarm Systems inspected and tested at least once per year in accordance with Adopted Codes.

2. The Fire Alarm System alarm user shall maintain all Fire Alarm Systems in accordance with manufacturer specifications and Adopted Codes.

Source: Ordinance No. 7-2019
Effective Date: 3-14-2019

SECTION 9.10 B. BURGLAR, ROBBERY AND SAFETY ALARMS.

Subd. 1. False Alarm Fees.

A. A Burglar, Robbery and Safety Alarm System which reports more than three (3) false alarms to the City in a single calendar year will cause the alarm user to be charged a user fee for each false alarm in excess of three (3) per calendar year. A fee schedule will be set by the City Council based upon the number of false alarms reported per calendar year.

B. Any Burglar, Robbery and Safety Alarm System alarm user which is required by the City to pay a user fee as the result of a false alarm may make a written appeal of the false alarm charge to the City Manager within ten (10) days of notice by the City of the false alarm charge. The City Manager will have authority to make a final determination as to whether the appellant is to be charged. The decision of the City Manager shall be final.

Subd. 2. Payment of Fees.

A. Payment of user fees provided for under Subd. 3 must be paid to the City within thirty (30) days from the date of notice by the City to the alarm user. Failure to pay the fee within thirty (30) days' notice will cause the alarm user to be considered delinquent and subject to a late payment charge in accordance with the fee schedule adopted by the City Council.

Source: Ordinance No. 12-2009
Effective Date: 12-10-2009

B. All delinquent charges for user fees computed as provided in paragraph A above shall be forwarded to the City Clerk who shall prepare a roll each year of the delinquent amounts against the respective properties serviced, which roll shall be delivered to the City Council for certification to the County Auditor on or before October 15 of each year. Prior to delivery of the roll to the City Council, the City Clerk shall give written notice to the property owner on or before September 15th of the City’s intention to certify the charges to the auditor.

Subd. 3. Automatic Dialing Devices Prohibited.

A. No automatic dialing devices initiating a pre-recorded emergency alarm message shall be connected to the police/fire communications center through any telephone line, except when authorized by the City Manager or his or her designee.

B. Remote automatic alarm systems and other related devices shall not be installed in such a manner that an automatic alarm signal is connected to the 911 trunks. Under specific circumstances, automatic devices with two-way voice communication may be permitted if the Police Chief finds that the device complies with Section 1215.0800 Subpart 5 of the Code of Minnesota Administrative Rules and is otherwise in compliance with the requirements of federal, state and local laws and regulations.

Subd. 4. Repealed
A. The registration of the Burglar, Robbery and Safety Alarm System will be on a form provided by the City of Eden Prairie. The form shall contain information the City of Eden Prairie deems necessary to properly respond to and manage alarms.

Subd. 5. Suspension of Police Response.

A. Notice of Suspension of Police Response. Where an alarm user is more than 90 days overdue in payment of alarm fines (Overdue Payments), the City of Eden Prairie may serve, in-person or by U.S. certified mail addressed to the address at which the alarm is located written notice (hereinafter referred to as “Notice”) that effective fourteen (14) days from the date of the Notice, the Eden Prairie Police Department will no longer respond to alarm dispatch requests from that site (hereinafter referred to as “Suspension”), unless there is an in-person call for assistance from a person at or near the premises or other independent information that verifies the need for an immediate police response. The Suspension will be revoked and Police response will be reactivated in the case of an Unregistered System when the alarm system is registered and in the case of an Overdue Payments once all Overdue Payments and fines have been paid.

B. Written Appeal of Suspension. Any Burglar, Robbery and Safety Alarm System alarm user who has been given Notice of Suspension may by written notice appeal the Suspension to the City Manager within ten (10) days of date of the Notice. The decision of the City Manager shall be final.

SECTION 9.11. RENTAL HOUSING.

Subd. 1. Purpose. The purpose of this section is to provide minimum standards to safeguard life or limb, health, property and public welfare by regulating and controlling the use and occupancy, construction and maintenance of all residential rental buildings and structures within the City. The provisions contained herein are in addition to other applicable provisions of the City Code and not in lieu thereof. Any provisions contained herein which are inconsistent or in conflict with any other provision of the City Code shall supersede such other provisions.

Subd. 2. Scope. The provisions of this Section shall apply to all rental buildings. Where any building or portion thereof is used or intended to be used as a combination apartment house-hotel, the provisions of this Section shall apply to the separate portions as if they were separate buildings.

Subd. 3. Enforcement.
A. Authority. The Administrative Authority is hereby authorized and directed to enforce all of the provisions of this section.

B. Right of Entry. Whenever necessary to make an inspection to enforce any of the provisions of this Section, or whenever the Administrative Authority or an authorized representative has reasonable cause to believe that there exists in any building or upon any premises any condition or code violation which makes such building or premises unsafe, dangerous or hazardous, the Administrative Authority or an authorized representative may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the Administrative Authority by this Section. If such building or premises is occupied, the Administrative Authority or representative shall first present proper credentials and request entry; if such building or premises is unoccupied, a reasonable effort shall be made to locate the owner or other persons having charge or control of the building or premises and request entry. If such entry is refused, the Administrative Authority or representative shall have recourse to every remedy provided by law to secure entry.

C. Substandard Buildings. All rental buildings or portions thereof which are determined to be substandard as defined in this Section constitute a violation of this Section and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedures specified in Subdivision 10 of this Section.

D. Modifications. Whenever there are practical difficulties involved in carrying out the provision of this Section, the Administrative Authority may grant modifications for individual cases, provided that the modification is in conformity with the intent and purpose of this Section and that such modification does not reduce the level of any fire-protection requirements or structural integrity. The details of any action granting modifications shall be recorded and entered in the files of the Administrative Authority.

E. Building Code Board of Appeals. Appeals of orders, decisions or determinations made by the Administrative Authority relative to the application and interpretation of this Section shall be heard and decided by the Building Code Board of Appeals. The procedures for review or appeal shall be those set forth in Subdivision 11 of this Section.

F. Violations. It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, rent or let to another, use, occupy or maintain any building or structure or cause or permit the same to be done in violation of this Section.

Subd. 4. Definitions. For the purpose of this Section, certain terms, phrases, words and their derivatives shall be construed as specified in either this section or as specified in the Uniform Building Code.

A. "Administrative Authority" is the Fire Chief, the Building Official or their designee.

B. "Apartment house" is any rental building which is intended or designed to be occupied or which is occupied as the home or residence of three (3) or more families living independently in separate dwelling units and doing their own cooking in the rental building.

C. "Building Code" is the Minnesota State Building Code adopted by the City.

D. "Dwelling" is any rental building which is not an apartment house, lodging house or a hotel and which contains one or more dwelling units.

E. "Dwelling unit" is a single unit situated within a rental building providing complete, independent living facilities for one (1) or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.

F. "Efficiency dwelling unit" is a dwelling unit containing only one (1) habitable room and meeting the requirements of Section 1208 of the Building Code.
G. "Family" is an individual or two (2) or more persons related by blood, marriage or adoption, including foster children and bona fide domestic servants employed on a full-time basis.

H. "Guest room" is a habitable space in a hotel or lodging house designed or intended to be used or occupied or which is used for sleeping purposes by guests.

I. "Habitable space" is a space or room in a rental building for living, sleeping, eating or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility space, and similar areas, are not considered habitable space.

J. "Hotel" is any rental building or portion thereof containing six (6) or more guest rooms.

K. "Hot water" is water supplied to plumbing fixtures at a temperature of not less than 110 degrees F.

L. "Lodging house" is any rental building containing not more than five (5) guest rooms.

M. "Rental building" is any building or structure or portion thereof used, designed, or intended to be used for human habitation and for which use the owner receives, is entitled to receive or will receive consideration in the form of money, goods, labor, or otherwise. Consideration does not include compensation received by a family member from another family member living in the same dwelling unit.

Subd. 5. Owner and Occupant Responsibilities.

A. Owner.

1. Owners of rental buildings shall construct and maintain said buildings in accordance with the requirements of this Section.

2. No persons shall willfully or wantonly damage, mutilate or deface any exterior surface of any rental building by placing thereon any marking, carving, or graffiti. It shall be the responsibility of the owner to restore said surface to an approved professional state of maintenance and repair.

3. No person shall let to another for occupancy any rental building or dwelling unit which does not comply with the applicable fire prevention provisions.

B. Occupants.

1. Each occupant of a rental building shall keep in a clean and sanitary condition that part of the dwelling unit and premises thereof which that person occupies or controls.

2. Every occupant of a rental building shall dispose of garbage and rubbish in a clean and sanitary manner by placing it in the disposal facilities.

3. No person shall occupy any rental building or dwelling unit which does not comply with the applicable fire prevention provisions.

Subd. 6. Space and Occupancy Standards.

A. Light and Ventilation.

1. Each habitable space in a rental building shall be provided with:

   (a) Natural light by means of exterior glazed openings with an area not less than one-tenth of the floor area of such rooms with a minimum of ten (10) square feet, and
Natural ventilation by means of openable exterior openings with an area of not less than one-twentieth of the floor area of such rooms with a minimum of five (5) square feet.

2. Bathrooms, water closet compartments, laundry rooms and similar rooms within a rental building shall be provided with natural ventilation by means of openable exterior openings having an area not less than one-twentieth of the floor area of such rooms with a minimum of 1-1/2 square feet, except that a window shall not be required in such spaces equipped with a mechanical ventilation system.

3. Exterior glazed openings required for natural light and exterior openings required for ventilation shall open directly to the outside. Windows may open into a roofed porch where the porch:
   (a) Abuts a street, yard, or court; and
   (b) Has a ceiling height of not less than seven (7) feet; and
   (c) Has the longer side at least sixty-five percent (65%) open and unobstructed.

4. For the purpose of determining light and ventilation requirements, any habitable space may be considered as a portion of an adjoining habitable space when one-half of the area of the common wall is open and unobstructed and provides an opening of not less than one-tenth of the floor area of the interior room or twenty-five (25) square feet, whichever is greater.

5. Mechanical Ventilation. In lieu of exterior openings for natural ventilation, a mechanical ventilation system connected directly to the outside may be provided.
   (a) Such system shall be capable of providing two (2) air changes per hour for each room in habitable space. One-fifth of the air supply shall be taken from the outside.
   (b) In bathrooms, water closet compartments, laundry rooms and similar rooms a mechanical ventilation system capable of providing five (5) air changes per hour shall be provided.

B. Sanitation.

1. Dwelling Units and Lodging Houses. Every dwelling unit and every lodging house shall be provided with a bathroom equipped with facilities consisting of a water closet, lavatory, and either a bathtub or shower.

2. Hotels. Where private water closets, lavatories and baths are not provided in a hotel, there shall be provided on each floor for each sex at least one (1) water closet and lavatory and one (1) bath accessible from a public hallway. Additional water closets, lavatories and baths shall be provided on each floor for each sex at the rate of one (1) for every additional ten (10) guests, or fractional number thereof in excess of ten (10). Such facilities shall be clearly marked for "Men" or "Women."

3. Kitchen. Each dwelling unit shall be provided with a kitchen. Every kitchen shall be provided with a kitchen sink. Wooden sinks or sinks of similarly absorbent material shall not be permitted.

4. Fixtures. All plumbing fixtures in rental buildings shall be connected to a sanitary sewer or to an approved private sewage disposal system. Said plumbing fixtures shall be connected to an approved system of water supply and provided with hot and cold running water necessary for its normal operation. Said plumbing fixtures shall be of an approved glazed earthenware type or of a similarly nonabsorbent material.
5. **Room Separations.** Every water closet, bathtub or shower required by this section shall be installed in a room which will afford privacy to the occupant. A room in which a water closet is located shall be separated from food preparation or storage rooms by a tight-fitting door.

6. **Premises Identification.** Building shall have approved address numbers, placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background and numbers shall be a minimum of 4 inches high.

### Subd. 7. Mechanical Requirements.

A. **Heating.** Each rental building shall be provided with heating facilities capable of maintaining a room temperature of sixty-eight degrees F. in each habitable space at a point three (3) feet above the floor. Said facilities shall be installed and maintained in a functional and safe condition. Heat shall be supplied during the period of September 15th to May 15th. Exception: When the outdoor temperature is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature shall not be required, provided that the heating system is operating at its full design capacity.

B. **Electrical.** Where there is electrical power available within three hundred (300) feet of any rental building, said rental building shall be connected to such electrical power. Every habitable room shall contain at least two (2) electrical convenience outlets or one (1) convenience outlet and one (1) electric light fixture. Every water closet compartment, bathroom, laundry room, furnace room and public hallway shall contain at least one (1) electric light fixture.

C. **Ventilation.** Where mechanical ventilation is provided in lieu of the natural ventilation required by Subdivision 5 of this Section, such mechanical ventilating system shall be maintained in operation during the occupancy of any rental building or portion thereof. Ventilation systems in parking garages under apartments shall be installed in conformance with the Building Code and maintained and operated as installed. The entire ventilation system must be maintained in proper working order at all times.

### Subd. 8. Building Interior.

A. **Interior surfaces.** Interior surfaces including windows and doors shall be maintained in good, clean and sanitary condition. Peeling, chipping, flaking or abraded paint shall be repaired, removed or covered. Cracked or loose plaster, decayed wood, and other defective surfaces shall be corrected.

B. **Interior Doors.** Every interior door shall fit reasonably within its frame and shall be capable of being opened and closed by being properly attached to jambs, headers or tracks as intended by the manufacturer of the attachment hardware.

C. **Handrails and Guards.** Every handrail and guard shall be firmly fastened and capable of supporting normally applied loads and shall be maintained in good condition in conformance with the code under which it was constructed.

D. **Stairs and walking surfaces.** Every stair, ramp, landing, balcony, porch, deck or other walking surface shall be maintained in sound condition and good repair.

### Subd. 9. Exits.** Every dwelling unit or guest room shall have access directly to the outside or to a public corridor. Every guest room and habitable space intended for use as or used for sleeping shall have at least one (1) operable window or exterior door approved for emergency escape or rescue. Such doors or windows shall be operable from the inside to provide a full, clear opening without the use of separate tools.

### Subd. 10. Smoke Detectors.** Existing Group R occupancies not already equipped with single station smoke alarms shall be equipped with approved single station smoke alarms. Smoke detectors shall be installed on each floor of residential
buildings in accordance with the Minnesota State Fire Code. Smoke Alarms shall be maintained in an operative condition at all times and shall be replaced or repaired when defective.

**Subd. 11. Substandard Buildings.**

A. **General.** Any rental building or portion thereof, including any dwelling unit, guest room or suite of rooms, or the premises on which the same is located, in which there exists any of the following listed conditions to an extent that endangers the life, limb, health, property, safety or welfare of the public or the occupants thereof shall be deemed and hereby is declared to be a substandard rental building in violation of this Section.

B. **Inadequate Light and Ventilation.** Inadequate light and ventilation shall include but not be limited to the following:

1. Lack of, or improper operation of required ventilating equipment in a rental building.
2. Lack of minimum amounts of natural light and ventilation required by this section.
3. Lack of required electrical lighting in a rental building.

C. **Inadequate Sanitation.** Inadequate sanitation shall include but not be limited to the following:

1. Lack of, or improper water closet, lavatory, bathtub or shower in a dwelling unit or lodging house.
2. Lack of, or improper water closets, lavatories and bathtubs or showers per number of guests in a hotel.
3. Lack of, or improper kitchen sink in a dwelling unit.
4. Lack of hot and cold running water to plumbing fixtures in a hotel.
5. Lack of hot and cold running water to plumbing fixtures in a dwelling unit or lodging house.
6. Lack of adequate heating facilities in a rental building.
7. Dampness of habitable space.
8. Infestation of insects, vermin or rodents, except for honey bees kept pursuant to City Code Section 9.73.
9. General dilapidation or improper maintenance of a rental building.
10. Lack of connection to required sewage disposal system.
11. Lack of adequate garbage and rubbish storage and removal facilities as determined by the Administrative Authority.
12. Presence of mold or other fungal growth.

D. **Structural Hazards.** Structural hazards shall include but not be limited to the following:

1. Deteriorated or inadequate foundations.
2. Defective or deteriorated flooring or floor supports.
3. Flooring or floor supports of insufficient size to carry imposed loads with safety.
4. Members of walls, partitions or other vertical supports that split, lean, list or buckle due to defective material or deterioration.
5. Members of walls, partitions or other vertical supports that are of insufficient size to carry imposed loads with safety.
6. Members of ceilings, roofs, ceiling and roof supports or other horizontal members which sag, split or buckle due to defective material or deterioration.
7. Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that are of insufficient size to carry imposed loads with safety.
8. Fireplaces or chimneys which list, bulge or settle, due to defective material or deterioration.
9. Fireplaces or chimneys which are of insufficient size or strength to carry imposed loads with safety.

E. **Hazardous Electrical Wiring.** Electrical wiring hazards shall include but not be limited to the following: Electrical wiring which was installed in violation of laws in effect at the time of installation or electrical wiring
not installed in accordance with generally accepted construction practices in areas where no laws were in effect or which has not been maintained in good condition or which is not being used in a safe manner.

F. Hazardous Plumbing. Plumbing which was installed in violation of laws in effect at the time of installation or plumbing not installed in accordance with generally accepted construction practices in areas where no laws were in effect or which has not been maintained in good condition or which is not free of cross-connections or siphonage between fixtures.

G. Hazardous Mechanical Equipment. Mechanical equipment which does not comply with the mechanical requirements of this Section and which was installed in violation of laws in effect at the time of installation or mechanical equipment not installed in accordance with generally accepted construction practices in areas where no laws were in effect or which has not been maintained in good and safe condition.

H. Faulty Weather Protection, which shall include but not be limited to the following:
   1. Deteriorated, crumbling or loose plaster.
   2. Deteriorated or ineffective waterproofing of exterior walls, roof, foundations or floors, including broken windows or doors.
   3. Defective or insufficient weather protection for exterior wall coverings, including lack of paint, or weathering due to lack of paint or other approved protective covering.
   4. Broken, rotted, split or buckled exterior wall coverings or roof coverings.

I. Faulty Materials of Construction. All materials of construction except those which are specifically allowed or approved under the applicable laws and which have been adequately maintained in good and safe condition.

J. Hazardous or Unsanitary Premises. Premises on which an accumulation of weeds, vegetation, junk, dead organic matter, debris, garbage, offal, rat harborages, stagnant water, combustible materials and similar materials or other conditions exist.

K. Improper Occupancy. All buildings or portions thereof occupied for living, sleeping, cooking or dining purposes which were not designed or intended to be used for such occupancies.


A. Notice. Whenever the Administrative Authority determines that a rental building is a substandard building, or that any other violation exists under this Section, or that there are reasonable grounds to believe that a violation exists, notice shall be given to the person or persons responsible therefore. Such notice shall:
   1. Be in writing.
   2. Include a description of the real estate sufficient for identification.
   3. Describe the conditions found to constitute the violation.
   4. Specify the remedial action required.
   5. Require that any permits necessary to effectuate remedial action be secured and the work physically commenced within twenty (20) days and completed within such time as the Administrative Authority shall determine is reasonable under the circumstances.
   6. State that a motion for summary enforcement of the order will be made to the District Court unless, within twenty (20) days, work is physically commenced or an answer is filed as provided for in Minnesota Statutes, 1990, Section 463.18.

B. Emergency Orders. Whenever the Administrative Authority finds that an emergency exists in relation to the enforcement of the provisions of this Section which requires immediate action to protect the health, safety or welfare of occupants of any rental building, the Administrative Authority may issue an order reciting the existence of such emergency and requiring that such action be taken as deemed necessary to meet the
emergency, notwithstanding any other provision of this Section. When any such emergency shall be declared to exist the Administrative Authority immediately shall report the same in writing to the city council. Every notice of emergency shall include the following language:

"If you do not comply with this Order by the above date, the City may remedy the violation and assess the costs to you or allow the occupants to make the repairs and deduct the expense from the occupant's rent."

Subd. 13. Appeal.

A. Right to Appeal. Any person entitled to service under this Section may appeal from any notice and order served by the Administrative Authority. The appeal shall constitute an answer to the notice and order as provided for in Minnesota Statutes, 1990, Section 463.18.

B. Procedure. Appeal shall be made to the Administrative Authority within fifteen (15) days after the notice and order is served. The appeal shall be made in writing and contain a brief statement of the relief sought and the reasons why it is claimed the protested order or action should be reversed, modified or otherwise set aside.

C. Scheduling and Noticing Appeal for Hearing. As soon as practicable after receiving the written appeal, the Administrative Authority shall fix a date, time and place for hearing of the appeal by the Building Code Board of Appeals. Written notice of the time and place of the hearing shall be given at least ten (10) days prior to the date of the hearing to each appellant by the Board either by causing a copy of such notice to be delivered to the appellant personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at his address shown on the appeal.

D. Effect of Failure to Appeal. Failure of any person to file an appeal in accordance with the provisions of this Section shall constitute a waiver of the right to an administrative hearing and administrative adjudication of the notice and order or to any portion thereof.

Subd. 14. Enforcement of the Order of the Administrative Authority or the Building Code Board of Appeals.

A. Compliance. After any order of the building official or Building Code Board of Appeals made pursuant to this Section shall have become final, no person to whom any such order is directed shall fail, neglect, or refuse to obey any such order. Any such person who fails to comply with any such order is guilty of a misdemeanor.

B. Failure to Obey Order. If, after any order of the Administrative Authority or Building Code Board of Appeals made pursuant to this Section has become final, the person to whom such order is directed shall fail, neglect or refuse to obey such order, the Administrative Authority may (1) cause such person to be prosecuted under subsection 1 of this subdivision or (2) commence an appropriate action in District Court.

Source: Ordinance No. 23-92
Effective Date: 6-26-92

Source: Ordinance No. 15-2006
Effective Date: 5-25-2006

SECTION 9.12. TRAPPING OF ANIMALS.

Subd. 1. Policy. This Section reflects the City's policy of managing wildlife while maintaining the natural habitat of the area. This policy includes the City's desire to mitigate the exposure of people and domestic animals to traps. Public education concerning the various species living in the area and their habits is the preferred method of minimizing any conflict between humans and wildlife. The city recognizes, however, that even with a knowledgeable and sensitive citizenry, circumstances arise where trapping becomes a necessary method of control.
Subd. 2. Definitions.

A. “Trap” means any mechanical device, snare, artificial light, net, bird line, or contrivance used to trap, catch, snare, kill or otherwise restrain the free movement of any wild animal.

B. “Trapping” means setting, laying, or otherwise using a trap to catch, snare, kill or otherwise restrain the free movement of any wild animal.

C. “Wild animal” is defined as wild mammals and birds only.

D. “Wildlife nuisance” is defined as action by an animal which causes damage to property or poses an undue threat to safety.

Subd. 3. Requirements.

A. It is unlawful for any person to trap in the City of Eden Prairie unless such persons have in their possession each of the following:

1. A valid Minnesota trapper's license issued by the Minnesota Department of Natural Resources;

2. A certificate demonstrating that the trapper successfully completed a Minnesota Trappers Association (MTA) trapper education course or is a certified MTA trapping instructor;

3. Written permission from the landowner or public agency;

4. A trapping permit from the City of Eden Prairie.

B. Application for a City trapping permit shall take place pursuant to the requirements contained in Section 5.02 of this Code and shall be submitted to the City Police Department. Additionally, applicants shall submit proof of a current license for trapping from the Department of Natural Resources and of a passing score on the test administered by the Minnesota Trappers Association.

Subd. 4. Permitted Area. Trapping by City permit shall be conducted only in the areas permitted for the discharge of shotguns firing shotgun slugs, as specified in Section 9.40, Subd. 3.A.2.(a) herein.

Subd. 5. Permitted Traps within Permitted Area. Trapping on defined permitted land is restricted to the use of leghold spring traps no larger than size 1 1/2. Trapping in water in defined permitted areas is restricted to the use of conibear-type traps with a jaw opening no larger than 5 inches by 5 inches (size 110) and drowning set leghold traps.

A. All leghold traps set on dry land shall be:

1. Placed at least 500 feet from a residence, except when the trap placement is authorized or directed by the residence's occupant;

2. Entirely concealed under a layer of soil or other trap covering;

3. Firmly anchored with a stake or heavy drag;

4. Placed no closer to an exposed bait, fur or feathers than allowed by the Minnesota Department of Natural Resource regulations.
B. Trapping is prohibited within 250 feet of the boundaries of any city park or organized recreational area, except as provided under Subd. 9.

**Subd. 6. Trapping Outside of Permitted Area.** Trapping outside of the permitted area is allowed only under the following circumstances:

A. If a property owner believes that a wildlife nuisance situation exists, the property owner will contact the City Police Department and file a "wildlife management request form" which describes the nature of the nuisance. The complaint will be handled per Resolution No. 91-260 which adopts a City wildlife management plan. If it is determined by the City Police Department that the nuisance is "bona fide," the property owner will be provided with a list of permitted trappers along with a limited permit to abate the specific wildlife nuisance, subject to any other restrictions.

B. Traps shall be placed at least 500 feet from a residence, except when the trap placement is authorized or directed by the residence's occupant.

C. Trapping is prohibited within 250 feet of the boundaries of any city park or organized recreational area.

**Subd. 7. Permitted Traps Outside of Permitted Trapping Area.** Every reasonable effort must be made to use non-lethal methods, including but not limited to: cage-type traps, repellants, harrassment and exclusionary devices. If it is determined by the City that none of the above methods are effective, trapping on land is restricted to the use of leghold spring traps no larger than size 1 1/2. Trapping in water is restricted to the use of conibear-type traps with jaw opening no larger than 5 inches by 5 inches (size 110).

**Subd. 8. Release of Animals.** Animals may be released from captivity only with the express permission of the owner of the property upon which any release shall take place.

**Subd. 9. Exceptions.** This Section shall not apply to:

A. Quick-kill trapping if the traps are designed only to kill rats, mice, gophers or moles.

B. Persons using cage-type live traps for trapping animals causing damage to property after using other reasonable effort to use other non-lethal methods, including but not limited to: repellants, harrassment and exclusionary devices.

C. Employees or duly authorized representatives of the city, county, state or federal government acting within the course and scope of their employment.

D. Falconers or bird banders licensed by the Department of Natural Resources and the U.S. Fish and Wildlife Service permit.

E. Persons using a net for trapping and relocating Canadian geese under a U.S. Fish and Wildlife Service permit.

F. Trapping on lands owned or managed by the Minnesota Valley National Wildlife Refuge shall be regulated solely by the U.S. Fish and Wildlife Service.

Source: Ordinance No. 19-93
Effective Date: 6-25-93

**SECTION 9.13. TEMPORARY TOILET FACILITIES.**

**Subd. 1. Purpose.** The City Council is empowered by law to provide for and regulate the disposal of sewage and to provide for the promotion of health, safety, order, convenience and the general welfare of its citizens. The purpose of
this ordinance is to provide for the disposal of sewage from construction sites and to promote the health, safety and general welfare of the public as the same relates to the disposal of sewage from such sites.

Subd. 2. Toilet Facilities Required. No person shall commence or proceed with the erection, construction, alteration, repair, raising, adding to, removal or demolition of any building or structure, unless adequate, suitable, sanitary toilet facilities under the control of such person are provided for the use of any person employed or working upon such building or structure. Such toilet facilities shall be located upon or within a reasonable distance of the lot, premises, or site upon which such work is being done. In no case shall the line of travel to any toilet facility exceed 500 feet. If such person proposes to use toilet facilities located on the premises in compliance with Section 9.03 of the City Code, the owner of the premises shall consent thereto in writing and such sanitary facilities shall thereafter be considered under the control of such person for purposes of this subdivision.

Subd. 3. Toilet Standards. The sewage disposal method shall not endanger the public health or safety. Each toilet shall be of a water flush type and connected to a public sewer or a portable chemical type with a capacity of not less than 50 gallons. Containers of chemical type toilets shall be non-absorptive, non-corrosive materials. Containers shall be completely emptied, thoroughly cleaned and disinfected at least weekly. The following specifications apply to all temporary toilets:

A. Toilets shall be maintained in a clean, sanitary and functional condition;
B. Each unit shall be properly cleaned on a routine basis;
C. Chemicals, toilet tissue and sanitary seat covers shall be maintained in a supply sufficient for use during an entire day;
D. Any defective or inadequate unit shall be immediately removed from service;
E. Toilet room shall be ventilated to the outside and adequately lighted;
F. Toilets shall be serviced on a regular schedule. Servicing shall include use of a disinfectant for cleaning urinals and seats, removing waste from containers, recharging containers with an odor controlling chemical and installing an adequate supply of toilet tissue and seat covers;
G. Waste shall be disposed of or discharged through the sanitary sewer systems in accordance with applicable regulations;
H. Waste containers shall be fabricated from impervious material. Containers shall be water tight and capable of containing the chemical waste in a sanitary manner. Removal of waste shall be handled in a clean and sanitary manner by means of vacuum hose and received by a leak proof tank truck. All valves on the tank shall be leak proof.

Source: Ordinance No. 18-94
Effective Date: 7-1-94

SECTION 9.14. REPEALED

Source: Ordinance No. 13-2004
Effective Date: 5-6-2004

SECTION 9.15. RESTRICTIONS RELATING TO THE SALE OF LAWN FERTILIZER.

Source: Ordinance No. 21-2002
Effective Date: 7-11-2002

Subd. 1. Purpose. The purpose of this Ordinance is to establish regulations that will aid the City in maintaining and improving lake resources within its jurisdiction, thus enhancing the enjoyment of the lakes by City residents and other

**Subd. 2. Definitions.** The definitions contained Minnesota Statutes § 103E.005, subd. 1, as amended, are adopted by reference. For the purpose of this section, certain terms and words are defined as follows:

A. **Person:** Person means an individual, firm, partnership, association or private corporation.

Subd. 3. Effective July 31, 2002, no person, firm, corporation, franchise, or commercial establishment shall sell any lawn fertilizer, liquid or granular, within the City of Eden Prairie that contains any amount of phosphorus or other compound containing phosphorus, such as phosphate, unless:

1. Phosphorus-free fertilizer is also for sale;
2. Phosphorus-free fertilizer and phosphorus-containing fertilizer are separately displayed with each display being clearly marked as to whether or not the fertilizer contains phosphorus;
3. Displays of phosphorus-containing fertilizers shall be limited to ten percent (10%) of the quantity of phosphorus-free fertilizer on display at any time;
4. Fertilizer displays shall include signage providing information on phosphorus. All signage must be pre-approved or provided by the City on request.

Subd. 4. **Penalty.** Any person violating this section shall be guilty of a petty misdemeanor.

**SECTION 9.16. EXTERIOR BUILDING MAINTENANCE.**

**Subd. 1. Declaration of Nuisance.** Buildings, fences, and other structures, which have been so poorly maintained that their physical condition and appearance detract from the surrounding neighborhood, are declared to be public nuisances. Such structures (a) are unsightly, (b) decrease adjoining landowners’ and occupants’ enjoyment of their property and neighborhood, and (c) adversely affect property values and neighborhood patterns.

**Subd. 2. Standards.** Any building, fence, or other structure is a public nuisance if it does not comply with the following requirements:

A. No part of any exterior surface shall have deterioration, holes, breaks, gaps, loose or rotting boards or timbers.

B. Every exterior surface, which has had a surface finish such as paint applied, shall be maintained to avoid noticeable deterioration of the finish. No wall or other exterior surface shall have peeling, cracked, chipped or otherwise deteriorated surface finish on more than ten percent (10%) of:
1. Any one wall or other flat surface, or
2. All doors and windows, door and window moldings, fascia, soffit, eaves, gutters, and similar projections on any one side or surface.

C. No glass, including windows and exterior light fixtures, shall be broken or cracked, and no screens shall be torn or separated from moldings.

D. All exterior doors and shutters shall be hung properly and have an operable mechanism to keep them securely shut or in place.

E. All cornices, moldings, lintels, sills, bay or dormer windows, and similar projections shall be kept in good repair and free from cracks and defects which make them hazardous or unsightly.

F. Roof surfaces shall be tight and have no defects, which admit water. All roof drainage systems shall be secured and hung properly.

G. Decks, porches, fences, chimneys, antennae, air vents, and other similar projections shall be structurally sound and in good repair. Such projections shall be secured properly, where applicable, to an exterior wall or exterior roof.

H. Temporary construction fencing, including but not limited to erosion control hay bales, fabric and plastic, shall not be used in lieu of permanent fencing and when installed on construction sites shall be removed following the elimination of hazards or completion of construction projects.

Subd. 3. Enforcement.

A. Notice of Certain Violation. When a property or building is in violation of this Section, the Chief Building Official may issue the property owner of record a written “Notice of Violation and Compliance Order” which shall include the following information:

1. A description of the property sufficient for identification;
2. Description of the violation(s);
3. The action required to remedy the violation(s);
4. The time within which the remedy must be completed;
5. Actions that may be taken by the City if repairs are not made in the time period specified in the Notice of Violation and Compliance Order;

B. Civil Remedies. In addition to enforcement pursuant to Section 9.99, this Section may be enforced by injunction, action for abatement, or other appropriate civil remedy.

Subd. 4. Appeals. Any person aggrieved by a Notice of Violation and Compliance Order shall have the right of appeal pursuant to City Code Section 2.80. The Council may uphold the violation, void all violations, or change any described violation by adding violations, removing violations or changing the order to repair.

Subd. 5. Severability. If any provision of this Section or the application of any provision to a particular situation is held to be invalid by a court of competent jurisdiction, the remaining portions of the Section and the application of the Section to any other situation shall not be invalidated.

(Sections 9.17 through 9.29, inclusive, reserved for future expansion.)
SECTION 9.30. DISORDERLY CONDUCT GENERALLY.

It is unlawful for any person in a public or private place, knowing or having reasonable grounds to know that it will or will tend to alarm, anger or disturb others or provoke any assault or breach of the peace, to do or permit upon premises owned or controlled by him the following: (1) engage in brawling or fighting; (2) disturb an assembly or meeting not unlawful in its character; or, (3) engage in offensive, obscene or abusive language or in boisterous and noisy conduct tending reasonably to arouse alarm, anger or resentment in others; or, (4) willfully and lewdly expose his person or the private parts thereof or procure another to so expose himself; behave in an open or gross licentious or lascivious manner; or perform any act of public indecency; or, (5) voluntarily enter the water of any lake, river or City public swimming pool between the hours of 10:00 o'clock P.M. and 8:00 o'clock A.M. except with specific permission or enter such water without being garbed in a bathing suit sufficient to cover his person and equal to the standards generally adopted and accepted by the public; or, (6) cause the making or production of an unnecessary noise by shouting or by any other means of mechanism including the blowing of any automobile or other vehicle horn; or (7) use a flash or spotlight in a manner so as to annoy or endanger others; or, (8) drink or display any intoxicating liquor or non-intoxicating malt liquor in or about any premises where such drinking or display is prohibited by law; or, (9) cause defacement, destruction or otherwise damage to any premises or any property located thereon; or, (10) strew, scatter, litter, throw, dispose of or deposit any refuse, garbage or rubbish unto any premises except into receptacles provided for such purpose; or, (11) fail or refuse to vacate or leave any premises after being lawfully requested or ordered, whether orally or in writing, to do so by the owner or person in charge thereof or by any law enforcement agent or official provided, however, that this provision shall not apply to any person who is the owner or tenant of the premises involved nor to any law enforcement or other government official who may be present thereon at that time as part of his official duty, nor shall it include the wife, children, employee or tenant of such owner or occupier.

SECTION 9.31. DISORDERLY CONDUCT ON SCHOOL GROUNDS AND IN SCHOOL BUILDINGS.

Subd. 1. Defacement of School Buildings. It is unlawful for any person to make with ink, paint, chalk or other substance or post handbills on, or in any other manner deface or injure, any school building or structure used or usable for school purposes. It is unlawful for any person to mark, deface, or injure fences, trees, lawns, or fixtures appurtenant to or located on the site of such buildings, to post handbills on such fences, trees or fixtures, or to place a sign anywhere on any such site.

Subd. 2. Breach of Peace on School Grounds. It is unlawful for any person to willfully or maliciously make or assist in making on any school grounds adjacent to any school building or structure any noise, disturbance or improper diversion or activity by which peace, quiet and good order shall be disturbed.

Subd. 3. Offensive Language and Conduct. It is unlawful for any person to use offensive, obscene, or abusive language or engage in boisterous or noisy conduct tending reasonably to arouse alarm, anger or resentment in others on any school grounds or in buildings or structures.

Subd. 4. Improper Conduct While School in Session. It is unlawful for any person to, in any school room or in any building or on the grounds adjacent to the same, disturb or interrupt the peace and good order of such school while in session. It is also unlawful for any person not in immediate attendance in such school and being in such building or upon the premises belonging thereto to conduct or behave himself or herself improperly. It is also unlawful for any person upon the request of a teacher of such school or the person in charge thereof to leave said building or premises to neglect or refuse so to do.

Source: City Code
Effective Date: 9-17-82

Subd. 5. Loitering and Improper Presence on School Grounds. It is unlawful for any person to loiter on any school grounds or in any school building or structure or to fail to or refuse to vacate or leave school premises after being lawfully requested to do so orally or in writing by school personnel or any law enforcement agent or official. It is unlawful for any person to appear on school property after being given written notice by school personnel or any law enforcement agent or official to stay off school property for any designated, reasonable length of time.

Source: Ordinance No. 28-86

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SECTION 9.32. DISORDERLY CONDUCT - NOISY PARTIES.

Subd. 1. It is unlawful for any person or persons to congregate on any private lands because of, or participate in, any party or gathering of people from which noise emanates of a sufficient volume or of such nature as to disturb the peace, quiet or repose of other persons. Any owner or person in lawful possession or control of such private lands who has knowledge of the disturbance and fails to immediately abate said disturbance shall be guilty of a violation of this Section.

Subd. 2. It is unlawful for any person or persons to congregate on any private lands of another because of or participate in, any party or gathering of people in the absence of the owner of said private lands being present without first having obtained written permission from said landowner. Such written permission shall at all times be in the possession of one or more persons at the site of such congregation. The document containing the written permission must bear the signature of the landowner and date of the permitted use. Failure to display written permission upon request shall be considered prima facie evidence of an absence of permission from the owner.

Subd. 3. A violation of Subdivision 1 or 2 of this Section shall give a police officer the authority to order all persons present other than persons identifying themselves as the owner or person in lawful possession of control of such land to immediately disperse. Any person who shall refuse to leave after being ordered to do so by a police officer shall be guilty of a violation of this Section.

SECTION 9.33. SLEEPING AND LOITERING IN STREETS OR PUBLIC PLACES.

Subd. 1. Definition. The term "loiter," as used in this Section, means and includes (1) obstruction of free and unhampered passage of pedestrians or vehicles; (2) interfering with any person lawfully on the premises by obstructing passage; or, (3) refusing to move on when so requested by a peace officer when such peace officer reasonably makes such request to preserve or promote public peace and order.

Subd. 2. Unlawful Acts.

A. It is unlawful for any person to loiter upon public property except parks.

B. It is unlawful for any person to sleep upon streets or in or upon public buildings or structures.

SECTION 9.34. OBSTRUCTIONS ON PUBLIC PROPERTY.

Subd. 1. Obstructions. It is unlawful for any person to place, deposit, display or offer for sale any fence, goods or other obstructions upon, over, across or under any public property without first having obtained a written permit from the City Manager or his designee, and then only in compliance in all respects with the terms and conditions of such permit, and taking precautionary measures for the protection of the public. An electrical cord or device of any kind is hereby included, but not by way of limitation, within the definition of an obstruction.

Subd. 2. Fires. It is unlawful for any person to build or maintain a fire upon public property except as otherwise authorized by the City Code.

Subd. 3. Dumping on Public Property. It is unlawful for any person to throw or deposit on public property any nails, dirt, glass or glassware, cans, discarded cloth or clothing, metal scraps, garbage, leaves, grass or tree limbs, paper or paper products, shreds or rubbish, oil, grease or other petroleum products or to empty any water containing salt or other injurious chemical thereon. It is a violation of this Section to place or store any building materials or waste resulting from building construction or demolition on public property without first having obtained a written permit from the Council.
Subd. 4. **Snow or Ice on Public Property.** It is unlawful for any person not acting under a contract with the City to dump snow or ice on public property except as permitted on streets pursuant to Section 6.03, subd. 21.

Subd. 5. **Continuing Violation.** Each day that any person continues in violation of this Section shall be a separate offense and punishable as such.

Subd. 6. **Condition.** Before granting any permit under any of the provisions of this Section, the Council may impose such insurance or bonding conditions thereof as it, considering the projected danger to public or private property or to persons, deems proper for safeguarding such persons and property. Such insurance or bond shall also protect the City from any suit, action or cause of action arising by reason of such obstruction.

SECTION 9.35. CURFEW.

Subd. 1. **Curfew - Minors.**

A. It is unlawful for any minor person under the age of fifteen (15) years to be or loiter upon the streets or public places between the hours of 10:00 o'clock P.M. and 5:00 o'clock A.M.

B. It is unlawful for any minor person age fifteen (15) years and under the age of eighteen (18) years to be or loiter upon the streets or public places between the hours of midnight and 5:00 o'clock A.M.

Subd. 2. **Curfew - Parents and Guardians.** It is unlawful for any parent, guardian, or other person having the legal care or custody of any minor person to allow or permit such minor person to be or loiter upon the streets or public places in violation of this Section unless such minor is accompanied by a person of lawful age having such minor person in charge.

Subd. 3. **Curfew - Places of Amusement, Entertainment or Refreshment.** It is unlawful for any person operating or in charge of any place of amusement, entertainment or refreshment, or other place of business to allow or permit any minor person to be or loiter in such place in violation of this Section unless such minor is accompanied by a person of lawful age having such minor person in charge. This Subdivision shall not be construed to permit the presence at any time of any person under age in any place where his presence is otherwise prohibited by law.

Subd. 4. **Exceptions.** Such curfew shall not apply to any students under the age of eighteen (18) years who are lawfully attending, going to or returning from school, church or community-sponsored athletic, musical or social activities or events.

SECTION 9.36. ABANDONING A MOTOR VEHICLE.

It is unlawful for any person to abandon a motor vehicle on any public or private property without the consent of the person in control of such property. For the purpose of this Section, a "motor vehicle" is as defined in Minnesota Statutes, 1990, Chapter 169, and the term "abandon" means to permit to remain thereon for a continuous period in excess of forty-eight (48) hours.

SECTION 9.37. JUNK CARS, FURNITURE, HOUSEHOLD FURNISHINGS AND APPLIANCES STORED ON PUBLIC OR PRIVATE PROPERTY.

It is unlawful to park or store any unlicensed, unregistered or inoperable motor vehicle, furniture, household furnishings or appliances, or parts or components thereof on any property, public or private, unless housed within a building; and any violation is hereby declared to be a nuisance. This Section shall not apply to a disposal area operated or designated by a governmental unit.

SECTION 9.38. CONSUMPTION AND POSSESSION OF BEER, WINE OR LIQUOR ON STREETS AND PUBLIC PROPERTY.

It is unlawful for any person to consume or possess in an unsealed container beer, wine or liquor, as those terms are defined in Chapter 4 of the City Code, on any street or other public property except City parks (unless such park is sign-posted prohibiting) and other public property when and where permission has been specifically granted or licensed.
by the Council provided that this Section shall not apply to the possession of an unsealed container in a motor vehicle on streets or public property when the container is kept in the trunk of such vehicle if it is equipped with a trunk or kept in some other area of the vehicle not normally occupied by the driver or passengers if the motor vehicle is not equipped with a trunk. For the purpose of this Section, a utility or glove compartment shall be deemed to be within the area occupied by the driver or passengers.

SECTION 9.39. CONSUMPTION AND POSSESSION OF BEER, WINE OR LIQUOR ON PRIVATE PARKING LOTS.

It is unlawful for any person to consume or possess in an unsealed container beer, wine or liquor, as those terms are defined in Chapter 4 of the City Code, on any privately-owned parking lot which is clearly sign-posted prohibiting such possession and consumption provided that this Section shall not apply to the possession of an unsealed container in a motor vehicle on privately-owned parking lots when the container is kept in the trunk of such vehicle if it is equipped with a trunk or kept in some other area of the vehicle not normally occupied by the driver or passengers if the motor vehicle is not equipped with a trunk. For the purpose of this Section, a utility or glove compartment shall be deemed to be within the area occupied by the driver or passengers.

Source: City Code
Effective Date: 9-17-82

SECTION 9.40. FIREARMS REGULATION.

Subd. 1. Declaration of Policy. It is hereby found and declared that inasmuch as the City is a developing community wherein the land uses are becoming more intense thus reducing the amount of open land available for the discharge of firearms and dangerous weapons that it has become necessary to limit the discharge of firearms and dangerous weapons to certain areas in the community in which it will not pose a hazard to the safety of others.

Subd. 2. Definition. Terms used in this Section shall have the following meanings:

A. "Approved Archery Ranges" means those ranges which have been approved by the City Manager or designee where special target-tipped arrows are used.

B. "Dangerous weapon" means any firearm, whether loaded or unloaded, or any device designed as a weapon and capable of producing death or great bodily harm, or any other device or instrumentality which, in the manner it is used or intended to be used, is calculated or likely to produce death or great bodily harm.

C. "Discharge of firearms" means any shooting whether it be for hunting game, target practice or otherwise.

D. "Shotgun shotshell" means a shell fired in a shotgun containing multiple shot.

E. "Shotgun slug" means a shell fired in a shotgun containing one slug, ball, or other single projectile.

Subd. 3. Permit Required for Discharge of Firearms. No person may fire or discharge a firearm or discharge or use any dangerous weapon within the City without first securing a permit to do so from the City.

A. Areas Where Permitted.

1. A permit may be granted to discharge firearms or dangerous weapons, except shotguns firing shotgun slugs, only in the following areas:

(a) In that part of the City, West and South of the following line: commencing at the intersection of Hennepin County Road 1 and a line ("Line A") parallel to and 1600 feet west of the East line of Section 27 and 34, Township 116, Range 22, then South along Line A to River Road, then East along River Road to the East line of Section 34, then South along the East line of
Section 34 to the southerly line of the City and there terminating; South of Hennepin County Road 1; North of the southerly line of the City and East of the westerly line of the City.

(b) In that part of the City which is Section 18 and Section 19, Township 116, Range 22, for the remainder of 1989 when the landowner is present.

(c) In areas approved by the City Council where the issuance of a permit is for the purpose of wildlife management and is in the best interest of public safety.

2. A permit may be granted to discharge shotguns firing shotgun slugs only in the following areas:

(a) Commencing at the intersection of Trunk Highway 169-212 with the westerly border of the City; then easterly along Trunk Highway 169-212 to Riverview Road; then easterly along Riverview Road to the East line of Section 34, Township 116, Range 22, then South along said East line to the Minnesota River, then westerly along the Minnesota River to the westerly border of the City; then along the westerly border of the City to the point of beginning -- in accordance with the following:

   (1) Permits for the discharge of shotgun slugs shall not at any time exceed fifteen (15) each for that part of the area West and that part of the intersection of Indian Road with Trunk Highway 169-212 extending southerly along Indian Road to a point where Indian Road turns westerly and then South to the Minnesota River.

   (2) The land on which any holder of a permit may discharge a shotgun slug within the area bordering on Highway 169-212 shall be posted with signs prohibiting hunting without permission of the owner situated not greater than five hundred (500) feet from each other.

B. Application For Permit. A permit may be issued to individuals who comply with the following criteria:

1. Persons over eighteen (18) years of age may apply for an individual permit to discharge a firearm or dangerous weapon. Persons under eighteen (18) years of age may apply for a permit to discharge a firearm or dangerous weapon if at the time of such discharge or use, the youth is accompanied by an adult parent or legal guardian.

2. An application for a permit shall be filed in writing on forms provided by the City and accompanied by a fee determined by City Council resolution. No fee shall be required for a permit for a landowner, his immediate family, or his guests to discharge a firearm or dangerous weapon on property owned by himself.

C. Limitations on Permits. Permits issued for the discharge of firearms or dangerous weapons shall be subject to the following limitations:

1. The property upon which the discharge will occur shall be at least forty (40) contiguous acres.

2. The holder of a permit shall not discharge a shotgun slug within fifteen hundred (1500) feet of a building or a roadway.

3. The holder of a permit shall not discharge a shotgun shotshell within one thousand (1000) feet of a building or a roadway.

4. Permits issued for the discharge of firearms or dangerous weapons shall be limited to the use of bows and arrows, B-B guns, shotgun shells and shotgun slugs.
5. An individual who is hunting pursuant to a guest permit must be accompanied by the landowner.

6. Permits issued for the discharge of shotgun slugs shall be limited to those times permitted for hunting deer by the Minnesota Department of Natural Resources. Permits issued for the discharge of other dangerous weapons shall be restricted to the calendar year during which the permit was issued.

**Subd. 4. Approved Archery Ranges.** A permit is not required for the discharge of special target-tipped arrows at approved archery ranges. The use of crossbows are prohibited from approved archery ranges.

**Subd. 5. Cancellation of Permit.** A violation of the provisions of this Section or any permit issued hereunder on any property for which the person has been issued may result in the cancellation of all permits for the discharge of weapons or firearms on such property and the denial of applications for permits on such property.

**Subd. 6. Lawful Defense of Person, Property or Family.** Nothing herein shall be construed to prohibit any firing of a gun, pistol or other weapon when done in lawful defense of person, property or family or by law enforcement personnel executing their official duties.

Source: Ordinance No. 27-89
Effective Date: 10-19-89

**SECTION 9.41. NOISE.**

**Subd. 1. Definitions.** For the purpose of this section the following terms shall have the meanings stated:

A. "Air circulation device" - A mechanism designed and used for the controlled flow of air used in ventilation, cooling, or conditioning, including, but not limited to, central and window air conditioning units.

B. "L10" - means the sound level, expressed in decibels (dBA) which is exceeded 10% of the time for a one-hour period, as measured by a sound level meter having characteristics as specified in the latest standards, S1.4 of the American National Standards Institute. And using test procedures approved by the City Manager or his/her designee.

C. "L50" - means the sound level similarly expressed and measured as L10 which is exceeded 50% of the time for a one hour period.

D. "Noise" - Any erratic, intermittent, and/or statistically random oscillations which result in disturbing, harmful, or unwanted sound.

E. "Person" - An individual, firm, partnership, corporation, trustee, association, the state and its agencies and subdivisions, or any body of persons whether incorporated or not and with respect to acts prohibited or required herein, person shall include employees and licensees.

F. "Sound" - A temporal and spatial oscillation in pressure or other physical quantity in a medium with internal forces which causes compressions and rarefactions of that medium and which is propagable at finite speed to distant points.

G. "Sound Level" (Noise Level) - The A-weighted sound pressure level, expressed in dBA, obtained by the use of a sound-level meter having characteristics as specified in the American National Standards Institutes (ANSI) standard S1.4-1961.

**Subd. 2. Noise.** No person shall make or cause to be made any distinctly and loudly audible noise that unreasonably annoys, disturbs, injures, or endangers the comfort, repose, health, peace, safety, or welfare of any persons or precludes their enjoyment of property or affects their property's value. This general prohibition is not limited by the specific restrictions of the following subdivisions.

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A. Loading, unloading, unpacking. No person or equipment shall create loud and excessive noise in loading, unloading, or unpacking any vehicle.

B. Paging systems and intercom systems. No person in the Commercial, Industrial or Office zoning district shall use or operate or permit use or operation of any paging system or intercom system in distinctly and loudly audible manner as to disturb the peace, quiet, and comfort of any person nearby. Operation of any such equipment in such a manner as to be plainly audible at the property line of the structure or building in which it is located, or at a distance 50 feet beyond the property line if the source is located outside a structure or building shall be prima facie evidence of a violation of this section.

C. Loudspeakers, amplifiers for advertising, etc. No person in the Commercial, Industrial, or Office zoning district shall operate or permit the use or operation of any loudspeaker, sound amplifier, or other device for the production or reproduction of sound on a street or other public place for the purpose of commercial advertising or attracting the attention of the public to any commercial establishment or vehicle.

Subd. 3. Hourly Restrictions on Certain Operations.

A. Domestic power equipment. No person shall operate in the Rural, R1 or RM zoning district a power lawn mower, power hedge clipper, chain saw, mulcher, garden tiller, edger, drill, or other similar domestic power maintenance equipment except between the hours of 7:00 a.m. and 10:00 p.m. Monday through Sunday. Snow removal equipment is exempt.

B. Construction activities. No person shall engage in or permit construction activities involving the use of any kind of electric, diesel, or gas-powered machine or other power equipment except between the hours of 7:00 a.m. and 7:00 p.m. Monday through Saturday. No construction activities may occur on Sundays or legal holidays. The City Manager may, upon good cause being shown, vary these days and hours in writing.

Subd. 4. Receiving Land Use Standards. Maximum noise levels by receiving land use districts. No person shall operate or cause or permit to be operated any source of noise in such a manner as to create a noise level exceeding the limit set in table I for the land use category specified when measured at or within the property line of the receiving land use.

<table>
<thead>
<tr>
<th>Receiving Land Use Districts</th>
<th>Day 7:00 am - 10:00 pm</th>
<th>Day 7:00 am - 10:00 pm</th>
<th>Night 10:00 pm - 7:00 am</th>
<th>Night 10:00 pm - 7:00 am</th>
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<td>L50</td>
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</tr>
<tr>
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<td>65</td>
</tr>
<tr>
<td>Industrial</td>
<td>80</td>
<td>75</td>
<td>80</td>
<td>75</td>
</tr>
</tbody>
</table>

The limits of the most restrictive district shall apply at the boundaries between different land use categories. The determination of land use shall be by its zoned designation.

Subd. 5. Air Circulation Devices. No person shall permanently install or place any air circulation device, except a window air condition unit, in any outdoor location such that the device in that location does not comply with the noise level standards prescribed in Subdivision 4.
Subd. 6. Exceptions.

A. Emergency Work. Noise created exclusively in the performance of emergency work to preserve the public health, safety, or welfare, or in the performance of emergency work necessary to restore a public service or eliminate a public hazard shall be exempt from the provisions of this ordinance. Any person responsible for such emergency work shall take all reasonable actions to minimize the amount of noise.

B. Government sponsored activities. Certain activities related to public entertainment including but not limited to Fourth of July Fireworks, City sponsored Concerts in public parks, licensed carnivals, and parades shall be exempt from the provisions of this ordinance.

Subd. 7. Administration.

A. Administering officer. The noise control program established by this ordinance shall be administered by the City Manager or his/her designee.

B. Testing Procedures. The City Manager or his/her designee may enlist the services of the Minnesota Pollution Control Agency or the services of a private noise testing company when testing for noise levels is believed in excess of Subdivision 4 of this section.

C. Studies, etc. The City Manager or his/her designee may conduct such research, monitoring, and other studies related to sound as are necessary or useful in enforcing this ordinance and reducing noise in the City. He/she shall make such investigations and inspections in accordance with law as required in applying ordinance requirements.

D. Noise impact statements. The City Manager or his/her designee may require any person applying to the City for a change in zoning classification or a permit or license for any structure, operation, process, installation, or alteration, or product that may be considered a potential noise source to submit a noise impact statement on a form, supplied by the City of Eden Prairie. The City Manager or his/her designee shall evaluate each such statement and make appropriate recommendations to the Council or other agency or officer authorized to take the action or approve the license or permit applied for.

E. Performance Standards - Test.

1. By Owner. In order to assure compliance with the performance standards set forth above, the Council may require the owner or operator of any permitted use to have made such investigations and tests as may be required to show adherence to the performance standards. Such investigations and tests as are required to be made shall be carried out by an independent testing organization as may be selected by the Council after 30 days notice. The cost incurred in having such investigations an test conducted shall be shared equally by the owner or operator and the City, unless the investigation and test disclose noncompliance with the performance standards, in which event the entire investigation or testing cost shall be paid by the owner or operator.

2. By City. The procedure above stated shall not preclude the City from making any tests and investigations it finds appropriate to determine compliance with these performance standards.

Subd. 8. Variances.

A. Authority. The City Manager or his/her designee shall have the authority to grant variances from the requirements of any section of this ordinance.
B. Application. Any person seeking a variance shall file an application with the City Manager or his/her designee on a form prescribed by the City. Information to be supplied in the application shall include but not be limited to the following information:

1. Statement of the dates and times during which the noise is proposed.
2. The location of the noise source.
3. The nature of the noise source.
4. Reasons why the variance is sought and identified hardship.
5. Steps taken to minimize the noise level.
6. Other information as required by the City Manager.

Subd. 9. Enforcement.

A. Notice of certain violation. When the City Manager or his/her designee determines that a noise exceeds the maximum sound level permitted under Receiving Land Use Standards in this section, he or she shall give written notice of the violation to the owner or occupant of the premises where the noise originates and order such person to correct or remove each specified violation within such reasonable time as is prescribed in the notice. The failure to remove or correct any such violation within the time so prescribed constitutes a violation of this ordinance.

B. Civil remedies. In addition to enforcement pursuant to Section 9.99 of Chapter 9 this Ordinance may be enforced by injunction, action for abatement, or other appropriate civil remedy.

C. Severability. If any provision of this ordinance or the application of any provision to a particular situation is held to be invalid by a court of competent jurisdiction, the remaining portions of the ordinance and the application of the ordinance to any other situation shall not be invalidated.

Source: Ordinance No. 35-94
Effective Date: 9-30-94

SECTION 9.42. EDEN PRAIRIE SMOKEFREE AIR ORDINANCE OF 2002. This Section shall be known as the Eden Prairie Smokefree Air Ordinance of 2002.

Source: Ordinance No. 31-2002
Effective Date: 11-21-2002


A. Findings and Intent. The Eden Prairie City Council does hereby find that:

1. Numerous studies have found that tobacco smoke is a major contributor to indoor air pollution, and that breathing secondhand smoke (also known as environmental tobacco smoke) is a cause of disease in healthy nonsmokers, including heart disease, stroke, respiratory disease, and lung cancer. The U.S. Surgeon General has determined that secondhand smoke is responsible for the early deaths of 65,000 Americans annually.

2. The Public Health Service's National Toxicology Program has listed secondhand smoke as a known carcinogen (U.S. DHHS, 2000, citing Cal. EPA, 1997).
3. Secondhand smoke is particularly hazardous to elderly people, individuals with cardiovascular disease, and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease. Children exposed to secondhand smoke have an increased risk of asthma, respiratory infections, sudden infant death syndrome, developmental abnormalities, and cancer.

4. The Americans With Disabilities Act, which requires that disabled persons have access to public places and workplaces, deems impaired respiratory function to be a disability.

5. The U.S. Surgeon General has determined that the simple separation of smokers and nonsmokers within the same air space may reduce, but does not eliminate, the exposure of nonsmokers to secondhand smoke. The Environmental Protection Agency has determined that secondhand smoke cannot be reduced to safe levels in businesses by high rates of ventilation. Air cleaners, which are only capable of filtering the particulate matter and odors in smoke, do not eliminate the known toxins in secondhand smoke.

6. A significant amount of secondhand smoke exposure occurs in the workplace. Employees who work in smoke-filled businesses suffer a 25-50% higher risk of heart attack and higher rates of death from cardiovascular disease and cancer, as well as increased acute respiratory disease and measurable decrease in lung function.

7. Smoke-filled workplaces result in higher worker absenteeism due to respiratory disease, lower productivity, higher cleaning and maintenance costs, increased health insurance rates, and increased liability claims for diseases related to exposure to secondhand smoke.

8. Smoking is a potential cause of fires.

9. Accordingly, the Eden Prairie City Council finds and declares that the purposes of this ordinance are (1) to protect the public health and welfare by prohibiting smoking in city facilities and parks.

B. Definitions. For the purpose of this section, the following terms shall have the meanings:

1. “City Facilities” means buildings owned or operated by the City, including owned or operated outdoor areas of the lot or parcel on which the building is situated.

2. “E Cigarette” means any electronic-smoking device that can be used to deliver nicotine or any other substances to the person inhaling from the device, including but not limited to electronic cigarettes, electronic cigars, electronic pipes or any other similar device.

Source: Ordinance No. 11-2014
Effective Date: 3-13-2014

3. “Parks” means any open or enclosed land and improvements or facility wherever located which is owned, leased or operated by the City and which is reserved, designated or used for a playground, picnic area, garden area, beach, or other recreational or open space area.

4. "Smoking” means inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, e cigarette, pipe, weed, or plant in any manner or in any form.

Subd. 2. General Restrictions.

A. Prohibition of Smoking in Certain Areas. Smoking is prohibited in the following areas:
1. Parks;

2. City Facilities;

3. Inside motor vehicles owned or operated by the City when occupied by two or more persons.

4. Inside motor vehicles at City Facilities and Parks.

5. All locations where smoking is prohibited by the Minnesota Clean Indoor Air Act.

Source: Ordinance No. 11-2014
Effective Date: 3-13-2014

B. Where Smoking Not Regulated. Notwithstanding any other provision of this Section to the contrary, the following areas shall be exempt from the provisions of this Section:

1. Leases of City Facilities, or those portions thereof, to non-City entities or individuals which have been entered into prior to the adoption of this ordinance,

2. In designated outdoor areas of City Facilities; and

3. City streets, easements, sidewalks, trails (except trails adjacent to or within Parks) and paths.

C. Posting of Signs

1. "No Smoking" signs or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) shall be clearly and conspicuously posted outside every City Facility and Park.

2. All ashtrays and other smoking paraphernalia shall be removed from every area where smoking is prohibited under this Section.

Subd. 3. Enforcement.

A. Complaints. Any citizen who desires to register a complaint under this Section may initiate enforcement with the City Manager or his/her designee.

B. Violation and Penalty. It shall be a petty misdemeanor for any person to smoke in an area where smoking is prohibited by the provisions of this Section. The fine for violation of this provision shall be $100 plus all surcharges mandated by law.

C. Other Applicable Laws. This Section shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.

D. Severability. If any provision, clause, sentence, or paragraph of this Section or the application thereof to any person or circumstances shall be held invalid, that invalidity shall not affect the other provisions of this Section which can be given effect without the invalid provision or application, and to this end the provisions of this Section are declared to be severable.

(Sections 9.43 through 9.59, inclusive, reserved for future expansion.)
SECTION 9.60. REGULATION OF USE OF LAKE WATERS GENERALLY.

Source: Ordinance No. 12-2018
Effective Date: 6-21-2018

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

A. “Mooring” - Any buoy, post, structure, or other device at which a watercraft may be moored and which is surrounded by navigable water.

B. “Motorboat” – A watercraft propelled in any manner by machinery, including watercraft temporarily equipped with detachable motors.

C. “Operate” – To navigate or otherwise use a watercraft.

D. “Personal Watercraft” – A motorboat that: (1) is powered by an inboard motor powering a water jet pump or by an outboard or propeller-driving motor; and (2) is designed to be operated by a person or persons sitting, standing, or kneeling on the craft, rather than in the conventional manner of sitting or standing inside a motorboat.

E. “Riparian” – Land adjacent to Natural Development Waters and Recreational Development Waters as identified in City Code Section 11.50, subd. 7.

F. “Slow-No Wake” – Operation of a watercraft at the slowest possible speed necessary to maintain steerage, but in no case greater than five (5) miles per hour.

G. “Structure” – Any building, footing, foundation, slab, roof, boathouse, deck, wall, dock, bridge, culvert, or any other object extending over or under, anchored to, floating over or attached to the bed or bank of a public water. A structure includes water-oriented accessory structures as defined in Section 11.50 Subd. 4.

H. “Structure, Dock” - Any wharf, pier, or other structure constructed or maintained in the lake or located above the surface of public water, whether floating or not, including all “L’s” or “T’s”, or post which may be a part thereof, whether affixed or adjacent to the principle structure.

J. “Structure, Slip” – A structure designed solely to secure a watercraft in the water for the purpose of protecting it from damage from sun, wind, storm, or rain. The term does not include boathouses, decks, dock covers, watercraft lifts, or similar structures.

K. “Structure, Temporary” – Any dock, floating structure, watercraft lift, watercraft canopy, or other structure that can be removed from public waters by skidding intact or by disassembly with hand tools.

L. “Watercraft” – Any contrivance used or designed for navigation on water, except: (1) a waterfowl boat used during the waterfowl hunting season; (2) a rice boat during the harvest season; or (3) a seaplane. A watercraft includes a “personal watercraft” as defined in this Section.

M. “Watercraft Cover” – A structure or device with a fabric covered roof and without walls or a floor that is placed on the bed of a public water, that is designed solely to shelter watercraft, and is designed and constructed so that all components may be removed from the lake or stream bed on a seasonal basis by skidding intact or by disassembly with hand tools.

N. “Watercraft Lift” – A structure or device without walls that is placed on the bed of a public water, is designed to lift watercraft above the level of the public water when not in use, and is designed and constructed so that all
components may be removed from the lake or stream bed on a seasonal basis by skidding intact or by disassembly with hand tools. A watercraft lift may be designed to include a fabric covered roof.

O. “Water-Related Storage Container” – A container that is used solely for the storage of water-related boating and sporting equipment.

Subd. 2. Nuisances Prohibited. It is unlawful for any person to commit or maintain a public nuisance in or upon the waters of any lake or other body of water located within the City; and no person shall let, permit, or enable any other person to use any watercraft, dock, structure, or portion thereof in a manner that constitutes a public nuisance. It is also unlawful for any person to willfully prevent, hinder, or oppose or obstruct a public official in the performance of his or her duty in carrying out the provisions of this Section or in removing or abating a public nuisance. In addition to imposing the penalties specified in Section 9.99, the City may exercise any remedy available at law or in equity to abate, enjoin, or otherwise compel the cessation of such public nuisance and shall be entitled to recover its costs and expenses, including reasonable attorney fees, so incurred.

Subd. 3. Nuisances Defined. A public nuisance consists in doing or omitting to perform one or more of the following:

A. Injure or endanger the safety, health, or comfort of the public;
B. Offend public decency;
C. Unlawfully interfere with, obstruct, or tend to obstruct or render dangerous for use or passage a lake or other body of water;
D. Cause the depositing or littering of refuse or waste or other deleterious, poisonous or injurious substance upon water or ice of any lake or other body of water;
E. Cause the depositing of sewage into lake waters;
F. Cause the erection or maintenance of any dock or structure which interferes with, obstructs, or tends to obstruct or render dangerous for use the waters of any lake; or
G. Cause the erection or maintenance of any sign on or in a lake or other body of water, unless installed by the City, County or the State for purposes of public safety.

Subd. 4. Equipment and Operation. The provisions and requirements of Minnesota Statutes Chapter 86B (“Chapter 86B”) and Minnesota Rules Chapter 6110 (“Chapter 6110”), as amended from time to time, are incorporated herein by reference.

A. No person shall equip or operate a watercraft or personal watercraft within the City unless in compliance with the requirements of Chapter 86B and Chapter 6110, including but not limited to requirements relating to lighting equipment, personal flotation devices, sound-producing devices, youth operators, and the operation of personal watercraft.
B. No person shall anchor or operate a watercraft within one hundred (100) feet of a ski jump or buoys used as markers for a water ski course during such times as the water ski course or jump are in use by water skiers. This prohibition shall not apply to the person operating the watercraft that is pulling the water skiers using the water ski course or jump.

Subd. 5. Towing Person on Water Skis or other Device. No person shall operate a watercraft or personal watercraft towing one (1) or more persons on water skis, wakeboard, kneeboard, inflatable craft, aquaplane, surfboard, saucer, or similar device except in compliance with Chapter 86B and Chapter 6110 and with these additional requirements:
A. No person shall operate a motorboat or personal watercraft when towing a person such that the motorboat or personal watercraft comes within one hundred fifty (150) feet of any swimmer, swimming area, diver’s warning flag, raft, watercraft, dock structure, slip structure, or other structure.

B. No person shall tow or be towed into or through a marked channel connecting two (2) bodies of water.

**Subd. 6. Swimming in Channels.** No person shall swim in a channel; or jump or dive from a channel bridge or dam.

**Subd. 7. Structures Located in Public Waters.**

A. The placement, size, and location of any structures in public waters, including but not limited to dock structures, watercraft lifts, slip structures, platforms, marinas and temporary structures, shall be in compliance with the rules and general permit requirements of the Minnesota Department of Natural Resources (DNR), including but not limited to Minnesota Rules 6115.0210 and 6115.0211 and DNR General Permit 2008-0401, as the same may be amended from time to time.

B. Structures Not to Obstruct. No structure shall be so located as to obstruct a navigable channel, or so as to obstruct reasonable access to any other structure authorized under this Section.

C. Prohibited Structures. The following may not be erected in, on, or over public waters: (1) any structure used for the storage of materials or items other than watercraft; or (2) any structure above the horizontal plane of a dock except water-related storage containers that are equal to or less than 3 feet in height and 65 cubic feet in total volume, watercraft lifts and watercraft covers.

D. Multiple Dock Structures Prohibited. Only one dock structure is allowed per abutting riparian lot. Riparian lots owned by the City or other public entities are exempt from this prohibition.

**Subd. 8. Slow-No Wake Restrictions.**

B. Notwithstanding any other provision of this Section relating to the speed of watercraft operation, no person shall operate a watercraft at greater than slow-no wake speed on the following lakes at any time when the water level exceeds the following elevation:

<table>
<thead>
<tr>
<th>Lake</th>
<th>Water Level at Which Slow-No Wake Restriction Applies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bryant Lake (27006700)</td>
<td>Ordinary High Water Level of 852.6</td>
</tr>
<tr>
<td>Staring Lake (27007800)</td>
<td>100 Year Flood Elevation of 817.0</td>
</tr>
</tbody>
</table>

Such restriction shall become effective upon posting notice of the same at Eden Prairie City Hall. All public watercraft accesses shall be posted prior to and during the time restrictions are in place.

B. The Public Works Director shall remove a slow-no wake speed restriction when the water level has remained below the following elevation for three (3) consecutive days.

<table>
<thead>
<tr>
<th>Lake</th>
<th>Water Level at Which Slow-No Wake Restriction No Longer Applies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bryant Lake (27006700)</td>
<td>852.5</td>
</tr>
<tr>
<td>Staring Lake (27007800)</td>
<td>816.9</td>
</tr>
</tbody>
</table>

C. It shall be the responsibility of the City to provide for adequate notification of the public of a slow-no wake restriction, which shall include placement of a sign at each public watercraft access outlining essential elements of the slow-no wake restriction, as well as the placement of buoys and signs as needed. Notice of said
restrictions shall also be posted at the Eden Prairie City Hall and on the City’s website.

D. The restrictions in subdivision 8.A shall not apply to a seaplane during take-off or landing.

F. Notwithstanding any other provision of this subdivision 8, the City Manager or his designee may adopt a slow-no wake restriction for any lake in the City for a period of not more than 30 days in situations of local emergency, pursuant to Minnesota Rule 6110.3700, subpart 9.

Subd. 9. Lake-Specific Regulations.

A. Bryant Lake. No person shall operate a watercraft on Bryant Lake in excess of fifteen (15) miles per hour from noon until 6:00 p.m. on Sundays from Memorial Day weekend through Labor Day.

No person shall tow one (1) or more persons behind a water craft on water skis, aquaplane, surfboard, saucer, inner tube or similar device on Bryant Lake unless two (2) competent persons are on the watercraft. The driver of such watercraft must watch where the watercraft is being driven at all times. The second person on board the watercraft shall be an observer and shall watch the person or persons being towed at all times.

B. Duck Lake. It is unlawful to operate any watercraft, vessel, boat or other motorized vehicle on Duck Lake except for motorboats with an electric motor that travel no more than three (3) miles per hour (mph).

C. Mitchell Lake. It is unlawful to operate any watercraft, vessel, or boat on Mitchell Lake with a motor except one (1) motor of ten (10) or less horsepower.

D. Red Rock Lake. It is unlawful to operate any watercraft, vessel, or boat on Red Rock Lake with a motor except one (1) motor of ten (10) or less horsepower.

E. Riley Lake. A slow, no-wake zone extending one hundred fifty (150) feet from Riley Lake Park and eight hundred (800) feet in length shall be designated and marked with necessary buoys and signs. Watercraft shall operate in the slow, no-wake zone at the slowest possible speed necessary to maintain steerage and in no case greater than five (5) miles per hour.

A water skier pick-up and drop-off area seven hundred (700) feet in length shall be designated on City land and adjacent water south of the swim area and marked with necessary buoys and signs. No person shall operate a watercraft to pick up or drop off a person being towed by the watercraft except in the designated pick-up and drop-off area.

A sign shall be constructed at each public waterfront facility on Riley Lake clearly designating the slow, no-wake zone and water skier pick-up and drop-off zone. Each zone will be marked with necessary buoys and signs.

F. Round Lake. It is unlawful to launch or operate a motorboat on Round Lake except for (1) boats powered by electric motors and (2) excursion boats owned and operated by the City of Eden Prairie.

G. Smetana Lake. It is unlawful to launch or operate a motorboat on Smetana Lake except for (1) boats powered by electric motors and (2) excursion boats owned and operated by the City of Eden Prairie.

Subd. 10. Exemptions.

A. All resource management personnel who have been authorized by the City or by the DNR, emergency personnel, and enforcement personnel, while acting in the performance of their assigned duties, are exempt from the restrictions set forth in this Section.
B. Surface Water Use Exemption Permits.

1. A temporary exemption from the surface water use restrictions set forth in this Section may be permitted by obtaining a surface water use exemption permit from the City. To qualify for a surface water use exemption permit, an application must be filed with the Director of Public Works (“Director”). The permit application shall be made on a form supplied by the City and shall include: the name and address of the applicant, the activity for which the exemption is requested, the reason the exemption is necessary, the organization or persons being exempted, the location, date, and time of the requested exemption, and any other information which the Director shall find reasonably necessary for determination as to whether a surface water use exemption permit should be issued. The Director may issue a permit when he or she determines that:

a. No other event or activity is scheduled for the particular body of water and for the duration for which the proposed activity is requested.

b. The proposed activity will not interfere with or detract from the safety of other users of the body of water for which the exemption is requested.

c. The proposed activity will not entail unusual, extraordinary, or burdensome expense for law enforcement protection.

d. The applicant has paid such fees as shall be prescribed by the Council from time to time by resolution.

e. The proposed activity will not be contrary to state law or DNR rules governing surface water use.

2. The Director may impose reasonable conditions on any permit to ensure that the activity meets the above criteria. Any person aggrieved by the denial of an application for a surface water use permit may appeal in writing to the City Manager.

3. No surface water use permit from the City shall be required for any event which requires a permit from the county sheriff pursuant to Minn. Stat. §86B.121, including any scheduled or public race or regatta, tournament or other competition or exhibition, or trial race on water or ice, whether or not involving watercraft.

Subd. 11. Enforcement. The enforcement of this Section shall be the primary responsibility of the Hennepin County Sheriff’s Office. Other licensed peace officers, including conservation officers of the Minnesota Department of Natural Resources, are also authorized to enforce the provisions of this Section.

Subd. 12. Penalties. Any person who violates any provisions of this Section shall be guilty of a misdemeanor as provided in Section 9.99.

(Section 9.61 - 9.69, inclusive, reserved for future expansion.)
Subd. 1. Declaration of Policy. The Council has determined that the health of trees is threatened by tree pests. It is further determined that the loss of trees growing upon public and private property would substantially depreciate the value of property within the City and impair the safety, good order, general welfare and convenience of the public. It is declared to be the intention of the Council to attempt to control and attempt to prevent the spread of these pests and this Section is enacted for that purpose.

Subd. 2. Public Nuisances Declared. The following are public nuisances whenever they may be found within the City:

A. Any living or standing elm tree or part thereof infected to any degree with the Dutch Elm disease fungus Ophiostoma ulmi (Buisman) or Ophiostoma novo-ulmi Brasier or which harbors any of the elm bark beetles Scolytus multistriatus or Hylurgopinus rufipes.

B. Any dead elm tree or part thereof including logs, branches, stumps, firewood or other elm material, the bark of which has not been removed.

C. Any living or standing oak tree or part thereof infected to any degree with the Oak Wilt disease fungus Ceratocystis fagacearum.

D. Any living or dead ash tree, whether standing or fallen, or part thereof infested to any degree with emerald ash borer.

It is unlawful for any person to permit any public nuisance as defined in this Subdivision on any premises owned or controlled by him or her within the City. Such nuisances shall be abated in the manner prescribed by this Section.

Subd. 3. Tree Inspector. The City Manager may appoint a tree inspector to coordinate under the direction and control of the Director of Parks and Recreation all activities of the City relating to the control and prevention of tree pests. The Director of Parks and Recreation shall recommend to the City Manager the details of any program for the control and prevention of said pests and enforce or cause to be enforced the duties incident to such a program adopted by the Council. The term “tree inspector” includes any person designated by the City Manager or the tree inspector to carry out activities authorized in this Section.

Subd. 4. Notice of Inspection. Except as provided in Subdivision 6, whenever a tree inspector determines with reasonable certainty that a public nuisance, as described by this Section, is being maintained or exists on premises in the City, the tree inspector is authorized to abate a public nuisance according to the procedures in this Subdivision.

A. The tree inspector will notify in writing the owner of record or occupant of the premises that a public nuisance exists and order that the nuisance be terminated or abated. The notice may be given in person or by mail. Failure of any party to receive the mail does not invalidate the service of the notice. A copy of the notice shall be filed in the records of the Department of Parks and Recreation.

B. The notice of abatement shall state and describe the property affected; state that if removal has not taken place the City as a remedial action will remove or cause removal of such tree; that all costs thereof will be billed to the property owner payable within thirty (30) days; that if payment is not received, the costs will be assessed against the property from which such tree is removed pursuant to and in accordance with Minn. Stat. § 429.101 or any similar provision hereinafter enacted; inform the property owner of the right to a hearing before the City Manager or the Manager’s designee to appeal the notice in accordance with Subd. 4; and inform the property owner that upon filing of a timely appeal, the time to comply with the notice is stayed pending a decision by the City Manager or the City Manager’s designee on the appeal. The notice shall specify the control measures to be taken to abate the nuisance, and state the amount of time to abate the nuisance in accordance with Subdivision 6. The notice will also state that the owner or occupant has the right to appeal the determination that a public nuisance exists by submitting a request in writing to the City Clerk within seven (7) days after service of the

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notice, or before the date by which abatement must be completed, whichever comes first and if not so filed that
the right to appeal is waived. In the interest of justice or to comply with time requirements and on his or her own
motion or the motion of the party appealing, the City Manager or City Manager’s designee may adjourn the
hearing to a more convenient time or place; but such time or place shall be fixed and determined before
adjournment so as to avoid the necessity for formal notice of reconvening. The City Manager or City Manager’s
designee may affirm, amend or reverse all or any portion of the notice and shall set a new deadline for
compliance if the order to remove the tree is affirmed.

C. Service of Notice. The notice required in Subparagraph B above shall be given by one of the following
methods:

1. By mail to the last known address of the owner of the property as determined by the tax records of the
   County of Hennepin; or

2. By personal delivery of the notice to the affected property owner as determined by the tax records of
   the County of Hennepin or by leaving the notice with a person of suitable age and discretion upon the
   premises; or

3. By publishing in the official paper once a week for two successive weeks, the last publication
   occurring not more than fourteen (14) days and not less than seven (7) days before the removal date; or

4. By service of a copy in a manner provided for service of a Summons for District Courts in the State of
   Minnesota.

Subd. 5. Abatement of Tree Pest Nuisances. If no timely appeal is submitted, and the control measures prescribed in
the notice of abatement are not complied with within the time provided by the notice or any additional time granted, the
tree inspector or designated person shall have the authority to obtain permission to enter the property and carry out
abatement in accordance with the notice of abatement. In abating the nuisance defined in Subdivision 2, the infected tree
or wood shall be removed and burned or otherwise effectively treated so as to destroy and prevent as fully as possible the
spread of the pest. Such abatement procedures shall be carried out in accordance with current technical and expert
methods and plans as may be designated by the Commissioner of Agriculture of the State of Minnesota and with the
approval of appropriate City officials.

Subd. 6. Abatement Procedure in Event of Imminent Danger.

A. If the tree inspector determines that the danger of infestation to other shade trees is imminent or delay in control
   measures may put public health, safety or welfare in immediate danger, the tree inspector may provide for
   abatement without following the procedure in Subdivisions 4 and 5. The tree inspector must make a reasonable
   attempt to provide written notice to the owner or occupant of the affected property of the intended action. The
   notice shall also inform the owner or occupant of the right of appeal to the abatement and any cost recovery by
   filing an appeal with the City Manager within five (5) business days of the date of the notice in accordance with
   the procedures set forth in Subdivision 4 B.

B. Nothing in this Section shall prevent the City, without notice or other process, from immediately abating any
   condition that poses an imminent and serious hazard to human life and safety.

Subd. 7. Procedure for Removal of Infected Trees and Wood. Whenever the tree inspector finds that any of the
infestations defined in Subdivision 2 exist in any tree or wood in any public or private place, they shall proceed as
follows:

A. Dutch Elm Disease. When a tree is infected with Dutch Elm disease, the tree inspector shall determine whether
   the infected elm is a high-risk tree or a low-risk tree. High-risk elm trees shall be those trees that are dead,
   barren, or have extensive wilt (thirty percent (30%) or more). Low-risk trees shall be those trees showing less
than thirty percent (30%) infection.

1. High-Risk Elm Trees. High-risk elm trees shall be identified and marked in a distinctive manner to indicate their high-risk status. High-risk elm trees located on public property shall be removed within twenty (20) days of identification. High-risk trees located on private property shall be removed within twenty (20) days of notification of the property owners pursuant to Subdivision 4.

2. Low-Risk Elm Trees. Low-risk elm trees located on public property shall be identified, marked, and removed within twenty (20) days of identification, if reasonably possible, but no later than the February 28 first occurring after notice is given to the property owner pursuant to Subdivision 4. Low-risk elm trees located on private property shall be identified, marked, and removed by the November 30 first occurring after notice is given to the property owner pursuant to Subdivision 4.

B. Oak Wilt. Those trees in the red oak group infected with oak wilt disease shall be identified, marked, and/or girdled and removed by the November 30 first occurring after notice is given to the property owner pursuant to Subdivision 4. The trees in this group are the northern red oak (Quercus rubra); northern pin oak (Quercus ellipsoidalis); black oak (Quercus veluntina); and scarlet oak (Quercus coccinea).

C. Emerald Ash Borer. Ash trees infested with emerald ash borer (EAB) shall be identified, marked and removed in the following manner:

1. Marked between May 1 and September 30. Trees marked during the EAB active period of May 1 to September 30 shall be removed between September 30 and December 1 of that year. If immediate removal is necessary due to a hazardous condition:
   a. Chip at least outer 1 inch of bark/wood into chips no greater than 1 inch in two dimensions and transport to the nearest facility that can quickly process the material.
   b. Transport at least outer 1 inch of bark/wood in a vehicle that is 100% enclosed to a facility that can quickly process the material. Material shall remain enclosed until it can be at a minimum chipped.

2. Marked between October 1 and April 30. Trees marked during the EAB dormant period (October 1 to April 30) shall be removed within twenty (20) days of notification of the property owner pursuant to Subdivision 4. The outer 1 inch of bark/wood shall be transported to a facility where it will be processed prior to May 1.

D. Removal by City and Assessment. All dead or infested/infected trees, including any above ground parts thereof on private property, which are not removed within the time limits provided for herein, shall be removed or caused to be removed by the City. All costs of such removal shall be paid by the owner of the property within thirty (30) days of the date of submission of a bill from the City; and if not paid within such time, the costs of removal shall be assessed against the property pursuant to and in accordance with Minnesota Statutes Section 429.101 or any similar provision hereinafter enacted. Such assessments shall be paid with interest, in installments, and within a period not to exceed five (5) years from the date of the assessment.

Subd. 8. Treating and Pruning Trees. Whenever it is determined that any tree or wood within the City is infested by any disease or insects as described in Subdivision 2, the tree inspector may order the owners (as determined by the tax records of the County of Hennepin) of all nearby high value trees to prune and/or treat the same with an effective preventive concentrate in a manner approved by the City Manager. Upon failure to comply with such an order, the City may proceed forthwith to take appropriate action. Treatment activities authorized by this Subdivision shall be conducted in accordance with technical and expert methods and plans of the Commissioner of Agriculture, with the approval of appropriate City officials, and under the supervision of the Commissioner and his agents whenever possible. Notice shall be given as provided in Subdivision 4.
Subd. 9. Transporting Certain Types of Wood Prohibited. It is unlawful for any person to transport within the City any bark-bearing elm wood or wood infested by disease or insects without having obtained a permit from the City Manager, who shall grant such permits when the purposes of this Section will be satisfied.

Subd. 10. Reporting Discovery of Tree Pest. Any owner or occupier of land or any person engaged in tree trimming or removal who becomes aware of the existence of a tree pest as defined in Subdivision 2 shall report the same to the City.

Subd. 11. Interference Prohibited. City personnel may enter upon private premises at any reasonable time to carry out the purposes of this Section. It is unlawful for any person to prevent, delay or interfere with City personnel while they are engaged in the performance of duties imposed by this Section.

SECTION 9.71. MAINTENANCE OF VEGETATION.

Subd. 1. For the purposes of this section, the following terms shall have the following meanings:

A. “Garden” means a cultivated area dedicated to growing vegetables, fruits, flowers, ornamental grasses, groundcovers, shrubs and similar plants that were planted in a well defined location.

B. “Native plants” are those grasses (including prairie grasses), sedges (solid, triangular-stemmed plants resembling grasses), forbs (flowering broadleaf plants), trees and shrubs that are plant species native to or naturalized to the state of Minnesota, excluding prohibited exotic species, as defined by Minnesota Statutes Chapter 84D. Native plants do not include weeds.

C. “Native Plant Landscape Area” means an area where native plants are being or have been planted in a designated area. A Native Plant Landscape Area does not include gardens.

D. “Natural Area” means a natural area is an area that was purposely left to grow in a natural state and can maintain itself in a stable condition without human intervention and contains trees, shrubs, and native plants, excluding weeds and turfgrass areas that contain more than 50% turfgrass.

E. “Ornamental Grasses” means grasses that are not indigenous to the state of Minnesota that are intended to add beauty to a garden. Ornamental grasses do not include turfgrasses or weeds.

F. “Turfgrass” means commercially available cultured turfgrass varieties, including bluegrass, fescue and ryegrass blends, commonly used in regularly cut lawn areas.

G. “Weeds” are (i) noxious weeds as defined and designated pursuant to the “Minnesota noxious weed law”, Minnesota Statutes, Sections 18.76-18.88, as amended from time to time, or (ii) any volunteer plants, such as but not limited to garlic mustard (Alliaria petiolata), spotted knapweed (Centaurea maculosa), or burdock (Arctium minus). For the purposes of this definition, weeds do not include dandelions or clover. The City Weed Inspector shall maintain a current list of volunteer plants that are prohibited.

Subd. 2. An owner or occupant of any lot or parcel of land in the City, other than land in the rural district, or agent of any such owner or occupant, shall not allow any herbaceous vegetation growing upon such lot or parcel of land or growing upon City right-of-way which abuts the lot or parcel of land, including the area between any sidewalk or trail and the curb of the street to grow to a height greater than ten (10) inches or to allow such vegetation to go to seed.

Subd. 3. The provisions of Subd. 2 shall not apply on private property:
A. To vegetation that is located:

1. On slopes equal to or steeper than three feet horizontal to one foot vertical (3:1);
2. In Natural Areas;
3. Within fifty feet of a Natural Area;
4. In a scenic or conservation easement;
5. In a garden;
6. In City park lands;
7. In a floodplain area designated on the official zoning map; or
8. Within a drainage pond or ditch which stores or conveys stormwater.

B. To Native Plant Landscape Areas provided that:

1. They are set back not less than twenty feet from the front lot line. For the purposes of this ordinance, corner lots shall be deemed to have two front yards;
2. They are set back not less than five feet from the side and/or rear lot lines to provide a transition zone. No set back is required on the side or rear lot lines if (1) there is a fully opaque fence at least five feet in height installed between the native plants and the side or rear lot lines or (2) the native plants abut a neighboring Native Plant Landscape Area;
3. The Native Plant Landscape Area is cut at least once annually between April 15 and July 15 to a height no greater than ten (10) inches;
4. Turfgrass is eliminated and the native plants, trees and shrubs are planted through transplanting or seed by human or mechanical means. Soil erosion should be controlled while the ground is bare of plant growth that is sufficient to inhibit erosion and is the sole responsibility of the owner or occupant;
5. Written authorization from the City Manager or his/her designee is obtained for work within conservation or scenic easement areas, including planting, mowing or cutting.

C. To Native Plant Landscape Areas subject to a landscape plan:

1. An owner or occupant of a lot or parcel of land may apply for a permit to install Native Plant Landscape Areas within the twenty foot set back required by Subd. 3.B.1. of this Section. The permit shall be issued by the City Manager or his designee. To obtain the permit the owner or occupant, or agent of such owner or occupant, of the lot or parcel of land shall submit an application on a form provided by the City and a landscape plan that includes the following information:

   a. General: Name and address of developer/owner; Name and address of landscape architect/designer; Date of plan preparation; Date and description of all revisions; Name of project or development.

   b. Site Map: One (1) scale drawing of the site based upon a survey of property lines with indication of scale and north point; Name and alignment of proposed and existing adjacent
on-site streets; Location of all proposed utility easements and right of ways; Location of existing and proposed buildings; Topographic contours at two foot contour intervals; Existing and proposed location of parking areas; Water bodies; Proposed sidewalks; Percent of site not covered by impervious surface.

c. Landscape Proposal: Two (2) scale drawings of the proposed project area(s) to a minimum scale of one inch equals 50 feet of proposed landscaping for the site based upon a survey of property lines with indication of scale and north point; Existing and proposed topographic contours using mean sea level datum at two foot contour intervals; Details of proposed planting beds and foundation plantings; Delineation of both sodded and seeded areas; Location and identification of proposed landscape or man made materials used to provide screening from adjacent and neighboring properties, a separate cross section drawing of which shall be provided at legible scale illustrating the effectiveness of proposed screening; Location and identification of trees; Details of fences, tie walls, planting boxes, retaining walls, tot lots, picnic areas, berms, and other landscape improvements, including a separate drawing of typical sections of these details in legible scale; Location of landscape islands and planter beds with identification of plant materials used, including separate drawings of typical sections of these areas in legible scale.

d. Planting Schedule: A table containing the common names and botanical names, average size of plant materials, root specifications, quantities, special planting instructions, and proposed planting dates of all plant materials included in the Landscape Proposal.

e. Maintenance Plan: A description of how the Native Plant Landscape Area will be maintained, including all activities necessary to sustain the plantings in the Native Plant Landscape area.

2. Permits issued to install Native Plant Landscape Areas in the set back required by Subd. 3.B.1. of this Section shall be subject to the following conditions:

a. No landscaping is placed within any drainage utility easement, road right-of-way, or immediately adjacent to any driveway or road intersection when it would interfere with motorists’ views of the street or roadway.

b. The right-of-way between the curb and gutter or pavement edge (boulevard) to the Native Plant Landscape Area is at least 25 feet wide.

c. The right-of-way boulevard is composed of regularly mowed turfgrass, trees, shrubs, mulch, wood chips, rock and/or gravel.

d. The City Manager or his designee approves the Landscape Plan.

e. The Native Plant Landscape Area must meet the requirements of Subd. 3B.2-3B.5 of this Section.

f. The applicant provides such other information as the City Manager requests and complies with any other conditions deemed appropriate by the City Manager for the Native Plant Landscape Area.

g. Plans shall be prepared by a registered landscape architect / designer.

3. Revocation: The Permit shall expire and be of no force and effect if the Native Plant Landscape Area is not completed pursuant to the approved Landscape Plan within three months of issuance of the permit.
Subd. 4. The setback area required by Subd. 3 of this Section shall be composed of regularly mowed turfgrass, garden beds, trees, shrubs, mulch, wood chips, rock and/or gravel.

Subd. 5. The Native Plant Landscape Area, Garden or Natural Area shall not obscure, block or impede visual sight lines; regulatory, warning or street identification signs; or street light illumination required to ensure the safe and efficient circulation of vehicles and pedestrians on streets, intersections, trail, pathways and sidewalks.

Subd. 6. The City may require the owner or occupant who has planted, or has allowed to be planted, native plants or other vegetation within a drainage or utility easement or a right-of-way of a City street to remove the native plants or other vegetation from the right-of-way or drainage and utility easement at no expense to the City. The City will not be responsible for damage to turfgrass and/or any landscaped areas resulting from public works improvements or snow removal activities within rights-of-ways or drainage and utility easements.

Subd. 7. Notice.

A. Notice. Once a failure to comply with the height, setback, maintenance, weed, and annual cutting requirements as required by this Section is identified, notice of such failure shall be given by the City to the affected property owner. The notice shall state and describe the property affected; order and allow seven (7) days for the property owner to cause such vegetation to be cut, removed, treated for weeds, and/or maintained pursuant to an approved Landscape Plan required by Subd. 3.C. of this Section; that if such vegetation is not cut, removed, treated for weeds, and/or maintained pursuant to an approved Landscape Plan required by Subd. 3.C. of this Section, the City as a remedial action will cause such vegetation to be cut, removed and/or treated for weeds; that all costs thereof will be billed to the property owner payable within thirty (30) days; that if payment is not received within thirty (30) days, the costs will be assessed against the property from which such vegetation has been removed pursuant to and in accordance with Minn. Stat. § 429.101 or any similar provision hereinafter enacted; inform the property owner of the right to a hearing before the Council to appeal the notice in accordance with Subd. (C); and inform the property owner that upon filing of a timely appeal the time to comply with the notice is stayed pending a decision by the Council on the appeal. The notice shall be served in the same manner as set forth in Section 9.70, Subd. 6(E).

B. Assessment. In all cases in which vegetation is cut, removed and/or treated for weeds or caused to be by the City, the costs, if not paid by the owner as provided herein, shall be assessed against the property from which such vegetation is cut, removed and/or treated for weeds pursuant to and in accordance with Minnesota Statutes Section 429.101 or any similar provision hereafter enacted. Such assessments shall be paid with interest, in installments, and within a period not to exceed one (1) year from the date of assessment. The City will not be responsible for damage to turfgrass and/or any landscaped areas resulting from enforcement of this ordinance.

C. The person served with the notice set forth in Section 9.71, Subd. 7 (A) is entitled to a full hearing before the Council to appeal the notice upon serving a written request therefore upon the City Clerk prior to expiration of the date by which the vegetation is to be cut, removed and/or treated for weeds as set forth in the notice. At such hearing the person may present any evidence he deems pertinent to the appeal, but the City shall not be required to keep a verbatim record of the proceedings. The Mayor, or other officer presiding at the hearing,
may, in the interest of justice or to comply with time requirements and on his own motion or the motion of the party appealing, the City Manager, or a member of the Council, adjourn the hearing to a more convenient time or place; but such time or place shall be fixed and determined before adjournment so as to avoid the necessity for formal notice of reconvening. The Council may affirm, amend or reverse the all or any portion of the notice and shall set a new deadline for compliance if the order that the vegetation be cut, removed and/or treated for weeds is affirmed.

Source: Ordinance No. 16-2008
Effective Date: 6-24-2008

SECTION 9.72. EMERGENCY SECURING OF BUILDINGS.

Subd. 1. ‘Secure’ may include, but is not limited to, installing locks, repairing windows and doors, boarding windows and doors, posting ‘no-trespassing signs’, installing exterior lighting or motion-detecting lights, fencing the property, installing a monitored alarm or other security system.

Subd. 2. Upon a determination by the City’s building official that a building presents an immediate danger to the health and safety of persons in the City such that the emergency securing of the building is appropriate to eliminate or reduce the immediate danger the City may secure the building as authorized by Minnesota Statutes, 1994, Section 463.251, Subd. 4 and this Section.

Source: Ordinance No. 32-96
Effective Date: 8-30-96

SECTION 9.73. KEEPING OF HONEYBEES.

Subd. 1. Definitions. As used in this Section, the following definitions shall apply:

A. “Apiary” means the assembly of one (1) or more colonies of honey bees on a single lot.

B. “Apiary site” means the lot upon which an apiary is located.

C. “Beekeeper” means a person who: (i) owns or has charge of one (1) or more colonies of honey bees; and/or (ii) who owns or controls a lot on which a colony is located whether or not the person is intentionally keeping honey bees.

D. “Beekeeping equipment” means anything used in the operation of an apiary, such as hive bodies, supers, frames, top and bottom boards and extractors.

E. “Colony” means an aggregate of honey bees consisting principally of workers, but having, when perfect, one (1) queen and at times drones, brood, combs, and honey.

F. “Hive” means the receptacle inhabited by a colony.

G. “Honey bee” means all life stages of the common domestic honey bee, *apis mellifera* species.

H. “Lot” means one unit of a recorded plat, subdivision or registered land survey, or a recorded parcel described by metes and bounds.

I. “Nucleus colony” means a small quantity of honey bees with a queen housed in a smaller than usual hive box designed for a particular purpose, and containing no supers.
J. “Person” means any individual, partnership, corporation, company, limited liability company, other entity, or unincorporated association.

K. “Registrant” means any registered beekeeper and any person who has applied for approval of a beekeeping registration.

L. “Rooftop” means the uppermost section of a primary or accessory structure of at least one full story and at least twelve (12) feet in height. Areas including but not limited to decks, patios and balconies shall not be considered a rooftop.

M. “Swarming” means the process where a queen bee leaves a colony with a large group of worker bees.

N. “Undeveloped property” means: (i) any lot that is not improved with a structure that has or is required to have a certificate of occupancy; and (ii) all streets and highways.

O. “Unusual Aggressive Behavior” means any instance in which unusual aggressive characteristics such as stinging or attacking without provocation occurs.

Subd. 2. Registration.

A. No beekeeper shall keep honey bees in the City without a current registration from the City of Eden Prairie Police Department.

B. Each beekeeper shall apply for registration with the Police Department and receive approval of the registration prior to bringing any honey bees into the City.

C. Beekeepers operating within the City prior to the effective date of this Section shall have four (4) weeks from the date this Section goes into effect to apply for a registration with the Police Department.

D. The application for registration shall be upon the form provided by the City. If a beekeeper relocates a hive or colony to a new apiary site the beekeeper shall apply for an updated registration, prior to the relocation, on the form provided by the City. All information required by the forms shall be answered fully and completely by the beekeeper.

E. The City beekeeping registration shall be valid until December 31 of each calendar year and shall be renewed by the registrant prior to expiration each year by submitting a renewal form to the Police Department on the form provided by the City. A person no longer keeping honey bees in the City shall notify the Police Department within thirty (30) days.

F. Upon the initial registration, annual renewal, and any updated registration, each beekeeper shall allow the Chief of Police or designee the right to inspect any apiary and apiary site for the purpose of ensuring compliance with this Section.

G. Upon receipt of an application for initial or updated registration the City shall send notice to all owners of lots within two-hundred (200) feet of any lot line of the apiary site(s) identified on the application no less than two weeks prior to a decision to approve or deny the registration. Any person may submit written comments regarding the application to the Police Chief. Within thirty (30) days of an application the Chief of Police or designee shall approve or deny the registration.

Subd. 3. Required Conditions.

A. Honey bee colonies shall be kept in hives with removable frames, which frames shall be kept in sound and usable condition.
B. Each colony on the apiary site shall be provided with a convenient source of water located on the apiary site. Every effort should be made to ensure that the water source is free of chemicals that are typically found in tap water, such as chlorine and fluoride.

C. Materials from a hive or colony which might encourage the presence of honey bees, such as wax comb, shall be promptly disposed of in a sealed container or placed within a building or other bee-proof enclosure.

D. For each colony permitted to be maintained under this Section, there may also be maintained upon the same apiary site, one nucleus colony in a hive structure not to exceed one standard 9-5/8 inch depth 10-frame hive body, with no supers.

E. Beekeeping equipment shall be maintained in good condition, including keeping the hives painted if they have been painted but are peeling or flaking, and securing unused equipment from weather, potential theft or vandalism, and occupancy by swarming honey bees.

F. Hives shall be continuously managed to provide adequate living space for their resident honey bees in order to prevent swarming.

G. In any instance in which a colony exhibits unusual aggressive behavior, it shall be the duty of the beekeeper to promptly re-queen the colony. Whenever possible, queens shall be selected from European stock bred for gentleness and non-swarming characteristics.

H. Fruit trees and other flowering trees which are located on an apiary site shall not be sprayed, while in full bloom, with any substance which is injurious to honey bees.

Subd. 4. Colony Location.

A. Excluding lots that are zoned Rural and are ten (10) acres or more in size, no hive shall occupy any front yard. For the purposes of this Section, a corner lot shall be considered to have two (2) front yards.

B. In no instance shall any part of a hive be located within ten (10) feet of any lot line.

C. In no instance shall any part of a hive be located within ten (10) feet of any dwelling unit in any zoning district.

D. Except as otherwise provided in this Section, in each instance where any part of a hive is kept within twenty-five (25) feet of a lot line of the apiary site, the beekeeper shall establish and maintain along said lot line screening consisting of a flyway barrier of at least six (6) feet in height.

1. The flyway barrier may consist of a wall, fence, dense vegetation or a combination there of, such that honey bees will fly over rather than through the material to reach the colony.

2. If a flyway barrier of dense vegetation is used, the initial planting may be four (4) feet in height, so long as the vegetation reaches a height of six (6) feet or higher within two (2) years of installation.

3. The flyway barrier must continue parallel to the lot line of the apiary site for ten (10) feet in both directions from the hive, or contain the hive or hives in an enclosure at least six (6) feet in height.

4. A flyway barrier is not required if the hive is located on a rooftop or if the lot abutting the lot line of the apiary site where the flyway barrier would be required is:

   (a) undeveloped property; or
(b) zoned Rural and is 10 acres or more in size.

E. All apiaries located within the R, R-1 and RM districts shall comply with Eden Prairie City Code Section 11.65 pertaining to Home Occupation.

Subd. 5. Colony Density.

A. Every lot within the City shall be limited to the following number of colonies based on the size of the lot:
   1. ½ acre or smaller = 2 colonies
   2. more than ½ acre to ¾ acre = 4 colonies
   3. more than ¾ acre to 1 acre = 6 colonies
   4. more than 1 acre to 5 acres = 8 colonies
   5. more than 5 acres = no restriction

B. Regardless of lot size, if all lots within two hundred (200) feet of any lot line of the apiary site are undeveloped property, there shall be no limit to the number of colonies that can be kept on the apiary site. However, upon the development of any lot within two hundred (200) feet of any lot line of the apiary site, the apiary site shall comply with the restriction set forth in this Subdivision 5.

C. If any person removes honey bees from locations where they are not desired, that person shall not be considered in violation of the restriction in this Subdivision 5, if the person temporarily houses the honey bees on the apiary site of a beekeeper registered under this Section for no more than 30 days and remains at all times in compliance with the other provisions of this Section.

Subd. 6. Inspection.

A. Upon prior notice to the owner of the apiary site, the Chief of Police or designee shall have the right to inspect any apiary for the purpose of ensuring compliance with this Section.

B. It shall be deemed a violation of this Section for any person to resist, impede or hinder the Chief of Police or designee in the performance of their duties in inspecting any apiary and apiary site.

Subd. 7. Denial, Revocation or Suspension.

A. Beekeeping registrations under the provisions of this Section may be denied, revoked or suspended by the Chief of Police or designee after notice and the right to request a hearing, for any of the following causes:
   1. Fraud, misrepresentation or false statements on any application or registration form or during the course of the registered activity.
   2. The keeping of honey bees in an unlawful manner or a manner so as to constitute a breach of peace, or to constitute a menace to the health, safety or general welfare of the public.
   3. Any violation of this Section.

B. Notice of the denial, revocation or suspension, shall be in writing, specifically setting forth the grounds for denial, revocation or suspension and the registrant’s right to request a hearing before the City Manager or designee. Such notice shall be mailed to the registrant at the address listed on the application. A registrant
may request a hearing by filing a written request for hearing addressed to the City Manager within fifteen (15) days of the date of the notice. A hearing shall be held within thirty (30) days of the request. The City shall notify the registrant in writing of the time, date and location of the hearing at least five (5) days prior to the hearing. Within fifteen (15) days after the hearing the City Manager or designee shall issue a written decision and that decision shall be final. A copy of the decision shall be mailed to the registrant. If the registrant fails to request a hearing within fifteen (15) days of the date of the notice, the denial, suspension, or revocation shall automatically be deemed final. A revocation or suspension of a registration shall not be effective until issuance of a decision by the City Manager or designee. No appeal is allowed to the City Council under Section 2.80 of the City Code from a decision of the City Manager under this Section.

Subd. 8. Appeal.

A. A person may object to a registration at any time within thirty (30) days of approval of an initial or updated registration by addressing to the City Manager a written request for a hearing before the City Manager or designee. The hearing shall be held within thirty (30) days of the request. The City shall notify in writing the person requesting the hearing and the person whose registration is objected to, date and location of the hearing at least five (5) days prior to the hearing. Within fifteen (15) days after the hearing the City Manager or designee shall issue a written decision and that decision shall be final. A copy of the decision shall be mailed to the person who requested the hearing and the person whose registration was objected to. No appeal is allowed to the City Council under Section 2.80 of the City Code from a decision of the City Manager under this Section.

SECTION 9.74. KEEPING OF CHICKENS.

Source: Ordinance No. 11-2017
Effective Date: 7-20-2017

Subd. 1. Definitions. As used in this Section, the following definitions shall apply:

A. “Chicken” means a female fowl of any age of the Genus, Species and Subspecies Gallus gallus domesticus.

B. “Chicken keeper” means a person who maintains chickens on a premises located within the City.

C. “Coop” means an enclosed and covered accessory structure in which chickens are housed.

D. “Exercise yard” means a larger fenced in area that provides space for exercise and foraging.

E. “Heat lamp” means an electrical device equipped with a bulb that emits mainly heat rather than light, used as a heat source.

F. “Premises” is as defined in City Code Section 1.02, Subd. 22.

G. “Rooster” means a male fowl of any age of the Genus, Species and Subspecies Gallus gallus domesticus.

H. “Run” means an enclosed and covered area attached to a coop in which chickens are allowed to roam freely.

I. “Shore impact zone” is as defined in City Code Section 11.50, Subd. 4.

J. “Slaughtering” means the killing of a chicken within the City.

K. “Wetland buffer strip” is as defined in City Code Section 11.51, Subd. 3.

Subd. 2. Registration.
A. No person shall keep chickens on a premises in the City without completing a registration in accordance with this subdivision.

B. A chicken keeper shall apply for registration with the City and receive approval of the registration prior to bringing any chicken into the City.

C. The application for registration shall be upon the form provided by the City. All information required by the form shall be answered fully and completely by the chicken keeper.

D. A registration fee shall be required. Such registration fee shall be in the amount set forth in the Fee Resolution adopted by the City Council, as the same may be amended from time to time.

E. Upon the City’s initial determination, based on the written application for registration, that the premises on which a chicken keeper proposes to keep the chickens meets the requirements of this Section, the chicken keeper shall allow an employee of the City access to inspect the premises and the proposed site of any coop, run, exercise yard, or associated site for the purpose of ensuring compliance with this Section. At the conclusion of the inspection, the City may administratively approve or deny the registration and notify the chicken keeper.

F. The registration shall be valid as long as a person continues to keep chickens on the premises. A person no longer keeping chickens in the City shall notify the City within thirty (30) days.

Subd. 3. Required Conditions.

A. No roosters shall be permitted on any premises in the City. A rooster shall be removed within seventy-two (72) hours of the date of discovery of the rooster.

B. Any animal noise associated with chicken keeping shall be in compliance with City Code Section 9.07, Subd 6.B.

C. No more than four (4) chickens shall be kept on any premises at any time, except for Rural-zoned properties of five (5) acres or greater, which shall be allowed a maximum of twenty-five (25) chickens at any time.

D. Coops, runs, and exercise yards shall be maintained in a reasonably clean and sanitary condition, consistent with the requirements of Minnesota Rule 1721.0320, subpart 1.B, including the timely removal of feces, urine, and food scraps. No person shall allow odors associated with chickens to emit outside the boundary of the premises.

E. Chickens shall be kept in a manner that complies with Minnesota Statutes Chapter 343.

F. A coop conforming with this Section is required.

G. A run or exercise yard conforming with this Section is required.

H. All grain and other foods stored for the use of the chickens shall be kept in containers with tight-fitting lids and designed to prohibit access by rodents and other pests.

I. Chickens shall be confined inside an enclosed coop, run, or exercise yard at all times and shall not be allowed to run at large.

J. Chickens shall not be slaughtered on the premises or elsewhere within the City other than a retail establishment that employs a butcher.

K. Deceased chickens shall be removed as soon as possible after death but no later than forty-eight (48) hours and shall be disposed of in manner consistent with City Code Section 9.01, Subd 8.
Subd. 4. Location.

A. A registration application for keeping chickens shall be approved only for the keeping of chickens in the Rural and R-1 One Family Residential Districts. No registration application shall be approved for the keeping of chickens in any other zoning district.

B. Except for premises that are zoned Rural and are five (5) acres or more in size, no chicken coop, run, or exercise yard shall occupy any front or side yard. For the purposes of this Section, a premises that is a corner lot shall be considered to have two (2) front yards.

C. Chickens shall not be housed in a one-family residential house or an attached or detached garage.

D. All coops, runs and exercise yards shall comply with minimum lot line setback requirements for accessory structures as specified in City Code Section 11.03, Subd. 2.B, Table 2, provided however in no instance shall any coop or run be closer than ten (10) feet from any lot line.

E. No part of a coop, run or exercise yard shall be located closer than fifty (50) feet from any dwelling unit other than the dwelling unit on the premises where the coop or run is located.

F. All coops, runs, and exercise yards shall comply with the required setbacks in all wetland buffer strip areas as specified under City Code Section 11.51, Subd. 8.

G. No part of a coop, run, or exercise yard shall be located within any shore impact zone.

H. No part of a coop, run, or exercise yard shall be located within fifteen (15) feet of any lake, pond, river, creek, or stream.

I. No chicken, coop, run, or exercise yard shall occupy a back yard which directly abuts or adjoins any neighboring front yard.

Subd. 5. Accessory Structure Standards.

A. Except as otherwise provided in this Section, all chicken coops shall meet the following requirements:

1. Only one coop shall be permitted per premises in the Rural and R-1 One Family Residential Districts.

2. All coops shall provide a minimum of four (4) square feet of floor space per chicken.

3. All coops shall comply with maximum height requirements for accessory structures as specified in City Code Section 11.03, Subd. 2.B, Table 2.

4. Coops shall contain a solid roof and their construction shall be done in a workmanlike manner utilizing durable materials that offer adequate insulation, ventilation and protection from all natural weather elements, predators, rodents and other pests.

5. All coops shall have a minimum of one (1) sufficiently sized window to permit natural light to enter.

6. The use of a heat lamp in a coop or run is prohibited.

B. Except as otherwise provided in this Section, all chicken runs and exercise yards shall meet the following requirements:
1. No run or exercise yard shall exceed one hundred twenty (120) square feet in size.

2. All runs and exercise yards shall be enclosed with fencing that prohibits the access of any predator.

**Subd. 6. Inspection.**

A. Upon prior notice to the owner or occupant of a premises, a City employee shall have the right to inspect any chicken coop, run, exercise yard, or associated site for the purpose of ensuring compliance with this Section.

B. It shall be deemed a violation of this Section for any person to resist, impede or hinder a City employee in the performance of his or her duties in inspecting any coop, run, exercise yard, or associated site.

**Subd. 7. Exemptions.**

A. Rural zoned properties of five (5) acres or greater shall be exempt from the following provisions of this Section: (i) the registration requirement contained in subdivision 2; (ii) the slaughtering provision contained in subdivision 3.J; (iii) the size requirement for runs and exercise yards contained in subdivision 2.B.1; and (iv) the limitation on the number of coops contained in subdivision 5.A.1.

B. Rural zoned property which is engaging in the activity of raising “farm animals” including poultry as a legal conforming or legal non-conforming use as of the date of adoption of this Ordinance shall be exempt from the requirements of this Section unless such use ceases for a period of one year.

**Subd. 8. Denial, Revocation or Suspension of Registration.**

A. Chicken keeping registrations under the provisions of this Section may be denied, revoked, or suspended by the Chief of Police or designee after notice and the right to request a hearing, for any of the following causes:

1. Fraud, misrepresentation or false statements on any application or registration form or during the course of the registered activity.

2. The keeping of chickens in an unlawful manner or a manner so as to constitute a breach of peace, or to constitute a menace to the health, safety or general welfare of the public.

3. Three (3) or more violations of this Section within a twelve (12) month period. For purposes of denial, revocation, or suspension of registration under this subdivision 8, a violation of this Section occurs when the City has notified the registrant of the violation in writing and the registrant has failed to cure the violation within the timeframe provided.

B. Notice of the denial, revocation or suspension, shall be in writing, specifically setting forth the grounds for denial, revocation or suspension and the registrant’s right to request a hearing before the City Manager or designee. Such notice shall be mailed to the registrant at the address listed on the application. A registrant may request a hearing by filing a written request for hearing addressed to the City Manager within fifteen (15) days of the date of the notice. A hearing shall be held within thirty (30) days of the request. The City shall notify the registrant in writing of the time, date and location of the hearing at least five (5) days prior to the hearing. The City shall notify the registrant in writing of the time, date and location of the hearing at least five (5) days prior to the hearing. Within fifteen (15) days after the hearing the City Manager or designee shall issue a written decision and that decision shall be final. A copy of the decision shall be mailed to the registrant. If the registrant fails to request a hearing within fifteen (15) days of the date of the notice, the denial, suspension, or revocation shall automatically be deemed final. A revocation or suspension of a registration shall not be effective until issuance of a decision by the City Manager or designee. No appeal is allowed to the City Council under Section 2.80 of the City Code from a decision of the City Manager under this Section.
Section 9.75. REGULATION OF PET STORES

Subd. 1. Policy.

A. The City Council finds that a significant number of puppies and kittens sold at pet stores, come from large-scale, commercial breeding facilities where the health and welfare of the animals are not adequately provided for; and

B. The City Council finds that the documented abuses endemic to mass breeding facilities include over-breeding; inbreeding; minimal to no-existent veterinary care; lack of adequate and nutritious food, water and shelter; lack of socialization; lack of adequate space; lack of adequate exercise; no or limited screening of genetic diseases; inadequate transportation and shipping protocols of puppies and kittens; and indiscriminate disposal of breeding dogs and cats who have reached the end of their profitable breeding cycle; and

C. The City Council finds that inhumane conditions in mass breeding facilities lead to health and behavioral issues in the animals bred in those facilities, which many consumers are unaware of when purchasing animals from pet stores due to both a lack of education on the issue and misleading tactics of pet stores in some cases. These health and behavioral issues, which may not present themselves until sometime after the purchase of the animals, can impose exorbitant financial and emotional costs on consumers; and

D. The City Council finds that current Federal and State regulations do not properly address the sale of dogs and cats in pet stores, while the City of Eden Prairie does not possess adequate resources to safeguard the health and well-being of dogs and cats at the point of sale; and

E. The City Council finds that due in large part to pet overpopulation, numerous dogs and cats are euthanized. Restricting the retail sale of puppies and kittens is likely to increase demand from animal shelters and rescue organizations; and

F. The City Council finds that across the country, thousands of independent pet stores as well as large chains operate profitably with a business model focused on the sale of pet services and supplies and not the sale of commercially bred dogs or cats. Many of these stores collaborate with local animal shelters and rescue organizations to offer space and support for showcasing adoptable homeless pets on their premises; and

G. The City Council finds that it is in the best interest of the City of Eden Prairie to adopt reasonable regulations to help prevent inhumane breeding conditions, promote community awareness of animal welfare, and foster a more humane environment in the City.

H. The City Council finds that this Section 9.75 will not adversely impact consumers' ability to obtain a dog or cat of their choice directly from an animal shelter, or breed-specific rescue organization, or from a breeder where the consumer can see directly the conditions in which the dogs or cats are bred or can confer directly with the breeder concerning those conditions; and

I. The City Council finds that it is in the best interest of the City of Eden Prairie to adopt reasonable regulations to help prevent inhumane breeding conditions, promote community awareness of animal welfare, and foster a more human environment in the City.

J. The City Council finds that in accordance with the power granted to it by Minnesota Statutes Section 412.221, Subd. 21 to regulate the keeping of animals, and to protect the health, safety, and welfare of the community, the City Council it is appropriate to adopt the regulations set forth below regarding the sale of dogs and cats at pet stores.

Subd. 2. Definitions. Except where the term is expressly defined by other provisions or sections within this Chapter, the following words and terms shall have the meanings ascribed to them in this Section:
A. **ANIMAL CONTROL AUTHORITY:** Any governmental entity which is responsible for animal control operations in its jurisdiction.

B. **ANIMAL RESCUE ORGANIZATION:** Any not-for-profit organization which has tax-exempt status under Section 501(c)(3) of the United States Internal Revenue Code, whose mission and practice is, in whole or in significant part, the rescue of animals and the placement of those animals in permanent homes, and which does not breed animals.

C. **ANIMAL SHELTER:** Any not-for-profit organization which has tax-exempt status under Section 501(c)(3) of the Internal Revenue Code, which (1) accepts animals into a physical facility; (2) is devoted to the rescue, care, and adoption of stray, abandoned, unwanted or surrendered animals; (3) places animals in permanent homes or with animal rescue organizations; and (4) does not breed animals.

D. **CAT:** A mammal that is wholly or in part the species Felis domesticus.

E. **CERTIFICATE OF SOURCE:** A document from an animal control authority, animal rescue organization, or animal shelter which shall provide a brief description of the dog or cat, and shall list the name, address, and telephone number of the source (animal control authority, animal rescue organization, or animal shelter) of the dog or cat.

F. **DOG:** A mammal that is wholly or in part of the species Canis familiaris.

G. **PET STORE:** Any retail establishment, or operator thereof, which displays, sells, delivers, offers for sale, barters, auctions, gives away, or otherwise transfers companion animals in the City of Eden Prairie. This definition does not apply to animal control authorities, animal shelters, or animal rescue organizations.

H. **PET STORE OPERATOR:** A person or business entity who owns or operates a pet store.

**Subd. 3. Prohibition on Sales.**

A. No pet store shall sell, deliver, offer for sale, barter, auction, give away, or otherwise transfer or dispose of cats or dogs.

B. Nothing in this Section shall prohibit pet stores from collaborating with animal shelters, animal rescue organizations, and animal control authorities to offer space for such entities to showcase adoptable dogs and cats inside pet stores. Such animals shall not be younger than 8 weeks old. Dogs that are showcased for adoption shall not be kept overnight at a pet store.

**Subd. 4. Certificate of Source.**

A. A pet store shall post and maintain a Certificate of Source in a conspicuous place on or within three feet of each dog's or cat's kennel, cage, or enclosure.

B. A Certificate of Source shall be provided to the adopter of any dog or cat.

C. Certificate of Source records for each dog or cat shall be maintained by a pet store for at least one year from the last date that a dog or cat appeared in the store.

D. Pet Stores shall make Certificates of Source immediately available for review upon the request of a peace officer or animal control authority, or a humane agent pursuant to Minnesota Statutes section 343.06 acting on behalf of the City.
Subd. 5. Inspection.

A. Upon prior notice to the owner or occupant of a pet store, a City employee is authorized hereby to inspect the pet store for the purpose of ensuring compliance with this Section.

Subd. 6. Violation.

It shall be deemed a violation of this Section for any person to:

A. Falsify a Certificate of Source.

B. Resist, impede or hinder a City employee in the performance of his or her duties in inspecting any pet store.

(Sections 9.76 through 9.98, inclusive, reserved for future expansion.)

SECTION 9.99. VIOLATION A MISDEMEANOR.

Every person violates a section, subdivision, paragraph or provision of this Chapter when he or she performs an act thereby prohibited or declared unlawful or fails to act when such failure is thereby prohibited or declared unlawful, or performs an act prohibited or declared unlawful or fails to act when such failure is prohibited or declared unlawful by a Code adopted by reference by this Chapter, and upon conviction thereof shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof.

Source: City Code
Effective Date: 9-17-82
CHAPTER 10
CONSTRUCTION PERMITS AND REGULATIONS

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CHAPTER 10
CONSTRUCTION PERMITS AND REGULATIONS

SECTION 10.01. MINNESOTA STATE BUILDING CODE ADOPTED.

Subd. 1. Codes Adopted by Reference. The Minnesota State Building Code (“the Code”), as adopted by the Commissioner of Administration pursuant to Minnesota Statutes Sections 16B.59 to 16B.75, including all of the amendments, rules and regulations established, adopted and published from time to time by the Minnesota Commissioner of Administration, through the Buildings Codes and Standards Division is hereby adopted by reference with the exception of chapters identified in Minnesota Rule 1300.060, Sections B and C. The Code is hereby incorporated in this Ordinance as if fully set forth herein. This Ordinance shall perpetually include the most current edition of the Code. One copy of the Code shall be kept in the office of the City Clerk.

Subd. 2. Application, Administration and Enforcement. Application, administration and enforcement shall be in accordance with the Code. The Code shall be enforced with the extra territorial limits permitted by Minnesota Statutes Section 16B.62 subd. 1, when so established by this Ordinance. The Code enforcement agency is the City of Eden Prairie Inspections Department. The Code shall be enforced by the Minnesota Certified Building Official designated by the City to administer the Code as set forth in Minnesota Statutes Section 16B.65, subd. 1.

Subd. 3. Permits and Fees. The issuance of permits and the collection of fees shall be conducted as authorized in Minnesota Statutes Section 16B.62, subd. 1.

Permit fees shall be assessed for work governed by the Code in accordance with the fee schedule adopted annually by the City’s Fee Resolution. In addition, a surcharge fee shall be collected on all permits issued for work governed by the Code in accordance with Minnesota Statutes Section 16B.70.

Subd. 4. Building Code Optional Chapters. The Code, established pursuant to Minnesota Statutes Sections 16B.59 to 16B.75 allows the City to adopt by reference and enforce certain optional chapters of the most current edition of the Code. The following optional provisions identified in the most current version of the Code are hereby adopted and incorporated as part of the building code for this City.

1. Chapter 1306, Special Fire Protection Systems with Subpart 2 and optional provision (E) 1.

SECTION 10.02. REPEALED.

Subd. 1. Definition. For purposes of this Section an outdoor swimming pool is defined as any structure, basin, chamber or tank containing an artificial body of water for swimming, diving or recreational bathing, used in connection with a single family dwelling and having a depth of more than twenty-four (24) inches at any point and a surface area exceeding one hundred fifty (150) square feet.

Subd. 2. Fencing Required Around Outdoor Swimming Pools.
A. All outdoor swimming pools existing and hereafter constructed shall be completely enclosed by a security fence or wall at least four (4), but not more than seven (7), feet high and located at least four (4) feet from the edge of the pool. The bottom of the fence or wall shall be no higher than four (4) inches above the surface of the ground. Fence openings or points of entry to the pool area shall be equipped with self-closing and self-latching lockable gates. The permanent security fence shall be installed prior to the placement of any water into the pool. Temporary construction fencing does not meet the requirements of this section.

Source: Ordinance No. 9-2018
Effective Date: 5-15-2018

B. The enclosure for outdoor swimming pools may utilize a wall or walls of a house or building as a part thereof provided the wall or walls are at least six (6) feet high and the enclosure is completed by a fence or wall conforming to the provisions of Subparagraph A hereof.

C. All persons owning or operating an outdoor swimming pool shall comply with this Section within ninety (90) days from the date of publication.

Subd. 3. Exceptions. This Section does not apply to: (1) above-ground outdoor swimming pools having at least four foot high, vertical or outward inclined sidewalls provided sole access is by means of a removable ladder, ramp, or stairs which must be removed when the pool is not in use; (2) swimming pools which are wholly enclosed within a building or structure.

SECTION 10.04. INDIVIDUAL WATER SUPPLY.
The Water Well Construction Code adopted by the Minnesota State Board of Health is hereby adopted by reference as though set forth verbatim herein. Three copies of said Code shall be marked CITY OF EDEN PRAIRIE - OFFICIAL COPY and kept on file and available for public examination in the office of the Building Inspections Division. It is unlawful to construct any private water well except in accordance with said Code.

Source: City Code
Effective Date: 9-17-82

SECTION 10.05. PERMITS AND SPECIAL REQUIREMENTS FOR MOVING BUILDINGS.

Subd. 1. Definition. "Street" or "streets" as used in this Section mean all streets and highways in the City which are not State trunk highways, County State-aid highways, or County roads.

Subd. 2. Moving Permit Required and Application.

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

B. The application for a moving permit shall state the approximate size and weight of the structure or building proposed to be moved, together with the places from and to which it is proposed to move the same, and proposed route to be followed, proposed dates and times of moving and parking, and the name and address of the proposed mover. Such application shall also state any municipal utility, street, and public property repairs or alterations that will be required by reason of such movement.

C. Permit and Fee. The moving permit shall state date or dates of moving, hours, routing, movement and parking. Permits shall be issued only for moving buildings by building movers licensed by the State of Minnesota. Fees to be charged shall be separate for each of the following: (1) a moving permit fee to cover use of streets and route approval, and (2) a fee equal to the municipal utility and public property (other than streets) repairs or alterations occasioned by such movement. The latter shall be paid in advance.

Subd. 3. The building mover shall:
A. Use Designated Streets. Move the building over those streets only which are designated for such use in the permit.

B. Notify of Revised Moving Time. Notify the Building official in writing of any desired change in the date or times of moving the building from that indicated in the application and conduct moving operations only on the date and at the times designated in the application or approved in writing by the Building Official and notify the Chief of Police at least twenty-four (24) hours prior to commencing movement of the building.

C. Notify of Damage. Notify the Building Official in writing of damage caused to property belonging to the City or any public utility within twenty-four (24) hours after the damage or injury has occurred.

D. Display Lights. Cause red lights to be displayed during the night time on each side of the building while situated on a public street in such manner as to warn the public of an obstruction, and at all times erect and maintain barricades across such streets as shall be necessary and in such manner as to protect the public from damage or injury by reason of the presence, movement or removal of the building. Warning lights with open flames shall not be used.

E. No Parking. Not park the building on any City street at any time during the moving process.

F. Comply With Governing Law. Comply with the Building Code, the provisions of the City Code and all other laws.

G. Pay Expense of Officer. Pay the expense of any traffic officer ordered by the City Manager to accompany the movement of the building to protect the public from injury.

Subd. 4. Owner's Permit Required and Application.

A. It is unlawful for any owner of land to or from which a building is to be moved to permit such movement without an owner's permit.

B. Application. A person seeking issuance of a permit hereunder shall file an application for such permit with the City's Building Official in writing, upon forms provided by the Building Official. The application shall include the address and legal description of the land on which the building is situated and, if within the City, to which it is proposed to be moved; the route including identification of streets or roads over which it is to be moved; the distance; the proposed date of movement; the status of any outstanding taxes and such other information as the City shall require for the determination to be made hereunder. The application shall not be accepted for filing unless accompanied by the following:

1. Evidence that all real estate taxes and special assessments against the building and land from which it is to be removed are paid in full.

2. A written statement, bill of sale or other written evidence that the applicant is entitled to move the building.

3. Written evidence of arrangements with all public utility companies whose wires, lamps or poles are required to be removed, for the removal thereof by the applicant.

4. A cash deposit from the owner of the lot from which the building is to be moved in the sum of $1,000.00 as an indemnity to ensure completion of the following work: (1) capping the well; (2) abandoning sewerage system as required by the City; and (3) filling all excavations to grade, removing all rubbish, and leaving the premises in a safe and sanitary condition.
5. A cash deposit or letter of credit, the amount of which shall be 75% of the estimated cost, as determined by the City, to bring the building so moved into conformance with applicable Building Code requirements.

6. Payment of the permit fee.

7. If the building is to be located within the City after its movement, a survey by a licensed surveyor of the land to which the building is to be moved, including the location of the building in relation to the boundaries of the land.

8. If the building is to be located within the City after its movement, photographs of (1) two or more views of the building to be moved; (2) the lot on which the building is to be located; and, (3) the lands, and structures thereon, adjacent to the lot on which the building is to be located.

C. Duties of the Building Official. Inspection. Upon receipt of the application accompanied by the fee, deposit, statement and information required, the Building Official shall review the application and make such investigation as he shall deem appropriate. He shall also obtain the recommendation of the Chief of Police and City Engineer with respect to the streets and roads on which the building may be moved to assure the greatest degree of safety to persons and property and to minimize congestion on public streets. Upon completion of his review and investigation, the Building Official shall:

1. Deny the permit for moving a building to a location other than within the City, stating in writing one or more of the grounds stated in Subd. 13 of this Section or authorize issuance of a permit; or,

2. In all other instances, make his report to the Board of Adjustments and Appeals.

D. Board of Adjustments and Appeals - Public Hearing.

1. Where applicant requests the moving of a building to a location within the City, the Board shall hold a public hearing on whether a permit shall be issued not later than sixty (60) days after the application has been accepted for filing. Notice, including the time, date, place and purpose of the hearing shall be given by publication in the official newspaper of the City and by mailing to the owners of real property situated with five hundred (500) feet of the land to which the building is to be moved at least ten (10) days prior to the date of the hearing. Notice containing the same information shall be posted on the property to which the building is to be moved, not less than thirty (30) days prior to the date of the hearing. Failure to give mailed notice or any defect in the notice shall not invalidate the hearing or any proceedings taken thereat.

2. Not later than five (5) days after conclusion of the hearing the Board shall either deny the permit in writing stating one or more of the grounds stated in Subd. 13 of this Section or authorize issuance of a permit.

E. The landowner shall:

1. Clear Old Premises. Remove all rubbish and materials and fill all excavations to existing grades at the original building site, if within the City, so that the premises are left in a safe and sanitary condition. All foundation structures shall be removed to a depth of eighteen (18) inches below the finished grade of the earth.

2. Remove Service Connections. Cause any sewer lines to be plugged with a concrete stopper and the water to be shut off if the original building is within the City. The holder of the permit shall notify gas, electric and other utilities to remove their services.
3. Completion of Remodeling. If the building is relocated in the City, complete within ninety (90) days after removal, all remodeling, additions or repairs as indicated in the application, in any document filed in support thereof, or in any building permit issued in connection therewith.

4. Take all reasonable precautions to secure the building and to reduce danger to any member of the public until the building is set on its foundation and any remodeling, additions or repairs described in the application have been completed, including but not limited to: (1) locking all doors and windows; (2) providing sufficient support or bracing so as to stabilize the building to prevent it or any part thereof from sliding, slipping, falling or moving; and (3) erecting and maintaining a security fence or wall the base of which shall be no higher than four inches and the top of which shall be at least four feet above the surface of the ground and which shall enclose the entire building as well as the excavation for the foundation.

Subd. 5. Liability to City.

A. Holders of Permits Liable for Amounts Exceeding Deposit. The holder or holders of a permit shall be liable jointly and severally for any expenses, damages, or costs paid or incurred by the City as a result of the issuance of a permit or the taking or failure to take any action by the holder or holders of the permit or the City hereunder.

B. Retention of Cash Deposit. The City may take or cause to be taken any of the following actions and may retain so much of the cash deposit necessary to reimburse itself for any costs or expenses incurred as a result thereof:

1. If the City in its sole discretion determines that the premises from which or to which the building is to be moved, if within the City, or the movement of the building through or within the City is unsafe or constitutes any other unsafe condition, the City in its sole discretion may, but shall not be required to, take or cause such action to be taken to eliminate such unsafe condition or conditions as it shall deem appropriate.

2. If the premises from which the building has been removed are within the City and such premises are left in an unsafe or unsanitary condition or the provisions of this Section with respect to such premises have not been complied with, the City may, but shall not be required to, in its sole discretion take or cause such action to be taken to remedy such unsafe or unsanitary condition and to place the premises in such condition as to be in compliance with this Section.

Subd. 6. Fees and Deposits.

A. Return Upon Non-Issuance. Upon denial of a permit, there shall be returned to the applicant all deposits, bonds and insurance policies or certificates therefor. The fee filed with the application for the permit shall not be returned.

B. Return Upon Allowance For Expenses. Upon completion of the moving of a building pursuant to a permit, the amount which the applicant has deposited in conjunction with the filing of the application shall be returned to him, less all amounts which any holder of a permit shall or may become liable to the City and which the City may retain under any provision of this Section. The permit fee paid upon filing of the application shall not be returned.

Subd. 7. Review or Appeal by the Council.

A. The Council may upon petition of a resident of the City or upon its own motion, elect to review any decision of the Building Official or the Board authorizing or denying issuance of a permit; or the denial of a permit
may be appealed by the person who has made application therefor. Election to review must be taken by the Council by resolution duly adopted, or an appeal must be made by the applicant by filing notice thereof with the City Clerk within twenty (20) days from the date of denial of or authorization for issuance of a permit.

B. A hearing on the election to review or appeal shall be heard by the Council no later than thirty (30) days after the election to review has been made or notice of appeal has been filed. Review shall be made upon all of the files, documents and records of the proceedings in the matter and the Council may consider such additional evidence as it shall deem appropriate. The Council may affirm, reverse or modify the action of the Building Official or the Board in accordance with the provisions hereof and may make its action subject to such conditions as may be appropriate.

Subd. 8. Moving Hours. No person shall move any building on any public street or highway within the City at any time other than during the hours of 1:00 o’clock A.M. to 5:30 o’clock A.M.

Subd. 9. Moving Days. Any person moving a building through the City for which a permit shall not be required shall move such building through the City within a period of no more than seven (7) days.

Subd. 10. Conditional Permits. Any permit granted under the terms of this Section, whether by the Building Official, Board of Appeals and Adjustments, or the Council, may have attached thereto written conditions which shall be strictly adhered to by the permittee.

Subd. 11. Building Permits and Certificates of Occupancy.

A. Whenever an application is made to move a building which would not, after moving, comply with all then-current building codes or if changes are required or contemplated, contemporaneously with such application, a separate building permit shall also be applied for.

B. No moved building, whether or not a separate building permit is required under Subparagraph A of this Subdivision, shall be occupied before the City issues a Certificate of Occupancy therefor.

Subd. 12. Building Mover Endorsement. No permit to move a building shall be granted to the owner thereof unless it is endorsed by a building mover licensed by the State, acknowledging that he knows the contents of this Section and agrees to be bound hereby and by all conditions placed upon such permit relating to hours, routing, movement, parking and speed limit.

Subd. 13. Denial of a Permit. Any permit under this Section shall be denied upon a finding of any one of the following:

A. Applicant has not complied with any requirement of this Section.

B. Persons or property in the City would be endangered by moving the building because of shape, size, route, or for any other reason;

C. The building is in such state of deterioration or disrepair or is otherwise so structurally unsafe that it would constitute a danger to persons or property in the City;

D. The building is structurally unsafe or unfit for the purpose for which moved, if the location to which the building is to be moved is in the City;

E. The equipment for moving the building is unsafe and persons and property would be endangered by its use;

F. The building or its use would not be in compliance with zoning, building codes or other provisions of the City Code, if the location to which the building is to be moved is in the City; or
G. If the location to which the building is to be moved is in the City, the building is in substantial variance with either the established or the expected pattern of building development within the neighborhood to which the building is to be moved. Comparative age, bulk, architectural style and quality of construction of both the building to be moved and the buildings existing in the neighborhood shall be considered in determining whether a building is in substantial variance. If the building to be moved is more than ten (10) years older than the oldest building situated on the lands abutting the land to which the building is to be moved, such fact shall be evidence that the building to be moved is in substantial variance.

Source: Ordinance No. 71-84
Effective Date: 4-5-84

SECTION 10.06. BUILDING PERMITS REQUIRED.
It is unlawful for any person to erect, construct, enlarge, alter, repair, move, improve, remove, convert, or demolish any building or structure, or any part or portion thereof, including, but not limited to, the plumbing, electrical, ventilating, heating or air conditioning systems therein, or cause the same to be done, without first obtaining a separate building or mechanical permit for each such building, structure or mechanical components from the City.

SECTION 10.07. PERMIT FEES.
Fees for all permits under this Chapter, which may include a surcharge, shall be determined by the Council and fixed by its resolution, a copy of which shall be in the office of the Building Official and uniformly enforced.

Source: City Code
Effective Date: 9-17-82

SECTION 10.08. REPEALED
Source: Ordinance 9-2011
Effective Date: 7-28-2011

(Sections 10.09 through 10.98, inclusive, reserved for future expansion.)

SECTION 10.99. VIOLATION A MISDEMEANOR.
Every person violates a section, subdivision, paragraph or provision of this Chapter when he or she performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, or performs an act prohibited or declared unlawful or fails to act when such failure is prohibited or declared unlawful by a Code adopted by reference by this Chapter, and upon conviction thereof shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof.

Source: City Code
Effective Date: 9-17-82
LAND USE REGULATIONS (ZONING)

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CHAPTER 11
LAND USE REGULATIONS (ZONING)

SECTION 11.01. OBJECTIVES.

This Chapter is adopted to protect and to promote the public health, safety, peace, comfort, convenience, prosperity, and general welfare, and specifically to achieve the following objectives: (1) to assist in the implementation of the City Comprehensive Guide Plan as amended; (2) to foster a harmonious, convenient workable relationship among land uses; (3) to promote the stability of existing land uses that conform with the Guide Plan and to protect them from inharmonious influences and harmful intrusions; (4) to insure that public and private lands ultimately are used for the purposes which are most appropriate and most beneficial from the standpoint of the City as a whole; (5) to prevent excessive population densities and over-crowding of the land with structures; (6) to promote a safe, effective traffic circulation system; (7) to foster the provision of adequate off-street parking and off-street truck loading facilities; (8) to facilitate the appropriate location of community facilities and institutions; (9) to provide human and physical resources of sufficient quantity and quality to sustain needed public services and facilities; (10) to protect and enhance real property values; and, (11) to safeguard and enhance the appearance of the City, including natural amenities of hills, woods, lakes, and ponds.

SECTION 11.02. DEFINITIONS.

For the purpose of this Chapter, the following terms shall have the meanings stated:

Source: City Code
Effective Date: 9-17-82

1. "Accessory Structure" - A detached structure, building or facility, which is located on the same lot as the main building and the use of which is clearly incidental to the use of the main building. Such accessory structures shall include but not be limited to pools, tennis courts, water oriented accessory structures, sculptures and statuary etc.

Source: Ordinance No. 20-2013
Effective Date: 12-12-2013

Source: Ordinance No. 16-96
Effective Date: 4-26-96

2. "Accessory Use" - A subordinate use which is clearly and customarily incidental to the principal use of a building or premises and which is located on the same lot as the principal building or lot.

3. "Aeronautical Uses and Aeronautical Development Project" - Any airfield project, hangar project, FBO development project, FBO facility development project, airport roads or fencing, or other facilities or improvements at the Flying Cloud Airport that involve or are directly related to the operation of aircraft, including activities that make the operation of aircraft possible and safe, or that are directly and substantially related to the movement of passengers, baggage, mail and cargo.

Source: Ordinance No. 3-2013
Effective Date: 1-17-2013

4. "Agriculture" - The cultivation of the soil and all activities incident thereto, except that said term shall not include the raising and feeding of hogs, sheep, goats, cattle, poultry, and fur bearing animals and shall not include riding academies, commercial stables or kennels.

Source: City Code
Effective Date: 9-17-82
5. "Antenna" - Any structure or device used for the purpose of collecting or transmitting electromagnetic waves, including but not limited to directional antennas, such as panels, microwave dishes, and satellite dishes, and omni-directional antennas, such as whip antennas.
   
   Source: Ordinance No. 27-97
   Effective Date: 6-13-97

6. “Architectural Precast” - a panel with a concrete backing with a veneer of brick, natural stone, or cast stone.
   
   Source: Ordinance No. 7-2011
   Effective Date: 5-26-2011

7. “Automotive Repair Services - Major” – Those services, where the primary use involves; engine rebuilding or major assembling and reconditioning of worn or damaged motor vehicles or trailers; collision service including body, frame, or fender straightening or repair; overall painting; and any activity defined as “automotive repair - minor.”
   
   Source: Ordinance No. 26-2016
   Effective Date: 11-24-2016

8. “Automotive Repair Services – Minor” – those services, where the primary use involves; incidental repairs, replacement of parts such as tires, brakes, transmissions, mufflers, exhaust systems, and batteries; tire sales; and lubrication; filter replacement; oil change and other similar services; but shall not include any other operation specified under “automotive repair-major.”
   
   Source: Ordinance No. 26-2016
   Effective Date: 11-24-2016

9. “Base Area” - The "Base Area" of a building or buildings shall be the sum of the gross horizontal areas of the first floor of such building or buildings measured from the exterior faces of the exterior walls or from the centerline of party walls separating two buildings. In particular, "Base Area" shall include:
   
   a. Elevator shafts and stairwells on the first floor.
   
   b. Floor space used for mechanical equipment where the structural headroom exceeds seven and one-half feet, except equipment, open or closed locked on the roof, i.e., bulkheads, water tanks and cooling towers.
   
   c. 40% of the porch when the porch is completely enclosed.

10. "Base Area Ratio" - The ratio of total base area to total lot area.
    
    Source: Ordinance No. 9-87
    Effective Date: 5-7-87

11. “Brewer Taproom” is a brewer licensed under section 340A.301, subdivision 6, clause (c), (1), or (j) who also holds a retail license to sell on-sale malt liquor produced by the brewer for consumption on the premises of or adjacent to a brewery location owned by the brewer.
    
    Source: Ordinance No. 6-2018
    Effective Date: 5-10-18

12. "Buffer” - The use of land, topography (difference in elevation), space, fences or landscape plantings to screen or partially screen a tract or property from another tract or property and thus reduce undesirable influences such as: sight, noise, dust, and other external effects which a land use may have upon other adjacent or nearby land uses.
13. "Building" - Any structure for the shelter, support or enclosure of persons, animals, chattels or property of any kind, and when separated by party walls without openings, each portion of such building so separated shall be deemed a separate building.
   Source: City Code
   Effective Date: 9-17-82

14. "Building Height" - the vertical distance from the grade plane to the highest point of the coping of the highest flat roof or to the deck line of the highest mansard roof or to the average height of the highest gable of a pitched or hipped roof.
   Source: Ordinance No. 4-2017
   Effective Date: 3-30-2017
   Source: Ordinance No. 18-90
   Effective Date: 9-21-90

15. "Building Length" - The length of a building as related to any property line is the length of that portion of the property line from which when viewed directly from above, lines drawn perpendicular to said line will intersect any wall of the building.
   Source: City Code
   Effective Date: 9-17-82

16. “Cast Stone” - a precast concrete building stone similar in appearance and manufactured to simulate the texture, color, and appearance of natural cut stone.
   Source: Ordinance No. 7-2011
   Effective Date: 5-26-2011

17. “Cocktail Room” is an establishment on the premises of or adjacent to one distillery location owned by a distiller for the on-sale of distilled liquor produced by the distiller.
   Source: Ordinance No. 6-2018
   Effective Date: 5-10-18

18. "Commercial Kennel"- means a place where any number of dogs and/or cats of any age are kept, confined, or congregated for the purpose of selling, boarding, breeding, training, treating or grooming. A Commercial Kennel does not include a Private kennel as defined in City Code, Chapter 5, Section 5.60, Subd. 2, D.
   Source: Ordinance No. 27-2016
   Effective Date: 11-24-2016

19. “Community Center” – A place or establishment designed as a gathering place for people from the community and surrounding communities that offers, as its primary purpose, civic, social, cultural, educational, public health, and recreational activities provided however the principal use of which is not a private school, public school, place of worship or day care as defined by City Code.
   Source: Ordinance No. 12-2017
   Effective Date: 8-17-2017

20. "Conditional Use" - A use which is not permissible in a zoning district but which may under certain circumstances and with the application of certain conditions be suitable.
   Source: Ordinance No. 30-83
   Effective Date: 7-22-83

21. "Corner Lot" - A lot situated at the junction of and fronting on two or more streets.
22. "Court" - An open unoccupied space bounded on two or more sides by the exterior walls of a building or buildings on the same lot.

   Source: City Code
   Effective Date: 9-17-82

23. "Cul-de-sac" - A street closed on one end, with one point of entry, and a circular turnaround having a minimum radius of 50 feet.

   Source: Ordinance No. 15-85
   Effective Date: 5-30-85


   Source: Ordinance No. 7-2011
   Effective Date: 5-26-2011

25. “Day care facility” - Any facility, public or private, which for gain or otherwise regularly provides one or more persons with care, training, supervision, habilitation, rehabilitation, or development guidance on a regular basis, for periods of less than 24 hours per day, in a place other than the person's own home.

   Source: Ordinance No. 13-2017
   Effective Date: 8-17-2017

26. "Depth of Lot" - The mean horizontal distance between the mean front street and the mean rear lot line. The greater frontage of a corner lot is its depth and its lesser frontage is its width.

27. "Depth of Rear Yard" - The mean horizontal distance between the rear line of the building and the rear lot line.

28. "District" - A portion or portions of the City for which land use regulations under this Chapter are the same.

29. "Dwelling" - Any building which is designed or used exclusively for residential purposes by one or more people, not including hotels, motels, rest homes, hospitals or nursing homes.

30. "Dwelling-Multiple Family” - A building designed for or occupied by two or more families.

31. "Dwelling-One or Single Family” - A building designed for or occupied exclusively by one family.

32. "Dwelling-Unit or Group" - Residential accommodation including kitchen facilities, permanently installed, which are arranged, designed, used or intended for use exclusively as living quarters for one family and not more than an aggregate of two roomers or boarders.

33. "Family" - One or more persons related by blood, marriage or adoption, including foster children, or a group of not more than five persons (excluding servants) some or all of whom are not related by blood, marriage, or adoption, living together and maintaining a common household but not including sororities, fraternities, or other similar organizations.

34. "Floor Area" - The floor area of a building or buildings shall be the sum of the gross horizontal areas of the several floors of such building or buildings measured from the exterior faces of exterior walls or from the centerline of party walls separating two buildings. In particular "floor area" shall include:

   a. Elevator shafts and stairwells at each floor.
   b. Floor space used for mechanical equipment where the structural headroom exceeds seven and one-half feet, except equipment, open or enclosed located on the roof, i.e., bulkheads, water tanks and cooling towers.
c. Interior balconies and mezzanines.
d. 40% of porch when the porch is completely enclosed.

35. "Floor Area Ratio" - The ratio of total floor area to total lot area.

36. "Garage Sale" - A sale of household or personal articles (including but not limited to furniture, tools, clothing, household appliances, books, sports equipment) held at the primary residence of the seller of the articles offered for sale or in the case of a multi-family sale at the primary residence of one of the individuals owning the articles held for sale.

Source: Ordinance No. 9-2009
Effective Date: 10-15-2009

37. "Grade Plane" - A reference plane representing the average finished ground level adjoining the building at the exterior walls. Where the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the closest adjacent lot line or, where the closest adjacent lot line is more than 6 feet from the building, between the building and a point 6 feet from the building.

Source: Ordinance No. 4-2017
Effective Date: 3-30-2017

38. "Group Usable Open Space" - Land area and facilities specifically designated and developed for group recreational or social activities.

39. "Home Based Business" - Any occupation or service which is clearly secondary to the main use of the premises as a dwelling, and does not change the character thereof or have any exterior evidence of such secondary use.

Source: Ordinance No. 1-2009
Effective Date: 02-26-2009

40. "Hotel" - (See Motel/Hotel)

41. "Loading Facilities" - A space accessible from a street, alley or way, in a building or on a lot, for the use of vehicles while loading or unloading merchandise or materials.

42. "Lot" - One unit of a recorded plat, subdivision, or registered land survey, or a recorded parcel described by metes and bounds.

43. "Lot Area" - The lot area is the land area within the lot lines.

44. "Lot, Depth" - The mean horizontal distance between the mean front street and the mean rear lot line. The greater frontage of a corner lot is its depth and its lesser frontage is its width.

45. "Lot-Interior" - A lot other than a corner lot.

46. "Lot Line" - The line bounding a lot as defined herein. When a lot line abuts on a street, avenue, park or other public property, such line shall be known as a street line.

47. "Lot Line, Corner" - A lot bounded by two or more intersecting streets.

48. "Lot Line, Front" - When a lot fronts on a public street, the street right of way shall be the front lot line.

49. "Lot Line, Rear" - That boundary of a lot which is most distant from and is or is approximately parallel to the front lot line. If the rear lot line is less than 10 feet in length or if the lot forms a point at the rear, the rear lot
line shall be deemed to be a line 10 feet in length within the lot, parallel to and at the maximum distance from the front lot line.

50. "Lot Line, Side" - Any boundary of a lot which is not a front or rear lot line.

51. "Lot-Through" - An interior lot having frontage on two streets.

52. "Lot, Width" - The width of a lot is its own mean width measured at right angles to its mean depth.

53. “Microdistillery” is a distillery operated within the state producing premium, distilled spirits in total quantity not to exceed 40,000 proof gallons in a calendar year, which distillery is licensed under Minn. Stat. Chap. 340A.

   Source: Ordinance No. 6-2018
   Effective Date: 5-10-18

54. "Motel/Hotel" - A building or group of buildings used primarily for the temporary residence and supportive service of motorists or travelers.

55. “Non-Conforming Use” - A non-conforming use is the lawful use or occupation of land or premises existing at the time of the adoption of a provision of the City Code which, upon the adoption of the provision, the use or occupation of the land or premises is not in conformity.

   Source: Ordinance No.17-2005
   Effective Date: 9-15-2005

56. "Nursing Homes" - A home for the care of children or the aged or infirm, or a place of rest for those suffering bodily disorders, which does not provide for hospital care.

   Source: City Code
   Effective Date: 9-17-82

57. "Parapet Wall" - An architecturally, structurally and aesthetically integral wall extending above the roof level, continuously around the perimeter of the building which has the primary purpose of screening mechanical equipment.

   Source: Ordinance No. 25-2016
   Effective Date: 10-27-2016

58. “Pawnshop” – As defined in City Code Section 5.71, Subdivision 2.

   Ordinance No. 22-2018
   Effective Date: 12-13-18

59. “Places of Worship” – a tax exempt institution that people regularly attend to participate in or hold religious services meetings, and other activities related to religious ceremonies.

   Source: Ordinance No.17-2005
   Effective Date: 9-15-2005

60. “Precast Concrete Panel”- a panel made from a mix of cement, water, aggregate, and admixtures that is place in a form and cured.

   Source: Ordinance No.7-2011
   Effective Date: 5-26-2011

61. "Private School", A school which is not owned or operated by a public entity, and which offers general primary and/or secondary educational instruction equivalent to grades K through 12.
62. “Public Infrastructure” - Infrastructure related to municipal utilities owned by any governmental unit including lift stations, well houses, water towers, sewer and water lines, manholes, storm sewer, street lights, stops signs and stop lights, bridges, trails, sidewalks, and infrastructure related to electric, gas, telephone and cablevision utilities lines, poles and boxes, but not including buildings except as specified above.

Source: Ordinance No. 12-87
Effective Date: 3-17-88

63. “Public Right-of-Way” - as defined in Section 6.01, Subdivision 20.

Source: Ordinance No. 22-2017
Effective Date: 12-21-2017

64. “Public School” – (1) A school owned or operated by a public entity which offers general education instruction equivalent to K-12 or post-secondary education, or (2) a charter school organized under Minnesota Statutes Chapter 124E.

Source: 18-2016
Effective Date: 9-15-2016

65. "Public Utility Structure" - A structure or pole supporting wires for communication or transmission of data or electricity.

Source: Ordinance No. 27-97
Effective Date: 6-13-97

66. "Recreational Vehicle" - Any trailer, watercraft, snowmobile, pull camper, all terrain vehicle, motorhome, travel trailer or tent trailer, or other similar vehicle. A recreational vehicle upon a trailer shall constitute one recreational vehicle.

Source: Ordinance No. 22-88
Effective Date: 4-27-89

67. "Related Boarding Facilities" - The term "related boarding facilities" as used in Section 11.35, Subd. 2, E in this Chapter means a structure which has as its sole function the boarding of students who are enrolled at a single private school, and which is located upon the same parcel of property as the private school for which is provided boarding.

Source: Ordinance No. 12-87
Effective Date: 3-17-85

68. “Restaurant Type 1” – A restaurant, often referred to as a fast food or deli-style restaurant, where customers stand to order and wait for food preparation or where food is pre-prepared and packaged to go.

69. “Restaurant Type 2” – A sit-down restaurant, often referred to as a family-style restaurant, with no liquor sales and where customers typically stay for an hour or less.

70. “Restaurant Type 3” – A restaurant, often referred to as a bar or tavern, with a large bar or dancing area and amplified music used as entertainment; or a sit down restaurant, often referred to as a fine dining restaurant, where reservations are sometimes needed and the bar area is secondary to dining.
71. "Right-of-Way Line" - The dividing line between the lot and the street.

72. "Sculptures and Statuary" - Sculptures and statuary are three-dimensional works of art, as representations or abstract forms, created by sculpturing, modeling, carving, casting or welding.

73. “Self-Storage Facility” - A building or group of buildings designed and used for the leasing of compartmentalized individual storage space to tenants who have controlled and secure access for the sole purpose of storing personal property which is not held or offered for current or future sale.

74. "Setback" - The minimum horizontal distance between a building and the street or lot line.

75. “Sexually Oriented Business” – As defined in City Code Section 5.77, Subdivision 2.

76. Small Brewer” is a brewer licensed under section 340A.301, subdivision 6, clause (c), (i), or (j) who also holds a retail license to sell off-sale malt liquor at its licensed premises which has been produced and packaged by the brewer.

77. “Small Wireless Facility” – As defined in Section 6.01, Subdivision 28.

78. "Stable-Private" - A stable is any building located on a lot on which a residence is located, designed, arranged, used or intended to be used, for not more than four horses for the private use of the residence, but shall not exceed 600 square feet in area.

79. "Stable-Commercial" - A place where five or more equines are kept for remuneration or hire.

80. "Story" - That portion of building included between the surface of any floor and the surface of the floor next above; or if there is not floor above, the space between the floor and the ceiling next above. A basement shall be counted as a story and a cellar shall not be counted as a story.

81. "Story-Half" - A portion of a building under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls, are not more than two feet above the floor of such story.

82. "Street" - A public thoroughfare for vehicular and pedestrian traffic.
"Street Line" - The dividing line between the lot and the street.

"Structure" - Anything constructed or erected, the use of which requires location on the ground or attachment to something having a location on the ground.

"Structure-Alterations" - Any change in the supporting members of a building such as bearing walls, columns, beams or girders.

Source: City Code  
Effective Date: 9-17-82

"Telecommunications mechanical equipment" – “Wireless equipment” – Equipment that is necessary for the operation of a tower for wireless services.

Source: Ordinance No. 22-2017  
Effective Date: 12-21-2017

Source: Ordinance No. 3-2014  
Effective Date: 2-27-2014

"Tower" - Any (a) ground or roof mounted pole, spire, structure, or combination thereof, taller than fifteen (15) feet, including supporting lines, cables, wires, braces and masts, on which is mounted an antenna, meteorological device, or similar apparatus above grade, or (b) ground or roof mounted antennas taller than fifteen (15) feet. Tower does not include a wireless support structure as defined in this Section.

Source: Ordinance No. 22-2017  
Effective Date: 12-21-2017

Source: Ordinance No. 27-97  
Effective Date: 6-13-97

"Use" - The purpose for which land or premises or a building thereof is designated, arranged or intended, or for which it is or may be occupied or maintained.

"Use Principal" - The main use of land or buildings as distinguished from a subordinate or accessory use.

"Variance" - A modification or variation of the provisions of this Chapter as applied to a specific piece of property, except that modification in the allowable uses within a district shall not be considered a variance.

"Wireless Service" – As defined in Section 6.01, Subdivision 34.

Source: Ordinance No. 22-2017  
Effective Date: 12-21-2017

"Wireless Support Structure" – As defined in Section 6.01, Subdivision 35.

Source: Ordinance No. 22-2017  
Effective Date: 12-21-2017

"Yard" - That portion of a lot not occupied by a structure.

"Yard-Depth of Rear" - The mean horizontal distance between the rear line of the building and rear lot line.

Source: City Code  
Effective Date: 9-17-82
95. "Yard-Front" - A yard extending across the front of the lot between the side lines of the lot and lying between the front line of the lot and the nearest line of a building.
   Source: Ordinance No. 1-90
   Effective Date: 2-1-90

96. "Yard-Rear" - An open space unoccupied except for accessory buildings on the same lot with a building between the rear lines of the building and the rear line of the lot, for the full width of the lot.
   Source: Ordinance No. 9-87
   Effective Date: 5-7-87

97. "Yard-Required" - That portion of a side, front, or rear yard, nearest the designated lot line and having the width or depth required in the district in which located.

98. "Yard-Side" - An open unoccupied space on the same lot with a building between the building and the side line of the lot, and extending from the front lot line to the rear of the back yard.

Items renumbered:
   Source: Ordinance No. 27-97
   Effective Date: 6-13-97

   Source: Ordinance No. 20-2013
   Effective Date: 12-12-2013

Definition section amended and renumbered:
   Source: Ordinance No. 4-2017
   Effective Date: 3-30-2017

   Source: Ordinance No. 3-2014
   Effective Date: 2-27-2014

   Source: Ordinance No. 22-2007
   Effective Date: 9-13-2007

   Source: Ordinance No. 18-90
   Effective Date: 9-21-90

   Source: Ordinance No. 1-90
   Effective Date: 2-1-90

   Source: Ordinance No. 22-88
   Effective Date: 4-27-89

   Source: Ordinance No. 12-87
   Effective Date: 3-17-88

   Source: Ordinance No. 9-87
   Effective Date: 5-7-87

   Source: Ordinance No. 15-85
   Effective Date: 5-30-85

   Source: Ordinance No. 114-84
   Effective Date: 11-1-84

   Source: Ordinance No. 37-83
   Effective Date: 9-30-83

   Source: Ordinance No. 34-83
   Effective Date: 8-26-83
SECTION 11.03. ESTABLISHMENT OF DISTRICT, SPECIAL REQUIREMENTS AND PERFORMANCE STANDARDS.

Subd. 1. Establishment of Districts.

A. The following Districts, with the abbreviations stated, are hereby established. (Some Districts are subdivided for the purpose of this Chapter, in which case, only the abbreviations of such subdivisions may be shown.)

<table>
<thead>
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<th>DISTRICT TITLE</th>
<th>ABBREVIATION</th>
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<td>Rural District</td>
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<td>One-Family Residential District</td>
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<td>Town Center District</td>
<td>TC</td>
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<tr>
<td>TC – Mixed Use</td>
<td>TC-MU</td>
</tr>
<tr>
<td>TC – Residential</td>
<td>TC-R</td>
</tr>
<tr>
<td>TC - Commercial</td>
<td>TC-C</td>
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<td>TOD-MU</td>
</tr>
<tr>
<td>TOD – Residential</td>
<td>TOD-R</td>
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<tr>
<td>TOD - Employment</td>
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<td>Industrial District</td>
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<td>General Industrial District</td>
<td>I-Gen</td>
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<td>Airport – Office</td>
<td>A - OFC</td>
</tr>
<tr>
<td>Airport – Commercial</td>
<td>A – C</td>
</tr>
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<td>Park and Open Space District</td>
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</table>

Source: Ordinance No. 17-2017
Effective Date: 9-28-2017
Prev. Ordinance No. 25-2016
Effective Date: 10-27-2016
Prev. Ordinance No. 3-2013
Effective Date: 1-17-2013
B. The location and boundaries of the Districts established in this ordinance are set forth on the zoning map entitled "Zoning Map of the City of Eden Prairie" and the legal description of the land in each District and the zoning map are on file and open to public inspection in the office of the City Manager. In case of discrepancy between legal description and zoning map, the legal description will prevail.

C. For ease of reference ordinances changing District zoning between November 6, 1969, and April 3, 1984, are set forth in City Code Chapter 25.

Subd. 2. District Standards.

A. The following criteria shall apply to certain Districts:

1. In the RM 6.5 District, the maximum gross density is 6.7 units per acre.

2. In the RM 2.5 District, the maximum gross density is 17.4 units per acre.

   Source: Ordinance No. 8-97
   Effective Date: 3-14-97

3. In the R1-13.5 District, the maximum gross density is 2.5 units per acre.

4. In the R1-9.5 District, the maximum gross density is 3.5 units per acre.

5. In the Rural District, the minimum frontage on a street right of way is 100 feet.

   Source: City Code
   Effective Date: 9-17-82

6. In R1-13.5, R1-22 and R1-44 Districts, the minimum frontage on a cul de sac street right of way is 85 feet, 90 feet and 100 feet respectively, except for lots abutting entirely on the arc of the circular turnaround portion of the cul-de-sac, in which case the minimum frontage on a street right of way is 55 feet. (Preliminary plats approved prior to the effective date of Ord. 15-85 are exempt from these conditions.)

   Source: Ordinance No. 1-90
   Effective Date: 2-1-90
   Prev. Ordinance No. 72-84
   Effective Date: 4-5-84

7. In R1-9.5 Districts, the minimum frontage on a cul-de-sac street right of way is 70 feet, except for lots abutting entirely on the arc of the circular turnaround portion of the cul-de-sac, in which case the minimum frontage on a street right of way is 55 feet. (Preliminary plats approved prior to the effective date of Ord. 15-85 are exempt from these conditions.)

   Source: Ordinance No. 15-85
   Effective Date: 5-30-85
8. In the R1-9.5 District, the side yard setback on the garage side, where there is a double garage, is at least 5 feet, for a total of at least 15 feet on both sides, and where there is a single garage, the side yard setback on the garage side is at least 17 feet, for a total of at least 27 feet on both sides.

9. In the Rural, R1-44, R1-22, R1-13.5 and the R1-9.5 Districts, the total ratio of the total square footage of all garages (attached and detached), and all accessory buildings to the total lot area shall not exceed .075.

10. A minimum yard setback may be zero feet in RM Districts in any instance where a wall common to two or more dwelling units is situated on a lot line. All other setbacks provided in the Chapter shall apply, except in those instances where only one side yard setback may be zero feet, the other side yard setback shall be that required for "one side".

11. The edge of a driveway in the One Family Residential District shall not be closer than 3 feet to a side lot line and shall not cross the extension of a property line to the curb line.

12. In the RM 6.5 District, in the case of two abutting lots on which are situated duplex living units, the minimum lot size is 13,000 square feet. In the case of a duplex lot, the minimum lot size on which is situated one dwelling unit shall be no less than 3,000 square feet.

Source: Ordinance No. 8-97
Effective Date: 3-14-97
Source: City Code
Effective Date: 9-17-82

13. In the Public District, a private school and related boarding facility shall be located on a parcel of land of not less than 25 acres and shall have a floor-to-area ratio of 0.1 to 1.0. Such a use shall not include any outside storage.

Items renumbered:

Source: Ordinance No. 8-97
Effective Date: 3-14-97
Prev. Ordinance No. 12-87
Effective Date: 3-17-88

14. In the A-C, C-COM, C-REG, C-REG-SERV, C-HWY, AND N-COM Districts, in the case of a gasoline/convenience store, the following criteria shall apply:

(a) All buildings and pump canopies should have peaked roofs and relate architecturally in scale, proportion, materials and detail, and color with the building.

(b) Pump canopies shall be connected with the primary store structure. Pump canopies shall be located behind the store and oriented away from adjoining residential areas. Canopy ceiling should be textured or have a flat finish.

(c) All site walls, screen walls and pump island canopies should be architecturally integrated with the building with similar materials, colors, and detailing.

(d) Average horizontal luminance at grade shall not exceed 10 foot-candles, with individual lamps not to exceed 250 watts. The fascias of the canopy should extend at least 12 inches below the lens of the fixture to block the direct view of the light sources and lenses from property lines. Recessed non glare lighting shall be used under the canopy. Average horizontal luminance at grade at the property line shall not exceed 0.5 foot-candles.
(e) Service areas, storage areas and refuse enclosures shall be screened from public view, adjacent streets and residential areas

(f) A landscape buffer shall be required to provide screening from adjacent residential uses.

Source: Ordinance No. 3-2013
Effective Date: 1-17-2013
Source: Ordinance No. 7-2013
Effective Date: 4-25-13

B. The following criteria shall apply to all Districts:

(See Tables on City Code pages numbered 11-11a through 11-11e)

Source: Ordinance No. 72-84
Effective Date: 4-5-84
<table>
<thead>
<tr>
<th>Residential Districts</th>
<th>Minimum Zone Area (Acreage/Sq. Ft.)</th>
<th>Minimum Lot Size</th>
<th>Minimum Lot Width-Depth</th>
<th>Minimum Lot Width at Right of Way Line</th>
<th>Minimum Yard-Setback</th>
<th>Gross Site Area Per Dwelling Unit Sq. Ft. Or Acres</th>
<th>Group Usable Open Space Per Dwelling Unit Sq. Ft.</th>
<th>Max Floor Area Ratio (FAR)</th>
<th>Maximum Height of Main Structure (Ft.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rural</td>
<td>10 Acres</td>
<td>10 Acres</td>
<td>300</td>
<td>300</td>
<td>Front Ft.</td>
<td>One Side Ft.</td>
<td>Both Sides Ft.</td>
<td>Rear Ft.</td>
<td>10 Acres</td>
</tr>
<tr>
<td>R1-44</td>
<td>44,000</td>
<td>44,000</td>
<td>100</td>
<td>150</td>
<td>30</td>
<td>15</td>
<td>30</td>
<td>30</td>
<td>44,000</td>
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<tr>
<td>R1-22</td>
<td>22,000</td>
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<td>90</td>
<td>125</td>
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<td>15</td>
<td>30</td>
<td>25</td>
<td>22,000</td>
</tr>
<tr>
<td>R1-13.5</td>
<td>13,500</td>
<td>13,500</td>
<td>85*</td>
<td>100</td>
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<td>10</td>
<td>25</td>
<td>20</td>
<td>13,500</td>
</tr>
<tr>
<td>R1-9.5</td>
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<td>9,500</td>
<td>70*</td>
<td>100</td>
<td>30</td>
<td>(See Subd. 2 Item 8)</td>
<td>(See Subd. 2 Item 8)</td>
<td>20</td>
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<tr>
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<td>20</td>
<td>20</td>
<td>6,500</td>
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<td>150</td>
<td>35</td>
<td>25</td>
<td>50</td>
<td>30</td>
<td>2,500</td>
</tr>
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</table>

Table 1 - Section 11.03

Source: Ordinance No. 8-97, Effective Date: 3-14-97

*(Prev. Ordinance No. 15-85
Effective Date: 5-30-85)*

Source: Ordinance No. 3-2011
Effective Date: 3-24-11
<table>
<thead>
<tr>
<th>RESIDENTIAL DISTRICTS</th>
<th>ACCESSORY STRUCTURE</th>
<th>OFF-STREET LOADING</th>
<th>SCREENING AND LANDSCAPING</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>MAXIMUM HEIGHT</td>
<td>MINIMUM DISTANCE TO SIDE LOT LINE</td>
<td>MINIMUM DISTANCE TO REAR LOT LINE</td>
</tr>
<tr>
<td>RURAL</td>
<td>30</td>
<td>30</td>
<td>30</td>
</tr>
<tr>
<td>R1-44</td>
<td>15</td>
<td>10</td>
<td>10</td>
</tr>
<tr>
<td>R1-22</td>
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<td>10</td>
</tr>
<tr>
<td>R1-13.5</td>
<td>15</td>
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<td>10</td>
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<td>R1-9.5</td>
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<td>RM-2.5</td>
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Table 2 - Section 11.03
<table>
<thead>
<tr>
<th>OFFICE/ COMMERCIAL/ INDUSTRIAL/ DIST.</th>
<th>MINIMUM LOT SIZE</th>
<th>MINIMUM YARD-SETBACK</th>
<th>SITE AREA PER DWELLING UNIT SQ. FT. OR ACRES</th>
<th>MAX. FLOOR AREA RATIO (FAR)</th>
<th>MAXIMUM BASE AREA RATIO (BAR)*</th>
<th>HEIGHT OF MAIN STRUCTURE (FT.)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Area S.F. of Acres</td>
<td>Width Ft.</td>
<td>Depth Ft.</td>
<td>MINIMUM LOT WIDTH AT RIGHT OF WAY LINE</td>
<td>Front Ft.</td>
<td>One Side Ft.</td>
</tr>
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<td>C-REG</td>
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<td>N/A</td>
<td>N/A</td>
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<td>80</td>
</tr>
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<td>I-2 PARK</td>
<td>2 acres</td>
<td>200</td>
<td>300</td>
<td>200</td>
<td>50</td>
<td>20</td>
</tr>
<tr>
<td>I-5 PARK</td>
<td>5 acres</td>
<td>300</td>
<td>300</td>
<td>300</td>
<td>75</td>
<td>30</td>
</tr>
<tr>
<td>I-GEN</td>
<td>5 acres</td>
<td>300</td>
<td>300</td>
<td>300</td>
<td>75</td>
<td>30</td>
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<tr>
<td>PUB</td>
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<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>50</td>
<td>50</td>
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<tr>
<td>P-PARK AND OPEN SPACE</td>
<td>N/A</td>
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<td>N/A</td>
<td>N/A</td>
<td>35*</td>
<td>25*</td>
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Table 3 - Section 11.03
Ordinance No. 17-2017 Effective Date: 9-28-2017
<table>
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<tr>
<th>OFFICE/COMMERCIAL/IND/</th>
<th>MINIMUM LOT SIZE</th>
<th>MINIMUM LOT WIDTH AT RIGHT OF WAY</th>
<th>MINIMUM YARD-SETBACK</th>
<th>SITE AREA PER DWELLING UNIT SQ. FT. OR ACRES</th>
<th>MAX. FLOOR AREA RATIO (FAR)</th>
<th>MAXIMUM BASE AREA RATIO (BAR)*</th>
<th>HEIGHT OF MAIN STRUCTURE (FT.)</th>
</tr>
</thead>
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<tr>
<td></td>
<td>Area S.F. of Acres</td>
<td>Width Ft.</td>
<td>Depth Ft.</td>
<td>Front Ft.</td>
<td>One Side Ft.</td>
<td>Both Sides Ft.</td>
<td>Rear Ft.</td>
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<tr>
<td>OFC</td>
<td>20,000</td>
<td>100</td>
<td>100</td>
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<tr>
<td>N-COM</td>
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<td>200</td>
<td>200</td>
<td>200</td>
<td>35</td>
<td>20</td>
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<tr>
<td>C-COM</td>
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<td>300</td>
<td>35</td>
<td>20</td>
<td>40</td>
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<tr>
<td>C-HWY</td>
<td>20,000</td>
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<td>130</td>
<td>100</td>
<td>35</td>
<td>20</td>
<td>40</td>
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<tr>
<td>C-REG-SER</td>
<td>10,000</td>
<td>80</td>
<td>100</td>
<td>80</td>
<td>35</td>
<td>20</td>
<td>40</td>
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<td>75 acres</td>
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<td>300</td>
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<td>35</td>
<td>20</td>
<td>40</td>
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<tr>
<td>A-C</td>
<td>2 acres</td>
<td>200</td>
<td>200</td>
<td>200</td>
<td>35</td>
<td>20</td>
<td>40</td>
</tr>
<tr>
<td>A-OFC</td>
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<td>100</td>
<td>100</td>
<td>100</td>
<td>35</td>
<td>20</td>
<td>50</td>
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</table>

Table 4 - Section 11.03

Ordinance No. 3-2011 Effective Date: 3-24-11; Ordinance No. 9-87 Effective Date: 5-7-87

Source: Ordinance No. 9-2014, Effective Date: 4-13-2014
Source: Ordinance No. 2-2007, Effective Date: 1-23-07
Source: Ordinance No. 9-87, Effective Date: 5-7-87
Source: Ordinance No. 3-201, Effective Date: 3-24-11
<table>
<thead>
<tr>
<th>OFFICE/COMMERCIAL/INDUSTRIAL DISTRICTS</th>
<th>ACCESSORY STRUCTURES</th>
<th>Maximum Height</th>
<th>Min. Dist. to Side Lot Line</th>
<th>Min. Dist. to Rear Lot Line</th>
<th>OFF-STREET LOADING</th>
<th>SCREENING AND LANDSCAPING</th>
<th>MIN. ZONE AREA (ACRES)</th>
<th>MAX. ZONE AREA (ACRES)</th>
<th>FLOOR AREA PRIMARY USE (SQ. FT.)</th>
<th>MAX. TOTAL FLOOR AREA (SQ. FT.)</th>
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<tbody>
<tr>
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<td>10</td>
<td>10</td>
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<td>YES</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>N-COM</td>
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<td>10</td>
<td>10</td>
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<td>YES</td>
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<tr>
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<td>25</td>
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<td>YES</td>
<td>40</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
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<tr>
<td>I-5 PARK</td>
<td></td>
<td>40</td>
<td>20</td>
<td>25</td>
<td>YES</td>
<td>YES</td>
<td>40</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
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<td>N/A</td>
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<tr>
<td>P-PARK AND OPEN SPACE</td>
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<td>30</td>
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<td>10</td>
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<td>YES</td>
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</tbody>
</table>

Table 5 - Section 11.03

Ordinance No. 17-2017  Effective Date: 9-28-2017
Ordinance No. 9-2014  Effective Date: 4-13-2014
Ordinance No. 2-2007  Effective Date: 1-23-07
Ordinance No. 9-87    Effective Date: 5-7-87
Ordinance No. 3-201   Effective Date: 3-24-11
**Subd. 3. Special Requirements.** The following special requirements shall apply to all Districts:

Source: City Code  
Effective Date: 9-17-82

**A.** Lots in all Districts except the RM and Park and Open Space Districts shall be required to have frontage on a public street. Corner lots shall have additional width equal to the minimum interior side yard requirement and shall in no case be less than 90 feet.

Source: Ordinance No. 17-2017  
Effective Date: 9-28-2017

Prev. Ordinance No. 72-84  
Effective Date: 4-5-84

**B.** Lots which rear on a railroad or freeway shall have at least 150 feet depth.

Source: City Code  
Effective Date: 9-17-82

**C.** Where 40% or more of a block is developed, the required setback shall be equal to or greater than the average of the principle structures on either side.

Source: Ordinance No. 47-96  
Effective Date: 11-29-96

Source: Ordinance No. 72-84  
Effective Date: 4-5-84

**D.** Rear or side yard requirements for dissimilar abutting districts must meet the larger of the two requirements.

Source: City Code  
Effective Date: 9-17-82

**E.** Fences not over 7 feet in height may occupy any yard. No fence, hedge or other planting exceeding 30" in height or trees pruned even to a height less than 8 feet shall be permitted where there will be interference with traffic sight distance. Fencing in the Park and Open Space District is exempt from these requirements. Fencing standards for the Park and Open Space District are set forth in Section 11.37.

Source: Ordinance 17-2017  
Effective Date: 9-28-2017

Source: Ordinance 4-2015  
Effective Date: 5-14-2015

Source: City Code  
Effective Date: 9-17-82

**F.** Except towers for wireless services, towers, spires, chimneys, water tanks, flagpoles, radio and TV antennas, transmission towers and other structures and necessary mechanical appurtenances covering not more than 10% of the ground area may be erected to a height of not more than twenty-five (25) feet in addition to the maximum height permitted.

Source: Ordinance No. 22-2017  
Effective Date: 12-21-2017

Source: Ordinance No. 27-97  
Effective Date: 6-13-97

11-15
G. Screening and Landscaping.

1. Purpose. The City recognizes landscaping and screening for its aesthetic value and as a multi-purpose functional element of a site. The requirements in this section define a minimum standard for landscaping and screening, and promote the following objectives: (a) Promote a high standard of development in the City; (b) Establish and enhance a pleasant visual character which recognizes aesthetics and safety issues; (c) Promote sustainable practices that protect and conserve natural resources, and create healthy landscapes; (d) Promote landscape design that includes a diversity of plant species, pollinator-friendly species, color, and year-round interest, and enhances the structures and paved areas of the site; (e) Promote compatibility between land uses by reducing the visual, noise, and lighting impacts of specific development on users of the site and abutting uses; (f) Activate and define public and private spaces; (g) Enhance the pedestrian experience; (h) Support storm water infiltration and improvements in ground water quality, in conjunction with Section 11.55 Land Alteration, Tree Preservation and Storm Water Management Regulations, and support materials and design that reduce water usage. The City’s Design Guidelines provide further landscape design intent and should be used as a reference.

2. Definitions. For the purposes of this Section, the following terms shall have the meanings stated:

(a) Caliper: The length of a straight line measured through the trunk of a tree twelve (12) inches above the base.

(b) Clear Cutting: Removal of all existing significant natural vegetation on a particular piece of property.

(c) Coniferous/Evergreen Tree: A woody plant which, at maturity, is at least thirty (30) feet or more in height, with a single trunk, fully branched to the ground, having foliage on the outermost portion of the branches year round.

(d) Deciduous Overstory Shade Tree: A woody plant which, at maturity, is thirty (30) feet or more in height, with a single trunk, unbranched for several feet above the ground, having a defined crown, and which loses leaves annually.

(e) Deciduous Understory Ornamental Tree: A woody plant which, at maturity, is less than thirty (30) feet in height, with a single trunk, unbranched for several feet above the ground, having a defined crown which loses leaves annually.

(f) Fence: Any partition, structure, wall, or gate erected as a divider marker, barrier, or enclosure, and located along the boundary or within the required yard.

(g) Landscape: Site amenities, including trees, shrubs, ground covers, perennial covers, flowers, fencing, berms, retaining walls, and other outdoor furnishings.

(h) Mechanical Equipment: Heating, ventilation, exhaust, air conditioning, and communication units integral to and located on top of, beside or adjacent to a building and
telecommunications mechanical equipment located on top of, beside or adjacent to a building.

Source: Ordinance No. 3-2014
Effective Date: 2-27-2014

Source: Ordinance No. 15-85
Effective Date: 5-30-85

(i) Plant Material Average Size (Coniferous): The total height of all coniferous trees six (6) feet or over, divided by the total number of such trees.

(j) Plant Material Average Size (Shade or Ornamental): The total diameter of all deciduous overstory trees two and one-half (2½) inches or more in diameter, divided by the total number of trees.

(k) Public Art: Public art shall mean an original work of art that is a form of non-commercial speech that is not Commercial Speech as the same is defined in City Code Section 11.70, Subd. 2 and that is accessible to the public determined through a city review process. It may include permanent visual art, performances, installations, events and other temporary works, preservation or restoration of unique architectural features, ornamentation or details. It may also include the artist-designed infrastructure and structures themselves. It does not include Commercial Speech advertising and/or signage. Public art may possess functional as well as aesthetic qualities and may be integrated into the site or be a discrete work.

Source: Ordinance No. 30-2016
Effective Date: 12-15-2016

(l) Retaining Wall: A wall or structure constructed of stone, concrete, wood or other materials, used to retain soil, as a slope transition or edge of a planting area.

Source: Ordinance No. 15-85
Effective Date: 5-30-85

(m) Security: A financial security in the form of a stand by Letter of Credit from financial institution that is insured by the FDIC, or an Escrow Fund with sufficient capital approved by the City Manager, which is conditioned upon complete and satisfactory implementation of an approved landscape plan and which names the City as obligie or payee as applicable.

Source: Ordinance No. 10-2018
Effective Date: 05-24-2018

(n) Screening: A barrier which blocks views from public roads and adjacent differing land uses to off-street parking areas, loading areas, service and utility areas, and mechanical equipment.

Source: Ordinance No. 30-2016
Effective Date: 12-15-2016
Source: Ordinance No. 58-87
Effective Date: 1-7-88

3. Landscape Plan Required.

In every case where landscaping is required by provision of the City Code or by an approval granted by the City, for a building or structure to be constructed on any property, the applicant for the building
permit shall submit a landscape plan prepared in accordance with the provisions of this Section. The landscape plan shall include the following information:

(a) General: Name and address of developer/owner; Name and address of landscape architect/designer; Date of plan preparation; Date and description of all revisions; Name of project or development.

(b) Site Map: One (1) scale drawing of the site based upon a survey of property lines with indication of scale and north point; Name and alignment of proposed and existing adjacent on-site streets; Location of all proposed utility easements and right of ways; Location of existing and proposed buildings; Topographic contours at two foot contour intervals; Existing and proposed location of parking areas; Water bodies; Proposed sidewalks; Percent of site not covered by impervious surface.

(c) Landscape Proposal: Two (2) scale drawings of proposed landscaping for the site based upon a survey of property lines with indication of scale and north point; Existing and proposed topographic contours using mean sea level datum at two foot contour intervals; Details of proposed planting beds and foundation plantings; Delineation of both sodded and seeded areas; Location and identification of proposed landscape or man made materials used to provide screening from adjacent and neighboring properties, a separate cross section drawing of which shall be provided at legible scale illustrating the effectiveness of proposed screening; Location and identification of trees; Details of fences, tie walls, planting boxes, retaining walls, tot lots, picnic areas, berms, and other landscape improvements, including a separate drawing of typical sections of these details in legible scale; Location of landscape islands and planter beds with identification of plant materials used, including separate drawings of typical sections of these areas in legible scale.

(d) Planting Schedule: A table containing the common names and botanical names, average size of plant materials, root specifications, quantities, special planting instructions, and proposed planting dates of all plant materials included in the Landscape Proposal.

4. Security Required. No building permit shall be issued until the applicant for the building permit shall file with the City Manager a Security, as defined in 11.03 Subd. 3 G. 2 (h) in form and amount as approved by the City Manager, but for no less than one and one-half (1½) times and no more than two (2) times the amount estimated by the City Manager as the cost of completing said landscaping and screening. The Security must cover two complete growing seasons or one full calendar year subsequent to the completion and must be conditioned upon complete and satisfactory implementation of the approved landscape plan.

Source: Ordinance No. 10-2018
Effective Date: 5-24-2018

5. All landscaping shall be implemented in accordance with the following:

(a) Size Requirements for Plantings: Deciduous overstory plantings shall be a minimum of two and one-half (2½) caliper inches and a maximum of five (5) caliper inches; deciduous understory trees shall be a minimum of one and one-half (1½) caliper inches and a maximum of five (5) caliper inches; coniferous trees shall be a minimum of six (6) feet in height and a maximum of ten (10) feet in height; shrubs shall be a minimum five (5) gallon container size at planting; perennial grasses and flowers shall be a minimum one (1) gallon container size at planting; ground covers shall be a minimum four (4) inch pot size at planting.

Source: Ordinance No. 30-2016
Effective Date: 12-15-2016
Total Caliper Inches Required: In order to achieve landscaping which is appropriate in scale with the size of a building and site, the minimum number of caliper inches of trees required shall be determined by dividing the total gross square footage of all floors of a building by 320. A single story building in excess of 20 feet in height shall be considered a two story building for the purposes of determining its total gross square footage. A mixture of plant material sizes shall be required as follows:

i. No more than eighty percent (80%) of trees may be of the minimum size requirement.

ii. For the purposes of satisfying the total caliper inch requirement, coniferous trees may be considered equivalent to overstory trees by dividing the height of a coniferous tree 6 ft. height minimum by 2.4 to determine equivalent caliper inches.

iii. Understory trees may make up no more than twenty percent (20%) of the total tree caliper inches required.

iv. Shrubs, perennials, or planting beds may be substituted for trees according to the following limit: not less than ten percent (10%) and no more than twenty-five percent (25%) of the total tree caliper inches required shall be replaced with Shrubs and Perennials, or Planting Beds. Additional shrubs, perennials or planting beds beyond the 25% substitution rate are allowed.

NOTE: When determination of height results in a fractional foot, any fraction of 0.5 or less may be disregarded; a fraction in excess of 0.5 shall be counted as one foot.

Shrubs and Perennials: Shrubs and perennials shall be provided to complete a quality landscape treatment of the site. Replacement ratio: six (6) shrubs may replace three (3) caliper inches of tree.

Planting Beds and/or Decorative Planting Containers: Each planting bed or container shall include a variety of plants which may include shrubs, ornamental grasses, ground cover, vines, annuals, or perennials to provide year-round color and interest. Native plant species to the local hardiness zone and those which provide interest and/or color in the winter are preferred. Planting Beds must have a three (3) inch mulch application to bare soil surrounding the plant material in order to qualify for the caliper inch replacement.

Planting beds and/or decorative planting containers may replace up to twenty-five percent (25%) of the required caliper inches for trees at a rate of three (3) caliper inches of trees per five hundred (500) square feet of cumulative planting beds and/or decorative planting containers. Planting beds must be planted annually in early spring and maintained throughout the growing season. Decorative planting containers must be planted and maintained seasonally throughout the year. Planting beds and/or decorative containers shall be planted with spacing of species per industry standards.

Species Diversity: Species diversity is required to ensure a long-term healthy landscape. Not more than thirty percent (30%) of the required caliper inches shall be composed of one species unless approved by the City. Plant material must be sourced from regional nurseries to ensure healthy stock and non-invasive choices. The following trees are prohibited: a
species of the genus ulmus (elm), except those bred to be immune to Dutch Elm disease; female gingko; box elder; willow; aspen.

(g) Naturalized Native Species: Native species, defined as those listed on the University of Minnesota and MN Department of Natural Resources lists, are well adapted to the local environment, require less maintenance, are healthier, and provide habitat for birds and insects. Landscapes that include native and pollinator-friendly plant species, and provide year-round interest with foliage color, flowers, fruits, or branching structure are required. Landscaping that is low maintenance and requires little or no irrigation, shall be considered as one of several grounds upon which the City Council may grant waivers from building design or site design through the PUD process.

(h) Parking Lot Islands: Parking lot islands shall be required in lots of twenty (20) or more spaces and shall be evenly distributed throughout the lot. Single aisle parking lots shall be exempt from this provision. A parking lot island shall be a minimum of one hundred sixty (160) square feet, shall stand-alone or be connected to other islands or sidewalks. No parking lot island shall have any dimension less than five (5) feet. Parking lot islands shall be located at the end of drive aisle rows and every 20 spaces. Five percent (5%) of the parking area, including vehicular circulation areas, shall be comprised of parking lot islands that are planted and not filled with only mulch, stone or paving. Planting requirements are the same as those for Planting Beds.

(i) Method of Installation: All deciduous and coniferous trees shall be balled and burlapped, staked, and guyed in accordance with national Nurseryman’s standards. All shrubs shall be potted.

(j) Sodding and Ground Cover: All open areas of a site not occupied by building, parking, sidewalks, patios, storage, or other similar features shall be landscaped with a combination of canopy trees, ornamental trees, evergreen trees, shrubs, perennial grasses, flowers, sod, ground cover – including low/no mow grasses and perennials – and other design features to ensure soil stabilization. Exceptions to this are seeding of future expansion areas as shown on approved plans; undisturbed areas containing existing natural vegetation which shall be maintained free of foreign and noxious materials; and, areas designated as open space for future expansion area properly planted and maintained with prairie grass.

(k) Slopes and Berms: Final slopes greater than the ratio of 3:1 will not be permitted without special approval or treatment, such as special seed mixtures or reforestation, terracing, or retaining walls. Berms used to provide required screening of parking lots and other open areas shall not have slopes in excess of 3:1.

(l) Installation and Maintenance of Materials: Responsibility for tree and plant growth and maintenance is solely the responsibility of the property owner and runs with the land and is binding on all future property owners. Owners shall be responsible for maintaining all landscaping in a healthy condition and keeping it free from refuse and debris. Dead plant materials shall be removed and replaced during the normal planting season. Materials must be replaced with like species or as approved by city staff.

(m) Erosion Control: All areas of the site must be stabilized in accordance with Chapter 11.55 unless required otherwise in a federal, state or local permit.

(n) Preservation of Wetland and Woodland Areas: It is the policy of the City to preserve the natural wetland and woodland areas throughout the City, and with respect to specific site development, to retain as far as practical, substantial tree stands and wetlands which can be
incorporated into the Landscape Plan. No clear cutting of woodland areas shall be permitted. Shade trees of six (6) inch or more caliper shall be saved unless it can be demonstrated that there is no other feasible way to develop the site. The Council may require replacement of any removed trees on a caliper inch for caliper inch basis.

(o) Placement of Plant Materials: No landscaping shall be allowed within any drainage utility easements, road right of way, or immediately adjacent to any driveway or road intersection when it would interfere with motorists' views of the street or roadway.

(p) Mechanical Equipment Screening:

(1) All mechanical equipment mounted on the exterior of a building and possessing one or more of the characteristics listed below in (p) (3) shall be physically screened from all public roads and adjacent differing land uses with factory prefinished metal, wood laminated with metal, or other building material in a manner architecturally integral to the building or buildings on site.

(2) All mechanical equipment located on the ground and possessing one or more of the characteristics listed below in (p) (3) shall be physically screened from all public roads and adjacent differing land uses with either plant material or factory prefinished metal, wood laminated with metal, or other building material in a manner architecturally integral to the building or buildings on site.

(3) Irregular in size and shape; Exposed and/or protruding fans, grills, pipes, tubes, wires, vents; unfinished metal covering, exposed rivets, exposed seams.

(q) General Screening: All parking, loading, service, utility, and outdoor storage areas shall be screened from all public roads and adjacent differing land uses as measured from eye level at grade from public roads and adjacent differing land uses. Screening shall consist of any combination of the following: earth mounds, fences, shrubs, compact evergreen trees, or dense deciduous hedge. Hedge materials must be at least three (3) feet in height, at planting. The height and depth of the screening shall be consistent with the height and size of the area for which screening is required. When natural materials, such as trees or hedges, are used to meet the screening requirements of this subsection, density and species of planting shall be such to achieve seventy five percent (75) opacity year round at maturity.

(1) Well defined breaks in the screen along public roads are required to facilitate pedestrian access from the public right of way to the building. These openings shall align with the parking lot layout requirements for pedestrian access (Section 11.03 Subd 3. H 5 e) and shall be in addition to driveways or visually distinctive if adjacent to a driveway. Connections to adjacent uses must be facilitated as determined through approval process.

(2) Appropriate elements to include in screening proposals for parking lots along public roads include transit shelters, benches, public art or similar features as part of the screen.

(3) Parking lot screening shall be a minimum of three (3) feet in height, measured from the parking lot surface, in order to screen cars and headlights, and shall allow breaks for pedestrian connections as described in q (1).

(r) General Landscape for Residential Districts: In R1-44, R1-22, R1-13.5, R1-9.5, RM-6.5 and RM-2.5 districts all exposed ground area surrounding the principal building and accessory
buildings which are not devoted to driveways, sidewalks, or patios, shall be landscaped with grass, shrubs, trees or other ornamental landscape material. No landscaped area shall be used for the parking of vehicles or storage or display of materials, supplies, or merchandise.

(s) Public Art: Integration of public art into private development, in addition to privately owned amenities such as plazas, courtyards, fountains, outdoor art, roof top gardens and green roofs and other decorative elements, which enhances the design of the landscaping may be considered as one of several grounds upon which the City Council may grant waivers from landscaping requirements through the PUD process. Public art on a site should be situated in a way that it can be viewed from an adjacent right-of-way or public spaces.

Source: Ordinance No. 30-2016
Effective Date: 12-15-2016

H. Off-Street Parking Facilities.

1. The purposes of this Subparagraph are to: (a) prevent a shortage of curb spaces where allowed; and (b) provide a sufficient amount of off-street parking so as to utilize the streets for their primary use - the safe and convenient movement of traffic.

2. Parking Spaces Defined. For purposes of this Chapter, a parking space shall be defined according to the following table of dimensions except that a parking space in a garage or carport shall not be less than 10 feet wide and 20 feet long.

3. Basic Requirements.

(a) Off-street parking facilities shall be provided at the time of initial occupancy or enlargement of a structure as required by Item 4 of this Subparagraph.

(b) The City Manager shall determine the requirements for any use not specifically required by Item 4 of this Subparagraph.

(c) Fractional numbers of spaces as per Item 4 of this Subparagraph shall be adjusted to the next higher number.

Source: City Code
Effective Date: 9-17-82

(d) Dimensions of parking spaces.
| Parking space and aisle width dimensions in relation to degree of parking angle | PARKING ANGLE = |
|---|---|---|---|---|---|---|---|---|---|---|
| | 0 Deg. | 20 Deg. | 30 Deg. | 40 Deg. | 45 Deg. | 50 Deg. | 60 Deg. | 70 Deg. | 80 Deg. | 90 Deg. |
| Parking space width, perpendicular to angle | 9' | 9' | 9' | 9' | 9' | 9' | 9' | 9' | 9' | 9' |
| Parking space dimension perpendicular to aisle | 9' | 14'6" | 16'10" | 18'8" | 19'5" | 20' | 20'8" | 20'9" | 20'2" | 19' |
| Parking space dimension parallel to aisle | 23' | 24'8" | 17' | 13'2" | 11'1" | 9'10" | 9' | 9' | 9' | 9' |
| Aisle width | 12' | 11' | 11' | 12' | 13'6" | 16' | 18'6" | 19'6" | 24' | 25' |

Source: Ordinance No. 1-90
Effective Date: 2-1-90

4. Parking Requirement/Use*
<table>
<thead>
<tr>
<th>DISTRICT LAND USES</th>
<th>OFF-STREET PARKING SPACE REQUIREMENTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Rural</td>
<td>Same as b. below</td>
</tr>
</tbody>
</table>
| b. R1-44, R1-22, R1-13.5, R1-9.5 | 2/D.U. 1 enclosed minimum  
4/D.U. - Maximum  
Driveway Parking Acceptable  
Source: Ordinance No. 72-84  
Effective Date: 4-5-84 |
| c. RM-6.5 and RM-2.5 | 2/D.U. 2/1 enclosed  
Source: Ordinance No. 72-84  
Effective Date: 4-5-84 |
| d. *OFC, A-OFC  
Source: Ordinance No. 9-2014  
Effective Date: 03/13/2014  
Service Stations | G.F.A.  
RATIO  
1=60,000 s.f.  
5.0/1000 s.f.  
60,001-70,000 s.f.  
4.9/1000 s.f.  
70,001-80,000 s.f.  
4.8/1000 s.f.  
80,001-90,000 s.f.  
4.7/1000 s.f.  
90,001-100,000 s.f.  
4.6/1000 s.f.  
100,001-150,000 s.f.  
4.2/1000 s.f.  
150,001 PLUS s.f.  
4.0/1000 s.f.  
Source: Ordinance No. 9-87  
Effective Date: 5/7/87  
Motels, Hotels | 1/guest room + 1/employee  
Restaurant Type 1  
Restaurant Type 2  
Restaurant Type 3  
Source: Ordinance No. 22-2007  
Effective Date: 9/13/2007  
Arenas, Theaters, Assembly Halls | 1/3 seats  
Source: Ordinance No. 9-87  
Effective Date: 5/7/87  
Retail Stores and Shops | 5/1000 sq. ft. G.F.A.  
Source: Ordinance No. 22-2007  
Effective Date: 9/13/2007  
Warehouses  
Source: Ordinance 9-87 | 1/2 sq. 1000 G.F.A.  
Source: Ordinance No. 2-2007  
Effective Date: 1-23-07  
Brewer Taproom, Cocktail Room | 1/60 sq. ft. G.F.A.  
Small Brewer, Microdistillery | 1/1,000 sq. ft. G. F. A.  
**Banks | 6.0/1000 sq. ft. G.F.A.  
Source: Ordinance No. 9-87  
Effective Date: 5/7/87  
Office | 5/1000 sq. ft. G.F.A.  
Gymnasium | 5/1000 sq. ft. G.F.A.  
Brewer Taproom, Cocktail Room | 1/60 sq. ft. G.F.A.  
Small Brewer, Cocktail Room | 1/1,000 sq. ft. G.F.A.  
**Banks | 6.0/1000 sq. ft. G.F.A.  
Source: Ordinance No. 9-87  
Effective Date: 5/7/87  
Office | 5/1000 sq. ft. G.F.A.  
Gymnasium | 5/1000 sq. ft. G.F.A.  
Brewer Taproom, Cocktail Room | 1/60 sq. ft. G.F.A.  
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Effective Date: 5/7/87  
Office | 5/1000 sq. ft. G.F.A.  
Gymnasium | 5/1000 sq. ft. G.F.A.  
Brewer Taproom, Cocktail Room | 1/60 sq. ft. G.F.A.  
Small Brewer, Cocktail Room | 1/1,000 sq. ft. G.F.A. |
*The requirements for any use not specifically mentioned shall be designated by the City Manager.

For supporting minor commercial uses within office/industrial buildings providing a supplemental function to the major office and/or industrial use, the number of parking spaces for such uses shall be not less than the minimum required for such uses in any other District.

Specific parking requirements for the Transit Oriented Development District are located in Section 11.26 of Chapter 11 and for the Town Center District in Section 11.27 of Chapter 11.

5. Development and Maintenance of Parking Areas.

(a) Screening and Landscaping. Off-street parking areas containing more than 5 stalls shall be screened on each side adjoining a residential use or public street.

(b) Minimum Distance and Setback. Parking areas for 5 vehicles or more shall be at least 10 feet from any side or rear lot line and 5 feet from any building. Minimum Distance and Setbacks in the Park and Open Space District are exempt from these requirements. Parking lot setback standards for the Park and Open Space District are set forth in Section 11.37.

(c) Parking areas, loading facilities and driveways shall be surfaced with bituminous, concrete, pavers of brick, natural stone, or concrete placed with gaps not exceeding 1/4 inch, turf block, or grasscrete, and graded to dispose of or infiltrate all area surface water without damage to private or public properties, streets, or alleys. The use of gravel, crushed rock, sand, or dirt is prohibited except when used as gap material with pavers.

(d) Location. Off-street parking facilities shall be on the same parcel of land as the structure they are intended to serve. Space for the required facilities shall not occupy the required front yard or on a corner lot more than 1/2 of the required front yard closest to the street.

(e) Layout: Parking lots shall be designed to allow pedestrians to facilitate pedestrian movement from their vehicles or from the public right of way to the building. Pedestrian
walkways/corridors/sidewalks shall be created at the perimeter of the parking lot and/or within the parking lot to provide connection to the primary building and, when applicable, to adjacent sites. Said sidewalks shall be a minimum of five (5) feet in width. These corridors can be delineated by landscaping and parking lot islands, striping, and/or a paving material that differs from that of vehicular areas. The corridors shall align with breaks in parking lot screening as required in Section 11.03 Subd. 3 G. 5 (q) (1).

Source: Ordinance No. 30-2016
Effective Date: 12-15-2016

6. Special Requirements.

(a) Each parking space shall have an unobstructed access from a street or aisle without moving another vehicle. Exception is in an R1-44, R1-22, R1-13.5 and R1-9.5 District where parking in driveways is permitted.

(b) Bumper rails and curbs shall be provided as determined by the City Manager.

(c) No servicing of vehicles shall take place in any off-street parking area.

Source: City Code
Effective Date: 9-17-82

(d) The City may allow no more than fifteen percent (15%) of parking required pursuant to City Code Section 11.03 to be constructed at a date subsequent to the time at which it would have otherwise been required to be constructed under the City Code. The portion to be constructed as a later date is referred to as “Proof of Parking”. Proof of parking shall be allowed if:

i. Applicant demonstrates to the satisfaction of the City Planner that the proposed development does not require the amount of parking required under City Code;

ii. Applicant identifies on the site and landscape plans the location(s) in which the Proof of Parking can be built in the future;

iii. Landscaping in excess of the minimum required and structures associated with landscaping are allowed in the area identified for Proof of Parking, but no other structures shall be allowed in the Proof of Parking area; and

iv. Applicant enters into a binding agreement recorded as a covenant against real property to construct at a later date all or a portion of the Proof of Parking spaces as required by notice in writing from the City Planner.

Source: Ordinance No. 29-2016
Effective Date: 12-15-16

7. Connecting Parking Areas with Streets.

(a) Vehicular traffic generated by any use shall be channeled and controlled so as to avoid congestion and traffic hazards.
(b) The adequacy of any proposed traffic pattern shall be determined by the City Manager. Traffic control measures such as warning signs, directional signs, turn lanes, channelization, illumination, etc., may be required.

(c) All driveways abutting public streets shall be subject to the following regulations:
Minimum distance between driveways - 20 feet.

Minimum driveway angle to street - 30 degrees for one way streets and 60 degrees for two way streets.

Driveway widths at street curb are:

<table>
<thead>
<tr>
<th>DRIVEWAY WIDTH</th>
<th>MAXIMUM</th>
<th>MINIMUM</th>
</tr>
</thead>
<tbody>
<tr>
<td>One Way</td>
<td>20 feet</td>
<td>12 feet</td>
</tr>
<tr>
<td>Two Way</td>
<td>30 feet</td>
<td>24 feet</td>
</tr>
</tbody>
</table>

Minimum Driveway Return Radius - 6 feet

Minimum distances between the end of a driveway at the intersection of a right of way line and the property line shall be 10 feet.

Source: Ordinance No. 9-87
Effective Date: 5-7-87

(d) Parking areas, loading facilities and driveways shall be surfaced with bituminous; concrete; pavers of brick, natural stone, or concrete placed with gaps not exceeding 1/4 inch; turf block; or grasscrete; and graded to dispose of or infiltrate all area surface water without damage to private or public properties, streets, or alleys. The use of gravel, crushed rock, sand, or dirt is prohibited except when used as gap material with pavers.

Source: Ordinance No. 25-2016
Effective Date: 10-27-2016
Source: Ordinance No. 16-2010
Effective Date: 11-25-2010

I. Off-Street Loading Facilities.

1. Purpose. The purpose of this Subparagraph is to provide a sufficient number of off-street loading facilities so as to allow the safe and convenient movement of traffic along the streets.

2. Basic Requirements.

(a) Off-street loading berths shall be provided at the time of initial occupancy or enlargement of a structure. The exact number of berths shall depend on the type of transport service utilized and the nature of the use itself.

(b) A loading facility includes the dock, the berth for the vehicle, maneuvering areas and the necessary screening walls.

(c) No loading facility shall be located on a street frontage nor within the required side or rear yard requirements except in the TOD-MU, TOD-E, TOD-R, TC-MU, TC-R and TC-C.
3. Special Requirements.

(a) All docks shall be located within the perimeter of the structure housing the principal or accessory use and shall be completely enclosed.

(b) All berths within the TOD and TC zoning districts shall be completely enclosed and screened with a solid wall. All berths shall be screened from views on the property's street frontages or from the district's boundary by solid wall earth berms or plant materials of at least a height of 10 feet. Such walls must be designed so as to be harmonious with the structure having the loading facility.

(c) Each loading berth shall have an unobstructed access from a trafficway without moving another vehicle.

(d) Parking areas, loading facilities and driveways shall be surfaced with bituminous, concrete, pavers of brick, natural stone, or concrete placed with gaps not exceeding 1/4 inch, turf block, or grasscrete, and graded to dispose of or infiltrate all area surface water without damage to private or public properties, streets, or alleys. The use of gravel, crushed rock, sand, or dirt is prohibited except when used as gap material with pavers.

(e) Bumper rails and curbs shall be provided at locations described by the City Manager when needed for safety or to protect property.

J. Outside Storage and Displays.

1. In all Districts except I-General, all raw materials, supplies, finished or semi-finished products and equipment shall be stored within a completely enclosed building; provided, however, that motor vehicles necessary to the operation of the principal use and of not more than three-quarter ton capacity may be stored or parked within the permitted parking lot areas. In I-Gen Districts, outside storage is permitted provided it is screened in accordance with this Section.

2. In all Commercial Districts, all materials, supplies, merchandise or other similar matter shall be stored within a completely enclosed building, except merchandise or equipment offered for sale, rental or lease displayed in accordance with the following limitations:

(a) Temporary outdoor display area. Merchandise or equipment may be displayed and offered for sale, rental or lease outside the confines of a completely enclosed building ("temporary outdoor display area") for a combined time period of sixty (60) days or less of a calendar year provided the temporary outdoor display area:
(1) Is screened from public roads and adjacent land uses.

(2) Does not encompass an area greater than two percent (2%) of the base area of an enclosed building located on the lot on which the temporary outdoor display area is situated.

(3) Does not obstruct pedestrian use of a private sidewalk at least 5’ wide.

(4) Is not located within the required front, rear or side yard setback of the lot on which it is located.

(5) Is not located in the required parking except:
   a. Not more than one-half of one percent (.005) of the required parking stalls may be utilized for the temporary outdoor display area.
   b. No drive isle is utilized for the temporary outdoor display area.

(6) Is not located on public sidewalks or streets.

(7) Is not located on a vacant lot.

(b) Permanent outdoor display area. Merchandise or equipment may be displayed and offered for sale, rental or lease within, but outside the confines of that part of the completely enclosed building, of which it is a part ("permanent outdoor display area") for a combined time period of sixty (60) days or greater of a calendar year provided:

   (1) The building of which the permanent outdoor display area is a part does not exceed the base area ratio or floor area ratio permitted in the Commercial District.

   (2) Material or equipment must be screened from public roads and adjacent land uses with a wall of the building.

   (3) The permanent outdoor display area may not encompass an area greater than six percent (6%) of the base area of the completely enclosed building.

(c) A temporary outdoor display area and permanent outdoor display area may not encompass an area greater than seven percent (7%) of the base area of the completely enclosed building.

Source: Ordinance No. 51-94
Effective Date: 1-26-95
Prev. Ordinance No. 3-91
Effective Date: 4-4-91

(d) Exemption. The 60 day time period in this Section shall not apply to farmers who sell produce from the farm on land occupied and cultivated by themselves. For the purpose of this Section only, "farmer" shall be defined as one who engages, as an occupation, in farming operations as a distinct activity for the purpose of producing a farm crop.

Source: Ordinance No. 12-2003
Effective Date: 5-15-03
3. The parking or storing of recreational vehicles outside of an enclosed building or structure in all One-Family Residential Districts and all Multi-Family Residential Districts is prohibited, except as hereafter provided.

(a) No more than 2 recreational vehicles may be stored or parked outside upon a lot.

(b) Recreational vehicles not greater than 12 feet in height may be parked or stored on (i) that part of a front yard of a lot occupied by a driveway, provided no part of a recreational vehicle may be closer than 15 feet from the traveled portion of a street, (ii) that part of a side yard or rear yard of a lot not situated within 10 feet of a lot line, or (iii) that part of a side yard within 10 feet of a lot line which (a) abuts a front yard, (b) is occupied by a driveway, and (c) is not within 15 feet of the traveled portion of a street. In addition to the general 12-foot height permitted, minor portions of accessory equipment not exceeding four square feet in vertical cross-section as viewed from the adjacent lot line is permitted.

(c) Recreational vehicles parked or stored outside for a period in excess of 14 days must be owned by a person residing on the lot.

(d) All recreation vehicles parked or stored outside must be in a safe, operable condition and exhibit current license or registration plates or tags if the vehicle is one for which a license or registration plate or tag is required by law for its operation.

(e) No recreational vehicle shall be used for living, sleeping, or housekeeping purposes when parked or stored in a One-Family Residential District or a Multi-Family Residential District.

(f) A recreational vehicle must not be parked or stored over or upon a bikeway, pathway, or sidewalk.

Source: Ordinance No. 22-88
Effective Date: 4-27-89

4. No storage or display of any type is permitted in any Commercial or Industrial District within the one-half of the front or side street setback nearest the street nor within any side or rear setback.

Source: Ordinance No. 3-91
Effective Date: 4-5-91

K. Architectural Standards. All structures within all districts, except Rural, R1-44, R1-22, R1-13.5, R1-9.5, RM-6.5, and Park and Open Space, shall be developed in accordance with the following design standards:

Source: Ordinance No. 17-2017
Effective Date: 9-28-2017

Source: Ordinance No. 25-2016
Effective Date: 10-27-2016

1. Purpose. By adoption of Architectural Standards, the City intends to promote high quality development through aesthetics and functionality. This section applies to all building facades and exterior wall that are or planned to be visible to neighboring properties or the public. The standards are intended to encourage creativity and diversity of design and construction so that structures a) endure over time; b) provide visual enhancement to the City; c) use environmentally sustainable materials and patterns; and d) incorporate design characteristics that enhance the site at the human scale. The City’s Design Guidelines provide further reference to the intent of the Architectural Standards.
2. Architectural plans shall be prepared by a registered architect and include: 1) elevations of all sides of the building; 2) type and color of exterior building materials; 3) a typical floor plan and dimensions of all structures; 4) location of trash containers, heating, air conditioning and ventilation systems; 5) proposed screening of trash containers, heating, air conditioning and ventilation systems.

Source: Ordinance No. 29-2016
Effective Date: 12-15-16


(a) In Districts N-Com, C-Com, C-Reg, C-Reg-Ser, C-Hwy, Ofc, Pub A-C, A-OFC, TC-C, TC-R, TC-MU, and RM-2.5, TOD-R, TOD-E, TOD-MU, and GC a minimum of seventy-five percent, (75%), of each façade of the exterior building finish shall consist of at least three (3) contrasting, yet complementary materials, with at least one (1) color variation therein, materials comparable in grade and quality to the following Class 1 materials: 1) face brick; 2) natural stone; 3) glass; 4) Cast Stone; 5) Cultured Stone; 6) Architectural Precast; 7) Precast Concrete Panel with an exposed aggregate of granite, marble, limestone, or other natural stone material with at least two architectural reveals per panel; and 8) other materials equal to or better than these listed above, submitted with specifications for installation and maintenance per industry standard and as approved by the City Planner. Fiber Cement Siding is allowed as a Class I material in the RM-2.5 district only.

i. Fewer than three (3) materials may be used if three (3) or more color variations are included in those materials.

ii. Use of brick, natural stone and glass may be considered as one of several grounds upon which the City Council may grant waivers from Exterior Building requirements through the PUD process.

iii. Thin brick may be used in place of full brick only when it is integrally cast or connected to the substrait with mortar or grout, and not applied post-casting. Painted brick is prohibited. Thin brick is excluded from the waiver opportunity in section 3(a) ii.

iv. In the Commercial (C), Office, TC, TOD, and PUB districts, only Class 1 materials shall be used in the ground level of the building.

(b) In Districts I-2, I-5, and I-Gen, a minimum of seventy-five percent, (75%), of each façade of the exterior building finish shall consist of at least two (2) contrasting, yet complementary materials, with at least one (1) color variation therein, comparable in grade and quality to the following Class I materials: 1) face brick; 2) natural stone; 3) glass; 4) specially designed precast concrete units if the surfaces have been integrally treated with an applied decorative material or texture and smooth concrete block if scored at least twice; 5) rock face; 6) Cast Stone; 7) Cultured Stone; 8) Architectural Precast; 9) Precast Concrete Panel with an exposed aggregate of granite, marble, limestone, or other natural stone material with at least two architectural reveals per panel; and 10) other materials equal to or better than these listed above, submitted with specifications for installation and maintenance per industry standard and as approved by the City Planner.
i. If glass is included as one of the two materials, the other material is required to have no less than two (2) distinct color variations.

ii. Use of brick, natural stone and glass may be considered as one of several grounds upon which the City Council may grant waivers from Exterior Building requirements through the PUD process.

iii. Thin brick may be used in place of full brick only when it is integrally cast or connected to the substrait with mortar or grout, and not applied post-casting. Painted brick is prohibited. Thin brick is excluded from the waiver opportunity in section 3(b) ii.

iv. In the Industrial (I) districts, only Class 1 materials shall be used in the ground level of the building.

(c) In all districts except Rural, R1-44, R1-22, R1-13.5, R1-9.5, and RM-6.5, other materials including but not limited to the following Class II materials: wood, stucco, vinyl, metal, plastic, External Insulation and Finish System (EIFS) or a combination of all these materials or materials equal to or better than these listed above, submitted with specifications for installation and maintenance per industry standards and as approved by the City Planner, shall not comprise more than twenty-five percent, (25%), of each façade of a building’s exterior finish. Vinyl, plastic, wood or a combination thereof, shall only be permitted as trim or edging material.

4. Building Articulation. In addition to the materials requirements as listed in this section, architectural design elements will be required in the review of building and site plans.

(a) Façade Articulation. Any building façade exceeding forty (40) feet (80 feet in I-2, I-5, I-Gen) in length shall be designed with recesses or projections of a minimum of four inches (4”) in depth in the building façade, material changes, or other methods of building articulation that break down the perceived scale of the building or create visual interest. Rear yard dock walls shall be exempt from this provision.

(b) Distinct Ground Level(s). The ground level of any three-story structure (or a structure over thirty-two (32) feet in height) shall be visually distinct from the upper stories. The first two stories of structures four stories and taller shall be visually distinct from the upper stories. The distinction shall be articulated by at least one of the following: an intermediate cornice line; an awning arcade or portico; a change in building materials, texture or detailing; a change in window shape or treatment; or other elements which meet the objective.

(c) Façade Transparency. In districts N-Com and C-Com fifty percent (50%) of the first floor façade that is viewed by the public shall be designed to include windows and/or doors to minimize expanses of blank walls. Windows shall be designed to allow transparency between the interior of the building and exterior environment. If the building is a one-story design and the first floor elevation exceeds twelve (12) feet, then only the first twelve (12) feet in building height shall be included in calculating the façade area. The remaining fifty percent (50%) of the first floor façade that is viewed by the public shall be designed to include any or all of the following: landscape materials (plant material, vertical trellis with vines, planter boxes, etc.); and/or architectural detailing and articulation that provides texture on the façade and/or parking structure openings. Buildings located more than one hundred fifty (150) feet from a public right of way shall be exempt from these requirements. Facades that provide interior storage areas are also exempt from these requirements.
(d) Building Entrances: Primary building entrances shall be clearly defined and highly visible utilizing design features such as protruding or recessed entryways, awnings, canopies, pillars, unique building materials, exterior lighting, and/or architectural details.

(e) Roofline Variation: Rooflines add visual interest to the streetscape, reduce the mass of the structure, and create continuity between structures. Roofline variation shall be achieved using one or more of the following methods:

i. Vertical off-set of parapet, cap, or cornice line;

ii. Horizontal off-set of parapet, cap or cornice line;

iii. Variations of roof pitch;

iv. Gables, dormers, hips, sheds. Vaults or other similar roof forms; or

v. Any other technique approved by the City that achieves the intent of this section.

5. In all districts except Rural, R1-44, R1-22, R1-13.5, R1-9.5, and RM-6.5, wood stucco, vinyl, metal, plastic or a combination of all these materials, shall not comprise more than twenty-five percent, (25%), of a building's exterior finish.

Source: Ordinance No. 9-87
Effective Date: 5-7-87

Prev. Ordinance No. 72-84
Effective Date: 4-5-84

L. Garage Sales shall comply with the following conditions:

1. Garage sales may occur only on properties zoned Rural, R1 and RM that are improved with a dwelling unit or units erected and which have been issued a Certificate of Occupancy.

2. No more than four (4) garage sales may occur at a dwelling in a twelve (12) month period.

3. No sale shall exceed a period of four (4) consecutive days.

4. Garage sale signs must comply with Section 11.70 entitled sign permits.

Source: Ordinance No. 9-2009
Effective Date: 10-15-2009

M. Trash and Recycling. Implementation of a trash enclosure plan shall be required prior to issuance of any occupancy permit for a property located in zoning districts RM 2-5, OFC, I-2, I-5, I-Gen, C-Com, N-Com, C-Reg, C-Reg-Ser, C-Hwy, TC, TOD-E, TOD-R, TOD-MU, PUB, GC, A-C and A-OFC. This Section 11.03 Subd. 3, M is applicable to all properties which have been issued a building permit for new construction after the effective date of the ordinance.

Source: Ordinance No. 25-2016
Effective Date: 10-27-2016

1. Trash and Recycling Enclosure: All recyclable waste shall be kept within a completely enclosed building or within a trash enclosure constructed with materials consistent with Architectural Standards 11.03, Subd. 2, K. 2 to match the building with a roof and solid wood or metal gates that completely screen the interior of the enclosure.
2. Trash and Recycling Location: All trash, trash receptacles and recycling bins shall meet the setbacks for the underlying zoning district.

Source: Ordinance No. 10-2010
Effective Date: 06-24-2010

N. Sculptures and Statuary.

1. Setbacks. In all zoning districts accessory structures must meet the required setbacks, except for the following:
   (a) The front yard setback for sculptures and statuary is 10 feet in the residential, office, industrial, golf course, airport and public districts.
   (b) The front yard setback for statuary and sculptures is 20 feet in the commercial districts.

2. Height. In all zoning districts the maximum height allowed for sculptures and statuary is 15 feet.

3. One sculpture or statuary per street frontage in the commercial, office, industrial, public, and airport zoning districts.

Source: Ordinance No. 20-2013
Effective Date: 12-12-2013

Subd. 4. Performance Standards. Uses which because of the nature of their operation are accompanied by an excess of noise, vibration, dust, dirt, smoke, odor, noxious gases, glare or wastes shall not be permitted. These standards shall be considered "excessive when they exceed or deviate from the limitations set forth in the following performance specifications:

A. Vibration. No activity or operation shall at any time cause earth vibrations perceptible beyond the limits of the immediate site on which the operation is located.

B. Dust and Dirt. Solid or liquid particles shall not be emitted at any point in concentrations exceeding 0.3 grains per cubic foot of the conveying gas or air. For measurement of the amount of particles in gases resulting from combustion, standard corrections shall be applied to a stack temperature of 500 degrees Fahrenheit and 50% excess air.

C. Smoke. Measurement shall be at the point of emission. The Ringelman Smoke Chart published by the United States Bureau of Mines shall be used for the measurement of smoke. Smoke not darker or more opaque than No. 1 of said chart may be emitted, provided that smoke not darker or more opaque than No. 2 of said chart may be emitted for periods not longer than four minutes in any 30-minute period. These provisions, applicable to visible grey smoke, shall also apply to visible smoke of a different color but with an equivalent apparent opacity.

D. Odor. No activity or operation shall cause at any time the discharge of toxic, noxious, or odorous matter beyond the limited of the immediate site where it is located in such concentrations as to be detrimental to or endanger the public health, welfare, comfort or safety or cause injury to property or business.

E. Glare. Glare, whether direct or reflected, such as from spotlights or high temperature processes, and as differentiated from general illumination, shall not be visible beyond the limits of the immediate site from which it originates. Glare and Lighting illumination in the Park and Open Space District are exempted from these requirements. Glare and Lighting illumination standards for the Park and Open Space District are set forth in Section 11.37.
Lighting illumination shall not exceed 0.5 foot candles measured at the property line. Pole lighting height shall not exceed 25 feet measured at natural grade. Pole lighting in the interior portion of a parking lot shall be located within a parking island. Site lighting for athletic fields, public facilities, and parks is exempt.

Source: Ordinance No. 25-2016
Effective Date: 10-27-2016

F. Wastes. All solid waste material, debris, refuse, or garbage shall be kept within a completely enclosed building or properly contained in a closed container designed for such purpose. All liquid wastes containing any organic or toxic matter shall be discharged with into a public sanitary sewer or treated in a manner prescribed by the City. The rate of liquid waste discharge into the City sanitary sewerage system shall not exceed 200 gallons per site acre per hour between the hours of 9:00 o’clock a.m. and noon. Use for the dumping or storage above ground or under the surface of chemical waste and other hazardous waste products will not be permitted because of the potential hazards that may be created to public health, safety, and welfare in all Districts.

Source: Ordinance No. 35-94
Effective Date: 9-30-94

Subd. 5. Performance Standards - Tests.

A. By Owner. In order to assure compliance with the performance standards set forth above, the Council may require the owner or operator of any permitted use to have made such investigations and tests as may be required to show adherence to the performance standards. Such investigation and tests as are required to be made shall be carried out by an independent testing organization as may be agreed upon by all parties concerned, or if there is failure to agree, by such independent testing organization as may be selected by the Council after 30 days notice. The costs incurred in having such investigations and tests conducted shall be shared equally by the owner or operator and the City, unless the investigation and tests disclose noncompliance with the performance standards, in which event the entire investigation or testing cost shall be paid by the owner or operator.

B. By City. The procedure above stated shall not preclude the City from making any tests and investigations it finds appropriate to determine compliance with these performance standards.

Source: City Code
Effective Date: 9-17-82

Subd. 6. Site Plan and Architectural Design Review.

A. Approval Required. No building permit, or land alteration permit for a parking lot, shall be issued for the construction of any (i) building, structure or parking area situated or to be constructed within any District, except, (a) those within the Rural District or One-Family Residential Districts except as provided below in subsection A.(iii) and (b) duplexes (dwellings designed for or occupied by two families), or (ii) building or structure constituting a public infrastructure, situated or to be constructed within any District, including but not limited to Rural and One-Family Residential Districts except as provided below in subsection A.(iii), unless it shall conform to a Site Plan and Architectural Design as described in C. hereof, or an amendment thereof, which has been approved by the Council and such approval is effective as hereinafter provided. (iii) No Wireless Support Structure conditional use permit shall be issued for a use within the One-Family Residential Districts unless it shall conform to a Site Plan and Architectural Design as described in C. hereof, or an amendment thereof, which has been approved by the City Planner and such approval is effective as hereinafter provided.

Source: Ordinance No. 17-2017
Effective Date: 9-28-2017
No building permit, or land alteration permit for a parking lot, shall be issued for the construction of an alteration or enlargement of a (i) building, structure or parking area situated within any District, except, (a) those within the Rural District or One-Family Residential Districts, and (b) duplexes (dwellings designed for or occupied by two families), or (ii) building or structure constituting a public infrastructure, including but not limited to Rural and One-Family Residential Districts, unless it shall conform to a Site Plan and Architectural Design as described in C. hereof, or an amendment thereof, which has been approved by the Council or the City Planner in accordance with the criteria set forth in Section 11.03, Subd 6. D and such approval is effective as herein after provided.

Source: Ordinance No. 1-16  
Effective Date: 1-14-16

Source: Ordinance No. 25-89  
Effective Date: 8-17-89

Source: Ordinance No. 1-89  
Effective Date: 3-9-89

B. Exceptions. The provisions of this subdivision shall not apply to the issuance of a building permit for (a) a building or structure to be built or constructed on land in conformity with a Site Plan approved prior to February 21, 1989, but not more than two years prior to issuance of the building permit by the City Council in connection with the rezoning or platting of the land, or (b) the building or alteration of an antenna or tower except an antenna or tower which is greater than eighty (80) feet in height.

Source: Ordinance No. 1-16  
Effective Date: 1-14-2016

Source: Ordinance No. 27-97  
Effective Date: 6-13-97

Source: Ordinance No. 1-89  
Effective Date: 3-9-89

C. The terms "Site Plan and Architectural Design" as used in this subdivision mean a plan produced in written, graphic and/or pictorial form prepared by a registered architect, landscape architect or engineer which shall include the following: (1) a detailed natural systems analysis which documents existing physical features such as vegetation, soil types, slopes, hydrologic systems, wildlife, and ecology, (2) proposed construction of all site alterations including grading, drainage, utilities, and storm sewer, (3) building locations, (4) landscaping and screening, (5) lighting, (6) plans for all pylon, monument, and building signs, (7) an architectural plan of the exterior of the building or structure intended to be constructed, altered, or enlarged situated on the site depicting the building elevation, including its height from the surface of the ground in its altered or finished condition; its width and depth, its location in relation to the land on which it is situated, and its external appearance such as materials, texture and color, and (8) such other information as may reasonably be required by the City.

D. The owner of property for which approval of a Site Plan and Architectural Design is required by this subdivision may apply for Site Plan and Architectural Design review and approval by filing an application with the City Planner on the form provided by the City Planner and containing the information required by such form accompanied by a Site Plan and Architectural Design, together with such further information as may reasonably be required by the City Planner.

The City Planner shall determine the level of review required for a new or amended Site Plan and Architectural Design based on the criteria set forth below. The City Planner may determine to refer an application to the City multi-department staff “Development Review Committee” for review and recommendation to the City Planner:

1. The following are considered administrative amendments to an approved Site Plan and Architectural Design and shall be subject to review and approval by the City Planner.
a. Reduction of parking which meets City Code requirements for size, number and aisle width.
Reconfiguration of parking meeting City Code requirements for size, number and aisle width.

b. Changes to landscaping type, location and species that do not fall below the site requirements.

2. The following are considered Minor Amendments to an approved Site Plan and Architectural Design and shall be subject to review and consideration for approval by the City Council only without referral to the Planning Commission:

a. Alterations which are code compliant and are 10% or less of the Gross Floor Area of a building or 2,000 square feet whichever is less. The expansion or reduction shall be the cumulative total and/or cumulative reduction after adoption of this amendment to this Section 11.03, Subd. 6. D. 2. A.

b. Façade remodels which are code compliant.

3. All other amendments and alterations to an approved Site Plan and Architectural Design, are considered Major Amendments and are subject to review in accordance with Section 11.03, Subd. 6, E and F.

4. All new buildings, structures, and parking areas and all alterations to existing buildings, structures and parking areas that do not have an approved Site Plan and Architectural Design are subject to review in accordance with Section 11.03, Subd. 6, E and F.

A Zoning Certificate and Certificate of Occupancy shall be required in accordance with City Code Section 11.77.

Source: Ordinance No. 1-2016
Effective Date: 1-14-2016

E. A Site Plan and Architectural Design may be evaluated according to its compliance with the following standards and provisions:

1. Adherence to, and consistency with, the City's policies and objectives as reflected in the Comprehensive Guide Plan and City Design Guidelines.

2. Adherence to, and consistency with, the City's Code relating to zoning and the subdivision of land.

3. The preservation and enhancement of the natural and built environment as well as those modifications already effected by development and construction upon the land, including the minimization of: tree loss, soil removal, wetland, floodplain, lake and creek encroachment; and the maintenance of the general natural topography or physical grade of the land consistent with that of adjoining properties.

4. Maintenance of open space to provide a desirable environment both for occupants of the site and the general public.

5. Transitions where there are differences in land use, building mass, height, densities, and site intensity, in proximity to that which is the subject of the Site Plan and Architectural Design. Transitions may be accomplished by increased setbacks, berming, plantings, larger lot sizes, lower densities, lower flood area ratios, and smaller buildings.
6. Provision for safe and convenient vehicle and pedestrian traffic, including interior drives and parking arrangements which facilitate clear access to public streets, appropriate widths for drives and access points, and the separation of vehicular and pedestrian traffic.

7. The minimization of negative impacts upon other land uses of surface water run-off, noise, glare, odors, vibrations, dust, loading areas, parking areas, and refuse areas.

8. Compatibility of materials, textures, colors, and other construction details with other structures and uses in the vicinity.

9. Such other conditions and criteria as are reasonably related to the health, safety and welfare of the residents of the City and to preservation of the environment.

Source: Ordinance No. 1-89
Effective Date: 3-9-89

10. Preservation of Heritage Preservation Sites as designated by the Council pursuant to Section 11.05 and adherence to, and consistency with, the City's policies and objectives as reflected in the Heritage Preservation Site Program.

Source: Ordinance No. 38-90
Effective Date: 12-7-90

F. Except as provided for in Subd 6, D. 1. and 2. a Site Plan and Architectural Design shall not be acted upon by the Council until it has received the recommendation of the Planning Commission or until sixty (60) days have elapsed from the date it has been referred to the Planning Commission for its study and report. Site Plans for City owned park property may not be acted upon by the Council until it has received the recommendation of the Parks, Recreation and Natural Resources Commission or until sixty (60) days have elapsed from the date it have been referred to the Parks, Recreation and Natural Resources Commission for its study and report.

Source: Ordinance No. 17-2017
Effective Date: 9-28-2017
Source: Ordinance No. 1-2016
Effective Date: 1-14-2016

No approval shall be given until a public hearing has been held thereon by the Council. A notice of the time, place and purpose of the hearing shall be published in the official newspaper of the City at least ten (10) days before the day of the hearing. A notice shall be mailed at least ten (10) days before the day of the hearing to each owner of property situated wholly or partly within five hundred (500) feet of the property to which the requested approval relates. For the purpose of giving mailed notice, any appropriate records to determine the names and addresses of owners may be used. A copy of the notice and list of the owners and addresses to which the notice was sent shall be attested to by the person giving the notice and shall be made a part of the records of the proceeding. The failure to give mailed notice to the property owners or defects in the notice shall not invalidate the proceeding provided a bonafide attempt to comply with this provision has been made.

Approval of the Council shall require a two-thirds vote of all the members of the Council.

Source: Ordinance No. 27-97
Effective Date: 6-13-97
Source: Ordinance No. 1-89
Effective Date: 3-9-89
SECTION 11.04. LIMITATION ON USES.

Uses in each District established in this Chapter shall be limited to those permitted uses authorized, and then only under the standards and conditions which are also stated herein.

Source: Ordinance No. 72-84  
Effective Date: 4-5-84

SECTION 11.05. HERITAGE PRESERVATION SITES.

Subd. 1. Declaration of Public Policy and Purpose. The Council of the City of Eden Prairie (hereinafter the "Council") declares as a matter of public policy that the preservation, protection, perpetuation and use of areas, places, buildings, structures, and other objects have historic, aesthetic or community interest or value, benefits the health, prosperity, education and welfare of the community. The purposes of this chapter are to: (1) Safeguard the heritage of the City by preserving sites and structures which reflect significant elements of the City's cultural, social, economic, political, visual or architectural history; (2) Promote the preservation and continued use of historic sites and structures for the education and general welfare of the people of the City; and (3) Foster civic pride in the beauty and notable accomplishments of the past.

Subd. 2. Definitions.

A. The following terms, as used in this Section, shall have the following meanings:

1. Alteration – means any act or process which changes one (1) or more of the exterior architectural features of a building, or landform.

2. Archaeological resources – means archaeological artifacts, objects, or sites as defined in regulations promulgated under the Archeological Resources Protection Act of 1979, 16 USC Section 470.

3. Building – means an enclosed structure with walls and a roof, consciously created to serve a residential, industrial, commercial, agricultural, or other human use.

4. Certificate of Appropriateness – means a certificate issued by the City Council authorizing alteration, construction, restoration, relocation or demolition of a designated Heritage Preservation Site in accordance with the provisions of this Chapter.


6. Cultural resource – means a building, object, monument, structure, site or geographically definable area, such as an historic district or archaeology site that possesses a significant concentration, linkage or continuity of historically significant resources.

7. Demolition – means any act or process that destroys in part or in whole a cultural resource including the removal of any material constituting part of a structure other than for the purposes of ordinary maintenance or repair, which if removed affects the exterior appearance of the structure, which reduces the stability or longevity of the structure and impairs its historic or architectural integrity.

8. Demolition by neglect – means any total or partial destruction of or damage to a structure or any portion thereof due to failure to adequately maintain or repair the structure.

9. Exterior appearance – means the design, architectural style, general arrangement, ornament, character and general composition of the exterior of a cultural resource, including but not limited to the kind,
color and texture of the building material and type, design, style and character of all windows, doors, light fixtures, signs and appurtenant elements.

10. Historic District – means a geographically definable area designated by the City Council conveying a sense of time and place due to the historic and architectural merits of the area. A historic district may also comprise contributing and noncontributing elements separated geographically but linked by association or history.

11. Integrity – means the authenticity of a cultural resource’s historical identity evidenced by its survival of physical characteristics that existed during the property’s historic or prehistoric period.

12. Maintenance – means all activities necessary to prolong the useful life and aesthetic appearance of a cultural resource.

13. Minor work – means small scale repairs and ordinary maintenance to correct problems or damage to the exterior that does not include a change in design, material, or outward appearance of the cultural resource. Examples of minor work include, but are not limited to, touch-up painting, window and door repair, caulking, fastening loose materials and roofing repairs.

14. National Register of Historic Places – means the national list of districts, sites, buildings, structures and objects significant in American history, architecture, archaeology, engineering or culture maintained by the Secretary of the Interior under authority of Title 16 USC, Section 101(a)(1)(A) (National Historic Preservation Act) as amended

15. Object – means a material item of functional, aesthetic, cultural, historical, or scientific value that may be, by nature or design, movable yet related to a specific setting or environment.

16. Preservation – means the identification, evaluation, recordation, documentation, curation, acquisition, protection, management, rehabilitation, restoration, stabilization, maintenance and reconstruction of cultural resources. For the purposes of development of cultural resources, preservation means the act or process of applying measures to sustain the existing form, integrity and material of a building or structure and the existing form and vegetative cover of a site. It may include initial stabilization work, where necessary, as well as ongoing maintenance of the historic building materials.

17. Protection – means the act or process of applying measures designated to affect the physical condition of a cultural resource by defending or guarding it from deterioration, loss, or to cover or shield the cultural resource from danger or injury. In the case of buildings and structures, such treatment is generally of a temporary nature and anticipates future historic preservation treatment; in the case of archaeological sites, the protective measure may be temporary or permanent.

18. Reconstruction – means the act or process of reproducing by new construction the exact form and detail of a vanished cultural resource, or part thereof, as it appeared at a specific period of time.

19. Rehabilitation – means the act or process of returning a cultural resource to a state of utility through repair or alteration which makes possible an efficient contemporary use while preserving those portions or features of the cultural resource which are significant to its historical, architectural and cultural values.

20. Repair – means the replacement of deteriorated materials which are impractical to save, such as broken window glass or severely rotted wood and the reclamation of items worn to the point that they can no longer perform their intended function. Material used for repairs on cultural resources should be as close as possible to the original in composition of materials, in method of fabrication and in manner of erection.
21. Restoration – means the act or process of accurately recovering the form and details of a cultural resource and its setting as it appeared at a particular period of time by means of the removal of later work or by replacement of missing earlier work.

22. Secretary of Interior Standards for treatment of historic properties – means the preservation, rehabilitation, restoration and reconstruction standards adopted by the U.S. Department of Interior codified in 36 CFR Part 68, as may be amended from time to time.

23. Site – means the location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing or vanished, where the location itself maintains historical or archaeological value regardless of the value of any existing structure.

24. Stabilization – means the act or process of applying measures designed to reestablish a weather resistant enclosure and the structural stability of an unsafe or deteriorated cultural resource while maintaining the essential form as it exists at present.

25. Structure – means a constructed work, usually immovable by nature or design, consciously created to serve some human activity. Examples are buildings of various kinds, monuments, dams, roads, railroad tracks, canals, millraces, bridges, tunnels, locomotives, nautical vessels, stockades, forts and associated earthworks, Indian mounds, ruins, fences, and outdoor sculpture. For purposes of Section 11.05 “structure” is limited to functional constructions other than buildings.

Subd. 3. Designation of Heritage Preservation Sites.

A. Reports. The Council may direct the City staff to prepare studies which catalog buildings, land, areas, historic districts or other objects to be considered for designation as a Heritage Preservation Site.

B. Criteria for Eligibility. The Commission shall recommend to the Council that an area, building, historic district, or object be designated a Heritage Preservation Site, when: (i) the quality in American history, architecture, archaeology, engineering, and culture is present in the historic district, site, building, structure or object and (ii) the historic district, site, building structure or object possess integrity of location, design, setting, materials, workmanship, feeling, and association and (iii) the historic district, site, building, structure or object meets one or more of the criteria listed below.

1. It is associated with events that have made a significant contribution to the broad patterns of our history; or

2. It is associated with the lives of persons significant in our past; or

3. It embodies the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or

4. It has yielded or may be likely to yield, information important in prehistory or history.

C. Planning Commission Review. The Commission shall advise the Planning Commission of the proposed designation of a Heritage Preservation Site, including boundaries, and a program for the preservation of a Heritage Preservation Site, and secure the Planning Commission's recommendation with respect to the relationship of the proposed heritage preservation designation to the Comprehensive Plan of the City, and the City Planning Commission's opinion as to the effect of the proposed designation upon the surrounding neighborhood and any other planning consideration which may be relevant to the proposed designation. The Commission may make such modifications, changes, and alterations concerning the proposed designation as it
deems necessary in consideration of the recommendation and opinion of the Planning Commission. The Planning Commission shall also give its recommendation of approval, rejection or modification of the proposed designation to the Council.

D. Communications with State Historical Society. A copy of the Commission’s proposed designation of a Heritage Preservation Site, including boundaries, and a program for the preservation of a Heritage Preservation Site, when received by the City, shall be sent to the State Historical Society in accordance with Minnesota Statutes.

E. Findings and Recommendations. The Commission shall make findings as to whether a proposed Heritage Preservation Site is eligible for heritage preservation as determined by the criteria specified in Paragraph B of this subdivision. If the Commission determines the site meets the criteria in Paragraph B, it shall forward its findings to the Council with its recommendation that the site be designated for heritage preservation and its proposed program for the preservation of the site.

F. Council Designation. The Council shall consider the Commission’s recommendation that a site be designated for Heritage Preservation, together with the Planning Commission's recommendations, and may, upon the request of the Commission, by ordinance designate a Heritage Preservation Site.

Subd. 4. Amendment or Recession of Designation. A Heritage Preservation Site designation may be amended or rescinded following the same process for the original designation.

Subd. 5. Suffix “HP.” For purposes solely of identification, a site designated by ordinance as a Heritage Preservation Site may be identified with the suffix “HP” following its underlying zoning classification and any other overlay zoning.

Subd. 6. Heritage Site Preservation Plan and Hearings.

A. Within such time as is established by the City Council following City Council approval of the Heritage Preservation Site designation, the applicant shall prepare and submit to the Commission for approval a Heritage Site Preservation Plan, which sets forth necessary preservation guidelines, including identification of significant features.

B. Hearings. Prior to the Commission recommending to the Council any building, historic district, or object for designation as a Heritage Preservation Site, the Commission shall hold a public hearing on the proposed designation. Prior to such hearing, the Commission shall cause to be published in a newspaper of general circulation notice of the hearing at least ten (10) days prior to the date of the hearing, and notice of the hearing shall be sent to all owners of the property proposed to be designated a Heritage Preservation Site and to all property owners within three hundred fifty (350) feet of the boundary of the area to be designated a Heritage Preservation Site.

Subd. 7. Additional Powers and Duties of the Commission.

A. The Commission may recommend to the Council after review and comment by the City Planning Commission, that certain property eligible for designation as a Heritage Preservation Site be acquired by gift, negotiation or by eminent domain as provided for in Chapter 117 of the Minnesota Statutes.

B. The Commission shall have the powers and duties specified in Chapter 2, Section 2.18 in addition to those otherwise specified in this chapter.

Subd. 8. Alterations.

A. A Certificate of Appropriateness is required to do any of the following to a Heritage Preservation Site:

1. Remodel, alter, or substantially change the exterior appearance of a historic building, site or landmark.
2. Erect a building or any structure.

3. Erect signs.

4. Move from or to any building.

5. Demolish any building in whole or in part. This does not apply to structures to be demolished in accordance with Minnesota Statutes, Chapter 463.

6. Alter or remove a land form in whole or in part.

The application for a Certificate of Appropriateness shall be accompanied by detailed plans including a site plan, building elevations and design details, and materials necessary to evaluate the request. The Council shall make the determination whether to approve or disapprove the permit.

B. Commission recommendation. The Commission shall review each application and make its recommendation to the Council relative to the request for a Certificate of Appropriateness. The Commission shall also review and make recommendations to the Council concerning City sponsored construction projects or development projects aided by the City that could change the nature or appearance of a Heritage Preservation Site.

C. Criteria for Certificate of Appropriateness. All recommendations by the Commission and decisions by the Council to approve, disapprove, and/or impose conditions on a Certificate of Appropriateness shall be in accordance with the program approved by the Council and the State Historical Society for each Heritage Preservation Site. The following General Standards for Historic Preservation Projects issued by the Secretary of the Interior shall be used to evaluate applications of Certificate of Appropriateness:

1. Every reasonable effort shall be made to provide a compatible use for a property which requires minimal alteration of the building, structure, or site and its environment, or to use a property for its originally intended purpose.

2. The distinguishing original qualities or character of a building, structure or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive features should be avoided when possible.

3. All buildings, structures and sites shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier appearance shall be discouraged.

4. Changes which have taken place in the course of time are evidence of the history and development of a building, structure or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.

5. Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure, or site shall be treated with sensitivity.

6. Deteriorated architectural features shall be repaired rather than replaced, whenever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historic, physical, or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.
7. The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage historic building materials shall not be undertaken.

8. Every reasonable effort shall be made to protect and preserve archeological resources affected by, or adjacent to, any acquisition, stabilization, preservation, rehabilitation, restoration or reconstruction project.

9. The Commission and the Council shall also consider, when appropriate, the Secretary of the Interior's Specific Standards for Preservation Projects.

D. Criteria for Certificate of Appropriateness for Demolition of Historic Preservation Site. In addition to the criteria listed in Subd. 7. C, the following criteria shall also apply to an application for demolition of a Heritage Preservation Site. A Certificate of Appropriateness for the demolition or partial demolition of a historic resource shall not be granted without the review and approval of a completed application. The review shall consider the following:

1. The public’s interest in the preservation of the cultural resource.

2. The ability of the cultural resource to reasonably meet the National, State or local criteria for designation as a Heritage Preservation Site.

3. The age of the cultural resource, its significant features, unusual or uncommon design, texture, and/or material and its ability to be reproduced without unreasonable difficulty and/or expense.

4. The ability of the cultural resource to help preserve and protect a historic place or prehistoric site or area of historic interest in the City.

5. The ability of the historic resource to promote the general welfare of the City by:
   a. encouraging the study of American history, architecture and design;
   b. by developing an understanding of the importance and value of the American culture and heritage;
   and
   c. by making the City a more attractive and desirable place in which to live.

6. The cost and economic feasibility of restoring the cultural resource.

E. No owner or any other person shall demolish or undertake to demolish a Heritage Preservation Site without a Certificate of Appropriateness.

F. Findings. The Council shall make findings as to whether a Certificate of Appropriateness application should be approved or disapproved, or conditions imposed, as determined by the criteria specified in Paragraphs C and D of this subdivision.

G. Hearings. Prior to the Council making its decision regarding an application for a Certificate of Appropriateness for a Heritage Preservation Site, the Council shall hold a public hearing on the application. Prior to such hearing the Council shall cause to be published in a newspaper of general circulation notice of the hearing at least ten (10) days prior to the date of the hearing, and notice of the hearing shall be sent to all owners of the property for which a Heritage Preservation Site Certificate of Appropriateness application has been submitted and to all property owners within three hundred fifty (350) feet of such property.
H. Limitations. If within sixty (60) days from the filing of a completed application for a Certificate of Appropriateness for site alteration the Commission has not made a recommendation of approval or disapproval to the Council, the application shall be forwarded to the Council for approval or disapproval of the permit without the Commission’s recommendation.

Subd. 9. Minor Work.
A. Nothing in this section shall be construed to prevent minor work. Minor work does not require a Certificate of Appropriateness. The criteria set forth in Subdivision 8 C shall be followed to the extent practicable.
B. Minor work should replace like-with-like, using the same materials and the same construction methods as originally used.

Subd. 10. Archaeological Resources and Traditional Cultural Properties. Special Consideration. The City’s archaeological resources are part of its heritage and community fabric. These resources are important to the City’s past and are irreplaceable and need to be protected from deterioration and site damage. Though considered historic resources under this ordinance, the City acknowledges that archaeological resources have distinct differences. The City shall maintain an inventory of known archaeology sites and potentially sensitive areas.

Subd. 11. Demolition
A. Except as otherwise provided in this Section, the Building Official shall not issue a permit to demolish a designated Heritage Preservation Site until after a Certificate of Appropriateness is issued. No owner or any other person shall demolish or undertake to demolish a designated Heritage Preservation Site or an element within a designated Heritage Preservation Site without a Certificate of Appropriateness.
B. No owner or person with an interest in real property designated as a Heritage Preservation Site shall allow property to fall into a serious state of disrepair without obtaining a Certificate of Appropriateness.

Examples of such deterioration include, but are not limited to, the following:

1. Deterioration of exterior walls or other vertical supports.
2. Deterioration of roofs or other horizontal members.
3. Deterioration of exterior chimneys.
4. Deterioration, crumbling or spalling of exterior stucco, masonry or mortar.
5. Lack of waterproofing of exterior walls, roofs, or foundations; including broken windows or doors that prove ineffective.
6. Deterioration of any feature so as to create a hazardous condition that requires the demolition of the Property for public safety purposes.
7. Deterioration of ornamental features.

Subd. 12. Enforcement. If inspection finds that the work is not in compliance with the Certificate of Appropriateness the City may suspend the Certificate of Appropriateness and issue a “Stop Work Order”. No further work shall be undertaken on the project as long as a “Stop Work Order” is in effect except for work necessary to remedy the cause of the suspension.
Subd. 13. Emergency Repair. In emergency situations where immediate temporary repair is needed to protect the safety of the structure and its inhabitants, the Building Department, may approve the temporary repair without prior Commission or Council action.

Subd. 14. Repository for Documents. The office of the City Clerk is designated as the repository for at least one copy of all studies, reports, recommendations and programs required under this Section 11.05.

Subd. 15. Recording of Heritage Preservation Sites. The office of the City Clerk shall record the designation of buildings, lands or areas as Heritage Preservation Sites with the Hennepin County Recorder or the Hennepin County Registrar of Titles, unless the County Recorder or Registrar of Titles refuses to record such designation, and shall transmit a copy of the recording document to the Building Department.

SECTION 11.06. TOWERS AND ANTENNAS. 

Subd. 1. Purpose. In order to accommodate the communication needs of residents and business while protecting the public health, safety, and general welfare of the community, the Council finds that these regulations are necessary in order to:

A. Facilitate the provision of wireless services to the residents and businesses of the City;
B. Minimize adverse visual effects of towers through careful design and siting standards;
C. Avoid potential damage to adjacent properties from tower failure through structural standards and setback requirements; and
D. Maximize the use of existing and approved towers and buildings to accommodate new wireless antennas in order to reduce the number of towers needed to serve the community.

Subd. 2. Prohibition. No tower, antenna or wireless equipment shall be erected, constructed, maintained, altered or used unless in compliance with this section.

Subd. 3. Towers in Rural and Residential Zoning Districts. Towers shall be allowed in the Rural and Residential Zoning Districts only as follows:

A. Towers for amateur radio communication and conforming to all applicable provisions of this Code shall be allowed only in the rear and side yards of rural and residential zoned lots.
B. Towers for wireless services and conforming to all applicable provisions of this Code shall be allowed only in the following residentially-zoned locations:
   1. Parks, when compatible with the nature of the park;
   2. Schools; and
Subd. 4. Height.

A. The height of a tower shall be determined by measuring the vertical distance from the point of contact with the ground of the tower or the structure to which it is attached (if attached) to the highest point of the tower, including all antennas and other attachments.

B. In all zoning districts the maximum height of a tower, except those which are public utility structures located within a public street or right-of-way, shall not exceed one foot for each four feet the tower is set back from a Rural or Residential Zoning District up to a maximum height of 150 feet.

C. No antenna shall extend more than 20 feet above the highest point of a public utility structure.

Subd. 5. Setbacks and Location. Towers shall conform with each of the following minimum requirements:

A. Towers, except those which are public utility structures, located within a public street or right-of-way, shall meet the setbacks of the underlying zoning district, except industrial zoning districts where towers may encroach into the rear setback area, provided that the rear property line abuts another industrially zoned property and the tower does not encroach upon any easements.

B. Towers, except those which are public utility structures, located within a public street or right-of-way shall not be located between a principal structure and a public street, with the following exceptions:

1. In industrial zoning districts, towers may be placed within a side yard abutting an internal street.

2. On sites adjacent to public streets on all sides, towers may be placed within a side yard abutting a street.

C. Towers which are public utility structures located in a public street or right-of-way need not be set back from a street or right-of-way line.

D. A tower's setback may be reduced or its location in relation to a public street varied, at the sole discretion of the City Council, to allow the integration of a tower into an existing or proposed structure such as a Place of Worship steeple, light standard, power line support device or similar structure. Integration may include replication of the existing or proposed structure by a new structure provided the new structure is substantially similar in design and color to the exiting or proposed structure and extends no more than 20 feet above the highest point of the existing or proposed structure.

Subd. 6. Exceptions. The provisions of Subds. 4 and 5 shall not apply to the following:

1. Water towers and poles supporting emergency warning devices to which are attached antennas.

2. Place of Worship sanctuaries, steeples and bell towers to which are attached antennas.

3. In accordance with the preemption ruling PRB1 of the Federal Communications Commission, towers for amateur radio communication that comply with other provisions of this Chapter relating to towers.

Subd. 7. Co-Location Requirements. All towers for wireless service erected, constructed, or located within the City shall comply with the following requirements:
A proposal for a new tower for wireless service shall not be approved unless the City Manager or his designee finds that the antenna or wireless equipment intended to be attached to the proposed tower cannot be accommodated on an existing or approved tower, public utility structure, or building within one mile (one-half mile for towers under 120 feet in height, one quarter mile for towers under 80 feet in height) of the proposed tower due to one or more of the following reasons:

1. The planned equipment would exceed the structural capacity of the existing or approved tower, public utility structure or building, as documented at applicant's expense by a qualified registered professional engineer, and if owned by applicant the existing or approved tower, public utility structure or building, cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.

2. The planned equipment would cause interference materially impacting the usability of the existing or planned equipment at the tower, public utility structure or building as documented at applicant's expense by a qualified registered professional engineer and the interference cannot be prevented at a reasonable cost.

3. Existing or approved towers, public utility structures and buildings within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented at applicant's expense by a qualified registered professional engineer.

4. Other reasons (including but not limited to economic considerations) that make it infeasible to locate the planned telecommunications equipment upon an existing or approved tower, public utility structure or building.

**Subd. 8. Tower and Antenna Design Requirements.** Proposed or modified towers and antennas shall meet the following design requirements:

A. Towers and antennas shall be designed to blend into the surrounding environment to the maximum extent possible through the use of color and camouflaging architectural treatment, except in instances where the color is dictated by federal or state authorities such as the Federal Aviation Administration.

B. Towers for wireless service, except those which are public utility structures, shall be of a monopole design unless the City Manager or his designee determines that an alternative design would better blend in to the surrounding environment.

C. Towers shall not be illuminated by artificial means and shall not display strobe lights unless such lighting is specifically required by the Federal Aviation Administration or other federal or state authority for a particular tower and then only at such time or times required. Strobe lights shall not be permitted during the hours between sundown and sunrise. When incorporated into the approved design of the tower, light fixtures used to illuminate ball fields, parking lots, or similar areas may be attached to the tower.

D. Metal towers shall be constructed of, or treated with, corrosive resistant material. Wood poles shall be impregnated with rot resistant substances.
E. No antenna or tower shall have affixed or attached to it in any way, except during time of repair or installation, any lights, reflectors, flashers, or other illuminating device, except as required by the Federal Aviation Administration or the Federal Communications Commission, nor shall any tower have constructed thereon, or attached thereto, in any way, any platform, catwalk, crow's nest, or like structure, except during periods of construction or repair.

F. The face of an antenna having one face shall not exceed 30 square feet. No face of an antenna having more than one face shall exceed 24 square feet per face.

**Subd. 9. Wireless Equipment in a Public Right-of-Way.** Wireless equipment located in a public right-of-way must meet the following requirements:

Source: Ordinance No. 22-2017
Effective Date: 12-21-2017

A. Location and Setbacks. Wireless equipment shall be located on the ground beside or adjacent to a tower for wireless service and shall meet the following minimum setback requirements:

1. 10 feet from the existing or planned edge of the pavement;
2. 3 feet from a sidewalk or trail;
3. 50 feet from the nearest intersection right-of-way line; and
4. 50 feet from the nearest principal residential structure.

B. Screening. Wireless equipment located in a public right-of-way and possessing one or more of the following characteristics shall be physically screened from all public roads and adjacent differing land uses within a utility cabinet:

1. Irregular in size and shape;
2. Exposed and/or protruding fans, grills, pipes, tubes, wires, or vents;
3. Unfinished metal covering, exposed rivets, or exposed seams.

Screening shall be required at the time of initial installation or at the time of antenna equipment upgrade.

C. Permit. Wireless equipment that obstructs a public right-of-way shall receive a right-of-way permit from the City or other appropriate road authority.

Source: Ordinance No. 3-2014
Effective Date: 2-27-2014

**Subd. 10. Interference with Public Safety Telecommunications.** No new or existing wireless services shall interfere with public safety wireless telecommunications.

**Subd. 11. Required Approval.** Except when review and approval is required pursuant to City Code Section 11.03, Subd. 6. A tower may not be constructed or increased in size or capacity without the approval of the City Manager or his designee. In the event an application for a tower is disapproved by the City Manager or his designee, the City Manager or his designee shall state the decision, together with the reasons therefor in writing. A notice of, and the written decision shall be given to the applicant by mail at the address stated in the application or such other address as applicant directs by written request to City prior to the giving of such notice. Within thirty (30) days applicant may appeal the decision of the City Manager or his designee to the City's Board of Adjustments and Appeals in accordance with City Code Section 2.11.
Subd. 12. Application. An applicant for a permit for the construction of a new tower or alteration of an existing tower including antenna replacement and associated modifications shall make a written application to the City. The application shall include, but not be limited to the following:

Source: Ordinance No. 10-2018
Effective Date: 5/24/18

1. Name, address, telephone and fax numbers of applicant.

2. Location of proposed tower, including the legal description.

3. The locations of all existing towers within one mile of the location of the proposed tower, together with the distances between the existing towers and the proposed tower.

4. Description of the tower, including its height, size of base, configuration, design, number of antennas to be attached to the tower, potential for additional antennas, color and camouflage treatment and lighting, if any, and materials out of which the tower will be constructed.

5. A certificate by a qualified registered professional engineer in such form as approved by the City Manager or his designee that the applicant's wireless services equipment cannot be accommodated on an existing tower in accordance with Subd. 7.A. hereof and a certificate by a qualified registered professional engineer selected or approved by the City Manager or his designee that the wireless services to be accommodated on the proposed tower or increase in size or capacity of an existing tower will not interfere with public safety wireless telecommunications.

6. The application shall be accompanied by payment of such fees as provided by City Council resolution. Fees shall include reimbursement to City of its costs, including those incurred for consulting and technical advice relating to the proposed tower.

Source: Ordinance No. 22-2017
Effective Date: 12-21-2017


A. Wireless support structures for the siting of small wireless facilities in the public right-of-way are a permitted use in the public right-of-way in all zoning districts, except the R-1 One Family Residential Districts where they are a conditional use as described in Section 11.41.

B. No person shall place a wireless support structure or small wireless facility in the public right-of-way unless in compliance with the requirements of Section 6.03.

(Sections 11.07 through 11.09, inclusive, reserved for future expansion.)

SECTION 11.10. R - RURAL DISTRICT.

Subd. 1. Purposes. The purposes of the R-Rural District are to: (1) Prevent premature urban development of certain lands which eventually will be appropriate for urban uses, until the installation of drainage works streets, utilities, and community facilities and the ability to objectively determine and project appropriate land use patterns makes orderly development possible; (2) Permit the conduct of certain agricultural pursuits on land in the City; (3) Ensure adequate light, air, and privacy for each dwelling unit, and to provide adequate separation between dwellings and facilities for housing animals.
Subd. 2. Permitted Uses.

A. Agriculture, accessory and related uses.

B. Public Infrastructure.
   Source: City Code
   Effective Date: 9-17-82

C. Single family detached dwellings and accessory structures on parcels of not less than 10 acres.

D. Single family detached dwellings and accessory structures on parcels of five or more acres, as of July 6, 1982.
   Source: Ordinance No. 1-90
   Effective Date: 2-1-90

E. Commercial stables.
   Source: Ordinance No. 34-83
   Effective Date: 8-26-83

F. Antennas and Towers, in those locations and subject to the limitations contained in City Code Section 11.06.
   Source: Ordinance No. 2-2007
   Effective Date: 1-23-07
   Ordinance No. 27-97
   Effective Date: 6-13-97

SECTION 11.11. R-1 ONE FAMILY RESIDENTIAL DISTRICTS.

Subd. 1. Purposes. The purposes of the R-1 One Family Residential Districts are to (1) R1-44, reserve appropriately located areas for single family living on large lots where vegetation, slopes, water bodies or other significant natural features are best preserved through large lot development; (2) R1-22, R1-13.5, R1-9.5, reserve appropriately located areas for single family living at reasonable population densities consistent with sound standards of public health; (3) Ensure adequate light, air, privacy and open space for each dwelling; (4) minimize traffic congestion and avoid the overloading of utilities by preventing the construction of buildings of excessive size in relation to the land around them; and, (5) Protect residential properties from noise, illumination, unsightliness, odors, dust, dirt, smoke, vibration, heat, glare, and other objectionable influences.

Subd. 2. Permitted Uses.

A. R1-44. Single family, detached dwellings, and accessory structures with sanitary sewer and water service, except sanitary sewer and water service shall not be required with respect to those lands which were situated within an R1-22 District on July 1, 1982.

B. R1-22. Single family, detached dwellings, and accessory structures with sanitary sewer and water service, except sanitary sewer and water service shall not be required with respect to those lands which were situated within the R1-22 District on July 1, 1982.

C. R1-13.5. Single family, detached dwellings and accessory structures with sanitary sewer and water service.

D. R1-9.5. Single family, detached dwellings and accessory structures with sanitary sewer and water service.

E. Public Infrastructure.

F. Antennas and Towers, in those locations and subject to the limitations contained in City Code Section 11.06.
SECTION 11.15. RM MULTI-FAMILY RESIDENTIAL DISTRICT.

Subd. 1. Purposes. The purposes of the RM Multi-Family Residential District are to: (1) Reserve approximately located areas for family living in a variety of types of dwellings at a reasonable range of population densities consistent with sound standards of public health and safety; (2) Preserve as many as possible of the desirable characteristics of the one-family residential district while permitting higher population densities; (3) Ensure adequate light, air, privacy, and open space for each dwelling unit; (4) Provide space for semi-public facilities needed to complement urban residential areas and space for institutions that require a residential environment; (5) Minimize traffic congestion and avoid the over-loading of utilities by preventing the construction of buildings of excessive size in relation to the land around them; (6) Provide necessary space for off-street loading of trucks; and, (7) Protect residential properties from noise, illumination, unsightliness, odors, dust, dirt, smoke, vibration, heat, glare, and other objectionable influences.

Subd. 2. Permitted Uses.
A. RM-6.5. Attached dwelling units and accessory structures by platting or Planned Development.
B. RM-2.5. Attached dwelling units and accessory structures by platting or Planned Development.
C. Public Infrastructure.
D. Antennas and Towers, in those locations and subject to the limitations contained in City Code Section 11.06.

Subd. 3. Required Conditions. Public sanitary sewer services must be provided to all occupied multiple units.

SECTION 11.20. OFC - OFFICE DISTRICT.

Subd. 1. Purposes. The purpose of the OFC Office District are to: (1) Provide opportunities for offices of a semi-commercial character to locate outside of commercial districts; (2) Establish and maintain in portions of the City the high standards of site planning, architecture, and landscape design sought by many business and professional offices; (3) Provide adequate space to meet the needs of modern offices, including off-street parking of automobiles and, where appropriate, off-street loading of trucks; (4) Provide space for semi-public facilities and institutions appropriately may be located in office districts; (5) Minimize traffic congestion and avoid the over-loading of utilities by preventing the construction of buildings of excessive size in relation to the amount of land around them; and, (6) Protect offices from the noise, disturbance, traffic hazards, safety hazards, and other objectionable influences incidental to certain commercial uses.

Subd. 2. Permitted Uses.
A. Business and professional offices and accessory uses.
B. Supporting commercial sales and services to office users within large office structures of 100,000 square feet or more. The Commercial use is not to exceed fifteen percent, (15%), of the gross Floor Area Ratio.

Source: Ordinance No. 9-87
Effective Date: 5-7-87

C. Public Infrastructure.

D. Antennas and Towers, in those locations and subject to the limitations contained in City Code Section 11.06.

Source: Ordinance No. 27-97
Effective Date: 6-13-97

E. Day Care Facility

Source: Ordinance No. 13-2017
Effective Date: 8-17-2017

Subd. 3. Required Conditions.

A. All professional pursuits and businesses shall be conducted entirely within a completely enclosed structure, except for off-street parking and loading areas.

B. Acceptable, approved sanitary sewer service must be provided to all occupied structures.

C. Zoning requests will be considered only on the basis of a Comprehensive Guide Plan for the entire area to be zoned and specific plans for initial structures and site development.

Subd. 4. Medical Cannabis.

A. Findings and Purpose. The Minnesota Legislature in Minn. Stat. §152.22 through §152.37 has legalized the distribution of medical cannabis with significant restrictions. The Council finds that it is appropriate to identify in the City Code the zoning districts in which a medical cannabis distribution facility is an allowable use. The Council finds that as a unique and highly regulated use medical cannabis distribution requires specific regulations.

B. Definitions. All definitions set forth in Minn. Stat. 152.22 through 152.37 and Minn. Rules Chap. 4770, as each may be amended from time to time apply to this Subdivision. In addition, as used in this Subdivision, the following term shall have the meaning stated:

1. Medical Cannabis Distribution Facility (“Facility”) is a “Distribution Facility” as defined by Minn. Rule 4770.0200, Subp. 13 as in effect as of May 30, 2014.

C. Permitted Use. Medical Cannabis Distribution Facility is a permitted use in the OFC Office District subject to the restrictions contained in this Subdivision.

D. Performance Standards. All Medical Cannabis Distribution Facilities shall comply with all of the following performance standards.

1. Distribution shall be permitted only for the Qualifying Medical Conditions defined in Minn. Stat. 152.22, Subd. 14 in effect as of May 30, 2014.
2. The use shall comply with all provisions in Minn. Stat. 152.22 through 152.37 and Minn. Rules Chap. 4770 as each may be amended from time to time, including but not limited to the following:
   a) Security requirements set forth in Minn. Stat. 152.29, Subd. 1 (d) and Minn. Rules Chap 4770.0700, 4770.0900, 4770.1000 and 4770.1400.
   b) Prohibition against sharing space or a financial relationship with a health care practitioner set forth in Minn. Stat. 152.29, Subd. 1 (e).
   c) Prohibition against consumption of medical cannabis on the property set forth in Minn. Stat. 152.29, Subd. 2 (f).
   d) Inspections imposed pursuant to Minn. Stat. 152.29, Subd. 2 (g).
   e) Personnel regulations, including prohibition against employing any person under the age of 21 and required background checks, set forth in Minn. Stat. 152.29, Subd. 2 (i).
   f) Prohibition against operation within 1000 feet of a school set forth in Minn. Stat. 152.29, Subd. 2 (j) and Minn. Rule 4770.0600.
   g) Licensing requirements set forth in Minn. Stat. 152.29, Subd. 3.
   h) Prohibition against any displays of merchandise, interior signs, or other exhibits which are visible from outside of the Facility set forth in Minn. Rule 4770.0800, Subp 3.

3. No manufacture or production of Medical Cannabis shall be permitted at the Facility.

4. No drive-thru shall be permitted at the Facility.

5. In lieu of the “Off-Street Parking Facilities” provisions set forth in City Code Section 11.03, Subd. 3 H., off street parking facilities located at the Facility shall provide a minimum of 5 parking spaces per 1,000 square feet of gross floor area.

6. Annually, within 15 days of receipt, a copy of the registration required by Minn. Stat. 152.25, Subd. 1 shall be provided to the Chief of Police.

(SECTION 11.21 through 11.24, inclusive, reserved for future expansion.)

SECTION 11.25. C- COMMERCIAL DISTRICTS.

Subd. 1. Purposes. The purposes of the C-Commercial District are to: (1) Provide appropriately located areas for retail stores, offices, service establishments, and amusement establishments; (2) Provide opportunities for retail stores, offices, service establishments, and amusement establishments, to concentrate for the convenience of the public and in mutually beneficial relationship to each other; (3) Provide space for community facilities and institutions that appropriately may be located in commercial areas; (4) Provide adequate space to meet the needs of modern commercial development, including off-street parking and truck loading areas; (5) Minimize traffic congestion and avoid the over-loading of utilities by preventing the construction of buildings of excessive size in relation to the amount of land around them; and, (6) Protect commercial properties from noise, odor, dust, dirt, smoke, vibration, heat, glare, traffic, fire, explosion, noxious fumes, and other hazards.

A. Special Purposes of N-Com Neighborhood Commercial District.

1. To provide appropriately located areas for retail stores, offices, and personal service establishments patronized by residents of the immediate neighborhood area.

Source: City Code
Effective Date: 9-17-82
2. To permit development of neighborhood shops and related office uses, which can be accommodated in less than 50,000 square feet of retail area, and are in the appropriate locations shown on the Guide Plan, according to standards that minimize adverse impact on adjoining residential uses.

Source: Ordinance No. 9-87
Effective Date: 5-6-87

B. Special Purposes of C-Com Community Commercial District.
1. To provide appropriately located areas for retail stores, offices, and personal service establishments patronized primarily by residents of the immediate community area.

Source: City Code
Effective Date: 9-17-82

2. To permit development of community shopping centers and related office uses, which can be accommodated in less than 200,000 square feet of retail area, and are in the appropriate locations shown on the Guide Plan according to standards that minimize adverse impact on adjoining residential use.

Source: Ordinance No. 9-87
Effective Date: 5-7-87

C. Special Purposes of C-Reg Regional Commercial District.
1. To provide a large site at an appropriate location for a major shopping center which serves a wider region than the City itself consistent with the intent of the Metropolitan Guide Plan.

2. To ensure that a major center will be developed in accord with high standards of site planning, architecture, and landscape design.

3. To minimize the adverse effect of major commercial facilities on nearby dwellings.

Subd. 2. Permitted Uses.

A. All direct retail sales to users of goods and services conducted within structures and accessory uses, except:

1. C-REG-SER uses are limited to sales and service operations which require relatively large sites, attract little or no pedestrian traffic and are not typically found in shopping center structures.

2. C-HWY uses are limited to sales and service operations directly related to highway or freeway uses, tourists, and travelers.

B. Related or supporting office and distribution uses.

C. Public Infrastructure.

D. Residential uses if provided for within a PUD, within commercial buildings in the N-Com and C-Com Districts.

Source: City Code
Effective Date: 9-17-82

E. Antennas and Towers, in those locations and subject to the limitations contained in City Code Section 11.06.
F. Automotive Repair Services – Minor, when conducted exclusively in an enclosed building.

Source: Ordinance No. 27-97
Effective Date: 6-13-97

G. Automotive Repair Services – Major, when conducted exclusively in an enclosed building and in existence as of November 1, 2016.

Source: Ordinance No. 26-2016
Effective Date: 11-24-2016

H. Daycare Facility

Source: Ordinance No. 13-2017
Effective Date: 8-17-2017

I. Small Brewer with Brewer Taproom

J. Microdistillery with Cocktail Room

Source: Ordinance No. 6-2018
Effective Date: 5-10-18

K. Pawnshops within the C-REG-SER District, subject to the limitation contained in Subdivision 4 of this Section.

Source: Ordinance No. 22-2018
Effective Date: 12-13-18

Subd. 3. Required Conditions.

A. Acceptable, approved sanitary sewer service must be provided to all occupied structures and uses.

B. Zoning requests will be considered only on the basis of a Comprehensive Guide Plan for the entire area to be zoned and specific plans for initial structures and site development.

Subd. 4. Pawnshops.

A. No pawnshop may be located closer than 1000 feet from any other pawnshop. Measurements will be made in a straight line, without regard to intervening structures or objects, from the nearest point of the property line of the building occupied by the pawnshop to the nearest point of the property line of the building occupied by the other pawnshop.

B. All pawnshops shall comply with the licensing requirements of City Code Section 5.71.

Source: Ordinance No. 22-2018
Effective Date: 12-13-18

SECTION 11.26. TRANSIT ORIENTED DEVELOPMENT (TOD)

Source: Ordinance No. 18-2018
Effective Date: 9-27-2018

Previous Ordinance No. 15-2016
Effective Date: 8-25-2016

Subd. 1. Purposes.
The intent of the Transit Oriented Development (TOD) zoning ordinance is to provide for development of attractive, compact, pedestrian-friendly, high density, environmentally and economically sustainable, transit-oriented areas which allow a complementary mix of land uses. A TOD land use pattern supports transit system investments, optimizes development opportunities, and helps achieve many goals and policies outlined in the Eden Prairie Comprehensive Plan. To support the intent of Transit Oriented Development (TOD), the specific purposes of the TOD zoning districts are to:

A. Promote high density development within convenient walking and biking distance of a transit station, including increased residential densities, employee densities, and non-residential floor area ratios (FARs);

B. Accommodate a complementary mix of market-supportive land uses including residential, office, public (buildings, plazas, open spaces), light industrial, and  where appropriate, select commercial uses;

C. Ensure building and site design is oriented to public spaces – streets, sidewalks, plazas, open spaces, and the transit station – and emphasizes a pedestrian-friendly environment;

D. Support an urban design pattern that encourages active living – the integration of physical activity into daily routines and healthy mobility choices, including walking, biking, riding scooters, and rollerblading, and other forms of pedestrian travel and includes accommodations for persons with disabilities to connect to transit;

E. Promote strategies and designs that decrease the need for parking, including compact/mixed-use development patterns, on-street parking, joint use parking, structured parking, access to transit and shuttle services, bike sharing, and car sharing;

F. Incorporate public amenities such as parks and plazas, civic spaces, public art, landscaped streetscapes, benches, and sidewalks/trails that provide connections between development sites, transit, and the City’s overall sidewalk/trail network;

G. Incorporate urban design principles that promote the safety and comfort of residents, employees, visitors, and transit riders;

H. Promote high quality and aesthetically attractive building forms that contribute to a positive City image, help to identify the unique characteristics of the location, and enhance the streetscape environment for pedestrians, bicyclists, transit riders, and vehicular drivers; and

I. Incorporate sustainability practices relating to building lifespan such as reuse and recycling of materials, energy and water efficiency, storm water management, and economic resilience through lower operating costs.

There are three (3) Transit Oriented Development (TOD) zoning districts:

A. The TOD-Mixed Use (TOD-MU) district encourages high-density, mixed-use, and pedestrian-oriented development that supports transit usage.

B. The TOD-Residential (TOD-R) district allows for moderate- to high-density residential development with some allowance for limited commercial uses.

C. The TOD-Employment (TOD-E) district allows for moderate- to high-density office, light industrial and institutional development with some allowance for limited commercial uses.

The individual TOD district standards are described in Subdivision 4.

Subd. 2. Definitions.
A. **10-Minute Walkshed** is the area surrounding each of an existing or planned commuter bus or light rail transit station that is accessible by walking within a 10-minute timeframe.

B. **Attached Building** is an individual structure on a parcel consisting of multiple similar units arranged side by side where each unit shares a common wall with the adjacent unit. All building entries are located at the ground level facing the primary street or facing a courtyard that is open to the street.

C. **Building Break** – A recess in the building façade that provides facade articulation, creates the impression that one building is two or more buildings, incorporates a unique building element, and improves the building’s overall composition and aesthetic. Minimum requirements for a building break are a depth of two (2) feet and a width of four (4) feet.

D. **Building Stepback** – A setback of a building’s upper floor(s) in order to reduce the building’s bulk, articulate the base of the building, ensure a more comfortable street environment, and provide light and air at street level.

E. **Building Street Frontage** – The proportion of a lot’s frontage on a public street that is occupied by a building as measured at the required maximum front yard setback. Corner lots must meet maximum front yard setback requirements for both public street frontages.

F. **Building Transparency** – Openings in the street-facing façade of a building which are transparent, including windows and doors that enable increased physical and/or visual interaction between street/sidewalk/plaza activities and a building’s interior uses and activities.

G. **Commercial Ready** – a space constructed to meet a minimum ground floor height that accommodates retail/commercial use as established by City Code Chapter 11. The intent of Commercial Ready standard is to provide the flexibility to occupy ground floor space in accordance with market demand while allowing a future transition to retail/commercial uses as the market dictates.

H. **Drive-Thru Facilities** – Facilities that accommodate automobiles and from which the occupants of the automobiles may make purchases or transact business, including the stacking spaces needed for waiting vehicles. Examples of drive-thru facilities include, but are not limited to, drive-up windows, menu boards, order boards or boxes, drive-in restaurants and drive-up banks.

I. **Flex Building** is a building designed to be versatile and may be used in combination with office, research and development, sales/showroom, industrial processing, distribution/warehousing, or high tech.

J. **Flex Space**: A use providing its occupants the flexibility of utilizing the space. Usually provides a configuration allowing a flexible amount of office or showroom space in combination with manufacturing, laboratory, warehouse distribution, etc.

K. **Ground Floor Height** – measurement taken from floor to floor

L. **Joint Use Parking** - A parking facility shared by two or more uses, tenants, or properties.

M. **Liner Building** is a building designed to line the outside of a parking structure along a public street frontage with an active ground floor use. A liner building may also include active upper floors.

N. **Mixed-Use Building** – A multi-story building that contains allowed retail and services on the ground floor and allowed residential and/or office uses on the upper floors.
O. Neighborhood Commercial – Small-scale retail stores and personal services primarily serving nearby residential areas and nearby businesses and their employees and small-scale specialty shops and services. No individual tenant space shall exceed 10,000 sq. ft. in area with the exception of grocery stores, which shall not exceed 25,000 sq. ft. in area. Drive-thru facilities are prohibited as a neighborhood commercial use.

P. Ornamental grillwork is a decorative metal grate placed on a building façade to provide screening and architectural interest along a street front facade.

Q. Pilaster is a shallow rectangular column placed on a building façade, typically as a decorative architectural element to provide articulation of the building façade.

R. Public Open Space: A publicly or privately owned area designated for use by the public such as a park, trail, sidewalk or plaza that is accessible to the public.

S. Stacked Building is a multi-level structure comprised of single-floor or multi-floor units that are stacked vertically and connected with one or more shared entries. This building type is typically designed for residential, hospitality, or office uses.

T. Transit Oriented Development (TOD) is commonly described as a community or development that mixes residential, office, commercial and open space, and allows for convenient or direct access to public transportation. The design of TOD is specifically influenced by transit and focuses on walkability and connections to other sites as well as transit.

U. Visitor Parking: An off street, surface parking areas for motor vehicles that will be parked for short periods of time, and visiting within the Transit Oriented Development district. Visitor parking does not include long term or all day employee parking or parking of delivery vehicles engaged in loading or unloading goods.

Subd. 3. Applicability.

A Transit-Oriented Development (TOD) district shall apply to property zoned under this Section. Any provisions contained in this Section 11.26, which are inconsistent with or are in conflict with any other provision of the City Code shall supersede such other provisions. Such properties will generally be within a 10-minute walkshed (the area within a 10-minute walking distance, or roughly a half-mile) of an existing or planned commuter bus or light rail transit station consistent with the Comprehensive Guide Plan.

Nonconformities are governed under Minnesota Statutes 462.357, Subdivision 1.e.

Development proposals will be reviewed as part of the Site Plan and Architectural Design Review and Planned Unit Development process set out in City Code Chapter 11.

Subd. 4. District Development Standards.

The following tables and diagrams include development standards for each of the three TOD zoning districts and are intended to illustrate the desired character, form, and scale of development within each district. Additional standards and required conditions that apply across all of the TOD zoning districts are addressed in Subdivisions 5 through 9 of this section.


STATEMENT OF POLICY: The TOD-Mixed Use (TOD-MU) district encourages high-density, mixed-use, and pedestrian-oriented development that supports transit usage. The TOD-MU district is intended to generally be applied closest to the transit station. Buildings are mid- to high-rise structures with active ground floor uses.
A mix of office, residential, hotel, and institutional uses, along with ground floor shops, services, and restaurants encourage activity throughout the day, and provide residents, visitors, transit riders, and employees with amenities and services that support their day-to-day needs within convenient walking distance. The specific permitted uses are set forth below in the chart titled Permitted Uses-TOD-MU District. The diagrams set out below are intended to illustrate the application of the above statement of policy.

**District Diagram - TOD MU District**

![District Diagram - TOD MU District](image)

**Land Use Character and Built Form - TOD MU District**

![Land Use Character and Built Form - TOD MU District](image)

District Diagram, Land Use Character and Built Form Description: The TOD MU district features a high-density development pattern with stacked mixed-use buildings. Requirements for street-fronted architecture, minimal setbacks, and active ground floor uses contribute to a more safe and walkable street environment. To that end, parking is predominantly provided in structured or underground parking and is located away from primary transit streets.
### Permitted Uses – TOD-MU District

<table>
<thead>
<tr>
<th>Permitted Uses</th>
<th>Performance Standards</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Commercial</strong></td>
<td>1. The ground floor in all buildings in the mixed use district shall be commercial along the primary transit street and commercial ready along the secondary transit street.</td>
</tr>
<tr>
<td>- Neighborhood commercial</td>
<td>2. Drive-thrus are only allowed when the drive-thru lanes are internally located within the parking structure.</td>
</tr>
<tr>
<td>- Restaurants and food service</td>
<td>3. Neighborhood Commercial individual tenant space shall not exceed 10,000 sq. ft. in area with the exception of grocery stores, which shall not exceed 25,000 sq. ft. in area.</td>
</tr>
<tr>
<td>- Hotels/Hospitality/Lodging</td>
<td></td>
</tr>
<tr>
<td>- Day care facility</td>
<td></td>
</tr>
<tr>
<td><strong>Office</strong></td>
<td></td>
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<tr>
<td>- Business and professional offices and clinics</td>
<td></td>
</tr>
<tr>
<td>- Day care facility</td>
<td></td>
</tr>
<tr>
<td><strong>Residential</strong></td>
<td></td>
</tr>
<tr>
<td>- Multiple-Family Dwellings</td>
<td></td>
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<tr>
<td><strong>Public</strong></td>
<td></td>
</tr>
<tr>
<td>- Public facilities and services</td>
<td></td>
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<tr>
<td>- Libraries</td>
<td></td>
</tr>
<tr>
<td>- Parks</td>
<td></td>
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<tr>
<td>- Transit facilities</td>
<td></td>
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<tr>
<td>- Transit parking</td>
<td></td>
</tr>
<tr>
<td>- Parking ramps</td>
<td></td>
</tr>
<tr>
<td><strong>Public Infrastructure</strong></td>
<td></td>
</tr>
<tr>
<td>Antennas and Towers, in those locations and subject to the limitations contained in City Code Section 11.06</td>
<td></td>
</tr>
</tbody>
</table>

### Off-Street Vehicular Parking Standards – TOD-MU District

<table>
<thead>
<tr>
<th>Use</th>
<th># of spaces (min)</th>
<th># of spaces (max)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Multiple-Family Residential</td>
<td>1/dwelling unit (d.u.)</td>
<td>1/ bedroom</td>
</tr>
<tr>
<td>Visitor (Residential)</td>
<td>None</td>
<td>1/5 dwellings</td>
</tr>
<tr>
<td>Retail Stores &amp; Services</td>
<td>3/1,000 sq. ft. (G.F.A.)</td>
<td>5/1,000 sq. ft. (G.F.A.)</td>
</tr>
<tr>
<td>Restaurant</td>
<td>1/3 seats</td>
<td>1/2.5 seats</td>
</tr>
<tr>
<td>Office</td>
<td>3/1,000 sq. ft. (G.F.A.)</td>
<td>5/1000 sq. ft. (G.F.A.)</td>
</tr>
<tr>
<td>Hotel</td>
<td>1/guest room + 1/employee</td>
<td>None</td>
</tr>
<tr>
<td>Others</td>
<td>As determined by site plan review. A parking demand study may be required. Proof of parking may be required by the City Engineer to be included as part of a parking demand study.</td>
<td></td>
</tr>
</tbody>
</table>

### Performance Standards

1. All off-street parking in the TOD-MU District shall be provided in an enclosed building or structure except as follows: residential visitor parking may be provided as surface parking behind buildings or on secondary transit streets as designated in the Comprehensive Guide Plan. Residential developments may provide for visitor parking through on-street and/or district/joint use parking when reviewed and approved through a Planned Unit Development.
2. The location and quantity of off-street parking will be reviewed on a case-by-case basis as part of the development review process. Off-street parking requirements may be reduced if the applicant can demonstrate meeting the requirement through joint use, district, off-site, or on-street. See Subdivision 6 for more on off-street parking standards.

3. Parking ramps facing a public street must be lined on the street-facing side with an active ground floor use or commercial ready space. If no upper floor uses are present, the ramp must be appropriately screened as required in Subdivision 6.

4. For new development occurring within the TOD Districts, on-street parking along the use’s lot frontage may count towards the parking requirements when reviewed and approved through a Planned Unit Development. This count shall be rounded to the nearest whole number.

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**Diagram of Lot and Building Standards - TOD MU District**

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**Density Standards - TOD MU District**

<table>
<thead>
<tr>
<th>Property</th>
<th>Min</th>
</tr>
</thead>
<tbody>
<tr>
<td>Floor Area Ratio (FAR)</td>
<td>1.5 min</td>
</tr>
<tr>
<td>Residential Density</td>
<td>40 dwelling units/acre</td>
</tr>
</tbody>
</table>

**Lot Standards - TOD MU District**

<table>
<thead>
<tr>
<th>Property</th>
<th>Min</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lot Size</td>
<td>None</td>
</tr>
<tr>
<td>(a) Lot Width</td>
<td>50 ft. min</td>
</tr>
<tr>
<td>(b) Lot Depth</td>
<td>100 ft. min</td>
</tr>
<tr>
<td>(c) Front Yard Setback (ft.)</td>
<td>0 min; 10 max</td>
</tr>
<tr>
<td>(d) Side Yard Setback (ft.)</td>
<td>0 min</td>
</tr>
<tr>
<td>(e) Rear Yard Setback (ft.)</td>
<td>0 min</td>
</tr>
</tbody>
</table>

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**Performance Standards.**

1. Parking structures shall not be included in calculation of number of floors and FAR.

2. The above diagram is intended to show the proportion of usable open space required, but not the exact location or distribution. See Subdivision 8 for more requirements on usable open space.

3. Buildings exceeding 40 feet in width along a street are required to incorporate articulation in street-facing façades. Articulation includes recesses in the building façade, material changes, or other methods of building articulation that break down the scale of large buildings and create visual interest.

4. Commercial Use ground floor windows facing a...
5. Within the Commercial Use all buildings shall have a primary entrance facing a public sidewalk or public open space. Building entrances must be provided at least every sixty (60) feet along the primary transit street-facing facade of the building.

6. Front Yard Setbacks may be increased if outdoor dining or usable open space is proposed as part of a Planned Unit Development. Notwithstanding the diagrams, awnings, decks, overhangs, stairs, steps, retaining walls and structures, signs or bicycle parking, etc. shall not project into the public right of way.

### Building Standards - TOD MU District

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Min/Max</th>
</tr>
</thead>
<tbody>
<tr>
<td>Impervious Surface Coverage</td>
<td>90% max</td>
</tr>
<tr>
<td>Usable Outdoor Open Space</td>
<td>7% min</td>
</tr>
<tr>
<td>(h) Street Frontage</td>
<td>75% min</td>
</tr>
<tr>
<td>(f) Total Height (# of floors)</td>
<td>4 min, max limited by language in the Comprehensive Plan</td>
</tr>
<tr>
<td>(i) Ground Floor Height</td>
<td>12 ft. min</td>
</tr>
<tr>
<td>(j) Upper Floors Stepback (street facades only)</td>
<td>8 ft. min (above 4 floors)</td>
</tr>
<tr>
<td>(k) Façade Articulation (street facades only)</td>
<td>every 40 ft. max</td>
</tr>
<tr>
<td>(l) Ground Floor Transparency (street facades only)</td>
<td>60% min</td>
</tr>
<tr>
<td>Entry Spacing</td>
<td>60 ft. (applicable to Commercial Uses only)</td>
</tr>
</tbody>
</table>


STATEMENT OF POLICY: The Transit Oriented Development – Residential (TOD-R) district allows for a mix of moderate to high-density housing, including stacked and attached residential building types, as well as limited mixed-use development. Land uses in the TOD-R district shall be residential with a small amount commercial uses (ground floor retail, services, and restaurants) that support the day-to-day needs of residents. The TOD-R district shall generally be applied farther out from the transit station and provides more latitude in density and street frontage requirements while still promoting transit-supportive densities and pedestrian-oriented urban design. The specific permitted uses are set forth below in the chart titled Permitted Uses-TOD-R District. The diagrams set out below are intended to illustrate the application of the above statement of policy. These higher density housing types, both rental and ownership, shall be designed to optimize the district’s walkable access to retail, services, restaurants, parks and trails, transit and community facilities. Buildings shall be located and designed to take advantage of views of nearby natural amenities and where significant shading of lower buildings will not occur.
**District Diagram - TOD R District**

**Land Use Character and Built Form - TOD R District**

District Diagram, Land Use Character and Built Form Description: The TOD-R district features stacked and attached residential building types, as well as mixed-use building with active ground-floor uses. Requirements for street-fronted architecture and structured parking contribute to a more safe and walkable street environment. Slightly deeper setbacks allow for additional landscaping, gardens, and small front or side yards. Street-facing architectural details such as porches, stoops, and balconies encourage social interaction and contribute to the safety and comfort of the public realm.
## Permitted Uses – TOD-R District

<table>
<thead>
<tr>
<th>Permitted Uses</th>
<th>Performance Standards</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Commercial</strong></td>
<td>1. All commercial uses shall be limited to the street level floor of a building along primary transit streets.</td>
</tr>
<tr>
<td>- Neighborhood commercial</td>
<td>2. Neighborhood Commercial individual tenant space shall not exceed 10,000 sq. ft. in area with the exception of grocery stores, which shall not exceed 25,000 sq. ft. in area.</td>
</tr>
<tr>
<td>- Restaurants and food service</td>
<td>3. Drive-thrus are only allowed when the drive-thru lanes are internally located within the parking structure.</td>
</tr>
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<td><strong>Office</strong></td>
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<tr>
<td>- Parks</td>
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<tr>
<td>- Transit facilities</td>
<td></td>
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<tr>
<td>- Transit parking</td>
<td></td>
</tr>
<tr>
<td>- Parking ramps</td>
<td></td>
</tr>
<tr>
<td><strong>Public Infrastructure</strong></td>
<td></td>
</tr>
<tr>
<td>Antennas and Towers, in those locations and subject to the limitations contained in City Code Section 11.06</td>
<td></td>
</tr>
</tbody>
</table>

## Off-Street Vehicular Parking Standards – TOD-R District

<table>
<thead>
<tr>
<th>Use</th>
<th># of spaces (min)</th>
<th># of spaces (max)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Multiple-Family Residential</td>
<td>1 per dwelling unit</td>
<td>1/ bedroom</td>
</tr>
<tr>
<td>Visitor (Residential)</td>
<td>None</td>
<td>1/5 dwellings</td>
</tr>
<tr>
<td>Retail Stores &amp; Services</td>
<td>3/1,000 sq. ft. (G.F.A.)</td>
<td>5/1,000 sq. ft. (G.F.A.)</td>
</tr>
<tr>
<td>Restaurant</td>
<td>1/3 seats</td>
<td>1/2.5 seats</td>
</tr>
<tr>
<td>Office</td>
<td>3/1,000 sq. ft. (G.F.A.)</td>
<td>5/1000 sq. ft.</td>
</tr>
<tr>
<td>Others</td>
<td>As determined by site plan review. A parking demand study may be required. Proof of parking may be required by the City Engineer to be included as part of a parking demand study.</td>
<td></td>
</tr>
</tbody>
</table>

### Performance Standards

1. All off-street parking in the TOD-R sub-district shall be provided in an enclosed building or structure except as follows: Residential visitor parking may be provided as surface parking behind buildings or on secondary transit streets as designated in the Comprehensive Guide Plan. Residential developments may provide for visitor parking through on-street and/or district/joint use parking when reviewed and approved through a Planned Unit Development.

2. The location and quantity of off-street parking will be reviewed on a case-by-case basis as part of the development review process. Off-street parking requirements can be reduced if the applicant can demonstrate meeting the requirement through joint use, district, off-site, or on-street parking. See Subdivision 6 for more on off-street parking standards.

3. Parking ramps facing a public street must be must be appropriately screened – as required in Subdivision 6.
4. For new development occurring within the TOD Districts, on-street parking along the use’s lot frontage may count towards the parking requirements if reviewed and approved through a Planned Unit Development. This count shall be rounded to the nearest whole number.

Diagram of Lot and Building Standards - TOD R District

<table>
<thead>
<tr>
<th>Density Standards - TOD R District</th>
<th>Performance Standards</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential Density</td>
<td>1. Parking structures shall not be included in calculation of number of floors and FAR.</td>
</tr>
<tr>
<td></td>
<td>2. The above diagram is intended to show the proportion of usable open space required, but not the exact location or distribution. See Subdivision 8 for more requirements on usable open space.</td>
</tr>
<tr>
<td></td>
<td>3. Buildings exceeding 30 feet in width along a street are required to incorporate articulation in street-facing façades. Articulation includes recesses in the building façade, material changes, or other methods of building articulation that break down the scale of large buildings and create visual interest.</td>
</tr>
<tr>
<td></td>
<td>4. Commercial Use ground floor windows facing a primary transit street shall not preclude visibility.</td>
</tr>
<tr>
<td></td>
<td>5. Within the Commercial Use all buildings shall have a primary entrance facing a public sidewalk or public open space. Building entrances must be provided at</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Lot Standards - TOD R District</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Lot Size</td>
<td>None</td>
</tr>
<tr>
<td>(a) Lot Width</td>
<td>50 ft. min</td>
</tr>
<tr>
<td>(b) Lot Depth</td>
<td>100 ft. min</td>
</tr>
<tr>
<td>(c) Front Yard Setback (ft.) 6</td>
<td>0 min; 20 max</td>
</tr>
<tr>
<td>(d) Side Yard Setback (ft.)</td>
<td>10 min</td>
</tr>
<tr>
<td>(e) Rear Yard Setback (ft.)</td>
<td>20 min</td>
</tr>
<tr>
<td>(g) Usable Outdoor Open Space 2</td>
<td>10% min</td>
</tr>
<tr>
<td>Impervious Surface Coverage</td>
<td>75% max</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Building Standards - TOD R District</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>(h) Street Frontage</td>
<td>60% min</td>
</tr>
</tbody>
</table>
6. Front Yard Setbacks may be increased if outdoor dining or usable open space is proposed as part of a Planned Unit Development. Notwithstanding the diagram awnings, decks, overhangs, stairs, steps, retaining walls and structures, signs or bicycle parking, etc. shall not project into the public right of way.


STATEMENT OF POLICY: The Transit Oriented Development – Employment (TOD-E) district allows for a mix of moderate- to high-density office, light industrial and institutional development with some allowance for limited commercial uses. The TOD-E district allows stacked office and mixed use buildings as well as multi-story flex buildings that can accommodate a range of living wage employment opportunities at higher densities. Retail, services, and showrooms are allowed in the district but limited to smaller scale businesses that support the needs of district employees or complement existing light industrial or office uses. The TOD-E district would generally be applied farther out from the transit station and provide more latitude in density and street frontage requirements while still promoting transit-supportive densities and pedestrian-oriented urban design. The diagrams set out below are intended to illustrate the application of the above statement of policy.
District Diagram, Land Use Character and Built Form Description: The TOD-E district features stacked office and mixed use buildings, as well as multistory flex buildings. Requirements for street-fronted architecture contribute to a more safe and walkable street environment. Slightly deeper setbacks allow for additional landscaping, plazas, and other types of open space. Street adjacent features such as a canopy, awnings, plazas, and courtyards create a safe and welcoming environment.
## Permitted Uses – TOD-E District

<table>
<thead>
<tr>
<th>Permitted Uses</th>
<th>Performance Standards</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Commercial</strong></td>
<td>1. The ground floor in all buildings in the TOD-E district shall be commercial ready along the primary transit street.</td>
</tr>
<tr>
<td>- Neighborhood commercial</td>
<td>2. Neighborhood Commercial individual tenant space shall not exceed 10,000 sq. ft. in area with the exception of grocery stores, which shall not exceed 25,000 sq. ft. in area.</td>
</tr>
<tr>
<td>- Restaurants and food service</td>
<td>3. Drive-thrus are only allowed when the drive-thru lanes are internally located within the parking structure.</td>
</tr>
<tr>
<td>- Day care facility</td>
<td>4. Warehouse and Distribution shall be permitted in the Light Industrial district as an accessory use. Warehouse and Distribution shall not exceed 15% of the Gross Floor Area of a structure.</td>
</tr>
<tr>
<td><strong>Office</strong></td>
<td></td>
</tr>
<tr>
<td>- Business and professional offices and clinics</td>
<td></td>
</tr>
<tr>
<td>- Day care facility</td>
<td></td>
</tr>
<tr>
<td><strong>Light Industrial</strong></td>
<td></td>
</tr>
<tr>
<td>- Manufacturing</td>
<td></td>
</tr>
<tr>
<td>- Research and design</td>
<td></td>
</tr>
<tr>
<td>- Wholesale</td>
<td></td>
</tr>
<tr>
<td>- Processing</td>
<td></td>
</tr>
<tr>
<td>- Packaging</td>
<td></td>
</tr>
<tr>
<td>- Showroom</td>
<td></td>
</tr>
<tr>
<td>- Assembling</td>
<td></td>
</tr>
<tr>
<td>- Compounding</td>
<td></td>
</tr>
<tr>
<td>- Flex space</td>
<td></td>
</tr>
<tr>
<td>- Live/work space such as artist lofts</td>
<td></td>
</tr>
<tr>
<td><strong>Public</strong></td>
<td></td>
</tr>
<tr>
<td>- Public facilities and services</td>
<td></td>
</tr>
<tr>
<td>- Libraries</td>
<td></td>
</tr>
<tr>
<td>- Parks</td>
<td></td>
</tr>
<tr>
<td>- Transit facilities</td>
<td></td>
</tr>
<tr>
<td>- Transit parking</td>
<td></td>
</tr>
<tr>
<td>- Parking ramps</td>
<td></td>
</tr>
<tr>
<td><strong>Public Infrastructure</strong></td>
<td></td>
</tr>
<tr>
<td>Antennas and Towers, in those locations and subject to the limitations contained in City Code Section 11.06</td>
<td></td>
</tr>
</tbody>
</table>

## Off-Street Vehicular Parking Standards – TOD-E District

<table>
<thead>
<tr>
<th>Use</th>
<th># of spaces (min)</th>
<th># of spaces (max)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Retail Stores &amp; Services</td>
<td>3/1,000 sq. ft. (G.F. A.)</td>
<td>5/1,000 sq. ft. (G.F. A.)</td>
</tr>
<tr>
<td>Restaurant</td>
<td>1/3 seats</td>
<td>½.5 seats</td>
</tr>
<tr>
<td>Office</td>
<td>3/1,000 sq. ft. (G.F. A.)</td>
<td>5/1000 sq. ft. (G.F. A.)</td>
</tr>
<tr>
<td>Others</td>
<td>As determined by site plan review. A parking demand study may be required. Proof of parking may be required by the City Engineer to be included as part of a parking demand study.</td>
<td></td>
</tr>
</tbody>
</table>
Performance Standards

1. All off-street parking in the TOD-E District shall be provided in an enclosed building or structure except as follows: visitor parking may be provided as surface parking behind buildings or on secondary transit streets as designated in the Comprehensive Guide Plan. Developments may provide for visitor parking through on-street and/or district/joint use parking when reviewed and approved through a Planned Unit Development.

2. The location and quantity of off-street parking will be reviewed on a case-by-case basis as part of the development review process. Off-street parking requirements can be reduced if the applicant can demonstrate meeting the requirement through joint use, district, off-site, or on-street parking. See Subdivision 6 for more on off-street parking standards.

3. Parking ramps facing a public street must be appropriately screened as required in Subdivision 6.

4. For new development occurring within the TOD Districts, on-street parking along the use’s lot frontage may count towards the parking requirements when reviewed and approved through a Planned Unit Development. This count shall be rounded to the nearest whole number.

Diagram of Lot and Building Standards - TOD E District

Density Standards - TOD E District

<table>
<thead>
<tr>
<th>Performance Standards</th>
</tr>
</thead>
<tbody>
<tr>
<td>Floor Area Ratio (FAR)</td>
</tr>
</tbody>
</table>

Lot Standards - TOD E District

<table>
<thead>
<tr>
<th>Lot Size</th>
<th>None</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Lot Width</td>
<td>100 ft. min</td>
</tr>
<tr>
<td>(b) Lot Depth</td>
<td>100 ft. min</td>
</tr>
<tr>
<td>(c) Front Yard Setback (ft.)</td>
<td>0 min; 20 max</td>
</tr>
<tr>
<td>(d) Side Yard Setback (ft.)</td>
<td>20 min</td>
</tr>
</tbody>
</table>

1. Parking structures shall not be included in calculation of number of floors and FAR.

2. The above diagram is intended to show the proportion of usable open space required, but not the exact location or distribution. See Subdivision 8 for more requirements on usable open space.

3. Buildings exceeding 50 feet in width along a street are required to incorporate articulation in street-facing façades. Articulation includes recesses in the building façade, material changes, or other methods of building
Subd. 5. Building Standards.

All buildings shall provide pedestrian-oriented design features along streets, sidewalks, pedestrian ways, and pedestrian areas. Buildings and developments shall comply with the following standards for building design and pedestrian orientation:

A. Buildings shall have a primary entrance facing a public sidewalk or public open space.

B. Primary building entrances shall be architecturally emphasized and highly visible from the street, sidewalk, or pedestrian way, utilizing design features such as protruding or recessed entryways, awnings, canopies, pillars, unique building materials and/or architectural details. Residential buildings shall incorporate elements such as porches, stoops, and balconies that enhance the safety and comfort of the public realm.

C. Buildings are required to incorporate articulation in street-facing façades that improves the building’s overall composition and aesthetic, and contributes to a more aesthetically and visually interesting and walkable street environment. Articulation includes recesses in the building façade, material changes, or other methods of building articulation that break down the perceived scale of the building or create visual interest.

---

### Building Standards - TOD E District

<table>
<thead>
<tr>
<th>Description</th>
<th>Minimum Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>(e) Rear Yard Setback (ft.)</td>
<td>20 min</td>
</tr>
<tr>
<td>(g) Usable Outdoor Open Space ²</td>
<td>5% min</td>
</tr>
<tr>
<td>Impervious Surface Coverage</td>
<td>75% max</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Building Standards - TOD E District</th>
</tr>
</thead>
<tbody>
<tr>
<td>(h) Street Frontage</td>
</tr>
<tr>
<td>(f) Total Height (# of floors) ¹</td>
</tr>
<tr>
<td>(i) Ground Floor Height</td>
</tr>
<tr>
<td>(j) Upper Floors Stepback (street facades only)</td>
</tr>
<tr>
<td>(k) Façade Articulation (street facades only) ³</td>
</tr>
<tr>
<td>(l) Ground Floor Transparency (street facades only) ³</td>
</tr>
<tr>
<td>Entry Spacing ⁵</td>
</tr>
</tbody>
</table>

4. Commercial Use ground floor windows facing a primary transit street shall not preclude visibility.

5. Within the Commercial Use all buildings shall have a primary entrance facing a public sidewalk or public open space. Building entrances must be provided at least every sixty (60) feet along the primary transit street-facing facade of the building.

6. Front Yard Setbacks may be increased if outdoor dining or usable open space is proposed as part of a Planned Unit Development. Notwithstanding the diagram awnings, decks, overhangs, stairs, steps, retaining walls and structures, signs or bicycle parking, etc. shall not project into the public right of way.
Subd. 6. Off-Street Vehicle Parking Standards.

A. Parking structures shall be located behind buildings or located along secondary streets.

B. Parking structure facades visible from public streets and public open space shall architecturally complement the building or buildings the parking structure serves through the use of exterior materials, architectural elements, and color. Parking structures shall include architectural elements that enhance the structure, break up its mass, and complement the building or buildings the parking structure serves. Examples of specific architectural elements that assist in meeting this requirement include decorative piers and pilasters, banding, reveals, architectural accents, wall plane articulation, decorative artwork, ornamental grillwork, recessed window openings, façade treatment variations, and locating tenant signs on the side of parking ramps.

C. Parking structures may also incorporate liner buildings that screen the parking structure with active street-level uses. Liner building may include upper floor uses, or may utilize appropriate architectural elements as described above.

Subd. 7. Pedestrian and Off-Street Bicycle Facility Standards.

A. Public sidewalks and/or trails may be required to be constructed by the applicant in conformance with the Comprehensive Guide Plan and/or the City Pedestrian and Bicycle Plan. Design shall conform to the requirements of the City Engineer, Parks and Recreation Director or designee.

B. An off-street sidewalk or multi-use trail shall be provided by the applicant that connects the front door of the building to adjacent public sidewalks or trails that are either existing or part-contemplated in an approved city trail plan or Capital Improvement Plan.

C. Off-Street Bicycle parking shall be provided at the following ratios at the time of initial certificate of occupancy and at the time of enlargement of a structure:

1. Office - minimum of 10 spaces, plus 1 space per 7,500 square feet of gross floor area.
2. Commercial – minimum of 10 spaces, plus 1 space per 3,500 square feet of gross floor area.
3. Public—minimum of 10 spaces, plus 1 space per 3,500 square feet of gross floor area.
4. Light Industrial – minimum of 10 spaces, plus 1 space per 10,000 square feet of gross floor area.
5. Residential - 1 space per 2 dwelling units.

D. Location. Bicycle parking shall be located within 50 feet of the primary building entrance(s) and shall not obstruct sidewalks except as approved through a shared bicycle plan as referenced in Sub. 7. G.

E. Bicycle racks shall be securely anchored to the ground and on a hard surface. Up to 25 percent of bicycle parking may be temporary or seasonal, but all temporary or seasonal bicycle parking shall be included within the Proof of Bicycle Parking Plan.

F. Covered spaces. If twenty (20) or more bicycle spaces are required, then at least fifty (50) percent of the required bicycle spaces shall be covered. Coverage may be provided under roof overhangs or awnings, in bicycle lockers, indoor room, fenced in corral, within adjacent parking structures, or within underground parking structures.

G. Shared Bicycle Parking. Shared off-street bicycle parking facilities are allowed to collectively provide bicycle parking in any district for more than one structure or use. The applicant shall demonstrate meeting the requirement through a joint use, district or shared parking agreement.

H. Proof of Bicycle Parking. If the applicant demonstrates that the required bicycle parking is in excess of the actual demand, all of the required bicycle parking need not be constructed prior to the issuance of the initial
certificate of occupancy for the building being served. Any spaces not constructed, as shown on the site plan, shall be constructed when determined necessary by the City Planner. The area of future parking shall be landscaped, which, landscaping shall not be used to satisfy landscaping requirements. The City Planner shall notify the property owner in writing of the need to construct additional proof of bicycle parking spaces. No more than 50 percent of bicycle parking stalls shall be placed in proof of bicycle parking.

**Subd. 8. Landscaping and Open Space Standards.**

A. All sites and buildings within the TOD district shall comply with Screening and Landscaping standards established in Section 11.03 Subd 3(G) of Chapter 11 of the City Code, except for Items 4. (a). Minimum Size Requirements for Plantings and 4. (b) Total Caliper Inches Required. The following standards apply within the TOD district in lieu of said Items 4.(a) and 4.(b):

1. Minimum Size Requirements for Plantings: Deciduous overstory plantings shall be a minimum of three (3) caliper inches; deciduous understory trees shall be a minimum of two (2) caliper inches; and coniferous trees shall be a minimum of eight (8) feet in height.

2. Total Caliper Inches Required: Sites with up to 5 acres of on-site pervious area require a minimum of three (3) caliper inches of trees for every 500 square feet of the on-site pervious surface area. Sites with 5 acres or greater of on-site pervious area require a minimum of three (3) caliper inches of trees for every 750 square feet of the on-site pervious area. Pervious pavement areas, green roofs, and undevelopable areas including but not limited to: wetlands, floodways, archeological resource areas, and water bodies are excluded from the on-site pervious surface area calculation.

3. Planting beds and/or decorative planting containers may replace up to 50% of the required caliper inches for trees at a rate of three (3) caliper inches of trees per 500 square feet of cumulative planting beds and/or decorative planting containers.

4. Planting Beds and/or Decorative Planting Containers: Each planting bed or container shall include a variety of plants which may include shrubs, ornamental grasses, ground cover, vines, annuals, or perennials to provide year round color and interest. Native plant species to the local hardiness zone and those which provide interest and/or color in the winter are encouraged.

5. Existing trees on the developable portions of the site that will remain after construction and/or existing trees on the overall site that provide benefits such as screening may be considered as counting toward a portion of the caliper inches required by this section as determined through the PUD process. Any existing trees proposing to remain shall be determined to be healthy and of the appropriate species as determined by the City.

6. Eco-grass, green roofs, rooftop gardens, limiting irrigation through xeriscaping and rainwater collection and reuse, public art, and other sustainable practices related to landscaping may be considered as counting toward a portion of the caliper inches required by this section as determined through the PUD process.

B. Due to the urban character of the TOD District, less landscaping space will be available typically than in other zoning districts. Therefore a higher level of landscaping design detail is required for the concentrated open space, pervious surface areas, plazas, planters, screening areas and streetscape areas. Examples of a higher level of landscaping design include rooftop gardens and green roofs, both of which are encouraged. A detailed landscape plan prepared by a landscape architect shall be submitted with the development application. Other privately owned amenities are encouraged, such as plazas, courtyards, fountains, outdoor art, roof top gardens and green roofs, and other decorative elements.
C. The following privately owned and maintained Usable Open Space forms are permitted to meet the requirements for usable outdoor open space:

1. Pocket Park: A Pocket Park is an open space of no less than .05 acres in size that is available for recreation. A Pocket Park may be spatially defined by landscaping rather than building frontages and may be linear in form or shape. A pocket park may consist of a landscaped and maintained lawn, trees, and seating areas that are naturalistically disposed.

2. Square: An open space available for passive recreation and civic purposes. A Square Usable open Space is spatially defined by building frontages. Its landscape shall consist of paths, lawns, trees, hardscape, and public art formally disposed. Square Usable Open Spaces shall be located at the intersection of important main streets. There shall be no minimum size for a square.

3. Plaza: An open space available for public use, community events, and/or commercial activities. A Plaza Usable Open Space shall be spatially defined by building frontages. Its landscape shall consist primarily of hardscape, plantings, public art, and trees. There shall be no minimum size for a Plaza.

4. Play Area: An open space designed and equipped for the recreation of children. A Play Area shall be fenced and may include an open shelter. Play areas shall be interspersed within residential or mixed-use areas and may be placed within a block. Play areas may be included within parks and greens. There shall be no minimum or maximum size.

5. Pedestrian way: Natural or landscaped walking paths and running trails.

D. The following shall not constitute Useable Open Space: landscape strips or enlargements/enhancements of landscaping areas adjacent to the sidewalk; shrubs, flowers and other low profile landscaping around buildings, sidewalks and parking areas; required minimum building setback areas; yards associated with private dwellings; or outdoor areas that prohibit public or tenant access during normal business hours. Alternative useable open space areas may be considered as counting toward a portion of the useable open space requirement of this section as determined through the PUD process.

Subd. 9. Supplemental Analysis or Study.

A. Traffic.

All development and zoning projects in the TOD District require documentation of the expected traffic impacts of the development. The scope of the traffic analysis is dependent on several factors including the size, type, and location of the development. The City Engineer should be contacted early in the project to determine the appropriate scope of traffic analysis and to determine if a formal Traffic Impact Study is required. All development applications, regardless of size, shall document the size and type of the proposed development and provide Daily, AM Peak, and PM Peak traffic generation estimates for the development.

B. Travel Demand Management (TDM).

All development applications for office and light industrial uses shall include a Travel Demand Management (TDM) plan. The plan shall document TDM measures to be implemented, a two year budget, and an evaluation plan. TDM strategies that shall be considered in the TDM plan include, but are not limited to, financial incentives for carpoolers, vanpoolers and bicyclists, subsidized transit passes, preferential location of carpool/vanpool parking, bicycle racks and storage, access to shower and lockers, and promotion of commuter programs. As a condition of approval a TDM cash escrow, letter of credit with a corporation approved by the City Manager or other guarantee acceptable to the City Manager equal to 100% of the cost of implementing the first two years of the TDM Plan will be required. All new residential development applications should consider
TDM strategies such as bikeshare and carshare memberships, subsidized transit passes, and an information kiosk onsite.

C. Parking.

All zoning and development projects in the TOD District require documentation of the parking plan for the project site including the number of required parking spaces, the number of provided parking spaces and any proposed use of proof of parking. The location and quantity of parking will be reviewed on a case-by-case basis as part of the development review process. Based on the specifics of the parking plan for the project site a formal Parking Study may be required. The City Planner should be contacted prior to application and early in the project to review the parking plan for the project and to determine if a formal Parking Study is required.

Subd. 10. Architectural Standards. All buildings shall comply with Architectural Standards established in Section 11.03 Subd 3(K) of Chapter 11 of the City Code.

Subd. 11. Signage. All sites and buildings shall comply with Sign Permits standards established in Section 11.70.

Subd. 12. Lighting. All sites and buildings shall comply with Glare standards established in Section 11.03.

Subd. 13. Mechanical Equipment, Trash, Loading Facilities. All sites and buildings shall comply with the Screening standards in Section 11.03 Subd 3(G), Off-Street Loading Facilities standards in Section 11.03 Subd 3(I), Trash and Recycling standards in Section 11.03, Subd. 3(M), and Wastes standards in Section 11.03 Subd 4(F) of Chapter 11 of the City Code.

Subd. 14. Tree Replacement. Property within the TOD zoning districts shall be exempt from the Tree Replacement Plan Requirements provided in Section 11.55, Subd.4.

SECTION 11.27. TC TOWN CENTER DISTRICT.

Subd. 1. Purposes. The intent of the Town Center (TC) zoning district is to provide an area for development of an attractive, compact, walkable, mixed-use town center that creates a live/work/play environment for the community. To support the intent of the Town Center, the purposes of the TC zoning district are to:

A. Provide a mix of higher density regional uses, vertical mixed uses, more housing within walking distance of services, and a more efficient, compact and connected development pattern;

B. Incorporate connections between the various land uses; including pedestrian, street and visual;

C. Incorporate civic amenities such as urban parks and plazas, civic and cultural spaces, sidewalks and trails, and landscaped streetscapes;

D. Promote strategies and designs that decrease the need for parking, including compact/mixed-use development patterns, on-street parking, joint use parking, structured parking, access to transit and shuttle services, bike sharing, and car sharing;

E. Locate and design buildings that are oriented to public spaces, including streets, sidewalks, plazas and open spaces, to create the feel and function of a traditional town center and to emphasize a pedestrian oriented environment; and

F. Encourage non-automobile access and circulation, including transit, walking and biking.
G. Support an urban design pattern that encourages active living – the integration of physical activity into daily routines and healthy mobility choices, including walking, biking, riding scooters, and rollerblading, and other forms of pedestrian travel and includes accommodations for persons with disabilities to connect to transit.

The standards applicable to the TC zoning district are intended to implement the vision, goals and principles established in the Eden Prairie Major Center Area Framework Plan and Major Center Area Planning Principles and the Town Center Design Guidelines, which will be carried out through specific standards related to land use mix, site planning, building bulk & dimensions, architecture, building materials, transportation access, parking, landscaping, signage and lighting.

**Subd. 2. Definitions.** The following terms, as used in this Section, shall have the following meanings:

A. “Building Break” – A recess in the building façade that provides façade articulation, creates the impression that one building is two or more buildings, incorporates a unique building element, and improves the building’s overall composition and aesthetic. Minimum requirements for a building break are a depth of two (2) feet and a width of four (4) feet.

B. “Building Stepback” – A setback of a building’s upper floor(s) in order to reduce the building’s bulk, articulate the base of the building, ensure a more comfortable street environment, and provide light and air at street level.

C. “Building Street Frontage” – The proportion of a lot’s frontage on a public street that is occupied by a building as measured at the required maximum front yard setback. Corner lots must meet maximum front yard setback requirements for both public street frontages.

D. “Building Transparency” – Openings in the street-facing façade of a building which are transparent, including windows and doors, that enable increased physical and/or visual interaction between street/sidewalk/plaza activities and a building’s interior uses and activities.

E. “Community Commercial” – Medium-scale retail stores and personal services primarily serving the residents and employees of the community. No individual building or tenant space shall exceed 6,000 sq. ft. in area.

F. “Drive-thru Facilities” – Facilities that accommodate automobiles and from which the occupants of the automobiles may make purchases or transact business, including the stacking spaces needed for waiting vehicles. Examples of drive-thru facilities include, but are not limited to, drive-up windows, menu boards, order boards or boxes, drive-in restaurants and drive-up banks.

G. “Ground Floor Height” – measurement taken from floor to floor.

H. “Joint Use Parking” - A parking facility shared by two or more uses, tenants or properties.

I. “Mixed-Use Building” – A multi-story building that contains allowed retail and services on the ground floor and allowed residential and/or office uses on the upper floors.

J. “Neighborhood Commercial” – Small-scale retail stores and personal services primarily serving nearby residential areas and nearby businesses and their employees and small-scale specialty shops and services that contribute to the uniqueness and vibrancy of Town Center and may attract a larger trade area. No individual tenant space shall exceed 10,000 sq. ft. in area with the exception of grocery stores, which shall not exceed 25,000 sq. ft. in area. Drive-thru facilities are prohibited as a neighborhood commercial use.

K. “Public Open Space” – a publicly or privately owned area such as a park, trail, sidewalk or plaza that is accessible to the public.

L. “Usable Outdoor Open Space” – Planned and improved outdoor facilities and open spaces that provide active or passive recreational, relaxation or gathering opportunities, including, but not limited to, any one or more of the
following: parks; plazas; play areas; maintained and landscaped lawn with trees and seating areas; natural or landscaped walking paths and running trails; pedestrian spaces; publicly accessible natural or wildlife viewing areas; gardens; ponds and water features; and other similar environments. Usable outdoor open space shall not include: landscape strips or enlargements/enhancements of landscaping areas adjacent to the sidewalk; shrubs, flowers and other low profile landscaping around buildings, sidewalks and parking areas; required minimum building setback areas; yards associated with private dwellings; or outdoor areas that prohibit public or resident access during normal business hours for the area. No areas of usable open space shall contain less than 2,000 contiguous square feet. Usable open space in Mixed Use and Commercial sub-districts should be located near primary building entrances and be accessible by the public from a public sidewalk or streetscape area at least during normal business hours of the surrounding area.

M. “Visitor Parking” - An off street, surface parking area for motor vehicles that will be parked for short periods of time, and visiting within the Town Center district. Visitor parking does not include long term or all day employee parking or parking of delivery vehicles engaged in loading or unloading goods.

Subd. 3. Sub-Districts. The TC zoning district is divided into three (3) sub-districts:

A. *Town Center Mixed Use (TC-MU)*: Town Center Mixed-use requires higher intensity vertical mixed-use buildings with ground floor retail shops, services and restaurants that front onto Town Center’s “Main Streets” and are pedestrian-oriented. In order to support a live/work/play environment, the upper floors shall be primarily residential uses, both rental and ownership housing, with a minimal amount of office uses allowed.

B. *Town Center Residential (TC-R)*: Town Center Residential allows a mix of stacked housing types including high density high-rise residential and high density mid-rise residential. These higher density housing types, both rental and ownership, shall be designed to optimize the district’s walkable access to retail, services, restaurants, parks and trails, transit and community facilities. High rise buildings shall be located and designed to take advantage of views of nearby natural amenities and where significant shading of lower buildings will not occur.

C. *Town Center Commercial (TC-C)*: Town Center Commercial allows a mix of lower intensity commercial uses including community retail, services, restaurants, entertainment, office, and hospitality/lodging. Site layout, building design and parking strategies shall support the compact and pedestrian-oriented character of the district.

Subd. 4. Design Guidelines. All new development, redevelopment and subdivisions within the Town Center district shall be in substantial conformance with the Town Center Design Guidelines. Development proposals will be reviewed as part of the Site Plan and Architectural Design Review process for conformance with the City Codes and the Design Guidelines.

Subd. 5. Permitted Uses. Table 1 establishes the permitted and accessory uses in the TC zoning district. Table 1: Permitted Uses in Town Center District (Permitted = P, Accessory = A)

<table>
<thead>
<tr>
<th>Use</th>
<th>TC-MU</th>
<th>TC-R</th>
<th>TC-C</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commercial</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Neighborhood commercial</td>
<td>P</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Community commercial</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Restaurants and food service w/o drive-thru facilities</td>
<td>P</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>Business and professional offices and clinics</td>
<td>A1</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>Hotels</td>
<td>P</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Day care facility</td>
<td>P</td>
<td></td>
<td>P</td>
</tr>
<tr>
<td>Antennas and Towers, in those locations and subject to the limitations contained in City Code Section 11.06.</td>
<td></td>
<td></td>
<td>P</td>
</tr>
<tr>
<td>Residential</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>High-rise multiple-family attached dwelling units with minimum gross density of 60 units per acre</td>
<td></td>
<td></td>
<td>P</td>
</tr>
</tbody>
</table>
Subd. 6. Permitted Building Types. The following building types are established as the only types of new buildings allowed within the TC district.

A. Building Type A, Vertical Mixed-Use Residential/Commercial. Type A buildings shall have retail, restaurant and/or service uses on the ground floor with residential on the upper floors. Parking may be included below or above the ground floor.

B. Building Type B, Vertical Mixed-Use Office/Commercial.

C. Building Type C, High-Rise Residential.

D. Building Type D, Mid-Rise Residential.

E. Building Type E, Entertainment/Restaurant/Services. Type E buildings may include entertainment, restaurant and/or services uses.

F. Building Type F, Hospitality/Lodging.

G. Building Type G, Community Retail.

H. Building Type H, Parking Structure.

Table 2 establishes where the permitted building types can be located within the Town Center district.

<table>
<thead>
<tr>
<th>Building Type</th>
<th>TC-MU</th>
<th>TC-R</th>
<th>TC-C</th>
</tr>
</thead>
<tbody>
<tr>
<td>Type A</td>
<td>P</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Type B</td>
<td></td>
<td></td>
<td>P</td>
</tr>
</tbody>
</table>

1 Business and professional offices and clinics shall be located in mixed-use building, shall not be located on the ground floor and shall not occupy more than 25% of upper floors’ gross square footage.

2 Ground floor uses with street frontage shall be 100% retail, restaurant and/or services.

Source: Ordinance No. 2-2017
Effective Date: 3-16-2017
Subd. 7. Required Conditions.

A. Zoning applications will be considered only on the basis of the Comprehensive Guide Plan for the entire area to be zoned and specific plans for initial structures and site development.

B. Nonconformities are governed under Minnesota Statutes 462.357, Subdivision 1.e.

C. Development proposals will be reviewed as part of the Site Plan and Architectural Design Review and Planned Unit Development process as set out in City Code Chapter 11.

D. Any provisions contained in Section 11.27, which are inconsistent with or are in conflict with any other provision of the City Code shall supersede such other provisions.

E. All zoning and development applications must include a trip generation analysis that indicates the traffic impacts on the overall Major Center Area (MCA) and demonstrates that the proposed development is not in conflict with the MCA traffic model.

F. Acceptable, approved sanitary sewer and water services must be provided to all occupied structures.

Subd. 8. Building Bulk & Dimension Standards. Table 3 establishes specific bulk and dimension standards for new buildings in the Town Center District.

<table>
<thead>
<tr>
<th>Standard</th>
<th>TC-MU</th>
<th>TC-R</th>
<th>TC-C</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lot Size</td>
<td>None</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>Lot Width</td>
<td>50 ft. min</td>
<td>50 ft. min</td>
<td>50 ft. min</td>
</tr>
<tr>
<td>Lot Depth</td>
<td>100 ft. min</td>
<td>100 ft. min</td>
<td>100 ft. min</td>
</tr>
<tr>
<td>Front Yard Setback (ft.)¹</td>
<td>0 min</td>
<td>10 max</td>
<td>10 min</td>
</tr>
<tr>
<td>Side Yard Setback (ft.)</td>
<td>0 min</td>
<td>10 min</td>
<td>5 min</td>
</tr>
<tr>
<td>Rear Yard Setback (ft.)</td>
<td>0 min</td>
<td>20 min</td>
<td>10 min</td>
</tr>
<tr>
<td>Building Height¹ (# of floors)</td>
<td>4 min</td>
<td>6 max</td>
<td>4 min</td>
</tr>
<tr>
<td>Building Footprint Coverage</td>
<td>50% min</td>
<td>75% max</td>
<td>40% min</td>
</tr>
<tr>
<td>Floor Area Ratio (FAR)¹</td>
<td>2.25 max</td>
<td>2.25 max</td>
<td>0.5 max²</td>
</tr>
<tr>
<td>Building Street Frontage</td>
<td>75% min</td>
<td>60% min</td>
<td>50% min</td>
</tr>
<tr>
<td>Impervious Surface Coverage</td>
<td>90% max</td>
<td>75% max</td>
<td>75% max</td>
</tr>
<tr>
<td>Ground Floor Height</td>
<td>12 ft. min</td>
<td>None</td>
<td>12 ft. min</td>
</tr>
<tr>
<td>Street Façade Building Stepback</td>
<td>8 ft. min (above 4 floors)</td>
<td>8 ft. min (above 6 floors)</td>
<td>N/A</td>
</tr>
<tr>
<td>Street Façade Building Breaks³</td>
<td>20% min</td>
<td>15% min</td>
<td>15% min</td>
</tr>
<tr>
<td>Street Level Frontage Transparency</td>
<td>60% min</td>
<td>20% min</td>
<td>40% min</td>
</tr>
<tr>
<td>Usable Outdoor Open Space</td>
<td>5% min</td>
<td>10% min</td>
<td>N/A</td>
</tr>
<tr>
<td>---------------------------</td>
<td>--------</td>
<td>---------</td>
<td>-----</td>
</tr>
</tbody>
</table>

1. Parking structures shall not be included in calculation of # of Floors, FAR and Building Footprint Coverage.
2. Maximum building height and maximum FAR may be exceeded for permitted hotel, lodging and entertainment uses, when the peak period trips generated is in compliance with the MCA traffic model.
3. Buildings exceeding 40 feet in width along a street are required to incorporate building breaks in the street façade that break the building into smaller façades, which may be a maximum of 40 feet in width.
4. Front Yard Setbacks may be increased if outdoor dining or usable open space is proposed as part of a Planned Unit Development. Awnings, decks, overhangs, stairs, steps, retaining walls and structures, signs or bicycle parking, etc. shall not project into the public right of way.

**Subd. 9. Non-Residential Building Orientation to Street and Pedestrian Areas.** All new mixed-use and commercial buildings shall provide a variety of active uses and pedestrian-oriented design features along streets and pedestrian areas. These design features include, but are not limited to, the use of multiple storefronts or businesses, multiple entrances into large single-tenant buildings, and design treatments of facades, entrances, windows, and other similar features. Buildings and developments shall comply with the following standards for building orientation:

A. All new buildings shall have primary entrance doors facing a public sidewalk or public open space and spaced no more than sixty (60) feet apart. A primary entrance is defined as a principal entrance through which people enter the building. A building or individual business may have more than one primary entrance. Building entrances may include doors to individual businesses, lobby entrances, entrances to pedestrian-oriented plazas, or courtyard entrances to a cluster of stores. Primary entrances shall be open to the public during all business hours.

B. Primary building entrances shall be architecturally emphasized and visible from the street. Primary building entrances shall be clearly defined and highly visible utilizing design features such as awnings, canopies, pillars, unique building materials and/or architectural details.

C. A minimum percentage of a mixed-use and commercial building’s street-facing ground level façade between two (2) feet and eight (8) feet in height shall be comprised of clear windows, as specified in the Street Level Frontage Transparency standard in Table 3 above, in order to allow views of indoor non-residential space or product display areas. Required windows shall have a sill no higher than four (4) feet above the adjacent sidewalk.

**Subd. 10. Off-Street Vehicle Parking Standards.**

A. Due to the more urban pedestrian oriented character of the Town Center area, the location and quantity of off-street parking spaces will be reviewed on a case-by-case basis as part of the development review process. In general, the intent is for developments to provide a reduced number of off-street parking spaces to account for availability of joint and shared-use parking, parking efficiencies resulting from a compact mixed-use development pattern, on-street parking, transit, walking and bicycling. Off-street parking facilities shall be provided as established in Table 4 or as determined through the development review process, recognizing the potential for district, shared and public parking. Table 4 establishes minimum and maximum off-street parking standards for uses within the Town Center district.

**Table 4: Off-Street Parking Space Standards for Town Center District**

<table>
<thead>
<tr>
<th>Use</th>
<th>TC-MU (# of spaces)</th>
<th>TC-R (# of spaces)</th>
<th>TC-C (# of spaces)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Minimum</td>
<td>Maximum</td>
<td>Minimum</td>
</tr>
<tr>
<td>Multiple-Family</td>
<td>1/ dwelling unit</td>
<td>1/ bedroom</td>
<td>1/ dwelling unit</td>
</tr>
<tr>
<td>Residential</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Category</td>
<td>Retail Stores &amp; Services</td>
<td>Restaurant</td>
<td>Office</td>
</tr>
<tr>
<td>---------------</td>
<td>--------------------------</td>
<td>------------</td>
<td>--------</td>
</tr>
<tr>
<td>3/1,000 sq. ft. (G.F.A.)</td>
<td>5/1,000 sq. ft. (G.F.A.)</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>3/1,000 sq. ft. (G.F.A.)</td>
<td>5/1,000 sq. ft. (G.F.A.)</td>
<td>1/3 seats</td>
<td>1/2.5 seats</td>
</tr>
<tr>
<td>3/1,000 sq. ft. (G.F.A.)</td>
<td>4/1,000 sq. ft. (G.F.A.)</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>3/1,000 sq. ft. (G.F.A.)</td>
<td>5/1,000 sq. ft. (G.F.A.)</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>1/3 seats</td>
<td>1/2.5 seats</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>3/1,000 sq. ft. (G.F.A.)</td>
<td>5/1,000 sq. ft. (G.F.A.)</td>
<td>1/3 seats</td>
<td>1/2.5 seats</td>
</tr>
</tbody>
</table>

**B.** On-site parking is prohibited in the front yard directly in front of a building, except for frontage along Highway 212. Parking shall be provided to the rear or side of buildings.

**C.** All parking in the TC-MU sub-district shall be in a parking structure or on the street.

**D.** All off-street parking for residents in the TC-R sub-district shall be provided in an enclosed building or structure.

**E.** Parking structure facades visible from public streets and public open spaces shall architecturally complement the building or buildings the parking structure serves through the use of exterior materials, architectural elements, and color. Parking structures shall include architectural elements that enhance the structure, break up its mass, and complement the building or buildings the parking structure serves. Examples of specific architectural elements that assist in meeting this requirement include decorative piers and pilasters, banding, reveals, architectural accents, wall plane articulation, decorative artwork, ornamental grillwork, recessed window openings, façade treatment variations, and locating tenant signs on the side of parking ramps.

**F.** Parking structures may also incorporate liner buildings that screen the parking structure with active street-level uses. Liner building may include upper floor uses or may utilize appropriate architectural elements as described above.

**G.** The location and design of off-street parking will be reviewed on a case-by-case basis as part of the development review process. Off-street parking requirements may be reduced if the applicant demonstrates meeting the requirement through join use, district, off-site, or on-street parking.

**H.** Parking ramps facing a public street must be lined on the street-facing side with an active ground floor use or commercial ready space. If no upper floor uses are present the ramp must be appropriately screened as required.

**I.** For new development occurring within the TC Districts, on-street parking along the uses’s lot frontage may count towards the parking requirements when reviewed and approved through a Planned Unit Development. This count shall be rounded to the nearest whole number.

**J.** Parking structures shall not be included in calculation of number of floors and FAR.

**Subd. 11. Supplemental Analysis or Study.**

**A.** **Traffic.** All development and zoning projects in the TC District require documentation of the expected traffic impacts of the development. The scope of the traffic analysis is dependent on several factors including the size, type, and location of the development. The City Engineer should be contacted early in the project to determine.
the appropriate scope of the traffic analysis and to determine if a formal Traffic Impact Study is required. All development applications, regardless of size, shall document the size and type of the proposed development and provide Daily, AM Peak, and PM Peak traffic generation estimates for the development.

B. Traffic Demand Management (TDM). All development applications for office uses shall include a Travel Demand Management (TDM) plan. The plan shall document TDM measures to be implemented, a two year budget, and an evaluation plan. TDM strategies that should be considered in the TDM plan include, but are not limited to, financial incentives for car poolers, van poolers and bicyclists, subsidized transit passes, preferential location of carpool/vanpool parking, bicycle racks and storage, access to shower and lockers, and promotion of commuter programs. As a condition of approval a TDM cash escrow, letter of credit with a corporation approved by the City Manager or other guarantee acceptable to the City Manager equal to 100% of the cost of implementing the first two years of the TDM Plan will be required. All new residential development applications should consider TDM strategies such as bikeshare and carshare memberships, subsidized transit passes, and an information kiosk onsite.

C. Parking. All zoning and development projects in the TC District require documentation of the parking plan for the project site including the number of required parking spaces, the number of provided parking spaces and any proposed use of proof of parking. The location and quantity of parking will be reviewed on a case-by-case basis as part of the development review process. Based on the specifics of the parking plan for the project site a formal Parking Study may be required. The City Planner should be contacted prior to application and early in the project to review the parking plan for the project and to determine if a formal Parking Study is required.

Subd. 12. Pedestrian and Off-Street Bicycle Facility Standards.

A. Public sidewalks and/or trails may be required to be constructed by the applicant in conformance with the Comprehensive Guide Plan and/or the City Pedestrian and Bicycle Plan. Design shall conform to the requirements of the City Engineer, Parks and Recreation Director or designee.

B. An off-street sidewalk or multi-use trail shall be provided by the applicant that connects the front door of the building to adjacent public sidewalks or trails that are either existing or contemplated in an approved city trail plan or Capital Improvement Plan.

C. Off-Street Bicycle parking shall be provided at the following ratios at the time of initial certificate of occupancy and at the time of an enlargement of a structure:

1. Office - minimum of 10 spaces, plus 1 space per 7,500 square feet of gross floor area.
2. Commercial – minimum of 10 spaces, plus 1 space per 3,500 square feet of gross floor area.
3. Public- minimum of 10 spaces, plus 1 space per 3,500 square feet of gross floor area.
4. Light Industrial – minimum of 10 spaces, plus 1 space per 10,000 square feet of gross floor area.
5. Residential - 1 space per 2 dwelling units.

D. Location. Bicycle parking shall be located within 50 feet of the primary building entrance(s) and shall not obstruct sidewalks except as approved through a shared bicycle plan as referenced in Sub. 12. G.

E. Bicycle racks shall be securely anchored to the ground and on a hard surface. Up to 25 percent of bicycle parking may be temporary or seasonal, but all temporary or seasonal bicycle parking shall be included within the Proof of Bicycle Parking plan.

F. Covered spaces. If twenty (20) or more bicycle spaces are required, then at least fifty (50) percent of the required bicycle spaces shall be covered. Coverage may be provided under roof overhangs or awnings, in bicycle lockers, indoor room, fenced in corral, within adjacent parking structures, or within underground parking structures.
G. Shared Bicycle Parking. Shared off-street bicycle parking facilities are allowed to collectively provide bicycle parking in any district for more than one structure or use. The applicant shall demonstrate meeting the requirement through a joint use, district or shared parking agreement.

H. Proof of Bicycle Parking. Any bicycle parking not constructed, as shown on the site plan, shall be constructed when determined necessary by the City Planner. If the applicant demonstrates to the satisfaction of the City Planner that the required bicycle parking is in excess of the actual demand, all of the required bicycle parking need not be constructed prior to the issuance of the initial certificate of occupancy for the building being served. The area of future parking shall be landscaped, which landscaping shall not be used to satisfy landscaping requirements. The City Planner shall notify the property owner in writing of the need to construct additional proof of bicycle parking spaces. No more than 50 percent of bicycle parking stalls may be placed in proof of bicycle parking.

Subd. 13. Architectural Standards. All buildings shall comply with Architectural Standards established in Section 11.03 Subd 3(K) of Chapter 11 of the City Code and shall be in substantial conformance with the Town Center Design Guidelines.


A. All sites and buildings within the TC district shall comply with Screening and Landscaping standards established in Section 11.03 Subd 3(G) of Chapter 11 of the City Code, except for Items 4. (a). Minimum Size Requirements for Plantings and 4. (b) Total Caliper Inches Required. The following standards apply within the TC district in lieu of said Item 4. (a):

   1. Minimum Size Requirements for Plantings: Deciduous overstory plantings shall be a minimum of three (3) caliper inches; deciduous understory trees shall be a minimum of two (2) caliper inches; and coniferous trees shall be a minimum of eight (8) feet in height.

   2. Total Caliper Inches Required: Sites up to up to 5 acres of on-site pervious area require a minimum of three (3) caliper inches of trees for every 500 square feet of the on-site pervious surface area. Sites with 5 acres or greater of on-site pervious area require a minimum of three (3) caliper inches of trees for every 750 square feet of the on-site pervious area. Pervious pavement areas, green roofs, and undevelopable areas including but not limited to: wetlands, floodways, archeological resource areas, and water bodies are excluded from the on-site pervious surface area calculation.

   3. Planting beds and/or decorative planting containers may replace up to 50% of the required caliper inches for trees at a rate of three (3) caliper inches of trees per 500 square feet of cumulative planting beds and/or decorative planting containers.

   4. Planting Beds and/or Decorative Planting Containers: Each planting bed or container shall include a variety of plants which may include shrubs, ornamental grasses, ground cover, vines, annuals, or perennials to provide year round color and interest. Native plant species to the local hardiness zone and those which provide interest and/or color in the winter are encouraged.

   5. Existing trees on the developable portions of the site that will remain after construction and/or existing trees on the overall site that provide benefits such as screening may be considered as counting toward a portion of the caliper inches required by this section as determined through the PUD process. Any existing trees proposing to remain shall be determined to be healthy and of the appropriate species as determined by the City.

   6. Eco-grass, green roofs, rooftop gardens, limiting irrigation through xeriscaping and rainwater collection and reuse, public art, and other sustainable practices related to landscaping may be considered as counting toward a portion of the caliper inches required by this section as determined through the PUD process.
B. Landscaping shall be in substantial conformance with the Town Center Design Guidelines. Due to the urban character of the Town Center District, less landscape space will be available than in other zoning districts. Therefore a higher level of design detail and level of landscaping is required for the concentrated open space, pervious surface areas, plazas, planters, screening areas and streetscape areas. Rooftop gardens and green roofs are encouraged. A detailed landscape plan prepared by a landscape architect shall be submitted with the development application.

Subd. 15. Signage. All sites and buildings shall comply with Sign Permits standards established in Section 11.70 and shall be in substantial conformance with the Town Center Design Guidelines.

Subd. 16. Lighting. All sites and buildings shall comply with Glare standards established in Section 11.03 Subd 4(E) and shall be in substantial conformance with the Town Center Design Guidelines.

Subd. 17. Mechanical Equipment, Trash, Loading Facilities. All sites and buildings shall comply with the Screening standards in Section 11.03 Subd 3(G), Off-Street Loading Facilities standards in Section 11.03 Subd 3(I) and Wastes standards in Section 11.03 Subd 4(F) of Chapter 11 of the City Code and shall be in substantial conformance with the Town Center Design Guidelines.

SECTION 11.28. AIRPORT C – COMMERCIAL DISTRICT

Subd. 1. Purposes of Airport C-Commercial. The purposes of the Airport C-Commercial District (A-C) are to: (1) Provide appropriately located areas for retail stores, offices, service establishments, restaurants, business and professional offices and accessory uses, gasoline/convenience stores and amusement establishments; (2) Provide opportunities for retail stores, offices, service establishments, and amusement establishments, to concentrate for the convenience of the public and in mutually beneficial relationship to each other; (3) Provide space for community facilities and institutions that appropriately may be located in commercial areas; (4) Provide adequate space to meet the needs of modern commercial development, including off-street parking and truck loading areas; (5) Minimize traffic congestion and avoid the over-loading of utilities by preventing the construction of buildings of excessive size in relation to the amount of land around them; and, (6) Protect commercial properties from noise, odor, dust, dirt, smoke, vibration, heat, glare, traffic, fire, explosion, noxious fumes, and other hazards.

Subd. 2. Permitted Uses in Airport – Commercial District.

A. All direct retail sales to users of goods and services conducted within structures and accessory uses, including related or supporting office and distribution uses.

B. Public Infrastructure.

C. Antennas and Towers, in those locations and subject to the limitations contained in City Code Section 11.06.

Source: Ordinance No. 2-2017
Effective Date: 3-16-2017

D. Day care facility

Source: Ordinance No. 13-2017
Effective Date: 8-17-2017

E. Small Brewer with Brewer Taproom

F. Microdistillery with Cocktail Room

Source: Ordinance No. 6-2018
Effective Date: 5-10-2018

Subd. 3. Required Conditions for Airport Commercial.

A. Acceptable, approved sanitary sewer service must be provided to all occupied structures and uses.
Subd. 4. Aeronautical Uses. Aeronautical Uses and Aeronautical Development Projects are not subject to the terms or conditions of the City Code.

Subd. 5. Restrictions. In addition to the requirements set forth in this Section, construction of any building or structure situated within Airport – Commercial shall comply with all federal and state statutes, regulations, rules, laws, restrictions, guidance, and directives and Metropolitan Airports Commission rules and regulations concerning aeronautical safety and operation within the Flying Cloud Airport and runway protection zones.

Source: Ordinance No. 3-2013
Effective Date: 1-17-2013

SECTION 11.29. AIRPORT – OFFICE DISTRICT.

Subd. 1. Purposes of Airport - Office. The purposes of the Airport - Office District (A-OFC) are to: (1) Provide opportunities for offices of a semi-commercial character to locate outside of commercial districts; (2) Establish and maintain in portions of the City the high standards of site planning, architecture, and landscape design sought by many business and professional offices; (3) Provide adequate space to meet the needs of modern offices, including off-street parking of automobiles and, where appropriate, off-street loading of trucks; (4) Provide space for semi-public facilities and institutions appropriately may be located in office districts; (5) Minimize traffic congestion and avoid the over-loading of utilities by preventing the construction of buildings of excessive size in relation to the amount of land around them; and, (6) Protect offices from the noise, disturbance, traffic hazards, safety hazards, and other objectionable influences incidental to certain commercial uses.

Subd. 2. Permitted Uses in Airport – Office District.

A. Business and professional offices and accessory uses.

B. Supporting commercial sales and services to office users within large office structures of 30,000 square feet or more. The Commercial use is not to exceed fifteen percent, (15%), of the gross Floor Area Ratio.

C. Public Infrastructure.

D. Antennas and Towers, in those locations and subject to the limitations contained in City Code Section 11.06.

Source: Ordinance No. 2-2017
Effective Date: 3-16-2017

E. Day care facility

Source: Ordinance No. 13-2017
Effective Date: 8-17-2017

Subd. 3. Required Conditions of Airport - Office.

A. All professional pursuits and businesses shall be conducted entirely within a completely enclosed structure, except for off-street parking and loading areas.

B. Acceptable, approved sanitary sewer service must be provided to all occupied structures.

Subd. 4. Aeronautical Uses. Aeronautical Uses and Aeronautical Development Projects are not subject to the terms or conditions of the City Code.

Subd. 5. Restrictions. In addition to the requirements set forth in this Section, construction of any building or structure situated within Airport – Commercial or Airport - Office District shall comply with all federal and state statutes,
SECTION 11.30. I - INDUSTRIAL DISTRICTS.

Subd. 1. Purposes. The purposes of the I-Industrial District are to: (1) Reserve appropriately located area for industrial and related activities; (2) Protect areas appropriate for industrial use from intrusion by inharmonious uses; (3) Protect residential and commercial properties and protect nuisance-free, non-hazardous, industrial uses from noise, odor, insect nuisance, dust, dirt, smoke, vibration, heat and cold, glare, truck and rail traffic, and other objectionable influences, and from fire, explosion, noxious fumes, radiation, and other hazards incidental to certain industrial uses; (4) Provide opportunities for certain types of industrial plants to concentrate in mutually beneficial relationship to each other; (5) Provide adequate space to meet the needs of modern industrial development including off-street parking and truck loading areas and landscaping; (6) Provide sufficient open space around industrial structures to protect them from the hazards of fire and minimize the impact of industrial plants on nearby uses; (7) Minimize traffic congestion and avoid the over-loading of utilities by preventing the construction of buildings of excessive size in relation to the amount of land around them; and, (8) Permit and reserve areas for employment activity and service to the public which do not materially detract from nearby industrial uses.

A. Special Purposes of Industrial Park Districts.
   1. To establish and maintain high standards of site planning, architecture, and landscape design that will create an environment attractive to the most discriminating industries and research and development establishments seeking sites in the Metropolitan area.
   2. Provide and ensure the continuity of locations for industries that can operate on small sites with minimum mutual adverse impact.

B. Special Purpose of the I-GEN General Industrial District. To provide locations where industries that desire larger sites and outside storage can operate with minimum restriction and without adverse effect on other uses.

Subd. 2. Permitted Uses.

A. Manufacturing, warehousing, wholesale, distribution, processing, packaging, assembling, compounding, and accessory uses, conducted within a building.

B. Office Uses.

C. Public Infrastructure.

D. Supporting minor commercial uses as contained within office/industrial buildings, providing a supplemental function to the major office and/or industrial use. The commercial use is not to exceed 15% of the gross Floor Area Ratio of the building it occupies.

E. Gymnasium.

F. Funeral Homes.
G. Antennas and Towers, in those locations and subject to the limitations contained in City Code Section 11.06.

Source: Ordinance No. 27-97
Effective Date: 6-13-97

H. Showrooms, provided products are for display purposes only and not for direct retail sales.

Source: Ordinance No. 13-2005
Effective Date: 7-19-2005

I. Automotive Repair Services – Major, when conducted exclusively in an enclosed building.

Source: Ordinance No. 26-2016
Effective Date: 11-24-2016

J. Commercial Kennel.

Source: Ordinance No. 27-2016
Effective Date: 11-24-2016

K. Self-Storage Facility within the I-Gen Zoning District.

Source: Ordinance No. 21-2017
Effective Date: 12-21-2017

L. Small Brewer

Source: Ordinance No. 6-2018
Effective Date: 5-10-2018

M. Small Brewer with Brewer Taproom

N. Microdistillery

O. Microdistillery with Cocktail Room

P. Sexually oriented businesses within the I-2 and I-5 Zoning Districts, subject to the limitations contained in Subdivision 5 of this Section. The sexually oriented business, together with other commercial uses permitted under this Section, may not exceed 15% of the gross Floor Area Ratio of the building they occupy.

Source: Ordinance No. 24-2018
Effective Date: 12-13-2018

Subd. 3. Required Conditions.

A. Acceptable, approved sanitary sewer service must be provided to all occupied structure.

B. Zoning requests will be considered only on the basis of a Comprehensive Guide Plan for the entire area to be zoned and specific plans for initial structures and site development.

C. Office uses as permitted in the Office District shall be permitted in the Industrial District. Office use in the Industrial District shall in no event exceed fifty percent (50%) of the total floor area of the structure. Such office use shall comply with all of the requirements of this Chapter.

Source: City Code
Effective Date: 9-17-82

Subd. 4. Medical Cannabis.

Source: 5-2015
Effective Date: 5-14-15
A. Findings and Purpose. The Minnesota Legislature in Minn. Stat. §152.22 through §152.37 has legalized the distribution of medical cannabis with significant restrictions. The Council finds that it is appropriate to identify in the City Code the zoning districts in which a medical cannabis distribution facility is an allowable use. The Council finds that as a unique and highly regulated use medical cannabis distribution requires specific regulations.

B. Definitions. All definitions set forth in Minn. Stat. 152.22 through 152.37 and Minn. Rules Chap. 4770, as each may be amended from time to time apply to this Subdivision. In addition, as used in this Subdivision, the following term shall have the meaning stated:

1. Medical Cannabis Distribution Facility (“Facility”) is a “Distribution Facility” as defined by Minn. Rule 4770.0200, Subp. 13 as in effect as of May 30, 2014.

C. Permitted Use. Medical Cannabis Distribution Facility is a permitted use in the I-2 Industrial Park District as identified on the Zoning Map of the City of Eden Prairie subject to the restrictions contained in this Subdivision.

D. Performance Standards. All Medical Cannabis Distribution Facilities shall comply with all of the following performance standards.

1. Distribution shall be permitted only for the Qualifying Medical Conditions defined in Minn. Stat. 152.22, Subd. 14 in effect as of May 30, 2014.

2. The use shall comply with all provisions in Minn. Stat. 152.22 through 152.37 and Minn. Rules Chap. 4770 as each may be amended from time to time, including but not limited to the following:

   a) Security requirements set forth in Minn. Stat. 152.29, Subd. 1 (d) and Minn. Rules Chap 4770.0700, 4770.0900, 4770.1000 and 4770.1400.
   b) Prohibition against sharing space or a financial relationship with a health care practitioner set forth in Minn. Stat. 152.29, Subd. 1 (e).
   c) Prohibition against consumption of medical cannabis on the property set forth in Minn. Stat. 152.29, Subd. 2 (f).
   d) Inspections imposed pursuant to Minn. Stat. 152.29, Subd. 2 (g).
   e) Personnel regulations, including prohibition against employing any person under the age of 21 and required background checks, set forth in Minn. Stat. 152.29, Subd. 2 (i).
   f) Prohibition against operation within 1000 feet of a school set forth in Minn. Stat. 152.29, Subd. 2 (j) and Minn. Rule 4770.0600.
   g) Licensing requirements set forth in Minn. Stat. 152.29, Subd. 3.
   h) Prohibition against any displays of merchandise, interior signs, or other exhibits which are visible from outside of the Facility set forth in Minn. Rule 4770.0800, Subp. 3.

3. No manufacture or production of Medical Cannabis shall be permitted at the Facility.

4. No drive-thru shall be permitted at the Facility.

5. In lieu of the “Off-Street Parking Facilities” provisions set forth in City Code Section 11.03, Subd. 3 H., off street parking facilities located at the Facility shall provide a minimum of 5 parking spaces per 1,000 square feet of gross floor area.

6. Annually, within 15 days of receipt, a copy of the registration required by Minn. Stat. 152.25, Subd. 1 shall be provided to the Chief of Police.
Subd. 5. Sexually Oriented Businesses.

A. Purpose and Findings. The purpose of this Subdivision is to control, through zoning regulations, sexually oriented businesses, which have a direct and detrimental effect on the character of the City’s residential and commercial neighborhoods. The City Council makes the following findings regarding the effect sexually oriented businesses have on the character of the City’s neighborhoods.

1. Sexually oriented businesses can exert a dehumanizing influence on persons attending places of worship; children attending day care facilities; and students attending public or private schools.

2. Sexually oriented businesses can contribute to an increase in criminal activity in the area in which such businesses are located, taxing city crime-prevention programs and law-enforcement services.

3. Sexually oriented businesses can significantly contribute to the deterioration of residential neighborhoods and can impair the character and quality of the residential housing in the area in which such businesses are located, thereby exacerbating the shortage of affordable and habitable housing for City residents.

4. The concentration of sexually oriented businesses in one area can have a substantially detrimental effect on the area in which such businesses are concentrated and on the overall quality of urban life. A cycle of decay can result from the influx and concentration of sexually oriented businesses. The presence of such businesses is perceived by others as an indication that the area is deteriorating and the result can be devastating. Other businesses move out of the vicinity and residents flee from the area. Declining real estate values, which can result from the concentration of such businesses, erode the city’s tax base and contribute to overall urban blight.

B. Permitted Use. Sexually oriented businesses are a permitted use in the I-2 and I-5 Industrial Park Districts as identified on the Zoning Map of the City of Eden Prairie subject to the restrictions contained in this Subdivision. Sexually oriented businesses are prohibited in all other districts.

C. Performance Standards. All sexually oriented businesses shall comply with the following performance standards:

1. No sexually oriented business may be located closer than 1000 feet from any other sexually oriented business. Measurements will be made in a straight line, without regard to intervening structures or objects, from the nearest point of the property line of the building occupied by the sexually oriented business to the nearest point of the property line of the building occupied by the other sexually oriented business.

2. No sexually oriented business may be located closer than 1000 feet from any place of worship, day care facility, or school. Measurements will be made in a straight line, without regard to intervening structures or objects, from the nearest point of the property line of the building occupied by the sexually oriented business to the nearest point of the property line of the building occupied by the place of worship, day care facility, or school.

3. No sexually oriented business may be located closer than 1000 feet from any residential use. Measurements will be made in a straight line, without regard to intervening structures or objects, from the nearest point of the property line of the building occupied by the sexually oriented business to the nearest point of the property line of the building occupied by the residential use.

D. Licensing. All sexually oriented businesses shall comply with the licensing requirements of City Code Section 5.77.
E. Sign Regulations. In addition to the sign regulations contained in Section 11.70, the following sign regulations apply to all sexually oriented businesses in the City. Where a provision of this subsection E conflicts with a provision of Section 11.70, the more restrictive provision will apply.

1. All signs shall be wall signs. Free-standing signs, readerboard signs, and dynamic displays are prohibited.

2. The amount of allowable sign area is 10% of the wall area that the sexually oriented business occupies of the wall to which it is affixed or 30 square feet, whichever is less.

3. No merchandise, photos, or pictures of the products or entertainment on the premises may be displayed in window areas or any area where they can be viewed from the sidewalk or public right-of-way adjoining the building in which the sexually oriented business is located.

4. No signs may be placed in any window. A one square foot sign may be placed on the door to state hours of operation and admittance to adults only.

(Sections 11.31 through 11.34, inclusive, reserved for future expansion.)

SECTION 11.35. PUB - PUBLIC.

Subd. 1. Purposes. The purposes of the PUB - Public District are to provide a procedure for the orderly establishment of public facilities, expansion of their operations, or change in the use of lands owned by governmental agencies or entities that operate places of worship, cemeteries, private schools, and community centers as defined by City Code and for the identification of drainage ways and flood plains.

Source: Ordinance No. 12-2017
Effective Date: 8-17-2017

Subd. 2. Permitted Uses.

A. Public Infrastructure.

B. Drainage ways and flood plains approved by the Council. Source: City Code
Effective Date: 9-17-82

C. Places of Worship. Source: Ordinance No. 137-84
Effective Date: 1-17-85

D. Cemeteries.

E. Private schools and related boarding facilities which have public sanitary sewer and water service and which are located within the area described in Ordinance No. 12-87. Source: Ordinance No. 12-87
Effective Date: 3-17-88

F. Antennas and Towers, in those locations and subject to the limitations contained in City Code Section 11.06. Source: Ordinance No. 27-97
Effective Date: 6-13-97

G. Governmental offices in buildings of less than 6,000 square feet. Source: Ordinance No. 1-2011
Effective Date: 1-27-2011
H. Public School and Private School.  
   Source: Ordinance No. 18-2016  
   Effective Date: 9-15-2016

I. Community Center.  
   Source: Ordinance No. 12-2017  
   Effective Date: 8-17-2017

J. Day care facility as an accessory use.  
   Source: Ordinance No. 13-2017  
   Effective Date: 8-17-2017

SECTION 11.36 GC-GOLF COURSE.

Subd. 1. Purposes. The purpose of the GC-Golf Course District is to specify a land use district applicable and consistent with the historical and contractual development and use of the City’s golf courses.

Subd. 2. Permitted Uses.

A. Golf, golf holes, practice ranges and greens, tennis courts, club houses, swimming pools, maintenance and storage buildings, pump houses and wells, shelter houses, cart paths, irrigation facilities, croquet, lawn bowling, platform tennis, cross country skiing, snow shoeing, ice skating and other passive recreational activities with non-motorized use, provided however motorized golf carts are permitted. The term “golf course” does not include permanent or temporary residential use or transient hotel use.

B. Antennas and Towers, in those locations and subject to the limitations contained in City Code Section 11.06.

C. Public Infrastructure.

D. Antennas and Towers, in those locations and subject to the limitations contained in City Code Section 11.06.

SECTION 11.37 P-PARK AND OPEN SPACE DISTRICT.

Source: Ordinance No. 17-2017  
Effective Date: 9-28-2017

Subd. 1. Purpose. The Park and Open Space District is established to (1) promote, preserve, and protect publicly owned parks and open space through conservation and appropriate and compatible development; (2) provide opportunities for active and passive indoor and outdoor recreation and leisure activities integral to the overall quality of life; (3) protect natural resources including grassland, forest, wetlands and other features; (4) enhance property values and further the purposes of the City’s Park and Open Space System Plan.

Subd. 2. Definitions. The following terms, as used in this Section, shall have the following meanings stated:

A. Front yard, perimeter: The area between the perimeter front lot line and the required front setback extending across that portion of a park property adjacent to the exterior streets.

B. Historical Property: A Historic Preservation Site as designated in this Chapter and/or a district, site, building, structure or object on the National Register of Historic Places.
C. **Lot Line, perimeter:** The boundary that encompasses the entire park property which may include multiple parcels that function as a single site.

D. **Park Property:** A single parcel or multiple parcels that function as a single site. When a street crosses a park property, the park property is still considered a single site.

E. **Public Recreation:** Any use commonly provided for and open to the public at parks, playgrounds, community centers, or other similar sites owned or operated by a unit of government for the purpose of providing recreation.

F. **Rear yard, perimeter:** The area lying between the perimeter rear lot line and the required rear setback line extending from the perimeter side lot lines.

G. **Side yard, perimeter:** The area between the perimeter side lot line and the required side setback extending from the perimeter front lot line to the perimeter rear lot line.

**Subd. 3. Permitted Uses.**

A. Public Recreation

B. Publicly Owned Historical Property/Building

C. Recreation related structures and amenities that support the primary use of the site

D. Public Conservation Areas

E. Public Infrastructure

F. Antennas and Towers, in those locations and subject to the limitations contained in City Code Section 11.06

**Subd. 4. Lots and Accessory Structures and Uses.**

A. **Lots/Parcels.** Park property may consist of one or more lots or parcels that for the purposes of this Section function as one site. Setbacks for parking lots, buildings, and accessory structures and use shall be measured from the perimeter lot line that encompasses the park property.

B. **Accessory Structures and Uses.** Accessory structures and uses in the Park and Open Space District may be located on the same lot as the principal use or structure or on another lot within the park property. An accessory structure or use may occur without a primary structure and may be allowed in the perimeter front yard setback up to 15 feet from the property line.

**Subd. 5. Parking Lot Design:**

The following parking lot screening and parking setbacks shall be applicable to new or enlarged parking areas after the effective date of the adoption of this Section:

A. **Parking Lot Location.** Off-street parking facilities shall be on the same parcel or parcels of land that contain the structure or use that the parking is intended to serve.

B. **Parking Setbacks.** Parking areas shall be at least 20 feet from any front lot line, 10 feet from any side lot line and 50 feet from any rear lot line and shall be at least 5 feet from a building.
C. Parking Lot Screening. Off-street parking areas shall be screened from adjacent differing land uses and the public right of way as required in Section 11.03.

D. Parking Surface: All parking lots shall be surfaced in accordance with Section 11.03.

E. Parking Lot Islands: Parking lot islands shall be included at the ends of parking aisles rows and shall include planting material. Each island shall be a minimum of 160 square feet and no dimension shall be less than 5 feet.

F. Shared Use Parking: Shared use parking is allowed between a park and an adjacent public district when it can be demonstrated to the reasonable satisfaction of the City Planner that the uses have different peak hour parking demands. If shared parking is allowed the parties shall enter into a shared parking agreement in form and substance as approved by the City Planner. Overflow parking is allowed between two park properties.

Subd. 6. Building Setbacks.

Building setbacks shall be measured from the perimeter lot line.

Subd. 7. Fencing.

Fencing associated with athletic fields, ball diamonds, courts and similar uses may exceed 7 feet in height. Fencing not associated with athletic fields, diamonds, courts or similar use shall be limited to 7 feet in height and may occupy any perimeter yard.

No fence, hedge or other planting exceeding 30” in height or trees pruned even to a height less than 8 feet shall be permitted where there will be interference with traffic sight distance.

Subd. 8. Landscaping.

Landscaping required after the effective date of the adoption of this Section shall comply with the following:

A. Mechanical equipment screened in accordance with this Chapter.

B. General screening in this Chapter.

C. Native plant material is encouraged consistent with this Chapter.

D. Landscaping shall include a combination of trees, shrubs, perennials, and ornamental grasses to create a diverse and balanced design.


All new buildings, including storage and equipment buildings, in the Park and Open Space District that require a building permit, are visible from the public right-of-way, street, and/or an adjacent differing land use and constructed after the effective date of this ordinance (date) shall comply with the following:

The City’s Design Guidelines shall be used as the standards for the architectural design of the buildings in the Park and Open Space District. The architectural design should be compatible with the built environment surrounding the park, fit the context of the site and further the intent and goals of the Design Guidelines including the development of high quality projects balanced with aesthetics, function, surrounding environment, and economics.
Subd. 10. Lighting Standards.

Athletic Field Lighting Fixtures: Light poles (not including base) shall be a maximum height of 100 feet with downcast and cut off lens. Lighting shall be directed toward the athletic field.

All new lighting fixtures and poles installed in the Park and Open Space District after the effective date of the adoption of this Section shall comply with the following:

A. Lighting shall not exceed a maximum of 0.5 foot candles as measured at the perimeter property line demonstrated with a photometric plan.

B. Glare, whether direct or reflected, such as from spotlights or high temperature processes, and as differentiated from general illumination, shall not be visible beyond the limits of the immediate site from which it originates.

C. Parking Lot Lighting Fixtures: Light poles shall be a maximum height of 25 feet as measured from grade with downcast and cut off lens. Full cutoff lighting fixtures shall be used in order to minimize ambient light pollution and side glare. Parking lot lighting fixtures in the interior portions of the parking lot are not required to be located in islands.

(Sections 11.38 through 11.39, inclusive, reserved for future expansion.)

SECTION 11.40. PLANNED UNIT DEVELOPMENT (PUD) CONCEPT.

Subd. 1. PUD Concept Review. Any person or persons who may apply for a PUD may request a concept review ("PUD Concept Review") with respect to land which may be subject to a PUD. The purpose of a PUD Concept Review is to afford such persons an opportunity, without incurring substantial expense, to have the general feasibility of a PUD proposal considered. PUD Concept Review shall consist generally of an informal consideration by the Planning Commission and the Council of such person's PUD proposal. PUD Concept Review may be held with a public hearing. An application of PUD Concept Review may provide such information with respect to the request as the applicant shall deem appropriate in consultation with the City Planner. An applicant for PUD Concept Review shall pay all fees and costs provided for in this Chapter. Upon conclusion of a PUD Concept Review the Planning Commission and Council may make such recommendations and comments and take such action with respect to the proposal as they deem appropriate, provided, however, no approval under this Section shall constitute, or in the future require, approval or formal establishment or designation of a PUD, zoning or subdivision by the Council of the land which is the subject of the PUD Concept Review.

Subd. 2. Definition. As used in this Section, the term "original district" means a zoning district described in this Chapter.

Subd. 3. Zoning District Supplement. Planned Unit Development District ("PUD") is supplementary to a zoning district within or encompassing all or a portion or portions of one or more original districts in accordance with the provisions of this Chapter.

Subd. 4. Purpose. The purpose of this Section is to: (1) Encourage a more creative and efficient approach to the use of land in the City; (2) Allow variety in the types of environment available to the people of the City; (3) Encourage more efficient allocation and maintenance of privately controlled common open space through the distribution of overall density of population and intensity of land use where such arrangement is desirable and feasible; and, (4) Provide the means for greater creativity and flexibility in environmental design than is provided under the strict application of the provisions of this Chapter and Chapter 12 (relating to subdivisions) of this Code while at the same time preserving the health, safety, order, convenience, prosperity, and general welfare of the City and its inhabitants.
Subd. 5. Designation. All PUD's shall be designated in the legal description of the original district being supplemented.

Source: City Code
Effective Date: 9-17-82

Subd. 6. Repealed.

Source: Ordinance No. 3-2000
Effective Date: 1-27-2000

Subd. 7. Permitted Uses. The permitted uses set forth in this Chapter pertaining to the original district or districts within a PUD shall apply to and be permitted uses in that part of a PUD in which such a district is encompassed, except as such use or uses may be limited by a development plan, an agreement or imposed by the City as a condition to approval of the PUD.

Subd. 8. Zoning and Subdivision Standards and Requirements. All standards and provisions relating to an original district as set forth in this Chapter and to the subdivision of land as set forth in Chapter 12 (if land which is the subject of a PUD is or will be subdivided in connection with a PUD) shall apply to an original district situated within a PUD and to such land subdivided or to be subdivided unless any such standards or requirement has been modified or waived as provided in Subparagraph A and B hereof.

A. Any standard or provision, except permitted uses, set forth in this Chapter relating to an original district may be waived or modified by the City provided the ordinance relating to such PUD sets forth specifically or by reference to a development plan or an agreement such modification or waiver.

B. Any standard or provision set forth in Chapter 12 relating to the subdivision of land which is the subject of a PUD and is being or will be subdivided in connection with a PUD may be waived or modified as provided in Chapter 12.

Subd. 9. Application. An applicant for a PUD shall submit in the application all of the material required by this Chapter for rezoning and if land encompassed within the PUD is to be subdivided, all of the material required by Chapter 12 of this Code relating to the subdivision of land. In addition, an applicant shall submit the following information:

A. Project Identification. The following and such other information as is necessary to clearly and completely describe the project shall be provided:

1. Ownership. Identify all owners legal and equitable of and all encumbrances and easements upon the land within the proposed PUD.

2. Developer. Identify all parties involved in the development, including their previous experience and the nature and extent of their participation.

3. Financing of Project. Identify the source and type of financing of the project, including financing such as: Municipal Industrial Development Revenue Bonds, Housing Revenue Bonds, or otherwise.

4. Development Method. Describe what will be done with the project, if approved, and who will do it. Will the property be marketed undeveloped; rough graded; developed; or will the developer carry the project through actual construction of structures? Will structures be retained, sold, or leased?

5. Development Timing. Specify timing of each stage of development from initial site development through building construction. Any phasing of different portions of the project should be clearly explained.

6. Critical Public Decisions. Identify all governmental agencies which have review authority over any portion of the development, what aspect of the project required their review, and what approvals are
necessary. Explain what public improvements would be necessary to serve the project, such as: utilities, roads, road improvements, parks, schools, etc.

7. Other Information. Include any other information necessary to explain the unique characteristics of the project.

B. Plan Area Identification. Provide the following to identify the land included in the proposed PUD.

1. PUD Boundaries. A plan clearly denoting overall project boundaries.

2. PUD Area. A plan which shows the overall PUD area as well as all parcels and their ownership within 1000 feet of the PUD.

3. Regional Relationships. A description of regional factors the plan is predicated upon such as: market area, population centers, major roads, railroad, airport, proximity to Regional Services, etc. Also describe any impact the PUD would have on Regional Services and Systems.

4. Existing Land Use and Occupancy.

5. Existing Transportation Systems. Describe how the land within the PUD will be served by transportation systems and provide an analysis of the PUD's impact upon such transportation systems. If transportation systems are not adequate to accommodate the traffic expected from the development, describe improvements necessary. Illustrate how the plan provides for pedestrian and bicycle sidewalks and trails and how they tie into the City-wide system.

6. Existing Zoning. A map which shows the existing zoning and zoning of adjacent parcels. A listing of any zoning district changes or variances from City Code provisions should be provided.

7. Guide Plan and PUD Concept Framework. A map which shows the Guide Plan Designation of the project and surrounding uses. If the plan was originally part of a PUD Concept Review, the plan reviewed should be submitted together with a comparative analysis of the proposed PUD.


C. Plan Area Analysis. Provide the following relating to analysis of the plan:

1. Two-foot contour topographic map depicting existing and proposed contours should be submitted at a scale of 1" = 100'.

2. A soils map depicting surface and subsurface conditions that may affect construction.

3. A map depicting vegetation of the site with detailed locations of trees 12" or over in diameter.

4. All water, streams, lakes, marsh, ponds, drainage, subsurface, flood plains, should be denoted on a site plan.

5. Photographs of the site sufficient to convey its general visual qualities and relationship to area and proposed development.

6. A general discussion of natural ecological factors, analysis and conclusions.

7. A utility plan which illustrates the easements, and general sewer, water, and power services to all uses.
8. Preliminary architectural drawings depicting normal detail achieved during "design development phase" of architectural design process (does not include single family detached housing).

9. Legal instruments for plan implementation including homeowner's association documents, scenic, pathway, drainage, or other easements and private documents, etc.

10. Housing or land/building use profile including computations of gross/leaseable square footage, housing unit breakdown to square foot, bedrooms, persons/unit, parking requirements, etc.

11. A map drawn to scale of 1" = 200’ showing roads, structures, lakes, streams, ponds, wetlands, floodplains, vegetation, topography, utilities, sidewalks, trails, parks, zoning, and land use within 1,000 feet of the boundaries of a proposed PUD and an analysis of the impact the PUD would have on the above referenced items.

D. Fees and Costs. Applications for a PUD shall be filed at the office of the City Planner. A non-refundable application fee in the amount established by the Council by resolution to defray administrative costs shall accompany each application. A deposit established by the City Planner shall accompany the application. The deposit or a portion thereof, will be refunded after final Council action on the proposal if the total sum is greater than the administrative review cost, which may include, but not be limited to:

1. Consultant fees assisting in City review.

2. City Staff time expended in specific development review.

3. Mailing, legal notices and other administrative costs.

4. Any other reasonable costs incurred by the City in review of the proposal. Full payment by the proponent of all fees and costs for City review must be made prior to consideration of the application.

**Subd. 10. Public Hearing.** A public hearing on an application for a PUD and any PUD amendment other than a Minor PUD Amendment as defined in Subd. 10. C. below shall be held before both the Planning Commission and the Council. An application for a Minor PUD Amendment shall require a public hearing only before the Council. When a PUD involves changes in district boundaries, a similar notice shall be mailed at least ten days before the day of the hearing to each owner of affected property and property situated wholly or partly within 500 feet of the property to which the PUD relates. For the purpose of giving mailed notice, the person responsible for mailing the notice may use any appropriate records to determine the names and addresses of owners. A copy of the notice and a list of the owners and addresses to which the notice was sent shall be attested to by the responsible person and shall be made a part of the records of the proceedings. The failure to give mailed notice to individual property owners, or defects in the notice shall not invalidate the proceedings, provided a bona fide attempt to comply with this Subdivision has been made.

Source: Ordinance No. 1-2016
Effective Date: 1-14-2016

A. An application for a PUD and all applications for amendment of a PUD may not be acted upon by the Council until it has received the recommendation of the Planning Commission or until 60 days have elapsed from the date of referral to the Planning Commission.

B. In the event land within a PUD is or will be subdivided in connection with a PUD, such subdivision pursuant to, or any waiver or modification of any provision of, Chapter 12 may be approved only upon compliance with such additional procedures as are set forth in Chapter 12.

Source: City Code
Effective Date: 9-17-82

C. Minor PUD Amendment is:
1. Additions or reductions which require PUD waivers and are 10% or less of the Gross Floor Areas of building or 2,000 square feet whichever is less. The addition or reduction shall be the cumulative total or cumulative reduction after adoption if this Section 11.40, Subd. 10, C. 1.

2. Façade remodels which are require a PUD waiver.

D. A Zoning Certificate and Certificate of Occupancy shall be required in accordance with City Code Section 11.77.

Subd. 11 Findings Required. The findings necessary for approval of a PUD shall be as follows:

A. The proposed development is not in conflict with the goals of the Guide Plan of the City.

B. The proposed development is designed in such a manner to form a desirable and unified environment within its own boundaries.

C. Any exceptions to the standard requirements of this Chapter and Chapter 12 of this Code are justified by the design of the development.

D. The PUD is of composition, and arrangement that its construction, marketing, and operation are feasible as a complete unit without dependence upon any subsequent unit, and the PUD shall be consistent with an approved PUD Concept.

Subd. 12. Revisions and Amendments.

A. Minor changes in the location, placement and height of buildings or structures as well as other matters set forth in the development plan, or any agreement, except as described in Subparagraph B below, may be authorized by the City Planner if required by engineering or other circumstances not foreseen at the time the final development plan was approved.

B. Changes in uses as well as any modification or waiver of any standard or requirement relating to an original district or amendment of any waiver or modification thereof granted in connection with a PUD may be made only in accordance with the procedures applicable to amendments of this Chapter pertaining to amendments of this Chapter pertaining to zoning. Changes relating to any standard or requirement set forth in Chapter 12 pertaining to the subdivision of land or amendment of any waiver or modification thereof granted in connection with a PUD may be made only in accordance with the procedures provided in Chapter 12 of this Code pertaining to subdivision of land.

SECTION 11.41. CONDITIONAL USE PERMITS.

Subd. 1. Categories of Conditional Use.

A. Historic Properties.

1. Policy and Purpose. Certain buildings within the City have been included within and designated by the City as Heritage Preservation Sites pursuant to Section 11.05 of this chapter, or are listed in the
National Register of Historic Places. The intent of this Section is to encourage preservation, revitalization and adaptive reuse of the many Historic Properties located in the City of Eden Prairie. The permitted uses are intended to promote preservation of the historic and architectural character by encouraging retention and appropriate use of existing structures as civic, retail, restaurant, personal service and office establishments. The conditional uses listed in this Section must be reviewed by the Heritage Preservation Commission and approved by the City Council after consideration in each case, of the impact of such uses upon the property, neighboring uses, the surrounding area and the public need for the particular use at the particular location. Limitations and standards are herein established to insure the use’s consistency with the character, uses and activities in the rural district. In order to accomplish such purposes, the following provisions relating to the issuance of conditional use permits are adopted.

2. Areas Where Conditional Use Permits May Be Granted for Adaptive Reuse. Conditional use permits for the adaptive use of a Heritage Preservation Site, is limited to historic properties situated within an R-Rural District.

3. Permitted Uses for Adaptive Reuse of Heritage Preservation Sites. The adaptive use proposed for the property must be a permitted use in either the Office District, Section11.20, Subd. 2(A) or (B), or the Commercial Districts, Section 11.25, Subd. 2(A). Examples include: restaurants, bakeries, cafes, delicatessens, coffee houses, ice cream parlors, bed and breakfasts, reception facilities, meeting or conference facilities, professional office uses, museums, art galleries, antique shops, craft boutiques, or retail stores or shops.

4. Duration of Permits. A Historic Properties conditional use permit shall remain in effect as long as the conditions agreed upon are observed, provided, however, that the City may, at its discretion, schedule an administrative or formal review at any time to determine whether the conditions agreed upon are being observed. Any Historic Properties conditional use permit that contains an expiration date shall be automatically extended in accordance with this paragraph.


Source: Ordinance No. 22-2017  
Effective Date: 12-21-2017

1. Policy and Purpose. The City desires high quality wireless services to accommodate the needs of City residents and businesses. At the same time, the City strives to minimize the negative impacts that wireless support structures and small wireless facilities can create, especially in the public right-of-way in single-family residential areas. The City discourages the installation of new or replacement wireless support structures in the public right-of-way in single-family residential districts, preferring instead that small wireless facilities be collocated on existing structures. Recognizing, however, that the provision of high quality wireless services may not be feasible without the installation of new or replacement wireless support structures in single-family residential districts, the following provisions relating to the issuance of conditional use permits are adopted. The conditional uses listed in this Section must be reviewed by the Planning Commission and approved by the City Council after consideration in each case, of the impact of such uses upon the property, neighboring uses, the surrounding area and compliance with the conditions set forth in this Section.

2. Areas Where Conditional Use Permits May Be Granted. Conditional use permits for the installation of new or replacement wireless support structures for the siting of small wireless facilities in the public right-of-way may be granted in rights-of-way located within or abutting the R-1 One Family Residential Districts.

3. Duration of Permits. A Wireless Support Structure conditional use permit shall remain in effect as long as the conditions agreed upon are observed, provided, however, that the City
may, at its discretion, schedule an administrative or formal review at any time to determine whether the conditions agreed upon are being observed.

Subd. 2. Standard for All Conditional Use Permits. A conditional use permit may be granted subject to the City Council making the following findings:

Source: Ordinance No. 22-2017
Effective Date: 12-21-2017

A. The land subject to the conditional use permit shall abut on a public street.

B. The land subject to the conditional use permit is served adequately by essential public facilities and services, including utilities, access roads, drainage, police and fire protection and schools or will be served adequately as a result of improvements proposed as part of the conditional use.

C. The conditional use will not create an excessive burden on parks, schools, streets, and other public facilities and utilities which serve or are proposed to serve the area.

D. The conditional use will be sufficiently separated by distance or screening from adjacent lands so that existing homes will not be depreciated in value and there will be no deterrence to development of vacant land.

E. If the conditional use permit is granted the structure and site for the conditional use shall not be altered in appearance so as to have an adverse effect upon adjacent residential properties.

F. The conditional use will not cause traffic hazard or congestion.

G. Neighboring land and dwellings will not be adversely affected because of traffic generation, noise, glare, or other nuisance characteristics.

H. The conditional use will not be detrimental to or endanger the public health, safety, comfort, convenience, or general welfare.

I. The land subject to the conditional use permit shall meet the requirements of Section 11.03, Subd. 6, Site Plan and Architectural Design Review. No conditional use permit shall be approved until a Site Plan and Architectural Design Plan has been approved.

J. The use must comply with Chapter 11 requirements for the district in which the property is located.

K. No conditional use permit for a similar type of use has been revoked in the previous ten (10) years.

L. The conditional use is consistent with the City’s Comprehensive Guide Plan provisions relevant to the land.

Subd. 3. Additional Conditions. All conditional uses are subject to the criteria established in Subdivision 2 above. In granting a conditional use permit the Council may impose conditions, including the furnishing of a bond containing such terms and provisions and in such amount as may be provided by the Council, to ensure the prevention of or the compliance with those matters specified in Subdivisions 2 and 3 hereof or otherwise as the Council may determine to be advisable or appropriate to achieve the policies and purposes of this Section. The following criteria must be met in each of the following categories of conditional use:

A. Historic Properties. To be considered eligible for a historic properties conditional use permit, properties must be in conformance with the following:

1. Applicant must demonstrate that the historic characteristics of the property cannot be maintained reasonably and economically unless the conditional use permit is granted.
2. Property is designated by the City as a Heritage Preservation Site or listed on the National Register of Historic Places.

3. The property is adequately sized to meet the proposed use.

4. In conformance with all applicable building and fire codes and ADA requirements.

5. In conformance with all State and County health regulations.

6. One sign is permitted not to exceed thirty-two (32) square feet, and six feet in height.

7. Site improvements meet the City’s historic preservation standards and guidelines.

8. Applications for conditional use permits shall be reviewed by the Heritage Preservation Commission.

9. If an application is reviewed by the Heritage Preservation Commission, and approved by the City Council, applicant shall receive a conditional use permit. Applicant shall obtain a Heritage Preservation Site Alteration Permit pursuant to this Chapter.

B. Wireless Support Structures. To be considered eligible for a Wireless Support Structure conditional use permit, the proposed new or replacement wireless support structure must be in conformance with the following:

1. The wireless support structure shall be located at least six hundred (600) feet from any existing wireless support structure or public utility structure.

2. The height of the new or replacement wireless support structure shall not exceed the average height of all structures on the block or the maximum height of structures allowed in the zoning district, whichever is less.

3. The wireless support structure will be designed, constructed, operated and maintained in a manner that is compatible in appearance with the existing or intended character of the surrounding area.

4. The design of the wireless support structure shall comply with the following City’s design requirements:
   a. At all sites, the design of all wireless support structures and facilities shall use materials, colors, textures, screening, and landscaping that blends the structures and facilities into the natural setting and building environment.
   b. No signage or other identifying markings of any nature shall be permitted upon any wireless support structures and facilities except in accordance with City Code Section 11.70.
   c. Such other design requirements as are developed from time to time by the City Planner and/or the Director of Public Works and maintained as an official document in printed or electronic form in the records of the City Clerk.

5. The wireless support structure shall have no associated ground-mounted wireless mechanical equipment except an electrical meter if such meter is necessary for the operation of a small wireless facility to be placed on the wireless support structure.

6. The applicant for the conditional use permit shall comply with all requirements of Section 6.03 including, but not limited to, obtaining a right-of-way permit, obtaining a small wireless facility permit,
and entering into a Standard Small Wireless Collocation Agreement with the City, as appropriate.

7. Placement of the wireless support structure shall comply with generally applicable and reasonable health, safety, and welfare regulations consistent with the City’s management of the public right-of-way.

8. Applications for conditional use permits shall be reviewed by the Planning Commission.

Subd. 4. Procedure.

A. An application for a conditional use permit shall be in writing signed by (1) the owner of the land for which the conditional use permit is sought, in the case of a Historical Properties conditional use permit, or (2) the person who wishes to install the new wireless support structure, in the case of a Wireless Support Structure permit. The application shall be made on forms provided by the City and shall include all information requested. The applicant shall pay an application fee in the amount set forth in the Fee Resolution adopted by the City Council, as the same may be amended from time to time.

B. A public hearing on an application for a Wireless Support Structure conditional use permit shall be held before both the Planning Commission and the Council. A public hearing on a Historic Properties conditional use permit shall be held before both the Heritage Preservation Commission and the Council.

C. Notice of the public hearing shall be mailed at least ten days before the day of the hearing to each owner of property situated within 500 feet of the property to which the conditional use permit relates. For the purposes of giving mailed notice, the person responsible for mailing the notice may use any appropriate records to determine the names and addresses of owners. A copy of the notice and a list of the owners and addresses to which the notice was sent shall be attested to by the responsible person and shall be made a part of the records of the proceedings. The failure to give mailed notice to individual property owners, or defects in the notice shall not invalidate the proceedings, provided a bona fide attempt to comply with this Subdivision 4.B has been made.

D. An application for a conditional use permit may not be acted upon by the Council until it has received the recommendation of the Planning Commission or Heritage Preservation Commission, as applicable, or until 60 days have elapsed from the date of referral to the Planning Commission or Heritage Preservation Commission.

Subd. 5. Amendment to Conditional Use Permit. Amendments to any condition contained in an approved conditional use permit may be made only in accordance with the procedures applicable to the initial application as contained in Subdivision 4.

Subd. 6. Revisions and/or Changes to Site or Construction Plans.

A. Historic Properties. Any revisions and/or changes to site, remodeling, or construction plans after a Historic Properties conditional use permit has been granted shall require approval by the City Planner and comply with Section 11.05, Subd. 8 criteria. Notwithstanding the foregoing, the City Planner may determine that the revisions and/or changes require review and approval by the Council.

B. Wireless Support Structures. Any revisions and/or changes to site or construction plans after a Wireless Support Structure conditional use permit has been granted shall require review and approval by the City Planner. Notwithstanding the foregoing, the City Planner may determine that the revisions and/or changes require review and approval by the Council.

Source: Ordinance No. 22-2017
Effective Date: 12-21-2017
Subd. 7. Expiration of Conditional Use Permit. Unless otherwise specified by the Council at the time it is approved, a conditional use permit shall expire if substantial development or construction has not taken place within one year of the date of approval, unless a petition for a time extension has been granted by the Council. The extension request shall be submitted in writing at least 30 days prior to expiration of the conditional use permit and shall state facts showing a good-faith effort to complete work permitted under the original approval.

Subd. 8. Conditional Use Permit Required. It is unlawful for any person to engage in a conditional use without having first obtained a conditional use permit therefore.

Subd. 9. Suspension or Revocation of Conditional Use Permit. The City Council may suspend for a specified period of time or revoke a conditional use permit upon the failure of the owner or a tenant to comply with the provisions of this Code, the laws of the state or any condition established at the time of approval of the conditional use permit. A suspension or revocation of a conditional use permit must be preceded by written notice to the owner and tenant, if any, and a hearing. The notice must provide at least ten days’ notice of the time and place of the hearing and must state the nature of the charges against the owner and/or tenant. The notice must be mailed to the owner, and tenant, if any. For the purpose of giving mailed notice, any appropriate records to determine the names and addresses of owners may be used. A copy of the notice and list of the persons and addresses to which the notice was sent shall be attested to by the person giving the notice and shall be made a part of the records of the proceeding. The hearing of a contested case may be before the City Council or held in accordance with M.S. §§ 14.57 to 14.60, as they may be amended from time to time, but informal disposition of a contested case by stipulation, pursuant to M.S. § 14.59, as it may be amended from time to time, may provide an adequate basis for imposition of sanctions.

SECTION 11.45 FLOODPLAIN REGULATIONS.

Subd. 1. Statutory Authorization and Purpose. The legislature of the State of Minnesota has, in Minnesota Statutes Chapter 103F and Chapter 462 delegated the responsibility to local government units to adopt regulations designed to minimize flood losses. Minnesota Statutes Chapter 103F further states that communities subject to recurrent flooding must participate and maintain eligibility in the National Flood Insurance Program. Therefore, the City does ordain as follows:

A. Statement of Purpose. This Section regulates development in the flood hazard areas of the City. These flood hazard areas are subject to periodic inundation, which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base. It is the purpose of this Section to promote the public health, safety, and general welfare by minimizing these losses and disruptions. This ordinance is also intended to preserve the natural characteristics and functions of watercourses and floodplains in order to moderate flood and stormwater impacts, improve water quality, reduce soil erosion, protect aquatic and riparian habitat, provide recreational opportunities, provide aesthetic benefits and enhance community and economic development.
B. National Flood Insurance Program Compliance. This ordinance is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 Code of Federal Regulations Parts 59 -78, as amended, so as to maintain the community’s eligibility in the National Flood Insurance Program.

Subd. 2. General Provisions.

How to Use This Section. This Section adopts the floodplain maps applicable to the City and includes three floodplain districts: Floodway, Flood Fringe, and General Floodplain.

1. Where Floodway and Flood Fringe districts are delineated on the floodplain maps, the standards in Subdivisions 4 or 5 will apply, depending on the location of a property.

2. Locations where Floodway and Flood Fringe districts are not delineated on the floodplain maps are considered to fall within the General Floodplain district. Within the General Floodplain district, the Floodway District standards in Subdivision 4 apply unless the floodway boundary is determined, according to the process outlined in Subdivision 6. Once the floodway boundary is determined, the Flood Fringe District standards in Subdivision 5 may apply outside the floodway.

B. Lands to Which this Section Applies. This Section applies to all lands within the jurisdiction of the City shown on the Official Zoning Map and/or the attachments to the map as being located within the boundaries of the Floodway, Flood Fringe, or General Floodplain Districts. The Floodway, Flood Fringe and General Floodplain Districts are overlay districts that are superimposed on all existing zoning districts. The standards imposed in the overlay districts are in addition to any other requirements in this Section. In case of a conflict, the more restrictive standards will apply. The City Engineer may review and reasonably utilize any regional flood elevation and floodway data available from a federal, state or other source in determining the boundary of the Floodway, Flood Fringe, or General Floodplain District.

C. Incorporation of Maps by Reference. The following maps together with all attached material are hereby adopted by reference and declared to be a part of the Official Zoning Map and this Section. The attached material includes the Flood Insurance Study for Hennepin County, Minnesota, and Incorporated Areas, dated November 4, 2016 and the Flood Insurance Rate Map panels enumerated below, dated November 4, 2016, all prepared by the Federal Emergency Management Agency. These materials are on file in the office of the City Engineer. Effective Flood Insurance Rate Map panels include:

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D. Regulatory Flood Protection Elevation. The regulatory flood protection elevation (RFPE) is an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.

E. Interpretation. The boundaries of the zoning districts are determined by scaling distances on the Flood Insurance Rate Map.

1. Where a conflict exists between the floodplain limits illustrated on the official zoning map and actual field conditions, the flood elevations shall be the governing factor. The City Engineer must interpret the boundary location based on the ground elevations that existed on the site on the date of the first National Flood Insurance Program map showing the area within the regulatory floodplain, and other available technical data.
2. Persons contesting the location of the district boundaries will be given a reasonable opportunity to present their case to the Planning Commission and to submit technical evidence.

F. Abrogation and Greater Restrictions. It is not intended by this Section to repeal, abrogate, or impair any existing easements, covenants, or other private agreements. However, where this Section imposes greater restrictions, the provisions of this Section prevail. All other ordinances inconsistent with this Section are hereby repealed to the extent of the inconsistency only.

G. Warning and Disclaimer of Liability. This Section does not imply that areas outside the floodplain districts or land uses permitted within such districts will be free from flooding or flood damages. This Section does not create liability on the part of the City or its officers or employees for any flood damages that result from reliance on this Section or any administrative decision lawfully made hereunder.

H. Severability. If any subdivision, clause, provision, or portion of this Section is adjudged unconstitutional or invalid by a court of law, the remainder of this Section shall not be affected and shall remain in full force.

I. Annexations. The Flood Insurance Rate Map panels adopted by reference into Subd. 2.C may include floodplain areas that lie outside of the corporate boundaries of the City at the time of adoption of this Section. If any of these floodplain land areas are annexed into the City after the date of adoption of this Section, the newly annexed floodplain lands will be subject to the provisions of this Section immediately upon the date of annexation.

J. Detachments. The Flood Insurance Rate Map panels adopted by reference into Subd. 2.C will include floodplain areas that lie inside the corporate boundaries of municipalities at the time of adoption of this Section. If any of these floodplain areas are detached from a municipality and come under the jurisdiction of the City after the date of adoption of this Section, the newly detached floodplain lands will be subject to the provisions of this Section immediately upon the date of detachment.

Subd. 3. Definitions.

A. Unless specifically defined below, words or phrases used in this Section must be interpreted according to common usage and so as to give this Section its most reasonable application.

1. Accessory Use or Structure – a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

2. Base Flood Elevation – The elevation of the “regional flood.” The term “base flood elevation” is used in the flood insurance survey.

3. Basement – any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.

4. Conditional Use – a specific type of structure or land use listed in this Section that may be allowed but only after an in-depth review procedure and with appropriate conditions or restrictions as provided in the official zoning controls or building codes and upon a finding that:

(a) Certain conditions as detailed in the zoning ordinance exist.

(b) The structure and/or land use conform to the comprehensive land use plan if one exists and are compatible with the existing neighborhood.

5. Critical Facilities – facilities necessary to the City’s public health and safety, those that store or produce highly volatile, toxic or water-reactive materials, and those that house occupants that may be
insufficiently mobile to avoid loss of life or injury. Examples of critical facilities include hospitals, correctional facilities, schools, daycare facilities, nursing homes, fire and police stations, wastewater treatment facilities, public electric utilities, water plants, fuel storage facilities, and waste handling and storage facilities.

6. Development – any manmade change to improved or unimproved real estate, including buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

7. Equal Degree of Encroachment – a method of determining the location of floodway boundaries so that floodplain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.

8. Farm Fence – A fence as defined by Minnesota Statutes Section 344.02, Subd. 1(a)–(d). An open type fence of posts and wire is not considered to be a structure under this Section. Fences that have the potential to obstruct flood flows, such as chain link fences and rigid walls, are regulated as structures under this Section.

9. Flood – a temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.

10. Flood Frequency – the frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.

11. Flood Fringe – the portion of the Special Flood Hazard Area (one percent annual chance flood) located outside of the floodway. Flood fringe is synonymous with the term “floodway fringe” used in the Flood Insurance Study for Hennepin County, Minnesota.

12. Flood Insurance Rate Map - an official map on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

13. Flood Prone Area – any land susceptible to being inundated by water from any source (see “Flood”).

14. Floodplain – the beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood.

15. Floodproofing – a combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.

16. Floodway – the bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining floodplain which are reasonably required to carry or store the regional flood discharge.

17. Lowest Floor – the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building’s lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 Code of Federal Regulations, Part 60.3.

18. Manufactured Home – a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include the term “recreational vehicle.”

19. New Construction - Structures, including additions and improvements, and placement of manufactured
homes, for which the start of construction commenced on or after the effective date of this Section.

20. **Obstruction** – any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory floodplain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.

21. **One Hundred Year Floodplain** – lands inundated by the Regional Flood.

22. **Principal Use or Structure** – all uses or structures that are not accessory uses or structures.

23. **Reach** – a hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.

24. **Recreational Vehicle** – a vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. For the purposes of this Section, the term recreational vehicle is synonymous with the term “travel trailer/travel vehicle.”

25. **Regional Flood** – a flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 1% chance or 100-year recurrence interval. Regional flood is synonymous with the term “base flood” used in a flood insurance study.

26. **Regulatory Flood Protection Elevation (RFPE)** - an elevation not less than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.

27. **Repetitive Loss - Flood** - related damages sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event on the average equals or exceeds 25% of the market value of the structure before the damage occurred.

28. **Special Flood Hazard Area** – a term used for flood insurance purposes synonymous with “One Hundred Year Floodplain.”

29. **Start of Construction** – includes substantial improvement, and means the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement that occurred before the building permit’s expiration date. The actual start is either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

30. **Structure** - anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured
homes, recreational vehicles not meeting the exemption criteria specified in Subd. 10.B.2, and other similar items.

31. Substantial Damage - means damage of any origin sustained by a structure where the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

32. Substantial Improvement - within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures that have incurred “substantial damage,” regardless of the actual repair work performed. The term Substantial Improvement does not, however, include either:

(a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.

(b) Any alteration of a “historic structure,” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.” For the purpose of this ordinance, “historic structure” is as defined in 44 Code of Federal Regulations, Part 59.1.

Subd. 4. Establishment of Zoning Districts.

A. Districts.

1. Floodway District. The Floodway District includes those areas within Zones AE that have a floodway delineated as shown on the Flood Insurance Rate Map adopted in Subd. 2.C. For lakes, wetlands and other basins within Zones A and AE that do not have a floodway delineated, the Floodway District also includes those areas that are at or below the ordinary high water level as defined in Minnesota Statutes, Section 103G.005, subdivision 14.

2. Flood Fringe District. The Flood Fringe District includes areas within Zones AE that have a floodway delineated on the Flood Insurance Rate Map adopted in Subd. 2.C, but are located outside of the floodway. For lakes, wetlands and other basins within Zones A and AE that do not have a floodway delineated, the Flood Fringe District also includes those areas below the 1% annual chance (100-year) flood elevation but above the ordinary high water level as defined in Minnesota Statutes, Section 103G.005, subdivision 14.

3. General Floodplain District. The General Floodplain District includes riverine areas within Zones A or AE that do not have a delineated floodway as shown on the Flood Insurance Rate Map adopted in Subd. 2.C.

B. Applicability. Within the floodplain districts established in this Subdivision 4, the use, size, type and location of development must comply with the terms of this Section and other applicable regulations. In no case shall floodplain development adversely affect the efficiency or unduly restrict the capacity of the channels or floodways of any tributaries to the main stream, drainage ditches, or any other drainage facilities or systems. All uses not listed as permitted uses or conditional uses in Subdivisions 5, 6, and 7 are prohibited. In addition, critical facilities are prohibited in all floodplain districts.

Subd. 5. Floodway District (FW).

A. Permitted Uses. The following uses, subject to the standards set forth in Subd. 5.B, are permitted uses if
otherwise allowed in the underlying zoning district or any applicable overlay district:

1. General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.

2. Industrial-commercial loading areas, parking areas, and airport landing strips.

3. Open space uses, including but not limited to private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, hunting and fishing areas, and single or multiple purpose recreational trails.

4. Residential lawns, gardens, parking areas, and play areas.

5. Railroads, streets, bridges, utility transmission lines and pipelines, provided that the City notifies the Department of Natural Resources’ Area Hydrologist at least ten days prior to issuance of any permit for such uses.

B. Standards for Floodway Permitted Uses.

1. The use must have a low flood damage potential.

2. The use must not obstruct flood flows or cause any increase in flood elevations and must not involve structures, obstructions, or storage of materials or equipment.

3. Any facility that will be used by employees or the general public must be designed with a flood warning system that provides adequate time for evacuation if the area is inundated to a depth and velocity such that the depth (in feet) multiplied by the velocity (in feet per second) would exceed a product of four upon occurrence of the regional (1% chance) flood.

C. Conditional Uses. The following uses may be allowed as conditional uses following the standards and procedures set forth in Subdivision 11.D of this Section and City Code Section 11.41 and further subject to the standards set forth in Subd. 5.D, if otherwise allowed in the underlying zoning district or any applicable overlay district.

1. Structures accessory to the uses listed in Subd. 5.A and the uses listed in Subd. 5.C.2 through 5.C.7.

2. Extraction and storage of sand, gravel, and other materials.

3. Marinas, boat rentals, docks, piers, wharves, and water control structures.

4. Storage yards for equipment, machinery, or materials.

5. Placement of fill or construction of fences that obstruct flood flows. Farm fences are permitted uses.

6. Travel-ready recreational vehicles meeting the exemption standards in Subd. 10.B.

7. Levees or dikes intended to protect agricultural crops for a frequency flood event equal to or less than the 10-year frequency flood event.

D. Standards for Floodway Conditional Uses.

1. All Uses. A conditional use must not cause any increase in the stage of the 1% chance or regional
2. Fill; Storage of Materials and Equipment:

   (a) The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.

   (b) Fill, dredge spoil, and other similar materials deposited or stored in the floodplain must be protected from erosion by vegetative cover, mulching, riprap or other acceptable method. Permanent sand and gravel operations and similar uses must be covered by a long-term site development plan.

   (c) Temporary placement of fill, other materials, or equipment which would cause an increase to the stage of the 1% percent chance or regional flood may only be allowed if the City Engineer has approved a plan that assures removal of the materials from the floodway based upon the flood warning time available.

3. Accessory Structures. Accessory structures may be permitted, provided that:

   (a) Structures are not intended for human habitation;

   (b) Structures will have a low flood damage potential;

   (c) Structures will be constructed and placed so as to offer a minimal obstruction to the flow of flood waters;

   (d) Service utilities, such as electrical and heating equipment, within these structures must be elevated to or above the regulatory flood protection elevation or properly floodproofed;

   (e) Structures must be elevated on fill or structurally dry floodproofed in accordance with the FP1 or FP2 floodproofing classifications in the State Building Code. All floodproofed structures must be adequately anchored to prevent flotation, collapse or lateral movement and designed to equalize hydrostatic flood forces on exterior walls.

   (f) As an alternative, an accessory structure may be internally/wet floodproofed to the FP3 or FP4 floodproofing classifications in the State Building Code, provided the accessory structure constitutes a minimal investment and does not exceed 576 square feet in size. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following criteria:

      (1) To allow for the equalization of hydrostatic pressure, there must be a minimum of two “automatic” openings in the outside walls of the structure, with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and

      (2) There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.

4. Structural works for flood control that will change the course, current, or cross-section of protected wetlands or public waters are subject to the provisions of Minnesota Statutes, Section 103G.245.
5. A levee, dike or floodwall constructed in the floodway must not cause an increase to the 1% chance of regional flood. The technical analysis must assume equal conveyance or storage loss on both sides of a stream.

6. Floodway developments must not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system.

Subd. 6. Flood Fringe District (FF).

A. Permitted Uses. Permitted uses in the Flood Fringe District are those uses of land or structures allowed in the underlying zoning district(s) that comply with the standards in Subd. 6.B.

B. Standards for Flood Fringe Permitted Uses.

1. All structures, including accessory structures, must be elevated on fill so that the lowest floor, as defined, is at or above the regulatory flood protection elevation. The finished fill elevation for structures must be no lower than one foot below the regulatory flood protection elevation and the fill must extend at the same elevation at least 15 feet beyond the outside limits of the structure.

2. Accessory Structures. As an alternative to the fill requirements of Subd. 6.B.1, structures accessory to the uses identified in Subd. 6.A may be permitted to be internally/wet floodproofed to the FP3 or FP4 floodproofing classifications in the State Building Code, provided that:

   (a) The accessory structure constitutes a minimal investment, does not exceed 576 square feet in size, and is only used for parking and storage.

   (b) All portions of floodproofed accessory structures below the Regulatory Flood Protection Elevation (RFPE) must be: (i) adequately anchored to prevent flotation, collapse or lateral movement and designed to equalize hydrostatic flood forces on exterior walls, (ii) be constructed with materials resistant to flood damage, and (iii) must have all service utilities be water-tight or elevated to above the RFPE.

   (c) Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following criteria:

      (1) To allow for the equalization of hydrostatic pressure, there must be a minimum of two “automatic” openings in the outside walls of the structure, with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and

      (2) There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.

3. The cumulative placement of fill or similar material on a parcel must not exceed 1,000 cubic yards, unless the fill is specifically intended to elevate a structure in accordance with Subd. 6.B.1, or if allowed as a conditional use under Subd. 6.C.

4. The storage of any materials or equipment must be elevated on fill to the regulatory flood protection elevation.

5. All service utilities, including ductwork, must be elevated or water-tight to prevent infiltration of
floodwaters.

6. The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.

7. All fill must be properly compacted and the slopes must be properly protected by the use of riprap, vegetative cover or other acceptable method.

8. All new principal structures must have vehicular access at or above an elevation not more than two feet below the regulatory flood protection elevation, or must have a flood warning/emergency evacuation plan acceptable to the City Engineer.

9. Accessory uses such as yards, railroad tracks, and parking lots may be at an elevation lower than the regulatory flood protection elevation. However, any facilities used by employees or the general public must be designed with a flood warning system that provides adequate time for evacuation if the area is inundated to a depth and velocity such that the depth (in feet) multiplied by the velocity (in feet per second) would exceed a product of four upon occurrence of the regional (1% chance) flood.

10. Interference with normal manufacturing/industrial plant operations must be minimized, especially along streams having protracted flood durations. In considering permit applications, due consideration must be given to the needs of industries with operations that require a floodplain location.

11. Manufactured homes and recreational vehicles must meet the standards of Subdivision 10.

C. Conditional Uses. The following uses and activities may be allowed as conditional uses, if allowed in the underlying zoning district(s) or any applicable overlay district, following the procedures in Subdivision 11.D and City Code Section 11.41.

1. Any structure that is not elevated on fill or floodproofed in accordance with Subds. 6.B.1 or 6.B.2.

2. Storage of any material or equipment below the regulatory flood protection elevation.

3. The cumulative placement of more than 1,000 cubic yards of fill when the fill is not being used to elevate a structure in accordance with Subd. 6.B.1.

D. Standards for Flood Fringe Conditional Uses.

1. The standards listed in Subds. 6.B.4 through 6.B.10 apply to all conditional uses.

2. Basements are subject to the following:

   (a) Residential basement construction is not allowed below the regulatory flood protection elevation.

   (b) Non-residential basements may be allowed below the regulatory flood protection elevation provided the basement is structurally dry floodproofed in accordance with Subd. 6.D.3.

3. All areas of nonresidential structures, including basements, to be placed below the regulatory flood protection elevation must be floodproofed in accordance with the structurally dry floodproofing classifications in the State Building Code. Structurally dry floodproofing must meet the FP1 or FP2 floodproofing classification in the State Building Code, which requires making the structure watertight with the walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
4. The placement of more than 1,000 cubic yards of fill or other similar material on a parcel (other than for the purpose of elevating a structure to the regulatory flood protection elevation) must comply with an approved erosion/sedimentation control plan.

   (a) The plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the regional (1% chance) flood event.

   (b) The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the City Engineer.

   (c) The plan may incorporate alternative procedures for removal of the material from the floodplain if adequate flood warning time exists.

5. Storage of materials and equipment below the regulatory flood protection elevation must comply with an approved emergency plan providing for removal of such materials within the time available after a flood warning.

Subd. 7. General Floodplain District (GF).

A. Permitted Uses.

1. The uses listed in Subd. 5.A are permitted uses in the General Floodplain District.

2. All other uses are permitted subject to the floodway/flood fringe evaluation criteria specified in Subd. 7.B. Subd. 5 applies if the proposed use is determined to be in the Floodway District. Subd. 6 applies if the proposed use is determined to be in the Flood Fringe District.

B. Procedures for Floodway and Flood Fringe Determinations.

1. Upon receipt of an application for a permit or other approval within the General Floodplain District, the City Engineer shall obtain, review and reasonably utilize any regional flood elevation and floodway data available from a federal, state, or other source.

2. If regional flood elevation and floodway data are not readily available, the applicant shall furnish additional information as needed to determine the regulatory flood protection elevation and whether the proposed use would fall within the Floodway or Flood Fringe District. Information must be consistent with accepted hydrological and hydraulic engineering standards and the standards in Subd. 7.B.3.

3. The determination of floodway and flood fringe must include the following factors, as applicable:

   (a) Estimate the peak discharge of the regional (1% chance) flood.

   (b) Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.

   (c) Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than one-half (0.5) foot. A lesser stage increase than 0.5 foot is required if, as a result of the stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach must be assumed in computing floodway boundaries.

4. The City Engineer shall review the submitted information and assess the technical evaluation and the
recommended Floodway and/or Flood Fringe District boundary. The assessment shall include the cumulative effects of previous floodway encroachments. The City Engineer may seek technical assistance from a designated engineer or other expert person or agency, including the Department of Natural Resources. Based on this assessment, the City Engineer may approve or deny the application.

5. Once the Floodway and Flood Fringe District boundaries have been determined, the City Engineer shall process the permit application consistent with the applicable provisions of Subdivisions 5 and 6.

Subd. 8. Land Development Standards.

A. In General. Recognizing that flood prone areas may exist outside of the designated floodplain districts, the requirements of this Subdivision 8 apply to all land within the City.

B. Subdivisions. No land may be subdivided which is unsuitable for reasons of flooding or inadequate drainage, water supply, or sewage treatment facilities. Manufactured home parks and recreational vehicle parks or campgrounds are considered subdivisions under this Section.

1. All lots within the floodplain districts must be able to contain a building site outside of the Floodway District at or above the regulatory flood protection elevation.

2. All subdivisions shall have road access both to the subdivision and to the individual building sites no lower than two feet below the regulatory flood protection elevation, unless a flood warning emergency plan for the safe evacuation of all vehicles and people during the regional (1% chance) flood has been approved by the City Engineer. The plan shall be prepared by a registered engineer or other qualified individual, and shall demonstrate that adequate time and personnel exist to carry out the evacuation.

3. For all subdivisions in the floodplain, the Floodway and Flood Fringe District boundaries, the regulatory flood protection elevation and the required elevation of all access roads shall be clearly labeled on all required subdivision drawings and platting documents.

4. In the General Floodplain District, applicants shall provide the information required in Subd. 7.B to determine the regional flood elevation, the Floodway and Flood Fringe District boundaries and the regulatory flood protection elevation for the subdivision site.

5. If a subdivision proposal or other proposed new development is in a flood prone area, any such proposal must be reviewed to assure that:

   (a) The proposal is consistent with the need to minimize flood damage within the flood prone area,

   (b) All public utilities and facilities, such as sewer, gas, electrical, and water systems, are located and constructed to minimize or eliminate flood damage, and

   (c) Adequate drainage is provided to reduce exposure of flood hazard.

C. Building Sites. If a proposed building site is in a flood prone area, all new construction and substantial improvements (including the placement of manufactured homes) shall be:

1. Designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

2. Constructed with materials and utility equipment resistant to flood damage;
3. Constructed by methods and practices that minimize flood damage; and

4. Constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

Subd. 9. Public Utilities, Railroads, Roads, and Bridges.

A. Public Utilities. All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the floodplain must be floodproofed in accordance with the State Building Code or elevated to the regulatory flood protection elevation.

B. Public Transportation Facilities. Railroad tracks, roads, and bridges to be located within the floodplain shall comply with Subdivisions 5 and 6. These transportation facilities shall be elevated to the regulatory flood protection elevation where failure or interruption of these facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where the City Engineer determines that failure or interruption of transportation services will not endanger the public health or safety.

C. On-site Water Supply and Sewage Treatment Systems. Where public utilities are not provided: 1) On-site water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and are subject to the provisions of Minnesota Rules Chapter 4725.4350; and 2) New or replacement on-site sewage treatment systems (i) shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, (ii) shall not be subject to impairment or contamination during times of flooding, and (iii) are subject to the provisions of Minnesota Rules Chapter 7080.2270.

Subd. 10. Manufactured Homes, Manufactured Home Parks, and Recreational Vehicles.

A. Manufactured Homes. New manufactured home parks and expansions to existing manufactured home parks are prohibited in any floodplain district. For existing manufactured home parks or lots of record, the following requirements apply:

1. Placement or replacement of manufactured homes is prohibited in the Floodway, Flood Fringe and General Floodplain Districts.

B. Recreational Vehicles. New recreational vehicle parks or campgrounds and expansions to existing recreational vehicle parks or campgrounds are prohibited in any floodplain district. Placement of recreational vehicles in existing recreational vehicle parks or campgrounds located in the floodplain shall meet the exemption criteria below or be treated as new structures meeting the requirements of this Section.

1. Recreational vehicles are exempt from the provisions of this Section if they are placed in any of the following areas and meet the criteria listed in Subd. 10.B.2:

(a) Individual lots or parcels of record.

(b) Existing commercial recreational vehicle parks or campgrounds.

(c) Existing condominium-type associations.

2. Criteria for Exempt Recreational Vehicles:

(a) The vehicle must have a current license required for highway use.
(b) The vehicle must be highway ready, meaning on wheels or the internal jacking system, attached to the site only by quick disconnect type utilities commonly used in campgrounds and recreational vehicle parks.

(c) No permanent structural type additions may be attached to the vehicle.

(d) The vehicle and associated use must be permissible in any pre-existing, underlying zoning district.

(e) Accessory structures are not permitted within the Floodway District. Any accessory structure in the Flood Fringe District must be constructed of flood-resistant materials and be securely anchored, meeting the requirements applicable to manufactured homes in this Subd. 10.B.2.

(f) An accessory structure must constitute a minimal investment

3. Recreational vehicles that are exempt under Subd. 10.B.2 lose this exemption when development occurs on the site that exceeds a minimal investment for an accessory structure such as a garage or storage building. The recreational vehicle and all accessory structures will then be treated as new structures subject to the elevation and floodproofing requirements of Subd. 6. No development or improvement on the parcel or attachment to the recreational vehicle is allowed that would hinder the removal of the vehicle should flooding occur.

Subd. 11. Administration.

A. City Engineer. The City Engineer or other official designated by the City Manager shall administer and enforce this Section.

B. Permit Requirements.

1. Permit Required. A permit shall be obtained from the City Engineer prior to conducting the following activities in the Floodway District, Flood Fringe District, or General Floodplain District:

   (a) The erection, addition, modification, rehabilitation, or alteration of any building, structure, or portion thereof. Normal maintenance and repair also requires a permit if such work, separately or in conjunction with other planned work, constitutes a substantial improvement as defined in this section.

   (b) The change of use of a building, structure, or land.

   (c) The construction of a dam, fence, or on-site septic system, although a permit is not required for a farm fence as defined in this Section.

   (d) The change or expansion of a nonconforming use.

   (e) The repair of a structure that has been damaged by flood, fire, tornado, or any other source.

   (f) The placement of fill, excavation of materials, or the storage of materials or equipment within the floodplain.

   (g) Relocation or alteration of a watercourse (including new or replacement culverts and bridges), unless a public waters work permit has been applied for.

   (h) Any other type of “development” as defined in this Section.
2. Application for Permit. Permit applications shall be submitted to the City Engineer on forms provided by the City Engineer. The permit application shall include the following as applicable:

(a) A site plan showing all pertinent dimensions, existing or proposed buildings, structures, and significant natural features having an influence on the permit.

(b) Location of fill or storage of materials in relation to the stream channel.

(c) Copies of any required municipal, county, state or federal permits or approvals.

(d) Other relevant information requested by the City Engineer as necessary to properly evaluate the permit application.

3. Certificate of Zoning Compliance for a New, Altered, or Nonconforming Use. No new or altered building, land, or structure shall be occupied or used in any manner until a certificate of zoning compliance has been issued by the City Engineer stating that the use of the building or land conforms to the requirements of this Section.

4. Certification. Upon completion of activities covered by a permit issued under this Section, the permit holder shall submit to the City Engineer certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this Section. Floodproofing measures shall be certified by a registered professional engineer or registered architect.

5. Record of First Floor Elevation. The City Engineer shall maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the floodplain. The City Engineer shall also maintain a record of the elevation to which structures and alterations or additions to structures are floodproofed.

6. Notifications for Watercourse Alterations. Before authorizing any alteration or relocation of a river or stream, the City Engineer shall notify adjacent communities. If the applicant has applied for a permit from the DNR to work in public waters pursuant to Minnesota Statutes, Section 103G.245, this will suffice as adequate notice. The City Engineer shall submit a copy of the notification to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).

7. Notification to FEMA When Physical Changes Increase or Decrease Base Flood Elevations. As soon as is practicable, but not later than six months after the date such supporting information becomes available, the City Engineer shall notify the Chicago Regional Office of FEMA of physical changes that increase or decrease base flood elevation in the City by submitting a copy of the relevant technical or scientific data.

C. Variances.

1. Variance Applications. An application for a variance to the provisions of this Section will be processed and reviewed in accordance with Minnesota Statutes Section 462.357 and City Code Section 11.76.

2. Adherence to State Floodplain Management Standards. A variance must not allow a use that is not allowed in the underlying zoning district, permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area, or permit standards lower than those required by state law.

3. Additional Variance Criteria. The following additional variance criteria of the Federal Emergency
Management Agency must be satisfied:

(a) The City shall not issue variances within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

(b) The City shall only issue variances upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(c) The City shall only issue variances upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

4. Flood Insurance Notice. The City Engineer shall notify the applicant for a variance that: 1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as $25 for $100 of insurance coverage; and 2) Such construction below the base or regional flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions.

5. General Considerations. The City shall consider the following factors in granting variances and imposing conditions on variances and conditional use permits in floodplains:

(a) The potential danger to life and property due to increased flood heights or velocities caused by encroachments;

(b) The danger that materials may be swept onto other lands or downstream to the injury of others;

(c) The proposed water supply and sanitation systems, if any, and the ability of these systems to minimize the potential for disease, contamination and unsanitary conditions;

(d) The susceptibility of any proposed use and its contents to flood damage and the effect of such damage on the individual owner;

(e) The importance of the services to be provided by the proposed use to the community;

(f) The requirements of the facility for a waterfront location;

(g) The availability of viable alternative locations for the proposed use that are not subject to flooding;

(h) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;

(i) The relationship of the proposed use to the Comprehensive Land Use Plan and flood plain management program for the area;

(j) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(k) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site.
6. Submittal of Hearing Notices to the Department of Natural Resources (DNR). The City Engineer shall submit hearing notices for proposed variances to the DNR sufficiently in advance to provide at least ten days’ notice of the hearing. The notice shall be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

7. Submittal of Final Decisions to the DNR. The City Engineer shall forward a copy of all decisions granting variances to the DNR within ten days of such action. The notice shall be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

8. Record-Keeping. The City Engineer shall maintain a record of all variance actions, including justification for their issuance, and shall report such variances in an annual or biennial report to the Administrator of the National Flood Insurance Program, when requested by the Federal Emergency Management Agency.

D. Conditional Uses.

1. Administrative Review. An application for a conditional use permit under this Section will be processed and reviewed in accordance with City Code Section 11.41.

2. Factors Used in Decision-Making. In deciding whether to grant a conditional use permit, the Council shall consider all relevant factors specified in Subdivision 11.C.5 of this Section and in City Code Section 11.41.

3. Conditions Attached to Conditional Use Permits. The Council may attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this Section. Such conditions may include, but are not limited to, the following:

(a) Modification of waste treatment and water supply facilities.
(b) Limitations on period of use, occupancy, and operation.
(c) Imposition of operational controls, sureties, and deed restrictions.
(d) Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.
(e) Floodproofing measures, in accordance with the State Building Code and this Section. The applicant for a conditional use permit shall submit a plan or document certified by a registered professional engineer or architect that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

4. Submittal of Hearing Notices to the Department of Natural Resources (DNR). The City Engineer shall submit hearing notices for proposed conditional uses to the DNR sufficiently in advance to provide at least ten days’ notice of the hearing. The notice shall be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

5. Submittal of Final Decisions to the DNR. The City Engineer shall forward a copy of all decisions granting conditional use permits under this Section to the DNR within ten days of such action. The notice shall be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

A. **Continuance of Nonconformities.** A use, structure, or occupancy of land which was lawful before the passage or amendment of this Section but which is not in conformity with the provisions of this Section, including historic structures as defined in Subd. 3.A.31, may be continued subject to the following conditions.

1. A nonconforming use, structure, or occupancy shall not be expanded, changed, enlarged, or altered in a way that increases its flood damage potential or degree of obstruction to flood flows except as provided in Subd. 12.A.2. Expansion or enlargement of uses, structures, or occupancies within the Floodway District is prohibited.

2. Any addition or structural alteration to a nonconforming structure or nonconforming use that would result in increasing its flood damage potential shall be protected to the regulatory flood protection elevation in accordance with any of the elevation on fill or floodproofing techniques (i.e., FP1 thru FP4 floodproofing classifications) allowable in the State Building Code, except as further restricted in Subd. 12.A.3 and 12.A.7.

3. If the cost of all previous and proposed alterations and additions exceeds 50 percent of the market value of any nonconforming structure, that shall be considered substantial improvement, and the entire structure must meet the standards of Subdivisions 5 or 6 for new structures, depending upon whether the structure is in the Floodway or Flood Fringe District, respectively. The cost of all structural alterations and additions shall include all costs such as construction materials and a reasonable cost placed on all manpower or labor.

4. If any nonconforming use, or any use of a nonconforming structure, is discontinued for more than one year, any future use of the premises must conform to this Section.

5. If any nonconformity is substantially damaged, it may not be reconstructed except in conformity with the provisions of this Section. The applicable provisions for establishing new uses or new structures in Subdivisions 5 or 6 will apply depending upon whether the use or structure is in the Floodway or Flood Fringe, respectively.

6. If any nonconforming use or structure experiences a repetitive loss, it shall not be reconstructed except in conformity with the provisions of this Section.

7. Any substantial improvement to a nonconforming structure requires that the existing structure and any additions shall meet the requirements of Subdivisions 5 or 6 of this ordinance for new structures, depending upon whether the structure is in the Floodway or Flood Fringe District.

Subd. 13. Penalties and Enforcement.

A. **Violation Constitutes a Misdemeanor:** Every person who violates the provisions of this Section or fails to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional use permits) is guilty of a misdemeanor and will be punished as permitted by law.

B. **Other Lawful Action.** Nothing in this Section shall prohibit the City from taking such other lawful action as is necessary to prevent or remedy any violation. If the responsible party does not appropriately respond to the City Engineer within the specified period of time, each additional day that lapses shall constitute an additional violation of this Section and will be prosecuted accordingly.

C. **Enforcement.** Violations of the provisions of this Section will be investigated and resolved in accordance with the provisions of Section 11.79 of this Chapter. In responding to a suspected violation of this Section, the City
Manager may utilize the full array of enforcement actions available, including but not limited to prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The City shall act in good faith to enforce these official controls and to correct violations of this Section to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.


A. **Floodplain Designation – Restrictions on Removal.** The City shall not remove the floodplain designation on the Official Zoning Map from floodplain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regulatory flood protection elevation and is contiguous to lands outside the floodplain. Special exceptions to this rule may be permitted by the Commissioner of the Department of Natural Resources (DNR) if the Commissioner determines that, through other measures, lands are adequately protected for the intended use.

B. **Amendments Require DNR Approval:** The City shall submit all proposed amendments to this Section to the Commissioner of the Department of Natural Resources (DNR) for approval prior to adoption. The Commissioner must approve the amendment prior to adoption by the City.

C. **Map Revisions Require Amendments:** This Section shall be amended from time to time to incorporate any revisions by the Federal Emergency Management Agency to the floodplain maps adopted in Subdivision 2.C.

(Section 11.46 through 11.49, inclusive, reserved for future expansion.)

**SECTION 11.50. SHORELAND MANAGEMENT.**

Subd. 1. Authorization and Jurisdiction.

A. **Statutory Authorization.** These Shoreland regulations are adopted pursuant to the authorization and policies contained in Minn. Stat. Section 103F.201-103F.221 and Minn. Stat. Section 462.

B. **Jurisdiction.** The provisions of this Section shall apply to the shorelands of the public waters as classified in Subd. 7 of this Section. Pursuant to Minnesota Regulations, Parts 6120.2500-6120.3900, no lake, pond, or flowage less than 10 acres in size in municipalities need be regulated in a local government's shoreland regulations. A body of water created by a private user where there was no previous shoreland may, at the discretion of the governing body, be exempt from this section.

Subd. 2. Declaration of Policy and Procedures. Declaration of Policy. It is hereby found and declared that shorelands of public waters are, or may be, subject to uncontrolled use resulting in: Health and safety hazards, pollution of public waters, loss of property, destruction of fish and wildlife, impairment of natural beauty, and impairment of local tax base all of which adversely affect the public health, safety, and welfare. It is, therefore, the purpose of this Section to provide standards and criteria for the subdivision, use and development of the shorelands of public waters in order to preserve and enhance the quality of public waters, conserve the economic and natural environmental values of shorelands, and provide for wise utilization of water and related land resources, and thereby promote and protect the public health, safety, and welfare.

Subd. 3. Interpretation and Severability. In interpreting and applying the provisions of this Section, such provisions shall be held to be minimum requirements for the promotion of the public health, safety, prosperity and general welfare. It is not the intention of this Section to interfere with any other provision of the City Code, however, where this Section imposes a greater restriction upon the use or improvement of any premises than those imposed or required by other City Code provisions, rules, regulations or permits of the City, State, or appropriate Watershed District, the provisions of this Section shall govern.
Subd. 4. Definitions. The following terms, as used in this Section, shall have the meanings stated:

1. "Bluff" - A topographic feature such as a hill, cliff, or embankment having all the following characteristics (an area with an average slope of less than 18 percent over a distance for 50 feet or more shall not be considered part of the bluff):
   a. Part or all of the feature is located in a shoreland area;
   b. The slope rises at least 25 feet above the ordinary high water level of the waterbody;
   c. The grade of the slope from the toe of the bluff to a point 25 feet or more above the ordinary high water level averages 30 percent or greater; and
   d. The slope must drain toward the waterbody.

2. "Bluff impact zone" - A bluff and land located within 20 feet beyond the top of a bluff.

3. "Building line" - A line parallel to a lot line or the ordinary high water level at the required setback beyond which a structure may not extend.

4. "Clear cutting" - Removal of all existing significant natural vegetation on a lot.

5. "Commissioner" - The Commissioner of the Department of Natural Resources.

6. "Lot Abutting" - Any lot directly abutting the Ordinary High Water Level or within 150 feet thereof shall be considered an abutting lot.

7. "Ordinary high water level" - The boundary of public waters and wetlands, and shall be at an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel. For reservoirs and flowage, the ordinary high water level is the operating elevation of the normal summer pool.

8. "Public waters" - Any waters as defined in Minnesota Statues, 103.G.005 Sub. 15 and Sub. 18.

9. "Setback" - The minimum horizontal distance between a structure, sewage treatment system, or other facility and an ordinary high water level, sewage treatment system, top of a bluff, road, highway, property line, or other facility.

10. "Sewage treatment system" - A septic tank and soil absorption system or other individual or cluster type sewage treatment system as described and regulated in Subdivision 17 of this ordinance.

11. "Sewer system" - Pipelines or conduits, pumping stations, and force main, and all other construction, devices, appliances, or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.

12. "Shore impact zone" - Land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50 percent of the required structure setback.

13. "Shoreland" - Land located within the following distances from public waters: 1,000 feet from the ordinary high water level of a lake, pond, or flowage; and 300 feet from a river or stream, or the landward extent of a floodplain designated by code on a river or stream, whichever is greater. The limits of shorelands may be
reduced whenever the waters involved are bounded by topographic divides which extend landward from the waters for lesser distances and when approved by the commissioner.

14. "Shoreline" - The shoreline for public waters is defined as the normal ordinary high water level.

15. "Toe of the bluff" - The lower point of a 50-foot segment with an average slope exceeding 18 percent.

16. "Top of the bluff" - The higher point of a 50-foot segment with an average slope exceeding 18 percent.

17. "Water-oriented accessory structure" - A structure used solely for watercraft storage including storage of related boating and water-oriented sporting equipment.

18. "100-Year Frequency Flood Level" - The elevation that a creek, pond, or lake can be expected to reach once in 100 years.

Subd. 5. Administration, Application and Issuance of Certain Permits.

A. Permit Required. A permit issued by the City shall be applied for and obtained prior to construction, installation of sewer and water facilities, and grading and filling within any part of shoreland area.

B. Applications for permit. Application for permit within any part of a shoreland area shall be made in conformance with procedures set forth in Section 11.55, subd. 5 A. Application for Land Alteration Permit, Fees, Council Action, Bond in addition to the requirements of this subdivision.

Ordinance No. 14-2004
Effective Date: 6-10-2004

C. Factors Considered Prior to Granting Permit. In exercising its discretion to grant or deny permits, the Council may consider, among other things, the following:

1. Adequacy of lot size and building setbacks.
2. Adequacy of sewer and water facilities.
3. Adequacy of grading, filling and restoration.
4. Whether the structures will be structurally safe for use by the intended users.
5. Whether the facility will comply with the regulations and shoreland protection measures contained in this Section.
6. Whether the proposed structure will create a volume of traffic on the public water in the vicinity of the facility which will tend to be unsafe.
7. Whether the proposed facility will be compatible with adjacent development.
8. Whether the proposed facility will be compatible with the maintenance of the natural beauty of the public water.
9. Whether the proposed facility will affect the quality, or ecology of the public water.
10. Whether the proposed facility, by reason of noise, fumes or other nuisance characteristics, will tend to be a source of nuisance or annoyance to persons in the vicinity of the facility.
11. Whether adequate sanitary and parking facilities will be provided in connection with the proposed facility.

D. Permit Conditions. The Council may impose written conditions on the issuance of a permit. A violation of the terms and conditions of a permit is a violation of this Section and grounds for revocation of the permit.

Ordinance No. 14-2004
Effective Date: 6-10-2004

E. Notification Procedures.

1. Copies of all notices of any public hearing to consider variances, amendments or conditional uses under any provision of this section must be sent to the Commissioner or the Commissioner’s designated representative and post-marked at least ten days before the hearing. Notices of hearings to consider proposed plats must include copies of the plats.

2. A copy of approved amendments and plats, and final decision granting variances or conditional uses under this section must be sent to the Commissioner or the Commissioner’s designated representative and post-marked within ten days of final action.

Ordinance No. 14-2004
Effective Date: 6-10-2004

Subd. 6. Variance Standards.

A. Procedures for Considering Variance Application. A variance from strict conformity with the terms of this section may be granted in conformance with the provisions for granting variances set forth in Section 11.76 of this Chapter. Upon receiving an application for a variance, the Board of Adjustments and Appeals, prior to rendering a decision thereon, may require the applicant to furnish the following information, as deemed necessary by the Board, for determining the suitability of a particular site for the proposed use:

1. Plans showing elevation of the ground water supply, sanitation facilities, photographs showing existing land uses, vegetation upstream and downstream and soil types.

2. Specification for building constriction (including lot size and setbacks), filling, and grading, water supply, and sanitary facilities.

3. Such other information as may bear on the suitability of the proposed structure or development. In considering variance requests, the Boards of Adjustment and Appeals must also consider whether the property owner has reasonable use of the lands without the variance, whether the existing sewage treatment system on the property needs upgrading before additional development is approved, whether the property is used seasonally or year-round, whether the variances is being requested solely on the basis of economic considerations, and the characteristics of development on adjacent properties.

Ordinance No. 14-2004
Effective Date: 6-10-2004

B. Provisions of the variance regulations contained in this section shall apply.

For existing developments, the application for variance must clearly demonstrate whether a conforming sewage treatment system is present for the intended use of the property. The variance, if issued, must require reconstruction of a nonconforming sewage treatment system.

C. Administration of Variance. Refer to Subdivision 5 entitled Administration, Application and Issuance of Certain Permits.
Subd. 7. Shoreland Classification System and Profile.

A. The public waters of the City are as set forth below:

1. Natural Environment Waters

<table>
<thead>
<tr>
<th>Protected Water Inventory I.D. #</th>
</tr>
</thead>
<tbody>
<tr>
<td>Grass Lake</td>
</tr>
<tr>
<td>McCoy Lake</td>
</tr>
<tr>
<td>Mitchell Lake</td>
</tr>
<tr>
<td>Neill Lake</td>
</tr>
<tr>
<td>Rice Marsh Lake</td>
</tr>
<tr>
<td>Rice Lake</td>
</tr>
<tr>
<td>Round Lake</td>
</tr>
<tr>
<td>School Pond</td>
</tr>
<tr>
<td>Smetana Lake</td>
</tr>
<tr>
<td>Super Valu Pond (unnamed pond)</td>
</tr>
</tbody>
</table>

2. Recreational Development Waters

<table>
<thead>
<tr>
<th>Protected Waters Inventory I.D. #</th>
</tr>
</thead>
<tbody>
<tr>
<td>Anderson Lake</td>
</tr>
<tr>
<td>Birch Island Lake</td>
</tr>
<tr>
<td>Bryant Lake</td>
</tr>
<tr>
<td>Duck Lake</td>
</tr>
<tr>
<td>Idlewild Lake</td>
</tr>
<tr>
<td>Riley Lake</td>
</tr>
<tr>
<td>Red Rock Lake</td>
</tr>
<tr>
<td>Staring Lake</td>
</tr>
</tbody>
</table>

3. General Development Waters

<table>
<thead>
<tr>
<th>General Legal Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>From: Sec/T/R</td>
</tr>
<tr>
<td>Minnesota River</td>
</tr>
<tr>
<td>Nine Mile Creek</td>
</tr>
<tr>
<td>Purgatory Creek</td>
</tr>
<tr>
<td>Riley Creek</td>
</tr>
<tr>
<td>Riley Creek</td>
</tr>
</tbody>
</table>

Subd. 8. Zoning Restrictions. No building permit shall be issued for any lots zoned as rural, residential, commercial, office, industrial, public or any sub-zoning district thereof which are within the Shoreland unless the use is in conformance with this Chapter and conforms to the following lot size dimensions and setbacks.

A. Natural Environment Waters.

1. Single Family Housing Detached Dwellings.

a. Lots abutting without public sewer:

(1) Minimum lot size - 5 acres.
(2) Minimum width at building line - 300 feet.
(3) Minimum width at Ordinary High Water Level - 200 feet.
(4) Minimum setback from Ordinary High Level - 200 feet.

b. Lots abutting with public sewer and water:
1. Minimum lot size - 40,000 square feet.
2. Minimum width at building line - 150 feet.
3. Minimum width at Ordinary High Water Level - 150 feet.
4. Minimum setback from Ordinary High Water Level - 150 feet.

2. Multiple Housing Attached Dwellings.
   a. Lots must have public sewer and water.
   b. Lots abutting:
      (1) Minimum lot size - 30,000 sq. ft/unit.
      (2) Minimum width at building line - 150 feet.
      (3) Minimum width at Ordinary High Water Level - 150 feet.
      (4) Minimum setback from Ordinary High Water Level - 150 feet.
      (5) Structures shall not comprise more than 50% of the length of the shoreland within the lot.

3. Office and Institutional.
   a. Lots must have public sewer and water.
   b. Lots abutting:
      (1) Minimum lot size - 10 acres.
      (2) Minimum width at building line - 200 feet.
      (3) Minimum width at Ordinary High Water Level - 200 feet.
      (4) Minimum setback from Ordinary High Water Level - 200 feet.

4. Commercial and Industrial (no outside storage allowed).
   a. Lots must have public sewer and water.
   b. Lots abutting:
      (1) Minimum lot size - 10 acres.
      (2) Minimum width at building line - 200 feet.
      (3) Minimum width at Ordinary High Water Level - 200 feet.
      (4) Minimum setback from Ordinary High Water Level - 200 feet.

B. Recreational Development Waters.

1. Single Family Housing Detached Dwellings.
   a. Lots abutting without public sewer:
      (1) Minimum lot size - 5 acres.
      (2) Minimum width at building line - 300 feet (Rural - 300 feet).
      (3) Minimum width at Ordinary High Water Level - 150 feet.
      (4) Minimum setback from Ordinary High Water Level - 100 feet.
   b. Lots abutting with public sewer and water:
      (1) Minimum lot size - 20,000 square feet.
      (2) Minimum width at building line - 120 feet.
(3) Minimum width at Ordinary High Water Level - 120 feet.
(4) Minimum setback from Ordinary High Water Level - 100 feet.

2. Multiple Housing Attached Dwellings.
   a. Lots must have public sewer and water.
   b. Lots abutting:
      (1) Minimum lot size - 15,000 sq. ft./unit.
      (2) Minimum width at building line - 120 feet.
      (3) Minimum width at Ordinary High Water Level - 120 feet.
      (4) Minimum setback from Ordinary High Water Level - 150 feet.
      (5) Structures shall not comprise more than 50% of the length of the shoreland within the lot.

3. Office and Institutional.
   a. Lots must have public sewer and water.
   b. Lots abutting:
      (1) Minimum lot size - 5 acres.
      (2) Minimum width at building line - 200 feet.
      (3) Minimum setback from Ordinary High Water Level - 200 feet.
      (4) Minimum width at Ordinary High Water Level - 200 feet.

4. Commercial and Industrial (no outside storage allowed).
   a. Lots must have public sewer and water.
   b. Lots abutting:
      (1) Minimum lot size - 10 acres.
      (2) Minimum width at building line - 200 feet.
      (3) Minimum width at Ordinary High Water Level - 200 feet.
      (4) Minimum setback from Ordinary High Water Level - 200 feet.

C. General Development Waters.
   1. Single Family Housing Detached Dwellings.
      a. Lots abutting without public sewer:
         (1) Minimum lot size - 5 acres.
         (2) Minimum width at building line - 120 feet.
         (3) Minimum width at Ordinary High Water Level - 120 feet.
         (4) Minimum setback from Ordinary High Water Level - 100 feet.
      b. Lots abutting with public sewer and water:
         (1) Minimum lot size - 13,500 square feet.
         (2) Minimum width at building line - 120 feet.
         (3) Minimum width at Ordinary High Water Level - 120 feet.
2. Multiple Housing Attached Dwellings.
   a. Lots must have public sewer and water.
   b. Lots abutting:
      (1) Minimum lot size - 10,000 square feet/unit
      (2) Minimum width at building line - 100 feet.
      (3) Minimum width at Ordinary High Water Level - 120 feet.
      (4) Minimum setback from Ordinary High Water Level - 150 feet.
      (5) Structures shall not comprise more than 50% of the length of the shoreland within the lot.

3. Office and Institutional.
   a. Lots must have public water and sewer.
   b. Lots abutting:
      (1) Minimum lot size - 2 acres.
      (2) Minimum width at building line - 150 feet.
      (3) Minimum width at Ordinary High Water Level - 150 feet.
      (4) Minimum setback from Ordinary High Water Level - 150 feet.

   a. Lots must have public water and sewer.
   b. Lots abutting:
      (1) Minimum lot size - 2 acres.
      (2) Minimum width at building line - 150 feet.
      (3) Minimum width at Ordinary High Water Level - 150 feet.
      (4) Minimum setback from Ordinary High Water Level - 150 feet.

5. Industrial.
   a. Lots must have public water and sewer.
   b. Lots abutting:
      (1) Minimum lot size - 5 acres.
      (2) Minimum width at building line - 150 feet.
      (3) Minimum width at Ordinary High Water Level - 150 feet.
      (4) Minimum setback from Ordinary High Water Level - 150 feet.

D. Additional Special Provisions.

1. Where development exists on both sides of a proposed building site within the same lot as the proposed building site, structural setbacks may be altered to take setbacks of existing structures into
account if approved by the City Manager or designee, provided the proposed building site is not within a shore or bluff impact zone.

2. Commercial, industrial, or permitted open space uses requiring location on or near public waters may be allowed as a variance closer to such waters than the setbacks specified in this Section.

3. Septic tanks and soil absorption systems shall be setback from the ordinary high water level in accordance with the class of public water:
   a. Natural Environment Waters, at least 150 feet.
   b. Recreational Development Waters, at least 100 feet.
   c. General Development Waters, at least 100 feet.

E. Additional Structure Setbacks. The following additional structure setbacks apply, regardless of the classification of the waterbody:

<table>
<thead>
<tr>
<th>Setback From</th>
<th>Setback (in feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. top of bluff;</td>
<td>30 for principle structure</td>
</tr>
<tr>
<td>2. unplatted cemetery;</td>
<td>50</td>
</tr>
<tr>
<td>3. right-of-way line of public street,</td>
<td>20</td>
</tr>
<tr>
<td>or other roads or streets not classified;</td>
<td></td>
</tr>
</tbody>
</table>

F. Bluff Impact Zones. Structures and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.

G. Steep Slopes. The City Manager or designee shall required soil erosion protection and must evaluate possible soil erosion impacts, soil protection and development visibility from public waters before issuing a permit for construction of sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes. When determined necessary, conditions must be attached to issued permits to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters, assuming summer, leaf-on conditions.

H. Uses Without Water-oriented Needs. Commercial, industrial, public and semi-public uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view as determined by the City Manager or designee from the water by vegetation or topography, assuming summer, leaf-on conditions as determined by the City Manager or designee.


A. High Water Elevation. Structures shall be placed such that the lowest floor elevation is at least two feet above the 100-Year Frequency Flood Level.

B. Water-oriented Accessory Structures. Each lot may have one water-oriented accessory structure not meeting the normal structure setback in Subdivision 8 of this section if this water-oriented accessory structure complies with the following provisions.
1. The structure or facility must not exceed ten feet in height, exclusive of safety rails, and cannot occupy an area greater than 250 square feet;

2. The setback of the structure or facility from the ordinary high water level must be at least ten feet;

3. The structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions;

4. The roof of any water-oriented structure may not be used as a storage area;

5. The structure or facility must not be designed or used for human habitation and must not contain water supply, or sewage treatment facilities.

C. Stairways, Lifts, and Landings. Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts must meet the following design requirements:

1. Stairways and lifts must not exceed 4 feet in width on residential lots. Wider stairways may be used for commercial properties, public open-space recreational properties.

2. Landings for stairways and lifts on residential lots must not exceed 32 square feet in area. Landings greater than 32 square feet but less than 64 square feet may be used for commercial properties, and public open-space recreational properties.

3. Canopies or roofs are not allowed on stairways, lifts, or landings.

D. Controlled Access. Lots intended as controlled accesses to public waters or as recreation areas for use by owners of nonriparian lots within subdivisions are permissible and must meet or exceed the following standards:

1. The lot must meet the width and size requirements for residential lots as required by subd. 8 of this section.

2. If docking, mooring, or over-water storage of more than six (6) watercraft is to be allowed at a controlled access lot, then the width of the lot (keeping the same lot depth) must be increased by 25 percent of the requirements for riparian residential lots for each watercraft beyond six.

3. The lot must be jointly owned by all purchasers of lots in the subdivision or by all purchasers of nonriparian lots in the subdivision who are provided riparian access rights on the access lot.

4. Covenants must be developed that specify which lot owners have authority to use the access lot and what activities are allowed. The activities may include watercraft launching, loading, storage, beaching, mooring, or docking. The covenants must also include other outdoor recreational activities that do not significantly conflict with general public use of the public water or the enjoyment of normal property rights by adjacent property owners. Examples of the nonsignificant conflict activities include but are not limited to, swimming, sunbathing, or picnicking. The covenants must limit the total number of vehicles allowed to be parked and the total number of watercraft allowed to be continuously moored, docked, or stored over water, and must require centralization of all common facilities and activities in the most suitable locations on the lot to minimize topographic and vegetation alterations. The covenants must also require all parking areas, storage buildings, and other facilities to be screened by vegetation or topography as much as practical from view from the public water, assuming summer, leaf-on conditions. The covenants must be filed with the County Recorder or the Registrar of Titles for Hennepin County.
Subd. 10. Placement and Height of Structures.

A. Placement of Structures on Lots. When more than one setback applies to a site, structures and facilities must be located to meet all setbacks. Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining setbacks from the ordinary high water level, provided the proposed building site is not located in a shore impact zone or in a bluff impact zone. Structures shall be located as follows:

1. Stairways, lifts, and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion.

2. Stairways, lifts, and landings must be located in the most visually inconspicuous portions of lots, so as to minimize the view from the surface of the public water assuming summer, leaf-on conditions, whenever practical.

3. Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of Subd. 9B and 9C are complied with in addition to the requirements as contained in Minnesota Rules, Chapter 1340 a copy of which is hereby adopted by reference and declared to be a part of this ordinance.

B. Height of Structures. All structures in residential districts, must not exceed 35 feet in height.

Subd. 11. Shoreland Alterations. Alterations of vegetation and topography is regulated to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping, and protect fish and wildlife habitat.

A. Vegetation Alterations.

1. Vegetation alteration necessary for the construction of structures and sewage treatment systems and the construction of roads, utilities, and parking areas shall be regulated by this Section and this Chapter.

2. Removal or alteration of vegetation, except for agricultural uses as regulated in Subd. 14 is allowed subject to the following standards:
   
a. Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed.

b. In shore and bluff impact zones and on steep slopes, limited clearing of trees and shrubs and cutting, pruning, and trimming of trees is allowed to provide a view to the water from the principal dwelling site and to accommodate the placement of stairways and landings, picnic areas, access paths, livestock watering areas, beach and watercraft access areas, and permitted water-oriented accessory structures or facilities, provided that:

   (1) The minimal amount of vegetation is altered;
   (2) The screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced;
   (3) Along rivers, existing shading of water surfaces is preserved;
   (4) The above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards; and
   (5) All disturbed areas are restored to prevent erosion potential.

B. Topographic Alterations/Grading and Filling.
1. A grading and filling permit will be required for the movement of more than ten (10) cubic yards of material within steep slopes and shore and bluff impact zones.

2. The issuance of construction permits, grading and filling permits, variances and subdivision approvals are subject to evaluation based on the following criteria:
   a. Grading or filling in any type 2,3,4,5,6,7, or 8 wetland must be evaluated to determine how extensively the proposed activity would affect the following functional qualities of the wetland:
      (1) sediment and pollutant trapping and retention;
      (2) storage of surface runoff to prevent or reduce flood damage;
      (3) fish and wildlife habitat;
      (4) recreational use;
      (5) shoreline or bank stabilization; and
      (6) noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals, or others.
   b. Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible;
   c. Mulches or similar materials must be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover must be established as soon as possible;
   d. Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used;
   e. Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the United States Soil Conservation Service;
   f. Fill or excavated material must not be placed in a manner that creates an unstable slope;
   g. Plans to place fill or excavated material on steep slopes must be reviewed by registered Engineer for continued slope stability and must not create finished slopes of 30 percent or greater;
   h. Fill or excavated material must not be placed in bluff impact zones;
   i. Any alterations below the ordinary high water level of public waters must first be authorized by the Commissioner of Department of Natural Resources under Minnesota Statutes, section 103G.245;
   j. Alterations of topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties; and
   k. Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed three feet horizontal to one foot vertical, the landward extent of the riprap is within ten feet of the ordinary high water level, and the height of the riprap above the ordinary high water level does not exceed three feet.

3. Alteration of Beds of Public Waters.
a. Any work which will change or diminish the course, current or cross section of a public water shall be approved by the Commissioner of the Department of Natural Resources before the work is begun. This includes construction of channels, ditches, lagooning, dredging of lakes or stream bottoms or removal of muck, silt, or weeds and filling in the lake or stream bed. Approval shall be construed to mean the issuance, by the Commissioner, or a permit under the procedures of Minnesota Statute, Sec 103G.245 and other related statutes.

b. Permission for excavation on shorelands where the intended purpose is connection to protected water, such as boat slips, canals, lagoons, and harbors, may be given only after the Commissioner of the Department of Natural Resources has approved the proposed connection. Approval shall only be given if the proposed work is consistent with applicable State regulations for work in beds of public waters.


A. Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. Documentation must be provided by a registered architect, registered landscape architect, or registered professional that all roads and parking areas are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.

B. All roads and parking areas shall meet the setback requirements established for structures in Subdivision 8 of this Section.

C. Roads, driveways, parking areas and any other impervious surfaces must not be placed within bluff and shore impact zones. If no alternatives exist, they may be placed within these areas, but shall not be placed closer than 50 feet of the Ordinary High Water Level, and must be designed to minimize adverse impacts. Exceptions to this requirement include recreation trials and boat launch ramps.

D. Public and private watercraft access ramps, approach roads, and access-related parking areas may be placed within shore impact zones provided the vegetative screening and erosion control conditions of this subpart are met. Grading and filling provisions of City Code must be met for these facilities.

E. Natural vegetation shall be used in order to screen parking areas when viewed from a public water.


A. Existing natural drainageways, wetlands, and vegetated soil surfaces should be used to convey, store, filter, and retain stormwater runoff before discharge to public waters, unless an improved drainage system meets all necessary regulations.

B. Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.

C. When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle stormwater runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways, and ponds may be used.

D. The installation of any erosion control measures are subject to the Minnesota Pollution Control Agency's Urban Best Management Practices, a copy of which is hereby adopted by reference and declared to be a part of this ordinance.
E. **Impervious Surfaces.** The total area of all impervious surfaces on a lot shall not exceed 30% of the total lot area.

F. When proposed facilities are used for stormwater management, documentation must be provided by a registered Engineer that they will be designed and installed consistent with the field office technical guide of the local soil and water conservation districts of Hennepin County, and United States Soil Conservation Service.

G. Newly constructed stormwater outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

**Subd. 14. Agriculture Use Standards.** General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting may be conducted if steep slopes and shore and bluff impact zones are maintained in accordance with this chapter and such use otherwise conforms to the requirements of this chapter.

**Subd. 15. Water and Waste Systems.** Nonconforming sewage treatment systems shall be regulated and upgraded in accordance with Subd.16 of this section.

A. **Sanitary Restrictions.**

1. A public or private supply of water for domestic purposes shall conform to Minnesota Rules Chapter 4720 and 4725 and 7048-7100.

2. Private wells shall be placed in areas not subject to flooding and upslope from any source of contamination. Wells already existing in areas subject to flooding shall be flood proofed in accordance with accepted engineering standards.

B. **Water Supply and Sewage Treatment.**

1. Water Supply. Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the Minnesota Department of Health and the Minnesota Pollution Control Agency.

2. Sewage treatment. Any premises used for human occupancy must be provided with an adequate method of sewage treatment, as follows:

   a. Publicly-owned sewer systems must be used where available.

   b. All private sewage treatment systems must meet or exceed the Minnesota Pollution Control Agency's standards for individual sewage treatment systems contained in the document titled "Individual Sewage Treatment Systems Standards, Minnesota Rules Chapter 7080" a copy of which is hereby adopted by reference and declared to be a part of this ordinance.

   c. On-site sewage treatment systems must be set back from the ordinary high water level in accordance with the setbacks contained in Subd. 8 of this Section.

   d. Public sewage disposal and commercial, agricultural, solid waste, and industrial waste disposal, shall be subject to the standards of the Minnesota Rules Chapters 7020 Animal Feedlots, 7035 Solid Waste, 7040 Sewage Sludge Management, 7048 Waste Disposal - Operators, Inspections, 7060 Underground Waters, 7065 Effluent standards for Disposal Systems, 7077 Wastewater Treatment Assistance, a copy of which is hereby adopted by reference and declared to be a part of this ordinance.

C. **Septic Tank and Soil Absorption System.**
1. Location and installation of septic tanks and/or soil absorption systems shall be such that, with reasonable maintenance, it will function in a sanitary manner and will not create a nuisance, endanger the domestic water supply, nor pollute or contaminate any waters in the State. In determining a suitable location for the tank or system, consideration shall be given to the size and shape of the lot, slope of natural grade, soil permeability, high ground water elevation, geology, proximity to existing and future water supplies, accessibility for maintenance and possible expansion of system.

2. Soil absorption systems shall not be allowed in the following areas for disposal of domestic sewage: low swampy areas or areas subject to recurrent flooding; areas where the highest known ground water table, bedrock, or impervious soil conditions are within 4 feet of the bottom of the systems; and area of ground slope which create a danger of seepage of the effluent onto the surface of the ground.

D. Permits shall stipulate that any identified nonconforming sewage treatment system, as defined by Minnesota Rules 7080, Individual Sewage Treatment Systems, shall be reconstructed or replaced in accordance to the standards found in Minnesota Rules 7080.

E. Inspection. The Building Inspector shall make such inspection or inspections as are necessary to determine compliance with this Section. No part of any soil absorption system or septic tank shall be covered until it has been inspected and accepted by the Building Inspector and a permit has been obtained from the City pursuant to Subdivision 5 of this Section. It shall be the responsibility of the applicant for the permit to notify the Inspector that the job is ready for inspection or reinspection, and it shall be the duty of the Inspector to make the indicated inspection within a reasonable time after such notice has been given. It shall be the duty of the owner or occupant of the property to give the Inspector free access to the property at reasonable times for the purpose of making such inspections. If upon inspection the Inspector discovers that any part of the system is not constructed in accordance with the minimum standards in this Section, he shall give the applicant written notification describing defects. The applicant shall be responsible for correction or elimination of all defects, and no system shall be placed or replaced in service until all defects have been corrected or eliminated. Upon final inspection approval, the Inspector shall so notify the applicant in writing.

Subd. 16. Non-Conforming Structures, Lots, or Sewage Treatment Systems. An existing structure or use which was lawful before adoption of this Section, but which is not in conformity with the provisions of this Section, may be continued subject to the following conditions:

A. No structure or use shall be expanded, changed, enlarged, or altered in any way without complying in all respects with this Section.

B. If any non-conforming structure is destroyed or damaged by any means, to the extent that the cost of repairing or restoring such destroyed or damaged non-conforming structure would be 50% or more of the Assessor's Market Value for tax purposes at the time of damage, then it shall not be reconstructed except in full compliance in all respects with the provisions of this Section, including, but not limited to, the obtaining of all required permits.

C. Substandard Lots. The City may issue a building permit for a lot of record in the office of the County Recorder prior to the date of enactment of this Section which does not meet the lot size requirements of this Subdivision, provided the lot complies with setback provisions and sanitary restrictions of this Section, and is in separate ownership from abutting lands, except those lots not in separate ownership.

D. Nonconforming sewage treatment systems.

1. A sewage treatment system not meeting the requirement of Minnesota Rules 7080, entitled Individual Sewage Treatment Systems, must be upgraded, at a minimum, at any time a permit or variance of any type is required for any improvement on, or use of, the property. For the purposes of this provision, a
sewage treatment system shall not be considered nonconforming if the only deficiency is the sewage treatment system's improper setback from the ordinary high water level.

2. The City will require upgrading or replacement of any nonconforming system within a reasonable period of time which will not exceed 2-years. Sewage systems installed according to all applicable local shoreland management standards adopted under Minnesota Statutes, section 103F.201, in effect at the time of installation may be considered as conforming unless they are determined to be failing, except that systems using cesspools, leaching pits, seepage pits, or other deep disposal methods, or systems with less soil treatment area separation above groundwater than required by the Minnesota Rules Chapter 7080 for design of on-site sewage treatment systems, shall be considered nonconforming.

**Subd. 17. Subdivision Restrictions.**

A. Land Suitability. No permit shall be granted for land to be subdivided which the City finds to be unsuitable for the proposed use because of wetlands, near-shore aquatic conditions unsuitable for water-based recreation, important fish and wildlife habitat, presence of significant historic sites, flooding, inadequate drainage, soil and rock formation, severe erosion potential, unfavorable topography, inadequate water supply or sewage disposal capabilities, or any other feature likely to be harmful to the health, safety or welfare of future residents.

B. Inconsistent Plats. All plats which are inconsistent with this Section shall be received and reviewed by the Commissioner 10 days before a hearing is called by the City for consideration of approval of a preliminary plat.

C. Copies of Plats. The Commissioner shall receive all plats within shoreland areas within 10 days of final approval by the City.

**Subd. 18. Information Requirements.** Sufficient information must be submitted by the applicant for the city to make a determination of land development suitability. The information shall include at least the following:

A. Topographic contours at two-foot intervals showing limiting site characteristics;

B. The surface water features required in Minnesota Statutes, section 505.02, subdivision 1, to be shown on plats, obtained from United States Geological Survey quadrangle topographic maps or more accurate sources;

C. Adequate soils information to determine suitability for building and on-site sewage treatment capabilities for every lot from the most current existing sources or from field investigations such as soil boring, percolation tests, or other methods;

D. Information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographic alterations; near-shore aquatic conditions, including depths, types of bottom sediments, and aquatic vegetation; and proposed methods for controlling stormwater runoff and erosion, both during and after construction activities;

E. Location of shoreland areas, 100-year flood plain areas from existing adopted maps or data; and

F. A line or contour representing the ordinary high water level, the "toe" and the "top" of bluffs, and the minimum building setback distances from the top of the bluff and the lake or stream.

G. When a land or easement dedication is a condition of subdivision approval, the approval must provide easements over natural drainage or ponding areas for management of stormwater and significant wetlands.
H. Controlled Access or Recreational Lots. Lots intended as controlled accesses to public waters or for recreational use areas for use by nonriparian lots within a subdivision must meet or exceed the sizing criteria in Subd. 8 of this Section.

Subd. 19. Planned Unit Development (PUD). For PUD developments within a shoreland area as defined, the provisions of Section 11.40 shall apply.

Ordinance No. 16-96
Effective Date: 4-26-96

Subd. 20. Conditional Uses. The following standards must be used for reviewing conditional uses located in shoreland areas:

A. A thorough evaluation of the topographic, vegetation, and soil conditions on the site to ensure:

1. Prevention of soil erosion or other possible pollution of public waters, both during and after construction;
2. Limiting visibility of structures and other facilities as viewed from the public waters; and
3. Adequacy of the site for water supply and on-site sewage treatment; and

B. An assessment of the types, uses, and numbers of watercraft that the project will generate in relation to the suitability of public waters to safely accommodate these watercraft.

The City Council may impose some or any of the following conditions when granting conditional use permits that specify: increased setbacks from public waters; vegetation allowed to be removed or required to be established; sewage treatment system location, design or use; location, design, and use requirements for watercraft launching or docking, and for vehicular parking; structure or other facility design, use, and location; phasing of construction; and other conditions considered necessary by the City Council.

C. Administration of Conditional Use. Refer to Subdivision 5 entitled Administration, Application and Issuance of Certain Permits.

Ordinance No. 14-2004
Effective Date: 6-10-2004

SECTION 11.51. STANDARDS FOR THE PROTECTION OF WETLANDS

Ordinance No. 10-2017
Effective Date: 6-22-2017

Subd. 1. Preamble.

This Code hereby incorporates by reference the Wetlands Conservation Act, Minnesota Statutes 103G.221 et seq. (herein after referred to as the WCA), and Minnesota Rules Chapter 8420. All wetlands, as defined in subdivision 3 of this Section, including Public Waters and Public Waters Wetlands governed by Minn. Stat. 103G.005 and those governed by the U.S. Army Corps of Engineers, are covered by this Section. Standards outlined in this Section have precedence over WCA in situations where this Section or other provisions of the City Code are more restrictive than WCA. Each reference in this Section to statutes, codes, regulations or rules constitutes a reference to the statute, code, regulation or rule as may be amended from time to time.

The following watershed districts are located in the City:

1. Lower Minnesota River
2. Nine Mile Creek

3. Riley Purgatory Bluff Creek

The City is the acting Local Government Unit (LGU) for the Lower Minnesota River and Riley Purgatory Bluff Creek Watershed Districts for purposes of the WCA.

**Subd. 2. Purpose.**

Through the adoption and enforcement of this Section, the City shall promote the general health, safety, and welfare of its residents by both conserving and protecting wetlands and requiring sound management practices as provided for in the WCA when development occurs in the vicinity of wetlands. The intent of this Section is to avoid alteration and destruction of wetlands. By implementation of this Section, the City seeks to accomplish the following:

1. Balance the need to preserve and protect natural resources and systems with both the rights of private property owners and the need to support the efficient use of developable land within the City;

2. Promote water quality by maintaining the ability of wetlands to recharge ground water and receive the discharge of ground water, to prevent soil erosion, and to retain sediment, nutrients and toxicants in wetland buffer strip areas before it discharges into community wetlands, lakes and streams, thus avoiding the contamination and eutrophication of these water features;

3. Reduce human disturbances to wetlands by providing a visual and physical transition from surrounding yards; and

4. Provide wildlife habitat and thereby support the maintenance of diversity of both plant and animal species within the City.

**Subd. 3. Definitions.**

The following terms, as used in this Section, shall have the meanings stated. Terms not defined shall have the meaning as stated in Section 11.02 of this Code:

A. “Applicant” – The person or entity submitting a Development Application to the City.

B. “City Engineer” – The City Engineer or his/her designee.

C. “City Wetland Map” – The City’s Water Body Map as developed for the City’s Local Water Management Plan and as amended from time to time as wetland, lake and stormwater pond conditions change or new information is collected. The City map adopted by this ordinance shall be prima facie evidence of the location and classification of a wetland.

D. “Development Application” – “Development Application” includes but is not limited to an application to the City for land development, site plan review, planned unit development, rezoning, platting, land alteration, wetland alteration, wetland no-loss determination, wetland exemption request, or wetland replacement.

E. “Environmental Coordinator” – The City’s Environmental Coordinator or his/her designee.

F. “Joint Wetland Permit Application” – An application form provided by the Minnesota Board of Water and Soil Resources (BWSR) for water and wetland projects affecting lakes, rivers, streams or wetlands. The Joint Wetland Permit Application is a single form that is completed and submitted to the Local Government Unit, BWSR, the Department of Natural Resources, the Hennepin Conservation District, the U.S. Army Corps of Engineers and the applicable watershed district for review and approval.
G. “Local Government Unit” or “LGU” – A city, town, or watershed management organization as determined in Minnesota Rules 8420.0200.

H. “MnRAM” – The Minnesota Routine Assessment Methodology (MnRAM) for Evaluating Wetland Function as developed by the Minnesota Board of Water and Soil Resources. MnRAM is a field tool used to assess wetland functions on a qualitative basis, including vegetative diversity and integrity; wildlife habitat structure; water quality; flood and stormwater attenuation; hydrologic regime; downstream water quality; recreation, aesthetics, educational and cultural resources; fish habitat; amphibian habitat; shoreline protection; ground water interaction; and commercial uses.

I. “Native Vegetation” - As defined in Minnesota Rules 8420.0111.

J. “No-Loss Determination” – An application to the Local Government Unit to evaluate whether the proposed work will result in a loss of wetland within the property under the factors set forth in Minnesota Rules 8420.0415.

K. “Structure Setback” – The minimum horizontal distance between a structure and the nearest edge of the wetland buffer strip.

L. “Sequencing Flexibility” – Flexibility in application of the sequencing steps set forth in Minnesota Rules 8420.0520. A “Sequencing Flexibility Report” must be provided if sequencing flexibility is requested to document that these conditions have been met and the proposed action or alternative.

M. “Technical Evaluation Panel” or “TEP” – The technical evaluation panel established for and coordinated by a LGU under Minnesota Rules 8420.0240 that assists the LGU in making technical findings and provides recommendations for projects involving wetland alteration or wetland impacts at the request of the LGU, the landowner, or a member of the TEP.

N. “Weeds” - As defined in City Code Section 9.71.

O. “Wetland” - Lands defined as wetlands, a wetland, the wetland, or wetland area in Minnesota Rules 8420.0111.

P. “Wetland Alteration” – Changes to a wetland and/or wetland buffer strip in regards to size, depth or contour; dredging; tilling; damming; alteration of the watercourse; ditching; tiling; grading; draining; discharge of water; appropriation of water; changes in vegetation; or otherwise altering or destroying a wetland or wetland buffer strip or their functions.

Q. “Wetland Buffer Strip” - An area of vegetated ground cover around the perimeter of a wetland. A “Wetland Buffer Strip Evaluation Report” is a report summarizing the results of an evaluation of the wetland and wetland buffer strip in relation to the requirements of subdivision 11 of this Section.

R. “Wetland Delineation” – An assessment tool utilized to determine the boundary of a wetland using the boundary determination requirements established in Minnesota Rules Chapter 8420, including any subsequent updates, supplements, and guidance provided by BWSR. A “Wetland Delineation Report” is a document that summarizes the observations, results and conclusions performed during the wetland delineation assessment when wetlands are present on the property.

S. “Wetland Determination” – An assessment conducted utilizing the US Army Corps of Engineers Wetland Delineation Manual (January 1987) to determine whether a wetland is present within the property that may be impacted by a proposed project. A “Wetland Determination Report” documents the conditions that lead to the conclusion that wetlands may or may not be present on the property.

T. “Wetland Plan” – A summary of, and estimated cost for, all work items to be completed in relation to any
wetland alteration, monitoring, and/or wetland or wetland buffer strip restoration, replacement, or construction. Work items include, but are not limited to, wetland buffer strip monument purchase, replacement, and installation; weed control; landscaping within the wetland or wetland buffer strip; wetland or wetland buffer strip restoration; wetland and wetland buffer strip monitoring; wetland replacement monitoring; or any items determined to be required or incomplete during the development application and review process.

U. “Wetland Replacement” – Wetland habitat enhancement; wetland creation; restoration of wetland habitat or functions; wetland construction; wetland replacement; wetland banking; wetland buffer habitat creation; or wetland enhancement to replace lost or impacted wetlands or wetland function. A “Wetland Replacement Plan” summarizes the Wetland Alteration and the method by which the Wetland Alteration and/or loss of wetland function will be replaced as required in Minnesota Rules 8420.

V. “Wetlands, Exceptional Quality” - Wetlands that have an exceptional vegetative diversity and integrity function based on the results of MnRAM. Reference wetlands established in the City’s Comprehensive Wetland Protection and Management Plan or Local Water Management Plan are included in this category.

W. “Wetlands, High Quality” - Wetlands that have a high vegetative diversity and integrity function, based on the results of MnRAM, and are still generally in their natural state. Wetlands created for Wetland Replacement are also included in this category.

X. “Wetlands, Moderate Quality” - Wetlands that have a moderate vegetative diversity and integrity function based on the results of MnRAM.

Y. “Wetlands, Low Quality” - Wetlands that have a low vegetative diversity and integrity functions based on the results of MnRAM, and have been substantially altered by activities such as agricultural or urban development.

Z. “Wetland Type” – The wetland type for each water regime or wetland replacement ratio determined in accordance with Minnesota Rules Chapter 8420. Each wetland type, which represents at least 10% of the vegetated wetland, including submergent vegetation, must be classified.

AA. “Wildlife Habitat” - Plant communities that support wildlife in a natural, undomesticated state.

BB. “Yard” – That portion of a lot not occupied by a structure. Yard does not include any wetlands or wetland buffer strips on the lot.

Subd. 4. General Standards.

The following standards apply to all lands that contain and/or abut a wetland or a wetland buffer strip:

A. Wetlands shall be subject to the requirements established herein, as well as restrictions and requirements established by other applicable federal, state, and city ordinances and regulations. Nothing herein shall be construed to allow anything otherwise prohibited in the zoning district in which the wetland is located. This Section establishes four wetland classifications as defined in subdivision 3: exceptional quality, high quality, moderate quality, and low quality.

B. The presence or absence of a wetland on the City Wetland Map does not represent a definitive determination as to whether a wetland covered by this Section is or is not present. Wetlands that are identified during site-specific delineation activities but do not appear on the City Wetland Map are still subject to the provisions of this Section.

C. Structures intended to provide access to or across a wetland or a wetland buffer strip shall be prohibited unless a permit is obtained from the City and is in conformance with applicable state statutes, rules, and regulations.
D. Activities including, but not limited to, wetland alteration, digging, building, paving, mowing, cutting, dumping, yard waste disposal, fertilizer application, placing of debris, planting of non-native vegetation, and removal of vegetation are prohibited in wetland areas.

E. Native vegetation plantings, removal of weeds or removal of invasive non-native vegetation requires approval of a Vegetation Management Plan on a form provided by the City.

**Subd. 5. General Development Application Requirements.**

The following provisions apply to all properties for which a development application has been submitted to the City:

A. Requirements for wetland identification, delineation, replacement, reporting, no-loss determinations, and financial assurance within areas in which the City is the acting LGU shall be in accordance with the requirements outlined in subdivision 14 of this Section.

B. Wetlands, wetland buffer strips and wetland replacement areas impacted by land alteration shall be seeded and/or planted in accordance with subdivision 11 of this Section within sixty (60) days of completion of the land alteration. All sodding, seeding or planting must be completed prior to removal of any erosion control measures. If land alteration is completed after the end of the growing season, erosion control measures shall be left in place and all disturbed areas shall be mulched to protect these areas over the winter or during the non-growing season.

C. Where wetland replacement or a wetland buffer strip is required, the applicant shall complete the following steps before the City releases the final plat or, if there is no plat approval involved, before the City issues the first building permit for the entire subject property:

1. Submit to the City Engineer and receive the City Engineer’s approval of a conservation easement for protection of the wetland and approved wetland buffer strip. The conservation easement must describe the boundaries of the wetland and wetland buffer strips; describe monuments and monument locations; and prohibit any structures, paving, mowing, introduction of non-native vegetation, cutting, filling, dumping, yard waste disposal, fertilizer application or removal of the wetland buffer strip monuments within the wetland buffer strip or wetland.

2. Submit evidence to the City Engineer that the approved conservation easement document has been recorded in the office of the Hennepin County Recorder or Registrar of Titles, as appropriate, along with a duplicate original of the recorded document.

3. Submit to the City Engineer and receive City Engineer’s approval of a declaration of covenants and restrictions for any wetland replacement in accordance with Minnesota Rules Chapter 8420.

4. Submit evidence to the City Engineer that the approved declaration of covenants and restrictions for any wetland replacement has been recorded in the office of the Hennepin County Recorder or Registrar of Titles, as appropriate.

D. Stormwater shall not be discharged directly into any natural water bodies such as wetlands, lakes or creeks without the use of pre-treatment methods, such as pre-settlement, infiltration, or filtration. The pre-treatment methods must be approved in writing by the Environmental Coordinator prior to the discharge of any stormwater.

E. The applicant shall follow the Minnesota Pollution Control Agency’s Urban Best Management Practices to avoid erosion and sedimentation during site grading and/or construction. In addition, the applicant shall follow the regulations set forth in City Code Section 11.55 and the watershed district requirements for the area in which the project is located.
Subd. 6. Identification, Evaluation and Delineation Requirements.

A. Wetland Determination. The applicant shall provide all information required by the City to determine whether a wetland exists on a subject property or within the structure setback from a wetland on an adjacent property. The applicant may submit a request to the Environmental Coordinator with the development application to waive the wetland determination requirement. The Environmental Coordinator shall make a decision on the request in his or her sole discretion. Unless the wetland determination requirement has been waived by the Environmental Coordinator, the following report(s) shall be provided to the City based on site conditions:

1. No Wetland Determination. If no wetlands are present, the applicant must document site conditions in a Wetland Determination Report that includes evaluation of topography, vegetation, hydrology and soil conditions. If the no wetland determination is approved by the City, no additional documentation is required.

2. Wetland Delineation. If a wetland(s) is present, the applicant must delineate and document the boundary of the wetland(s) and the wetland type(s) in a Wetland Delineation Report in accordance with City requirements and Minnesota Rules 8420 and must include information necessary for the City to determine the wetland boundary and wetland type, including wetland delineation field data sheets, survey of the wetland evaluation area, soil analysis data, color copies of current and historical aerial photography, vegetation data, hydrology information both within and outside of the proposed wetland boundary, and such other information required by the Environmental Coordinator.

B. No-Loss Determination. If the applicant is requesting a no-loss determination, the proof necessary to support this request must be provided with the development application.

C. Wetland Buffer Strip Evaluation. If a wetland(s) is present, the wetland buffer strip conditions must be documented in a Wetland Buffer Strip Evaluation Report and provided with the Wetland Delineation Report in accordance with subdivision 11 of this Section.

D. Wetland Quality. If a wetland(s) is present, a determination of the function and value of the wetland(s) using the most recent version of MnRAM or other approved assessment methodology under Minnesota Rules Chapter 8420 shall be completed by the applicant and submitted to the Environmental Coordinator with the Wetland Delineation Report.

E. Non-Growing Season Application Submittals. Wetland Delineation Reports, Wetland Determination Reports and MnRAM assessments conducted or completed outside of the growing season will not be accepted for final review and approval by the City until the following growing season. Determination of non-growing season conditions will be in accordance with the “Guidance for Submittal of Delineation Reports to the St. Paul District Corps of Engineers (COE) and Wetland Conservation Act Local Units of Government in the State of Minnesota” dated March 4, 2015, unless the vegetation cataloging or hydrology conditions are, in the judgment of the Environmental Coordinator, unreliable.

Approvals may be granted for wetland delineation, Wetland Delineation Reports, Wetland Determination Reports and MnRAM assessments conducted during the growing season but submitted during the non-growing season, if the Environmental Coordinator determines there is sufficient information in the report and visible in the field at the time of the field verification to assess the three wetland parameters (hydrophytic vegetation, hydric soils and hydrology) in relation to placement of the wetland delineation line. If proper assessment of the delineation is not possible during the non-growing season, the City will consider the development application incomplete until such time that appropriate field verification is possible. If a MnRAM assessment is not conducted during the growing season or if it is determined to be incomplete, the wetland quality will be assumed as high quality.
Preliminary approval for a wetland determination, wetland delineation, MnRAM, or no-loss determination may be requested during the non-growing season. A request for preliminary approval must be submitted with the development application. Preliminary approvals must be verified by the City during the growing season before any work on the project may commence. The applicant bears all risk that the City may require revisions to the development application due to the fact that the preliminary approval review occurred during the non-growing season.

F. Off-Site Wetland Delineation Method. An applicant shall not be required to field delineate wetlands on adjacent property. However, an applicant shall complete a review of off-site conditions in accordance with the publication “Guidance for Off-Site Hydrology/Wetland Determinations” from the U.S. Army Corps of Engineers (USACOE) and BWSR dated July 1, 2016. The off-site delineation must also include review of available information, including but not limited to the City Wetland Map, County Soil Survey Map, U.S. Fish and Wildlife Service National Wetland Inventory Maps, and visual information such as the presence of wetland vegetation and hydrologic evidence on an adjacent property which can be viewed from the subject property, to estimate the wetland boundary and wetland type.

G. Water Body Identification. Prior to submission of the Wetland Determination Report or Wetland Delineation Report, the applicant shall contact the Environmental Coordinator to obtain a wetland or water body identification number and any information regarding the documented wetland, including any existing MnRAM information, for inclusion with documentation provided to the City. The applicant shall also contact the Environmental Coordinator to obtain a water body identification number for any existing or proposed stormwater pond, stormwater infiltration areas, or wetland replacement areas within the project area.

H. Wetland Determination Disputes. If the applicant disputes whether a wetland exists or its classification, the applicant has the burden to supply detailed information to the Environmental Coordinator supporting the applicant’s position. This information shall include, but is not limited to, historical aerial photography and topographic, hydrologic, floristic, and/or soil data deemed necessary by the City or LGU under the WCA to determine the jurisdictional status of the wetland, its exact boundary, and its classification.

I. Wetland Delineation, Wetland Determination, No-Loss Determination, and Wetland Buffer Strip Evaluation Reports and Wetland Replacement Plans shall be prepared by a qualified wetland delineator. A qualified wetland delineator shall either be certified in accordance with the certification requirements that are established by the U.S. Army Corps of Engineers and/or BWSR or, in the absence of such certification, as determined to be qualified by the Environmental Coordinator.

J. Wetland Delineation, Wetland Determination, No-Loss Determination and Wetland Buffer Strip Evaluation Reports shall be valid for three (3) years from the date of the field delineation for these reports unless the Environmental Coordinator determines that the report is no longer valid on a sooner date due to changes in site conditions such as in hydrology, soils or vegetation.

Subd. 7. Wetland Alteration and Replacement Requirements.

For development applications involving wetland alteration, the applicant shall comply with the wetland replacement procedures and criteria outlined Minnesota Rules Chapter 8420 and provide the following items to the Environmental Coordinator:

A. Sequencing Analysis. Written documentation that the sequencing steps set forth in Minnesota Rule 8420.0520 have been met shall be provided with the development application. In following these steps, the applicant must first demonstrate that alternatives to avoid and minimize wetland impacts have been evaluated. A minimum of three alternative plans must be evaluated, one of which must be a “no-impact” alternative.
B.  Wetland Replacement Analysis.  Unavoidable impacts to wetlands must be restored or replaced on-site unless the alternatives are not reasonably or practically available from an engineering standpoint or if the only feasible and prudent sites available have greater ecosystem function and public value than the proposed wetland and the proposed wetland would be located in an area that is to be preserved by a conservation easement or other such instrument.  Wetland restoration or expansion of existing or historic wetlands is preferred rather than creation of new wetlands or other methods of wetland replacement.

If impacts cannot be restored or replaced on-site, the applicant must evaluate alternate sites in accordance with the replacement siting and ratio requirements under Minnesota Rules 8420.0522 unless minimum replacement requirements or ratio requirements established by the applicable watershed district or USACOE are greater than the WCA requirements.

C.  Sequencing Flexibility.  The applicant may request sequencing flexibility after all alternatives have been considered in accordance with Minnesota Rules 8420.0520 and subdivision 7 of this Section.  The City, in its discretion, may allow sequencing flexibility after consideration of the factors listed in Minnesota Rules 8420.0520.

D.  Conceptual Wetland Replacement Plans.  The applicant shall submit a conceptual Wetland Replacement Plan to the Environmental Coordinator with the development application for any proposed impacts that require replacement under WCA or USACOE regulatory programs.  The Applicant shall contact the Environmental Coordinator to obtain a water body identification number for use in the Wetland Replacement Plan for any replacement wetlands constructed within the City.

E.  Final Wetland Replacement Plans.  The applicant shall submit a final Wetland Replacement Plan to the Environmental Coordinator for review and approval by the Environmental Coordinator prior to submission of the development plans to the City Council for review and approval or, if development plans are not submitted to the City Council, prior to issuance of a building permit for the property, unless otherwise approved in writing by the Environmental Coordinator.

Subd. 8.  Reporting Requirements.

For development applications with wetlands or wetland buffers present or projects involving Wetland Alterations, the following are required:

A.  An Annual Wetland and Wetland Buffer Strip Evaluation Report (“Annual Buffer Report”) is required if a wetland or any wetland buffer required by this Section is located on the subject property.  The Annual Buffer Report shall include items such as an evaluation of the conditions of the wetland(s) and wetland buffer strip(s), the results of any monitoring conducted onsite, the integrity of the monuments installed and a plan for resolving any insufficiencies including any information the Environmental Coordinator specifically requests.  If an Annual Buffer Report is required, the landowner or the developer shall submit an executed contract with a qualified wetland consultant, as approved by the Environmental Coordinator, who will prepare the Annual Buffer Report prior to release of the final plat for any portion of the subject property, or if there is no plat, prior to issuance of a building permit for the property.  The Annual Buffer Report shall provide both an action plan and proposed cost for correction of all problems identified.

The first Annual Buffer Report shall be submitted no later than November 1 of the calendar year in which construction, preparation, grading, seeding, planting and/or monumentation of the wetland(s) and/or wetland buffer strip(s) is completed.  Thereafter, the report shall be submitted by November 1 of each year until two full growing seasons following completion of the development have passed, at which point a Final Annual Buffer Report shall be submitted.  The Final Annual Buffer Report shall evaluate the wetland(s) and/or wetland buffer strip(s) to determine if the wetland(s) and/or wetland buffer strip(s) remain in compliance with all City requirements.
If any unacceptable conditions or vegetation are identified within the Annual Buffer Reports or the Final Annual Buffer Report, the developer shall correct the area(s) identified within ninety (90) days of submission of the Report, or by June 15 of the following year if submitted during the non-growing season. Documentation that all work has been completed shall be provided to the Environmental Coordinator.

B. Wetland Replacement Monitoring Reports are due by December 1 of each year until the wetland replacement is determined to be complete by the LGU with advice from the Technical Evaluation Panel. The Wetland Replacement Monitoring Report shall document that the standards outlined in Minnesota Rules Chapter 8420.0522 and subdivision 14 of this Section have been met.

C. All reports submitted for review shall be provided in electronic (PDF) format in color. All maps in PDF version shall be developed for an 11” x17” printable format with sufficient detail that all features are legible.

**Subd. 9. Wetland Buffer Strip and Setback Requirements.**

A. For a lot of record or a development application approved by the City Council after February 1, 2000, the applicant shall maintain a wetland buffer strip around the perimeter of all wetlands, including those constructed as part of a Wetland Replacement Plan. The structure setback and wetland buffer strip provisions of this Section shall not apply to a lot of record as of February 1, 2000, although the City strongly encourages the use of a wetland buffer strip and setback on all lots in the City. In addition, any property located in the Lower Minnesota River, Nine Mile Creek or Riley Purgatory Bluff Creek Watershed Districts shall comply with any buffer and setback requirements imposed by the districts.

B. Wetland buffer strips and structure setbacks shall apply regardless of whether or not the wetland is on the same parcel for which the development application has been submitted. For parcels on which the wetland is on an adjacent parcel, the wetland buffer strip and structure setback requirements for the subject parcel shall be reduced by the distance between the property line of the parcel and the wetland on the adjacent parcel. This provision in no way reduces or eliminates any other setbacks required by the City Code or any other law or regulation.

C. The applicant shall establish and maintain wetland and wetland buffer strip vegetation in accordance with the requirements of subdivision 11 of this Section. Wetland buffer strips shall be identified within each lot by permanent monumentation approved by the Environmental Coordinator in accordance with subdivision 10 of this Section.

D. Non-native or invasive vegetation, such as European buckthorn, purple loosestrife and reed canary grass, or dead or diseased trees that pose a hazard may be removed from a wetland buffer strip provided that a Vegetation Management Plan is submitted to the Environmental Coordinator on a form provided by the City for review and written approval. The Vegetation Management Plan shall comply with the wetland and wetland buffer strip standards found in subdivision 11 of this Section or as required by the Environmental Coordinator.

E. All structures, including retaining walls, roadways and trails, shall meet the structure setback and wetland buffer strip standards established in Table 1 below. The use of a meandering wetland buffer strip to maintain a natural appearance shall be incorporated where feasible.

F. Filling a wetland to create a wetland buffer strip is prohibited.

G. Trails that are intended to serve an interpretive function, as determined by the Environmental Coordinator, are exempted from the wetland buffer and structure setback requirement.

H. An existing structure, driveway or parking area shall be considered a non-conforming use if a later WCA delineation shows that the wetland is closer to the structure than the required wetland buffer or structure setback.
Table 1 - Wetland Buffer Strips and Structure Setbacks

<table>
<thead>
<tr>
<th></th>
<th>Exceptional</th>
<th>High</th>
<th>Moderate</th>
<th>Low</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wetland Buffer Strip Minimum Width</td>
<td>40'</td>
<td>30'</td>
<td>20'</td>
<td>10'</td>
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<tr>
<td>Wetland Buffer Strip Minimum Average Width</td>
<td>60'</td>
<td>60'</td>
<td>40'</td>
<td>20'</td>
</tr>
<tr>
<td>Structure Setback (from Wetland Buffer Strip)</td>
<td>25'</td>
<td>25'</td>
<td>15'</td>
<td>15'</td>
</tr>
<tr>
<td>Total Minimum Average</td>
<td>85'</td>
<td>85'</td>
<td>55'</td>
<td>35'</td>
</tr>
</tbody>
</table>

Subd. 10. Monumentation.

A monument is required at each lot line where it crosses a wetland buffer strip and shall have a maximum spacing of 200 feet along the edge of the wetland buffer strip. Additional monuments shall be placed as necessary to accurately define the edge of the wetland buffer strip. If no wetland buffer strip is required, monuments shall be placed at the wetland boundary.

The monument shall consist of a post and a wetland buffer strip sign. The post shall be a 1.12 to 2.0 pounds per foot (1.12 pounds per foot is preferred) green steel channel post or other material pre-approved in writing by the Environmental Coordinator. The post shall be a minimum of 2.25 inches wide and 6 feet 6 inches long (2.25” x 6.5’). The sign shall have a minimum size of 3 inches by 8 inches (3” x 8”). The sign shall be mounted flush with the top of the post and shall include the statements “Conservation Easement: No Mowing Allowed” and “Wetland and buffers filter pollutants, reduce flooding and provide habitat” or other statement approved in writing by the Environmental Coordinator. The post shall be mounted to a height of four feet above grade and set at least 2.5 feet in the ground.

Monuments may be waived in unusual circumstances where the Environmental Coordinator determines that such signs would not serve a practical purpose.

Subd. 11. Vegetation Performance Standards.

A. Where acceptable native, non-invasive vegetation exists in wetland, wetland replacement and wetland buffer strip areas, the retention of such vegetation in an undisturbed state is required unless an applicant receives written approval from the Environmental Coordinator or any other agency which may regulate the removal or replacement of such vegetation. A wetland and/or wetland buffer strip has acceptable natural vegetation if it:

1. Has a continuous, dense layer of perennial grasses that have been uncultivated or unbroken for at least 5 consecutive years, or
2. Has an overstory of trees and/or shrubs with at least 80 percent canopy closure that have been uncultivated or unbroken for at least 5 consecutive years, or
3. Contains a mixture of the plant communities described in (1) and (2) above that have been uncultivated or unbroken for at least 5 consecutive years.

B. Notwithstanding the performance standards set forth above, the Environmental Coordinator may determine existing wetland and/or wetland buffer strip vegetation to be unacceptable if the wetland and/or wetland buffer:

1. Is composed of weeds (including, but not limited to common buckthorn, purple loosestrife, leafy spurge and/or noxious weeds as defined by Minnesota Statutes Sections 18.76–18.88), or
2. Has topography that tends to channelize the flow of surface runoff, or
3. For some other reason is unlikely to retain nutrients and sediment.

C. Areas with unacceptable vegetation shall be re-graded, re-seeded and/or re-planted as needed and maintained in
accordance with this subdivision 11. The wetland, wetland replacement and wetland buffer strip planting requirements must be included in the Wetland Delineation Report, Wetland Buffer Strip Evaluation Report or Wetland Replacement Plan Monitoring Report. Wetland, wetland alteration, wetland replacement and wetland buffer strip landscaping shall be according to the following standards:

1. Wetland buffer strips shall be planted with a diverse native, non-invasive seed mix appropriate for the specific site conditions that contains 100 percent perennial native vegetation. A one-time planting of an annual nurse or cover crop such as oats or rye may be included.

2. Seed mix used shall be a BWSR-approved seed mix appropriate for the area requiring reseeding or other alternative pre-approved in writing by the Environmental Coordinator. The seeding rate shall be at the rate recommended by the BWSR seed mix criteria or other pre-approved alternative.

3. Native shrubs may be substituted for the native seed mix where appropriate. All substitutions must be pre-approved in writing by the Environmental Coordinator. Such shrubs may be bare root seedlings and shall be planted at a minimum rate of 60 plants per acre. Shrubs shall be distributed so as to provide a natural appearance and shall not be planted in rows.

4. Any groundcover or shrub plantings installed within the wetland or wetland buffer strip are independent of landscaping required elsewhere by the City Code.

5. Native prairie grasses and forbs shall be seeded or planted by a qualified contractor in accordance with “Native Vegetation Establishment and Enhancement Guidelines” (published June 2016 by BWSR) or other alternate method pre-approved by the Environmental Coordinator. Determination of the contractor’s qualifications shall be made by the Environmental Coordinator. It is the responsibility of the applicant to have the contractor and method used approved by the Environmental Coordinator prior to planting or seeding.

6. No fertilizer shall be used in establishing new wetland buffer strips, except when deemed necessary to establish acceptable wetland and/or wetland buffer strip vegetation and then limited to amounts indicated by an accredited soil testing laboratory. Determination of proper accreditation shall be made by the Environmental Coordinator.

7. All seeded areas shall be mulched immediately with clean straw at a rate of 1.5 tons per acre. Mulch shall be anchored with a disk or tackifier.

8. Wetland, wetland replacement and wetland buffer strip areas (both natural and created), shall be protected by erosion control during construction in accordance with City Code Section 11.55.

9. The erosion control shall remain in place until the cover crop is established.

D. The applicant shall establish and maintain the wetland and wetland buffer strip vegetation in accordance with the requirements of this Section, both during development and for two full growing seasons after completion of the development. During this time, the applicant shall replant or reseed any wetland and/or wetland buffer strip vegetation that does not survive.

E. After the second full growing season following completion of the development, if the condition of the wetland and/or wetland buffer strip diminishes, the applicant shall not be required to reestablish the wetland and/or wetland buffer strip to meet the standards contained in this subdivision 11. However, wetlands created for wetland replacement must be monitored and maintained by the applicant until the wetland is reviewed and approved by the LGU in accordance with the requirements established by subdivision 14 of this Section and Minnesota Rules Chapter 8420.
After such times, the owner of the property on which the wetland and/or wetland buffer strip is located shall be responsible for the maintenance of the wetland, wetland alteration, wetland replacement and/or wetland buffer strip areas and shall:

1. Maintain and repair damage to wetland and/or wetland buffer strip areas from activities such as mowing, cutting, grading or other prohibited activities unless approved by the City in writing as a Vegetation Management Plan.

2. Maintain only vegetation permitted in the Vegetation Management Plan or as found in this subdivision 11 in the wetland and wetland buffer strip, including the removal of all weeds, unless allowed otherwise in writing by the Environmental Coordinator.

3. Ensure that all soil surfaces in wetland and wetland buffer strip areas are planted with permitted vegetation and that there are no open soil surfaces that may result in erosion.

4. Maintain the wetland and wetland buffer strip as a “no mow” area.

**Subd. 12. Encroachment in Required Setback and Wetland Buffer Strip Areas.**

A. Wetlands and wetland buffer strips shall be kept free of all structures.

B. A maximum of ten percent (10%) of the structure setback area may be occupied by any structures.

C. Wetlands and wetland buffer strips shall not be mowed, chemically treated or otherwise altered except as approved by the Environmental Coordinator after submission of a Vegetation Management Plan.

D. Variances and Waivers

   1. Only variances meeting the standards and criteria set forth in Section 11.76 of this Code and waivers approved pursuant to Section 11.40 of this Code for a Planned Unit Development (PUD) process shall be granted. All variance requests must be made to the Board of Adjustments and Appeals. All waiver requests must be made to the Planning Commission and the City Council.

   2. Variances or waivers shall not be granted which would violate state law or rule or circumvent the intent and purposes of this Section or Minnesota Rules 8420.

**Subd. 13. Financial Assurance Required.**

If a development application includes wetland alteration, wetland or wetland buffer strip landscaping, or construction of a wetland buffer strip, the applicant shall file with the Environmental Coordinator prior to release of the final plat, or, if there is no plat approval involved, prior to the first building permit issued for the entire subject property, a performance bond, cash escrow, or letter of credit with a corporation approved by the Environmental Coordinator, as surety thereon, or other guarantee acceptable to the Environmental Coordinator and in an amount determined by the Environmental Coordinator as set forth below (“Financial Assurance”). Financial Assurance requirements for Development Applications for areas where the City is the LGU are set forth in subdivision 14 of this Section.

A. Amount - The amount of the Financial Assurance shall be for no less than one and one-half (1 ½) times the amount estimated by the Environmental Coordinator as the cost of completing a wetland plan for monument installation and replacement and restoration and/or correction of the wetland and/or wetland buffer strip.

B. Schedule - The Financial Assurance for the wetland plan must cover two complete growing seasons following completion of the development and full and final restoration of all corrective actions identified in the Final Annual Report and shall be conditioned upon complete and satisfactory implementation of the approved...
Wetland Plan or Vegetation Management Plan and final inspection and approval of the wetland and wetland buffer strip by the City.

C. Submissions – With the Financial Assurance, the applicant shall provide to the Environmental Coordinator a copy of a signed contract with an environmental consultant to monitor construction activities and annual compliance and certify final completion of the wetland, wetland buffer strip and wetland replacement requirements.

D. Form of Application – The Financial Assurance shall be posted within 10 days of approval of the development application and prior to the commencement of the work or the preparations thereof.

Subd. 14 - Special Requirements for Wetland Conservation Act (WCA) Services.

The following provisions apply to areas for which the City is the LGU for WCA. All survey information shall be provided in the Minnesota County Coordinate System, Hennepin County North American Datum 1983 (NAD83) (1996) projection in U.S. Survey feet. All vertical elevations shall be in North American Datum 1988 (NAVD88).

A. Wetland Evaluation / Wetland Determination Review. Applications for WCA review must include a report documenting site conditions; wetland delineation and/or determination review procedures; a statement as to whether wetlands are present on site; a statement as to whether an exemption is requested; and whether work is proposed which will result in a loss or alteration of wetland. Reports must be prepared in accordance with the following paragraph B.

B. Wetland Delineation, Wetland Determination, Wetland Exemption and No-Loss Determination Review Application. The applicant shall complete and file with the Environmental Coordinator an “Application for Review of Wetland Determinations” in the form required by the Environmental Coordinator (“Review Application”). The Review Application, including the following information, must be filed with the Environmental Coordinator a minimum of one week prior to scheduling a field review by the Environmental Coordinator:

1. One print copy and one electronic (PDF) version in color of the Wetland Delineation Report, Wetland Determination Report, Wetland Exemption Report, and/or No-Loss Determination Report. All maps in the PDF version shall be developed for an 11” x 17” printable format with sufficient detail so all features are legible;

2. Scaled public land survey map of the wetland delineation and boundary, transect locations and sample points;

3. Survey data in a format compatible with ArcView software;

4. A minimum of two wetland field data forms per wetland representing the wetland parameters at two locations along with a data form documenting upland conditions at each location;

5. Such other information as required by the Environmental Coordinator or Minnesota Rules 8420.

An applicant may request an exemption or no-loss determination in accordance with the provisions of Minnesota Rules 8420.

C. Wetland Alteration Application Requirements. Wetland Alteration, including constructing boardwalks, removing healthy native vegetation or otherwise altering or destroying any wetland or wetland function, either wholly or partially, by any person, requires submission of a Joint Wetland Permit Application in addition to the Review Application for review and approval by the City. Except for those wetlands exempt under Minnesota Rule 8420.0420, any alteration to a wetland must result in a zero net loss.
D. Wetland Replacement Plan Application – The Joint Wetland Permit Application and the Review Application (together, the “Wetland Replacement Plan Application”) shall be made in writing to the City. The Wetland Replacement Plan Application shall set forth the location and plan for the proposed project. The applicant must provide one printed and one electronic (PDF) version in color (all maps in PDF version shall be developed for an 11” x 17” printable format with sufficient detail so all features are legible). The Wetland Replacement Plan Application, including the following information, shall be filed with the Environmental Coordinator a minimum of two weeks prior to scheduling a Technical Evaluation Panel review with the Environmental Coordinator. The Wetland Replacement Plan Application must include:

1. The name and address of the owner(s) of the land where the project will occur.

2. The estimated period of time within which the project will be conducted.

3. A topographic map of the proposed project area(s) to a minimum scale of one inch equals 50 feet showing existing ground elevation contours at two-foot intervals. The map shall show:
   
   a. The size and location of the wetland in relation to the property boundaries, including a scaled public land survey with the coordinates of the approximate wetland center and sample locations.
   
   b. The property and a minimum of 50 feet of land abutting the property, as it existed prior to the proposed land alteration.
   
   c. The proposed ground elevation contours at 2 foot intervals on the property when the land alteration is completed.
   
   d. Locations of any surface inlets or outlets draining into or out of the wetlands.
   
   e. Pre- and post-drainage areas for all existing and proposed wetlands.
   
   f. Photographic reference points and proposed transect or sampling locations for wetland replacement or wetland banking plans.
   
   g. Survey data in a digital shapefile or comma delimited ASCII file format compatible with ArcView software.

4. The wetland type of all existing and proposed wetlands, including a comparison to the Eggers and Reed “Wetland Plant Community Types” document.

5. Recent color aerial photograph of the proposed impact area.

6. Grading plan of the proposed project area(s) to a minimum scale of one inch equals 50 feet prepared by a registered professional engineer that includes appropriate drainage areas and drainage calculations, proposed two-foot contours of the land when the project is complete and erosion control to be used during construction. Construction details, including the proposed elevations and contours, for any control structures must be included on the plans.

7. Landscaping or revegetation plan at the same scale as the topographic map.

8. Such other information as may be necessary to evaluate the proposed wetland alteration and wetland replacement plans and to determine the amount and types of wetland to be impacted.

9. Such other information as required by the City or by Minnesota Rules 8420 for application procedures.

E. Wetland Replacement Plan Approval. Wetland Replacement Plan Applications shall be subject to the approval by the Environmental Coordinator. If the Environmental Coordinator determines that a feasible and prudent alternative exists that would avoid or minimize impacts to the wetland, he or she shall deny the Wetland Replacement Plan Application.
The Environmental Coordinator shall make his or her decision regarding the Wetland Replacement Plan Application in accordance with Minnesota Statutes 15.99, Subd. 3.

Approval of the Wetland Replacement Plan Application shall be valid for a period of no more than three years. If the work has not begun within three years of the date of approval of the Application, the approval shall be void.

Approval of an application for wetland alteration and/or wetland replacement does not exempt the applicant from obtaining any and all other necessary permits for work within a wetland and/or wetland buffer.

F. Wetland Replacement Annual Reports. Annual reports shall be prepared in accordance with Minnesota Rules 8420.0810 and shall include the following information:

1. Reference photographs taken within 4 weeks of completion of the grading and within 4 weeks of completion of the landscaping;
2. A description of activities completed in the current year;
3. A list of activities planned for the following year;
4. As-built plans (for the first year only) to a minimum scale of one inch equals 50 feet showing existing ground elevation contours at two-foot intervals;
5. A comparison of actual conditions with the as-built specifications and proposed plans;
6. Monthly hydrology measurements from April through October;
7. A list of vegetation that have 10% coverage or more;
8. A comparison of proposed versus actual wetland types within the wetland and wetland replacement areas;
9. Map of the plant communities within the wetland, wetland replacement and wetland buffer areas included in the Wetland Replacement Plan. The map shall be overlain on the topographic map provided for the Wetland Replacement Plan;
10. Monthly color photographs from the photographic reference points from April to October; and
11. All information required by Minnesota Rules 8420 for wetland replacement reporting.

If the City does not receive either: 1) an annual monitoring report; or 2) notification that the report will be provided prior to December 31 of each monitoring year, the City will charge the applicant for costs incurred by the City, including staff time, to collect the information needed to complete the Wetland Replacement Annual Report.

G. Fees. Submission of requests for wetland determinations, sequencing flexibility, wetland delineation reviews, no-loss determinations, field or technical reviews of current or historic wetland and/or wetland buffer conditions, or an application for a Wetland Replacement Plan shall be accompanied by a non-refundable application fee and a cash deposit in such amounts as determined by the City Council and fixed by ordinance. The cash deposit, or a portion thereof, will be refunded after completion of City review and approval of the submittal, unless the total sum is greater than the administrative review cost. Costs may include, but are not limited to:
1. Consultant fees assisting in City review, providing technical assistance or other services required to meet WCA requirements;

2. City staff time expended in review, approval and processing of the request or application or other services required to meet WCA requirements;

3. Consultant fees or City staff time expended in coordinating and holding Technical Evaluation Panel meetings;

4. Mailings, legal notices, and other administrative costs; and

5. Any other reasonable costs incurred by the City in review of the proposal.

Full payment of the fees and cash deposit must be made by the applicant prior to consideration of the request. All costs incurred by the City greater than the cash deposit balance will be billed to the applicant.

H. Financial Assurance. The amount of the Financial Assurance required in subdivision 13 of this Section shall include costs associated with City and WCA requirements for wetland alteration or wetland replacement projects, including but not limited to construction, seeding, planting, monument installation and annual monitoring. The Financial Assurance shall be retained by the City until either (i) approval of the project as final by the Environmental Coordinator; or (ii) a minimum period of 5 years. The Financial Assurance must include costs associated with re-grading or purchase of off-site wetland replacement if on-site wetland replacement is unsuccessful. The Financial Assurance shall be extended beyond the required monitoring period for up to an additional five-year period if, in the written opinion of the Technical Evaluation Panel, the goal of the replacement plan has not been achieved but may be achieved with more time. The amount of security shall be 150% of the estimated cost to complete the scope of work associated with the Wetland Plan and/or Wetland Replacement Plan.

I. Wetland construction or replacement must be conducted as required in Minnesota Rules 8420 and the Minnesota Wetland Restoration Guide issued by BWSR.

Subd. 15. Submissions, Decisions, and Appeals.

A. All applications, information, analyses and reports required by this Section shall be in the form required by the City and shall be submitted to the Environmental Coordinator by the applicant in conjunction with the submission of the development application.

B. All applications, information, analyses and reports required by this Section shall be subject to review and approval by the Environmental Coordinator in accordance with the procedures set forth in Minnesota Rules 8420.0255. Applicants shall be notified of the decision of the Environmental Coordinator in writing, which shall be mailed to the address listed on the Application for Review of Wetland Determinations. All decisions made by the Environmental Coordinator are final unless a timely appeal is filed with the City Council.

C. All decisions made by the Environmental Coordinator may be appealed to the City Council in accordance with Minnesota Rules 8420.0905. The appeal must be in writing, must be accompanied by payment of all applicable fees, and must be filed with the City Engineer within 30 days of the date the written notice of the decision is sent. The City Council shall make a ruling on the appeal within 30 days of the date of the filing of the appeal unless the City Council and the appellant mutually agree in writing to an extension.

D. A decision of the City Council may be appealed to BWSR pursuant to Minnesota Rules 8420.0905.

E. An applicant proceeds at its own risk if it proceeds with work that has not been approved while an appeal is
pending. If the decision is granted or revised on appeal, the applicant is responsible for restoring and replacing all wetland impacts inconsistent with the final decision.

Subd. 16. Enforcement and Remedy.

In addition to the remedy provided for in City Code Section 11.99, the provisions of this Section may be enforced in accordance with Minnesota Rule 8420.0900, or any other remedy provided for in law or equity.

(Sections 11.52 through 11.54, inclusive, reserved for future expansion.)

SECTION 11.55 - LAND ALTERATION, TREE PRESERVATION AND STORMWATER MANAGEMENT REGULATIONS.

Subd. 1. Declaration of Policy and Purpose.

A. Land Alterations are inherently accompanied by noise and dust, may create hazardous conditions and may result in lasting disfigurement of the places where they are carried on and thus may affect existing land uses in nearby areas, discourage further permanent development of the surrounding properties, impair adequate planning or municipal development, and diminish public health, safety, and general welfare. It is, therefore, desirable to regulate Land Alterations in the City.

B. Tree removal, damage, and destruction tends to endanger the natural character of the land from which the trees have been removed and surrounding lands, and to diminish and impair the public health, safety and general welfare. The Council desires to protect the integrity of the natural environment and finds that trees do so by providing for better air quality, scenic beauty, protection against wind and water erosion, and natural insulation for energy preservation. Further, the Council finds that trees protect privacy and provide enhancement of property values. It is, therefore, the further purpose of this Section to provide regulations relating to the cutting, removal or killing of trees, with the consequent damage and destruction of the wooded and forested areas of the City, to promote the orderly development of such areas and thereby minimize public and private losses; to insure maintenance of the natural vegetation and topography; to encourage protection and preservation of the natural environment and beauty of the City; to encourage a resourceful and prudent approach to urban development of wooded areas which provides for minimal tree loss and mitigation of tree removal resulting from development; to provide an objective method to evaluate a development’s impact on trees and wooded areas and identify whether and how the impact may be reduced; to provide incentive for creative land use and good site design which preserves trees while allowing development in wooded areas with mitigation of tree removal and destruction; and to provide for enforcement and administration thereby promoting and protecting the public health, safety and welfare.

C. The Council seeks to promote, preserve and enhance the natural resources within the City and protect them from adverse effects of stormwater runoff by providing site design standards that minimize stormwater runoff to meet the requirements of appropriate regulatory agencies.

Subd. 2. Definitions. For the purposes of this Section, the following terms, phrases, and words shall have the meanings stated below.

A. Applicant. A Person submitting an application for a Permit.
B. **Best Management Practices.** Best Management Practices or BMPs (defined under Minnesota Rules 4001.1020, subp. 5) are practices to prevent or reduce the pollution of the waters of the state, including activities, prohibitions of practices, and other management practices, and also includes treatment requirements, operation procedures and practices to control plant site runoff, spillage or leaks, sludge, or waste disposal or drainage from raw material storage. BMPs are effective and practicable means of controlling, preventing, and minimizing degradation of surface water from Stormwater runoff.

C. **Building Permit.** A Building Permit is a Permit issued pursuant to Minn. Stat. chap. 326, the State Building Code.

D. **Caliper Inches.** The length, in inches, of a straight line measured through the Tree Trunk of a certified nursery raised tree at 12 inches above the ground.

E. **Canopy of a Tree.** The horizontal extension of a tree's branches in all directions from the Tree Trunk.

F. **Certified Contractor.** An individual who has received training and is licensed by the State of Minnesota to inspect and maintain erosion control practices.

G. **Construction Activity.** A disturbance to the land that results in a change to the topography or existing soil cover (both vegetative and non-vegetative) that may result in accelerated stormwater runoff. Examples of Construction Activity may include clearing, grading, filling and excavation.

H. **Control Measure.** The practice or combination of practices to control Erosion, Sedimentation and Pollution.

I. **Detention Basin.** A Detention Basin is a natural or man-made structure, facility or basin for the temporary storage of Stormwater to allow settling of Pollutants while delaying Discharge of water so that water slowly empties from the area, including but not limited to, wetlands, dry ponds, Vegetated Swales, Infiltration trenches and Infiltration basins.

J. **Development Plan.** A contiguous area that includes a common plan of development or sale where multiple separate and distinct land disturbing activities, including New Development or Redevelopment, may be taking place at different times, or different schedules, but under one proposed plan. One Development Plan is broadly defined to include design, Permit application, advertisement or physical demarcation indicating that land-disturbing activities may occur.

K. **Diameter.** Wherever this term is used in reference to the measurement of a tree it shall mean a Tree Trunk as measured 4.5 feet above the ground.

L. **Discharge.** The conveyance, channeling, runoff, or drainage of Stormwater or any substance which enters a Stormwater Facility.

M. **DNR Catchment Area.** The Hydrologic Unit 08 drainage areas that drain to a river, stream or lake as delineated and digitized by the Minnesota Department of Natural Resources (DNR) Watershed Delineation Project. The mapping information for the DNR Catchment Areas is available at the DNR Data Deli web site (deli.dnr.state.mn.us).

N. **Drip Line of a Tree.** An imaginary vertical line which extends from the outermost branches of the Canopy of a Tree to the ground.

O. **Erosion.** Any process that wears away the surface of the land by the action of water, wind, ice or gravity.

P. **Erosion Control Systems.** Methods, measures or systems employed to prevent soil Erosion.
Q. Filtration. Filtration means the process by which Pollutants are removed through filtering and settling of stormwater runoff, biological and microbiological uptake, and/or soil adsorption. Filtering practices include media filters (surface, underground, perimeter), vegetative filters (filter strips, grass channels), and combination media/vegetative filters (dry swales).

R. Final Stabilization. All Land Alteration has been completed and a uniform perennial vegetative cover with a density of seventy (70) percent of the cover for unpaved areas and areas not covered by permanent structures has been established on the land or equivalent permanent cover or stabilization measures have been employed as approved by the City. Sowing grass seed or an annual cover crop is not considered Final Stabilization.

S. Green Infrastructure. A wide array of practices at multiple scales that manage wet weather and maintains or restores natural hydrology by infiltrating, evapotranspiring, or harvesting and using stormwater. On a regional scale, green infrastructure is the preservation or restoration of natural landscape features, such as forests, floodplains and wetlands, coupled with policies such as infill and redevelopment that reduce overall imperviousness in a watershed. On a local scale, green infrastructure consists of site and neighborhood-specific practices, such as bioretention, trees, green roofs, permeable pavements and cisterns.

T. Heritage Tree. Any living deciduous tree (except cottonwood, elm, willow, box elder and aspen) measuring 32 inches in Diameter or greater, or a living coniferous tree measuring 24 inches in Diameter or greater.

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U. Infiltration. Infiltration is the capture and temporary storage of water to allow passage or movement of the water into the soil through the use of techniques such as Infiltration basins, Infiltration trenches, rainwater gardens, underground Infiltration systems, or natural or enhanced swales.

V. Land. Land shall mean and include an entire Lot (as defined in Section 11.02 of the City Code) on or within the boundaries of which Land Alteration has occurred, or is to occur.

W. Land Alteration. Any land disturbing activity, including: excavating, grading, digging, cutting, scraping, clearing; removal of trees, filling or other change or movement of earth which may result in diversion of a man-made or natural water course or Erosion of Sediments.

X. Land Alteration Permit. A Permit to allow Land Alteration. This would include Grading and Filling Permit referenced in Section 11.50 Subd. 11.

Y. Maximum Extent Practicable. Maximum Extent Practicable or MEP means the statutory standard (33 U.S.C. 1342(p)(3)(B)(iii)) that establishes the level of Pollutant reductions that the Permittee must achieve. Determination of the appropriate BMPs required to satisfy the Land Alteration Permit requirements to the MEP will be completed by the City Engineer.

Z. New Development. All Construction Activity that is not defined as Redevelopment.

AA. NPDES. NPDES means the National Pollutant Discharge Elimination System as established pursuant to 33 USC § 1342 (b) to regulate Discharges of Pollutants to waters of the United States.

BB. NPDES Permit. A NPDES stormwater discharge permit that is issued by the Minnesota Pollution Control Agency (MPCA) to regulate Discharges of Pollutants to waters of the United States, whether the permit is applicable on an individual, group or general area-wide basis.

CC. Owner. Any person having a sufficient proprietary interest in the land for which a permit is or may be issued under this Section.
DD. Permit. A Land Alteration Permit or a Building Permit.

EE. Permittee. The holder of a Permit pursuant to this Section.

FF. Pollutant. Pollutant means: (i) toxic or hazardous substances, wastes, or contaminants (including, without limitation, asbestos, urea formaldehyde, the group of organic compounds known as polychlorinated biphenyls, petroleum products including gasoline, fuel oil, crude oil and various constituents of such products, and any hazardous substance as defined in Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), 42 U.S.C. §9601-9657, as amended); (ii) substances that would require a permit for their Discharge into any water source or system or the air under the Federal Water Pollution Control Act, 33 U.S. C. §1251 et Seq., or the Clean Air Act, 42 U.S.C. §7401 et Seq.; (iii) hazardous substances, Pollutants or contaminates defined in Minnesota Statutes Chapter 115B; (iv) litter, yard waste, garbage, liquid and solid wastes, fertilizers, pesticides, herbicides, paints, solvents, automotive fluids, wastes and residues that result from constructing a building or structure, and (iv) any other similar state law or ordinance. A Pollutant of Concern is a Pollutant specifically identified in a USEPA-approved Total Maximum Daily Load (TMDL) report as causing a water quality impairment.

GG. Redevelopment. Any Construction Activity where, prior to start of construction, the areas to be disturbed have 15% or more of impervious surface(s).

HH. Retention Basin. A retention basin is a temporary or permanent natural or man-made structure, facility or basin that provides for storage of Stormwater where water is allowed to empty through evapotranspiration, Infiltration, Filtration or evaporation, including but not limited to wet, dry or National Urban Runoff Program (NURP) ponds.

II. Root Zone. The area under a tree which is at and within the Drip Line of a Canopy of a Tree.

JJ. Saturated Soil. The highest seasonal elevation in the soil that is in a reduced chemical state because of soil voids being filled with water. Saturated soil is evidenced by the presence of redoximorphic features or other information.

KK. Sediment. The product of an Erosion process, including solid matter both mineral and organic, that is in suspension, is being transported, or has been moved by water, air, gravity or ice and has come to rest on the earth’s surface either above or below the normal water level.

LL. Sedimentation. The process or action of depositing Sediment.

MM. Significant Tree. Any living deciduous tree (except elm, willow, box elder and aspen) measuring at least 12 and less than 32 inches in Diameter, or a living coniferous tree measuring at least 8 and less than 24 inches in Diameter.

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NN. Site. The area of Land within which Land Alteration occurs or is to occur.

OO. Stormwater. Any form of natural precipitation which causes water to runoff or flow from one place to another and includes Stormwater runoff, snow melt runoff, and surface runoff and drainage.

PP. Stormwater Facility. A stationary and permanent Stormwater BMP designed, constructed and operated to prevent or reduce the Discharge of Pollutants in Stormwater as well as structures built to collect, convey, or store Stormwater, including but not limited to, inlets, pipes, storm drains, pumping facilities, Retention Basins, Detention Basins, drainage channels, reservoirs, and other drainage structures.
QQ. Stormwater Management. The use of structural or non-structural practices that are designed to reduce the movement of Stormwater, including Stormwater Discharge volumes, and peak flow Discharge rates.

RR. Stormwater Pollution Prevention Plan (SWPPP). A plan described in Subd. 8.E of this Section. A SWPPP also refers to that SWPPP required by the MPCA under the NPDES Permit program to manage and reduce the Discharge of Pollutants in Stormwater.

SS. Tree Trunk. The stem portion of a tree from the ground to the first branch thereof.

TT. Vegetated Swales. A vegetated earthen channel that conveys Stormwater while treating the Stormwater with biofiltration. Such swales may be designed to pretreat surface runoff by removing Pollutants through Filtration and Infiltration.

UU. WMZ. The WMZ (Wellhead Management Zone) is the area within a fifty (50) foot radius from any municipal well.

Subd. 3. Permit Requirements and Exemptions.

A. **Permit Required.** Except as hereafter provided, it is unlawful for any person to use Land for, or to engage directly or indirectly in, Land Alteration unless such person shall first have applied to and obtained from the City, in the manner hereinafter provided, a Permit authorizing the same.

B. **Single Family Dwelling.** At a minimum, a person engaging in Land Alteration in connection with construction of a Single Family Dwelling must obtain a Building Permit from the City. In addition, a Land Alteration Permit may be required if the City Engineer or his/her designee determines that site conditions require a Permit or if a Land Alteration Permit is required in other Sections of the City Code. The Permittee who conducts Land Alterations pursuant to a Building Permit shall be required to comply with Subds. 5, and 7 of this Section. Failure to comply with Subds. 5 and 7 of this Section if applicable, will subject the Permittee to the provisions of Subd. 7.J of this Section. The application for the Building Permit shall include a Certificate of Survey, including a map of the Erosion Control Measures which will be provided, and must be pre-approved in writing by the City. Single Family Dwelling construction includes construction of a single family dwelling, garage, pool, addition, driveway or deck.

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C. **General Exemptions.** The following Land Alterations are exempt from the requirements for a Permit:

1. Any Land Alteration occurring pursuant to a Land Alteration or Building Permit which was approved by the City prior to April 21, 2015 and which has not expired.

2. Movement of less than 100 cubic yards of earth.

3. For all lots except residential lots, the cutting, removal or killing of less than 10% of the Significant Trees on any Land within a period of five years. For residential lots, the cutting, removal or killing of less than 10% of the Significant Trees or 1 Significant Tree, whichever is greater, on any land within a period of five years.

4. Any destruction or disruption of vegetation covering an area equal to or less than 10% of any Land.

5. Installation of a fence, sign, telephone or electric poles and other posts or poles which result in less than 1,000 square feet of exposed soil.
6. Home gardens, turf or an individual’s home landscaping, installation, repairs and/or maintenance work.

7. Retaining walls less than four (4) feet in height and twenty-five (25) feet in length that are constructed in a manner which does not change the existing Stormwater Drainage. This would include a single or tiered retaining wall system.

8. Existing agricultural, horticultural or silvicultural operations.


10. Emergency work to prevent or alleviate immediate dangers to life, limb, property or natural resources. In such an event, if a Permit had been required but for the emergency, the obligations of this Section shall apply and shall be performed at the earliest reasonable time thereafter.

11. Excavations for tunnels, wells, utilities, trails, sidewalks, roads or other public work projects which are undertaken by the City, unless the disturbance meets the criteria established in Subd. 6 of this Section.

D. Other Requirements. Neither this Section nor any administrative decision made under it exempts a person from other requirements of this Code, from procuring permits required by other agencies (including but not limited to the Watershed District, Hennepin County, Minnesota Pollution Control Agency (MPCA), the Minnesota Department of Natural Resources (DNR) or the U.S. Army Corps of Engineers (USACE) or from complying with the requirements and conditions of such permits. A copy of any permits related to Wetlands, Land Alteration or Stormwater received from another federal, state or local authority must be provided to the City Engineer prior to issuance of a Permit from the City.

Subd. 4. Tree Replacement Plan Requirements.

A. Application. Ordinance No. 28-2016 Effective Date: 11-24-2016

1. A Land Alteration Permit or Building Permit shall be further subject to and conditioned upon compliance by the Permittee with all provisions of this Subdivision 4, if such Permit is issued in connection with (1) a final plat application, (2) a subdivision application resulting in the creation of one or more new development parcels, (3) a PUD or (4) a site plan review.

2. In the event paragraph 1 above does not apply, a Land Alteration Permit or Building Permit shall be subject to the tree replacement requirements in (a) and (b) below if such Permit includes the removal of a Significant Tree or Heritage Tree as part of the redevelopment of a lot previously platted and developed.

a. A Significant Tree must be replaced with one (1) tree, subject to the conditions on location, size, timing, health and source outlined below.

b. A Heritage Tree shall not be removed without the written consent from the City Manager. The City Manager may condition such consent on replacement of the tree as determined by City staff subject to the requirements on location, size, timing, health and source of trees as set forth below.

3. General Exemptions. The following are exempt from the Tree Replacement Requirements of this Subdivision 4:
a. For all lots except residential lots, the cutting, removal or killing of less than 10% of the Significant Trees and Heritage Trees on any Land within a period of five years.

b. For residential lots the cutting, removal or killing of less than 10% of the Significant Trees and Heritage Trees or the cutting, removal or killing of one Significant Tree or Heritage Tree, whichever is greater, on any land within a period of five years.

c. Single Family lots which are less than 22,000 square feet in size.

d. Property within the TOD and TC zoning districts.

e. The cutting of trees planted and grown by the owner or owner’s predecessor on real estate which on April 17, 1990 was classified as Class 2b property according to Minnesota Statutes 1989 Supplement, Section 273.13, Subd. 23 (b) because it was as of such date real estate, rural in character, and used exclusively for growing trees for timber, lumber, wood and wood products as described in clause (1) of said Subd. 23(b).

4. The requirements of this Subdivision 4 shall be in addition to the requirements in City Code Section 11.03 relating to landscaping. If any of the requirements of this Subdivision 4 apply, a Tree Replacement Plan shall be submitted to the City in accordance with this Subdivision. The Tree Replacement Plan may be combined with the landscaping plan required by City Code Section 11.03; provided that if the plans are combined, the combined plan shall identify which trees are replacement trees.

B. Tree Inventory. A Tree Inventory certified by a registered land surveyor, landscape architect or forester must be provided to the City Forester. The Tree Inventory must depict the following:

1. The size, species, condition and location on the Site of all Heritage Trees and Significant Trees. On large wooded areas, forest mensuration methods may be used to determine the total Diameter inches of trees outside the area of the proposed Land Alteration.

2. A list of Heritage Trees and Significant Trees which will be lost due to the proposed Land Alteration. Heritage Trees and Significant Trees shall be considered lost as a result of:

   a. grade change or Land Alteration, whether temporary or permanent, of greater than one (1) foot measured vertically, affecting 40% (as measured on a horizontal plane) or more of the tree's Root Zone;

   b. utility construction (i.e., sewer, water, storm sewer, gas, electric, telephone and cable TV) resulting in the cutting of 40% or more of the tree's roots within the Root Zone;

   c. mechanical injury to the Tree Trunk of a Heritage or Significant Tree causing loss of more than 40% of the bark at any given Diameter location along the trunk; or,

   d. compaction to a depth of 6 inches or more of 40% or more of the surface of the soil within a Heritage or Significant Tree's Root Zone.

3. The number, type and size of trees required to be replaced pursuant to this Section.

4. The location of the replacement trees.
C. **Tree Replacement Requirements.** The Permittee shall replace Heritage Trees and Significant Trees lost or reasonably anticipated to be lost as a result of Construction Activity or Land Alteration immediately upon the occurrence of a loss, whether the loss occurs during Construction Activity, Land Alteration or thereafter, by the Permittee, his agent, or successor in interest by planting that number of trees (Replacement Trees) determined in accordance with the following criteria:

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1. **Replacement.**

   Significant Tree replacement formula:

   \[
   A = \text{Total Diameter Inches of Significant Trees Lost as a Result of the Land Alteration} \\
   B = \text{Total Diameter Inches of Significant Trees Situated on the Land} \\
   C = \text{Tree Replacement Constant (0.5)} \\
   D = \text{Replacement Trees (Number of Caliper Inches)} \\
   \]

   \[
   [(A/B) \times C] \times A = D
   \]

   **EXAMPLE**

   A = 337  
   B = 943  
   C = 0.5  
   D = 60  

   \[
   [(337/943) \times 0.5] \times 337 = 60
   \]

   Heritage trees that are lost or damaged are to be replaced at a ratio of 2:1, replaced caliper inches to lost or damaged Diameter-inch. Heritage Tree replacement must include a minimum of 20% replacement trees equal to or greater than 4 caliper inches. In the case one or more Heritage trees are saved, the amount of Diameter-inches of said saved Heritage tree(s) may be subtracted from the replacement required by Subd. C. 1 of this Subdivision, provided however in no event shall the amount subtracted exceed 50% of the Replacement Trees (Number of Caliper Inches) as determined by the formula in Subd. C. 1. The not to exceed 50% limitation shall apply to applications deemed to be complete on or after March 7, 2017.

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2. **Payment.**

   Alternatively, if the Permittee demonstrates to the satisfaction of the City Manager, that it is not practical or reasonable to plant all or some of the required replacement trees on the Land, the Permittee may request approval to make cash payment to the City to be used for planting of trees and natural enhancements to the land within the City. Cash payments shall be calculated as set forth in the adopted fee schedule at the time of issuance of the Land Alteration Permit.

   The trees required to be replaced pursuant to this Section shall be in addition to any other trees required to be planted pursuant to any other provision of the Code. A Financial Security is required as described in Subdivision 12 of this Section.

D. **Location of Replacement Trees.** Replacement Trees shall be planted in one or more of the following areas on the Land:

1. Restoration areas including steep slopes.
2. Outlots or common areas.

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3. Buffer zones between different land uses and/or activities.
4. Project entrance areas.
5. Wetland Buffer Areas
6. Stormwater BMPs designed according to Subd. 6.
7. Any other part of the Land except areas dedicated or conveyed to the City, unless the City consents in writing.

E. **Sizes and Types of Replacement Trees.** Replacement Trees must be no less than the following sizes:
   1. Deciduous trees - no less than two and one half (2.5) Caliper Inches.
   2. Coniferous trees - no less than six (6) feet high.

On steep slopes (i.e., greater than 3:1) deciduous trees may be two (2) Caliper Inches and coniferous trees may be six (6) feet in height.

Replacement Trees shall be of a species similar to the trees which are lost and shall be pre-approved in writing by the City.

F. **Time to Perform.** Replacement trees shall be planted not less than 18 months after the date of issuance of the Permit.

G. **Missing, Dead or Unhealthy Trees.** Any Replacement Tree which is not alive or healthy one (1) year after the date that the last Replacement Tree has been planted shall be removed and a new healthy tree of the same size and species shall be planted in place of the removed tree. All such plantings shall occur within one year of the date the tree qualifies as dead, unhealthy or missing.

H. **Sources of Trees.** Replacement trees shall consist of "certified nursery stock" as defined by Minnesota Statutes Section 18.46.

Trees planted in place of missing, dead, or unhealthy Replacement Trees shall consist only of “certified nursery stock” as defined by Minnesota Statutes, Section 18.46.

H. **Exceptions.** The provisions of Subd. 4 shall not apply to the cutting of trees planted and grown by the owner or owner's predecessor on real estate which on April 17, 1990 was classified as Class 2b property according to Minnesota Statutes 1989 Supplement, Section 273.13, Subd. 23(b) because it was as of such date real estate, rural in character, and used exclusively for growing trees for timber, lumber, wood and wood products as described in clause (1) of said Subd. 23(b).

**Subd. 5. General Requirements for Land Alteration.**

Land Alteration shall be subject to and conditioned upon the performance by the Permittee or Owner of the following general requirements regardless of whether a Permit is required:

A. **Concrete Truck Wash Out.** Designation of an area for wash out of concrete trucks and equipment must be provided by the Permittee. Sites that are one acre or more must provide on the Site a station for washing out concrete trucks and equipment. The location of the wash out area or wash out station shall preclude the drainage of concrete and all other wash out wastes from the washing activities to a Stormwater Facility or water resource.

B. **Corrections.** Breaches of the perimeter of the Site by Erosion shall be immediately corrected, cleaned up and restored. A right-of-entry from the adjoining property owner(s) must be obtained to implement clean up and
restoration on adjoining properties that were impacted by the Erosion. Erosion breaches must be corrected within 48 hours of obtaining a right-of-entry.

C. **Drain inlet protection.** All storm drain inlets shall be protected during Construction Activities and Land Alteration with silt fence or other equivalent barrier meeting accepted design criteria, standards and specifications contained in the MPCA publication “Protecting Water Quality in Urban Areas” or alternative pre-approved in writing by the City until Final Stabilization is completed.

D. **Driveway construction or replacement.** All driveway construction or replacement that disturbs the underlying soils shall be installed in accordance with City Code Chapter 11 surface requirements. Driveway construction shall be completed within 120 days after the earlier of the following: (i) completion of the structure(s) for which the driveway is constructed; (ii) a driveway replacement project is started; or (iii) a Certificate of Occupancy has been issued; unless otherwise approved by the City.

E. **Erosion Control Installation.** Erosion Control Systems shall be installed prior to commencement of any Land Alteration activity and maintained during the Land Alteration activities in accordance with the following parameters:

1. Stormwater channeled from adjacent areas passing through the Site shall be diverted around disturbed areas during the Land Alteration, if practical. Diverted Stormwater shall be conveyed in a manner that will not erode the channels.

2. All activities on the Site shall be conducted in a manner which minimizes the area of bare soil exposed at any one time.

3. Runoff from the Site shall be controlled by meeting subsection a. below and either subsection b. or c., depending on the size of the Site.

   a. All disturbed earth shall be stabilized by seeding (if prior to September 15), sodding, mulching, or other equivalent Control Measure pre-approved in writing by the City within fourteen (14) days of ceasing Construction Activity or Land Alteration, unless required otherwise in a federal, state or local permit.

   b. For sites with more than ten (10) acres disturbed at one time, or if a channel originates in the disturbed area, one (1) or more temporary and/or permanent Detention or Retention Basins (Basin) shall be constructed. Each Basin shall have a surface area of at least 1% of the area draining to the Basin and at least three (3) feet in depth. Each Basin shall be constructed in accordance with design specifications approved by the City. The Permittee or Owner shall ensure that Sediment is removed on a regular basis in order to maintain a depth of three (3) feet in depth. The Basin Discharge rate shall also be sufficiently low as to not cause erosion along the Discharge channel or the receiving water.

   c. For Sites with less than ten (10) acres disturbed at one time, silt fences, or equivalent Control Measures shall be placed along the side and down slopes of the Site. If a channel or area of concentrated runoff passes through the site, silt fences shall be placed along the channel edges to reduce Sediment reaching the channel.

Erosion Control Systems may be adjusted during dry weather to accommodate short term activities, such as those that require the passage of very large vehicles. As soon as the activity is finished and in any event prior to the occurrence of rainfall, the Erosion Control Systems must be returned to the original configuration.

F. **Erosion Control Maintenance.** All Erosion Control Systems shall be designed to minimize the need for maintenance and to provide access for maintenance purposes. All Erosion Control Systems shall be maintained
in a functional condition until Final Stabilization of the Site and until all Land Alteration, including completion of turf and/or structural surfaces used to control soil erosion, is complete. Erosion Control Systems shall be removed within thirty (30) days following Final Stabilization.

H. **Final Stabilization.** Upon ceasing operations or upon interrupting Land Alterations for a period of six (6) months or more, the Permittee or Owner shall complete Final Stabilization of the site. For a Certificate of Occupancy issued from April 1 to August 31, ground cover shall be established within sixty (60) days of the issuance of the Certificate. For a Certificate of Occupancy issued between September 1 to March 31, ground cover shall be established prior to June 1 of the following year.

I. **Hours of Operation.** No Land Alterations shall be conducted prior to 7:00 o’clock a.m. nor after 7:00 o’clock p.m. on Monday through Friday, prior to 9:00 o’clock a.m. nor after 7:00 o’clock p.m. on Saturday, nor any time on Sundays or legal holidays. The City may, upon good cause being shown, vary these days and hours in writing.

J. **Protection of Adjoining Structures.** No Land Alteration shall occur which may endanger the use or support of adjoining lands or structures.

K. **Slope Stabilization.** Land contours made in conjunction with Land Alteration shall be sloped on all sides at a minimum ratio of three horizontal to one vertical (3H:1V) or greater, unless a steeper slope is approved in writing by the City.

M. **Temporary Fencing.** Temporary construction fencing must be installed around the Site, if necessary, to protect the public or natural resources against injury or damage. All temporary construction fencing shall be removed within ten (10) days following elimination of potential injury or damage or issuance of a Certificate of Occupancy, whichever occurs first. The fencing shall not be used as a permanent installation.

N. **Temporary Soil or Dirt Storage.** Soil or dirt storage piles containing more than fifty (50) cubic yards of material shall be stabilized by mulching, vegetative cover, tarps, or other equivalent Control Measures within fourteen (14) days unless required otherwise in a federal, state or local permit.

O. **Tracking or Spilling.** BMPs shall be employed to minimize Sediment from being tracked or spilled onto public or private roadways. The BMPs may include, but are not limited to, the following: frequent cleaning of streets adjacent to the construction site, rock construction entrances, graveled roads, washing stations, and parking areas of sufficient width and length. Sediment reaching a sidewalk, trail or public or private road shall be removed by street cleaning with power sweepers (not flushing) before the end of each workday or as otherwise ordered by the City in writing. Should eroded soils enter, or entrance appears imminent, into wetland or other water bodies, clean up and repair shall be immediate. The Permittee or Owner shall be responsible for signage and other protection measures during clean up operations.

P. **Site Dewatering.** Water pumped from the Site shall be treated by temporary Sedimentation basins, grit chambers, sand filters, upflow chambers, hydro-cyclones, swirl concentrators or other controls as appropriate. Water may not be Discharged in a manner that causes Erosion or flooding that creates an adverse impact to the Site, abutting property, receiving channels or a wetland.

Q. **Unsafe Conditions.** The Permittee shall repair, change, alter, modify or desist from any Land Alteration deemed by the City Engineer or his/her designee to be the cause of unsanitary, dangerous, or polluted conditions harmful to the general welfare of the City.

R. **Waste and Material Collection and Disposal.** All waste and unused building materials (including garbage, debris, cleaning wastes, litter, wastewater or sewage, toxic materials or hazardous materials) shall be properly contained while on site, properly disposed of off-site, and not allowed to be carried by water and/or wind off the site or into a receiving channel or storm sewer system. Waste containers and all construction materials shall not
be placed or stored such that they obstruct, encroach upon, or interfere wholly or in part with any public right-of-way, including but not limited to, public roadways, trails, sidewalks, parks or other public properties unless a permit is issued under City Code Section 6.03.

S. **Wetlands and Waterways.** Stormwater shall not be Discharged directly into any natural water bodies such as wetlands, lakes or streams without pre-settlement. Wetlands must not be drained or filled, wholly or partially, unless a permit to replace by restoring or creating wetland areas of at least equal public value has been issued by the local governing unit. The permit and replacement must be in accordance with the Wetlands Conservation Act [MN Statutes 103G.221 et. Seq. (herein referred to as the WCA)] and City Code Section 11.51.

**Subd. 6. Development Plan Stormwater Management Standards and Design Criteria.**

Development Plans with land disturbance of greater than or equal to one acre, including projects of less than one acre that are part of a larger common plan of development or sale, shall include evaluation of the following provisions. The evaluation must be provided with the Land Development Application. Variances may not be granted by the City for the stormwater requirements set forth in Subdivision 6.G.

A. **Green Infrastructure Analysis.** The use of Green Infrastructure techniques and practices shall be the preferred BMPs for accomplishing compliance with Subd. 6.B. and Subd. 6. C. The following Green Infrastructure design options or types of features must be considered, consistent with zoning, subdivision and PUD requirements:

1. Preserving natural vegetation.
2. Preserving and utilizing natural upland swales, depressions and upland storage areas in the post-development condition to the degree that they can convey, store, infiltrate, filter or retain Stormwater runoff before Discharge. Preservation requires that no grading or other Construction Activity occurs in these areas.
3. Minimizing impervious surface.
4. Installing permeable pavement to allow stormwater runoff to filter through surface voids into an underlying reservoir for temporary storage and/or Infiltration.
5. Utilizing vegetated areas to filter sheet flow, remove Sediment and other Pollutants and increase time of concentration to slow Discharge or reduce runoff of Stormwater.
6. Disconnecting impervious areas by allowing runoff from small impervious areas to be directed to pervious areas where it can be infiltrated or filtered.
7. Installing a green roof to provide an environment for plant growth for treatment of stormwater through filtering of suspended solids and pollutants and/or for volume and rate control as part of the roof system for the building.
8. Using irrigation ponds or systems, cisterns, rain barrels and related BMPs to reuse Stormwater runoff.
10. Utilizing a soil amendment or decompaction process after site disturbance.
11. Minimizing parking facility size.
12. Increasing buffers around streams, steep slopes and wetlands to protect from flood damage and/or provide additional water quality treatment.

Development Plans shall be designed to protect and minimize impacts to natural features such as wetlands, wooded areas, rare and endangered species habitat, preservation areas designated by the Hennepin County Biological Survey, Metro greenways, and parkland to the MEP.

B. Post-Construction Stormwater Management. Development Plans shall include the following conditions to the MEP.

1. New Development projects must have no net increase from pre-project conditions on an annual average basis of:
   a. Stormwater Discharge Volume
   b. Stormwater Discharges of Total Suspended Solids (TSS)
   c. Stormwater Discharges of Total Phosphorus (TP)

2. Redevelopment projects must have a net reduction from pre-project conditions on an annual average basis of:
   a. Stormwater Discharge volume
   b. Stormwater Discharges of TSS
   c. Stormwater Discharges of TP

C. Volume Management. Volume Management Measures for Development Plans shall meet the following standards:

1. Retain a runoff volume equal to one (1.0) inch times the area of the proposed new impervious surfaces onsite.

2. Pretreatment in the form of sump structure, vegetated filter strip, water quality inlet or other Sediment control method to settle particulates approved by the City shall be provided for all Infiltration areas.

3. Calculations, modeling and design for and installation of Infiltration BMPs must be provided.

4. No wetlands or areas below the calculated normal water level of constructed wet ponds shall be accepted as an Infiltration practice.

D. Stormwater Discharge Volume Prohibitions. The use of Infiltration is prohibited on sites where the Infiltration BMP will receive Discharges from, or be constructed in, any of the following areas:

1. Where industrial facilities are not authorized to infiltrate industrial Stormwater under an NPDES/SDS Industrial Stormwater Permit issued by the Minnesota Pollution Control Agency (MPCA).

2. On Land where vehicle fueling and maintenance currently occur.

3. Where there is less than three (3) feet vertical feet of separation from the bottom of the Infiltration BMP to the elevation of seasonally saturated soils or the top of bedrock.

4. Where high levels of contaminants in soil or groundwater will be mobilized by the infiltrating Stormwater. Documentation regarding type and extent of identified contaminants identified, such as a Phase II Environmental Site Assessment, must be provided.
E. **Stormwater Discharge Volume Restrictions.** The use of Infiltration shall be subject to review and approval by the City Engineer where the use of Infiltration BMPs are restricted due to Construction Activity occurring on any of the following sites:

1. Where predominately Hydrologic Soil Group D (clay) soils exist.
2. Within 1,000 feet up-gradient, or 100 feet down-gradient of active karst features. The city may require the applicant to perform additional appropriate geotechnical investigations in areas of suspected active karst or shallow bedrock.
3. Where the bottom of the Infiltration basin will be less than 3 feet above the normal water level of any adjacent wetland.
4. Within a Drinking Water Supply Management Area (DWSMA) as defined in Minn. Rules 4720.5100, subp. 13.
5. Where soil Infiltration rates exceed 8.3 inches per hour.
6. Within 50 feet of a salt stockpile or storage area.
7. Where vehicle fueling and maintenance previously occurred.
8. Within the Wellhead Management Zone (WMZ) of any City well.

City approval shall be conditioned upon completion of higher engineering review and submittal of the analysis to the City Engineer in these areas that demonstrate to the reasonable satisfaction of the City Engineer that the Infiltration BMPs will perform properly and that groundwater is adequately protected.

F. **Stormwater Discharge Volume Exceptions.** The use of less Infiltration for volume control on the Site of the Construction Activity or Land Alteration may be allowed subject to review and approval in writing by the City where:

1. The Site is precluded from infiltrating Stormwater through a designed system due to any of the limitations described in Subds. 6.D or 6.E of this Section.
2. The project is a linear project where the right-of-way precludes the installation of volume control practices that meet the conditions for post-construction storm water management Subds. 6.B or 6.C of this Section. A reasonable attempt must be made to obtain right-of-way during the project planning process.

If the City Engineer determines that Infiltration is restricted or prohibited on site, the Permittee or Owner shall incorporate to the MEP Stormwater treatment alternatives such as Filtration, evapotranspiration, reuse, harvesting, conservation design, green roofs, or other similar techniques on the Site to reduce Stormwater Discharge volume. The City may allow, by an approval in writing, the Permittee or Owner to provide payment to the City in lieu of the volume reduction upon written approval by the City. The request and any information and/or calculations required to support the estimated amount of volume reduction and payment amount must be provided in writing to the City Engineer with the Application for the Land Alteration Permit.

G. **Stormwater Management Mitigation.** In circumstances where the Permittee cannot cost effectively meet the post-construction requirements for Total Suspended Solids (TSS) or Total Phosphorus (TP) treatment established in Subd. 6.B in this Section on the Site, the Permittee must identify locations where mitigation projects will be completed by the Permittee. The TSS and/or TP not addressed on Site must be addressed through mitigation approved in writing by the City and, at a minimum, shall ensure the following:
1. Mitigation project areas are selected in the following order of preference:
   a. Locations that yield benefits to the same receiving water that Stormwater runoff drains to from the Construction Activity or Land Alteration.
   b. Locations with the same Department of Natural Resource (DNR) catchment area as the Construction Activity or Land Alteration.
   c. Locations in the next adjacent DNR catchment area up-stream.
   d. Locations anywhere within the City.

2. Mitigation projects must be approved by the City in writing and may include either: (i) creation of new Stormwater Facilities, (ii) retrofit of existing Stormwater Facilities, or (iii) creation or use of a regional Stormwater Facility. Routine maintenance of Stormwater Facilities already installed cannot be used to meet mitigation requirements.

3. Completed within 24 months after the start of the Construction Activity or Land Alteration.

The Permittee shall determine, document and provide the contact information for the Person who is responsible for long-term maintenance on all mitigation projects. The Person responsible is subject to approval by the City.

The Permittee may be allowed to provide payment to the City in lieu of the Stormwater Management mitigation activity upon written approval by the City Engineer. The payment shall include all costs, including but not limited to the cost of land purchase, analysis, design, construction, monitoring and maintenance of the mitigation site.

H. Stormwater Facility Design Standards. All storm sewer system components, including inlets, outlets, catch basins, piping and other structures designed to treat or convey Stormwater, shall be designed for a minimum 10-year frequency event using currently accepted rainfall data with the exception of storm sewer systems near critical topographic features such as steep slopes and bluffs which shall be designed for a 100-year frequency event with a designated overland emergency overflow (EOF). Green Infrastructure required by the City or other regulatory agency may be considered for reductions in storm sewer design requirements if pre-approved in writing by the City Engineer.

I. NURP Design Criteria. If Stormwater Facilities are required by the City to meet the requirements of Subd. 6.B and 6.C, the Stormwater Facilities may be required to include a Stormwater pond which shall be based on NURP Design Criteria with a calculated water elevation for a 100-year frequency event. Proposals to provide an alternative to the NURP Design Criteria may be considered but must be approved in writing by the City Engineer. The NURP pond shall be designed by a Professional Engineer licensed in Minnesota (PE). The following NURP Design Criteria must be incorporated into the design submitted for review.

1. A permanent pond surface equal to 2% of the impervious area draining to the pond or 1% of the entire area draining to the pond, whichever amount is greater.

2. An average permanent pool depth of four (4) to ten (10) feet.

3. A recommended permanent pool length to width ratio of 3:1 or greater.

4. A minimum protective shelf extending ten (10) feet into the permanent pool with a slope of 10:1, beyond which slopes shall not exceed 3H:1V.
5. All Stormwater Facilities shall have a device to keep oil, grease, and other water borne material from moving downstream as a result of normal operations.

Subd. 7. Inspections, Monitoring and Maintenance.

A. Inspections. Inspections of the Site and Stormwater Facility to determine compliance with the requirements of this Section are the responsibility of the Permittee and/or Owner. Sites which require a NPDES Permit or are greater than 1.0 acre in size must have inspections completed by a Certified Professional in Erosion & Sediment Control (CPESC) or a Professional Engineer licensed in Minnesota (PE). Inspection results and maintenance activity reports must be completed and submitted in writing to the City for a minimum of two (2) years following completion of construction and final acceptance by the City.

B. Right of Entry and Access to Materials. The City shall be entitled to enter and inspect the Site and Stormwater Facilities as often as may be necessary to determine compliance with this Section and shall be entitled to examine and copy records, wherever they may be kept that must be maintained pursuant to the Permit or local, state or federal law.

C. Obstructions to Access. Any temporary or permanent obstruction to safe and easy access to a Site or Stormwater Facility subject to inspection shall be promptly removed by the Permittee or Owner at the request of the City and shall not be replaced.

D. Monitoring and Testing of Stormwater Discharge and Stormwater Facilities. To assure that the Land Alteration is being conducted in accordance with the conditions stated on the Permit, the City may order, at the expense of the Permittee or Owner, monitoring of the Stormwater Discharge and/or Stormwater Facility, including those field measurements or testing the City deems necessary to assure that the conditions and requirements of the Permit are being followed. If the monitoring is not completed, the City shall have the right to set up on any Site such devices as are necessary in the opinion of the City to conduct monitoring, testing and/or sampling of the Stormwater and/or Stormwater Facility.

E. Inspections and Maintenance during Land Alteration Activities. During the Land Alteration the Permittee must inspect each Stormwater Facility and Erosion Control System bi-weekly and immediately after each rainfall event of 0.5 inches or more. Any Erosion or breach in an Erosion Control System must be corrected within 48 hours of identifying the Erosion or breach. Correction may include, but is not limited to: rehabilitation of an Infiltration practice; removal of silt, litter and other debris from catch basins, inlets and drainage pipes; removal of noxious or invasive weed species; and/or replacement of landscape vegetation. Inspections shall include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of Erosion Control Systems and other Stormwater Facilities. Documentation for each inspection must be provided to the City in a format approved by the City within 48 hours of the inspection.

F. Post Activity Inspections. All Stormwater Facilities must undergo, at a minimum, one inspection annually for two (2) years after completion and final acceptance of the construction. After two annual inspections are approved by the City in writing, all Stormwater Facilities must undergo, at a minimum, one inspection every five (5) years to document maintenance and repair needs and ensure compliance with the requirements of this Section and all federal, state and local regulations. An inspection report for each inspection shall be filed with the City within 48 hours of the inspection. The inspection frequency may be increased as deemed necessary by the City to ensure proper functioning of the Stormwater Facility. The requirements of this paragraph pertain only to Stormwater Facilities which are not subject to an easement or maintenance agreement in favor of the City, Watershed District or other federal, state or local agency.

G. As-Built Surveys. An as-built survey of every Stormwater Facility must be provided to the City within one year of final completion of Construction Activity or Land Alteration.
H. **Post Activity Stormwater Facility Maintenance.** Owners of Land which includes a Stormwater Facility must maintain the Stormwater Facility to ensure proper functioning of the Stormwater Facility over time. Maintenance shall include: restoration or replacement of Stormwater Facilities’ function; removal of silt, litter and other debris from catch basins, inlets and drainage pipes; removal of noxious or invasive weed species; or replacement of landscape vegetation if needed. All required maintenance shall be addressed in a timely manner, as determined by the City. The maintenance requirement may be increased as deemed necessary by the City to ensure proper functioning of the Stormwater Facility over time. The requirements of this paragraph pertain only to Stormwater Facilities which are not subject to an easement or maintenance agreement in favor of the City or Watershed District or other federal, state or local agency.

The City may perform maintenance on any private Stormwater Facility which presents or may present imminent and substantial danger to the environment, to the health or welfare of persons, or to the storm sewer system or surface waters. The Owner of the private system shall be responsible for any costs and charges that are associated with this work.

I. **Stormwater Facility Easement.** When any new Stormwater Facility is installed on private property where it receives drainage from a public Stormwater system, the property owner shall grant to the City an easement in recordable form granting the City the right, but not the obligation, to maintain, reconstruct, repair and inspect the Stormwater Facility. The easement shall be received by the City prior to completion of the construction of the Stormwater Facility and shall include the right to enter onto the Site to gain access to the Stormwater Facility.

J. **Failure to Maintain Practices.** If a Permittee fails or refuses to meet any of the requirements of this Section, the City, after notice, may inspect the Stormwater Facility to determine if maintenance is required to ensure compliance with this Section and/or correct any violations by performing all necessary work to place the Site in compliance with this Section. If the City identifies violations of this Section as a result of the inspection, the City shall notify the Permittee of the violation and a time by which the violations must be corrected. The notice shall further advise that, should the Permittee fail to correct the violation by the stated date, the City will cause the violation to be corrected and the expense thereof shall be charged to the Permittee or Owner. Each violation of this Section are deemed and declared a public health and safety hazard and a public nuisance. Building inspections may be withheld until the violation is abated or corrected. The City may also issue a stop-work order on any activities that violate the terms of this Section.

If payment is not made within thirty (30) days after costs are incurred by the City, payment will be withdrawn from the Permittee’s Financial Security required by this Section. If there is an insufficient amount in the Financial Security to cover the costs incurred by the City or if there is no Financial Security, then the City may assess the Land for the cost of repair work and any penalties and the amount assessed shall be a lien on the Land and may be certified to the County Auditor to be placed on the tax statement and collected in the same manner as ordinary taxes by the county.

**Subd. 8. Land Alteration Permit Application Requirements.**

A. A person seeking a Land Alteration Permit shall make application to the City on a form provided by the City and must include information that exhibits compliance with City Code Section 11.55 and other federal, state and local permit requirements, including the State of Minnesota issued NPDES/SDS General Permit to Discharge Stormwater Associated with Construction Activity or Land Alteration, as applicable.

B. **Inspection and Maintenance.** All Stormwater Facilities shall be designed to minimize the need for maintenance, to provide access for maintenance purposes and to be structurally sound. Prior to issuance of the Permit, the Applicant shall obtain necessary easements or other property interests to allow access to the
Stormwater Facilities for inspection and maintenance. A copy of the easements and/or property interests must be provided with the Application.

C. **Land Alteration / Plan Review Permit Fee.** A Land Alteration / Plan Review Fee in an amount set forth in the City Fee Schedule must be paid at the time of submitting an Application to the City. In the event the Land Alteration Permit application is denied, 50% of the Permit Fee shall be returned to the Applicant.

D. **Site construction and/or site grading plans.** All plans provided shall be at the same scale. The minimum scale shall be one inch equals 50 feet. All plans must be signed by a Professional Engineer licensed in Minnesota (PE) who must verify that the design of all Stormwater Facilities and Erosion Control Systems meet the requirements contained in this Section. The following plans must be included with the application:

1. A topographic map of the Site as it exists prior to the proposed Land Alteration showing ground elevation contours at two-foot intervals. The map shall include a minimum of 250 feet of land abutting the Site on all sides that is sufficient to show on- and off-site drainage.

2. A topographic map of the Site (grading plan) showing the existing and proposed ground elevation contours at two-foot intervals.

3. Locations and dimensions of all proposed Land Alterations and site features before and after Land Alteration.

4. The Emergency Over Flow (EOF) location and elevation for each Stormwater Facility.

5. The location and size of existing and proposed building pads.

6. Locations and dimensions of all temporary or interim soil or dirt stockpiles.

7. Location, dimensions and plans of all temporary, interim and final Stormwater Facilities and Erosion Control Systems necessary to meet the requirements of this Section.

8. Methods that will be used to stabilize the site during and after construction, including types, time frames and schedules.

9. A restoration plan for areas disturbed by the Land Alteration, including Final Stabilization measures.

E. **Stormwater Pollution Prevention Plan (SWPPP).** A SWPPP shall be provided with the application that describes the control and management of the flow of Stormwater and associated water quality impacts resulting from the development. A copy of the completed NPDES/SDS Construction Stormwater General Permit for the Site if required by the Minnesota Pollution Control Agency (MPCA) must be provided with the SWPPP.

F. **Stormwater Treatment Calculations.** Stormwater treatment calculations used to determine compliance with Subds. 6 or 8 of this Section and any federal, state or local regulatory requirements or permits shall be provided with the application.

G. **Runoff Management Plan (RMP).** If the proposed project is in the Lower Minnesota River Watershed District (LMRWD) a Runoff Management Plan (RMP) must be developed by the Applicant for management of Stormwater runoff in accordance with LMRWD requirements. A copy of the RMP, if required, must be provided with the application.

**Subd. 9. Permit Application Review and Approval.**
A. **Issuance or Denial.** The City Engineer or his/her designee shall review an application for a Land Alteration Permit to determine its conformance with the provisions of this Section. Consistent with Minn. Stat. 15.99, the City Engineer or his/her designee shall in writing either approve or deny issuance of a Permit or recommend that the application be forwarded to the City Council for review and denial or approval. Prior to release of the Land Alteration Permit, the Applicant shall provide written copies of all required federal, state and local permit approvals.

B. **Conditions.** Approval, denial, or approval subject to conditions of a Land Alteration Permit shall be based upon the following factors:

1. Whether, and the extent to which, the Land Alteration may create or exacerbate a safety risk to surrounding persons, the public or property.

2. Whether, and the extent to which, the Land Alteration may cause undue harm to the environment including, but not limited to, noise, dust, Erosion, undue destruction of vegetation, and accumulation of waste materials and Pollutants.

3. Whether the physical characteristics of the Site, including but not limited to topography, vegetation, susceptibility to Erosion or siltation, susceptibility to flooding, water storage or retention, are such that the Site is not suitable for Land Alteration or the use proposed.

4. Whether adequate plans have been made for restoring and/or stabilizing the Site upon completion of the Land Alteration.

5. Whether there is a substantial likelihood that the Applicant will be able to comply with the rules and regulations of this Section, other applicable Sections of the City Code, and all applicable state, federal and local regulations.

6. Whether the Site proposed for the Land Alteration is zoned for the proposed use.

7. If the City accepts maintenance of the Stormwater Facility, the City may require conveyance to the City or other public entity certain lands or interests therein.

A Land Alteration Permit may be approved subject to conditions which limit the size; kind or character of the proposed Land Alteration; require the construction of Stormwater Facilities; require replacement of vegetation; establish monitoring procedures; require staging the work over time; and/or require buffering.

C. **Modifications.** A Permittee may submit to the City a written request for modification of a Permit. The City Engineer or his/her designee shall review the request and in writing either approve or deny the request or recommend that the request be forwarded to the City Council for review and denial or approval. The City may require additional reports and data from the Permittee.

D. **Expiration.** All Land Alteration Permits shall expire 24 months after issuance unless otherwise provided on the Permit.

**Subd. 10. Suspension or Revocation of Permit.**

The City may suspend or revoke a Permit as follows:

A. **Suspension.** If the City determines any of the following: (i) the Permit was issued in error or on the basis of incorrect information; or (ii) the Permit or work are in violation of any provision of this Section or any federal, state or local regulation, the City may suspend the Permit and issue a stop work order and the Permittee shall cease all work on the Site except for work necessary to remedy the cause of the suspension. The Permittee may
request reinstatement of a suspended Permit upon correction of the causes for suspension. If the conditions of the Permit have been complied with in full, the City shall reinstate the Permit.

B. **Revocation.** If the Permittee refuses or fails to cease work after the suspension or refuses or fails to correct the causes for suspension within the time period provided in the stop work order, the City may revoke the Permit.

**Subd. 11. Financial Security.**

Financial Security is required prior to issuance of a Land Alteration Permit. The Financial Security may take the form of: (i) a performance bond in a form acceptable to the City; (ii) an irrevocable letter of credit issued by a financial institution and in a form acceptable to the City; or (iii) cash in United States currency. The performance bond, letter of credit, or an agreement relating to the deposit of cash with the City shall provide that the City may make a claim against, draw on or withdraw from the financial security as appropriate in order to complete the performance of Applicant’s obligations pursuant to the terms of the Permit and this Section, including but not limited to, the Applicant’s obligations imposed pursuant to the Permit and this Section and indemnification of the City against any loss, cost or expense, including an amount as and for reasonable attorney’s fees incurred in enforcing the obligations of Applicant pursuant to the Permit or this Section.

A. **Land Alteration Permit Financial Security.** The Financial Surety for a Land Alteration Permit shall be in an amount of 125 percent (125%) of the cost estimate of the work to be done as stated in the application for a Land Alteration Permit and as approved by the City Engineer or his/her designee.

B. **Tree Replacement Financial Security.** In addition, if trees are required to be replaced pursuant to this Section an additional Financial Security shall be provided in the amount of 150 percent (150%) of the estimated cost to furnish and plant the Replacement Trees as approved by the City Forester or his/her designee. The estimated cost shall be at least as much as the reasonable amount charged by nurseries for the furnishing and planting of the Replacement Trees.

In the event the estimated cost submitted by the Applicant to the City is not approved, the City Engineer or his/her designee shall have the right in his/her sole discretion to determine the estimated cost for purposes of the Financial Surety.

**Subd. 12. Action Against Financial Security.**

The City may make a claim against, draw on or withdraw from the appropriate Financial Security in the event of a violation of the terms of the Permit, including but not limited to the following:

A. The Permittee ceases performing the Land Alteration for a period of thirty (30) days or more prior to completion of the Land Alteration.

B. The Permittee fails to conform to the Land Alteration Permit as approved, and/or has had its Land Alteration Permit revoked.

C. The techniques outlined in the Land Alteration Permit fail within one year of installation or before Final Stabilization is achieved for the Site or portion of the Site, whichever comes later.

D. The City determines that action by the City is necessary to prevent excessive Erosion from occurring on the Site, or to prevent Sediment from occurring on adjacent or nearby properties.

E. The Permittee ceases working on the Tree Replacement Plan for a period of thirty (30) days or more.

The City may make a claim against, draw on or withdraw from the Financial Security in whole or in part, for all direct and indirect costs incurred in doing the remedial work undertaken by the City, its employees, consultants and/or

Any remaining Financial Security shall be released to the Person who deposited the Financial Security upon determination by the City that the requirements of this Chapter and the conditions of the Land Alteration Permit and/or Tree Replacement Plan have been satisfactorily performed. No portion of the Financial Security shall be released while there are unsatisfied obligations of the Permittee, including the obligation to indemnify the City for any expenses incurred in enforcing the terms of the Permit or this Section.

When more than half of the Site’s maximum exposed soil area achieves Final Stabilization, the City may reduce the total required amount of the Financial Security, if approved by the City Engineer.

A portion, in an amount determined by the City Engineer taking into consideration the percentage of completion of project and the estimated cost to complete the project, of the Financial Security shall be retained to secure the Permittee’s or Owner’s obligation to remove and replant Replacement Trees which are dead, unhealthy or missing as provided for in this Section.


(SECTIONS 11.56 through 11.59, inclusive, reserved for future expansion.)

SECTION 11.60. SLOPED GROUND DEVELOPMENT AND REGULATIONS.

Subd. 1. Findings and Purpose. The City finds that development, excavation, or construction on certain slopes within the City may result in the building of unstable structures, increase dangers or erosion and thereby endanger the natural character of the land, and jeopardize the health, safety, and welfare of the citizens of the City.

Subd. 2. Definitions. The following terms, as used in this Section, shall have the meanings stated:

1. "Steep Slopes" - Slopes of over 12% and of elevation difference of 30' or more in a given parcel.

2. "Development" - Any excavation in excess of 50 cubic yards of soil or activity which first requires the procurement of a building or land alteration permit from the City.

Subd. 3. Review by Planning Commission and Council of Development on Steep Slopes.

A. Development on Steep Slopes. No development shall be conducted on a steep slope without first receiving a permit therefore from the Council. Approval or rejection of the proposed development shall be obtained in the following manner:

1. Application. Prior to any development on a steep slope, an application for a permit shall be made to the City which shall contain a detailed plan for the development which sets forth:

   (a) The time period during which the proposed development is to take place.
(b) The soil types which are found on the site of the development.

(c) A map showing the topography of the area to be developed.

(d) A map showing any alteration in the topography that would result from the proposed development.

(e) A description of the soil quality in the area to be developed including permeability of the soil, susceptibility of the soil to erosion, drainage of the soil, distance of the soil from underlying bedrock, susceptibility of the soil to changes in physical volume when moistened and/or during periods of frost.

(f) Information relative to whether the proposed development will cause and/or be affected by any erosion problems.

(g) A description of any disturbance to vegetation and other natural features that will result from the development plus the manner in which the applicant proposes to protect vegetation and other natural features that will not be disturbed.

(h) A copy of all specifications, blueprints and other detailed plans for the development.

(i) Information relative to the adequacy for the slope conditions and soil type of the foundation and underlying material of any structure, including roads.

(j) Information relative to the adequacy of controls and protection existing uphill from the proposed development which are designed to guard structures or roads from being affected by mud, uprooted trees or other materials.

(k) Information relative to the adequacy of construction of any retaining walls in excess of 30 feet.

1. Such other information as the Planning Commission shall request from the applicant either prior or subsequent to the initial review of the proposed development by the Planning Commission.

2. The Planning Commission shall review and make a recommendation to the Council as to whether the permit should be issued or denied.

3. The Council may then authorize or deny issuance of the permit.

4. The review by the Planning Commission and the final decision by the Council shall be based on consideration of the following factors:

   (a) Whether the application is complete, accurate and in all respects conforms with Item 1 of this Subparagraph A.

   (b) Whether, and the degree to which, the proposed development will cause and/or be affected by erosion problems.

   (c) Whether any structures erected as part of the development will have adequate foundations and underlying material.

   (d) Whether, and the degree to which, the development will alter vegetation, topography, or other natural features of the land.
Any other factors relating to whether the proposed development will cause any risk or harm to any persons, property or animals.

5. If the Council decides to authorize issuance of a permit, it may do so subject to compliance with reasonable conditions which shall be specifically set forth in the permit. Such conditions may, among other matters, limit the size, kind or character of the proposed work, require the construction of other structures, require replacement of vegetation or other natural features, establish required monitoring procedures and maintenance activity, stage the work over time, require the alteration of the site design to ensure buffering, or require a performance bond.

6. An applicant shall begin the work authorized within 60 days from the date of authorization of the issuance of the permit unless a different date for the commencement of the work is designed by the Council. The applicant shall complete the work authorized within the time limit specified herein, the permit shall become void; provided, however, that if prior to the date established for commencement of the work, the applicant makes written request to the Council for an extension of time to commence the work setting forth the reasons for the required extension, the Council may grant such extension.

7. Notice of Completion. An applicant shall notify the Council in writing when he has finished the work. No work shall be deemed to have been completed until approved in writing by the City Engineer following such written notification.

B. General Provisions.

1. Responsibility. Neither the issuance of a permit nor compliance with the conditions thereof, nor with the provisions of this Section shall relieve any person from any responsibility otherwise imposed by law for damage to persons or property; nor shall the issuance of any permit hereunder serve to impose liability on the City or its officers or employees for injury or damage to persons or property. An approval of an application issued pursuant to this Section shall not relieve the applicant of the responsibility of complying with any other requirement established by law, regulation or City Code provision.

(Sections 11.61 through 11.64, inclusive, reserved for future expansion.)

SECTION 11.65. HOME OCCUPATION.

Subd. 1. Purpose And Intent For Home Based Business. To establish standards by which home based businesses are allowed in residential neighborhoods and preserve the residential characteristics of the R, R1 and RM Districts. Home based businesses shall have no adverse impact to building aesthetics, traffic volume, noise, odor, or any other activity that adversely affects the health, safety and general welfare or is detrimental to the residential nature of the surrounding neighborhood.

Source: Ordinance No. 1-2009
Effective Date: 02-26-2009

Subd. 2. Required Conditions. It is unlawful to conduct a home based businesses except in the R, R-1 and RM Districts, and it is also unlawful to conduct a home occupation except in compliance with the following regulations:

A. A home based business shall be conducted in a dwelling. No more than 25% of the dwelling may be devoted to home based business use. Home based businesses are not permitted within a detached accessory building or garage.
B. A home based business shall not be conducted in an accessory structure, and there shall be no storage of equipment or supplies in an accessory structure or outside the dwelling.

Source: City Code
Effective Date: 9-17-82

C. An entrance to the space devoted to such home based business shall be within the dwelling. There shall be no internal or external alterations, or construction features not typically found in a dwelling.

D. This home based business shall be carried on or conducted only by members of a family residing in the dwelling and no more than one non-resident of the dwelling.

Source: Ordinance No. 9-87
Effective Date: 5-7-87

E. No non-vehicular motor utilized in connection with the operation of a home based business shall exceed 1 horsepower. Non-vehicular motors shall not be operated or tested at the premises of a home based business.

F. A home based business shall not create any radio or television interference or create noise audible beyond the boundaries of the site.

G. No smoke, odor, liquid, or solid waste shall be emitted.

H. Not more than one vehicle of not more than ¾ ton capacity, nor any trailers, utilized in connection with a home based business shall be permitted at the site of the home based business. Any vehicles utilized in connection with the home based business having ladders, pipes, glass, tools, buckets, tanks, snow plow, winch, or any other appendages and vehicles licensed as a cab or limousine shall be parked in an attached garage when at the site of the home based business. Vehicles utilized in connection with a home business shall not be permitted to be parked on the public or private streets for more than 4 hours in a 24 hour period.

I. A home based business shall not create business related pedestrian, automobile, or truck traffic in excess of 10 trips per dwelling per day. One trip shall be measured as any business related activity requiring pedestrian, automobile or truck to enter or leave on which the dwelling is located.

J. No retail or wholesale sales activity shall be conducted on the premises other than by telephone, mail, Internet or other electronic medium.

K. Parking is limited to 4 spaces for an employee, visitors and invitees of the home based business. No vehicles utilized in connection with the home based business and no employee or customer vehicles may be parked on public or private streets.

L. Deliveries for a home based business shall be limited to straight axle vehicles and shall be limited to two delivery or pick-up trips per day and during the hours of 7:00 a.m. to 7:00 p.m.

M. Hours of operation for customers of a home business shall be limited to the hours between 7:00 a.m. and 7:00 p.m.

N. A home based business may display one exterior sign not to exceed one square feet for the dwelling and two signs for each vehicle associated with the home based business, each sign not to exceed one square feet.

Source: Ordinance No. 1-2009
Effective Date: 02-26-2009

SECTION 11.66. Repealed

Source: Ordinance No. 14-2000
SECTION 11.70. SIGN PERMITS.

Subd. 1. Purpose and Intent. The purpose of this Section is to protect and promote the general welfare, health, safety, and order within the City through the establishment of a comprehensive and impartial series of standards, regulations and procedures governing the erection, use and/or display of devices, signs or symbols serving as visual communicative media to persons situated within or upon public right-of-way or private properties. The provisions of this Section are intended to encourage creativity, a reasonable degree of freedom of choice, an opportunity for effective communication, and a sense of concern for the visual amenities on the part of those designing, displaying or otherwise utilizing needed communicative media of the types regulated by this Section; while at the same time assuring that the public is not endangered, annoyed or distracted by the unsafe, disorderly, indiscriminate or unnecessary use of such communicative facilities.

Subd. 2. Definitions. The following terms, as used in this Section, shall have the meanings stated:

1. "Accessory Sign" - An identification sign relating in its subject matter to or which directs attention to, a business or profession, or to the commodity, service or entertainment sold or offered upon the premises where such sign is located, or to which it is attached.

2. "Address Sign" - Postal identification numbers and/or name, whether written or in numeric form.

3. "Area Identification Sign – Commercial" – A free-standing sign located at an entranceway to a commercial development identifying such development having a common identity when said sign is located upon the premises which it identifies. The sign may also identify the names of each individual business within the development.

Source: Ordinance No. 15-2011
Effective Date: 12-15-11

4. "Area Identification Sign – Residential" - A free-standing sign located at an entranceway to a residential development identifying such development having a common identity when said sign is located upon the premises which it identifies.

5. "Banners and "Pennants" - Attention-getting devices which resemble flags.

Source: City Code
Effective Date: 9-17-82

6. "Canopy and Marquee" - A rooflike structure projecting over the entrance to a building.

Source: Ordinance No. 18-91
Effective Date: 8-23-91

7. "Commercial Speech" - Speech or graphics advertising a business, profession, commodity, service or entertainment.

Source: Ordinance No. 17-2005
Effective Date: 9-15-2005
Source: Ordinance No. 11-2004
Effective Date: 4-1-04
8. “City Entry Monument Sign” - A monument sign, including associated decorative elements, erected by the city to denote entrances into the city.
   Source: Ordinance No. 11-2015
   Effective Date: 9-24-2015

9. "Directional Sign" - A sign which is erected on private property by the owner of such property for the purpose of guiding vehicular and pedestrian traffic. Such signs bear no advertising information.
   Source: City Code
   Effective Date: 9-17-82

10. "Directional Signs for Places of Worship, Schools, or Publicly Owned Land or Buildings" - A sign which bears the address and/or name of a Place of Worship, school, or publicly owned land or building and a directional arrow pointing to said location.
    Source: Ordinance No. 37-83
    Effective Date: 9-30-83

11. “Dynamic Display” – A sign or characteristics of a sign that appear to have movement or that appear to change, caused by any method other than physically removing and replacing the sign or its components, whether the apparent movement or change is in the display, the sign structure itself, or any other component of the sign. This includes a display that incorporates a technology or method allowing the sign face to change the image without having to physically or mechanically replace the sign face or its components. This also includes any rotating, revolving, moving, flashing, blinking, or animated display and any display that incorporates rotating panels, LED lights manipulated through digital input, "digital ink" or any other method or technology that allows the sign face to present a series of images or displays.
    Source: Ordinance No. 10-2008
    Effective Date: 4-24-2008

12. "Free-standing Sign" - A pylon or monument sign which is placed in the ground and not affixed to any part of any structure.
    Source: Ordinance No. 18-91
    Effective Date: 8-23-91

13. "Garage Sale Sign" - A sign which identifies a sale of household items.
    Source: Ordinance No. 31-94
    Effective Date: 9-16-94

14. "Height" - The distance between the uppermost portion of the sign and the average natural grade of the ground immediately below the sign.

15. "Illuminated Sign" - Any sign which is illuminated by an artificial light source.

16. "Institutional Sign" - Any accessory sign which identifies the name and other characteristics of a public or private institution, such as convalescent, nursing, rest, boarding care home or day care center.
    Source: City Code
    Effective Date: 9-17-82

17. "Menu Board Sign" - Any sign which has a message related to the site's food service and the copy is manually changed.

18. "Multi-tenant" - Structures containing two or more businesses, uses or occupants.

19. "Nameplace or Identification Sign" - An accessory sign which bears only a name and/or address.
20. "Neighborhood/Sector Sign" - A free standing sign which identifies by name, the section of the City designated on the official sector map.

21. "Newspaper Receptacle" - A box or container intended for the temporary storage of newspapers or magazines prior to delivery.

22. "Newspaper Vending Machines" - A coin-operated machine from which newspapers are sold to the general public.

23. "Non-Accessory Sign" or "Advertising Sign" - A sign relating in its subject matter to, or which directs attention to, a business or profession, or to the commodity, service or entertainment not sold or offered upon the premises where such sign is located, or to which it is attached.

24. "Non-conforming Sign" - A sign which lawfully existed immediately prior to the adoption of this Section, but does not conform to the newly enacted requirements of this Section.

Source: City Code
Effective Date: 9-17-82

25. “Non-Commercial Speech” - Dissemination of messages not classified as Commercial Speech which include, but are not limited to, messages concerning political, religious, social, ideological, public service and informational topics.

Source: Ordinance No. 11-2004
Effective Date: 4-1-04

26. "Off-Site Direction Sign" - A sign erected for the purpose of directing traffic to a residential area.

27. "Open House Sign" - A sign which identifies a dwelling which is available for viewing by the public.

Source: Ordinance No. 31-94
Effective Date: 9-16-94

28. "Parapet Wall" - An architecturally, structurally and aesthetically integral wall extending above the roof level, continuously around the perimeter of the building which has the primary purpose of screening mechanical equipment.

29. "Permanent Sign" - Any sign which is not a temporary sign.

Source: City Code
Effective Date: 9-17-82

30. “Planned Unit Development Area Identification Sign - Commercial” – A free-standing sign located at an entranceway to a commercial Planned Unit Development identifying such development having a common identity when said sign is located within the PUD area upon which it identifies. The sign may also identify the names of each individual business within the development.

Source: Ordinance No. 15-2011
Effective Date: 12-15-11

31. “Planned Unit Development Area Identification Sign - Residential” – A free-standing sign located at an entrance way to a Planned Unit Development identifying a Planned Unit Development land development having a common identity when said sign is located within the PUD area which it identifies. A PUD area identification sign may not identify a tenant or tenants.

Source: Ordinance No. 15-2011
Effective Date: 12/15/11
32. **Portable Sign** - A sign so designed as to be movable from one location to another which is not permanently attached to the ground or any structure.

33. **Projecting Sign** - Any sign attached to a building, all or part of which extends more than 12 inches over public property, easements, or private pedestrian space, or which extends more than 12 inches beyond the surface of the portion of the building to which it is attached or beyond the building line.

34. **Readerboard Sign** - Any sign having a message not permanently affixed to the sign face, and the copy is manually changed.

35. **Religious Symbols** - Pictures, designs, sculptures, or similar objects that stand for or suggest religious faith, ideas, or qualities.

36. **Roof Sign** - Any sign erected upon or projecting above the roof of a structure to which it is affixed except signs erected below the top (the cap) of a parapet wall.

37. **Shielded Light Source** - Means that all light elements will be diffused or directed to eliminate glare and housed to prevent damage or danger. Direct illuminated signs must be shielded with a translucent material of sufficient opacity to prevent the visibility of the light source. Indirect light sources must be equipped with a housing and directional vanes. The lights must not be permitted to interfere with traffic signalization.

38. **Sign** - Any letter, word or symbol, device, poster, picture, reading matter or representation in the nature of advertisement, announcement, message or visual communication, whether painted, posted, printed, affixed or constructed, including all associated brackets, braces, supports, wires and structures which is displayed for informational or communicative purposes.

39. **Sign Area** - That area which is included in the smallest rectangle which can be made to circumscribe the sign. The stipulated maximum sign area for a free-standing sign refers to a single facing and does not include vertical structural members below the sign face.

40. **Sign Base** - The sign base of a sign shall be any supportive structure below or surrounding the sign area which has location on the ground. The sign base shall not exceed one half the maximum sign size permitted in the zoning district.
41. "Signage Program" - Any application for approval of construction or display of one or more signs under this Section.

42. "Sitting Facility Sign" - A sign which is affixed to a seating facility or enclosure at a transit facility stop.

43. "Street Frontage" - The abutting of a parcel of land to one or more streets. An interior lot has one street frontage, and a corner lot has two such frontages. Each allowed sign must relate to the street frontage generating the allowance.

44. "Temporary Sign" - A sign which is erected or displayed for a limited period of time.

45. "Traffic Sign" - A sign which is erected by a governmental unit for the purpose of regulating, directing or guiding traffic.

46. "Wall Area" - Is computed by multiplying the distance from the floor to the roof times the visible continuous width including windows and doors of the space occupied by the sign owner.

47. "Wall Sign" - Any sign which is affixed to a wall of any building.

Subd. 3. General Provisions Applicable to All Districts.

A. Prohibitions.

1. Non-accessory signs are prohibited in all districts, except as otherwise expressly permitted in this Section 11.70.

2. Accessory signs are prohibited in all districts, except as authorized by this Section.

B. All signs shall be constructed in such a manner and of such material that they shall be safe and substantial, provided that nothing in this Section shall be interpreted as authorizing the erection or construction of any sign not now permissible under the zoning or building provisions of the City Code. All signs must be maintained in
a safe non-deteriorating manner. Cracked, broken or bent, glass, plastic, wood or metal and burnt-out light bulbs and peeling, faded, or cracked paint must be repaired, replaced, or removed.

Source: City Code
Effective Date: 9-17-82

C. Dynamic Displays are prohibited in all districts, except as otherwise expressly permitted in this Section 11.70.

Source: Ordinance No.10-2008
Effective Date: 4-24-2008

Prev. Source: Ordinance No.17-2005
Effective Date: 9-15-2005

Prev. Source: Ordinance No. 1-90
Effective Date: 2-1-90

D. No sign other than those directing vehicle or pedestrian movements, those pertaining to traffic control or safety, or City Entry Monument signs shall be erected or temporarily placed within any street right-of-way or upon any public easement.

Source: Ordinance No. 11-2015
Effective Date: 9-24-2015

Prev. Ordinance No.17-2005
Effective Date: 9-15-2005

E. A permit for a sign to be located within 50 feet of any street or highway regulatory or warning sign, or of any traffic sign or signal, or of any crossroad or crosswalk, will be issued only if:

1. The sign will not interfere with the ability of drivers and pedestrians to see any street or highway sign, or any traffic sign or signal, or any crossroad or crosswalk, and,

2. The sign will not distract drivers, nor offer any confusion to any street or highway sign, or any traffic sign or signal, and,

3. The sign will not obstruct the clear visibility for sign of traffic and/or pedestrian movement.

F. Roof signs are prohibited in all districts.

Source: City Code
Effective Date: 9-17-82

G. Air inflated devices, banners, pennants and whirling devices, or any such sign resembling the same, are prohibited from use within the City.

Source: Ordinance No.17-2005
Effective Date: 9-15-2005

H. Notwithstanding any other provisions of this Section, all signs of any size containing Non-Commercial Speech may be posted 46 days before the state primary in a state general election year until ten (10) days following the state general election in any general election year and thirteen (13) weeks prior to any special election until ten (10) days following the special election.

Source: Ordinance No. 7-2010
Effective Date: 5-13-2010

Prev. Ordinance No. 11-2004
Effective Date: 4-1-2004
I. One temporary identification sign may be installed upon any construction site in any district denoting the name of the project, architect, engineer, contractor, subcontractor and suppliers, provided such sign does not exceed 32 square feet in area and ten feet in height. Such signs shall be removed upon completion of construction, or the occupancy of the building, whichever occurs first.

Source: City Code
Effective Date: 9-17-82

J. Temporary project signs.

1. For the purposes of this item J. "project" is defined as land

   (a) encompassed within a plat or a Registered Land Survey approved by the Council within which two (2) or more dwellings are permitted in accordance with City Code, or

   (b) for which approval has been given by the Council of a Site Plan and Architectural Design pursuant to City Code Section 11.03, Subd. 6 within which two (2) or more dwellings are permitted in accordance with such approval.

For purposes of this subparagraph J. no further or subsequent subdivision, platting, replatting, Registered Land Survey, or Site Plan and Architectural Design approval or filing relating to land encompassed within a project shall operate to create an additional project or projects within that land or any part thereof.

2. Temporary signs may be erected within a project for the purpose of selling or leasing the dwellings contained therein provided:

   (a) A sign shall not exceed 32 square feet in area.

   (b) Not more than one (1) sign for a project may be erected.

   (c) All signs shall be removed upon the earlier of eighty percent (80%) completion of construction, sale or lease of the dwellings within the project, or two (2) years from issuance of the first permit for the construction of a dwelling or dwellings within the project.

3. Temporary off-site directional signs may be erected for the purpose of selling or leasing the dwellings in a project in accordance with the following limitations:

   (a) Not more than the following number of signs may be erected for projects containing the following number of acres or dwelling units, whichever is greater:

<table>
<thead>
<tr>
<th>Number of Acres or Dwellings in a Project (whichever is greater)</th>
<th>Number of Signs</th>
</tr>
</thead>
<tbody>
<tr>
<td>2 - 10</td>
<td>6</td>
</tr>
<tr>
<td>11 or more</td>
<td>12</td>
</tr>
</tbody>
</table>

   (b) Signs may be erected only from 10:00 p.m. Friday to 6:00 a.m. Monday.
(c) Signs shall not exceed six (6) square feet in size nor extend higher than four (4) feet above the ground.

d) Signs may be placed on land only with the land owner's permission. Signs may not be placed within or on a public right-of-way, sidewalk or trail, and shall not interfere with traffic visibility.

(e) Only one (1) sign per project shall be installed upon a lot, registered land tract, or parcel (described by metes and bounds) of land.

(f) Each sign shall include the name and telephone number of the owner of the sign.

(g) Signs may not be placed more than (2) miles from the project.

(h) Signs for annual metro-wide events, such as the Parade of Homes, may be used for the duration of the event."

K. Temporary Single Property Signs.

1. For purposes of this subparagraph K. a "single property" is defined as a single lot. Registered Land Survey tract or parcel (described by metes and bounds) of land with or without one or more buildings erected thereon or (b) an individual condominium. A lot, Registered Land Survey tract or parcel (described by metes and bounds) within a project as defined in subparagraph J. shall not constitute a single property with respect to the first sale of each building or condominium situated on the lot, Registered Land Survey tract or parcel, but shall be deemed a single property with respect to sales, after the first sale of each such building or condominium thereon.

2. Temporary signs may be erected on a single property for the purpose of selling or leasing the single property on which it is situated, in accordance with the following limitations:

(a) A sign shall not exceed (i) six (6) square feet for a single property (A) on which is situated a dwelling or (B) which is vacant and located within the One-Family Residential District or the Rural District, (C) on which a structure or structures situated thereon are 90% or more, but less than 100%, occupied (as measured by floor area), or (ii) 32 square feet for a single property (other than that described in (i) hereof) (A) on which a structure or structures situated thereon are less than 90% occupied (as measured by floor area) or (B) is vacant.

(b) Not more than one sign for a single property may be erected.

(c) A sign shall be removed within seven (7) days following the lease or sale of the single property.

3. Temporary off-site directional signs may be erected for the purpose of selling or leasing a single property in accordance with the following limitations:

(a) No more than two (2) off-site directional signs may be erected for the sale or lease of a single property.

(b) Signs may be erected only from 10:00 p.m. Friday to 6:00 a.m. Monday and 9:00 a.m. to 3:00 p.m. on Tuesday.

Source: Ordinance No. 12-2008
Effective Date: 4-24-2008
(c) Signs shall not exceed six (6) square feet in size and shall not be higher than four (4) feet above the ground.

(d) Signs may be placed on land only with the owners permission. Signs may not be placed within a public right-of-way, sidewalk or trail, and shall not interfere with traffic visibility.

(e) Only one sign for a single property may be installed upon a lot, Registered Land Survey tract, or parcel (as measured by metes and bounds) of land.

(f) Each sign shall include the name and telephone number of the owner of the sign.

(g) Signs may not be placed more than two (2) miles from the project.

Source: Ordinance No. 31-94
Effective Date: 9-16-94

L. Up to three flags containing Non-Commercial Speech only may be displayed upon a lot. Each flag may not exceed one hundred (100) square feet in size. Flag pole height must comply with height regulations contained in Section 11.03, Subd. 3. F. of the City Code.

Source: Ordinance No. 17-2005
Effective Date: 9-15-2005
Source: Ordinance No. 18-91
Effective Date: 8-23-91

M. The total sign area of any multi-faced free-standing sign shall not exceed twice the permitted area of a single faced sign.

Source: City Code
Effective Date: 9-17-82

N. A directional sign shall not exceed 6 square feet in area.

Source: Ordinance No. 11-2015
Effective Date: 9-24-2015
Source: Ordinance No. 18-91
Effective Date: 8-23-91

O. Repealed.

Source: 10-2008
Effective Date: 4-24-2008

P. No portable signs shall be permitted.

Source: Ordinance No. 18-91
Effective Date: 8-23-91

Q. Projecting signs are prohibited in all districts.

Source: City Code
Effective Date: 9-17-82

R. Address signs shall not exceed six square feet for residential and forty square feet for non-residential. One sign shall be required per building. One additional sign is allowed per street frontage in excess of one street frontage.

Source: Ordinance No. 18-91
Effective Date: 8-23-91

S. Sitting facility signs noting the transit operator or service shall be permitted only at transit stops.

Source: Ordinance No. 18-91
T. Directional signs for Places of Worship, schools, or publicly owned land or buildings shall be allowed as permitted by Subdivision 4 hereof.  
Source: Ordinance No. 37-83  
Effective Date: 9-30-83

U. Canopies, marquees and parapet walls shall be considered to be an integral part of the structure to which they are accessory. Signs, if accessory, may be attached to a canopy, marquee or parapet wall, but such structures shall not be considered as part of the wall area, and thus shall not warrant additional sign area.

V. Signs which are located on the interior of a building and are not visible from outside of said building shall be exempt from the provisions of this Section, and shall not require permits or payment of fees.

W. No sign shall be attached to any tree or vegetation or utility pole.  
Source: City Code  
Effective Date: 9-17-82

X. Freestanding signs that are double faced signs shall be placed back to back with not more than 30” between facings.  
Source: Ordinance No. 11-2015  
Effective Date: 9-24-2015  
Source: Ordinance No. 1-90  
Effective Date: 2-1-90

Y. Two (2) temporary directional garage sale signs, not to exceed six (6) square feet shall be allowed in a residential district one (1) day prior to the sale, and shall be removed one (1) day after the sale, but in any event shall not exceed five (5) days. One (1) garage sale sign not to exceed six (6) square feet shall be allowed on the garage sale site.  
Source: Ordinance No. 31-94  
Effective Date: 9-16-94

Z. Sign Removal. When any sign or the message portion of any sign was or shall be caused to be removed by the City Manager or a designee, sign owner or property owner, all structural and electrical elements, members, including all brackets, braces, supports, wires, etc., shall also be removed. The permittee, owner of premises, or possessor of premises, or the owner of the sign shall be jointly and severally responsible for sign removal.  
Source: Ordinance No. 18-91  
Effective Date: 8-23-91

AA. Sign permits will not be issued for signs containing Commercial Speech which bear misleading or false information or any sign which includes information inconsistent with zoning and/or land use.  
Source: Ordinance No. 11-2004  
Effective Date: 4-1-2004

BB. Newspaper receptacles shall not display advertising legends or be obtrusive in color.  
Source: City Code
CC. A Residential or Commercial Planned Unit Development must contain at least two (2) contiguous lots to support an Area Identification Sign – Residential or an Area Identification Sign – Commercial, respectively.

Source: Ordinance No. 15-2011
Effective Date: 12-15-2011
Source: Ordinance No. 14-2000
Effective Date: 4-27-2000

DD. The sign base shall not exceed one half the maximum sign size permitted in the zoning district.

Source: Ordinance No. 9-87
Effective Date: 5-7-87

EE. Temporary Help Wanted Sign. One temporary help wanted sign per lot for the purpose of hiring persons to work on the property shall be permitted on the property provided such signs do not exceed 32 square feet and is removed within 14 days.

Source: Ordinance No. 1-90
Effective Date: 2-1-90

FF. Readerboard Sign. Such signs may be used within a District's permitted sign area.

GG. Menu Board Sign. One menu board sign per restaurant use with a drive-thru facility. Such sign shall not exceed 32 square feet in size nor greater than eight feet in height. Such sign is in addition to the free-standing or wall sign in the District.

Source: Ordinance No. 18-91
Effective Date: 8-23-91

HH. Temporary Outdoor Display Area Sign. Where temporary outdoor display areas are permitted one (1) sign not to exceed thirty-two (32) square feet in area and six (6) feet in height may be located on the same site as the outdoor display area and is limited in time to less than sixty (60) days. The sign may not appear before the commencement of the outdoor display area and must be removed concurrently with the outdoor display area.

Source: Ordinance No. 50-94
Effective Date: 1-6-95

II. Not withstanding anything to the contrary in this Section, signs containing Non-Commercial Speech are permitted in all Districts and are subject to only the following Subsections of Section 11.70, Subd. 3: B, C, D, E, F, G, H, L, M, O, Q, V, W, X, Z and AA. Non-commercial signs are also subject to individual District setback and height regulations. The owner of any sign which is otherwise allowed by this Code may substitute non-commercial copy in lieu of any other commercial or non-commercial copy. This substitution of copy may be made without any additional approval or permitting. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over non-commercial speech, or favoring of any particular non-commercial message over any other non-commercial message. This provision prevails over any more specific provision to the contrary.

Source: Ordinance No. 17-2005
Effective Date: 9-15-2005
Prev. Ordinance No. 33-2004
Effective Date: 12-30-2004
Prev. Ordinance No. 11-2004
Effective Date: 4-1-2004
**Subd. 4. District Regulations.** In addition to those signs permitted in all districts, the following signs are permitted in each specific district, and shall be regulated as to size, location and character according to the requirements herein set forth.

Source: City Code  
Effective Date: 9-17-82

A. Residential Districts R, R-1, RM, TOD-R, TOD-MU, TC-R and TC-MU (if the project includes residential uses).

Source: Ordinance No. 25-2016  
Effective Date: 10-27-2016

Source: Ordinance No. 18-91  
Effective Date: 8-23-91

Prev. Ordinance No. 72-84  
Effective Date: 4-05-84

1. Identification Signs. One identification sign or symbol per building not greater than six square feet in area, provided such sign is attached flat against a wall of a building.

Source: City Code  
Effective Date: 9-17-82

2. Area Identification Signs. One area identification sign per development, per street entrance, providing such sign does not exceed 32 square feet in area.

3. Sign Setback. Signs shall be placed no closer than ten feet to any street right-of-way line.

Source: Ordinance No. 18-91  
Effective Date: 8-23-91


5. Sign Base. (Refer to Subdivision 3, Subparagraph DD).

6. Institutional Signs. One sign per street frontage identifying an institution or an institutional complex shall be permitted within a multiple residential district. Such sign shall not exceed 24 square feet in area.

Source: City Code  
Effective Date: 9-17-82

7. Temporary Signs. Shall be permitted only as permitted in Subdivision 3.

8. Directional Signs: (Refer to Subdivision 3).

Source: Ordinance No. 33-2004  
Effective Date: 12-30-2004

B. Commercial Districts: N-Com, C-Com, C-Hwy, C-Reg-Ser, C-Reg, TC-C, TOD-MU and TC-MU (if the project contains commercial uses).

Source: Ordinance No. 25-2016  
Effective Date: 10-27-2016

Source: Ordinance No. 72-84  
Effective Date: 4-5-84

11-188
1. Free-standing Signs:
   a. A building site having one street frontage may have one free-standing sign not to exceed 80 square feet.
   b. Where a building site has two or more frontages, one free-standing 80 square foot sign shall be permitted along one frontage. Additional frontages may each be permitted a free-standing sign not to exceed 36 square feet. Furthermore, in no case shall any free-standing sign be closer than 300 feet to any other free-standing sign upon a building site. The distance between signs is to be measured from the edge of a sign face via a straight line. Menuboards and directional signs are exempt from this requirement.
   c. A Planned Unit Development Area Identification Sign shall be permitted according to Subdivision 3, Paragraph CC. One sign per street frontage is allowed provided the total area of such sign shall not exceed 80 square feet. In no case shall a frontage have more than one sign, either a free-standing sign or PUD identification sign.
   d. Readerboard Signs: Readerboard signs may occupy the sign area permitted for free-standing signs.
   e. Setback: No sign shall be placed closer than 20 feet to any street right-of-way. Where parking occurs within the required front yard setback, no sign shall be placed closer than 15 feet to any street right-of-way.
   f. Height: Maximum height of free-standing signs shall not exceed 20 feet.
   g. Sign Base: (Refer to Subdivision 3, Subparagraph DD).

2. Wall Signs:
   a. The total area of a wall sign on any wall of a single tenant building shall not exceed 15% of the wall area of that wall when said wall area does not exceed 500 square feet. When said surface area exceeds 500 square feet, then the total area of such wall sign shall not exceed 75 square feet plus 5% of the wall area in excess of 500 square feet, provided that the maximum sign area for any wall sign shall be 300 square feet.
   b. Wall area shall be computed individually for each tenant in a multi-tenant building based on the exterior wall area of the space that tenant occupies. The total area of a tenant wall sign on its wall of a multi-tenant building shall not exceed 15% of the wall area of that wall when said wall area does not exceed 500 square feet. When said surface area exceeds 500 square feet, then the total area of such wall sign shall not exceed 75 square feet plus 5% of the wall area in excess of 500 square feet. Provided that the maximum sign area for any individual wall sign in a multi-tenant building shall not exceed 300 square feet.

   Source: Ordinance No. 11-2015
   Effective Date: 9-24-2015

   c. Readerboard Signs: Readerboard signs may occupy the sign area permitted for wall signs.

3. Sign Design: Signs for a multi-tenant building shall be located on the building in an uniform manner or within an architectural sign band area.

4. Deleted.

Source: Ordinance No.17-2005
5. Pump Signs: Lettering or symbols which are an integral part of the design of a gasoline pump and not mounted above the pump body shall be permitted.

6. Restroom Signs: Signs indicating the location of restrooms and containing no advertising information shall be permitted. Sign shall not exceed three square feet.

7. Except as otherwise provided in Subd. 3, other temporary signs may occupy the remainder of the area allowed but not utilized for a permanent sign, provided that the total area for any temporary sign shall never exceed fifty square feet.

8. Directional Signs: (Refer to Subdivision 3, Subparagraph N).

9. Menu Board: (Refer to Subdivision 3, Subparagraph GG).

10. Repealed.

C. Office District, TOD-MU and TC-MU (if the project includes office uses), TOD-E and TOD-C (if the project includes office uses).

1. Free-standing Signs:
   a. A building site having one street frontage may have one free-standing sign not to exceed 50 square feet.
   b. Where a building site has two or more frontages, one free-standing 50 square foot sign shall be permitted, and the additional frontages may each be permitted a free-standing sign not to exceed 36 square feet.
   c. A Planned Unit Development Area Identification Sign shall be permitted according to Subdivision 3, Paragraph CC. One sign per street frontage is allowed provided the total area of such sign shall not exceed 50 square feet. In no case shall a frontage have more than one sign, either a free-standing sign or PUD identification sign.
   d. Readerboard Signs: Readerboard signs may occupy the sign area permitted for free-standing signs.
   e. Setback: No sign shall be placed closer than 10 feet to any street right-of-way.
   f. Height: Maximum height of free-standing signs shall not exceed 8 feet.
   g. Sign Base: (Refer to Subdivision 3, Subparagraph DD).

2. Wall Signs:
(a) One building identification sign per wall per street frontage not to exceed 50 square feet is permitted.

(b) One identification wall sign per leasable space attached to the exterior wall of the building at the ground floor not to exceed 30 square feet is permitted.

Source: Ordinance No. 11-2015
Effective Date: 9-24-2015

(c) Readerboard Signs: Readerboard signs may occupy the sign area permitted for wall signs.

3. Temporary Signs: (Refer to Subdivision 3).

4. Directional Signs: (Refer to Subdivision 3, Subparagraph N).

Source: City Code
Effective Date: 9-17-82

5. Repealed.

Source: Ordinance No. 33-2004
Effective Date: 12-30-2004

D. Industrial District: I-2, I-5, I-GEN, and TOD-E (if the project includes industrial uses.

Source: Ordinance No. 25-2016
Effective Date: 10-27-2016

1. Free-standing Signs:

(a) A building site having one street frontage may have one free-standing sign not to exceed 80 square feet.

(b) Where a building site has two or more frontages, one free-standing 80 square foot sign shall be permitted, and the additional frontages may each be permitted a free-standing sign not to exceed 50 square feet.

(c) A Planned Unit Development Area Identification Sign shall be permitted according to Subdivision 3, Paragraph CC. One sign per street frontage is allowed provided the total area of such sign shall not exceed 80 square feet. In no case shall a frontage have more than one sign, either a free-standing sign or PUD identification sign.

(d) Readerboard Signs: Readerboard signs may occupy the sign area permitted for free-standing signs.

(e) Setback: No sign shall be placed closer than 10 feet to any street right-of-way.

(f) Height: Maximum height of free-standing signs shall not exceed 8 feet.

(g) Sign Base: (Refer to Subdivision 3, Subparagraph DD).

2. Wall Signs:

(a) One building identification sign per wall per street frontage not to exceed 80 square feet is permitted.
(b) One identification wall sign per leasable space attached to the exterior wall of the building at the ground floor not to exceed 10% of the wall area that tenant occupies of the wall to which it is affixed, or a maximum of 50 square feet.

Source: Ordinance No. 11-2015  
Effective Date: 9-24-2015

(c) Readerboard Signs: Readerboard signs may occupy the sign area permitted for wall signs.

3. Temporary Signs: (Refer to Subdivision 3).

4. Directional Signs: (Refer to Subdivision 3, Subparagraph N).

5. Sign Design: All signs shall be uniform in design and color and placement.

6. Address: Address signs may be placed on rear door with three-inch high numerals.

Source: Ordinance No. 18-91  
Effective Date: 8-23-91

7. Repealed.  
Source: Ordinance No. 33-2004  
Effective Date: 12-30-2004

E. Planned Unit Development (PUD) With Multiple Uses.  
Source: Ordinance No. 3-2000  
Effective Date: 1-27-00

1. That the developer submit after approval of the P.U.D., a schematic plan for informational, directional and advertising signage, explaining and illustrating:

   (a) Purpose of signage program and each sign.

   (b) Location - rezoning for plan.

   (c) Size - research data must be provided to prove to the City the need for signs larger than those normally allowed within this Section.

   (d) Design.

   (e) Material - color, texture, durability, type.

   (f) Information Needed - during sales programs.

   (g) Final use or removal of signs.

   (h) Maintenance responsibilities and legal commitments.

   (i) Site and landscape plans which depict the design of the area surrounding the structure.

2. The signage program may include, but shall not be limited to:

   (a) Sector identification signs if approved by the Council.

   (b) Neighborhood markers which appear at the entrance to established neighborhood
developments.

(c) Area/project identification signs marking housing, commercial, institutional and public mini-neighborhoods or clusters.

(d) Individualized building name or number signs shall be allowed in accord with this Section, or as an approved element of architectural design.

Source: City Code
Effective Date: 12-21-99

F. Public District.

1. Free-standing Signs:

(a) A building site having one street frontage may have one free-standing sign not to exceed 80 square feet.

Source: City Code
Effective Date: 9-17-82
Source: Ordinance 8-2008
Effective Date: 3-27-2008

(b) Where a building site has two or more frontages, one free-standing 80 square foot sign shall be permitted, and the additional frontages may each be permitted a free-standing sign not to exceed 36 square feet.

Source: Ordinance 8-2008
Effective Date: 3-27-2008

(c) A Planned Unit Development Area Identification Sign shall be permitted according to Subdivision 3, Paragraph CC. One sign per street frontage is allowed provided the total area of such sign shall not exceed 80 square feet. In no case shall a frontage have more than one sign, either a free-standing sign or an area identification sign.

(d) Readerboard Signs: Readerboard signs may occupy the sign area permitted for free-standing signs.

(e) Setback: No sign shall be placed closer than 10 feet to any street right-of-way.

(f) Height: Maximum height of free-standing signs shall not exceed 8 feet.

(g) Sign Base: (Refer to Subdivision 3, Subparagraph DD).

2. Wall Signs:

(a) One building identification sign per wall per street frontage not to exceed 50 square feet is permitted.

(b) One identification wall sign per accessory use attached to the exterior wall of the building at the ground floor not to exceed 30 square feet is permitted.

(c) Readerboard Signs: Readerboard signs may occupy the sign area permitted for wall signs.

(d) Signs shall be uniform in design.

Source: Ordinance 8-2008
Effective Date: 3-27-2008

11-193
3. Off-site Directional Signs: Two additional Place of Worship, school, or publicly owned land or building directional signs shall be permitted in locations other than the lot, parcel, or tract of land which it applies. Said signs shall be erected on non-public land, or if the sign is one owned by a public body, such directional sign may be erected upon publicly owned property provided:

(a) The maximum size of the sign shall not exceed 3 square feet.

(b) The owner's permission must be obtained.

(c) The sign shall be a minimum height of 4 feet, maximum height of 6 feet.

(d) Signs shall be uniform in design.

4. Religious Symbols: Religious symbols shall not be considered part of the free-standing sign or wall sign area.

Source: Ordinance 8-2008
Effective Date: 3-27-2008

5. Sign Program: The signage program will be reviewed by the City Planner.

6. Temporary Signs: Temporary signs shall be permitted for a period not to exceed ten days. Such signs shall be not higher than 8 feet and not larger than 32 square feet.

Source: Ordinance No.17-2005
Effective Date: 9-15-2005

7. Directional Signs: Directional signs to Places of Worship, schools, or publicly owned land or buildings in existence on the effective date of this Section or amendments thereto, which do not conform to these regulations, shall be allowed to continue in use as provided in Section 11.75.

Source: Ordinance No. 18-91
Effective Date: 8-23-91
Prev. Ordinance No. 37-83
Effective Date: 9-30-83

8. Sign Base: (Refer to Subdivision 3, Subparagraph DD).

Source: Ordinance No. 18-91
Effective Date: 8-23-91
Prev. Ordinance No. 9-87
Effective Date: 5-7-87

G. Golf Course District

Source: Ordinance No. 2-2007
Effective Date: 1-23-07

1. Free-standing Signs:

(a) One sign per street frontage is allowed provided the total area of such sign shall not exceed 50 square feet.

(b) Setback: No sign shall be placed closer than 10 feet to any street right-of-way.

(c) Height: Maximum height of free-standing signs shall not exceed 8 feet.
(d) Sign Base: (Refer to Sub. 3, paragraph DD).

2. Wall Signs: One sign per building not to exceed 24 square feet in area. Where a building is located on a corner lot, one sign may be located on each wall facing a street provided one does not exceed 24 square feet and the other does not exceed 18 square feet. All walls shall be uniform in design.

3. Temporary Signs: Temporary signs shall be permitted for a period not to exceed ten days. Such signs shall be not higher than 8 feet and not larger than 32 square feet.

H. Airport.

1. Wall signs are only permitted on buildings operated by persons, organizations, or businesses that are commercially licensed by the Metropolitan Airport Commission.

   (a) Walls not facing runway: The total area of all wall signs on any wall of a building shall not exceed 15% of the wall area when the wall area does not exceed 500 square feet. When the wall areas exceed 500 square feet, the total area of a wall sign shall not exceed 75 square feet, plus 5% of the wall area in excess of 500 square feet, provided that the maximum sign area for any wall sign shall be 300 square feet. Wall area shall be computed individually for each tenant in a multi-tenant building based on the exterior wall area of the space the tenant occupies.

   (b) Walls facing runway: The total area of all wall signs shall not exceed 30% of the wall area. The maximum total sign area shall be 400 square feet. Wall area shall be computed individually for each tenant in a multi-tenant building based on the exterior wall area of the space the tenant occupies.

2. Free-standing Signs: Are permitted only on sites of buildings operated by persons, organizations, or businesses that are commercially licensed by the Metropolitan Airport Commission. Two free-standing accessory signs shall be permitted for each building site, provided one of the signs is on the side of the building facing the runway. The total area of each sign shall not exceed 80 square feet. The maximum height of free-standing signs shall not exceed 20 feet.

3. Area Identification Signs: Only the Metropolitan Airport Commission may erect such signs. One sign per street frontage is allowed. Area Identification signs shall not exceed 80 square feet and shall not exceed a maximum height of 20 feet.

4. Gate Identification Signs: Only the Metropolitan Airport Commission may erect such signs. One sign at each gate is allowed. Gate identification signs shall not exceed 32 square feet and shall not exceed a height of 10 feet.

5. Building Identification Signs: Only the Metropolitan Airport Commission may erect such signs. One such sign per building is allowed. Building identification signs shall not exceed 6 square feet and must be attached flat against the wall of the building.

6. No other sign is permitted.

Source: Ordinance No. 114-84
Effective Date: 11-1-84

Subd. 5. Administration and Enforcement.

A. Permits. Except as provided in Subparagraph D below, the owner or occupant of the premises on which a sign is to be displayed, or the owner or installer of such sign, shall file application with the City for permission to display such sign. Permits must be acquired for all existing, new, relocated, modified or redesigned signs except
those specifically excepted below. The applicant shall submit with the application, a complete description of the sign and a sketch showing its size, location, manner of construction and such other information as shall be necessary to inform the Building Official of the kind, size, material, construction and location of the sign. The applicant shall also submit at the time of application, the application fee required under Subparagraph B below. The City Manager or the City Manager’s designee shall approve or deny the sign permit no more than 30 days from the receipt of the complete application, including applicable fee. If a sign authorized by permit has not been installed within three months after the date of issuance of said permit, the permit shall become null and void.

Source: Ordinance No. 17-2005
Effective Date: 9-15-2005

B. Fees. An application or request for an amendment of this Section or for a permit, variance or other approval relating to this Section shall be set by the Council by ordinance.

Source: Ordinance No. 17-2005
Effective Date: 9-15-2005

C. Sign Identification Tag. For any sign for which a permit is required under the provisions of this Section, the permittee shall acquire from the City a tag which shall be conspicuously attached to the lower left front surface of the sign. Such tag shall indicate the number of the sign permit and the date of issuance. Permits and tags must be acquired, and application fees paid for all non-exempt signs existing at the time of adoption of this Section.

D. Exemptions: The exemptions permitted by this Subdivision shall apply only to the requirement of a permit, and shall not be construed as excusing the installer of the sign, or the owner of the property upon which the sign is located, from conforming with the other provisions of this Section. No permit is required under this Subdivision for the following signs:

1. A window sign placed within a building and not exceeding 10% of the window area.

2. Signs erected by a governmental unit or public school district.

Source: Ordinance No. 17-2005
Effective Date: 9-15-2005

3. Temporary signs as listed in Subdivision 3, Subparagraph H, I, J, K and Y.

Source: Ordinance No. 17-2005
Effective Date: 9-15-2005

4. Memorial signs or tablets containing the name of the building, its use and date of erection when cut or built into the walls of the building and constructed of bronze, stone, or marble.

5. Signs which are completely within a building and are not visible from the outside of the building.

Source: Ordinance No. 11-2004
Effective Date: 4-1-2004


Source: City Code
Effective Date: 9-17-82

7. Signs six (6) square feet or less in size.
E. Violations and Fines. If the Chief Building Official or a deputy shall find any sign regulated by this Section is prohibited as to size, location, content, type, number, height or method of construction, or is unsafe, insecure, or a menace to the public, or if any sign (for which a permit is required) has been constructed or erected without a permit (having) first (been) granted to the installer of said sign, or to the owner of the property upon which said sign has been erected, or is improperly maintained, or is in violation of any other provisions of this Section, he shall give written notice of such violation to the owner (of such property) or (the) permittee. If the permittee or owner (of such property) fails to remove or alter the sign so as to comply with the provisions set forth in this Section within (3) days following receipt of said notice:

1. Such sign shall be deemed to be a nuisance, and may be abated by the City by proceedings taken under Minnesota Statutes, Chapter 429, and the cost of abatement, including administration expenses, may be levied as a special assessment against the property upon which the sign is located; and,

2. It is unlawful for any permittee or owner to violate the provisions of this Section. Each period of (3) days within which the sign is not removed or altered shall be deemed to constitute another violation of this Section. No additional licenses shall be granted to anyone in violation of the terms of this Section, or to anyone responsible for the continuance of the violation, until such violation is either corrected or satisfactory arrangements, in the opinion of the Chief Building Inspector, have been made towards the correction of said violation. The Inspector may also withhold building permits for any construction related to a sign maintained in violation of this Section. Pursuant to Minnesota Statutes Annotated 160.27, the Chief Building Official, or his deputy, shall have the power to remove and destroy signs placed on street right-of-way with no such notice of violation required.

3. Appeals and Variances. A permit applicant or permit holder may appeal any order or determination made by the Chief Building Official or a deputy pursuant to this Section by filing a written appeal with the City Clerk within ten (10) days of the mailing of notice of the order or determination to the applicant or holder. A notice of appeal shall be in writing and must be personally served upon the City Clerk or deputy within the time provided. A permit applicant or permit holder may also request a hearing for a variance from the literal terms of this Section before the Board of Appeals and Adjustments by filing a form provided by the City and paying the prescribed fees to the City Clerk. Request for variances from the literal provisions of this Section shall only be granted in accordance with City Code Section 2.26.

4. With respect to signs distributed or posted by a person, committee, or organization except pursuant to a lease or license with the property owner, the written notice of violation required by Subd. 5.E. herein may be given to the person, committee or organization who prepares, disseminates, issues, posts,
installs or owns the sign, or the persons, committee or organization who causes the preparation, dissemination, issuance, posting, or installation of the sign, or the owner or occupant of the premises on which such sign is displayed. If such person, committee, organization, owner or occupant fails to remove or alter the sign so as to comply with the provision set forth in this Section within 3 days following receipt of said notice, then such failure is deemed unlawful and such persons, committee, organization, owner, or occupant shall be subject to the same liabilities and penalties as are permittees and owners under Subd. 5.E. 1. and 2.

Source: Ordinance No. 17-2005
Effective Date: 9-15-2005

Subd. 6. Repealed.

Source: Ordinance No. 17-2005
Effective Date: 9-15-2005

Subd. 7. Dynamic Displays.

A. Findings. Studies show that there is a correlation between Dynamic Displays on signs and the distraction of highway drivers. Distraction can lead to traffic accidents. Drivers can be distracted not only by a changing message, but also by knowing that the sign has a changing message. Drivers may watch a sign waiting for the next change to occur. Additionally, drivers are more distracted by special effects used to change the message, such as fade-ins and fade-outs. Time and temperature signs appear to be an exception to these concerns because the messages are short, easily absorbed, and become inaccurate without frequent changes.

Despite these public safety concerns, there is merit to allowing new technologies to easily update messages. Except as prohibited by state or federal law, sign owners should have the opportunity to use these technologies with certain restrictions. The restrictions are intended to minimize potential driver distraction and to minimize proliferation in residential districts where signs can adversely impact residential character.

The City finds that dynamic displays should be allowed on signs but with significant controls to minimize their proliferation and their potential threats to public safety.

B. Permitted Sign Type and Locations. Dynamic Displays are permitted solely as Free-standing Signs and only in the Commercial Regional (C-Reg), Commercial Regional Service (C-Reg-Ser), Community Commercial (C-Com), Neighborhood Commercial (N-Com) Office (OFC), Town Center (TC-C), Public (Pu), Industrial (I, I-2, I-5 & I-Gen), TOD-MU (if the project includes commercial uses) and TOD-E (if the project includes industrial uses) zoning districts.

Source: Ordinance No.25-2016
Effective Date: 10-27-2016

C. Duration of Image. A Dynamic Display’s image, or any portion thereof, may not change more often than once every 20 minutes, except one for which changes are necessary to correct hour-and-minute, date, or temperature information. A display of time, date, or temperature must remain for at least 20 minutes before changing to a different display, but the time, date, or temperature information itself may change no more often than once every three seconds.

D. Transition. If a Dynamic Display’s image or any portion thereof changes, the change sequence must instantaneous without any special effects.

E. Prohibition on Video Display. No portion of a Dynamic Display may change any part of its sign face by a method of display characterized by motion or pictorial imagery, or depict action or a special effect to imitate movement, or display pictorials or graphics in a progression of frames that gives the illusion of motion of any kind.
F. Prohibition on Fluctuating or Flashing Illumination. No portion of a Dynamic Display image may fluctuate in light intensity or use intermittent, strobe or moving light, or light that changes in intensity in sudden transitory bursts, streams, zooms, twinkles, sparkles or in any other manner that creates the illusion of movement.

G. Audio. Dynamic Displays shall not be equipped with audio speakers.

H. Malfunctions. Dynamic Displays must be designed and equipped to freeze the sign face in one position if a malfunction occurs. Dynamic Displays must also be equipped with a means to immediately discontinue the display if it malfunctions, and the sign owner or operator must immediately turn off the display when notified by the City that it is not complying with the standards of this ordinance.

I. Brightness. All Dynamic Displays shall meet the following brightness standards:

1. No Dynamic Display may exceed a maximum illumination of 5,000 nits (candelas per square meter) during daylight hours and a maximum illumination of 500 nits (candelas per square meter) between dusk to dawn as measured from the sign's face at maximum brightness.

2. All Dynamic Displays having illumination by means other than natural light must be equipped with a dimmer control or other mechanism that automatically controls the sign’s brightness to comply with the requirements of this Section.

3. No Dynamic Display may be of such intensity or brilliance that it interferes with the effectiveness of an official traffic sign, device or signal.

4. The owner or controller of the Dynamic Display must adjust the sign to meet these brightness standards in accordance with the City's instructions. The adjustment must be made immediately upon notice of non-compliance from the City.

5. A written certification from the sign manufacturer that light intensity has been preset to conform to the brightness levels established by code and that the preset level is protected from end user manipulation by password protected software or other method. This would offer the advantage of ensuring that electronic signs at a minimum cannot exceed the standards.

J. Dynamic displays are allowed only on free standing signs in the permitted districts. Dynamic displays may occupy no more than 35% percent of the actual copy and graphic area. The remainder of the sign must not have the capability to have dynamic displays even if not used. Only one, contiguous dynamic display area is allowed on a sign face.
B. The non-conforming use is destroyed by fire or other peril to the extent that greater than fifty percent of its market value, and no building permit has been applied for within 180 days of when the property is damaged. In the event a building permit has been applied for within the 180 days, the City may impose reasonable conditions upon the building permit in order to mitigate any newly created impact on adjacent property.

Source: Ordinance No. 17-2005
Effective Date: 9-15-2005

Prev. Source: Ordinance No. 82-18
Effective Date: 9-17-82

SECTION 11.76. VARIANCES.

Subd. 1. Purposes and Authorization. Except as otherwise provided in this Chapter, variances from the requirements of this Chapter may be granted when the applicant for the variance establishes that there are practical difficulties in complying with this Chapter. Variances shall only be permitted when they are in harmony with the general purposes and intent of this Chapter and are consistent with the City’s comprehensive plan. “Practical difficulties” as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by this Chapter; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems. Variances shall be granted for earth sheltered construction as defined by statute when in harmony with this Chapter. The Board of Adjustments and Appeals or Council as the case may be may not permit as a variance any use that is not allowed by this Chapter in the zoning district in which the subject property is located. The Board of Adjustments and Appeals or Council as the case may be may permit as a variance the temporary use of a one family dwelling as a two family dwelling. The Board of Adjustments and Appeal or Council as the case may be may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

Source: Ordinance No. 14-2011
Effective Date: 10-27-2011

Source: Ordinance No. 72-84
Effective Date: 4-5-84

Subd. 2. Application and Fee. Application fees shall be set by Council pursuant to ordinance. Applications shall be made on forms and pursuant to the procedures designated by the Community Development Department.

Source: Ordinance No. 14-2011
Effective Date: 10-27-2011

Source: City Code
Effective Date: 9-17-82

Subd. 3. Time Limitation. Variances granted from the provisions of this Chapter shall be used within one year and if not, the variance will be of no further force and effect.

Source: Ordinance No. 72-84
Effective Date: 4-5-84

SECTION 11.77. ZONING CERTIFICATE AND CERTIFICATE OF OCCUPANCY.

Subd. 1. Purposes and Requirements. To ensure that each new or expanded use of a structure or site and each new structure or alteration of an existing structure complies with all applicable provisions of this Section, and in order that the City may have a record of each new or expanded use of a structure or site, a zoning certificate is required before any
building permit may be issued or any structure or site used; and a certificate of occupancy required by the Building Code shall be issued only for a structure that conforms with the zoning certificate.

**Subd. 2. Building Permit.** A building permit shall be issued only upon execution of an approved zoning certificate.

**Subd. 3. Occupancy Certificate.**

A. A certificate authorizing occupancy shall not be issued until all requirements of this Section and conditions attached to any variance have been fully met.

B. A temporary certificate may be issued when certain conditions or requirements cannot be met due to weather or other conditions beyond the control of the owner but only when occupancy will not be detrimental to the health, safety or general welfare of the occupants or neighbors.

**SECTION 11.78. AMENDMENTS.**

**Subd. 1. Purposes.** This Chapter may be amended and the boundaries of any district may be changed in accord with the procedure described in this Section.

**Subd. 2. Initiation.** An amendment may be initiated by the Council, the Planning Commission, or by petition of affected property owners. An amendment not initiated by the Planning Commission shall be referred to the Planning Commission for study and report and may not be acted upon by the Council until it has received the recommendation of the Planning Commission or until 60 days have elapsed from the date of reference of the amendment without a report by the Planning Commission.

**Subd. 3. Application and Fee.** Application for any changes must be made on forms provided by the City and shall include all information and data requested. Application fee shall be established by the Council by resolution.

**Subd. 4. Public Hearing.** No amendment shall be adopted until a public hearing has been held thereon by the Council. A notice of the time, place, and purpose of the hearing shall be published in the official newspaper of the City at least ten days prior to the day of the hearing. When an amendment involves changes in district boundaries a notice shall be mailed at least ten days before the day of the hearing to each owner of affected property and property situated wholly or partly within 350 feet of the property to which the amendment relates. For the purpose of giving mailed notice, the responsible person may use any appropriate records to determine the names and addresses of owners. A copy of the notice and a list of the owners and addresses to which the notice was sent shall be attested to by the responsible person and shall be made a part of the records of the proceedings. The failure to give mailed notice to individual property owners, or defects in the notice shall not invalidate the proceedings, provided a bona fide attempt to comply with this Subdivision has been made.

**Subd. 5. Reapplication.** No application for the same or substantially the same change shall be made within one (1) year from the date of denial.

**Subd. 6. Adoption.** Amendments to this Chapter may be adopted by a two-thirds vote of all of the members of the Council.

**SECTION 11.79. ADMINISTRATION.**

**Subd. 1.** The City Manager shall be responsible for the enforcement of this Chapter and all orders of the Board of Appeals and Council.

**Subd. 2.** All applications for zoning or variances shall be directed to the City Manager for administration review and reference to the Planning Commission or Board of Appeals.

Source: City Code

Effective Date: 9-17-82
**Subd. 3. Fees.** The Council is hereby authorized to establish, by resolution, all fees payable to the City for any action or proceeding under this Chapter. A copy of such resolution shall be kept in the office of the City Manager and uniformly enforced.

(Prev. Ordinance No. 72-84
Effective Date: 4-5-84)

**SECTION 11.80 OFFICIAL MAP.**

There is adopted pursuant to Minnesota Statutes, #462.359 (1986), the Official Map entitled, "Minnesota Department of Transportation S. P. 2762 (T.H. 212) Official Map West Hennepin County Line to Junction of T.H. 5 and T.H. 494" on file and open to public inspection in the office of the City Manager, which Official Map contains a description of the future layout of State Highway 212 through the City and the lands which will be affected by reason thereof.

Source: Ordinance No. 63-88
Effective Date: 1-19-89

**SECTION 11.81. TEMPORARY DWELLING OPT OUT**

Pursuant to authority granted by Minnesota Statutes, Section 462.3593, subdivision 9, the City of Eden Prairie opts-out of the requirements of Minn. Stat. §462.3593, which defines and regulates Temporary Family Health Care Dwellings.

Source: Ordinance No. 16-2016
Effective Date: 8-25-2016

(Sections 11.82 through 11.98, inclusive, reserved for future expansion.)

**SECTION 11.99. VIOLATION A MISDEMEANOR.**

Every person violates a section, subdivision, paragraph, or provision of this Chapter when he or she performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof.

Source: City Code
Effective Date: 9-17-82
CHAPTER 12

SUBDIVISION REGULATIONS (PLATING)

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CHAPTER 12
SUBDIVISION REGULATIONS (PLATTING)

SECTION 12.01. PURPOSE.
This Chapter is adopted for the purpose of: (1) establishing standard procedures, requirements and conditions for the subdividing of land; (2) securing satisfactory conformity of such subdivision to City plans, City Code provisions and regulations, adopted or under preparation; (3) authorizing the Planning Commission to act under this Chapter as advisory to the Council; and (4) assuring that new subdivisions will contribute toward an attractive, orderly, stable, safe and wholesome community.

SECTION 12.02. SUBDIVISION/COMBINATION APPROVAL REQUIRED.
No land shall be subdivided or combined without complying with the provisions of this Chapter.

Subd. 1. Administrative Approval. The City Manager or his designee may authorize a subdivision or combination upon finding (1) for a subdivision, the division will not result in more than two parcels; for a combination, the combination will not result in more than one parcel; (2) the subdivision or combination will not cause any structure to be in violation of the Zoning Chapter or any other provision of the City Code; (3) the resulting parcel(s) generally conform to the shape and area of existing or anticipated land subdivisions in the surrounding areas; (4) the owners of land contiguous to the parcel(s) being divided or combined file no written objections within ten days following written notification to them or otherwise indicate in writing that they have no objections; and (5) no public improvements or dedications of right of way are required.

A. Application. Any person having a legal or equitable interest in a property may file an application for administrative subdivision or combination. An application shall be filed with the Engineering Division on an approved form and shall be accompanied by an accurate boundary survey and legal description of the existing parcel(s) and a survey and legal description identifying the resulting parcel(s) after subdivision or combination.

B. Review. The City Manager or his designee shall review all applications for administrative subdivision or combination to determine compliance with the standards identified in this Section and all other pertinent requirements of this Chapter.

C. Approval or Denial. The City Manager or his designee shall approve or deny the request in writing. Upon written approval of the request, the applicant shall be responsible for filing the subdivision or combination survey with the County Recorder's or Registrar of Title's office as applicable. If the request is denied, the City Manager or his designee shall provide to the applicant a written statement of denial stating the reasons for the denial.

D. Conditions. The City may impose conditions on any proposed administrative subdivision or combination that are deemed reasonable and necessary to protect the public interest and to ensure compliance with the provisions of this Chapter including, but not limited to, the following:

(1) Provision of wetland buffers, trail, sidewalk, conservation, and utility and drainage easements and responsibility for the cost of filing and recording written easements with the County Recorder's or Registrar of Title's office as applicable;

(2) Vacation of easements no longer required as determined by the City Engineer; and

(3) Payment of parkland dedication fees for each lot created, except when the fees have been previously paid for the lot created by the subdivision under the Section.
E. Filing. If the administrative subdivision or combination is not recorded with the County Recorder or Registrar of Titles within ninety (90) days after the date of approval, the City Manager may, upon ten days written notice to the applicant, revoke the approval in writing.

F. Council Action. If a proposed subdivision or combination is not approved under this subdivision the applicant may apply for approval by the Council as hereinafter provided.

Subd. 2. Minor Subdivisions. In the case of a subdivision of small size and of minor importance situated in a locality where conditions are well defined, as determined by the City Planner, the Council may process the approval as follows:

A. Application. Any person having a legal or equitable interest in a property may file an application for a minor subdivision. An application shall be filed with the City Planner on an approved form and shall be accompanied by a plat made in accordance with Minnesota Statutes, 1990, Chapter 505.

B. Review. The City Planner shall review all applications for minor subdivision to determine compliance with the standards identified in this Section and all other pertinent requirements of this Chapter and shall make a recommendation to the Council for approval or denial of the minor subdivision.

C. Approval or Denial. The City Council shall consider the request for a minor subdivision. Council approval shall be in the form of a resolution. Upon written adoption of a resolution of approval, the applicant shall be responsible for filing the plat with the County Recorder’s or Registrar of Title’s office, as applicable. If the request is denied, the City Manager or his designee shall provide to the applicant a written statement of denial stating the reasons for the denial.

D. Conditions. The City may impose conditions on any proposed minor subdivision that are deemed reasonable and necessary to protect the public interest and to ensure compliance with the provisions of this chapter including, but not limited to, the following:

(1) Provision of wetland buffers, trail, sidewalk, conservation, and utility and drainage easements and responsibility for the cost of filing and recording written easements with the County Recorder's or Registrar of Title's office as applicable;

(2) Vacation of easements no longer required as determined by the City Engineer; and

(3) Payment of parkland dedication fees for each lot created, except when the fees have been previously paid for the lot created by the subdivision under the Section.

(4) Dedication of right-of-way or easements for public utilities.

F. Filing. If the minor subdivision is not recorded with the County Recorder or Registrar of Titles within ninety (90) days after the date of approval, the City Council may, upon ten days written notice to the subdivider, consider a resolution revoking the approval.

E. If a minor subdivision is not approved under this subdivision, the applicant may apply for approval by the Council as hereinafter provided.

Source: Ordinance No. 2-2016
Effective Date: 1-14-2016

SECTION 12.03. DEFINITIONS.
For the purpose of this Chapter, the following terms, phrases, words and their derivations shall have the meanings given in this Section.
Subd. 1. "Applicant" - Any person making an application for subdivision or combination under this Chapter.

Subd. 2. "Boulevard" - The portion of the street right-of-way between the curb line or surfaced roadway and the property line.

Subd. 3. "Block" - An area of land within a subdivision that is entirely bounded by streets, or by streets and the exterior boundary or boundaries of the subdivision, or a combination of the above with a river or lake or outlot.

Subd. 4. "Butt Lot" - A lot at the end of a block and located between two corner lots.

Subd. 5. "Comprehensive Guide Plan" - (City Guide Plan) indicates the general locations recommended for various functions, classes of land use, places and structures and for the general physical development of the City and includes any unit or part of such plan separately adopted and any amendment to such plan or parts thereof.

Subd. 6. "Easement" - A grant by an owner of land for the specific use of said land by the public generally or to a person or persons.

Subd. 7. "Final Plat" - The final map, drawing or chart or survey on which the subdivider's plan of subdivision is presented to the Council for final approval.

Subd. 8. "Lot" - A parcel or portion of land in a subdivision separated from other parcels or portions by a description.

Subd. 9. "Lot-Double Frontage" - A lot on which both opposite ends or both adjoining sides abut on streets.

Subd. 10. "Owner" - Any person having a sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the same under these regulations.

Subd. 11. "Pedestrian Way" - The right-of-way across or within a block for use by pedestrian traffic whether designated as a pedestrian way, cross- walk, or however other designated.

Subd. 12. "Planned Unit Development" - (P.U.D.) as described in Chapter 11.

Subd. 13. "Preliminary Approval" - Official action taken by the Council on an application to create a subdivision which establishes the rights and obligations set forth in Minnesota Statutes, 1990, Section 462.358 and this chapter. Unless otherwise specified in this chapter, preliminary approval may be granted only following the review and approval of a preliminary plat or other map or drawing establishing without limitation the number, layout, and location of lots, tracts, blocks, and parcels to be created, location of streets, roads, utilities and facilities, park and drainage facilities, and lands to be dedicated for public use.

Subd. 14. "Protective Covenants" - Contracts entered into between private parties which constitute a restriction on the use of all private property within the platted area and which provide mutual protection against undesirable aspect of development which would tend to impair stability of values. The City does not provide for enforcement of such protective covenants.

Subd. 15. "Right-of-Way" - The width between property lines of a road, street, pedestrian way or easement.

Subd. 16. "Setback" - The minimum horizontal distance between building walls and the street right-of-way, building walls and the side lot line, and building walls and the rear lot line.
Subd. 17. "Street" - A public thoroughfare for vehicular and pedestrian traffic.

Subd. 18. "Subdivider" - Any person commencing proceedings under these regulations to effect a subdivision of land hereunder for himself or for another.

Source: City Code
Effective Date: 9-17-82

Subd. 19. "Subdivision" - The separation of an area, parcel, or tract of land under single ownership into two or more parcels, tracts, lots, or long-term leasehold interests where the creation of the leasehold interest necessitates the creation of streets, roads or alleys, for residential, commercial, industrial, or other use or any combination thereof. As used in this section the term "subdivision" does not include separations (1) creating cemetery lots or (2) resulting from court orders or the adjustment of a lot line by the relocation of a common boundary. The term includes resubdivision and when appropriate to the context shall relate to the process of subdividing or to the land subdivided.

Source: Ordinance No. 3-88
Effective Date: 2-18-88

Subd. 20. Repealed.

Source: Ordinance No. 14-2000
Effective Date: 4-27-00

Subd. 21. "Subdivision Design Standards" - The guides, principles and specifications for the preparation of subdivision plans indicating among other things the minimum and maximum dimensions of the various elements set forth in the preliminary plan.

SECTION 12.04. PRELIMINARY APPROVAL PROCEDURE.
Before subdividing any tract of land, the subdivider shall submit an application for, which shall include a preliminary plat of, the subdivision in the following manner:

Subd. 1. Review. The application shall be submitted to the City Planner who shall review it to ascertain if it complies with the regulations as herein set forth. If the City Planner finds the application to be in conformance with the regulations, the application shall be referred to the Planning Commission.

Subd. 2. Filing. Copies of the application shall be filed with the City Planner. The required filing fee shall be paid and any necessary requests for variances from the provisions of this Chapter shall be filed before the application shall be considered officially filed.

Subd. 3. Filing Fee. The fee to be paid for filing an application shall be determined by resolution of the Council.

Subd. 4. Hearing. Within sixty (60) days from the date of filing of the application, the City Planner shall set a public hearing for the next regular meeting of the Planning Commission, at which all interested persons shall be given an opportunity to be heard. The Planning Commission shall conduct the hearing and report upon findings and make recommendations to the Council. Notice of said hearing shall be published in the official newspaper at least ten (10) days prior to the hearing and mailed to owners whose properties lie within three hundred fifty (350) feet of the subject property.

Source: Ordinance No. 2-2016
Effective Date: 1-14-2016

Subd. 5. Council Action.

A. The Council shall preliminarily approve or disapprove a subdivision application within one hundred twenty (120) days following delivery of an application completed in compliance with this Chapter by the applicant to the City unless an extension of the review period has been agreed to by the applicant.
B. If preliminary approval is not given by the Council, the reasons for such action shall be recorded in the proceedings of the Council. If preliminary approval is given, such approval shall not constitute final acceptance of the subdivision but the general acceptance of the layout. Subsequent approval will be required of the engineering proposals and other features. The Council may require such revisions in the application, preliminary plat, and final plat as it deems necessary for the health, safety, general welfare and convenience of the City.

Source: City Code
Effective Date: 9-17-82

C. No plan will be approved for a subdivision (1) which covers an area subject to soil erosion or periodic flooding or which has poor drainage unless the subdivider agrees to make improvements which will, in the opinion of the City Engineer, make the area safe for occupancy and provide adequate street and lot drainage; (2) unless there has been compliance with Section 11.55 of the Code; or (3) if the Council makes any of the following findings:

1. That the proposed subdivision is in conflict with applicable general and specific plans, including but not limited to the City's Comprehensive Guide Plan and zoning regulations.

2. That the design or improvement of the proposed subdivision is in conflict with applicable development plans.

3. That the physical characteristics of the site, including but not limited to topography, vegetation, susceptibility to erosion and siltation, susceptibility to flooding, water storage, and retention, are such that the site is not suitable for the type of development or use contemplated.

4. That the site is not physically suitable for the proposed density of development.

5. That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage.

6. That the design of the subdivision or the type of improvements will be detrimental to the health, safety, or general welfare of the public.

7. That the design of the subdivision or the type of improvements will conflict with easements on record or to easements established by judgment of a court.

Source: Ordinance No. 17-90
Effective Date: 5-18-90

Subd. 6. Validity of Approval. An approved preliminary plat shall be valid for a period not to exceed two (2) years from the date of approval by the City Council. In the event that a final plat or plats are not approved within that time for all of the property included in the preliminary plat, the preliminary plat shall be void as to those portions not part of an approved final plat, unless, prior to the expiration, an extension is requested in writing by the owner or subdivider and for good cause granted by the City Council.

Source: Ordinance No. 13-2014
Effective Date: 5-15-2014

SECTION 12.05. DATA FOR PRELIMINARY PLAT.
The preliminary plat shall be clearly and legibly drawn at a scale approved by the City Planner but not less than 1” = 50'. The preliminary plat of the proposed subdivision shall contain or have attached thereto the following information:

Source: Ordinance No. 2-2016
Effective Date: 1-14-2016
Subd. 1. Identification and Description.

A. Proposed name of subdivision, which name shall not duplicate or be alike in pronunciation of the name of any plat theretofore recorded in the County.

B. Legal description of the property according to the records in the office of the County Recorder.

C. Name and addresses of the owner, owner's agent, subdivider, surveyor and designer of the plat.

D. Graphic scale, north point and date of preparation.

Subd. 2. Existing Conditions.

A. Boundary line survey of proposed subdivision clearly indicated.

B. Existing zoning classifications.

C. Total acreage.

D. Show the location, widths, and names of proposed streets or other public ways, parks and other public lands, easements, and section and corporate lines within the preliminary plat and to a distance one hundred (100) feet beyond the boundary line.

E. Location and site both public and private of existing sewers, water mains, culverts or other underground facilities within the preliminary plat area and to a distance of one hundred (100) feet beyond. Such data as grades, invert elevations, and locations of catch basins, manholes, and hydrants shall also be shown.

F. Boundary lines of adjoining unsubdivided or subdivided land within one hundred (100) feet.

G. Topographic data, including contours at vertical intervals of not more than two (2) feet. Water courses, wetlands, wooded areas, rock outcrops, power transmission poles and lines, and other significant features shall also be shown, including slopes in excess of 10% and erodible soil conditions.

Source: Ordinance No. 2-2016
Effective Date: 1-14-2016

H. Copy of all proposed private covenants.

I. Soil borings and percolation tests may be required by the City Engineer.

Subd. 3. Subdivision Design Features.

A. Layout of proposed streets, including proposed roads according to City thoroughfare plans showing right-of-way widths, proposed street widths and proposed names of streets. The name of any street thoroughfare used in the City or its environs shall not be used unless the proposed street is an extension of an already named street.

Source: Ordinance No. 2-2016
Effective Date: 1-14-2016

B. Location and width of existing or proposed trails, fire lanes, pedestrian ways and utility easements.

Source: Ordinance No. 2-2016
Effective Date: 1-14-2016
C. Typical cross-sections of proposed improvements upon streets, together with an indication as to the method of disposing of the proposed storm water runoff. Schematic storm sewer, sanitary sewer, and water layouts, illustrating invert and top of cover elevations, proposed gradients, direction of flow, and drainage areas. Center line gradient of proposed streets and right-of-way.

Source: Ordinance No. 2-2016
Effective Date: 1-14-2016

D. Layout, numbers and preliminary dimensions of lots and blocks, and building setback lines.

E. Areas, other than streets, pedestrian ways and utility easements, intended to be dedicated or reserved for public use, including the size of such area or areas in acres.

F. Whenever a lot proposed for subdivision is intended for future subdivision, a tentative plan for the future subdivision of the entire tract shall be submitted to the Planning Commission.

Subd. 4. Other Information.

A. Statement of the proposed use of lots stating type of building with number of proposed dwelling units; type of business or industry so as to reveal the effect of the development on traffic, fire hazards or congestion of population.

B. Source of water supply.

C. Provisions for sewage disposal, drainage and flood control.

D. Proposed protective covenants or deed restrictions.

E. Location of proposed street lights, and easements, and the utilities of electricity, gas, telephone and Cable T.V. All such utilities are to be underground.

F. A general landscaping plan showing plantings, berms, fences, lighting, parking layout, sidewalks and trails.

Source: City Code
Effective Date: 9-17-82

(Sections 12.06 through 12.19, inclusive, reserved for future expansion.)

SECTION 12.20. PROCEDURE FOR FINAL APPROVAL.

Approval by the Council of the final plat shall be subject to and conditioned upon the prior performance (except where such performance may be subsequent to such approval or specifically provided hereinafter) by the subdivider or owner of all conditions imposed in connection with the preliminary approval, the following provisions and requirements, and all applicable rules and regulations of other governmental units having jurisdiction.

Subd. 1. Data for Final Plat.

A. General. A final plat in recordable form shall be prepared by a qualified person who is registered as a land surveyor in the State of Minnesota and shall conform to all State and County requirements and the requirements of this Chapter.

B. Information to be shown.

1. Accurate angular and linear dimensions for all lines, angles, and curvatures used to describe boundaries, streets, easements, areas to be reserved for public use, and other important features. All
dimensions including lot lines shall be shown in feet and hundredths of feet.

2. An identification system for all lots and blocks.

3. True angles and distances to the nearest established official monuments (not less than three) which shall be accurately described in the plat.

4. Municipal or section lines accurately tied to the lines of the subdivision by distances and angles.

5. Name and right-of-way width of each street or other rights-of-way.

6. Accurate outlines and legal description of any areas to be dedicated or reserved for public use or for the exclusive use of property owners within the subdivision with the purposes indicated therein.

7. Certification by a registered surveyor.

8. Execution of all owners of any interest in the land and any holders of a mortgage thereon of the certificate required by Minnesota Statutes, and which certificate shall include a dedication of the utility easements and any other public areas in such form as shall be approved by the City Attorney.

9. Form of approval of Council as follows:

Approved by the City Council of the City of Eden Prairie, Hennepin County, Minnesota, this ______ day of __________________, 20__________.

____________________________
Mayor

____________________________
City Manager

10. Form for approval by County authorities as required.

Subd. 2. Filing.

A. The owner or subdivider shall file eighteen (18) copies of a final plat covering all or a portion of the preliminary plat. The owner or subdivider shall also submit to the City Engineer at the same time an up-to-date certified abstract of title or registered property report and such other evidence as the City Attorney may require showing title or control in the applicant.

Source: Ordinance No. 13-2014
Effective Date: 5-15-2014

B. The final plat shall incorporate all changes or modifications required by the Council; in all other respects it shall conform to the preliminary plat. Approval of the final plat includes approval of changes to easements dedicated on the plat in order to conform the final plat to the final construction plans approved by the City Engineer. It may constitute only that portion of the approved preliminary plat which the subdivider proposes to record and develop at that time provided that such portion conforms with all the requirements of these regulations.

Source: Ordinance No. 2-2016
Effective Date: 1-14-2016

Subd. 3. Subsequent to approval by the Council and before execution by the City of the final plat (if the final plat is in such form as to require execution by the City) and delivery thereof or delivery of a certified copy of any resolution of the
Council approving a final plat, the subdivider shall, if he has not previously done so, submit to the City Engineer two (2) copies of a development plan (1” = 100’ scale) showing existing and proposed contours, proposed streets and lot arrangements and size, minimum floor elevations on each lot, preliminary alignment and grades for sanitary sewer, water main and storm sewer, 100-year flood plain contours, ponding areas, tributary areas to catch basins, arrows showing direction of storm water flow on all lots, location of walks, trails and any property to be deeded to the City and containing such other information and in such form as shall be required by the City Engineer.

Subd. 4. Release and Recording. The City shall not release the final plat until all of the following have been completed:

A. The plat has been executed by all required parties;
B. The developer’s agreement has been executed by all required parties;
C. The submission of necessary financial guarantees and development fees to the City;
D. The submission to the City one full-size Mylar reproducible, one paper print and one copy of the final plat in digital (AutoCAD) format compatible with the county coordinate system; and
E. The submission in recordable form of all required easements and deeds as required by the City for trails, ponding, parks, utilities or similar purposes in a form approved by the City Attorney.

Upon release of the final plat, the subdivider shall record it with the County Recorder or Registrar of Titles as provided by law, along with any other documents required by the City to be recorded with the Plat. If the plat is not recorded within 90 days after the date of approval, the City Council may, upon ten days written notice to the subdivider, consider a resolution revoking the approval.

Source: Ordinance No. 13-2014
Effective Date: 5-15-2014

Subd. 5. Subsequent to approval by the Council and before execution by the City of the final plat (if the final plat is in such form as to require execution by the City) and delivery thereof or delivery of a certified copy of any resolution of the Council approving a final plat, the subdivider shall, if he has not previously done so, pay to the City fees for first three (3) years' street lighting (public streets), engineering review, final plan review, contract administration and inspection review, and street signs.

Source: Ordinance No. 2-2016
Effective Date: 1-14-2016
Source: Ordinance No. 73-84
Effective Date: 4-5-84

Subd. 6. See Section 12.50 for additional requirements subsequent to approval by the Council and before execution by the City of the final plat or other appropriate forms of City approval.

Source: City Code
Effective Date: 9-17-82

(Sections 12.21 through 12.29, inclusive, reserved for future expansion.)

SECTION 12.30. SUBDIVISION DESIGN STANDARDS.

Subd. 1. The proposed subdivision shall conform to the City Plan.

Source: City Code
Effective Date: 9-17-82
Subd. 2. The arrangements of all streets shall conform to the City Plan and provide a continuation of existing and planned streets within and outside of the proposed subdivision, provide for a reasonable circulation of traffic and shall be appropriately located in relation to topography, run-off of storm water and to proposed uses of the land to be served. Where adjoining areas are not subdivided, the arrangement of streets shall make provision for the proper projection of streets into adjoining areas.

Source: Ordinance No. 73-84  
Effective Date: 4-5-84

Subd. 3. Streets.

A. Street widths and pavement widths shall conform to the following table of minimum dimensions:

<table>
<thead>
<tr>
<th>Road Type</th>
<th>Average Daily Traffic (Vehicles)</th>
<th>Design Speed (MPH)</th>
<th>Right-of-Way (Feet)</th>
<th>Roadway Width Back-Back (Feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential Minor (1)</td>
<td>500</td>
<td>30</td>
<td>50</td>
<td>28</td>
</tr>
<tr>
<td>Residential Collector</td>
<td>3,000</td>
<td>35</td>
<td>60</td>
<td>32</td>
</tr>
<tr>
<td>Industrial</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>M.S.A.</td>
<td>10,000</td>
<td>30-40</td>
<td>80-120</td>
<td>Various (2)</td>
</tr>
</tbody>
</table>

(1) Maximum length of cul-de-sac is 500 feet, right-of-way radius 50 feet, roadway radius 39 feet to back curb.  
(2) Width subject to MSA standards in the MnDOT State Aid Manual.

Source: Ordinance No. 2-2016  
Effective Date: 1-14-2016

B. Deflections (Horizontal Alignment). When connecting street lines deflect from each other at any one point, the design requirements of the Minnesota Department of Transportation Road Design Manual, latest revision, shall apply.

C. Grades. All centerline gradients shall be at least 0.5 percent and shall not exceed 8.0 percent.

D. Vertical Curves. Different connecting street gradients shall be connected with vertical curves. Minimum length, in feet, of these curves shall conform to the requirements of the Minnesota Department of Transportation Road Design Manual, latest revision.

E. Street Jogs. Street jogs shall have a centerline offset of one hundred fifty (150) feet or more when applied to minor streets or service streets; in all other cases, they shall be avoided.

F. Minor Streets. Minor streets shall be so aligned that their use by through traffic will be discouraged.

G. Cul-de-sacs. Maximum length cul-de-sac streets shall be five hundred (500) feet measured along the centerline from the intersection of origin to end of right-of-way, unless the plan for the overall area will necessitate the extension of said street and appropriate reservation of right-of-way is provided for. Cul-de-sacs should be avoided whenever reasonably possible.

H. Service Streets. Where a subdivision abuts or contains an existing or planned major thoroughfare or a railroad right-of-way, the Council may require a street approximately parallel to and on each side of such right-of-way for adequate protection of properties and to afford separation of through and local traffic. Such service streets shall be located at a distance from the major thoroughfare or railroad right-of-way suitable for the appropriate
use of the intervening land, as for park purposes in residential districts or for commercial or industrial purposes in appropriate districts. Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.

I. **Half Streets.** Half streets shall be prohibited except where essential to the reasonable development of the subdivision in conformity with the other requirements of these regulations and except where the Council finds it will be practicable to require the dedication of the other half when the adjoining property is subdivided. Whenever there is a half street adjacent to a tract to be subdivided, the other half of the street shall be platted within such tract prior to the granting of access.

J. **Reserve Strips.** Reserve strips controlling access to streets shall be prohibited except under conditions approved by the Council.

K. Unless otherwise approved by the Council, private streets shall not be approved nor shall public improvements be installed for any private street except that private streets may be permitted in approved Planned Unit Developments.

L. Hardship to Owners of Adjoining Property Avoided. The street arrangements shall not be such as to cause hardship to owners of adjoining property in platting their own land and providing convenient access to it.

**Subd. 4. Intersections.** The angle formed by the intersection of streets shall be ninety (90) degrees with a fifty (50) foot minimum tangent from the radius return. Intersections of more than four corners shall be prohibited. Roadways of street intersections shall be rounded by a radius of not less than fifteen (15) feet. Roadways of driveway street intersections shall be rounded by a radius of not less than three (3) feet. Corners at the entrances to the turnaround portions of cul-de-sacs shall be rounded by a radius of not less than one hundred (100) feet.

Source: Ordinance No. 2-2016
Effective Date: 1-14-2016

**Subd. 5.** Curb and gutter may be included as part of the required street surface improvements and shall thus be designed for installation along both sides of all roadways in accordance with the standards of the City Engineer.

**Subd. 6. Sidewalks and Trails.** Sidewalks and/or trails may be required. The design thereof shall conform to the requirements of the City Engineer.

**Subd. 7. Water Supply.** When public supply is available, extensions of the water supply system shall be designed so as to provide public water service to each lot. The design of said extensions shall be in accordance with the standards of the City Engineer. Private water supply systems shall be constructed and maintained according to State laws and City Code provisions.

**Subd. 8. Sewage Disposal.** When public systems are available, extensions of the sanitary sewer system shall be designed so as to provide sewer service to each lot. The design of said extensions shall be in accordance with the standards of the City Engineer.

**Subd. 9. Drainage.** A complete and adequate drainage system design shall be required for the subdivision and shall include a storm sewer system or a system of open ditches, culverts, pipes, and catch basins, or both systems, as required by the City Engineer. Such system or systems shall be designed and installed in conformity with all applicable standards of the City at the developer's expense.

**Subd. 10. Easements.**

A. Provided for Utilities: Easements at least ten (10) feet wide, centered on front, rear and side lot lines and abutting (10' wide) street right-of-way shall be provided for utilities and shall be dedicated by
appropriate language. They shall have continuity of alignment from block to block.

B. Provided for Drainage: Easements shall be provided along each side of the centerline of any water course or drainage channel whether or not shown in the City Plan to a width sufficient to provide proper maintenance and protection and to provide for storm run-off and installation and maintenance of storm sewers. Said easements shall in no event be less than fifty (50) feet on either side of the centerline of any water course or drainage channel and they shall be dedicated to the City in such manner that the City may require.

C. If City infrastructure is required to be installed within the platted property, then additional easements shall be provided in such locations as specified by the City. Each easement shall be in such width as specified by the City to adequately accommodate the infrastructure but in no event less than twenty (20) feet wide.

Source: Ordinance No. 2-2016
Effective Date: 1-14-2016

Subd. 11. Street Names. Names of new streets shall not duplicate or sound similar to existing or platted street names.

Subd. 12. Lots.

A. Locations. All lots shall have frontage on a publicly dedicated street or street that has received legal status as such except that lots in Planned Unit Developments may have frontage on a private street or access road.

B. Size. The lot dimensions in subdivisions shall not be less than the minimum dimensions required to secure the minimum lot area specified in Chapter 11.

C. Butt Lots. Butt lots shall be platted at least five (5) feet wider than the average width of interior lots in the block.

D. Corner Lots. Corner lots shall be platted at least fifteen (15) feet wider than the minimum width required by Chapter 11.

E. Side Lot Lines. Side lines of lots shall be substantially at right angles to the street line.

F. Water Courses. Lots abutting upon a water course, drainage way, channel or stream shall have an additional depth or width, as required, to assure house sites that are not subject to the flooding.

G. Natural Features. In the subdividing of any land, regard shall be shown for all natural features, such as trees, water courses, steep slopes, erodible soils, historic spots or similar conditions, which if preserved will add attractiveness and stability to the proposed development.

H. Lot Remnants. All remnants of lots below minimum size left over after subdividing of a larger tract must be added to adjacent lots or a plan shown as to future use rather than allowed to remain as unusable parcels.

Source: City Code
Effective Date: 9-17-82

(SECTIONS 12.31 THROUGH 12.39, INCLUSIVE, RESERVED FOR FUTURE EXPANSION.)

SECTION 12.40. PARKS, PLAYGROUNDS AND PUBLIC OPEN SPACES.

Subd. 1. The owner of land being subdivided shall dedicate to the public for public use as parks, playgrounds or public
open space a reasonable portion of the land up to 10% thereof, as determined by the City to be in the public interest and necessary for such uses.

Source: Ordinance No. 3-88
Effective Date: 2-18-88

Subd. 2. At the City's option, the subdivider shall contribute an equivalent amount in cash in lieu of all or a portion of the land which the City may require such owner to dedicate pursuant to Subdivision 1 hereof in accordance with the schedule to be set by resolution of the Council.

Subd. 3. Whenever the term "dedicate" is used in this Section or in Section 12.41, it shall mean a dedication of land in connection with a plat for the purposes required or, at the option of the City, a deed or other instrument of conveyance conveying the land to the City. A dedication of land shall be such as shall vest good and marketable title of the land in the City, free and clear of any mortgage, lien, encumbrance or assessment, subject to such easements or minor imperfections of title as may be acceptable to the City.

Subd. 4. The City may determine the location and configuration of any land dedicated, taking into consideration its suitability for its intended purposes and how it will best serve the public and future needs of the community for such purposes.

Subd. 5. Land dedicated for the holding of storm or drainage water, power line easements or which is unusable or of limited use may, at the option of the City, not be deemed accepted by the City for purposes of owner's compliance with Subdivisions 1 and 2 hereof or Section 12.41.

Subd. 6. Where the owner provides for public use neighborhood park amenities such as, but not limited to, tennis courts, ballfields, open space or other recreational facilities, the City may reduce the amount of land to be dedicated or the cash contribution in lieu of such dedication by an amount equivalent to the cost of the facilities provided.

Subd. 7. Cash contributions required by Subdivision 2 hereof may be made prior to or concurrent with approval of the final plat or at the subdivider's option concurrent with issuance of a permit for building upon lots or parcels within the subdivision provided, however, if subdivider elects to make the cash contributions concurrent with issuance of a permit, the amount to be paid at such time or times shall be the amount then provided by City Code provisions or resolution.

Subd. 8. Prior to the dedication, transfer or conveyance of any real property or interest therein to the City as provided herein, subdivider shall deliver to the City an opinion addressed to the City by an attorney and in a form acceptable to the City as to the condition of the title of such property or in lieu of a title opinion a title insurance policy insuring the condition of the title of the property or interest therein in the City. The condition of the title of any real property or any interest therein to be dedicated, transferred or conveyed as may be provided herein by subdivider to City shall vest in City good and marketable title, therein free and clear of any mortgages, liens, encumbrances, or assessments.

Subd. 9. Immediately upon filing of the final plat or other appropriate division documents, subdivider shall file for recording all deeds for conveyance of property to be deeded to the City other than that formally dedicated on a final plat.

Source: City Code
Effective Date: 9-17-82

Subd. 10. All improvements including grading, seeding, planting, landscaping, equipping, and constructing of any structure to or upon any of the property or other lands to be conveyed or dedicated to the City or for which an easement is to be given to the City for park or other recreational purposes shall be completed by subdivider and acceptable to the Director of Parks and Recreation and shall be free and clear of any lien, claim, change, or encumbrance including any for work, labor, or services rendered in connection therewith or material or equipment supplies therefor. Subdivider shall warrant and guarantee the improvements against any defect in materials or workmanship for a period of two (2) years following completion and acceptance thereof. In the event of any defect in materials or workmanship within said
two-year period, the warranty and guarantee shall be for a period of three (3) years following said completion and acceptance. Defects in materials or workmanship shall be determined by the Director of Parks and Recreation. Acceptance of improvements by the Director of Parks and Recreation may be subject to such conditions as he may impose at the time of acceptance. Subdivider through his engineer shall provide for competent daily inspection during the construction of all improvements. Prior to final plat approval or issuance of any building permit if no final plat is required, subdivider shall submit a bond or letter of credit which guarantees completion of all improvements within the times provided, upon the conditions, and in accordance with the terms of this Subdivision including but not limited to a guarantee against defects in materials and workmanship for a period of two (2) years following completion and the extension of the period to three (3) years in the event of any defect during said two-year period. The amount of the bond or letter of credit shall be 125% of the estimated construction cost of said improvements subject to reduction thereof to an amount equal to 25% of the cost of the improvements after acceptance thereof by the Director of Parks and Recreation. The amount of the bond or letter of credit shall be in such form and contain such other provisions and terms as may be required by the Director of Parks and Recreation. The subdivider's registered engineer shall make and submit for approval to the Director of Parks and Recreation a written estimate of the costs of the improvements.

Source: Ordinance No. 73-84
Effective Date: 4-5-84

SECTION 12.41. MINI-PARKS.

Subd. 1. "Mini-Park" is a specialized park, playground or open space which serves a concentrated population or specific group of persons such as those residing in the immediate neighborhood and may be located in or adjacent to apartment complex developments, townhouse developments and single family developments that are not in close proximity to a neighborhood park. The land area may but shall not necessarily be limited to one (1) to five (5) acres in size.

Subd. 2. The Council recognizes that it is essential to the health, safety and welfare of the residents of the City that mini-parks be provided to serve the immediate neighborhoods. The preservation of those open spaces within specific neighborhoods, especially in areas of high density, is essential to maintaining a healthful and desirable environment for the residents of the City.

Subd. 3. An owner requesting subdivision of land for construction and maintenance thereon of fifty (50) or more residential units may be required to dedicate a reasonable portion of such land to the City for public use as a mini-park in addition to the dedication of land or the contribution of cash in lieu thereof pursuant to Section 12.40. A reasonable portion of such land shall consist of that portion which the City will need for mini-park purposes as a result of the approval of the subdivision and, unless otherwise determined by the City upon a showing by the subdivider, shall consist of a minimum of one acre for each fifty (50) residential units and a proportionate part of an acre for any additional residential units less than fifty (50) provided, however, no dedication of land for a mini-park shall be required if the total number of residential units to be constructed on the land shall be less than fifty (50). When an owner dedicates land to the City for a mini-park, the land encompassed in the mini-park shall be included in the total land utilized in the calculation of densities pursuant to Chapter 11.

Subd. 4. The City may determine the location and configuration of any land dedicated to the City for a mini-park.

Subd. 5. The owner shall develop any mini-park dedicated in accordance with City specifications, shall preserve existing trees whenever possible and shall make use of natural resources such as large boulders in the development.

Source: City Code
Effective Date: 9-17-84

(Sections 12.42 through 12.49, inclusive, reserved for future expansion.)
SECTION 12.50. REQUIRED IMPROVEMENTS ON THE SITE.

Subd. 1. All sanitary sewer, water main and storm sewer facilities, streets, concrete curb, gutters, sidewalks, sodding, drainage swales and other public utilities (improvements) shall be made and constructed on or within the subdivided lands or where otherwise required and dedicated to the City and shall be designed in compliance with City standards by a registered professional engineer. Plans and specifications shall be submitted to the City Engineer for approval prior to construction. All of the improvements shall be completed by the subdivider and acceptable to the City Engineer and shall be free and clear of any lien, claim, charge or encumbrance, including any for work, labor or services rendered in connection therewith or material or equipment supplied therefor. Subdivider shall warrant and guarantee the improvements against any defect in materials or workmanship for a period of two (2) years following completion and acceptance thereof. In the event of the existence of any defect in materials or workmanship within said two-year period, the warranty and guarantee shall be for a period of three (3) years following said completion and acceptance. Defects in material or workmanship shall be determined by the City Engineer. Acceptance of improvements by the City Engineer may be subject to such reasonable conditions as he may impose at the time of acceptance. Subdivider through his engineer shall provide for competent daily inspection during the construction of all improvements. Asbuilt drawings with service and valve ties on reproducible mylar shall be delivered to the City Engineer within sixty (60) days of completion of the improvements together with a written certification from a registered engineer that all improvements have been completed, inspected and tested in accordance with City-approved plans and specifications.

Source: Ordinance No. 73-84
Effective Date: 4-5-84

Subd. 2. Subdivider shall remove all soil and debris from and clean all streets within the lands subdivided at least every two (2) months (or within one (1) week from the date of any request by City) during the period commencing May 1 and ending October 31 of each year until such time as such streets and improvements are accepted for ownership and maintenance by the City. In the event there are or will be constructed on the property two (2) or more streets and if permanent street signs have not been installed, subdivider shall install temporary street signs in accordance with recommendations of the Public Safety Services Area/Inspections Division prior to the issuance of any permit to build upon the property.

Subd. 3. Within twenty (20) days of installation of utilities and street curbs in any portion of the land subdivided (if said time occurs between May 1 and October 31 of any year), subdivider shall sod (secured with a minimum of two (2) stakes per roll of sod) that part of the property lying between said curb and a line eighteen (18) inches measured perpendicular with the curb or in lieu of said sod place a fiber blanket with seed approved by the City (secured with stakes a maximum of six (6) feet apart). Either sod or fiber must be placed upon a minimum of four (4) inches of topsoil. The topsoil shall be level with the top of the curb at the curb line and rise 1/2” for each foot from the curb line. Subdivider shall maintain the sod, fiber blanket, topsoil, and grade until such time as the streets and improvements in the land subdivided are accepted for ownership and maintenance by the City. Subdivider shall also sod all drainage swales serving each 1.5 acres a minimum distance of six (6) feet on either side of the center of the swale.

Subd. 4. Subsequent to approval by the Council and before execution by the City of the final plat or other appropriate forms of City approval, subdivider shall:

A. Execute and deliver to the City an agreement whereby subdivider shall undertake performance of the obligations imposed by this Chapter and containing such other terms and provisions and in such form as shall be acceptable to City.

Source: City Code
Effective Date: 9-17-82

B. Submit a bond, letter of credit or cash deposit ("security") which guarantees completion of all improvements within the times specified by the City Engineer and in accordance with the terms of Section 12.50, Subdivisions 1 through 4. The amount of the security shall be 125% of the estimated construction cost of said improvement subject to reduction thereof to an amount equal to 25% of the cost of the improvements after acceptance thereof.
by the City Engineer and receipt of asbuilt drawings. The security shall be in such form and contain such other provisions and terms as may be required by the City Engineer. The subdivider's registered engineer shall make and submit for approval to the City Engineer a written estimate of the costs of the improvements.

Subd. 5. With the approval of the Council and in lieu of the obligations imposed by Subdivisions 1 through 4 above, subdivider may submit a 100% petition signed by all owners of the land to be subdivided requesting the City to install some or all of the improvements. Upon approval by the Council, the City may cause said improvements to be made and special assessments for all costs of said improvements to be levied on the land except any land which is or shall be dedicated to the public. Such special assessment shall be payable over a term of five (5) years unless otherwise authorized by the Council. Prior to the award of any contract by the City for the construction of any improvement, subdivider shall have entered into a contract for rough grading of streets included in the improvement to a finished subgrade elevation. Subdivider's obligation with respect to the rough grading work shall be secured by a bond, letter of credit or such deposit which shall guarantee completion and payment for all labor and materials expended in connection with the rough grading. The amount of the security shall be 125% of the cost of such rough grading and shall be in such form and contain such further terms as may be required by the City Engineer.

Source: Ordinance No. 73-84
Effective Date: 4-5-84

(SECTIONS 12.51 THROUGH 12.59, INCLUSIVE, RESERVED FOR FUTURE EXPANSION.)

SECTION 12.60. MODIFICATIONS, EXCEPTIONS AND VARIANCES.

Subd. 1. Complete Neighborhood. The Council, upon receiving a report from the Planning Commission, may grant a variance from these regulations in case of a subdivision large enough to constitute a more or less self-contained neighborhood provided the Council received adequate safeguards to assure development according to a plan. Said plan shall not be in conflict with the major street plan and shall in the opinion of the Council provide adequate public open space and be a desirable community development.

Subd. 2. Variances. The Council may grant a variance from the requirements of this Chapter where a subdivision is approved in conjunction with a Planned Unit Development pursuant to Chapter 11 or in any case where the subdivider can show that because of exceptional topography or other special conditions the strict compliance with these regulations could cause undue hardship provided such relief may be granted without detriment to the public welfare and without impairing the intent and purpose of these regulations.

Source: Ordinance No. 2-2016
Effective Date: 1-14-2016

SECTION 12.61. BUILDING PERMITS.

No building permit shall be issued for the construction of any building, structure or improvement on any platted outlot, or on any land required to be subdivided until all requirements of this Chapter have been satisfactorily addressed.

Source: Ordinance No. 2-2016
Effective Date: 1-14-2016

Source: City Code
Effective Date: 9-17-82

(SECTIONS 12.62 THROUGH 12.98, INCLUSIVE, RESERVED FOR FUTURE EXPANSION.)

SECTION 12.99. VIOLATION A MISDEMEANOR.

Every person violates a section, subdivision, paragraph or provision of this Chapter when he or she performs an act thereby prohibited or declared unlawful or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof.
Source: City Code
Effective Date: 9-17-82
CHAPTER 13

(This Chapter reserved for future expansion.)
(This Chapter reserved for future expansion.)
CHAPTER 15

(This Chapter reserved for future expansion.)
(This Chapter reserved for future expansion.)
CHAPTER 17

(This Chapter reserved for future expansion.)
CHAPTER 18

(This Chapter reserved for future expansion.)
CHAPTER 19

(This Chapter reserved for future expansion.)
(This Chapter reserved for future expansion.)
CHAPTER 21

(This Chapter reserved for future expansion.)
(This Chapter reserved for future expansion.)
(This Chapter reserved for future expansion.)
(This Chapter reserved for future expansion.)
CHAPTER 25

LISTING OF UNCODED ORDINANCES IN EFFECT

The following ordinances described in this Chapter adopted prior to the City Code or thereafter are effective. They are of a permanent and continuing nature, unless repealed or amended.

Vacation of Easements .................................................................................................................. 25-1
Naming of Streets and Roads ......................................................................................................... 25-1
Cable TV Franchise ......................................................................................................................... 25-2
Utility Franchise ............................................................................................................................... 25-3
Adoption of Codification .................................................................................................................. 25-3
Definition of “Persons or Families of Moderate Income” ............................................................ 25-3
Establishing Fairway Woods II Condominium Association Housing Improvement Area .......... 25-3
Establishing the Edenvale Highlands Housing Improvement Area ............................................... 25-3
Interim Ordinances ......................................................................................................................... 25-3
Zoning Amendments ....................................................................................................................... 25-4
Fee Schedule for Administration of Official Controls .................................................................... 25-28
VACATION OF EASEMENTS

Ordinance No. 128, adopted January 14, 1969, vacated utility and drainage easement in Lot 1, Block 1, McKinley First Addition.

NAMING OF STREETS AND ROADS

Ordinance No. 96, adopted February, 1967, named roads and streets within the Village.

Ordinance No. 109, adopted January 9, 1968, named roads and streets within the Village.

Ordinance No. 232, adopted September 11, 1973, changed name of Atherton Road to Chestnut Drive.

Ordinance No. 348, adopted November 2, 1976, changed street names in Westgate Addition.

Ordinance No. 77-32, adopted October 18, 1977, changed Garrison Way to Amsden Way.

Ordinance No. 78-44, adopted June 20, 1978, changed street names within the City.

Ordinance No. 78-54, adopted January 2, 1979, changed Cartway to West 180th Avenue.

Ordinance No. 79-38, adopted December 15, 1979, changed Bertyl Court to Bentley Court.


Ordinance No. 82-10, adopted May 18, 1982, changed names within Major Center Area.

Ordinance No. 13-82, adopted November 16, 1982, changed portion of Kurtz Lane to Hallmark Drive.

Ordinance No. 14-82, adopted November 16, 1982, effective July 1, 1984, renamed portion of Valley View Road to Roberts Drive.

Ordinance No. 15-82, adopted December 7, 1982, renamed Flying Cloud Drive to Bryant Lake Drive.

Ordinance No. 6-83, adopted April 19, 1983, renamed Bryant Lane to Century Lane.

Ordinance No. 7-83, adopted April 19, 1983, renamed roads and streets within the City.

Ordinance No. 1-85, adopted February 5, 1985, renamed South Shore Lane between Ticonderoga Trail and Muirfield Addition to South Shore Lane West.

Ordinance No. 6-85, adopted March 5, 1985, renamed Birch Island Road between Edenvale Boulevard and County Road 67 to Indian Chief Road.

Ordinance No. 41-85, adopted December 3, 1985, renamed West 66th Street, as shown in the recorded plats of Kings Forest Addition to Stevens Heights and Ponderosa Hills in Section 3, Township 116, Range 22, Hennepin County, MN, to Tanager Lane.

Ordinance No. 15-86, adopted April 1, 1986, renamed West 78th Street west of TH 169 to Prairie Center Drive.

Ordinance No. 48-87, adopted October 6, 1987, renamed Appaloosa Lane to Tree Farm Road.

Ordinance No. 8-92, adopted April 7, 1992, renamed a segment of Equitable Drive to Anagram Drive.
NAMING OF STREETS AND ROADS (Continued)

Ordinance No. 35-95, adopted November 7, 1995, renamed Fossil Road to Boulder Pointe Road.

Ordinance No. 36-95, adopted November 7, 1995, renamed a segment of City West Parkway to Old Shady Oak Road.

Ordinance No. 6-96, adopted February 20, 1996, named the service/frontage road paralleling County Road 18 from Riverview Road to Anderson Lakes Parkway as Hennepin Town Road.

Ordinance No. 37-99, adopted November 2, 1999, renamed a segment of Kurtz Lane to Addie Lane.

Ordinance No. 7-2000, adopted February 15, 2000, renamed a part of Dell Road, south of Pioneer Trail to Stable Path.

Ordinance No. 34-2004, adopted December 21, 2004, renamed a part of Spring Road to Mitchell Road.

Ordinance 7-2005, adopted March 15, 2005, renamed a part of Fuller Road to West 79th Street

Ordinance 5-2013, adopted February 28, 2013, renamed Cochran Lane to Martin Drive

CABLE TV FRANCHISE

Ordinance No. 80-33, adopted January 6, 1981, granted franchise to Minnesota Cable System-Southwest, to operate and maintain a cable communication system for a period of fifteen (15) years.


Ordinance No. 12-85, adopted June 4, 1985, modified the requirements of Ordinance No. 80-33. (Repealed by Ordinance No. 37-91)


Ordinance No. 57-88, adopted December 20, 1988, amended Ordinance No. 12-85. (Repealed by Ordinance No. 37-91)


Ordinance No. 52-96, adopted December 3, 1996, granted a cable franchise to KBL Cable Systems of the Southwest Inc. dba Paragon Cable for fifteen (15) years.

Ordinance No. 53-96, adopted December 3, 1996, provided the franchising process and requirements for all cable operators within the City of Eden Prairie.

Ordinance No. 2-2001, adopted January 16, 2001, granted a cable franchise to Everest Minnesota, LLC.

Ordinance No. 3-2001, adopted January 16, 2001, granted a cable franchise to WideOpenWest Minnesota, LLC.


Ordinance 22-2001, adopted July 10, 2001, repealing Ordinance 3-200, WideOpenWest Minnesota, LLC.

Ordinance 3-2016, adopted February 2, 2016, granted a cable franchise to CenturyLink.
UTILITY FRANCHISE


ADOPTION OF CODIFICATION


DEFINITION OF “PERSONS OR FAMILIES OF MODERATE INCOME”

Ordinance No. 32-2002, adopted November 12, 2002, adopted the definition of “Person or Families of Moderate Income.”

ESTABLISHING FAIRWAY WOODS II CONDOMINIUM ASSOC. HOUSING IMPROVEMENT AREA


ESTABLISHING THE EDENVALE HIGHLANDS HOUSING IMPROVEMENT AREA

Ordinance 15-2014, adopted June 29, 2014 to establish a housing improvement area.

INTERIM ORDINANCES

Ordinance No. 10-2006, adopted March 21, 2006, adopted an Interim Ordinance temporarily prohibiting development in areas designated as public/quasi-public which are used as a golf course.

 Ordinance 9-2007, adopted February 20, 2007, adopted an Interim Ordinance of the City of Eden Prairie, Minnesota, temporarily prohibiting the installation, construction reconstruction, expansion, erection, placement, or display of any sign displaying animation or electronically changing images or messages within the city.

 Ordinance 4-2014, adopted February 18, 2014, adopted an Interim Ordinance of the City of Eden Prairie, Minnesota, temporarily prohibiting all hookah lounges, e cigarette lounges, related lounges and e cigarette sampling; adopting enforcement provisions.

ZONING AMENDMENTS

Ordinances by which zoning amendments are made subsequent to November 6, 1969, are hereby retained. Where popular names appear on such ordinances, no further description is deemed necessary. In all instances reference should be made to the actual ordinance for details.

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<td>17-2008</td>
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<td>Ground Storage Water Reservoir and Pump House</td>
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FEE SCHEDULE FOR ADMINISTRATION OF OFFICIAL CONTROLS

The following fees are prescribed for the review, investigation and administration of an application for an amendment to an official control established pursuant to Minnesota Statute Sections 462.351 to 462.364 or an application for a permit or other approval required under an official control established pursuant to those sections:

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<th>DESCRIPTION</th>
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<td>Demolishing or Razing Buildings - Garage</td>
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<tr>
<td>SERVICE</td>
<td>FEE</td>
<td>DESCRIPTION</td>
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</tr>
<tr>
<td><strong>CONDITIONAL USE PERMITS</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Conditional Use Permit Fees</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Historic Properties</td>
<td>$560.00</td>
<td></td>
</tr>
<tr>
<td>Wireless Support Structures</td>
<td>$560.00</td>
<td></td>
</tr>
<tr>
<td><strong>DEVELOPMENT</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Community Development Deposit</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>0 to 40 Acres</td>
<td>$4,700.00</td>
<td>A development deposit agreement is required for planned unit developments, planned unit development amendments, rezoning, platting, site plan review, guide plan changes, development deposit amendments, conditional use permits, and environmental assessment worksheets.</td>
</tr>
<tr>
<td>41 to 80 acres</td>
<td>$4,900.00</td>
<td></td>
</tr>
<tr>
<td>81+ acres</td>
<td>$5,600.00</td>
<td></td>
</tr>
<tr>
<td><strong>Guide Plan Charge</strong></td>
<td>$830.00</td>
<td>Plus $5.00 per acre</td>
</tr>
<tr>
<td><strong>Planned Unit Development (P.U.D) Fee</strong></td>
<td>$890.00</td>
<td>Plus $5.00 per acre</td>
</tr>
<tr>
<td><strong>Planned Unit Development Amendment</strong></td>
<td>$890.00</td>
<td>Plus $5.00 per acre</td>
</tr>
<tr>
<td><strong>Platting</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Residential-0 to 10 units</td>
<td>$570.00</td>
<td>Plus $5.00 per unit</td>
</tr>
<tr>
<td>Residential-11 or more</td>
<td>$680.00</td>
<td>Plus $5.00 per unit</td>
</tr>
<tr>
<td>Commercial, Industrial, Office, Public-0 to 3 acres</td>
<td>$570.00</td>
<td>Plus $25.00 per acre</td>
</tr>
<tr>
<td>Commercial, Industrial, Office, Public-3.1 or more acres</td>
<td>$680.00</td>
<td>Plus $25.00 per acre</td>
</tr>
<tr>
<td>Minor Subdivision</td>
<td>$385.00</td>
<td></td>
</tr>
<tr>
<td>Administration Subdivision</td>
<td>$125.00</td>
<td></td>
</tr>
<tr>
<td>Lot Line Adjustment</td>
<td>$125.00</td>
<td></td>
</tr>
<tr>
<td><strong>Site Plan Review</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Administrative</td>
<td>$410.00</td>
<td></td>
</tr>
<tr>
<td><strong>Site Plan Review (City Council)</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Multi-Family-0 to 10 units</td>
<td>$570.00</td>
<td>Plus $5.00 per unit</td>
</tr>
<tr>
<td>Multi-Family-11 or more units</td>
<td>$670.00</td>
<td>Plus $5.00 per unit</td>
</tr>
<tr>
<td>Commercial, Industrial, Office, Public-0 to 3 acres</td>
<td>$570.00</td>
<td>Plus $25.00 per acre</td>
</tr>
<tr>
<td>Commercial, Industrial, Office, Public-3.1 or more acres</td>
<td>$670.00</td>
<td>Plus $25.00 per acre</td>
</tr>
<tr>
<td><strong>Development Agreement Amendment</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Development Agreement Amendment</td>
<td>$510.00</td>
<td></td>
</tr>
<tr>
<td><strong>Tree Replacement</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tree Replacement Fee</td>
<td>$125.00</td>
<td>per caliper inch</td>
</tr>
<tr>
<td><strong>ZONING AMENDMENTS, VARIANCES and APPEALS</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Zoning Amendment</td>
<td>$340.00</td>
<td></td>
</tr>
<tr>
<td>SERVICE</td>
<td>FEE</td>
<td>DESCRIPTION</td>
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<tr>
<td>---------</td>
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<td>-----------------------------------------------------------------------------</td>
</tr>
<tr>
<td><strong>Commercial, Industrial, Office, Public</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>0-3 acres</td>
<td>$570.00</td>
<td>Plus $25.00 per acre</td>
</tr>
<tr>
<td>3.1 or more acres</td>
<td>$690.00</td>
<td>Plus $25.00 per acre</td>
</tr>
<tr>
<td><strong>Residential</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>0-10 units</td>
<td>$570.00</td>
<td>Plus $5.00 per unit</td>
</tr>
<tr>
<td>11 or more units</td>
<td>$690.00</td>
<td>Plus $5.00 per unit</td>
</tr>
<tr>
<td><strong>Variances and Appeals</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Variances Residential</td>
<td>$440.00</td>
<td>Includes residential zoned properties for new construction, building additions, decks, porches, garages, accessory structures and variances from all chapters of the City Code</td>
</tr>
<tr>
<td>Variances Other</td>
<td>$680.00</td>
<td>Includes variances associated with properties zoned office, industrial, commercial and residential</td>
</tr>
<tr>
<td>Zoning Appeals</td>
<td>$320.00</td>
<td></td>
</tr>
<tr>
<td><strong>ZONING VERIFICATION</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Zoning Letter Preparation</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Zoning Letter Preparation Fee</td>
<td>$50.00</td>
<td></td>
</tr>
<tr>
<td><strong>ZONING-TELECOMMUNICATIONS</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Commercial Wireless Communications towers and/or antennas</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Administrative</td>
<td>$570.00</td>
<td>Towers and/or antennas meeting code located on private property</td>
</tr>
<tr>
<td>Letter of Intent</td>
<td>$4,700.00 Deposit</td>
<td>Deposit for towers and/or antennas on City property</td>
</tr>
<tr>
<td>Letter of Intent</td>
<td>$8,600.00 Deposit for legal/consultant costs</td>
<td>Additional funds may be required if the balance in the deposit account is inadequate to pay for all of the fees and costs incurred by the City</td>
</tr>
<tr>
<td>Variances required for tower and/or antennas</td>
<td>See Development Fees</td>
<td></td>
</tr>
<tr>
<td>Site Plan Review required for tower and/or antennas</td>
<td>See Development Fees</td>
<td></td>
</tr>
<tr>
<td><strong>ENGINEERING</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Excavation &amp; Grading – Grading Permit Fee / Plan Review Fee</td>
<td></td>
<td></td>
</tr>
<tr>
<td>101 to 500 cubic yards</td>
<td>$140.00</td>
<td></td>
</tr>
<tr>
<td>501 to 1,000 cubic yard</td>
<td>$340.00</td>
<td></td>
</tr>
<tr>
<td>1,001 to 10,000 cubic yards</td>
<td>$620.00</td>
<td></td>
</tr>
<tr>
<td>10,001 to 100,000 cubic yards</td>
<td>$1,250.00</td>
<td></td>
</tr>
<tr>
<td>100,001 or more</td>
<td>$2,500.00</td>
<td></td>
</tr>
<tr>
<td><em>The following fees are the total hourly cost to the jurisdiction. This cost shall include supervision, overhead, equipment, hourly wages, and fringe benefits of the employees involved.</em></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Additional plan review fees</td>
<td>$110.00*</td>
<td>Minimum charge is one half hour, required by changes, additions or revisions to approve plans</td>
</tr>
<tr>
<td>Reinspection fee</td>
<td>$110.00*</td>
<td>Minimum charge is one half hour, required by changes, additions or revisions to approve plans</td>
</tr>
<tr>
<td><strong>Public Right-of Way or Easement Vacation</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Application and Processing Fee:</td>
<td>$700.00</td>
<td>Per transaction / for vacating the City’s interest in real property, including right-of-way and</td>
</tr>
</tbody>
</table>

25-30
<table>
<thead>
<tr>
<th>SERVICE</th>
<th>FEE</th>
<th>DESCRIPTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 to 3 parcels</td>
<td></td>
<td>easements (for consultation, review, notice mailing, publication of notice and recording)</td>
</tr>
<tr>
<td>Application and Processing Fee:</td>
<td>$1,100.00</td>
<td>Per transaction / for vacating the City’s interest in real property, including right-of-way and easements (for consultation, review, notice mailing, publication of notice and recording)</td>
</tr>
<tr>
<td>4 or more parcels</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Signs</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Up to 30 sq ft in size</td>
<td>$90.00</td>
<td></td>
</tr>
<tr>
<td>31 sq ft through 50 sq ft in size</td>
<td>$110.00</td>
<td></td>
</tr>
<tr>
<td>51 sq ft through 80 sq ft in size</td>
<td>$135.00</td>
<td></td>
</tr>
<tr>
<td>81 sq ft or over</td>
<td>$170.00</td>
<td></td>
</tr>
<tr>
<td>Charge for returning picked up signs</td>
<td>$30.00</td>
<td><strong>The surface of double or multi-forced signs shall be combined for the purpose of determining the amount of the fee.</strong></td>
</tr>
<tr>
<td>Engineering Land Development Services, including Plan Review, Contract Administration, and Inspection Review</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5% multiplied by the total construction cost</td>
<td></td>
<td>Not applicable to projects built by city through special assessment. Costs include public infrastructure improvements (excluding grading costs), subject to approval by City Engineer payable prior to start-up.</td>
</tr>
<tr>
<td>Final Plat</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Residential</td>
<td>$80.00</td>
<td>Per unit / Minimum $400.00 plus cost of review by special assessment.</td>
</tr>
<tr>
<td>Commercial, Industrial, Office and Public</td>
<td>$200.00</td>
<td>Per acre / Minimum $400.00</td>
</tr>
<tr>
<td>LGU Review</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Min. Payment is $220. Plus cost of review by special consultants necessary as determined by the City Manager. The deposit, or a portion thereof, will be refunded after final City Council action on the Development Application if the total sum deposited is greater than the administrative review cost or if no City Council action is required the deposit will be refunded after all site review and monitoring activities are complete. All costs incurred by the City or their consultant</td>
<td>$110.00 per hour</td>
<td></td>
</tr>
<tr>
<td>SERVICE</td>
<td>FEE</td>
<td>DESCRIPTION</td>
</tr>
<tr>
<td>----------------------------------------------</td>
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<td>--------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>that exceed the cash deposit balance will be billed to the applicant.</td>
<td></td>
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</tr>
<tr>
<td><strong>LGU Deposit-Plan Review</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>An LGU deposit agreement is required for wetland alteration, wetland replacement, wetland restoration and/or wetland bank plan reviews</td>
<td>$5,000.00</td>
<td></td>
</tr>
<tr>
<td><strong>LGU Deposit – Site Review</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Single Family Residential</td>
<td>$200.00</td>
<td>An LGU deposit agreement is required for review of wetland delineations or wetland determinations on single family residential properties.</td>
</tr>
<tr>
<td>Site Review or Development Review</td>
<td>$1,600.00</td>
<td>An LGU deposit agreement is required for site review and/or wetland delineation review.</td>
</tr>
<tr>
<td><strong>Floodplain</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Application for FEMA Letter of Map Amendment (LOMA) using LiDAR Elevation Data</td>
<td>$75.00</td>
<td></td>
</tr>
<tr>
<td>Application for FEMA Letter of Map Amendment Out as Shown (LOMA-OAS)</td>
<td>$50.00</td>
<td></td>
</tr>
<tr>
<td>FEMA Parcel Map with Base Flood Elevation and Lowest Adjacent Grades</td>
<td>no cost</td>
<td></td>
</tr>
<tr>
<td><strong>Environmental Assessment Worksheet</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Environmental Assessment Worksheet (E.A.W.)</td>
<td>$550.00</td>
<td>Plus $10/acre</td>
</tr>
<tr>
<td><strong>Shoreland Management Ordinance Permits</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Temporary structure in public waters</td>
<td>$125.00</td>
<td></td>
</tr>
<tr>
<td>Change in structure in public waters</td>
<td>$125.00</td>
<td></td>
</tr>
<tr>
<td>Multiple dock or dock excess of 75'</td>
<td>$125.00</td>
<td></td>
</tr>
</tbody>
</table>

Source: Ordinance 29-2018  
Effective Date: 1-1-2019

Previous Ordinances  
Ordinance 24-2005  
Ordinance 29-2006  
Ordinance 27-2007  
Ordinance 27-2008  
Ordinance 11-2009  
Ordinance 19-2010  
Ordinance 16-2011
Ordinance 37-2012
Ordinance 21-2013
Ordinance 25-2014
Ordinance 21-2015
Ordinance 31-2016
Ordinance 23-2017