Falcon Heights, Minnesota
City Code

Published by the authority and direction of the Mayor and City Council of the City of Falcon Heights.

Randall Gustafson	Mayor
Melanie Leehy	Councilmember
Eric Meyer	Councilmember
Jim Wassenberg	Councilmember
Paula Mielke	Councilmember

Adopted January 24, 2007

PREFACE

This Code constitutes a recodification of the general and permanent ordinances of the City of Falcon Heights, Minnesota.

Source materials used in the preparation of the Code were the 1993 Code and ordinances subsequently adopted by the city council. The source of each section is included in the history note appearing in parentheses at the end thereof. The absence of such a note indicates that the section is new and was adopted for the first time with the adoption of the Code. By use of the comparative tables appearing in the back of this Code, the reader can locate any section of the 1993 Code and any subsequent ordinance included herein.

This City Code of the City of Falcon Heights, as supplemented, contains ordinances up to and including Ordinance 24-02 passed July 10, 2024. Ordinances of the city adopted after said ordinance supersede the provisions of this city code to the extent that they are in conflict or inconsistent therewith. Consult the office of the City Administrator in order to ascertain whether any particular provision of the code has been amended, superseded or repealed.

Table of Contents

ADOPTING ORDINANCE

ORDINANCE NO. 07-04

An Ordinance Adopting and Enacting a New Code for the City of Falcon Heights, Minnesota; Providing for the Repeal of Certain Ordinances Not Included Therein; Providing for the Manner of Amending Such Code; and Providing When Such Code and This Ordinance Shall Become Effective.

The City Council of Falcon Heights Ordains as Follows:

Section 1. The Code entitled "Falcon Heights, Minnesota City Code" published by Municipal Code Corporation, consisting of chapters 1 through 113, each inclusive, is adopted.

Section 2. All ordinances of a general and permanent nature enacted on or before September 13, 2006, with the exception of Ordinance No. 01-01, and not included in the Code or recognized and continued in force by reference therein, are repealed.

Section 3. The repeal provided for in section 2 hereof shall not be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance that is repealed by this ordinance.

Section 4. Additions or amendments to the Code when passed in such form as to indicate the intention of the city council to make the same a part of the Code shall be deemed to be incorporated in the Code, so that reference to the Code includes the additions and amendments.

Section 5. Ordinances adopted after September 13, 2006, that amend or refer to ordinances that have been codified in the Code shall be construed as if they amend or refer to like provisions of the Code.

Section 6. This Ordinance shall take effect and be enforced from and after its passage and publication.

Adopted by the City Council of Falcon Heights this day of 24th day of January, 2007.

City of Falcon Heights

/s/ _____
Mayor

ATTEST:

/s/ _____
City Administrator/Clerk

Chapter 1 - GENERAL PROVISIONS

Article/Division/Section:

Sec. 1-1 - How Code designated and cited

The ordinances embraced in this and the following chapters shall constitute and be designated the "Falcon Heights, Minnesota City Code" and may be so cited. Such ordinances may also be cited as the "Falcon Heights Code."

State Law reference – Codification of ordinances, Minn. Stats. § 415.021.

Sec. 1-2 - Definitions and rules of construction

The following definitions and rules of construction shall apply to this Code and to all ordinances and resolutions unless the context requires otherwise:

Generally. When provisions conflict, the specific shall prevail over the general. All provisions shall be liberally construed so that the intent of the city council may be effectuated. Words and phrases shall be construed according to the common and approved usage of the language, but technical words, technical phrases and words and phrases that have acquired peculiar and appropriate meanings in law shall be construed according to such meanings. Grammatical errors shall not vitiate, and a transposition of words and clauses may be resorted to when the sentence or clause is without meaning as it stands.

City. The term "city" means the City of Falcon Heights, Minnesota.

City council, council. The term "city council" or "council" means the council of the City of Falcon Heights, Minnesota.

Code. The term "Code" means the Falcon Heights, Minnesota City Code, as designated in section 1-1.

Conjunctions. In a provision involving two or more items, conditions, provisions or events, which items, conditions, provisions or events are connected by the conjunction "and," "or" or

"either . . . or," the conjunction shall be interpreted as follows, except that when appropriate from the context, the terms "and" and "or" are interchangeable:

(1) "And" indicates that all the connected terms, conditions, provisions or events apply.

(2) "Or" indicates that the connected terms, conditions, provisions or events apply singly or in any combination.

(3) "Either . . . or" indicates that the connected terms, conditions, provisions or events apply singly but not in combination.

County. The term "county" means Ramsey County, Minnesota.

Delegation of authority. A provision that authorizes or requires a city officer or city employee to perform an act or make a decision authorizes such officer or employee to act or make a decision through subordinates.

Following. The term "following" means next after.

Gender. Words of one gender include all other genders.

Includes. The term "includes" does not limit a term to a specified example.

Joint authority. Words giving a joint authority to three or more persons give such authority to a majority of such persons.

May. The term "may" is to be construed as being permissive and not mandatory.

May not. The term "may not" states a prohibition.

Minn. Stat., Minn. Stats. The abbreviations "Minn. Stat." and "Minn. Stats." mean the Minnesota Statutes, as amended.

Month. The term "month" means a calendar month.

Must. The term "must" shall be construed as being mandatory.

Number. Words in the singular include the plural. Words in the plural include the singular.

Oath. A solemn affirmation is the equivalent to an oath and a person shall be deemed to have sworn if such person makes such an affirmation.

Officers, departments, etc. References to officers, departments, boards, commissions or employees are to city officers, city departments, city boards, city commissions and city employees.

Owner. The term "owner," as applied to property, includes any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety of the whole or part of such property.

Person. The term "person" means any human being, any governmental or political subdivision or public agency, any public or private corporation, any partnership, any firm, association or other organization, any receiver, trustee, assignee, agent, or other legal representative of any of the foregoing or any other legal entity.

Personal property. The term "personal property" means any property other than real property.

Preceding. The term "preceding" means next before.

Premises. The term "premises," as applied to real property, includes land and structures.

Property. The term "property" includes real property, personal property and mixed property.

Real property, real estate, land, lands. The terms "real property," "real estate," and "land" include lands, buildings, tenements and hereditaments and all rights and interests therein except chattel interests.

Shall. The term "shall" is to be construed as being mandatory.

Sidewalk. The term "sidewalk" means that portion of a street between the curblines, or the lateral lines of a roadway where there is no curb, and the adjacent property line, intended for the use of pedestrians. If there is no public area between the lateral lines of the roadway and the abutting property line, then the area immediately abutting the street line shall be construed as the sidewalk.

Signature or subscription by mark. The term "signature" or "subscription" includes a mark when the signer or subscriber cannot write. In such situations, such person's name shall be written near the mark by a witness who writes his or her own name near such person's name.

State. The term "state" means the State of Minnesota.

Street. The term "street" means any alley, avenue, boulevard, highway, road, lane, viaduct, bridge and the approach thereto, and any other public thoroughfare in the city. The term "street" also means the entire width thereof between abutting property lines. The term "street" includes a sidewalk or footpath.

Tenant, occupant. The term "tenant" or "occupant," as applied to a building or land, includes:

(1) Any person holding either alone or with others a written or oral lease of such building or land.

(2) Any person who either alone or with others occupies such building or land.

Tenses. The present tense includes the past and future tenses. The future tense includes the present tense.

Writing. The term "writing" includes any form of recorded message capable of comprehension by ordinary visual means. Whenever any notice, report, statement or record is authorized or required, it shall be made in writing in the English language.

Year. The term "year" means a calendar year.

(Code 1993, § 1-1.02)

Sec. 1-3 - Computation of time

(a) When the term "successive weeks" is used in any ordinance providing for the publication of notices, the word "weeks" shall be construed as calendar weeks. The publication upon any day of such weeks shall be sufficient publication for that week, but at least five days shall elapse between each publication. At least the number of weeks specified in "successive

weeks" shall elapse between the first publication and the day for the happening of the event for which the publication is made.

(b) When in any ordinance the lapse of a number of months before or after a certain day is required, such number of months shall be computed by counting the months from such day, excluding the calendar month in which such day occurs, and including the day of the month in which the last month so counted having the same numerical order as the day of the month from which the computation is made, unless there be not so many days in the last month so counted, in which case the period computed shall expire with the last day of the month so counted.

(c) Where the performance or doing of any act, duty, matter, payment or thing is ordered or directed, and the period of time or duration for the performance or doing thereof is prescribed and fixed by law or ordinance, the time, except as otherwise provided in subsections (a) and (b) of this section, shall be computed so as to exclude the first and include the last day of the prescribed or fixed period or duration of time. When the last day of the period falls on a Saturday, Sunday or legal holiday, that day shall be omitted from the computation.

(d) When an application, payment, return, claim, statement or other document is to be delivered to or filed with a department, agency or instrumentality of the city on or before a prescribed date and the prescribed date falls on a Saturday, Sunday or legal holiday, it is timely delivered or filed if it is delivered or filed on the next succeeding day which is not a Saturday, Sunday or legal holiday.

State Law reference – Similar provisions, Minn. Stats. §§ 645.13 – 645.151.

Sec. 1-4 - Catchlines of sections; history notes; references

(a) The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the section and are not titles of such sections, or of any part of the section, nor unless expressly so provided shall they be so deemed when any such section, including the catchline, is amended or reenacted.

(b) The history or source notes appearing in parentheses after sections in this Code have no legal effect and only indicate legislative history. Editor's notes and state law references that appear in this Code after sections or subsections or that otherwise appear in footnote form are provided for the convenience of the user of the Code and have no legal effect.

(c) Unless specified otherwise, all references to chapters or sections are to chapters or sections of this Code.

(Code 1993, § 1-1.04)

State Law reference – Similar provisions, Minn. Stats. § 645.49.

Sec. 1-5 - Effect of repeal of ordinances

(a) Unless specifically provided otherwise, the repeal of an ordinance does not revive any repealed ordinance.

(b) The repeal or amendment of an ordinance does not affect any punishment or penalty incurred before the repeal took effect, nor does such repeal or amendment affect any suit, prosecution or proceeding pending at the time of the amendment or repeal.

State Law reference – Similar provisions, Minn. Stats. §§ 645.35, 645.36.

Sec. 1-6 - Supplementation of Code

(a) Supplements to this Code shall be prepared and printed whenever authorized or directed by the city. A supplement to this Code shall include all substantive permanent and general parts of ordinances adopted during the period covered by the supplement and all changes made thereby in the Code. The pages of the supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages that have become obsolete or partially obsolete. The new pages shall be so prepared that when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.

(b) In preparing a supplement to this Code, all portions of the Code that have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.

(c) When preparing a supplement to this Code, the person authorized to prepare the supplement may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as necessary to do so in order to embody them into a unified code. For example, the person may:

(1) Arrange the material into appropriate organizational units.

(2) Supply appropriate catchlines, headings and titles for chapters, articles, divisions, subdivisions and sections to be included in the Code and make changes in any such catchlines, headings and titles or in any such catchlines, headings and titles already in the Code.

(3) Assign appropriate numbers to chapters, articles, divisions, subdivisions and sections to be added to the Code.

(4) Where necessary to accommodate new material, change existing numbers assigned to chapters, articles, divisions, subdivisions or sections.

(5) Change the words "this ordinance" or similar words to "this chapter," "this article," "this division," "this subdivision," "this section" or insert section numbers to indicate the sections of the Code that embody the substantive sections of the ordinance incorporated in the Code.

(6) Make other nonsubstantive changes necessary to preserve the original meaning of the ordinances inserted in the Code.

Sec. 1-7 - General penalty; continuing violations

(a) In this section "violation of this Code" means any of the following:

(1) Doing an act that is prohibited or made or declared unlawful, an offense, a violation or a misdemeanor or a petty misdemeanor by ordinance or by rule or regulation authorized by ordinance.

(2) Failure to perform an act that is required to be performed by ordinance or by rule or regulation authorized by ordinance.

(3) Failure to perform an act if the failure is prohibited or is made or declared unlawful, an offense, a violation or a misdemeanor or a petty misdemeanor by ordinance or by rule or regulation authorized by ordinance.

(4) Intentionally aiding, advising, hiring, counseling or conspiring to commit a violation of this Code as defined above.

(b) In this section "violation of this Code" does not include the failure of a city officer or city employee to perform an official duty unless it is specifically provided that the failure to perform the duty is to be punished as provided in this section.

(c) Except as otherwise provided by law or ordinance, a person convicted of a violation of this Code shall be punished by a fine of not more than $1,000.00, imprisonment for a term not exceeding 90 days, or any combination thereof; provided, however, that if the violation is declared to be a petty misdemeanor, the penalty shall be a fine not exceeding $300.00. In any case a person convicted of a violation of this Code shall pay the costs of prosecution.

(d) Except as otherwise provided by law or ordinance:

(1) With respect to violations of this Code that are continuous with respect to time, each day that the violation continues is a separate offense.

(2) With respect to violations that are not continuous with respect to time, each act is a separate offense.

(e) The imposition of a penalty does not prevent suspension or revocation of a license, permit or franchise or other administrative sanctions.

(f) Violations of this Code that are continuous with respect to time are a public nuisance and may be abated by injunctive or other equitable relief. The imposition of a penalty does not prevent injunctive relief.

(Code 1993, §§ 1-4.02, 1-4.03, 1-5.01)

State Law reference – Authorized penalty for ordinance violations, Minn. Stats. §§ 410.33, 412.231, 609.0332, 609.034.

Sec. 1-8 - Severability

The sections, subsections, paragraphs, sentences, clauses and phrases of this Code and all provisions adopted by reference in this Code are severable so that if any section, subsection, paragraph, sentence, clause and phrase of this Code or of any provision adopted by reference in

this Code is declared unconstitutional or invalid by a valid judgment of a court of competent jurisdiction, such judgment shall not affect the validity of any other section, subsection, paragraph, sentence, clause and phrase of this Code or of any provision adopted by reference in this Code, for the council declares that it is its intent that it would have enacted this Code and all provisions adopted by reference in this Code without such invalid or unconstitutional provisions. If any provision of this Code is declared to be inapplicable to specific property by a valid judgment of a court of competent jurisdiction, such judgment shall not restrict the applicability of such provision to other property.

(Code 1993, § 1-6.01)

Sec. 1-9 - Provisions deemed continuation of existing ordinances

The provisions of this Code, insofar as they are substantially the same as legislation previously adopted by the city relating to the same subject matter, shall be construed as restatements and continuations thereof and not as new enactments.

Sec. 1-10 - Code does not affect prior offenses or rights

(a) Nothing in this Code or the ordinance adopting this Code affects any offense or act committed or done, any penalty or forfeiture incurred, or any contract or right established before the effective date of this Code.

(b) The adoption of this Code does not authorize any use or the continuation of any use of a structure or premises in violation of any city ordinance on the effective date of this Code.

(Code 1993, § 1-4.01)

Sec. 1-11 - Certain ordinances not affected by Code

Nothing in this Code or the ordinance adopting this Code affects the validity of any ordinance or portion of an ordinance listed below. Such ordinances continue in full force and effect to the same extent as if published at length in this Code.

(1) Annexing property into the city.

(2) Deannexing property or excluding property from the city.

(3) Providing for salaries or other employee benefits not codified in this Code.

(4) Promising or guaranteeing the payment of money or authorizing the issuance of bonds or other instruments of indebtedness.

(5) Authorizing or approving any contract, deed, or agreement.

(6) Making or approving any appropriation or budget.

(7) Granting any right or franchise.

(8) Vacating any easement or parkland.

(9) Adopting or amending the comprehensive plan.

(10) Levying or imposing any special assessment.

(11) Dedicating, establishing, naming, locating, relocating, opening, paving, widening, repairing or vacating any street.

(12) Establishing the grade of any street or sidewalk.

(13) Dedicating, accepting or vacating any plat or subdivision.

(14) Levying, imposing or otherwise relating to taxes not codified in this Code.

(15) Establishing traffic regulations for specific locations not codified in this Code.

(16) Rezoning specific property.

(17) That is temporary, although general in effect.

(18) That is special, although permanent in effect.

(19) The purpose of which has been accomplished.

Chapter 2 - ADMINISTRATION[1]

Article/Division/Section:

ARTICLE I - IN GENERAL

Secs. 2-1 – 2-18 - Reserved

ARTICLE II - CITY COUNCIL[2]

Sec. 2-19 - Election and term of office

(a) *City elections*. The regular city elections shall be held on the first Tuesday after the first Monday in November in each odd-numbered year.

(b) *Terms of mayor and councilmembers*. The terms of offices of mayor and the four city councilmembers shall be four years. The councilmember terms shall be staggered with two seats open each election.

(Code 1993, § 2-1.01(A), (B))

State Law reference – City elections and terms of office, Minn. Stats. § 412.02 et seq.

Sec. 2-20 - Salaries

(a) *Salary of mayor.* The salary of the mayor shall be $450.00 per month.

(b) *Salaries of city councilmembers*. The salary of each city councilmember shall be $300.00 per month.

(Code 1993, § 2-1.01(C), (D); Ord. No. 0-99-08, 11-3-1999)

State Law reference – Authority to fix salaries of governing body, Minn. Stats. § 415.11.

Sec. 2-21 - Workers' compensation

Pursuant to Minn. Stats. § 176.011, subd. 9, the elected officials of the city are hereby included in the coverage of the Minnesota Workers' Compensation Act (Minn. Stats. ch. 176).

(Code 1993, § 2-1.01)

Secs. 2-22 – 2-45 - Reserved

ARTICLE III - OFFICERS AND EMPLOYEES[3]

Secs. 2-46 – 2-63 - Reserved

ARTICLE IV - DEPARTMENTS

Secs. 2-64 – 2-84 - Reserved

ARTICLE V - FINANCE

Sec. 2-85 - Fees and charges

Fees and charges imposed or required by the city shall be as established by resolution, except as to such fees and charges as are required by state law to be established by ordinance. Any fee or charge fixed by ordinance as of the adoption date of this Code shall continue in full force and effect even though not published in this Code until altered by resolution or ordinance as provided in this section.

Secs. 2-86 – 2-113 - Reserved

ARTICLE VI - BOARDS AND COMMISSIONS

Sec. 2-114 - City commissions

(a) The city council has established the following commissions:

(1) Planning commission.

(2) Parks and recreation commission.

(3) Environment commission.

(4) Community engagement commission.

(Code 1993, § 2-4.01; Ord. No. 98-02, § 1, 4-8-1998; Ord. No. 07-07, § 1, 4-25-2007; Ord. No. 15-01, § 1, 2-11-2015)

Sec. 2-115 - Duties, membership, terms, officers and meetings

(a) *Role of commissions; commissions composition.*

(1) The commissions are designed to serve in an advisory capacity to the city council.

(2) The city commissions shall not consist of more than seven members. The majority of members shall be residents of the city, unless otherwise designated in the administrative manual.

(b) *Specific duties.* Specific duties for each commission are included in the administrative manual.

(c) *Terms, vacancies, oaths.*

(1) The term of office of all commission members shall be three years. Except for appointments to fill a vacancy, an appointment in any year shall be deemed effective as of January 1 of such year for purposes of computing the term. No member shall serve more than two consecutive three-year terms unless otherwise specified in the administrative manual.

(2) Members shall hold office until their successors are appointed. All members shall serve without compensation, but may be reimbursed for expenses as authorized and approved by the city council.

(d) *Removal.* Commission members shall be subject to removal with or without cause, by a four-fifths vote of the city council. Failure to attend meetings regularly shall be one basis for removal.

(e) *Chairperson; officers.* Each commission shall elect a chairperson from among its appointed members for a term of one year. The commissions may create and fill such other offices as determined necessary.

(f) *Meetings, records, reports.* The commissions shall hold scheduled meetings, not less than one per calendar quarter. They shall adopt rules for the transaction of business and shall keep written public records of resolutions, recommendations and findings. On or before February 15 of each year, the commissions shall submit to the council work reports for the preceding calendar year.

(Code 1993, § 2-4.02; Ord. No. 15-01, § 2, 2-11-2015)

State Law reference – Minnesota Open Meeting Law, Minn. Stats. ch. 13D.

Sec. 2-116 - Reserved

Editor's note – Ord. No. 15-01, § 3, adopted February 11, 2015, repealed § 2-116 in its entirety. Former § 2-116 pertained to "Human rights commission," and was derived from Code 1993, § 2-4.03.

Sec. 2-117 - Parks and recreation commission

The park and recreation commission shall serve in an advisory capacity to the city council on all policy matters relating to public parks and facilities and recreation programs.

(Code 1993, § 2-4.04)

Sec. 2-118 - Planning commission

(a) The commission shall be the city planning agency authorized by Minn. Stats. § 462.354, subd. 1.

(b) The duties of the planning commission are:

(1) To guide future development of land, services, and facilities;

(2) To ensure a safe, pleasant and economical environment for residential, commercial, and public activities; and

(3) To promote the public health, safety, and general welfare of the community.

(c) These duties are to be carried out by:

(1) Establishing community objectives and policy;

(2) Making recommendations to the council regarding petitions and applications for rezoning, special use permits, etc.;

(3) Reviewing and making recommendations on all matters relating to or affecting the physical development of the city.

(Code 1993, § 2-4.05; Ord. No. 98-02, § 3, 4-8-1998)

Sec. 2-119 - Community engagement commission

The community engagement commission shall serve in an advisory capacity to the city council regarding the effective, meaningful and equal involvement of Falcon Heights residents in their community. The commission will identify opportunities to collaborate with community, educational, business and social services groups and organizations; identify ways to improve the city's public participation, identify under-represented groups, remove any barriers, and engage and promote increased participation for all residents, businesses, community and neighborhood organizations; review and recommend ways to improve the city's communications efforts so as to facilitate effective two-way communication between the city and all residents, businesses, community and neighborhood organizations; review and recommend ways to help improve resident emergency preparedness and crime prevention programs. The commission shall review complaints of alleged human rights violations occurring within the city and secure equal opportunity for all residents of the city regarding public services, public accommodations, housing, employment and education.

(Ord. No. 07-07, § 2, 4-25-2007; Ord. No. 15-01, § 4, 2-11-2015)

Editor's note – Ord. No. 15-01, § 4, adopted February 11, 2015, amended § 2-119 to read as set out herein. Previously § 2-119 was titled "Neighborhood commission."

Sec. 2-120 - Environment commission

The environment commission shall serve in an advisory capacity to the city council on all policy matters relating to energy use, air quality, recreation and aesthetic appreciation, green infrastructure, water, solid waste, and environmental education.

(Ord. No. 07-07, § 3, 4-25-2007)

Secs. 2-121 – 2-139. - Reserved

ARTICLE VII - BACKGROUND CHECKS

Sec. 2-140 - Applicants for city employment

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 city employment background checks.

Criminal history employment background investigations. The St. Anthony Police Department is hereby required, as the exclusive entity within the city, to do a criminal history background investigation on the applicants for all regular part-time or full-time positions in the

City of Falcon Heights and other positions that work with children, vulnerable adults or require a valid driver's license as an essential qualification of the position. The city's hiring authority may conclude that a background investigation is not needed.

In addition to the St. Anthony Police Department, the city is also required to access criminal data by using the services provided by the bureau of criminal apprehension and paying the associated fee for positions that work with children under the Child Protection Background Check Act (Minn. Stat. § 299C.61 and .62).

In conducting the criminal history background investigation in order to screen employment applicants, the police department is authorized to access data maintained in the Minnesota Bureau of Criminal Apprehension's 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 authority, including the city council, the city administrator or other city staff involved in the hiring process.

Before the investigation is undertaken, the applicant must authorize the police department by written consent to begin the investigation. The written consent must fully comply with the provisions of Minn. Stats. ch. 13 regarding the collection, maintenance and use of the information. Except for the positions set forth in Minn. Stats. § 364.09, the city will not reject an applicant for employment on the basis of the applicant's prior conviction unless the crime is directly related to the position of employment sought and the conviction is for a felony, gross misdemeanor, or misdemeanor with a jail sentence. If the city rejects the applicant for employment 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 Minn. Stats. § 364.06.

(3) The earliest date the applicant may reapply for employment.

(4) That all competent evidence of rehabilitation will be considered upon reapplication.

(Ord. No. 12-08, §§ 1, 2, 9-26-2012)

Editor's note – Ord. No. 12-08, §§ 1, 2, adopted Sept. 26, 2012, repealed § 2-140 and enacted a new § 2-140 to read as set out herein. Former § 2-140 pertained to purpose; procedures and derived from Ord. No. 06-05, § 1, adopted Dec. 13, 2006.

Sec. 2-141 - Applicants for city licenses

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 licensing background checks.

Criminal history license background investigations. The St. Anthony 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:

City licenses:

-Peddler, solicitor and transient merchant;

-Massage therapist;

-Owners of liquor establishments.

In conducting the criminal history background investigation in order to screen license applicants, the police department is authorized to access data maintained in the Minnesota Bureau of Criminal Apprehension's 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 licensing authority, including the city council, the city administrator or other city staff involved in the license approval process.

Before the investigation is undertaken, the applicant must authorize the police department by written consent to begin the investigation. The written consent must fully comply with the provisions of Minn. Stats. ch. 13 regarding the collection, maintenance and use of the information. Except for the positions set forth in Minn. Stats. § 364.09, the city will not reject an applicant for a license on the basis of the applicant's prior conviction unless the crime is directly related to the 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 Minn. Stats. § 364.06.

(3) The earliest date the applicant may reapply for the license.

(4) That all competent evidence of rehabilitation will be considered upon reapplication.

(Ord. No. 12-08, § 3, 9-26-2012)

Secs. 2-142 – 2-149 - Reserved

ARTICLE VIII - DOMESTIC PARTNERS

Sec. 2-150 - Purpose

The City of Falcon Heights 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 or work in Falcon Heights and who share a life together may document their relationship.

Falcon Heights's Domestic Partnership Ordinance is a city ordinance and does not create rights, privileges, or responsibilities that are available to spouses under state or federal law. The City of Falcon Heights 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 and health care employment benefits.

(Ord. No. 11-03, § 1, 7-27-2011)

Sec. 2-151 - Definitions

The following words and phrases used in this Code have the meanings given in this section:

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.

(8) At least one of whom resides in Falcon Heights or is employed in Falcon Heights.

Domestic partnership. The term "domestic partnership" shall include, but not be limited to, upon production of valid, government-issued documentation, in addition to domestic partnerships registered with the City of Falcon Heights, and regardless of whether partners in either circumstance have sought further registration with the City of Falcon Heights:

(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 same-sex unions, regardless of title, in which two same-sex 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.

(Ord. No. 11-03, § 1, 7-27-2011)

Sec. 2-152 - 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.

(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.

(Ord. No. 11-03, § 1, 7-27-2011)

Sec. 2-153 - 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.

(Ord. No. 11-03, § 1, 7-27-2011)

Sec. 2-154 - 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 sends the other partner written notice, on a form provided by the city, that he or she is terminating the partnership and files the notice of termination and an affidavit of service of the notice on the other partner together with a fee with the city clerk.

(Ord. No. 11-03, § 1, 7-27-2011)

Footnotes:

[1] **State Law reference –** Statutory cities, Minn. Stats. ch. 412.

[2] **State Law reference –** City council generally, Minn. Stats. § 412.191.

[3] **State Law reference –** City officers and employees generally, Minn. Stats. § 412.111 et seq.; municipal officers and employees, Minn. Stats. ch. 418; vacancies, resignations and removals from public office, Minn. Stats. ch. 351.

Chapter 6 - ALCOHOLIC BEVERAGES[1]

Article/Division/Section:

ARTICLE I - IN GENERAL

Sec. 6-1 - Provisions of state law adopted

The provisions of the Minnesota Liquor Act, Minn. Stats. ch. 340A, with reference to the definition of the terms, application for license, grant of license, conditions of license, restrictions on consumption, provisions on sales, conditions of bonds or insurance of licensees, hours of sale, and all other matters pertaining to the retail sale distribution, and consumption of alcoholic beverages are adopted and made a part of this section as if fully set out except as modified herein. All future amendments to said chapter are incorporated in this section.

(Code 1993, § 6-1.01)

Secs. 6-2 – 6-22 - Reserved

ARTICLE II. - LICENSES[2]

Sec. 6-23 - Required

Except for alcohol wholesalers and manufacturers and as otherwise provided in state law, no person may directly or indirectly, on any pretense or by any device, sell, barter, keep for sale, or

otherwise dispose of alcoholic beverages as part of a commercial transaction without having obtained a license.

(Code 1993, § 6-1.02)

State Law reference – Certain activities exempt from license, Minn. Stats. § 340A.33 et seq.

Sec. 6-24 - On-sale licenses

(a) *Intoxicating liquor.* On-sale licenses shall be granted only to restaurants and establishments where meals are regularly served at tables to the general public, and have a seating capacity for not less than 30 guests at one time; and where the sale of beverages is incidental to the principal business that is the sale of food. For restaurants, the term "incidental sale of alcoholic beverages" means that the sale of intoxicating liquor and 3.2 percent malt liquor during any given three-month period shall not account for more than 45 percent of the gross receipts and that the sale of food during any given three-month period shall account for at least 55 percent of the gross receipts. In the event a restaurant includes a bar or lounge or some similar area in which the principal activity is the sale and consumption of alcoholic beverages, such bar or lounge area shall not contain more than 30 percent of the total seating capacity of the restaurant. The number of on-sale licenses shall be limited to two.

(b) *Sunday.* Sunday "on-sale" licenses shall be issued pursuant to Minn. Stats. § 340A.504, subd. 3.

(c) *Wine.* On-sale wine licenses shall be issued for consumption of wine on the premises. The number of wine licenses shall be limited to three.

(d) *Sale of 3.2 percent malt liquor to certain establishments.* Licenses shall be granted only to clubs, restaurants and establishments used exclusively for the sale of 3.2 percent malt liquor for consumption on the premises. The number of 3.2 percent malt liquor licenses shall be limited to four.

(e) *Wine and 3.2 percent malt liquor.* Persons who hold both an on-sale wine license and an on-sale 3.2 percent malt liquor license and whose gross receipts are at least 60 percent attributable to the sale of food, are authorized to sell intoxicating malt liquor at on-sale without an additional license.

(Code 1993, § 6-2.01)

State Law reference – On-sale intoxicating liquor licenses, Minn. Stats. § 340A.404; 3.2 percent malt liquor licenses, Minn. Stats. § 340A.403.

Sec. 6-25 - Off-sale licenses

(a) *Retail liquor stores.* Licenses shall be granted only to exclusive liquor stores where retail or wholesale sales are made in the original package for consumption off the premises only. The number of off-sale licenses shall be limited to one.

(b) *Sale of 3.2 percent malt liquor.* Licenses shall permit the sale of 3.2 percent malt liquor at retail or at wholesale in the original package for consumption off the premises. The number shall be limited to four.

(c) *Exemption.* Any person licensed to sell intoxicating liquor at off-sale may sell 3.2 percent malt beverages at off-sale without further license.

(Code 1993, § 6-2.02)

State Law reference – Off-sale intoxicating liquor licenses, Minn. Stats. § 340A.405; 3.2 percent malt liquor licenses, Minn. Stats. § 340A.403.

Sec. 6-26 - On-sale/off-sale combination liquor licenses

No license permitting "off-sale" and "on-sale" of alcoholic beverages on the premises shall be granted.

(Code 1993, § 6-2.04)

Sec. 6-27 - Temporary permits

(a) *One day consumption and display permits.* Permits may be issued pursuant to Minn. Stats. § 340A.404, subd. 10. Such a permit shall describe and specify the conditions under which the permit is issued and shall include the following information:

(1) The place to which the permit pertains;

(2) The person to whom the permit is issued;

(3) Any other conditions or restrictions that the city council shall deem necessary to adequately provide for the public welfare and safety including conditions and restrictions relative to insurance that must be obtained for the event and to the type of alcoholic beverages that may be sold or consumed and the hours during which such beverage may be sold or consumed.

(b) *Temporary event sales licenses.* The city may issue licenses as authorized in Minn. Stats. § 340A.404, subd. 4.

(Code 1993, § 6-2.05)

Sec. 6-28 - Licensing procedure

(a) *Application.* Application forms for a license to sell intoxicating liquor, 3.2 percent liquor or wine in the form prescribed by the state commissioner of public safety may be obtained from the city clerk. In addition to the form prescribed by the state commissioner of public safety, the city council may require such additional information as deemed necessary or helpful in passing on the application.

(b) *Financial responsibility; requirements.* No retail license to sell intoxicating liquor, 3.2 percent malt liquor or wine may be issued or renewed unless the applicant has filed with the city clerk the proof of financial responsibility required by Minn. Stats. § 340A.409.

(c) *Investigation of applicant.* An investigation of the applicant's background and financial status shall be conducted. The city council shall have the authority to charge an investigative fee equal to the actual cost to the city of such investigation but not to exceed the amount established by the council. No license may be issued or renewed if the results of the investigation show to the satisfaction of the city council, that issuance or renewal would not be in the public interest.

(Code 1993, § 6-3.01)

State Law reference – Investigation fees, Minn. Stats. § 340A.412, subd. 2.

Sec. 6-29 - Renewal

(a) *Sixty-day requirement.* Application for the renewal of an existing license shall be made at least 60 days prior to the date of the expiration of the license and shall be made on forms provided by the city in such abbreviated form as the city council may approve. If, in the judgment of the city council, good and sufficient cause is shown by any applicant for his or her failure to file for a renewal within the time provided, the city council may, if the other provisions of this article are complied with, grant the application.

(b) *Statement of compliance.* At the earliest practicable time after application is made for the issuance or renewal of a license to sell intoxicating liquor, 3.2 percent malt liquor or wine within the city, the applicant shall file with the city clerk a statement reflecting compliance with the applicable liquor and food gross receipt requirements of this chapter.

(Code 1993, § 6-3.02)

Sec. 6-30 - Ineligibility for license

(a) *Persons ineligible for a license*.

(1) No license shall be granted or renewed to any person made ineligible for such a license by state law.

(2) No license shall be granted or renewed to a partnership or corporation that does not have a managing partner or a manager who is eligible to hold a license pursuant to the provisions of this chapter.

(3) No license shall be granted or renewed to a person who is the spouse of a person ineligible for a license under this section, or who, in the judgment of the city council, is not the real party in interest or beneficial owner of the business operated, or to be operated, under the license.

(4) No license shall be granted or renewed to a corporation without full disclosure of the stockholders of the corporation and their percentage of ownership. If there are more

than ten stockholders, only those owning more than ten percent of the outstanding common stock shall be listed.

(5) No license shall be issued to an applicant who violates Minn. Stats. § 340A.363.

(6) No license shall be issued if the city council determines issuance would not be in the interest of the public.

(b) *Miscellaneous persons or places ineligible for license*.

(1) No license shall be granted where any license has been revoked for cause until five years have elapsed after such conviction or revocation.

(2) No license shall be granted for premises within 300 feet of any elementary or secondary school or within 300 feet of any church.

(3) No license shall be effective beyond the compact and contiguous space specified in the license for which it was granted.

(4) No license shall be granted or renewed for operation on any premises owned by the licensee or the licensee's agent on which taxes, assessments or other financial claims of the city are delinquent and unpaid.

(Code 1993, § 6-3.03)

State Law reference – License eligibility, Minn. Stats. § 340A.402 et seq.

Sec. 6-31 - License fees and term

(a) *Payment of fees.* The city clerk shall not accept an application for license unless the license fees are paid and all forms signed. Upon rejection of any application for a license, the amount paid shall be refunded.

(b) *Establishment of fees.* The city council shall establish the annual and event license fees for the issuance of licenses for alcoholic beverages. Fees for new licenses shall be prorated on a quarterly basis.

(c) *Refunds.* The city shall refund to the licensee or the licensee's agent a pro rata portion of the annual fee for the unexpired period of the license, computed on a monthly basis, when operation of the licensed business ceases not less than one month before expiration of the license for any of the following reasons:

(1) The business ceases to operate due to destruction or damage of the licensed premises by fire or other catastrophe;

(2) The licensee's death;

(3) The business ceases to be lawful for a reason other than revocation;

(4) The licensee ceases to carry on the licensed business under the license; or

(5) A change in the legal status of the municipality makes it unlawful for the licensed business to continue.

The application for refund must be made to the city council within 30 days of one or more of these occurrences.

(d) *Term of licenses.* The term of all licenses issued under this chapter shall be from January 1 through December 31.

(Code 1993, § 6-3.04)

State Law reference – License fees, Minn. Stats. § 340A.408.

Sec. 6-32 - License conditions

(a) Every licensee is responsible for employee conduct in the licensed establishment and any sale of alcoholic beverages by any employee authorized to sell alcoholic beverages in the premises is the act of the licensee.

(b) Any police officer, building inspector, fire marshal or any properly designated agent or employee of the city shall have the unqualified right to enter, inspect and search the premises of the licensee during business hours without a warrant. If a violation exists, the appropriate action shall be taken in accordance with Minn. Stats. § 340A.415.

(c) For cause, the business records of the licensee, including federal and state income tax returns, shall be available for inspection by a duly authorized representative of the city council at all reasonable times.

(Code 1993, § 6-3.05)

Sec. 6-33 - Issuance

All facts set out in the applications shall be investigated. After such investigation, the council shall grant or deny the license in its discretion. Each license granted shall be issued to the applicant only and shall not be transferable to another holder. Each license shall be issued only for the compact and contiguous premises described in the application. No license may be transferred to another place without the approval of the city council.

(Code 1993, § 6-3.06(A); Ord. No. 99-02, § 1, 1-13-1999)

Sec. 6-34 - Revocation or suspension of license

(a) *Hearing notice.* Revocation or suspension of a license by the city council shall be preceded by a public hearing conducted in accordance with Minn. Stats. §§ 14.57—14.70. The city council may appoint a hearing examiner or may conduct a hearing itself. The hearing notice shall be given at least ten days prior to the hearing, include notice of the time and place of the hearing, and state the nature of the charges against the licensee.

(b) *Grounds for revocation or suspension of license.* The council may suspend or revoke any license for the sale of intoxicating or 3.2 percent malt liquor for any of the following reasons:

(1) False or misleading statements made on a license application or renewal, or failure to abide by the commitments, promises or representations made to the city council.

(2) Violation of any special conditions under which the license was granted, including, but not limited to, the timely payment of real estate taxes, and all other charges.

(3) Violation of any federal, state, or local law regulating the sale of intoxicating liquor, 3.2 percent malt liquor, or controlled substance.

(4) Creation of a nuisance on the premises or in the surrounding area.

(5) The licensee suffered or permitted illegal acts upon the licensed premises or on property owned or controlled by the licensee adjacent to the licensed premises, unrelated to the sale of intoxicating liquor or 3.2 percent malt liquor.

(6) The licensee had knowledge of illegal acts upon or attributable to the licensed premises, but failed to report the same to the police.

(7) Expiration or cancellation of any required insurance, or failure to notify the city within a reasonable time of changes in the term of the insurance or the carriers.

(8) Failure of an establishment granted a license to exhibit satisfactory progress toward completion of construction within six months from its issuance, or failure of an establishment to operate for a period of six months. A hearing shall be held to determine what progress has been made toward opening or reopening the establishment and, if satisfactory progress is not demonstrated, the council may revoke the license.

Sec. 6-35 - Presumptive civil penalties

(a) *Purpose.* The purpose of this section is to establish a standard by which the city council determines the length of license suspensions and the propriety of revocations, and shall apply to all premises licensed under this chapter. These penalties are presumed to be appropriate for every case; however, the council may deviate in an individual case where the council finds that there exist substantial reasons making it more appropriate to deviate, such as, but not limited to, a licensee's efforts in combination with the state or city to prevent the sale of alcohol to minors. When deviating from these standards, the council will provide written findings that support the penalty selected.

(b) *Presumptive penalties for violations.* The minimum penalties for convictions or violations must be presumed as follows (unless specified, numbers below indicate consecutive days' suspension):

	Type of Violation	1st Appearance	2nd Appearance	3rd Appearance	4th Appearance
(1)	Commission of a felony related to the licensed activity	Revocation	NA	NA	NA
(2)	Sale of alcoholic beverages while license is under suspension	Revocation	NA	NA	NA

(3)	Sale of alcoholic beverages to underage person	$500.00	6 days	18 days	Revocation
(4)	Sale of alcoholic beverages to obviously intoxicated person	$500.00	6 days	18 days	Revocation
(5)	After hours sale of alcoholic beverages	$500.00	6 days	18 days	Revocation
(6)	After hours display or consumption of alcoholic beverages	$500.00	6 days	18 days	Revocation
(7)	Refusal to allow city inspectors or police admissions to inspect premises	$500.00 plus 3 days suspension	15 days	Revocation	NA
(8)	Illegal gambling on premises	$500.00	6 days	18 days	Revocation
(9)	Failure to take reasonable steps to stop person from leaving premises with alcoholic beverages	$500.00	6 days	18 days	Revocation
(10)	Sale of intoxicating liquor where only license is for 3.2 percent malt liquor	Revocation	NA	NA	NA

The council may impose a three-day suspension for failure to pay the required fine on the first appearance.

(c) *Multiple violations.* At a licensee's first appearance before the council, the court must act upon all of the violations that have been alleged in the notice sent to the licensee. The council in that case must consider the presumptive penalty for each violation under the first appearance column in subsection (b) of this section. The occurrence of multiple violations is grounds for deviation from the presumed penalties in the council's discretion.

(d) *Subsequent violations.* Violations occurring after the notice of hearing has been mailed, but prior to the hearing, must be treated as a separate violation and dealt with as a second appearance before the council, unless the city administrator and licensee agree in writing to add the violation to the first appearance. The same procedure applies to a second, third or fourth appearance before the council.

(e) *Subsequent appearances.* Upon a second, third or fourth appearance before the council by the same licensee, the council must impose the presumptive penalty for the violation or violations giving rise to the subsequent appearance without regard to the particular violation or violations that were the subject of the first or prior appearance. However, the council may consider the amount of time that elapsed between appearances as a basis for deviating from the presumptive penalty imposed by this section.

(f) *Computation of appearances.* After the first appearance, a subsequent appearance by the same licensee will be determined as follows:

(1) If the first appearance was within 18 months of the current violation, the current violation will be treated as a second appearance.

(2) If a licensee has appeared before the council on two previous occasions, and the current violation occurred within 30 months of the first appearance, the current violation will be treated as a third appearance.

(3) If a licensee has appeared before the council on three previous occasions, and the current violation occurred within 42 months of the first appearance, the current violation will be treated as a fourth appearance.

(4) Any appearance not covered by subsections (f)(1), (2), or (3) of this section will be treated as a first appearance.

(g) *Other penalties.* Nothing in this chapter shall restrict or limit the authority of the council to suspend the license up to 60 days, revoke the license, or impose a civil fine not to exceed $2,000.00 for each violation, to impose conditions, or impose any combination of the foregoing sanctions, or take any other action in accordance with law; provided that the license holder has been afforded an opportunity for a hearing in the manner provided for in this section.

(Code 1993, § 6-3.06(B); Ord. No. 99-02, § 1, 1-13-1999)

Footnotes:

[1] **State Law reference –** Alcoholic beverages, Minn. Stats. ch. 340A; general authority of municipalities, Minn. Stats. § 340A.509.

[2] **State Law reference –** Local alcoholic beverage licenses, Minn. Stats. §§ 340A.402 et seq., 340A.404 et seq.

Chapter 10 - ANIMALS[1]

Article/Division/Section:

ARTICLE I - IN GENERAL

Sec. 10-1 - Definitions

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Animal control authority. The City of Falcon Heights.

At large means off the premises of the owner and not under the control of the owner, a member of his or her immediate family, or a person designated by the owner, in the case of a dog, by a leash, cord, or chain not more than six feet in length.

Great bodily harm. Bodily injury which creates a high probability of death, or which causes permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily harm.

Owner means any person owning a dog, cat, or other animal.

Proper enclosure. Securely confined indoors or in a securely enclosed and locked pen or structure suitable to prevent the dog from escaping and providing protection from the elements for the dog. A proper enclosure does not include a porch, patio, or any part of a house, garage, or other structure that would allow the dog to exit of its own volition, or any house or structure in which windows are open or in which door or window screens are the only obstacles that prevent the dog from exiting.

Provocation. An act that an adult could reasonably expect may cause a dog to attack or bite.

Substantial bodily harm. Bodily injury which involves a temporary disfigurement, or which causes a temporary loss or impairment of the function of any bodily member or organ, or which causes a fracture of any bodily member.

(Code 1993, § 5-3.01(A); Ord. No. 10-08, § 1, 9-22-2011)

Sec. 10-2 - Enforcement

(a) *Complaints.* Any person aggrieved by an animal nuisance may make a written complaint to the city stating the acts complained of, the name and address of the owner of the animal, and the name and address of the complainant. The police department shall then promptly notify the person owning or keeping the animal and shall order the nuisance abated within five days. If the animal nuisance is not abated within that time, a charge may be made against the owner or keeper of the animal, and any person found to have violated the provisions of this section shall be guilty of a misdemeanor.

(b) *Officer enforcement.* If a police officer or community service officer deems it necessary, the officer may impound the animal immediately to stop the nuisance.

(c) *Human being bitten by animal.* Whenever any person owning, possessing or harboring any animal within the corporate limits of the city learns the animal has bitten any human being, such person shall immediately impound the animal in any place of confinement where it cannot escape or have access to any human being or other animal and shall also immediately notify the city. Whenever the city learns that any human being has been bitten by any animal within the city, the city shall ascertain the identity of such animal and the person owning, possessing or harboring it and shall immediately direct such persons to impound the animal as required until the animal control officer and poundkeeper can be notified and the animal impounded at the pound. Any animal impounded shall be kept continuously confined for a period of at least ten days from the day the animal bit a human being.

(d) *Impoundment of animal that has bitten a human being.* Upon learning that an animal has bitten a human being, the city shall immediately notify the designated animal control officer and the poundkeeper and inform them of the place where the animal is temporarily impounded. The animal shall be impounded at the city's designated animal pound. The animal may be impounded at the home of its owner provided that:

(1) Proof of a current rabies vaccination can be shown by the owner;

(2) The owner executes a form acknowledging the responsibility and complying with its terms; and

(3) The bite occurred on the owner's property.

(e) *Period of confinement.* It shall be the duty of the poundkeeper to inspect the animal as necessary during its period of ten-day confinement and to determine whether such animal is infected with rabies. For this purpose he or she shall have access to the premises where such animal is kept at all reasonable hours and may take possession of the animal and confine it in a place at the expense of the owner. The owner or suitable person in possession of harboring the animal shall immediately notify the poundkeeper of any evidence of sickness or disease in the animal during its period of confinement and shall promptly deliver its carcass to said poundkeeper in case of its death during said period.

(Code 1993, § 5-3.01(G))

Sec. 10-3 - Impoundment

(a) *Impounding of animals.* The animal control officer shall take and impound any animals found in the city that are in violation of any of the other provisions of this chapter. The animal control officer is empowered and instructed to enter upon any private premises where he or she has reasonable cause to believe there is a violation.

(b) *Redemption.* Any animal may be redeemed from the pound by the owner within five days after impounding by payment of an impounding fee plus such boarding and other fees as the council may determine to be necessary for purposes of fully compensating the animal control officer and poundkeeper for the duties they perform pursuant to this chapter.

(c) *Disposition of unclaimed animals.* Any animal that is not claimed may be sold for at least the cost of all required vaccinations and registration to anyone desiring to purchase the animal, if not requested by a licensed educational or scientific institution under Minn. Stats. § 35.71. All sums received by the city above the costs shall be placed in the general fund of the city. Any animal that is not claimed by the owner or by a licensed educational or scientific institution or sold, shall be painlessly put to death and the body properly disposed of by the poundkeeper.

(Code 1993, § 5-3.01(H))

Sec. 10-4 - Prohibition of kennels

No person shall maintain a kennel within the city. For the purpose of this Code four or more of any type of domestic pet over four months old constitutes a kennel.

(Code 1993, § 5-3.01(F))

Secs. 10-5 – 10-19 - Reserved

ARTICLE II. - DOGS AND CATS[2]

Sec. 10-20 - Responsibility of owner

Any person who owns or harbors a cat or dog declared to be a nuisance shall be deemed to be maintaining a nuisance.

(Code 1993, § 5-3.01(D))

Sec. 10-21 - Dogs that are public nuisances

Any dog that exhibits any of the following behaviors are hereby declared to be a public nuisance:

(1) Causes noise, disturbance or annoyance to persons residing in the vicinity by loud and frequent barking, howling or yelping.

(2) Runs at large.

(3) Destroys property or habitually trespassing on any property of persons other than its owner.

(4) Defecates on any public or private property unless the person in control of the dog cleans up the feces and disposes of such in a sanitary manner. The provisions of this subsection shall not apply to service dogs accompanying a totally or partially blind person or a physically handicapped person or to a person with dogs engaged in search or rescue activities.

(Code 1993, § 5-3.01(B))

Sec. 10-22 - Cats that are public nuisances

Any cat that exhibits any of the following behaviors is declared to be a public nuisance:

(1) Damages property, plantings or a structure.

(2) Deposits fecal matter on property other than the owner's.

(3) Scratches or bites persons while at large.

(4) Habitually mews or cries.

(Code 1993, § 5-3.01(C))

Sec. 10-23 - Vaccination, tags required

(a) It shall be unlawful for any dog or cat owner to keep or maintain any dog or cat older than six months of age unless it shall have been vaccinated with an anti-rabies vaccine by a licensed veterinarian.

(b) Dog and cat owners shall affix a rabies vaccination tag by a metal fastening device to the collar of their dog or cat in such a manner that the tag may be easily observed.

(c) No person shall counterfeit or attempt to counterfeit the dog or cat rabies vaccination tags.

(d) No person shall transfer a dog or a cat rabies vaccination tag from one dog or cat to

another.

(Code 1993, § 5-3.01(E))

State Law reference – County dog licenses, Minn. Stats. § 347.08 et seq.

Secs. 10-24 – 10-29 - Reserved

ARTICLE III. - DANGEROUS AND POTENTIALLY DANGEROUS DOGS

Sec. 10-30 - Regulations regarding potentially dangerous dogs

(a) *Determination of potentially dangerous dog.* A city animal control officer or other law enforcement official shall determine that a dog is a potentially dangerous dog if the officer believes, based upon the officer's professional judgment, that a dog:

(1) When unprovoked, inflicts bites on a human or domestic animal on public or private property; or

(2) When unprovoked, chases or approaches a person, including a person on a bicycle, upon the streets, sidewalks or any public or private property, other than the dog owner's property, in an apparent attitude of attack; or

(3) Has a known propensity, tendency, or disposition to attack unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals.

(b) *Notice of potentially dangerous dog.* Upon a determination by the animal control authority or law enforcement official that a dog is potentially dangerous, the city shall provide a notice of potentially dangerous dog to the owner of record, or if none, any owner of such dog by personally serving the owner or a person of suitable age at the residence of such owner. Service upon any owner shall be effective as to all owners. The notice shall include the following:

(1) A description of the dog deemed to be potentially dangerous;

(2) The factual basis for that determination;

(3) The identity of officer who has made the determination;

(4) An order that the owner have a microchip implanted in the dog for identification and provide the city animal control authority with the name of the microchip manufacturer and the serial identification number of the microchip implanted within 30 days of the date of service;

(5) An order that the owner provide the city animal control authority with written notice of any relocation of the dog from its current residence, providing any new owner's full name, address, daytime and evening telephone numbers and the relocation address at least ten days prior to any such relocation or new ownership; and

(6) The criminal penalties for violation of the requirements pertaining to potentially dangerous dogs.

(c) *Appeal of the potentially dangerous dog designation.* Within 14 days after receipt of the notice of a potentially dangerous dog, any owner may request an appeal of that determination by completing and serving upon the city animal control authority a request for

appeal of a potentially dangerous dog designation on the form provided along with the notice, including at a minimum the following information:

(1) The full name, address, daytime and evening telephone numbers of the person requesting an appeal;

(2) The full name and address of all of the dog's owners;

(3) The ownership interest of the person requesting the appeal;

(4) The names of any witnesses to be called at the hearing;

(5) A list and copies of all exhibits to be presented at the hearing; and

(6) A summary statement as to why the dog should not be declared potentially dangerous.

Failure to timely submit a completed request for appeal shall be deemed a waiver of the right to appeal and consent to the designation of the dog as potentially dangerous.

(d) *Hearing procedure.* The owner of a potentially dangerous dog has the right to a hearing by an impartial hearing officer, who shall be either an impartial employee of the city or an impartial person retained by the city to conduct the hearing.

(1) Within 14 days after receipt of the request for appeal, the hearing officer shall hold a hearing on the request to determine the validity of the potentially dangerous dog designation.

(2) The hearing shall be held at a place to be determined by the animal control authority during the city's normal business hours.

(3) At the hearing, the parties shall have the opportunity to present evidence in the form of exhibits and testimony. Each party may question the other party's witnesses. The strict rules of evidence do not apply and the records of the animal control officer or law enforcement official are admissible without further foundation. Objections as to the evidence presented can be made on the basis of the evidence being incompetent, irrelevant, immaterial or unduly repetitious. The hearing examiner shall admit and give probative weight to evidence, including reliable hearsay evidence, which possesses probative value commonly accepted by reasonable and prudent persons in the conduct of their affairs. The order of proof shall follow the burden of proof with the initial burden upon the city animal control authority to demonstrate by a preponderance of the evidence that the animal is potentially dangerous. The hearing shall be tape recorded and a full record of the hearing shall be kept by the hearing examiner.

(4) Within ten days of the conclusion of the hearing, the hearing officer shall make written findings of fact and reach a written conclusion as to whether the dog is a potentially dangerous dog pursuant to this Code or state law. Upon receipt of those findings and conclusions or as soon thereafter as reasonably possible, the city animal control authority must personally serve a written copy thereof to the owner who requested the hearing or a person of suitable age at the residence of such owner. The decision of the hearing examiner is final without any further right of administrative appeal. An aggrieved party may obtain review thereof by petitioning the Minnesota Court of Appeals for a writ of certiorari not more than 30 days after service of the hearing examiner's written decision.

(e) *Potentially dangerous dog requirements.* It shall be the joint and several responsibility of each owner of any dog kept or harbored within the city and determined to be potentially dangerous under this article of the Code or under the provisions of a substantially similar local or state law to:

(1) Have a microchip implanted in the dog for identification and provide the city animal control authority with proof thereof, including the name of the microchip manufacturer and its serial identification number, within 30 days of any owner's receipt of the notice of potentially dangerous dog or within ten days of the dog's location within the city, whichever occurs first; and

(2) Provide the city animal control authority with written notice of any intended relocation of the dog from its current residence and provide any new owner's full name, address, daytime and evening telephone numbers and the relocation address at least ten days prior to any such relocation or new ownership.

(3) If the dog is outdoors, the dog must be either confined in a proper enclosure or restrained by a substantial chain or leash not longer than six feet and under the physical restraint of a responsible person.

(4) If the dog is outdoors and is not confined in a proper enclosure or restrained by a substantial chain or leash not longer than six feet under the physical restraint of a responsible person, the owner must pay the city $250.00 per incident. If the dog has been impounded by the city, the $250.00 must be paid before the animal is reclaimed by the owner.

(f) *Review of potentially dangerous dog designation.* Beginning six months after a dog is declared potentially dangerous hereunder, an owner may request annually that the city animal control authority review the designation by serving upon it with a written request for review that includes the full name, address and telephone numbers of the requestor, a list of the names and addresses of all owners of the dog, the requestor's ownership interest, and a summary of the basis for the claimed change in the dog's behavior. The request for review shall be accompanied by all documents in support of the contention that the dog's aggressive behavior has been modified. Within 14 days of the receipt of the request, the animal control authority shall make a determination in writing as to whether or not to rescind the potentially dangerous dog designation.

(Ord. No. 10-08, § 2, 9-22-2011)

Sec. 10-31 - Regulations regarding dangerous dogs

(a) *Determination of dangerous dog by city.* A city animal control officer or other law enforcement official shall determine that a dog is a dangerous dog if the officer believes, based upon the officer's professional judgment, that a dog:

(1) Has, without provocation, inflicted substantial bodily harm on a human being on public or private property; or

(2) Has killed a domestic animal without provocation while off the owner's property; or

(3) Has been determined to be a potentially dangerous dog, and after the owner has notice that the dog is potentially dangerous, the dog aggressively bites, attacks, or endangers the safety of humans or domestic animals.

(b) *Exemption.* Dogs may not be declared dangerous if the threat, injury, or damage was sustained by a person:

(1) Who was committing, at the time, a willful trespass or other tort upon the premises occupied by the owner of the dog;

(2) Who was provoking, tormenting, abusing, or assaulting the dog or who can be shown to have repeatedly, in the past, provoked, tormented, abused, or assaulted the dog; or

(3) Who was committing or attempting to commit a crime.

(c) *Notice of dangerous dog.* Upon a determination by a city animal control officer or other law enforcement official that a dog is dangerous, the city shall provide a notice of dangerous dog to the owner of such dog by delivering or mailing it to the owner of the dog, or by posting a copy of it at the place where the dog is kept, or by delivering it to a person residing on the property, and telephoning, if possible. The notice shall include the following:

(1) A description of the dog determined to be a dangerous dog; the authority for and purpose of the dangerous dog declaration and seizure, if applicable; the time, place, and circumstances under which the dog was declared dangerous; and if the dog has been seized, the telephone number and contact person where the dog is kept;

(2) A statement as to whether or not the dog's destruction is being sought by the city; a person claiming an interest in a seized dog may prevent disposition of the dog by posting security in an amount sufficient to provide for the dog's actual costs of care and keeping; and the security must be posted within seven days of the seizure inclusive of the date of the seizure;

(3) A statement that the owner of the dog may request a hearing concerning the dangerous dog declaration and, if applicable, prior potentially dangerous dog declarations for the dog, and that failure to do so within 14 days of the date of the notice will terminate the owner's right to a hearing under this section;

(4) A statement that if an appeal request is made within 14 days of the notice, the owner must immediately comply with the requirements of Minn. Stats. § 347.52, paragraphs (a) and (c), and until such time as the hearing officer issues an opinion;

(5) A statement that if the hearing officer affirms the dangerous dog declaration, the owner will have 14 days from receipt of that decision to comply with all other requirements of Minn. Stats. §§ 347.51, 347.515, and 347.52;

(6) A form to request a hearing under this subdivision;

(7) If the dog has been seized, a statement that all actual costs of the care, keeping, and disposition of the dog are the responsibility of the person claiming an interest in the dog, except to the extent that a court or hearing officer finds that the seizure or impoundment was not substantially justified by law;

(8) A statement of the requirements to own a dangerous dog in subsection 10-31(g); and

(9) The criminal penalties for violations of this Code.

(d) *Requirements upon receipt of a notice of dangerous dog.* After receipt of the notice, the owner must do the following:

(1) At all times keep the dog either confined in a proper enclosure or muzzled in a manner that will prevent the dog from biting any person or animal but that will not cause injury to the dog or interfere with its vision or respiration;

(2) Implant the dog with a microchip for identification and provide the city animal control authority with the name of the microchip manufacturer and the serial identification number of the microchip implanted within 14 days; and

(3) Provide the city animal control authority with written notice of any relocation of the dog from its current residence and provide any new owner's full name, address, daytime and evening telephone numbers and relocation address at least ten days prior to any such relocation.

(e) *Appeal of the dangerous dog designation.* Within 14 days after receipt of the notice of dangerous dog any owner may request an appeal of that determination by completing and serving upon the city animal control authority a request for appeal of dangerous dog designation on the form provided along with the notice, including at a minimum the following information:

(1) The full name, address, daytime and evening telephone numbers of the person requesting an appeal;

(2) The full name and address of all of the dog's owners;

(3) The ownership interest of the person requesting the appeal;

(4) The names of any witnesses to be called at the hearing;

(5) A list and copies of all exhibits to be presented at the hearing; and

(6) A summary statement as to why the dog should not be declared dangerous.

Failure to timely submit a completed request for appeal shall be deemed a waiver of the right to appeal and consent to the designation of the dog as dangerous.

(f) *Hearing procedure and costs.* The owner of a dangerous dog has the right to a hearing by an impartial hearing officer, who shall be either an impartial employee of the city or an impartial person retained by the city to conduct the hearing.

(1) Within 14 days after receipt of the request for appeal, the hearing officer shall hold a hearing to determine the validity of the dangerous dog declaration.

(2) The hearing shall be held at a place to be determined by the city animal control authority during the city's normal business hours.

(3) At the hearing, the parties shall have the opportunity to present evidence in the form of exhibits and testimony. Each party may question the other party's witnesses. The strict rules of evidence do not apply and the records of the animal control officer or law enforcement official are admissible without further foundation. Objections as to the evidence presented can be made on the basis of the evidence being incompetent, irrelevant, immaterial or unduly repetitious. The hearing examiner shall admit and give

probative weight to evidence, including reliable hearsay evidence, which possesses probative value commonly accepted by reasonable and prudent persons in the conduct of their affairs. The order of proof shall follow the burden of proof with the initial burden upon the city animal control authority to demonstrate by a preponderance of the evidence that the animal is dangerous. The hearing shall be tape recorded and a full record of the hearing shall be kept by the hearing examiner.

(4) Within ten days of the conclusion of the hearing, the hearing officer shall make written findings of fact and reach a written conclusion as to whether the dog is a dangerous dog pursuant to this Code or state law. A separate finding shall be made as to whether or not the dog should be destroyed by the city animal control authority in accordance with subsection 10-31(j). Upon receipt of those findings and conclusions or as soon thereafter as reasonably possible, the city animal control authority must personally serve a written copy thereof to the owner who requested the hearing or a person of suitable age at the residence of such owner. The decision of the hearing examiner is final without any further right of administrative appeal. An aggrieved party may obtain review thereof by petitioning the Minnesota Court of Appeals for a writ of certiorari not more than 30 days after service of the hearing examiner's written decision.

(5) In the event that the dangerous dog declaration is upheld by the hearing officer, actual expenses of the hearing up to a maximum of $1,000.00 will be the responsibility of the dog's owner.

(g) *Dangerous dogs requirements.* Upon a determination after a hearing that the dog is dangerous under this Code or state law, or upon the expiration of the 14-day appeal period where no owner serves upon the city animal control authority a timely and proper request for appeal of the dangerous dog designation, or upon the relocation of a dog to this city from another location where the dog was previously declared dangerous under either state law or a local law substantially similar to this section, it shall be the joint and several responsibility of each owner of the dangerous dog kept or harbored within the city to strictly comply with the following requirements:

(1) Keep the dog in a proper enclosure or, if the dog is outside the proper enclosure, the dog must be muzzled and restrained by a substantial chain or leash not longer than six feet and under the physical restraint of a responsible person. The muzzle must be made in a manner that will prevent the dog from biting any person or animal but that will not cause injury to the dog or interfere with its vision or respiration. The premises where the dog is kept must prominently post a visible warning sign, including a warning symbol to inform children, that there is a dangerous dog on the property;

(2) Register the dog as a dangerous dog with the City of Falcon Heights in accordance with state law and renew the registration of the dog annually until the dog is deceased. The city will issue a certificate of registration upon proof that the requirements of this section have been satisfied. If the dog is removed from the jurisdiction, it must be registered as a dangerous dog in its new location;

(3) Cause the dog to be implanted with a microchip for identification and provide the city animal control authority with the name of the microchip manufacturer and the serial identification number of the microchip implanted within 14 days of the date the dog was determined to be dangerous;

(4) Maintain affixed to the dog's collar at all times a standardized, easily identifiable tag identifying the dog as dangerous and containing the uniform dangerous dog symbol, as approved by the state's commissioner of public safety;

(5) Cause the dog to be sterilized at the owner's expense and provide the city animal control authority with proof thereof, including the name, address and telephone number of the veterinarian who performed the procedure, within 30 days of the date the dog was determined to be dangerous. If the owner does not have the dog sterilized within 30 days, the city animal control authority shall seize the dog and have it sterilized at the owner's expense;

(6) Provide the city animal control authority with written notice of the death of the dog within 30 days thereof and if requested execute an affidavit under oath setting forth the circumstances of the dog's death and disposition;

(7) Provide the city animal control authority with written notice of any intended relocation of the dog from its current residence on record and provide any new owner's full name, address, daytime and evening telephone numbers and the relocation address at least ten days prior to any such relocation or new ownership;

(8) Accompany the sale or transfer of the dog to another owner with a written statement signed and notarized by the transferee listing his or her full name, address, daytime and evening telephone numbers and acknowledging that the city animal control authority has identified the dog as dangerous and provide a copy thereof to the city animal control authority;

(9) Provide the owner of real property where the dangerous dog will reside with a written disclosure that the city animal control authority has identified the dog as dangerous prior to entering into a lease agreement and at the time of any lease renewal; and

(10) Obtain a surety bond issued by a surety company authorized to conduct business in this state in a form acceptable to the animal control authority in the sum of at least $300,000.00, payable to any person injured by the dangerous dog, or a policy of liability insurance issued by an insurance company authorized to conduct business in this state in the amount of at least $300,000.00, insuring the owner for any personal injuries inflicted by the dangerous dog.

(h) *Confiscation of dangerous dogs.*

(1) *Seizure.* The city animal control authority shall immediately seize any dangerous dog if:

a. After 14 days after the owner has notice that the dog is dangerous, the dog is not validity registered;

b. After 14 days after the owner has notice that the dog is dangerous, the owner does not secure the property liability insurance or surety coverage;

c. The dog is not maintained in a proper enclosure; or

d. The dog is outside the proper enclosure and not under physical restraint of a responsible person.

(2) *Subsequent offenses; seizures.* In addition, if the dog's owner is convicted of violating this section or state laws regulating dangerous dogs, the court as a part of its sentence may order that the dog be confiscated and destroyed in a proper and humane manner and that the owner pay the costs incurred in confiscating, confining and destroying the dog. Where an owner is convicted of violating this section or state laws regulating dangerous dogs and is thereafter charged with a subsequent such violation relating to the same dog, the dog must be summarily seized and impounded by the animal control authority. Upon conviction of that subsequent offense, the court shall order as part of its sentence that the dog be destroyed in a proper and humane manner and that the owner pay the cost of confiscating, confining and destroying the dog. If the owner is not convicted and the dog is not reclaimed by the owner within seven days after the owner has been notified that the dog may be reclaimed, the dog may be disposed of in a proper and humane manner. Any person who harbors, hides or conceals or aids and abets the harboring, hiding or concealment of a dog determined to be dangerous under this Code or state laws regulating dangerous dogs shall be guilty of a misdemeanor.

(i) *Reclaiming seized dog.* A confiscated dangerous dog not subject to destruction under this section may be reclaimed by an owner upon payment of impoundment and boarding fees and presenting proof of compliance with all of the requirements of this section or state laws regulating dangerous dogs. A confiscated dog not reclaimed under this section within seven days may be destroyed in a proper and humane manner with the owner being responsible for the costs of confiscation, boarding and destruction.

(j) *Destruction of dog in certain circumstances.* Where the city animal control authority seeks to destroy a dog it has designated as dangerous, it must provide the owner with specific notice, in writing, of its intent to destroy the animal and provide the owner with a full and fair opportunity for a hearing on this issue in the context of the appeal of the dangerous dog designation in subsection 10-31(e). The city animal control authority may destroy a dog in a proper and humane manner, with the owner being responsible for the costs of confiscation, boarding, and destruction, if:

(1) The dog inflicted substantial or great bodily harm on a human on public or private without provocation;

(2) The dog inflicted multiple bites on the victim or bites on multiple victims on public or private property without provocation;

(3) The dog bit multiple human victims on public or private property in the same attack without provocation;

(4) The dog bit a human on public or private property without provocation in an attack where more than one dog participated in the attack;

(5) The owner of the dog has demonstrated an inability or unwillingness to control the animal in order to prevent injury to persons or other animals; and

(6) Unless the animal is destroyed another unprovoked attack on a human being is likely and that therefore the destruction of the animal is necessary to protect the public health, safety and welfare.

(k) *Review of dangerous dog designation.* Beginning six months after a dog is declared dangerous hereunder, an owner may request annually that the city animal control authority

review the designation by serving upon it with a written request for review that includes the full name, address and telephone numbers of the requestor, a list of the names and addresses of all owners of the dog, the requestor's ownership interest, and a summary of the basis for the claimed change in the dog's behavior. The owner must provide evidence that the dog's behavior has changed due to the dog's age, neutering, environment, completion of obedience training that includes modification of aggressive behavior, or other factors. Within 14 days of the receipt of the request, the animal control authority shall make a determination in writing as to whether or not to rescind the dangerous dog designation. Should the designation be rescinded, the dog shall nonetheless continue to be considered potentially dangerous and subject to the requirements of this Code.

(Ord. No. 10-08, § 2, 9-22-2011)

Sec. 10-32 - Law enforcement

This article does not apply to potentially dangerous dogs or dangerous dogs used by law enforcement officials for police work.

(Ord. No. 10-08, § 2, 9-22-2011)

Sec. 10-33 - Reserved

ARTICLE IV - CHICKENS

Sec. 10-34 - Keeping of chickens

Any person who keeps chickens in the city must obtain a permit prior to acquiring the chickens. Chickens may only be kept in zoning districts where chickens are an allowed accessory use. The initial permit is valid for up to two years beginning on the date the chickens arrive on the site and ending on December 31 of the following year. Subsequent permits are valid from January 1 of one year to December 31 of the second year. Applications for permits must be made to the zoning and planning director.

(1) Fees charged for the issuance of a permit to keep chickens will be set by the city council.

(2) If the permit applicant is not the fee owner of the premises on which the chickens are sought to be kept and for which the permit would apply, the application shall be signed by all fee owners of the premises.

(3) The city may refuse to grant or may revoke a permit if the chickens become a nuisance, as evidenced by a second substantiated violation (within 12 months of a first substantiated violation) of this section of the City Code, or chapter 22 of the City Code.

(4) The city may refuse to grant a permit to, or may revoke a permit from, a person convicted of cruelty to animals.

(5) Permits are non-transferable and do not run with the land.

(6) A permit is a license granted to the chicken keeper by the city and does not create a vested zoning right.

(7) Prior to issuance of a permit, the prospective permit holder must acknowledge they have read the chicken run educational material provided by the city.

(8) Prior to issuance of a permit, the prospective permit holder must provide a detailed sketch plan of the premises on which chickens are sought to be kept, including the location, the dimensions and design of the coop and run, establishing compliance with the chicken coop and run specifications provided in this article.

(9) Prior to issuance of a permit, the prospective permit holder must provide a plan for maintaining an adequate temperature in the coop for the safety of the chicken hens. The plan must address both extreme winter and summer temperature conditions.

(10) The permit application will be processed administratively. It will not be referred to the city council for consideration.

(Ord. No. 13-04, § 1, 7-24-2013)

Sec. 10-35 - Permit regulations

Each person holding a permit to keep chickens within the city must comply with the following:

(1) The principal use of the specific property must be either single-family residential or two-family residential. A permit will not be issued for any property which is used principally for something other than single-family or two-family. If the property's principal use is two-family residential, then the property owner must sign the permit in addition to the chicken keeper.

(2) No person may keep more than four chickens.

(3) No person may keep a rooster.

(4) No person may allow chickens to range freely without fencing or without a mobile pen.

(5) No person may keep any chickens inside a house or garage.

(6) No person may slaughter any chickens within the city.

(7) Chickens must be provided a secure and well ventilated roofed structure ("chicken coop").

(8) The roofed structure for the chickens may only be located in a rear yard and must meet setback and building separations as established in city zoning and building codes, except that the roofed structure and fencing must maintain a 20-foot separation from dwellings on adjacent properties.

(9) The roofed structure shall be fully enclosed, windproof, and have sufficient windows for natural light.

(10) All premises on which hens are kept or maintained shall be kept clean from filth, garbage, and any substance which attracts rodents. The coop and its surrounding must be cleaned frequently enough to control odor. Manure shall not be allowed to accumulate in a way that causes an unsanitary condition or causes odors to be detected on another property. Failure to comply with these conditions may result in removal of chickens from the premises or revocation of a chicken permit.

(11) Chickens must be kept in the roofed structure, an attached pen, or a detached mobile pen whenever they are unattended by the keeper; but when attended by the keeper, the chickens are allowed in a completely fenced exercise yard.

(12) The coop's attached pen must be securely constructed with at least a mesh-type material and shall have protective overhead netting to keep the chickens separated from other animals.

(13) The coop's attached pen must be well drained so there is no accumulation of moisture.

(14) The floor area of the roofed structure or a combination of the floor area and attached pen area must equal at least ten square feet of area per chicken.

(15) All grain and food stored for the use of the hens on a premises with a chicken permit shall be kept in a rodent-proof container.

(16) Leg bandings are required on all chickens. The bands must identify the owner and the owner's address and telephone number.

(Ord. No. 13-04, § 1, 7-24-2013)

ARTICLE V – BEEKEEPING

Section 10-37 – Beekeeping

(a) *Definitions.* As used in this article, the following words and terms shall have the meanings ascribed in this section unless the context of their usage indicates another usage.

Apiary means the assembly of one or more colonies of bees at a single location.

Beekeeper means a person who owns or has charge of one or more colonies of bees.

Beekeeping equipment means anything used in the operation of an apiary, such as hive bodies, supers, frames, top and bottom boards and extractors.

Colony means an aggregate of bees consisting principally of workers, but having, when perfect, one queen and at times drones, brood, combs, and honey.

Flyway barrier means a barrier that raises the flight path of bees as they come and go from a hive.

Hive means the receptacle inhabited by a colony that is manufactured for that purpose.

Honey bee means all life stages of the common domestic honey bee, apis mellifera species.

Lot means a contiguous parcel of land under common ownership.

Nucleus colony means a small quantity of bees with a queen housed in a smaller than usual hive box designed for a particular purpose.

Undeveloped property means any idle land that is not improved or actually in the process of being improved with residential, commercial, industrial, church, park, school or governmental facilities or other structures or improvements intended for human occupancy and the grounds maintained in associations therewith. The term shall be deemed to include property developed exclusively as a street or highway or property used for commercial agricultural purposes.

(b) *Purpose of Ordinance*. The purpose of this ordinance is to establish certain requirements for beekeeping within the City and to avoid issues which might otherwise be associated with beekeeping in populated areas. Compliance with this ordinance shall not be a defense to a proceeding alleging that a given colony constitutes a nuisance, but such compliance may be offered as evidence of the beekeeper's efforts to abate any proven nuisance. Compliance with this ordinance shall not be a defense to a proceeding alleging that a given colony violates applicable ordinances regarding public health, but such compliance may be offered as evidence of the beekeeper's compliance with acceptable standards of practice among hobby beekeepers in the State of Minnesota.

(c) *Standards of practice.*

(1) Honey bee colonies shall be kept in hives with removable frames, which shall be kept in sound and usable condition.

(2) Each beekeeper shall ensure that a convenient source of water, such as a bird bath or pet dish, is available on the lot so long as colonies remain active outside of the hive.

(3) Each beekeeper shall ensure that no wax comb or other material that might encourage robbing by other bees are left upon the grounds of the apiary lot. Such materials once removed from the site shall be handled and stored in sealed containers, or placed within a building or other insect-proof container.

(4) For each colony permitted to be maintained under this ordinance, there may also be maintained upon the same apiary lot, one nucleus colony in a hive structure not to exceed one standard 9-5/8 inch depth 10-frame hive body with no supers.

(5) Each beekeeper shall maintain their beekeeping equipment 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 swarms. It shall not be a defense to this ordinance that a beekeeper's unused equipment attracted a swarm and that the beekeeper is not intentionally keeping bees.

(d) *Colony density.*

(1) Colonies must be located in a rear yard and must meet setback and building separations as established in city zoning and building codes, except that colonies must maintain a 20-foot separation from dwellings on adjacent properties.

(2) Except as otherwise provided in this ordinance, in each instance where a colony is kept less than 25 feet from a property line of the lot upon which the apiary is located, as measured from the nearest point on the hive to the property line, the beekeeper shall establish and maintain a flyway barrier at least 6 feet in height. The flyway barrier may consist of a wall, fence, dense vegetation or a combination thereof, such that bees will fly over rather than through the material to reach the colony. If a flyway barrier of dense vegetation is used, the initial planting may be 4 feet in height, so long as the vegetation normally reaches 6 feet in height or higher. If such a flyway barrier exists prior to establishing a colony, the beekeeper does not need to establish a new barrier.

(3) If a flyway barrier is required, it must enclose the rear and side yards of the apiary lot, or contain the hive or hives in an enclosure at least 6 feet in height. All fences must meet the regulations of section 113-242 of the code.

(4) A flyway barrier is not required if the property adjoining the apiary lot line is

a. undeveloped, or,

b. a wildlife management area or naturalistic park land with no horse or foot trails located within 25 feet of the apiary lot line.

(5) No person is permitted to keep more than the following numbers of colonies on any lot within the City, based upon the size or configuration of the apiary lot:

a. One half acre or smaller lot, 2 colonies

b. Larger than 1/2 acre but smaller than 3/4 acre lot, 4 colonies

c. Larger than 3/4 acre lot but smaller than 1 acre lot, 6 colonies

d. Larger than one acre lot, 8 colonies

(6) If the beekeeper serves the community by removing a swarm or swarms of honey bees from locations where they are not desired, the beekeeper shall not be considered in violation of this ordinance limiting the number of colonies if they temporarily house the swarm on the apiary lot in compliance with the standards of practice set out in this ordinance for no more than 30 days from the date acquired.

(e) *Permit*

(1) No person shall keep, maintain or allow to be kept any hive or other facility for the housing of honeybees on or in any private property in the City without a permit.

(2) Any person desiring a permit for the keeping of honeybees shall make written application to the City Administrator on a form provided, accompanied by a site plan of the real property upon which bees are to be kept, showing the number and location of hives and the provision for flyway barriers, water supply and any other conditions required by this section. The application shall include a statement that the applicant will at all times keep the bees in accordance with the provisions of this ordinance and any additional restrictions, limitation conditions or prohibitions specified in the permit as necessary to safeguard public health and general welfare.

(3) The City Administrator may grant a beekeeping permit pursuant to this section only after the applicant has met approved educational requirement as established by the City Administrator.

(4) Upon receipt of a permit application, mailed notice should be given by the City to the property owners or occupants within 100 feet of the property for which a beekeeping permit is sought. If any notified owner or occupant has a medically documented allergy to bees, the permit may be denied by the City Administrator. The medical documentation must be submitted to the City Administrator within 14 days for consideration of denial of the permit.

(5) The initial permit is valid for up to two years beginning on the date the honey bees arrive on the site and ending on December 31 of the following year. Subsequent permits are valid from January 1 of one year to December 31 of the second year. The application fee for such permit shall be an amount established by the City Council. Should the permit be refused, denied or revoked, the fee paid with the application shall be retained by the City.

(6) If an owner or occupant of property within 100 feet of the permitted location is found to have a medically documented allergy to bees after a permit has been issued, the City Administrator will consider revocation of the permit. The medical documentation must be submitted to the City Administrator for consideration of revocation of the permit.

(7) Beekeeping permits are non-transferable and do not run with the land.

(8) A permit is a license granted to the beekeeper by the city and does not create a vested zoning right.

(f) *Inspection.* The City Administrator or designated official shall have the right to inspect any apiary for the purpose of ensuring compliance with this Ordinance once annually upon prior notice to the owner of the apiary property, and more often upon complaint without prior notice.

(g) *Presumed Colony/Hive Value.* For the purpose of enforcing City ordinances against destruction of property, each colony/hive shall be presumed to have a value of $275.

(h) *Compliance.*

(1) Upon receipt of credible information that any colony located within the City is not being kept in compliance with this ordinance, the City Administrator shall cause an investigation to be conducted. If the investigation shows that a violation may exist and

will continue, the City Administrator shall cause a written notice of hearing to be issued to the beekeeper, which notice shall set forth:

a. The date, the time and the place that the hearing will be held, which date shall be not less than 30 days from the date of the notice;

b. The violation alleged;

c. That the beekeeper may appear in person or through counsel, present evidence, cross examine witnesses and request a court reporter, and

(2) Notices may be served personally, or by mailing to the last known address of the owner and if the premises are occupied, to the premises. However, if the beekeeper cannot be located, then notice may be given by publication in a legal newspaper for the county in which the apiary property is located, at least seven days before the hearing.

(3) The hearing shall be conducted by the City Council. The burden shall be on the City to demonstrate by a preponderance of evidence that the colony or colonies have been kept in violation of this ordinance. If the City Council finds a violation, then they may order that the bees be removed from the City or such other action as may address the violation, and that the apiary lot be disqualified for permitting under this ordinance for a period of two years from the date of the order, the apiary lot ownership changes, in which case the prohibition shall terminate. If the order has not been complied with within 20 days of the order, the City may remove or destroy the bees and charge the beekeeper with the cost thereof.

(4) No hearing and no order shall be required for the destruction of honey bees not residing in a hive structure that is intended for beekeeping.

(i) *Savings Clause.* In the event any part of this ordinance or its application to any person or property is held to be unenforceable for any reason, the unenforceability thereof will not affect the enforceability and application of the remainder of this ordinance, which will remain in full force and effect.

(Ord. No. 20-05, § 2, 10-14-2020)

Footnotes:

[1] **State Law reference –** General authority relative to animals, Minn. Stats. § 412.221, subd. 21; animal health, Minn. Stats. ch. 35; dogs and cats, Minn. Stats. ch. 347; cruelty to animals, Minn. Stats. § 343.20 et seq.; stray animals and companion animals, Minn. Stats. ch. 346.

[2] **State Law reference –** Dogs and cats, Minn. Stats. ch. 347.

Chapter 14 - BUSINESSES

Article/Division/Section:

ARTICLE I - IN GENERAL

Sec. 14-1 - Business license requirements and regulations

(a) *Business licenses*. No person shall operate a business within the city without obtaining and maintaining a business license as provided herein.

(b) *Licensing procedures and regulations*.

(1) *Issuance*. Each owner of a business to be located within the city shall complete an application for a business license on forms provided by the city clerk, containing such information as is requested on the form. Business licenses shall be issued upon receipt of the completed application and appropriate license fee (as established by city council), after review by city staff; provided that the operation of the business at the proposed location complies with this Code and other applicable laws (i.e., Uniform Fire Code and Uniform Building Code, the state fire and building codes), passes an inspection, and approval by the city council.

(2) *Renewal*. Business licenses granted hereunder may be renewed upon submission to the city clerk of the appropriate license renewal fee and a completed renewal application, indicating any changes from the previous license application. Licenses will be renewed only if the business has been operated in compliance with all applicable laws, including this Code, during the preceding license term. All renewals must be approved by the city council.

(3) *Condition of premises*. Premises used in connection with any licenses business must be kept clean, in good repair, and free and clear of any trash, rubbish or debris.

(4) *Ownership changes.* Changes that result in a 25% change in ownership of a business requires a new license. The new owner(s) must submit an application for a new license within thirty calendar days of acquiring the property. Businesses that are listed on a stock exchange are exempt from section 14-1(b)(4).

(Code 1993, §§ 5-1.01, 5-1.02; Ord. No. 19-06, § 1, 9-11-2019)

Sec. 14-2 - Inspection requirements

(a) *Inspection required*. A satisfactory pass of an inspection is a condition of approval for a business license.

(b) *Inspection scope.* The city clerk or designated representative is authorized to inspect all buildings where a business is located. The inspection may include the building or structure, the land upon which it is located and accessory uses or structures. All inspections authorized by this chapter shall be limited to those which are done for the purpose of seeking compliance with applicable safety codes, and shall take place only at reasonable hours or as may otherwise be agreed upon by the owner and the city clerk or designated representative. An inspection is required every 24 months.

(c) *Notice of violations.* The city clerk or designated representative shall give written notice to the owner, or any known interested parties, of any violations of the applicable safety codes which are discovered during any inspection. The violations must be remedied and pass a re-inspection as a condition of license approval.

(d) *Access and warrant.* The city clerk or designated representative may enter, examine and survey at all reasonable times all businesses and premises after obtaining consent from an occupant of the premises. The city may also, upon receipt of a creditable third party complaint or a complaint by residents with reasonable concerns, require an inspection of a business. In the event that an occupant of the premises does not consent to entry by the city clerk or designate representative, and if there is probable cause to believe that an inspection is warranted, then application may be made to the court for an administrative or other search warrant for the purpose of inspecting the premises.

(e) *Inspection fees*. The city council shall establish the fee for inspections and re-inspection related to issuing business licenses.

(Ord. No. 19-06, § 2, 9-11-2019)

Sec. 14-3 - Revocation, suspension, and civil fines

(a) *Violations.* The following actions by property owners or license holders are misdemeanors and are subject to civil penalties, may constitute the basis for revocation of licenses and/or may result in injunctive action by the city. The property owner shall be responsible for the conduct of its agents or employees while engaged in normal business activities on the licensed premises. Any violation of this chapter shall be considered an act of the property owner or license holder for purposes of imposing a civil penalty or license revocation. If a license is revoked it is unlawful for the owner to permit new occupancy of any vacant unit, or any units that become vacant during license injunction.

(b) *Basis for sanctions.* The city council may revoke, suspend, deny or decline to renew any license issued under this chapter for part or all of a property upon any of the following grounds:

(1) *Leasing without a license.* Leasing business units without a license is subject to license suspension or revocation;

(2) *Violation of codes.* Violation of the city maintenance code, building code, fire code, or state or federal law;

(3) *Hazardous or uninhabitable units.* Leasing units that are deemed hazardous or uninhabitable or units within a building that are deemed hazardous or uninhabitable;

(4) *Commission of a felony.* Commission of a felony related to the licensed activity by the property owner or business owner;

(5) *Consideration of suspension or revocation.* At any time during a license period, if a property does not meet or exceed the criteria established for the current license, the license may be brought forth to the city council for consideration of license suspension or revocation;

(6) *Updated application requirement.* Failure to provide an updated application with current information within 30 days of application renewal request from the city;

(7) *False statements.* False statements on any application or other information or report required by this chapter to be given by the applicant or licensee;

(8) *Fees.* Failure to pay any application, inspection, penalty, reinspection or reinstatement fee required either by this section or city council resolution. Fee amounts are subjected to change through the city fee schedule;

(9) *Correction of deficiencies.* Failure to correct dwelling deficiencies in the time specified in a compliance order;

(10) *Inspection.* Failure to schedule an inspection within 90 days of application filed and/or allow an authorized inspection;

(11) *Delinquent taxes or fines.* Real estate or personal property taxes or municipal utilities have become delinquent or have unpaid fines.

(c) *Penalties.*

(1) *Revocation.* Any violation of this chapter may be grounds to revoke a license. Any civil penalty, revocation or combination thereof under this section does not preclude criminal prosecution under this chapter or Minnesota statutes. All fines are cumulative and revocation periods will run consecutively.

(2) *Violation.* Any person that maintains a business without having a property registered or after the registration for the property has been revoked or suspended or who permits new occupancy in violation is guilty of a misdemeanor and upon conviction is subject to a fine and imprisonment as prescribed by state law.

a. *First violation:* City clerk will give notice to the licensee of the violation, request fine payment and direct the licensee to take steps to prevent further violations.

b. *Second violation:* If a second violation occurs within 60 days of a first violation the city clerk will give notice to the licensee of the violation, request fine payment and direct the licensee to take steps to prevent further violations.

c. *Third or more violation:* If another instance of violations occurs within 60 days of the calendar year the city clerk will give notice to the licensee of the violation, request fine payment and direct the licensee to take steps to prevent further violations. If a fourth or subsequent violation occurs, suspension of the license will be pending until a hearing.

(3) *Suspension.* The city council may temporarily suspend a license pending a hearing on the suspension or revocation when, in its judgment, the public health, safety, and welfare is endangered by the continuance of the licensed activity.

(4) *Civil fines.* The city council may impose civil fines in addition to revocation or suspension for violations of any provision of this chapter as follows:

Within One Calendar Year	Fine Per Unit/Common Building
First Violation	$300.00
Second Violation	600.00
Third or more within a 12-month period	900.00
Operating a business without a license after 30 days' notice shall be subject to $1,000.00 fine per unit and also be a misdemeanor offense.	

(Ord. No. 19-06, § 3, 9-11-2019)

Sec. 14-4 - Hearing on penalties, revocation, violation, suspension and civil fines

(a) Hearing. Following receipt of a notice of denial or nonrenewal or a notice of a violation and penalty issued under section 14-3 of this chapter, an applicant or license holder may request a hearing before the city council. A request for a hearing shall be made by the applicant or license holder in writing and filed with the city clerk within ten days of the mailing of the notice of denial or alleged violation. Following receipt of a written request for hearing, the applicant or license holder shall be afforded an opportunity for a hearing before the city council. A hearing will be conducted before the city council at a public meeting, or the city council may retain an administrative hearing officer or other impartial third party to conduct the public hearing. The licensee shall have the right to be represented by counsel, the right to respond to the charged violations, and the right to present evidence through witnesses. The rules of evidence do not apply to the hearing and the city council may rely on all evidence it determines to be reasonably credible. The determination to suspend or revoke the license shall be made upon a preponderance

of the evidence. It is not necessary that criminal charges be brought in order to support a suspension or revocation of a license violation nor does the dismissal or acquittal of such a criminal charge operate as a bar to suspension or revocation.

(b) Decision basis. The council shall give due regard to the frequency and seriousness of violations, the ease with which such violations could have been cured or avoided and good faith efforts to comply and shall issue a decision to deny, not renew, suspend or revoke a license only upon written findings.

(c) Findings. If after the hearing the applicant or license holder is found ineligible for a license, or in violation of this chapter, the council may affirm the denial, impose a civil penalty, suspend, or revoke a license or impose any combination thereof.

(d) Default. If the applicant or license holder has been provided written notice of the denial, nonrenewal, or violation and if no request for a hearing is filed within the ten-day period, then the denial or revocation take immediate effect by default. The city clerk shall mail notice of the denial, fine, suspension, or revocation to the applicant or license holder. The city clerk shall investigate compliance with the denial or revocation.

(e) Penalties for default. Failure to comply with all terms of this section during the term of revocation, suspension or nonrenewal is a misdemeanor and grounds for extension of the term of revocation, suspension or continuation of nonrenewal of the license.

(f) Affected facility. The council may suspend or revoke a license or not renew a license for part or all of a facility.

(g) Suspension. Licenses may be suspended for up to 90 days and may, after the period of suspension, be reinstated subject to compliance with this chapter and any conditions imposed by the city council at the time of suspension including, but not limited to, receivership or city obtaining control to manage the property temporarily.

(h) Written decision, compliance. A written decision to revoke, suspend, deny, or not renew a license or application shall specify the part or parts of the facility to which it applies. Thereafter, and until a license is reissued or reinstated, no units becoming vacant in such part or parts of the facility may be relet or occupied.

(i) Continuing obligations, penalty. Revocation, suspension or nonrenewal of a license shall not excuse the owner/licensee from compliance with all terms of this chapter, this Code, and state or federal laws for as long as any units in the facility are occupied. Failure to comply with all terms of this chapter during the term of revocation, suspension or nonrenewal is a misdemeanor and grounds for extension of the term of such revocation or suspension or continuation of nonrenewal, or for a decision not to reinstate the license, notwithstanding any limitations on the period of suspension, revocation or nonrenewal specified in the city council's written decision.

(j) New licenses prohibited. A person who has a business license revoked may not receive a business license for another property within the city for a period of one year from the date of revocation. The person may continue to operate other currently licensed properties if the properties are maintained in compliance with city codes and other applicable regulations.

(Ord. No. 19-06, § 4, 9-11-2019)

Sec. 14-5 - Summary action

(a) When the condition of the property 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 city clerk shall have the authority to summarily condemn or close off such area of the property.

(b) Any person aggrieved by a decision of the city clerk 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 city clerk shall schedule a date for hearing before the city council and notify the aggrieved person of the date.

(c) The hearing shall be conducted in the same manner as if the aggrieved person had not received summary action.

(d) The decision of the city clerk shall not be voided by the filing of such appeal. Only after the city council has held its hearing will the decision of the compliance official be affected.

(Ord. No. 19-06, § 5, 9-11-2019)

Sec. 14-6 - Applicable laws

Licenses shall be subject to all of the ordinances of the city and the State of Minnesota relating to businesses; and this chapter shall not be construed or interpreted to supersede or limit any other such applicable ordinance or law.

(Ord. No. 19-06, § 6, 9-11-2019)

Sec. 14-7 - Multiple suspensions

If the license of more than one unit in a licensed premises is suspended within 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 this chapter.

(Ord. No. 19-06, § 7, 9-11-2019)

Sec. 14-8 - Contractors license requirements and regulations

(a) *Generally.* Residential building and remodeling contractors who engage in business in the city must present the city with proof they hold the required state license. Residential building and remodeling contractors who provide only one special skill and all commercial building and remodeling contractors who are not required to have a state license must maintain a Falcon Heights contractor license. Common services requiring licensure include, but are not limited to:

(1) Asphalt paving and driveway installation.

(2) Cement work, cement bond work, cement block laying, or brick work.

(3) General construction including erection, alteration or repair of building.

(4) Moving or demolition of buildings.

(5) Plastering, drywall, outside stucco work, or lathing.

(6) Heating, cooling, and gas installation including appliances, devices or machinery, but if the contractor holds a state license in the Plumbing discipline, a city contractor license is not required.

(7) Roofing.

(8) Fence erecting.

(9) Sign and billboard erecting.

(10) Excavation for basements, foundations, grading of lots, etc.

(11) Water and sewer excavating, installation, and connection.

(12) Tree removal and/or tree trimming, except that no license shall be required when the work to be done is performed under the direction of the public utility otherwise authorized to use the streets of the city for work related to such utilities.

(b) *Licensing procedure.*

(1) *Application and issuance.* Application for contractor~~'s~~ licenses must be on forms provided by the city, accompanied by the appropriate fee as stipulated in the City Fee Schedule, and any special requirements set forth for specific contractors. Such application shall be submitted to the city administrator for approval.

(2) *Revocation.* Every license may be revoked by the city council for violation of this code or whose work is found to be improper, defective, or so unsafe as to jeopardize life or property providing the license holder has been given reasonable notice and a hearing is held.

(3) *Reapplication following denial.* In the event an individual is denied license, that individual may not reapply for a license until six months have passed from the date of denial.

(4) *Insurance.* All contractors must apply for a license and provide to the city a certificate of insurance showing evidence that the applicant has in effect public liability insurance in the amount of at least $300,000.00 for injury of one person, $500,000.00 for injury of two or more persons in the same accident and $100,000.00 for property damages. The insurance shall remain in and be in force and effect during the entire term of said license.

Should any insurance be canceled, the city shall be given ten days notice, and the license issued shall be suspended and inoperative until adequate insurance is provided.

(5) *Expiration.* All licenses under this section shall expire on December 31 of the year of issuance, unless sooner revoked or forfeited.

(c) *General and subcontractor licenses.* A license granted to a general contractor shall include the right to perform all of the work included in the general contract. Such license shall include any or all of the persons performing the work which is classified and listed in this section, providing that each person performing such work is in the regular employ of such general contractor and qualified under state law and the provisions of this Building Code to perform such work. In these cases, the general contractor shall be responsible for all of the work so performed. Subcontractors on any work shall be required to comply with the sections of this Code pertaining to license, bond, qualifications, etc. for their particular type of work.

(Code 1993, §§ 5-2.01, 5-2.02; Ord. No. 20-01, § 1, 2-12-2020)

Secs. 14-9 – 14-41 - Reserved

ARTICLE II - DRAIN OR SEWER CLEANERS

Sec. 14-42 - License; inspection of lines

No person shall operate as a drain or sewer cleaner without a license issued by the city. Whenever a line is cleaned, the firm shall notify the city so that the city maintenance department can inspect the manholes.

(Code 1993, § 5-2.03(B))

Secs. 14-43 – 14-72 - Reserved

ARTICLE III - HOLIDAY TREE LOTS

Sec. 14-73 - Restrictions that govern issuance of license

The following restrictions shall govern the issuance and continued validity of a holiday tree sales license:

(1) Such license shall be granted only in a district in which such activity is authorized by chapter 113, zoning, or for an existing nursery or garden store.

(2) Adequate off-street parking shall be provided on the site or adjacent thereto.

(3) In the event the site is to be artificially illuminated, all lighting shall be directed to not create a glare on the traveled portion of any public street and so as not to shine upon any residentially used property.

(Code 1993, § 5-1.03(B)(3))

Sec. 14-74 - Information to be provided by applicant for license

The applicant shall provide the address and the parking to be provided on the property or adjacent property.

(Code 1993, § 5-1.03(B)(2))

Sec. 14-75 - Term of license

A license shall be referred to as a holiday tree sales license and shall expire on January 15 of the year following issuance of the license.

(Code 1993, § 5-1.03(B)(1))

Secs. 14-76 – 14-93 - Reserved

ARTICLE IV - PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS[2]

Sec. 14-94 - Definitions

Unless otherwise expressly stated, whenever used in this article, the following words shall have the meaning given to them by this article:

Peddler. Any person who goes from dwelling to dwelling, business to business, street to street, or any other type of place to place, for the purpose of offering for sale, displaying or exposing for sale, selling or attempting to sell, and delivering immediately upon sale, the goods, wares, products, merchandise, or other personal property that the person is carrying or otherwise transporting. The term "peddler" shall mean the same as the term "hawker".

Person. Any natural individual, group, organization, corporation, partnership, or association. As applied to groups, organizations, corporations, partnerships, and associations, the term shall include each member, officer, partner, associate, agent, or employee.

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

Transient merchant. Any person who engages in any temporary and transient business in this state, either in one locality, or in traveling from place to place in this state, selling goods, wares, and merchandise; and who, for the purpose of carrying on such business, hires, leases,

occupies, or uses a building, structure, vacant lot, or railroad car for the exhibition and sale of such goods, wares, and merchandise.

(Ord. No. 07-02, § 1(1), 1-10-2007)

Sec. 14-95 - License required

No peddler or solicitor shall sell or offer for sale any goods, wares, or merchandise within the city unless a license therefor shall first be secured as provided in this article. The nonrefundable license fee is $25.00. Any peddler or solicitor dealing with merchandise of any kind to be delivered to customers in Minnesota directly from points outside of Minnesota shall be exempt from the payment of the license fee.

(Ord. No. 07-02, § 1(2), 1-10-2007)

Sec. 14-96 - Conditions governing license

Application shall be made with the city clerk of the city at least seven regular business days prior to the date when the activity to be carried on is to commence. Persons applying must file with the city clerk an accurate sworn statement in writing, on a form furnished by the city clerk, giving the following information:

(1) Name and physical description of the applicant;

(2) Complete home and local address of the applicant and, in the case of transient merchants, the local address from which proposed sales will be made;

(3) A brief description of the nature of the business and the product or services involved;

(4) If employed, the name and address of the employer, together with credentials therefrom, establishing the exact relationship;

(5) The dates and hours of the day during which the activity will be carried on;

(6) The source of supply of any goods or property proposed to be sold or orders taken for the sale thereof, where such goods or products are located at the time said registration is filed and the proposed method of delivery;

(7) A statement as to whether or not the applicant has been convicted of any crime, or misdemeanor or violation of any municipal ordinance of any municipality other than traffic violations, the nature of the offense and the punishment or penalty assessed therefor;

(8) The last municipalities, not to exceed five, where the applicant carried on business immediately preceding the date of the application and the address from which such business was conducted in those municipalities.

(Ord. No. 07-02, § 1(3), 1-10-2007)

Sec. 14-97 - Procedure

An application shall be determined to be complete only if all required information is provided. If the city administrator determines that an application is incomplete, then he or she shall inform the applicant of the information required to be provided prior to issuance of a license. The city administrator shall review the application and order any investigation, including background checks, necessary to verify the information provided with the application. The city administrator shall either approve or deny the license within seven regular business days. If the application is rejected, the applicant shall be notified in writing of the decision, the reason for the denial, and the applicant's right to appeal the denial by requesting, within 20 days of the date of the denial, a public hearing to be heard by the city council within 20 days of the date of the request.

(Ord. No. 07-02, § 1(4), 1-10-2007)

Sec. 14-98 - Exemptions

The licensing and identification requirements of this article do not apply to persons engaged in the following activities:

(1) Selling personal property at wholesale to dealers in such articles;

(2) Selling newspaper subscriptions;

(3) Soliciting money, donations, or financial assistance of any kind for nonprofit, religious, political, or education organizations; or taking orders for goods sold by a political, religious, educational, or nonprofit organization, or selling or distributing literature or merchandise for which a fee is charged or solicited on behalf of such an organization;

(4) Calling upon householders in connection with a regular route service for the sale and delivery of perishable daily necessities of life such as bakery products and dairy products; this exception does not relieve such person of the duty of compliance with any other applicable provision of this Code;

(5) Calling upon householders at the request of said householders.

(Ord. No. 07-02, 1(5), 1-10-2007)

Sec. 14-99 - Proof of license

Every license shall bear the written approval of the city administrator. Within five days after such approval, the city clerk shall provide the applicant with a written certificate showing proof of licensing. Such proof of licensing shall be exhibited by the licensee upon request of any police officer or of any person in the city who is being contacted by the licensee in pursuance of the licensee's activity.

(Ord. No. 07-02, § 1(6), 1-10-2007)

Sec. 14-100 - License nontransferable

No license is transferable from one individual to another. Each individual shall be separately licensed where more than one individual is involved in the same type of activity even though associated with the same organization.

(Ord. No. 07-02, § 1(7), 1-10-2007)

Sec. 14-101 - Persons working for or assisting licensee

The licensee shall also supply the information required in section 14-96 for all persons working for or assisting the licensee and pay the fee for each person.

(Ord. No. 07-02, § 1(8), 1-10-2007)

Sec. 14-102 - Identification

All solicitors and peddlers must wear some type of identification conspicuously showing their name and the organization for which they are soliciting or peddling, must carry their city issued license certificate when conducting the business or activity required to be licensed under this chapter, and must wear or display on their outermost clothing the certificate of licensure provided by the city.

(Ord. No. 07-02, § 1(9), 1-10-2007)

Sec. 14-103 - Licensure control

The certificate of licensure issued by the city is the property of the City of Falcon Heights, and must be returned to the city within seven days after the expiration date of the license. Failure to do so may result in prosecution and will result in the denial of any future license application for 12 months.

(Ord. No. 07-02, § 1(10), 1-10-2007)

Sec. 14-104 - Practices prohibited

No peddler, solicitor or transient merchant shall conduct business in any of the following manners:

(1) Obstructing the free flow of either vehicular or pedestrian traffic on any street, alley, sidewalk, or other public right-of-way;

(2) Conducting business in such a way as to create a threat to the health, safety, or welfare of any individual or the general public;

(3) Entering upon any residential premises for the purpose of carrying on the licensee's or registrant's trade or business between the hours of 7:00 p.m. and 9:00 a.m. of the following day, unless such person has been expressly invited to do so by the owner or occupant thereof;

(4) Call attention to his business or to his merchandise, by crying out, by blowing a horn, or by any loud or unusual noise in areas zoned for residential use;

(5) No peddler, solicitor, or transient merchant shall harass, intimidate, abuse, or threaten a person or continue to offer merchandise for sale to any person after being told not to do so by that person.

(Ord. No. 07-02, § 1(11), 1-10-2007)

Sec. 14-105 - Duration of license

Each license shall be valid only for the period specified therein, and no license may extend beyond the 31st day of December of the year in which it is granted.

(Ord. No. 07-02, § 1(12), 1-10-2007)

Sec. 14-106 - Exclusion of peddlers and solicitors

Any person who wishes to exclude peddlers or solicitors from premises occupied by him may place upon or near the usual entrance to such premises a printed placard or sign bearing the following notice:

"Peddlers and Solicitors Prohibited"

Such placard shall be at least three and three-quarter-inches long and three and three-quarter-inches wide and the printing thereon shall not be smaller than 48-point type. No peddler or solicitor shall enter in or upon any premises or attempt to enter in or upon any premises where such placard or sign is placed and maintained notwithstanding the fact that he may have obtained a solicitation certificate or solicitation credentials, as the case may be, under the provisions of this article. No person other than the person occupying such premises shall remove, injure or deface such placard or sign.

(Ord. No. 07-02, § 1(13), 1-10-2007)

Sec. 14-107 - Suspension and revocation

(a) *Suspension.* Any license may be temporarily suspended by the city administrator or revoked by the council for a violation of any of the following:

(1) Fraud, misrepresentation, or incorrect statements on the application form;

(2) Fraud, misrepresentation, or false statements made during the course of the license activity;

(3) Conviction of any offense for which granting of a license could have been denied under this article;

(4) Violation of any provision of this article; or

(5) Conducting the 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 public.

(b) *Notice.* Prior to revoking or suspending any license issued under this article, the city shall provide the license holder with written notice of the alleged violation(s) and inform the licensee of the licensee's right to a hearing on the alleged violation. Notice shall be delivered in person or by mail to the permanent residential address listed on the license application, or if no residential address is listed, the business address provided on the license application.

(c) *Hearing.* Upon receiving the notice provided in subsection (b) of this section, the licensee shall have the right to request a hearing. If no request for a hearing is received by the city within ten days following the service of the notice, the city may proceed with the suspension or revocation. For the purpose of mailed notices, service shall be considered complete as of the date the notice is placed in the mail. If a hearing is requested within the required time, a hearing shall be scheduled within 20 days from the date of the request. The city administrator or the administrator's designee shall be the hearing officer and shall render a decision. The decision of the administrator is final unless the licensee, within five days, appeals the decision to the city council.

(d) *Emergency.* If, in the discretion of the city administrator or the administrator's designee, imminent harm to the health or safety of the public may occur because of the actions of a peddler or solicitor licensed under this article, the city administrator may immediately suspend the person's license and provide notice of the right to hold a subsequent public hearing as prescribed in subsection (b) of this section.

(e) *Appeals.* Any person whose license is suspended or revoked under this article, shall have the right to appeal that decision in court.

(Ord. No. 07-02, § 1(14), 1-10-2007)

Sec. 14-108 - Compliance with zoning

Transient merchants and transient produce merchants shall comply with provisions of the Falcon Heights Zoning Code. Compliance with the zoning ordinance location, information, and plan requirements shall be verified in writing by the city administrator.

(Ord. No. 07-02, § 1(15), 1-10-2007)

Secs. 14-109 – 14-122 - Reserved

ARTICLE V - MASSAGE THERAPY

DIVISION 1 - GENERALLY

Sec. 14-123 - Purpose

The purpose of this article is to prohibit massage businesses and services to the public except those licensed as therapeutic massage enterprises pursuant to this article. The licensing regulations prescribed herein are necessary in order to prevent criminal activity and to protect the health and welfare of the community. The purpose of this article is not to impose restrictions or limitations on the freedom of protected speech or expression.

(Code 1993, § 5-1.03(E)(1); Ord. No. 0-94-06, § 1, 3-23-1994)

Sec. 14-124 - Findings

The city 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:

(1) 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.

(2) 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.

(3) 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.

(4) 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.

(5) 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.

(Code 1993, § 5-1.03(E)(2); Ord. No. 0-94-06, § 21, 3-23-1994)

Sec. 14-125 - Definitions

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Massage means 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.

Therapeutic massage enterprise means a person who operates a business which hires only licensed therapeutic massage therapists 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.

Therapeutic massage therapist means an individual who practices or administers massage to the public who can demonstrate to the city that he or she:

(1) Has a current insurance coverage of $1,000,000.00 for professional or general liability in the practice of massage;

(2) Is affiliated with, employed by, or owns a therapeutic massage enterprise licensed by the city; and

(3) Has completed 400 hours of certified therapeutic massage training from a bona fide

school or has one year of experience practicing massage therapy as established by an affidavit and is currently and continually enrolled in a bona fide therapeutic massage school. Compliance with this requirement applies to the license application and license renewal.

(Code 1993, § 5-1.03(E)(3); Ord. No. 0-94-06, § 3, 3-23-1994)

Sec. 14-126 - General license restrictions

(a) A therapeutic massage enterprise license issued must be posted in a conspicuous place on the premises for which it is used.

(b) A therapeutic massage enterprise license is only effective for the compact and contiguous space specified in the approved license application.

(c) 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.

(d) The enterprise hours of operation shall be no more than 9:00 a.m. to 9:00 p.m.

(e) A therapeutic massage therapist shall be employed by, affiliated with, or own a therapeutic massage enterprise business licensed by the city, unless a person or place is specifically exempted from obtaining a therapeutic massage enterprise license in section 14-145.

(f) No therapeutic massage enterprise shall employ or use any person to perform massage who is not licensed as a therapeutic massage therapist under this section, unless the person is specifically exempted from obtaining a therapist license in section 14-145.

(g) The licensee shall require that the person who is receiving the massage shall at all times have his or her genital area covered with nontransparent material or clothing.

(h) Any therapist performing massage shall at all times have his or her breasts, buttocks, anus, and genitals covered with a non-transparent material or clothing.

(i) No licensee shall solicit business or offer to perform massage services while under license suspension or revocation by the city.

(j) At no time shall the therapeutic massage therapist intentionally massage or offer to massage the penis, scrotum, mons veneris, vulva, or vaginal area of a person.

(Code 1993, § 5-1.03(E)(10); Ord. No. 0-94-06, § 10, 3-23-1994)

Sec. 14-127 - Restrictions regarding sanitation and health

(a) A therapeutic massage enterprise shall be equipped with adequate and conveniently located toilet rooms for the accommodation of its employees and patrons. The toilet room shall be well ventilated by natural or mechanical methods and be enclosed with a door. The toilet room shall be kept clean and in good repair and shall be adequately lighted.

(b) A licensed therapeutic massage enterprise shall provide single-service disposal paper or clean linens to cover the table, chair, furniture, or area on which the patron receives the massage; or in the alternative, if the table, chair, or furniture on which the patron receives the massage is made of material impervious to moisture, such table, chair, or furniture on which the patron receives the massage is made of material impervious to moisture.

(c) The therapeutic massage therapist shall wash his or her hands and arms with water and soap, antibacterial scrubs, alcohol, or other disinfectants prior to and following each massage service performed.

(Code 1993, § 5-1.03(E)(11); Ord. No. 0-94-06, § 11, 3-23-1994)

Secs. 14-128 – 14-144 - Reserved

DIVISION 2 - LICENSES

Sec. 14-145 - Therapeutic massage enterprise license

(a) *Required*. It shall be unlawful for any person to operate, engage in, or carry on, within the city, any type of massage services to the public for consideration without first having obtained a therapeutic massage enterprise license from the city pursuant to this division.

(b) *Exceptions*. A therapeutic massage enterprise license is not 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) 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 is merely incidental to hairstyling or manicure services.

(3) Persons working solely under the direction and control of a person duly licensed by this state to practice medicine, surgery, osteopathy, chiropractic, physical therapy, or podiatry.

(4) Places duly licensed or operating as a hospital, nursing home, hospice, sanitarium, or group home established for the hospitalization or care of human beings.

(Code 1993, § 5-1.03(E)(4), (5); Ord. No. 0-94-06, §§ 4, 5, 3-23-1994)

Sec. 14-146 - Application

An application for a therapeutic massage enterprise license shall be made on the form supplied by the city and shall request the following information:

(1) For all applicants:

a. Whether the applicant is an individual, corporation, partnership, or other form of organization.

b. The legal description of the premises to be licensed together with a plan of the area showing dimensions, location of buildings, street access, and parking facilities.

c. The floor number, street number, and rooms where the massage services are to be conducted.

d. Whether all real estate and personal property taxes that are due and payable for the premises to be licensed have been paid, and if not paid, the years and amounts that

are unpaid.

e. Whenever the application is for premises either planned or under construction or undergoing substantial alteration, the application shall be accompanied by a set of preliminary plans showing the design of the proposed premises to be licensed.

f. The name and street address of the business if it is to be conducted under a designation, name, or style other than the name of the applicant, and a certified copy of the certificate as required by Minn. Stats. § 333.01.

g. Such other information as the city shall require.

(2) For applicants who are individuals:

a. The name, place and date of birth, and street residence address of the applicant.

b. Whether the applicant has ever used or been known by a name other than the applicant's name, and if so, the name and information concerning dates and places where used.

c. Whether the applicant is a citizen of the United States or a resident alien.

d. Street addresses at which the applicant has lived during the preceding five years.

e. The type, name, and location of every business or occupation the applicant has been engaged in during the preceding five years.

f. Names and addresses of the applicant's employers for preceding five years.

g. Whether the applicant has ever been convicted of any felony or crime, and the time, place and offense for which convictions were had.

h. Whether the applicant has ever been engaged in the operation of massage services. If so, applicant shall furnish information as to the name, place and length of time of the involvement in such an establishment.

(3) For applicants that are corporations or other types of organizations:

a. The name of the organization, and if incorporated, the state of incorporation.

b. A true copy of the certificate of incorporation, and, if a foreign corporation, a certificate of authority as described in Minn. Stats. § 303.03.

c. The name of the general manager, corporate officers, proprietor and other person in charge of the premises to be licensed, and all the information about said persons as is required in subsection (2) of this section.

d. A list of all persons who own or control an interest in the corporation or organization or who are officers of said corporation or organization, together with their addresses and all the information regarding such persons as is required in subsection (2) of this section.

(Code 1993, § 5-1.03(E)(6); Ord. No. 0-94-06, § 6, 3-23-1994)

Sec. 14-147 - Application and investigation fees

The fees for a therapeutic massage enterprise licenses shall be in the amount established by the city council. An investigation fee shall be charged for therapeutic massage enterprise licenses

in the amount established by the city council. Each application for a license shall be accompanied by payment in full of the required license and investigation fee, if applicable.

(Code 1993, § 5-1.03(E)(7); Ord. No. 0-94-06, § 7, 3-23-1994)

Sec. 14-148 - Application verification and consideration

The city shall verify the information supplied on the license application and shall investigate the background, including the criminal background, of the applicant to assure compliance with this section. Within 90 days of receipt of a complete application and fee for a therapeutic massage enterprise license, the city administrator shall make a written recommendation to the city council as to issuance or nonissuance of the license. The city council may order and conduct such additional investigation as it deems necessary, but shall grant or deny the application within 120 days of receipt by the city of the complete application and fee.

(Code 1993, § 5-1.03(E)(8); Ord. No. 0-94-06, § 8, 3-23-1994; Ord. No. 0-96-03, § 1, 6-26-1996)

Sec. 14-149 - Persons ineligible for license

No therapeutic massage enterprise license shall be issued to a person who:

(1) Is a minor at the time the application is filed;

(2) Has been convicted of any crime directly related to the occupation licensed as prescribed by Minn. Stats. § 364.03;

(3) Is not a citizen of the United States or a resident alien;

(4) Is not of good moral character or repute;

(5) Is not the real party in interest of the enterprise;

(6) Has misrepresented or falsified information on the license application;

(7) Cannot meet the definition of therapeutic massage enterprise as specified in section 14-125.

(Code 1993, § 5-1.03(E)(9); Ord. No. 0-94-06, § 9, 3-23-1994)

Sec. 14-150 - Renewal of license

An enterprise license issued under this section shall expire on December 31 at 12:00 a.m. of each year. An application for the renewal of an existing license shall be made at least 30 days prior to the expiration date of the license and shall be made in such form as the city requires. If, in the judgment of the city council, good and sufficient cause is shown by an applicant for the applicant's failure to submit a renewal application within the time provided, the city council may, if the other provisions of this section are complied with, grant the renewal application.

(Code 1993, § 5-1.03(E)(12))

Sec. 14-151 - Sanctions for license violations

(a) The city council may revoke a license or suspend a license for up to 60 days for a violation of:

(1) A provision of this article or therapeutic massage enterprise license;

(2) A state law relating to prostitution; or

(3) A federal, state, or local law relating to moral character.

(b) A revocation or suspension shall be preceded by written notice to the licensee and a public hearing. The notice shall give at least eight days notice of the time and place of the public hearing and shall state the nature of the charges against the licensee. The notice shall be mailed to the licensee at the most recent address listed on the license application. The hearing of a contested case shall be in accordance with Minn. Stats. §§ 14.57—14.60, but informal disposition of a contested case by stipulation, pursuant to Minn. Stats. § 14.59, may provide an adequate basis for imposition of sanctions.

(Code 1993, § 5-1.03(E)(13))

Secs. 14-152 – 14-249 - Reserved

ARTICLE VI - PRECIOUS METAL DEALERS[3]

Sec. 14-250 - Definitions

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Precious metal dealer means any person who either as principal or agent engages in the business of buying coins or secondhand items containing precious metal, including, but not limited to, jewelry, watches, eating utensils, candlesticks, and religious and decorative objects.

Precious metal items means any item made in whole or in part of metal and containing more than one percent by weight of silver, gold or platinum.

Precious metals means silver, gold, and platinum.

(Code 1993, § 5-1.03(F)(2))

Sec. 14-251 - Purpose

The city council finds that precious metal dealers potentially provide an opportunity for the commission of crimes and their concealment because such businesses have the ability to receive and transfer stolen property easily and quickly. The city council also finds that consumer protection regulation is warranted in transactions involving precious metal dealers. The purpose of this article is to prevent precious metal businesses from being used as facilities for the commission of crimes such as the receipt and transfer of stolen merchandise and to assure that such businesses comply with basic consumer protection standards, thereby protecting the public health, safety, and general welfare of the citizens of the city.

(Code 1993, § 5-1.03(F)(3))

Sec. 14-252 - License required

No person shall exercise, carry on or be engaged in the trade or business of a precious metal dealer within the city unless such person is currently licensed under this chapter. Application for a license should be made to the city clerk on a form supplied by the city. Upon filing of the application and payment of the required fee as stipulated in section 14-253, the application shall be presented to the city council for consideration.

(Code 1993, § 5-1.03(F)(1))

Sec. 14-253 - Fees

(a) *Investigation fee.*

(1) The license and investigation fee shall be paid in full before the application for a license shall be accepted.

(2) The investigation fee is as established by the city council.

(b) *License fee.* A precious metal dealer business license shall be purchased annually. The annual fee is as established by the city council. Upon rejection of any application for a license or upon withdrawal of any application before city council approval, the license fee shall be refunded in full to the applicant except where rejection is for a willful misstatement in the license application.

(Code 1993, § 5-1.03(F)(5))

Sec. 14-254 - License transfer prohibited

Each license shall be issued to the applicant only and shall not be transferable to any other person. No licensee shall loan, sell, give or assign a license to another person.

(Code 1993, § 5-1.03(F)(6))

Sec. 14-255 - Limitation on number of licenses

The number of precious metal dealer licenses issued in the city in any calendar year shall not exceed one.

(Code 1993, § 5-1.03(F)(7))

Sec. 14-256 - Recordkeeping and inspections; daily reports; orders to hold certain property; hours of operation; etc

(a) *Recordkeeping.* At the time of a receipt of an item of property, the precious metal dealer shall immediately record, using the English language, in an indelible ink, in a book or journal, which has page numbers that are preprinted, the following information:

(1) An accurate description of the item of property including, but not limited to, any trademark, identification number, serial number, model number, brand name, or other identifying mark on such item;

(2) The date and time the item of property was received by the precious metal dealer;

(3) The name, address, and date of birth of the person from whom the item of property was received.

(b) *Inspection of records.* The precious metal dealer shall make available the information required in section 14-256(a) at all reasonable times for inspection by the city police department or issuing authority. The information required in section 14-256(a) shall be retained by the precious metal dealer for at least four years.

(c) *Daily reports required.* The precious metal dealer shall complete forms approved by the city and send the forms daily to the city police department for any transactions involving the following items:

(1) Precious jewelry;

(2) Gems;

(3) Watches; and

(4) Items containing precious metals.

(d) *Daily report information.* The daily report forms submitted to the city police department shall contain the following information:

(1) An accurate description of the item of property including, but not limited to, any trademark, identification number, serial number, or other identifying mark on such item;

(2) The price of the item paid by the precious metal dealer;

(3) The date, time, and place of receipt of the item;

(4) The name, address, and date of birth of the person from whom the item was received;

(5) The identification number from one of the following forms of identification of the person from whom the item was received:

a. A valid driver's license;

b. A state identification card; or

c. A photo identification issued by the state of residency of the person from whom the item was received.

(e) *Police order to hold property.* Whenever the city police department notifies the precious metal dealer not to sell an item, the item shall not be sold or removed from the licensed premises until authorized to be released by the city police department.

(f) *Holding period.* Any item received by the precious metal dealer, for which a report to the police is required under section 14-256(c), shall not be sold or otherwise transferred for 14 days after the date of such report to the police.

(g) *Receipt to seller.* The precious metal dealer shall provide a receipt to the seller of any item of property received, which shall include the following information:

(1) Name, address and phone number of the precious metal dealer business;

(2) The date on which the item was received by the precious metal dealer; and

(3) A description of the item received and amount paid to the seller in exchange for the item sold.

(h) *Hours of operation.* No precious metal dealer shall keep the precious metal dealer business open for the transaction of business on any day of the week before 9:00 a.m. or after 9:00 p.m.

(i) *Minors.* The precious metal dealer shall not purchase or receive personal property of any nature from a minor.

(j) *Inspection of items.* The precious metal dealer shall, at all times during the term of the license, allow the city police department or issuing authority to enter the premises where the precious metals dealer business is located, for the purpose of inspecting such premises and inspecting the items, wares and merchandise therein for the purpose of locating items suspected or alleged to have been stolen or otherwise improperly disposed of.

(k) *License display.* An issued license must be posted in a conspicuous place in the premises for which it is used. The license issued is only effective for the compact and contiguous space specified in the approved license application.

(l) *Proper identification.* A licensee under this section shall not accept any items of property unless the seller provides to the precious metal dealer one of the following forms of identification:

(1) A valid driver's license;

(2) A current state identification card; or

(3) A current photo identification issued by the state of residency of the person from whom the item was received.

The licensee shall not accept any items of property from a seller who does not match the photo and the description on the identification presented. No other forms of identification shall be accepted.

(m) *Pawning not permitted.* Precious metal dealers may not loan money on deposit or pledge of personal property, or other valuable thing. Precious metal dealers may not deal in the purchasing of personal property or other valuable thing on condition of selling the same back again at a stipulated price, or loan money secured by chattel mortgage on personal property, taking possession of the property or any part thereof so mortgaged.

(Code 1993, § 5-1.03(F)(4))

Secs. 14-257 – 14-275 - Reserved

ARTICLE VII - REFUSE HAULERS[4]

Sec. 14-276 - License required

No person shall operate as refuse hauler without a license issued by the city.

Sec. 14-277 - Requirements for haulers

All refuse haulers shall:

(1) Be capable of at least weekly collection of rubbish and other waste materials including seasonal collection of leaves, grass clippings and brush.

(2) Provide for periodic removal of excess refuse.

(3) Offer a minimum of three different volume-based rates, including 32 gallons per week, 64 gallons per week, and greater than 64 gallons per week.

(4) File with the city clerk a schedule of proposed rates to be charged during the licensing period. Every licensee shall provide 14 days' written notification to the city and the licensee's customers of any change in rates to be implemented during the licensing period.

(5) Provide refuse collection in R-2 and R-1 zones on Fridays only.

(6) Not collect or remove garbage or refuse within 500 feet of any residential district, except between the hours of 7:00 a.m. and 10:00 p.m. on any weekday or between the hours of 9:00 a.m. and 9:00 p.m. on any weekend or legal holiday.

(7) Report to the city monthly the quantity of all yard waste abated from landfills. Such quantities shall be reported in estimates of cubic yardage abated. Failure to certify accurate volumes in a timely manner may be cause for revocation of a hauler's license.

(8) Transfer the refuse of his or her vehicle without spilling, or if any spilling occurs, he or she shall clean it up completely.

(Code 1993, § 5-2.03(A)(1))

Secs. 14-278 – 14-291 - Reserved

ARTICLE VIII - TOBACCO[5]

Sec. 14-292 - Purpose and intent

Because marketing and public health research and tobacco industry documents reveal that tobacco companies have used fruit, candy, and alcohol flavors as a way to target youth and young adults and that the presence of flavors such as menthol in tobacco products can make it more difficult for youth, young adult, and adult tobacco users to quit; and

The city further recognizes that young people are particularly susceptible to the addictive properties of tobacco products, and are particularly likely to become lifelong users. National data show that about 95 percent of adult smokers begin smoking before they turn 21. The ages of 18 to 21 are a critical period when many smokers move from experimental smoking to regular, daily use.

Because smoking has been shown to be the cause of several serious health problems which subsequently place a financial burden on all levels of government;

This article shall be intended to regulate the sale of tobacco, tobacco-related devices, electronic cigarettes, and nicotine or lobelia delivery products for the purpose of enforcing and furthering existing laws, to protect youth and young adults against the serious effects associated with the illegal use of tobacco, tobacco products, tobacco-related devices, and electronic delivery devices, and to further the official public policy of the state in regard to preventing young people from starting to smoke as stated in Minn. Stats. § 144.391, as it may be amended from time to time.

(Ord. No. 12-01, § 1, 3-14-2012; Ord. No. 14-01, § 1, 1-22-2014; Ord. No. 18-03, § 2, 5-9-2018)

Editor's note – Ord. No. 12-01, § 1, adopted March 14, 2012, amended § 14-292 in its entirety to read as set out herein. Former § 14-292 pertained to definitions and derived from the Code of 1993, § 5-1.03(D)(2); Ord. No. 99-01, § 1, adopted Jan. 3, 1999.

Sec. 14-293 - Definitions

Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

Child-resistant packaging means packaging that meets the definition set forth in Code of Federal Regulations, title 16, section 1700.15(b), as in effect on January 1, 2015, and was tested in accordance with the method described in Code of Federal Regulations, title 16, section 1700.20, as in effect on January 1, 2015.

Cigar means any roll of tobacco that is wrapped in tobacco leaf or in any other substance containing tobacco, with or without a tip or mouthpiece, which is not a cigarette as defined in Minn. Stat. § 297F.01, subd. 3, as may be amended from time to time.

Compliance checks means the system the city uses to investigate and ensure that those authorized to sell tobacco, tobacco products, tobacco-related devices, and electronic delivery devices are following and complying with the requirements of this article. Compliance checks shall involve the use of persons under the age of 21 as authorized by this article. Compliance checks shall also mean the use of persons under the age of 21 who attempt to purchase tobacco, tobacco products, tobacco-related devices, or electronic delivery devices for educational, research and training purposes as authorized by state and federal laws. Compliance checks may also be conducted by other units of government for the purpose of enforcing appropriate federal, state or local laws and regulations relating to tobacco, tobacco products, tobacco-related devices, and electronic delivery devices.

Electronic delivery device means any product containing or delivering nicotine, lobelia, or any other substance intended for human consumption through the inhalation of aerosol or vapor from the product. Electronic delivery device includes, but is not limited to, devices manufactured, marketed, or sold as e-cigarettes, e-cigars, e-pipes, vape pens, mods, tank systems, or under any other product name or descriptor. Electronic delivery device includes any component part of a product, whether or not marketed or sold separately. Electronic delivery device does not include any 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.

Flavored tobacco product means any tobacco, tobacco products, tobacco-related device, or electronic delivery device that contains a taste or smell, other than the taste or smell of tobacco, that is distinguishable by an ordinary consumer either prior to or during the consumption of the product, including, but not limited to, any taste or smell relating to menthol, mint, wintergreen, chocolate, cocoa, vanilla, honey, fruit, or any candy, dessert, alcoholic beverage, herb, or spice. A public statement or claim, whether express or implied, made or disseminated by a manufacturer of tobacco or tobacco related devices, or by any person authorized or permitted by the manufacturer to make or disseminate public statements concerning such products, that a product has or produces a taste or smell other than tobacco will constitute presumptive evidence that the product is a flavored product.

Individually packaged means the practice of selling any tobacco or tobacco product wrapped

individually for sale. Individually-wrapped tobacco and tobacco products shall include, but not be limited to, single cigarette packs, single bags or cans of loose tobacco in any form, and single cans or other packaging of snuff or chewing tobacco. Cartons or other packaging containing more than a single pack or other container as described in this definition shall not be considered individually packaged.

Indoor area means all space between a floor and a ceiling that is bounded by walls, doorways, or windows, whether open or closed, covering more than 50 percent of the combined surface area of the vertical planes constituting the perimeter of the area. A wall includes any retractable divider, garage door, or other physical barrier, whether temporary or permanent.

Loosies means the common term used to refer to a single or individually-packaged cigarette or any other tobacco product that has been removed from its packaging and sold individually. The term "loosies" does not include individual cigars with a retail price, before any sales taxes, of more than $2.00 per cigar.

Moveable place of business means any form of business operated out of a truck, van, automobile or other type of vehicle or transportable shelter and not a fixed address storefront or other permanent type of structure authorized for sales transactions.

Person means any natural person, partnership, firm, joint stock company, corporation, or other legal entity, including an employee of a legal entity.

Retail establishment means any place of business where tobacco, tobacco products, tobacco-related devices, or electronic delivery devices are available for sale to the general public. The phrase shall include, but not be limited to, grocery stores, convenience stores, restaurants, and drug stores.

Sale means any transfer of goods for money, trade, barter or other consideration.

Self-service merchandising means open displays of tobacco, tobacco products, tobacco-related devices, or electronic delivery devices in any manner where any person shall have access to the tobacco, tobacco products, tobacco-related devices, or electronic delivery devices, without the assistance or intervention of the licensee or the licensee's employee. The assistance or intervention shall entail the actual physical exchange of the tobacco, tobacco product, tobacco-related device, or electronic delivery device between the customer and the licensee or employee. Self-service sales are interpreted as being any sale where there is not an actual physical exchange of the product between the clerk and the customer.

Smoking means inhaling or exhaling smoke from any lighted or heated cigar, cigarette, pipe, or any other lighted or heated tobacco or plant product. Smoking also includes carrying a lighted or heated cigar, cigarette, pipe, or any other lighted or heated tobacco or plant product intended for inhalation. "Smoking" also includes the use of an electronic delivery device.

Tobacco or *tobacco products* means tobacco and tobacco products includes 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; 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. Tobacco excludes any tobacco product that has been approved 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 being marketed and sold solely for such an approved purpose.

Tobacco-related devices include any tobacco product as well as a pipe, rolling papers, ashtray, or other device intentionally designed or intended to be used in a manner which enables the chewing, sniffing or smoking of tobacco or tobacco products. Tobacco-related devices include components of tobacco-related devices which may be marketed or sold separately.

Vending machine means any mechanical, electric or electronic, or other type of device which dispenses tobacco, tobacco products or tobacco-related devices upon the insertion of money, tokens or other form of payment directly into the machine by the person seeking to purchase the tobacco, tobacco product or tobacco-related device.

(Ord. No. 12-01, § 2, 3-14-2012; Ord. No. 14-01, §§ 1, 2, 1-22-2014; Ord. No. 18-03, § 3, 5-9-2018)

Editor's note – Ord. No. 12-01, § 2, adopted March 14, 2012, amended § 14-293 in its entirety to read as set out herein. Former § 14-293 pertained to license required and derived from the Code of 1993, § 5-1.03(D)(3); Ord. No. 99-01, § 1, adopted Jan. 3, 1999.

Sec. 14-294 - License

(a) *License required.* No person shall sell or offer to sell any tobacco, tobacco products, tobacco-related device, or electronic delivery device without first having obtained a license to do so from the city.

(b) *Application.* An application for a license to sell tobacco, tobacco products, tobacco-related devices, or electronic delivery devices shall be made on a form provided by the city. The application shall contain the full name of the applicant, the applicant's residential and business addresses and telephone numbers, the name of the business for which the license is sought, and any additional information the city deems necessary. Upon receipt of a completed application, the city administrator shall forward the application to the city council for action at its next regularly scheduled city council meeting. If the city administrator shall determine that an application is incomplete, he or she shall return the application to the applicant with notice of the information necessary to make the application complete.

(c) *Action.* The city council may either approve or deny the license, or it may delay action for a reasonable period of time as necessary to complete any investigation of the application or the applicant it deems necessary. If the city council shall approve the license, the city administrator shall issue the license to the applicant. If the city council denies the license, notice of the denial shall be given to the applicant along with notice of the applicant's right to appeal the city council's decision.

(d) *Term.* The license is effective from January 1 to December 31 of each year.

(e) *Revocation or suspension.* Any license issued under this section may be revoked or suspended as provided in section 14-297.

(f) *Transfers.* All licenses issued under this article shall be valid only on the premises for which the license was issued and only for the person to whom the license was issued. No transfer of any license to another location or person shall be valid without the prior approval of the city council.

(g) *Moveable place of business.* No license shall be issued to a moveable place of business. Only fixed-location businesses shall be eligible to be licensed under this section.

(h) *Display.* All licenses shall be posted and displayed in plain view of the general public on the licensed premise.

(i) *Renewals.* The renewal of a license issued under this section shall be handled in the same manner as the original application.

(j) *Issuance as a privilege and not a right.* The issuance of a license issued under this section shall be considered a privilege and not an absolute right of the applicant and shall not entitle the holder to an automatic renewal of the license.

(k) *Smoking.* Smoking shall not be permitted and no person shall smoke within the indoor area of any retail establishment with a tobacco license. Smoking for the purposes of sampling tobacco and tobacco related products is prohibited.

(l) *Sale by person under the age of 18.* It shall be unlawful for any business licensed under this article to allow any person under the age of 18 years to sell, offer for sale, or attempt to sell tobacco, tobacco products, tobacco-related devices, or electronic delivery devices.

(m) *Age verification.* Licensees must verify by means of government-issued photographic identification that the purchaser is at least 21 years of age. Verification is not required for a person over the age of 30. That the person appeared to be 30 years of age or older does not constitute a defense to a violation of this subsection.

(n) *Signage.* Notice of the legal sales age and age verification requirement must be posted at each location where licensed products are offered for sale. The required signage, which will be provided to the licensee by the city, must be posted in a manner that is clearly visible to anyone who is or is considering making a purchase.

(Ord. No. 12-01, § 3, 3-14-2012; Ord. No. 14-01, §§ 1, 3, 1-22-2014; Ord. No. 18-03, § 3, 5-9-2018)

Editor's note – Ord. No. 12-01, § 3, adopted March 14, 2012, amended § 14-294 in its entirety to read as set out herein. Former § 14-294 pertained to license shall be displayed and derived from the Code of 1993, § 5-1.03(D)(4); Ord. No. 99-01, § 1, adopted Jan. 3, 1999.

Sec. 14-295 - License restrictions

It shall be a violation of this article for any person to sell or offer to sell any tobacco, tobacco product, tobacco-related device, or electronic delivery device:

(1) To any person under the age of 21 years.

(2) By means of any type of vending machine.

(3) By means of self-service methods whereby the customer does not need to a make a verbal or written request to an employee of the licensed premise in order to receive the tobacco, tobacco product, tobacco-related device, or electronic delivery device and whereby there is not a physical exchange of the tobacco, tobacco product, tobacco-

related device, or electronic delivery device between the licensee, or the licensee's employee, and the customer.

(4) By means of loosies as defined in section 14-293.

(5) Containing opium, morphine, jimson weed, bella donna, strychnos, cocaine, marijuana, or other deleterious, hallucinogenic, toxic or controlled substances except nicotine and other substances found naturally in tobacco or added as part of an otherwise lawful manufacturing process. It is not the intention of this provision to ban the sale of lawfully manufactured cigarettes or other tobacco products.

(6) In the form of liquid, whether or not such liquid contains nicotine, which is intended for human consumption and use in an electronic delivery device, in packaging that is not child-resistant. Upon request, a licensee must provide a copy of the certificate of compliance or full laboratory testing report for the packaging used.

(7) By any other means, to any other person, on in any other manner or form prohibited by federal, state or other local law, ordinance provision, or other regulation.

(8) It shall be a violation of this article for any person to sell or offer to sell any flavored tobacco product. This prohibition on the sale of flavored tobacco products does not apply to retail establishments that:

a. Prohibit persons under 21 years of age from entering at all times; and

b. Derive at least 90 percent of their revenues from the sale of any tobacco, tobacco products, tobacco-related devices, or electronic delivery devices.

c. Any retail establishment that sells flavored tobacco products must provide upon request financial records that document annual sales.

(Code 1993, § 5-1.03(D)(5); Ord. No. 99-01, § 1, 1-3-1999; Ord. No. 12-01, § 4, 3-14-2012; Ord. No. 14-01, § 1, 1-22-2014; Ord. No. 18-03, § 3, 5-9-2018)

State Law reference – Sale of tobacco to minors, Minn. Stats. § 609.685.

Sec. 14-296 - Compliance checks

(a) Open to inspection. All licensed premises shall be open to inspection by the city police or other authorized city officials during regular business hours.

(b) Annual compliance checks. From time to time, but at least twice per year, the city shall conduct compliance checks. One check will be conducted by engaging, with the written consent of their parents or guardians, a person over the age of 15 years but less than 17 years of age, to enter the licensed premise to attempt to purchase tobacco, tobacco products, tobacco-related devices, or electronic cigarettes. A second check will be conducted by engaging a person over the age of 18 but less than 21 years of age, to enter the licensed premise to attempt to purchase tobacco, tobacco products, tobacco-related devices, or electronic cigarettes.

(c) Persons under the age of 21 used for the purpose of compliance checks shall be supervised by city designated law enforcement officers or other designated city personnel. No person

under the age of 21 used in compliance checks shall attempt to use a false identification misrepresenting the person's age, and all persons under the age of 21 lawfully engaged in a compliance check shall answer all questions about their person's age asked by the licensee or his or her employee and shall produce any identification, if any exists, for which he or she is asked. Nothing in this section shall prohibit compliance checks authorized by state or federal laws for educational, research, or training purposes, or required for the enforcement of a particular state or federal law.

(Code 1993, § 5-1.03(D)(6); Ord. No. 99-01, § 1, 1-3-1999; Ord. No. 18-03, § 3, 5-9-2018)

State Law reference – Compliance checks, Minn. Stats. § 461.128, subd. 5.

Sec. 14-297 - Violations and penalties

(a) *Generally.* The license holder shall be responsible for the conduct of its agents or employees while on the licensed premises. Any violation of this article shall be considered an act of the license holder for purposes of imposing a civil penalty, license suspension, or revocation. Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense.

(b) *Notice of violation.* Upon the occurrence of a suspected violation, the police department shall inform the city administrator of the suspected violation. The city administrator shall then send to the license holder a written notice of the civil violation. The notice shall advise the license holder of the penalty and the license holder's right to request a hearing regarding the violation of this article.

(c) *Administrative civil penalties; licensee:* Each license issued hereunder shall be subject to suspension or revocation for violation of any provisions of this chapter or the laws of the State of Minnesota as follows:

(1) *First violation:* The first violation of this chapter shall be punishable by a civil penalty of $500.00.

(2) *Second violation:* A second violation of this chapter within any twenty-four-month period shall be punishable by a civil penalty of $750.00.

(3) *Subsequent violation:* A third or subsequent violation of this chapter within any twenty-four-month period shall be punishable by revocation of the license plus a civil penalty of $250.00. Any licensee whose license is revoked under this section shall not be eligible for renewal for a period of two years after the revocation.

(d) *Administrative civil penalties; individuals:* An individual who sells tobacco to a person under the age of 21 years shall pay an administrative penalty of $50.00.

(e) *Hearing:* Following receipt of a notice of a violation and penalty issued under this section, the license holder or individual may agree to the presumptive penalty or request a hearing before the city council. A request for a hearing shall be made by the individual or license holder in writing and filed with the city administrator or designee within ten days of the mailing of the notice of the alleged violation. Following receipt of a written request for

hearing, the individual or license holder shall be afforded an opportunity for a hearing before the council.

(f) *Findings:* If after the hearing the license holder or individual is found in violation of this chapter, the council shall impose the presumptive penalty.

(g) *Default:* If the individual or license holder has been provided written notice of the violation and if no request for a hearing is filed within the ten-day period, then the presumptive civil penalty, suspension or revocation imposed in this chapter shall take immediate effect by default. The city administrator or designee shall mail notice of the fine, suspension or revocation to the individual or license holder.

(Code 1993, § 5-1.03(D)(7); Ord. No. 99-01, § 1, 1-3-1999; Ord. No. 10-02, § 1, 1-27-2010; Ord. No. 18-03, § 3, 5-9-2018)

Sec. 14-298 - Affirmative defense

It is an affirmative defense to charges under this article if the license holder proves by a preponderance of the evidence that the license holder reasonably and in good faith relied on proof of age as described in Minn. Stats. § 340A.503, subd. 6 in making the sale.

(Code 1993, § 5-1.03(D)(9); Ord. No. 99-01, § 1, 1-3-1999)

ARTICLE IX - PEDICABS

Sec. 14-299 - Definitions

Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Darkness means any time from one-half (½) hour after sunset to one-half (½) before sunrise or any time when visibility is obstructed by elements such as fog, rain or snow.

Pedicab means a nonmotorized three-wheel bicycle that transports or is capable of transporting passengers on attached seats or similar vehicle with an electric motor that meets the requirements for an electric assisted bicycle under Minn. Statute Section 169.011, subd. 27, clause (3), or as subsequently amended. A pedicab shall not exceed one-hundred twenty (120) inches in length and sixty-six (66) inches in width.

Pedicab business means the business of operating one (1) or more pedicabs for the recreational or physical transportation of the general public for profit, not-for-profit, or as a free service accepting tips or displaying advertising.

Pedicab driver means any person who operates, drives, or propels a pedicab.

Pedicab driver license means a license granted in accordance with this chapter.

Pedicab trailer means a two (2) wheeled vehicle no wider than fifty-five (55) inches and capable of carrying a maximum of three (3) passengers and securely attached and locked to the

pedicab vehicle. Children aged twelve (12) and under are not allowed to ride in a trailer unless accompanied by an adult.

Pre-arranged pedicab services means a pedicab service for events such as weddings, group transportation, tours or similar events which are pre-arranged with the pedicab company.

Street means any street or roadway under the jurisdiction of the city.

Vehicle means every device in, upon, or by which any person is or may be transported or drawn upon a highway or street.

Sec. 14-300 - License required

(a) No person shall engage in the pedicab business without a license required under this article.

(b) No person shall operate a pedicab, engaged in a pedicab business, without a pedicab driver license required under this article.

(c) Except as otherwise provided in this article, licenses issued under this Article shall be subject to the provisions of this chapter.

Sec. 14-301 - License fees

(a) The annual fee for a pedicab business license shall be as established in the City Fee Schedule, for each pedicab in operation on the streets at any time during the license year.

(b) The annual fee for a pedicab driver license shall be as established in the City Fee Schedule for each pedicab driver in operation on the streets at any time during the license year.

Sec. 14-302 - When licenses expire

Licenses under this article shall expire on December 31 of each year. The city will issue licenses in accordance with this chapter within 60 days of the date of the application.

Sec. 14-303 - License number

All pedicabs shall display a number of the pedicab. The number shall be displayed on the lower left rear side of the pedicab and shall be a minimum of three (3) inches in height and in a contrasting color that does not blend into the paint color of the pedicab. All trailers attached to a pedicab shall display the same number of the pedicab so attached on the trailer.

Sec. 14-304 - License and renewal applications

(a) Applications for a pedicab business license under this shall be made on forms provided by the city and shall contain such information as the city may require, including the name, address and telephone number of the applicant; whether the applicant is a natural person, partnership, corporation or unincorporated association; the names and addresses of all partners, if a partnership, or of all officers and directors, if a corporation; and the names and addresses of all persons authorized to operate a pedicab on behalf of the licensee.

(b) Application for a pedicab driver license under this chapter shall be made on forms provided by the city and shall contain such information as the city may require, including the name, address, and telephone number of the applicant. Each pedicab license shall indicate the name of the pedicab company for which the driver works. No pedicab driver shall drive for a different pedicab company without first notifying the city and obtaining a new driver's

license indicating the new pedicab company. Every pedicab driver shall meet and maintain the following requirements in order to hold a pedicab driver license:

(1) Possess a valid Minnesota driver license or a valid driver license from their home state. Those with out of state driver licenses must not have a currently cancelled, revoked or suspended Minnesota driver license. Those with out of state driver licenses, must provide a certified copy of their driving and criminal history from their home state.

(2) Be a minimum of twenty-one (21) years old.

(3) Shall not have had more than three (3) moving violations in the last three (3) years and no more than two (2) moving violations in the last year.

(4) Shall not have been convicted of a felony within the past five (5) years;

(5) The provisions of Minnesota Statutes, chapter 364 shall govern the eligibility of an applicant or license holder to acquire or maintain a pedicab driver license based on a prior or present criminal conviction or convictions.

(6) Shall not have been convicted of careless driving, reckless driving or any violation of Minn. Stat. § 169A (driving while impaired) within the past three (3) years.

The city may issue a pedicab driver license upon presentation of a valid and current City of Saint Paul or City of Minneapolis pedicab driver license and a valid and current Minnesota driver license.

(c) Renewal Applications.

(1) An application for the renewals of an existing license shall be made during the same period as the application for new licenses. An application for the renewal of an existing license in such form as the issuing authority requires.

(2) A license issued under this chapter may not be renewed if the licensee has failed to comply with the provisions of this chapter in preceding license years.

Sec. 14-305 - Insurance required

(a) No license shall be issued or renewed without proof of general liability insurance on the form required by the city. The policy of insurance shall be in the limits of not less than one hundred thousand dollars ($100,000.00) for injury or death to one (1) person, three hundred thousand dollars ($300,000.00) for each occurrence, and one hundred thousand dollars ($100,000.00) for property damage.

(b) The certificate of insurance must be issued by an insurance company authorized to do business in the State of Minnesota, show the existence in force of a policy or policies of insurance conforming to the requirements of this chapter. Such certificate shall clearly set forth the name of the insurance carrier, the policy number, a description of the coverages, the limits of liability, period of coverage and any other requirements as set forth in each ordinance. There shall be attached to such certificate of insurance an endorsement which shall also be made part of the policy, and shall be in the form in each case made and provided by the city clerk, and currently approved by the city attorney; and which endorsement shall

describe and refer specifically to the insurance requirements of this chapter and shall state that the policy of insurance is intended to comply with such insurance requirements. The city clerk shall examine and shall accept or reject any such certificates in its discretion notwithstanding any other requirement for approval by the city attorney of the insurance policy

Sec. 14-306 - Inspections

The licensing official shall require an annual pedicab inspection and may designate minimum safety standards for equipment and body defects. Pedicabs found to not meet the minimum inspection standards may be identified as "out of service" and shall not operate until such defects have been repaired and approved by the city. Applicants licensed in the City of Minneapolis or St. Paul shall provide proof of a passed annual pedicab inspection with an application for a pedicab license. The city may waive an inspection upon receipt proof of a passed annual pedicab inspection from either the City of St. Paul or the City of Minneapolis. The city shall reserve the right to examine and inspect each and every licensed pedicab at any reasonable time, to include on street inspections. The intent of such an inspection is to ensure compliance with the rules established herein.

Sec. 14-307 - Vehicle operation

Every pedicab shall be operated in compliance with all applicable federal, state and local traffic laws, and in a manner so as to assure the safety of persons and property.

Sec. 14-308 - Operating restrictions and conditions

(a) No person shall operate a pedicab for hire on a public street during the hours of 11:00 p.m. to 7:00 a.m. Upon written application by a licensee, the city has the discretion to waive this prohibition for special events.

(b) No pedicab shall be operated upon a public sidewalk or other city property where the operation of a pedicab is prohibited.

(c) No pedicab shall use any public street or other public property as a waiting or parking area unless such area is a legal motor vehicle parking area or as permitted, or in an established pedicab stand. Parked pedicabs shall not be attached to any object in accordance with Falcon Heights Code of Ordinances Sec. 46-27.

(d) No pedicab driver shall consume an alcoholic or intoxicating beverage while on duty or allow any passenger of the pedicab to drink or consume alcoholic or intoxicating beverages or to possess an open container of alcoholic or intoxicating beverages.

(e) All pedicabs shall be clean and maintained in a good state of repair. All pedicabs shall be maintained by the company so as to be well painted and have a damage or deterioration free appearance, and in safe operational condition. Pedicabs shall be, at all reasonable times, subject to inspection by the licensing official.

(f) All pedicabs shall display a valid license decal, centered on the rear of the pedicab vehicle or between the turn signals, issued by the city, and the name and phone number of the licensee, and the schedule of the rates or fees charged for passenger services.

(g) Pedicab drivers shall have in their possession a valid driver's license, proof of insurance and a pedicab driver license while in control of any pedicab, and shall operate the pedicab in compliance with all applicable federal, state, and local traffic laws, Falcon Heights Code Ordinances and in a manner so as to assure the safety of persons and property.

(h) All pedicab operators shall obey and comply with any lawful order or direction of any police officer, traffic control agent, or city official.

(i) No pedicab driver shall have in his or her possession a lighted cigarette, cigar, or pipe while driving a pedicab which is occupied by a passenger, and they shall not use electronic delivery devices as defined in Sec. 14-293.

(j) A pedicab driver license issued under this chapter shall be coterminous with the licensee's driver license. Any time that a licensee's driver's license is suspended, revoked, or cancelled, his or her pedicab driver's license shall likewise be immediately suspended, revoked, or cancelled. The pedicab driver's license shall immediately be surrendered to the city until such time his or her driver's license is reinstated.

(k) No pedicab driver shall permit more than three (3) passengers to be carried in a pedicab except that passengers weighing forty (40) pounds or less may be seated on the lap of a passenger who occupies a permanently affixed seat, and at no time shall the driver allow any passenger to ride in any area of the pedicab that was not specifically designed as a seat. No more than three (3) passengers shall be allowed in any affixed trailer except that passengers weighing forty (40) pounds or less may be seated on the lap of a passenger who occupies a permanently affixed seat.

(l) At no time shall anyone other than a licensed pedicab driver be allowed to operate the pedicab.

(m) At no time shall a pedicab driver play or allow the playing of any amplified sound equipment in violation of Sec 14-104 and Sec 22-47(e) of the Falcon Heights Code of Ordinances. Additionally, no pedicab driver shall play or allow the playing of any sound after 9:00 p.m.,

(n) Pedicab drivers must be properly attired with a shirt, pants or shorts and secure footwear.

(o) Pedicab drivers shall not stop to load or unload passengers or their belongings in the intersections of any street, crosswalks or in any manner or other location that would be considered unsafe. No pedicab shall load or unload in any such manner that will in any way impede or interfere with the orderly flow of traffic on the streets.

(p) It shall be unlawful for any pedicab owner or driver to allow or cause to be operated a pedicab in any unsafe manner or operating condition.

(q) In the event that a passenger leaves an article in the pedicab, the driver shall immediately attempt to return it. If the driver is unable to immediately return the article, it shall be turned into the pedicab company office at the end of the driver's shift or the first available opportunity.

(r) Any pedicab not in compliance with the minimum requirements of this section will be cited and placed "immediately-out-of-service." Any vehicle which has been so removed from service shall not be returned to service until such vehicle has been approved by the licensing official for service.

Sec. 14-309 - Vehicle safety and equipment standards

No pedicab owner or driver shall operate or allow the operation of a pedicab on any street unless the pedicab meets the following equipment and safety standards:

(a) Tires shall be of a size appropriate for the pedicab with no mismatched tires. There shall be no cuts to the tire, localized worn spots that expose the ply, or visible tread wear indicators.

(b) The pedicab shall be equipped with a fully operational horn or bell.

(c) It shall be unlawful for a licensee to operate, or cause to be operated, a pedicab that is not equipped with a front and rear braking system capable of being manipulated by the licensee from his normal position of operation and is capable of causing a pedicab with a loaded passenger compartment to come to a complete stop within a distance of fifteen (15) feet from a speed of ten (10) miles per hour in a linear path of motion when each wheel of the pedicab is in contact with the ground on dry, level, clean pavement. The braking system controlling the rear wheels shall be hydraulic or mechanical disc or drum brakes which are unaffected by rain or wet conditions.

(d) Every pedicab shall be equipped with the operational equipment set forth in the subsections below:

(1) A headlight capable of projecting a beam of white light for a distance at a minimum of three hundred (300) feet which shall be clearly visible during darkness and must be illuminated at all times during darkness.

(2) A side mounted mirror affixed to the pedicab to reflect to the pedicab driver a view of the street for a distance of at least two hundred (200) feet from the rear of the pedicab.

(3) A red tail light and brake light affixed to the rear of the pedicab which must be visible for a distance of at least five hundred (500) feet from the rear of the pedicab and must be illuminated at all times during darkness. Turn signals must be affixed to the front and rear of the vehicle.

(4) All pedicabs shall have reflectors on each pedal, the front of the pedicab frame, mounted on the spokes of each wheel, and a red reflector mounted on each side of the rear of the pedicab, at least one (1) inch from the outer edge and centered.

(e) No more than one (1) trailer may be attached to any pedicab. All attached trailers must be equipped with turn signals and red tail lights.

Sec. 14-310 - Advertising on pedicabs

Advertisements shall only be allowed on the manufactured body of the pedicab as permitted by this section. No banners, poles, flags, detached signs, or any other addition or object will be permitted. No amplified sound for the purpose of advertising or solicitation for passengers shall be allowed on a pedicab.

Sec. 14-311 - Pedicab company licenses

Every licensed pedicab company shall:

(a) Take affirmative measures to insure that all of its owners and drivers comply with the terms of this chapter.

(b) Be responsible for the operation of an unlicensed pedicab driver.

(c) Insure that no pedicab is operated in unsafe mechanical condition or continues to operate after it has been ordered out of service.

(d) Promptly respond to all requests for information from the department of licenses and consumer services.

(e) Promptly report any and all accidents involving pedicabs operating in Falcon Heights to the licensing official.

(f) Every licensed pedicab company shall be deemed the agent for service of all notices, orders, and other correspondence from the City of Falcon Heights to pedicab drivers operating under their company license.

(g) Not operate more than twelve (12) pedicabs at any given time unless granted an exception by the city.

Sec. 14-312 - Revocation or suspension

In addition to all other penalties, any violation of the terms of this article shall be grounds for revocation, suspension, or nonrenewal of the license provided for in this section in accordance with the provisions and requirements of this chapter.

Footnotes:

[1] **State Law reference** – State regulation of construction contractors, Minn. Stats. ch. 326.

[2] **Editor's note –** Section 1 of Ord. No. 07-02, adopted Jan. 10, 2007, amended Ch. 5, § 5-1.03C, which had been codified as §§ 14-94 – 14-97, in its entirety to read as herein now codified as §§ 14-94 – 14-108.

State Law reference – Authority to regulate transient commerce, Minn. Stats. § 412.221, subd. 19; authority to regulate transient merchants, Minn. Stats. § 437.02.

[3] **State Law reference –** Precious metals dealers, Minn. Stats. § 327F.731 et seq.

[4] **State Law reference –** Licensing of solid waste collection, Minn. Stats. § 115A.93.

[5] **State Law reference –** Municipal tobacco licenses, Minn. Stats. § 461.12.

Chapter 18 - EMERGENCY SERVICES

Article/Division/Section:

ARTICLE I - IN GENERAL

Sec. 18-1 - Emergency operations plan

An emergency operations plan is hereby established. The purpose of the plan is to maximize the protection of life and property, ensure the continuity of government, sustain survivors and repair essential facilities and utilities in the event of any disaster. The full plan that is a part of the city's administrative manual will be updated annually.

(Code 1993, § 2-3.04; Ord. No. 0-94-01, § 1, 1-12-1994)

State Law reference – Emergency management, Minn. Stats. ch. 12.

Secs. 18-2 – 18-20 - Reserved

ARTICLE II - ALARM SYSTEMS[1]

Sec. 18-21 - Scope and purpose

(a) *Scope.* This article provides regulation for the use of fire, burglary, and safety alarms, establishes user fees, and establishes a system of administration.

(b) *Purpose.* The purpose of this article is to protect the public safety services of the city from misuse of public safety alarms and to provide for the maximum possible service to public safety alarm users.

(Code 1993, § 5-3.05(A))

Sec. 18-22 - Definitions

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alarm system means an alarm installation used for the prevention or detection of burglary, robbery or fire and located in a building, structure or facility.

Alarm user means the person, firm, partnership, association, corporation, company or organization of any kind in control of any building, structure, or facility wherein an alarm system is maintained.

Fire false alarm means an alarm eliciting a response by personnel of a fire department when a situation requiring a response does not, in fact, exist, and when is caused by the activation of the alarm system through mechanical failure, pet movement, inadequate cleaning or maintenance, alarm malfunction, improper installation or the inadvertence of the owner/lessee of an alarm system or his or her employees/agents. False alarms do not include alarms caused by climatic conditions such as tornadoes, thunderstorms, utility line mishaps, violent conditions of nature or any other conditions which are clearly beyond the control of the alarm manufacturer, installer or owner.

Security false alarm means an alarm eliciting a response by police personnel of the city's policing agency 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, pet movement, inadequate cleaning or maintenance, alarm malfunction, improper installation or the inadvertence of the owner or lessee of an alarm system or his or her employees/agents. False alarms do not include alarms caused by climatic conditions such as tornadoes, thunderstorms, utility line mishaps, violent conditions of nature or any other conditions which are clearly beyond the control of the alarm manufacturer, installer or owner.

(Code 1993, § 5-3.05(B); Ord. No. 21-01, § 1, 01-13-2021)

Sec. 18-23 - False alarm fee required

The responding police or fire department shall file a written report of each false alarm with the clerk. Upon receipt of the first false alarm report, the clerk shall notify the alarm user of the provisions of this Code. Upon receipt of a second and all subsequent false alarms at an address within one calendar year, the clerk shall, by mail, notify the alarm user of the fee enforced for said false alarm, such fees to be as established by the city council.

(Code 1993, § 5-3.05(C))

Sec. 18-24 - Penalties and assessment

Penalties for late payment of unpaid fees are as established by the city council.

(Code 1993, § 5-3.05(D))

Secs. 18-25 – 18-26 - Reserved

ARTICLE III - EMERGENCY SERVICES

Sec. 18-27 - Authority

This article is adopted pursuant to Minn. Stats. §§ 415.01, 366.011 and 366.012.

(Ord. No. 08-06, § 1, 12-10-2008)

Sec. 18-28 - Application

This article applies to emergency services provided by the city that relate to fire and rescue, including, but not limited to, vehicle fires, vehicle extractions, vehicle fluid spills and responses to damage caused by vehicles to power or gas lines.

(Ord. No. 08-06, § 1, 12-10-2008)

Sec. 18-29 - Charges for emergency services

The city may impose a reasonable service charge for the above emergency services. The amounts to be charged for these services shall be set forth by city council resolution.

(Ord. No. 08-06, § 1, 12-10-2008)

Sec. 18-30 - Collection of charges

If a service charge remains unpaid for 30 days after a notice of delinquency is sent to the recipient of the service or the recipient's representative or estate, the city may use any lawful means to collect the service charge that is allowed to a private party for the collection of an unsecured delinquent debt. The city may also use the authority of Minn. Stats. § 366.012 to collect unpaid service charges of this kind from recipients of services who are owners of taxable real property in the city, or in areas served by the city for emergency services.

(Ord. No. 08-06, § 1, 12-10-2008)

Sec. 18-31 - Collection of unpaid service charges

If the city is authorized to impose a service charge on the owner of a property for emergency services provided by the city, the city may certify to the county auditor on or before October 15 of each year, any unpaid service charges which shall then be collected together with property

taxes levied against the property. A service charge may be certified by the county auditor only, if on or before September 15, the city has given written notice to the property owner of its intention to certify the charge to the county auditor. The service charges shall be subject to the same penalties, interest and other conditions provided for in the collection of property taxes.

(Ord. No. 08-06, § 1, 12-10-2008)

Sec. 18-32 - Supplemental powers

The powers conferred by this article are in addition and supplemental to the powers conferred by any other law for a city to impose a service charge or assessment for a service provided by the city or contracted for by the city.

(Ord. No. 08-06, § 1, 12-10-2008)

Footnotes:

[1] **State Law reference –** Alarm transmission telephone devices, Minn. Stats. § 237.47.

Chapter 22 - ENVIRONMENT

Article/Division/Section:

ARTICLE I - IN GENERAL

Secs. 22-1 – 22-18 - Reserved

ARTICLE II - BLIGHT[1]

Sec. 22-19 - Causes of blight or blighting factors

It is hereby determined that the uses, structures and activities and causes of blight or blighting factors described herein, if allowed to exist, will tend to result in blighted and undesirable neighborhoods so as to be harmful to the public welfare, health and safety. No person shall maintain or permit to be maintained any of these causes of blight or blighting factors upon any property in the city owned, leased, rented or occupied by such person.

(1) *Inoperable vehicles.* In any area zoned for residential purposes, the storage upon any property of inoperable vehicles is illegal. For the purpose of this section, the term "inoperable vehicle" shall include any motor vehicle, or part of a motor vehicle, not stored in a garage, which is either:

a. Unusable or inoperable because of lack of, or defects in, component parts;

b. Unusable or inoperable because of damage from collision, deterioration, or having been cannibalized;

c. Beyond repair and not intended for future use as a motor vehicle;

d. Being parked on any street or alley, for a period exceeding 48 consecutive hours; or

e. Without valid and current license plates issued by the proper state agency attached.

(2) *Special permits.* The city council in its discretion, upon receipt of an application showing hardship in special circumstances may, in the instance of an inoperable vehicle, issue a special permit with appropriate conditions attached permitting an individual to keep such vehicle for a period not to exceed 60 days.

(3) *Junk, trash, rubbish and refuse.* In any area within the city, the storage or accumulation of junk, trash, rubbish or refuse of any kind, except refuse stored in such a manner as not to create a nuisance for a period not to exceed 14 days is illegal. The term "junk" shall include, but not be limited to, parts of machinery or motor vehicles; unused stoves or other appliances stored in the open; remnants of wood; decayed, weathered or broken construction materials no longer suitable or safe; approved building materials; common household items; metal or any other material or cast off material of any kind whether or not the same could be put to any reasonable use.

(4) *Noxious weeds, vegetation and substances.* Except as otherwise provided in this subsection (4), no owner, agent, or occupant of any premises shall permit upon his or her premises any noxious weeds as defined in Minn. Stats. § 18.77, weeds or turf grass growing to a height greater than six inches or which have gone or are about to go to seed, fallen trees, dead trees, tree limbs or items which are a fire hazard or otherwise detrimental to the health or appearance of the neighborhood. Turf grass growing to a height greater than six inches is permitted only during the month of May for residential properties.

(5) *Structures.*

a. *Unfit structure.* In any area the existence of any structure or part of any structure that because of fire, wind or other natural disaster, or physical deterioration is no longer habitable as a dwelling, nor useful for any other purpose for which it may have been intended is illegal.

b. *Vacant structure.* In any area zoned for residential purposes, the existence of any vacant dwelling, garage, or other outbuilding, unless such buildings are kept securely locked, windows kept glazed or neatly boarded up and otherwise protected to prevent entrance thereto by vandals is illegal.

(6) *Graffiti.* No owner agent or occupant of any premises shall allow or leave on the premises any graffiti, which shall mean any writing, printing, marks, signs, symbols, figures, designs, inscriptions, or other drawings which are scratched, scrawled, painted, drawn, or otherwise placed on any surface of objects such as buildings, walls, fences, sidewalks, curbs, trees, rocks, or other permanent structures or objects on public or private property or the interior surfaces of those parts of a building accessible to the general public and which have the effect of defacing the property. An owner agent may

request the city to remove the graffiti by providing a waiver to the city to allow for the removal of graffiti on the owner agent's property. The owner agent will be billed for the cost.

(Code 1993, § 8-1.01; Ord. No. 0-98-07, 12-7-1998; Ord. No. 23-02, § 1, 4-26-2023)

Sec. 22-20 - Notification; deadline for removal

The owner and the occupant of any property upon which any of the causes of blight or blighting factors set forth in section 22-19 is found to exist shall be notified in writing by the clerk to remove or eliminate such causes of blight or blighting factors from such property by a specified time after service of the notice. The notice may be served personally, or by mailing to the last known address of the owner and if the premises are occupied, to the premises. Additional time may be granted by the enforcement officer where bona fide efforts to remove or eliminate such causes of blight or blighting factors are in progress.

(Code 1993, § 8-1.02(A); Ord. No. 18-08, § 1, 9-26-2018)

Sec. 22-21 - Abatement

(a) In case of failure to remove any blight as defined in section 22-19 after notification and within the time prescribed, the administrator or clerk may order city employees or a contracted party to abate the blighted condition. The responsible person shall be billed for the costs. If the bill is unpaid, the cost shall be certified to the county auditor as a special assessment against the property for collection in the same manner as other special assessments.

(b) In case of failure to remove any blight as defined in section 22-19(5)a and 22-19(5)b, after notification and within the time prescribed, the council may direct the administrator or clerk to proceed as defined in Minn. Stats. §§ 463.15—463.261 regarding the repair and/or removal of hazardous and substandard buildings on property.

(Code 1993, § 8-1.02(B); Ord. No. 0-98-07, 12-7-1998)

Secs. 22-22 – 22-45 - Reserved

ARTICLE III. - PUBLIC NUISANCES[2]

Sec. 22-46 - Purpose

It is the purpose of this section to protect and promote the public health, safety and general welfare of the people of the city. This is in addition to all other statutes and regulations that might be applicable to the city.

(Code 1993, § 8-2.01)

Sec. 22-47 - Public place defined; nuisances

(a) *Public place defined.* Whenever used in this article, "public place" shall include streets, alleys and sidewalks dedicated to public use, and shall also include such parts of buildings and other premises whether publicly or privately owned which are used by the general public or to which the general public is invited commercially for a fee, or otherwise, or in or on which the general public is permitted without specific invitation.

(b) *Creation of a nuisance.* No person shall knowingly cause or create a nuisance in a public or private place, or permit any nuisance to be created or placed upon or to remain upon any premises owned or occupied by such person. A nuisance is any thing, act, occupation or use of property which:

(1) Annoys, injures or endangers the safety, health, comfort or response of the public;

(2) Offends public decency or the decency of any member of the public;

(3) Interferes with, obstructs, or tends to obstruct or render dangerous for passage any public place; or

(4) Renders the public insecure in life or in use of property.

(c) *A nuisance upon premises.* No person shall knowingly cause, or create, or permit nuisances upon any premises as follows:

(1) Snow and ice not removed from public sidewalks 24 hours after a storm has ended;

(2) Trees, hedges or other obstructions that prevent persons from having a clear view of approaching traffic;

(3) Limbs of trees which are less than eight feet above the surface of any public sidewalk, or 14 feet above the surface of any street;

(4) Wires across public streets, alleys, lanes or sidewalks less than 15 feet above the surface of the ground;

(5) Buildings, walls, and other structures which have been damaged by fire, decay or otherwise to an extent exceeding one-half their original value, and which endanger the safety of the public;

(6) Explosives, bottled gas, inflammable liquids and other dangerous substances stored in any manner deemed dangerous by the fire marshal or fire chief;

(7) Obstructions and excavations affecting the ordinary use of public streets, alleys, sidewalks or public grounds except as authorized by the council;

(8) Any use of property abutting a public street or sidewalk or any use of a public street or sidewalk which causes large crowds of people to gather, obstructing traffic and the free use of the streets or sidewalks;

(9) Hanging signs, awnings and other similar structures over the streets or sidewalks, which endangers public safety;

(10) Allowing rainwater, ice or snow to fall from any building or structure upon any street or sidewalk, or wastewater to flow upon or across streets or other public property;

(11) Unguarded machinery, in any public place, or so situated or operated on private property as to attract the public;

(12) Obstructing free flow of water in a natural waterway or a public street drain, gutter or ditch;

(13) Motor vehicle not in operating condition parked in public view for more than 48 hours;

(14) Sweeping of grass clippings or leaves into the street or alley;

(15) Shoveling or plowing of snow into streets and alleys;

(16) Service and repair of vehicles in the street except for the changing of tires;

(17) Service and repair of vehicles in driveways except for the changing of tires;

(18) Noxious weeds and other rank growths of vegetation; or

(19) Any other conditions or things that are liable to cause injury to persons or property.

(d) *Emissions and odors.* No person shall cause or allow the emission of any foreign materials such as dust, gases, fumes, vapors, smoke and odors in quantities that, by reason of their objectionable properties, shall be considered a nuisance because they do one or more of the following:

(1) Injure, or are sufficient to injure, the health or safety of the public.

(2) Create an obnoxious odor in the atmosphere.

(3) Cause damage to property or inconvenience to the general public.

(4) Create a nuisance or hazard by obscuring vision.

(5) Have a deleterious effect upon trees, plants or other forms of vegetation.

(e) *Unnecessary noise.* No person, in any public or private place, shall make, or assist in making, by any manner or means, any loud, unpleasant or raucous noise disturbing to others, unless the same is reasonably necessary to the preservation of life, health, safety or property.

(f) *Disruptive parties.*

(1) *Participation.* No person shall congregate because of participation in any party or gathering of people from which noise emanates of a sufficient volume so as to disturb the peace, quiet or repose of any other person.

(2) *Remaining to abate disturbance.* No person shall visit or remain within any place wherein such a party or gathering is taking place except persons who are there for the sole purpose of abating the disturbance.

(Code 1993, § 8-2.02)

Sec. 22-48 - Abatement

In case of failure to remove snow and ice from sidewalks as provided in subsection 22-47(c)(1) after notification and within the time prescribed, the administrator or clerk may order city employees or a contracted party to abate the nuisance. The responsible person shall be billed for the costs. If the bill is unpaid, the cost shall be certified to the county auditor as a special assessment against the property for collection in accordance with Minn. Stats. § 429.101.

(Ord. No. 10-05, § 1, 9-8-2010)

Secs. 22-49 – 22-54 - Reserved

ARTICLE IV. - REGULATION OF COAL TAR-BASED SEALER PRODUCTS[3]

Sec. 22-55 - Purpose

The City of Falcon Heights understands 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. However, scientific studies on the use of driveway sealers have demonstrated a relationship between stormwater runoff and certain health and environmental concerns.

The 2013 Minnesota Legislature enacted a statewide prohibition on the use and sale of coal tar sealant products. This new statewide prohibition has been codified under Minn. Stats. § 116.202 and is effective on January 1, 2014.

The purpose of this article is to prohibit violations of Minn. Stats. § 116.202 in the City of Falcon Heights, Minnesota, in order to protect, restore, and preserve the quality of its waters.

(Ord. No. 14-04, § 1, 11-12-2014)

Sec. 22-56 - Definitions

Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

Asphalt-based sealer means a petroleum-based sealer material that is commonly used on driveways, parking lots, and other surfaces and does contain PAHs.

Coal tar means a byproduct of the process used to refine coal.

Coal tar sealant product means a surface-applied sealing product containing coal tar, coal tar pitch, coal tar pitch volatiles, or any variation assigned the Chemical Abstracts Service (CAS) numbers 65996-93-2, 65996-89-6, or 8007-45-2.

City means the City of Falcon Heights.

MPCA means the Minnesota Pollution Control Agency.

PAHs or *polycyclic aromatic hydrocarbons* means 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.

(Ord. No. 14-04, § 1, 11-12-2014)

Sec. 22-57 - Prohibitions

(a) No person shall apply a coal tar sealant product on asphalt paved surfaces within the city.

(b) No person shall sell a coal tar sealant product that is formulated or marketed for application on asphalt-paved surfaces within the city.

(c) No person shall allow a coal tar sealant product to be applied upon property that is under that person's ownership or control.

(d) 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 sealant product to any driveway, parking lot, or other surface within the city.

(e) No commercial sealer product applicator, residential or commercial developer, or other similar individual or organization shall direct any employee, independent contractor, volunteer, or other person to apply any coal tar sealant product to any driveway, parking lot, or other surface within the city.

(Ord. No. 14-04, § 1, 11-12-2014)

Sec. 22-58 - Exemptions

Upon the express written approval from the MPCA and in accordance with Minn. Stats. § 116.202, a person who conducts research on the environmental effects of coal tar sealant product or where the use of coal tar sealant product is necessary in the development of an alternative technology shall be exempt from the prohibitions provided in section 22-57. Any person that is granted approval by the MPCA must provide a copy of the written approval from the MPCA to the city 20 days before conducting the research.

(Ord. No. 14-04, § 1, 11-12-2014)

Sec. 22-59 - Asphalt-based sealcoat products

The provisions of this article shall only apply to coal tar sealant products in the city and shall not affect the use of asphalt-based sealer products within the city.

(Ord. No. 14-04, § 1, 11-12-2014)

Footnotes:

[1] **State Law reference –** Authority to define and abate nuisances, Minn. Stats. § 412.221, subd. 23.

[2] **State Law reference –** Authority to define and abate nuisances, Minn. Stats. § 412.221, subd. 23; public nuisances prohibited, Minn. Stats. § 609.74 et seq.

[3] **Editor's note –** Ord. No. 14-04, § 1, adopted Nov. 12, 2014, amended Art. IV in its entirety to read as set out herein. Former Art. IV, §§ 22-55 – 22-59, pertained to similar subject matter and derived from Ord. No. 12-02, § 1, adopted March 28, 2012.

Chapter 26 - FIRE PREVENTION AND PROTECTION

Article/Division/Section:

Sec. 26-1 – Fire Protection Provided

(a) The city council shall provide fire protection by entering into contracts with various municipal and volunteer fire departments upon such terms and conditions as the city council may deem beneficial to the citizens of Falcon Heights.

(b) The fire chief of the fire department(s) contracting with the City of Falcon Heights shall have the powers and authorities set forth in such contract. Any references to fire chief within this code shall refer to the fire chief of the contracting fire department. In addition thereto, the Fire Chief of each contracting Fire Department shall investigate the cause, origin and circumstances of each and every fire occurring in the district for which such Chief is responsible, and shall file a report thereon with the office of the State Fire Marshal as required by MSA § 299F.04.

(c) The fire marshal and fire chief serving the city, or their representatives, shall enforce the provisions of this chapter and any related provisions of the city code.

(Ord. No. 21-01, § 2, 01-13-2021)

Sec. 26-2 - Reserved

Sec. 26-3 - Indoor fireworks displays or use of pyrotechnic devices

It is unlawful to conduct any indoor fireworks display or to use any pyrotechnic device including smoke pots, flash pots and theatrical flash powder indoors if the structure or area in which the display or use is being conducted is not protected by an automatic fire suppression system. This section shall apply to the use of fireworks or pyrotechnic equipment and materials for ceremonial, theatrical and musical productions, but does not apply to "legal fireworks" as defined by state law.

(Code 1993, § 5-1.02(E); Ord. No. 03-03, § 1, 3-12-2003)

State Law reference – Fireworks, Minn. Stats. § 624.20 et seq.

Sec. 26-4 - Recreational fires

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

Combustible material means any material that is capable of being ignited, including wastepaper, wood, hay, straw, weeds, litter, plastic or combustible or flammable waste or rubbish of any type. Healthy trees are not combustible material.

Recreational fire means an outdoor fire burning materials other than rubbish, trash, debris, grass, tree trimmings, garden residue or similar materials where the fuel being burned is not contained in an incinerator, barbeque grill, or barbeque pit.

(b) *Requirements.* It shall be unlawful for any person to burn a recreational fire in the city unless:

(1) The fire is used for cooking, social, or recreational purposes;

(2) The fire is at least 25 feet from a structure or combustible material and ten feet from a property line;

(3) Conditions that could cause a fire to spread within 25 feet of a structure are eliminated prior to ignition;

(4) The fire is no greater than three feet in diameter and two feet in flame height and surrounded by a base or barrier of noncombustible material that is at least six inches in height;

(5) The fire burns charcoal or dry unpainted or untreated wood that is at least one inch diameter;

(6) The fire burns between:

a. 9:00 a.m. and 10:00 p.m. Sunday through Thursday;

b. 9:00 a.m. and 11:00 p.m. Friday, Saturday and legal holidays;

(7) A responsible adult is attending the fire and the fire is completely extinguished before leaving the scene;

(8) Fire extinguishing equipment (such as dirt, sand, buckets, shovels, garden hose, or a fire extinguisher) is readily available for use; and

(9) Wind speeds do not exceed ten mph.

(c) Recreational fires are not permitted at anytime of day when the Minnesota Pollution Control Agency has issued an air quality alert or Minnesota Department of Natural Resources has declared a burning ban.

(d) The fire chief and authorized fire department personnel, and police are authorized to require that a recreational fire be immediately extinguished if the fire creates or adds to a hazardous or objectionable condition.

(Ord. No. 08-02, § 1, 9-10-2008)

Chapter 30 - OFFENSES AND MISCELLANEOUS PROVISIONS

Article/Division/Section:

ARTICLE I - IN GENERAL

Sec. 30-1 - Curfew and parental duties

(a) *Restrictions on juveniles.* It shall be unlawful for the following juveniles to loiter, idle, wander, stroll, or play in or upon the public streets, highways, roads, alleys, parks, playgrounds, public places and public buildings, places of entertainment and amusement, vacant lots, and other unsupervised places in the city:

(1) Juveniles under 16 years of age between the hours of 10:00 p.m. and 5:00 a.m.

(2) Juveniles 16 or 17 years of age between the hours of 12:00 midnight and 5:00 a.m.

(b) *Exceptions.* The provisions of section 30-1(a) shall not apply to a juvenile while the juvenile is:

(1) Accompanied by the juvenile's parent or an authorized adult;

(2) Involved in, or attempting to remedy, alleviate, or respond to an emergency;

(3) Engaged in a lawful employment activity, or is going to or returning home from the juvenile's place of employment;

(4) Attending an official school, religious, or other social or recreational activity supervised by adults and sponsored by the city or the county, a civic organization, or another similar entity that takes responsibility for the juvenile;

(5) Going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the city or the county, a civic organization, or another similar entity that takes responsibility for the juvenile;

(6) On an errand as directed by the juvenile's parent or guardian, without any detour or stop;

(7) Engaged in interstate travel;

(8) On the public right-of-way boulevard or sidewalk abutting the juvenile's residence or abutting the neighboring property, structure, or residence;

(9) Exercising first amendment rights protected by the United States Constitution (or those similar rights protected by article I of the Constitution of the State of Minnesota), such as free exercise of religion, freedom of speech, and the right of assembly; or

(10) Homeless or uses a public or semi-public place as a usual place of abode.

(c) *Duties of parents or guardians.* It shall be unlawful for the parent, guardian, or other adult person having charge of a juvenile under the age of l8 years to permit activities as prohibited by this section.

(d) *Minors in amusement places.* No person, operating or in charge of any place of amusement, entertainment or refreshment shall permit any juvenile under the age of 18 years to remain in such place during the hours prohibited by this section unless accompanied by his or her parent, guardian or other adult person having the care and custody of the juvenile.

(Code 1993, § 8-3.02)

State Law reference – Curfew ordinances, Minn. Stats. § 145A.05 (see subds. 7a, 9).

Sec. 30-2 - Consumption and display of intoxicating liquor and 3.2 percent malt liquor

(a) *Public consumption or use.* No person shall consume or use intoxicating liquor or 3.2 percent malt liquor in any parking area connected with or a part of the land area of the premises to which the general public has access and a right to resort for business, entertainment, parking, driving or walking including public sidewalks, streets, alleys and parking areas within the city. This prohibition shall include parking areas connected with schools or any other institution of training or education.

(b) *Carrying receptacle from licensed premises.* No person shall carry any open receptacle including a glass, bottle or other device used for the consumption of intoxicating liquor or 3.2 percent malt liquor from any licensed premises.

(c) *Specific approval.* Nothing in this section shall prohibit the temporary display or consumption of intoxicating liquor or 3.2 percent malt liquor from any licensed premises.

(Code 1993, § 8-3.03)

Sec. 30-3 - Discharge of guns prohibited

It shall be unlawful for any person to shoot or discharge any gun, air gun, pistol, revolver or other firearm or bow and arrow within the corporate limits of the city. The provisions of this section shall not apply to:

(1) Persons while they are exercising the right of self-defense or defense of others.

(2) Police officers or members of the armed forces of the United States or National Guard, while engaged in official duties as such.

(Code 1993, § 8-3.04)

Sec. 30-4 - Regulating the conduct of lawful gambling

(a) *Purpose.* The purpose of this section is to regulate lawful gambling within the City of Falcon Heights, to prevent its commercialization, to insure the integrity of operations, and to provide for the use of net profits only for lawful purposes.

(b) *Adoption of state law by reference.* The provisions of Minn. Stats. ch. 349, as they may be amended from time to time, with reference to the definition of terms, conditions of operation, provisions relating to sales, and all other matters pertaining to lawful gambling are hereby adopted by reference and are made a part of this section as if set out in full. It is the intention of the council that all future amendments of Minn. Stats. ch. 349 are hereby adopted by reference or referenced as if they had been in existence at the time this section was adopted.

(c) *Definitions.* In addition to the definitions contained in Minn. Stats. § 349.12, as it may be amended from time to time, the following terms are defined for purposes of this section:

Licensed organization means an organization licensed by the board.

Local permit means a permit issued by the city.

Trade area means the corporate limits of the city and each contiguous city.

(d) *Applicability.* This section shall be construed to regulate all forms of lawful gambling within the city except bingo conducted within a nursing home or a senior citizen housing project or by a senior citizen organization if the prizes for a single bingo game do not exceed $10.00, total prizes awarded at a single bingo occasion do not exceed $200.00, no more than two bingo occasions are held by the organization or at the facility each week, only members of the organization or residents of the nursing home or housing project are allowed to play in a bingo game, no compensation is paid for any persons who conduct the bingo, and a manager is appointed to supervise the bingo.

(e) *Lawful gambling permitted.* Lawful gambling is permitted within the city provided it is conducted in accordance with Minn. Stats. §§ 609.75—.763, inclusive, as they may be amended from time to time; Minn. Stats. §§ 349.11—.23, inclusive, as they may be amended from time to time; and this section.

(f) *Council approval.* Lawful gambling shall not be conducted unless approved by the council, subject to the provisions of this section and state law.

(g) *Application and local approval of premises permits.*

(1) Any organization seeking to obtain a premises permit from the board shall file with the city clerk an executed, complete duplicate application, together with all exhibits and documents accompanying the application as will be filed with the board.

(2) Upon receipt of an application for issuance of a premises permit, the city clerk shall transmit the application to the chief of police for review and recommendation.

(3) The chief of police shall investigate the matter and make the review and recommendation to the city council as soon as possible, but in no event later than 45 days following receipt of the notification by the city.

(4) The applicant shall be notified in writing of the date on which the council will consider the recommendation.

(5) The council shall receive the police chief's report and consider the application within 45 days of the date the application was submitted to the city clerk.

(6) The council shall by resolution approve or disapprove the application within 60 days of receipt of the application.

(7) The council may deny an application for issuance or renewal of a premises permit for any of the following reasons:

a. Violation by the gambling organization of any state statute, state rule, or city section relating to gambling within the last three years.

b. Violation by the on-sale establishment or organization leasing its premises for gambling of any state statute, state rule, or city section relating to the operation of the establishment, including, but not limited to, laws relating to alcoholic beverages, gambling, controlled substances, suppression of vice, and protection of public safety within the last three years.

c. Lawful gambling would be conducted at premises other than those for which an on-sale liquor license has been issued.

d. An organization would be permitted to conduct lawful gambling activities at more than one premises in the city.

e. More than one licensed organization would be permitted to conduct lawful gambling activities at one premises.

f. Operation of gambling at the site would be detrimental to health, safety, and welfare of the community.

Otherwise, the council may pass a resolution approving the application.

(h) *Local permits.*

(1) No organization shall conduct lawful gambling excluded or exempted from state licensure requirements by Minn. Stats. § 349.166, as it may be amended from time to time, without a valid local permit. This section shall not apply to lawful gambling exempted from local regulation by subsection 30-4(d).

(2) Applications for issuance or renewal of a local permit shall be on a form prescribed by the city. The application shall contain the following information:

a. Name and address of the organization requesting the permit.

b. Name and address of the officers and person accounting for receipts, expenses, and profits for the event.

c. Dates of gambling occasion for which permit is requested.

d. Address of premises where event will occur.

e. Copy of rental or leasing arrangement, if any, connected with the event, including rent to be charged to the organization.

f. Estimated value of prizes to be awarded.

(3) Upon receipt of an application for issuance or renewal of a local permit, the city clerk shall transmit the notification to the chief of police for review and recommendation.

(4) The chief of police shall investigate the matter and make review and recommendation to the city council as soon as possible, but in no event later than 45 days following receipt of the notification by the city.

(5) The applicant shall be notified in writing of the date on which the council will consider the recommendation.

(6) The council shall receive the public safety department's report and consider the application within 45 days of the date the application was submitted to the city clerk.

(7) The council may deny an application for issuance or renewal of a premises permit for any of the following reasons:

a. Violation by the gambling organization of any state statute, state rule, or city section relating to gambling within the last three years.

b. Violation by the on-sale establishment, or organization leasing its premises for gambling, of any state statute, state rule, or city section relating to the operation of the establishment, including, but not limited to, laws relating to the operation of the establishment, laws relating to alcoholic beverages, gambling, controlled substances, suppression of vice, and protection of public safety within the last three years.

c. The organization has not been in existence in the city for at least three consecutive years prior to the date of application.

d. The organization does not have at least 13 active and voting members.

e. Exempted or excluded lawful gambling will not take place at a premises the organization owns or rents.

f. Exempted or excluded lawful gambling will not be limited to a premises for which an on-sale liquor license has been issued.

g. An organization will have a permit to conduct exempted or excluded lawful gambling activities on more than one premises in the city.

h. More than one licensed, qualified organization will be conducting exempted or excluded lawful gambling activities at any one premises.

i. Operation of gambling at the site would be detrimental to health, safety, and welfare of the community.

Otherwise the council may approve the application.

(8) Local permits shall be valid for one year after the date of issuance unless suspended or revoked.

(i) *Revocation and suspension of local permit.*

(1) A local permit may be revoked or temporarily suspended for a violation by the gambling organization of any state statute, state rule, or city section relating to gambling.

(2) A local permit shall not be revoked or suspended until written notice and an opportunity for a hearing have first been given to the permitted person. The notice shall be personally served or sent by certified or registered mail. If the person refuses to accept notice, notice of the violation shall be served by posting it on the premises. Notice shall state the provision reasonably believed to be violated and shall also state that the permitted person may demand a hearing on the matter, in which case the permit will not be suspended until after the hearing is held. If the permitted person requests a hearing, the council shall hold a hearing on the matter at least one week after the date on which the request is made. If, as a result of the hearing, the council finds that a section violation exists, then the council may suspend or revoke the permit.

(j) *License and permit display.* All permits issued under state law or this section shall be prominently displayed during the permit year at the premises where gambling is conducted.

(k) *Notification of material changes to application.* An organization holding a state-issued premises permit or a local permit shall notify the city within ten days in writing whenever any material change is made in the information submitted on the application.

(l) *Local gambling tax.*

(1) A local gambling tax of three percent per year is imposed on the gross receipts of a licensed organization from all lawful gambling less prizes actually paid out by the licensed organization.

(2) The tax shall be paid by the licensed organization on a monthly basis and shall be reported on a copy of the monthly gambling activity summary and tax return filed with the Minnesota Department of Revenue. The report shall be an exact duplicate of the report filed with the department, without deletions or additions, and must contain the signatures of organization officials as required on the report form.

(3) The tax return and payment of the tax due must be postmarked, or, if hand delivered, received in the office of the city clerk, on or before the last business day of the month following the month for which the report is made.

(4) An incomplete tax return will not be considered timely filed unless corrected and returned by the due date for filing.

(5) Interest shall be charged at a rate of eight percent on all overdue taxes owed by the organization under this section.

(m) *Contribution of net profits to fund administered by city.*

(1) Each organization licensed to conduct lawful gambling within the city pursuant to Minn. Stats. § 349.16, as it may be amended from time to time, shall contribute ten percent 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. The city shall disburse the funds for charitable contributions as defined by Minn. Stats. § 349.12, subd. 7a, as it may be amended from time to time.

(2) Payment under this section shall be made on the last day of each month.

(3) The city's use of such funds shall be determined at the time of adoption of the city's annual budget or when the budget is amended.

(n) *Designated trade area.*

(1) Each organization licensed to conduct gambling within the city shall expend 75 percent of its lawful purpose expenditures on lawful purposes conducted within the city's trade area.

(2) This section applies only to lawful purpose expenditures of gross profits derived from gambling conducted at a premises within the city's jurisdiction.

(o) *Records and reporting.*

(1) Organizations conducting lawful gambling shall file with the city clerk one copy of all records and reports required to be filed with the board, pursuant to Minn. Stats. ch. 349, as it may be amended from time to time, and rules adopted pursuant thereto, as they may be amended from time to time. The records and reports shall be filed on or before the day they are required to be filed with the board.

(2) Organizations licensed by the board shall file a report with the city proving compliance with the trade area spending requirements imposed by this section. Such report shall be made on a form prescribed by the city and shall be submitted annually.

(Ord. No. 13-03, § 1, 6-12-2013)

Editor's note – Ord. No. 13-03, § 1, adopted June 12, 2013, amended § 30-4 in its entirety to read as set out herein. Former § 30-4 pertained to regulation of nonprofit organization gambling and derived from the Code of 1993, § 5-3.07.

Sec. 30-5 - Sales on public property

No person shall sell any goods or services on public property unless specifically authorized by the city administrator.

Secs. 30-6 – 30-39 - Reserved

ARTICLE II - SOCIAL HOSTS

Sec. 30-40 - Purpose and findings

The city council intends to discourage underage possession and consumption of alcohol, even if done within the confines of a private residence, and intends to hold persons criminally responsible who host events or gatherings where persons under 21 years of age possess or consume alcohol regardless of whether the person hosting the event or gathering supplied the alcohol. The city council finds:

(1) Events and gatherings held on private or public property where alcohol is possessed or consumed by persons under the age of 21 are harmful to those persons and constitute a potential threat to public health requiring prevention or abatement.

(2) Prohibiting underage consumption acts to protect underage persons, as well as the general public, from injuries related to alcohol consumption, such as alcohol overdose or alcohol-related traffic collisions.

(3) Often, events or gatherings involving underage possession and consumption occur outside the presence of parents. However, there are times when the parent(s) is/are present and, condone the activity, and in some circumstances provide the alcohol.

(4) Even though giving or furnishing alcohol to an underage person is a crime, it is difficult to prove, and an ordinance is necessary to help further combat underage consumption.

(5) A deterrent effect will be created by holding a person criminally responsible for hosting an event or gathering where underage possession or consumption occurs.

(Ord. No. 10-03, § 1, 4-24-2010)

Sec. 30-41 - Definitions

Unless otherwise expressly stated, whenever used in this article, the following terms shall have the following meanings:

Alcohol means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, whiskey, rum, brandy, gin, or any other distilled spirits including dilutions and mixtures thereof from whatever source or by whatever process produced.

Alcoholic beverage means alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, wine, or beer, and which contains one-half of one percent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances.

Event or gathering means any group of three or more persons who have assembled or gathered together for a social occasion or other activity.

Host or allow means to aid, conduct, entertain, organize, supervise, control, or permit a gathering or event.

Parent means any person having legal custody of a juvenile:

(1) As natural, adoptive parent, or step-parent;

(2) As a legal guardian; or

(3) As a person to whom legal custody has been given by order of the court.

Person means any individual, partnership, co-partnership, corporation, or any association of one or more individuals. A person does not include any city, county, or state agency.

Residence, premises or public or private property means any home, yard, farm, field, land, apartment, condominium, hotel or motel room, or other dwelling unit, or a hall or meeting room, park, or any other place of assembly, whether occupied on a temporary or permanent basis, whether occupied as a dwelling or specifically for a party or other social function, and whether owned, leased, rented, or used with or without permission or compensation.

Underage person is any individual under 21 years of age.

(Ord. No. 10-03, § 1, 4-24-2010)

Sec. 30-42 - Prohibited acts

(a) It is unlawful for any person(s) to host or allow an event or gathering at any residence, premises, or on any other private or public property where alcohol or alcoholic beverages are present when the person knows that an underage person will or does (i) consume any alcohol or alcoholic beverage; or (ii) possess any alcohol or alcoholic beverage with the intent to consume it and the person fails to take reasonable steps to prevent possession or consumption by the underage person(s).

(b) A person is criminally responsible for violating subsection 30-42(a) above if the person intentionally aids, advises, hires, counsels, or conspires with or otherwise procures another to commit the prohibited act.

(c) A person who hosts an event or gathering does not have to be present at the event or gathering to be criminally responsible.

(Ord. No. 10-03, § 1, 4-24-2010)

Sec. 30-43 - Exceptions

(a) This article does not apply to conduct solely between an underage person and his or her parents while present in the parent's household.

(b) This article does not apply to legally protected religious observances.

(c) This article does not apply to retail intoxicating liquor or 3.2 percent malt liquor licensees, municipal liquor stores, or bottle club permit holders who are regulated by Minn. Stat. § 340A.503 Subd.1(a)(1).

(d) This article does not apply to situations where underage persons are lawfully in possession of alcohol or alcoholic beverages during the course and scope of employment, or where the underage person is performing an alcohol compliance check at the direction of a law enforcement agency.

(Ord. No. 10-03, § 1, 4-24-2010)

ARTICLE III - ADMINISTRATIVE CITATIONS

Sec. 30-44 - Purpose

Falcon Heights authorized by resolution the use of administrative citations for specific traffic offenses, as permitted by the Legislature in Minn. Stat. § 169.999. The city is required by that statute to establish and maintain procedures through which motorists receiving administrative citations may obtain an independent hearing or judicial review of a citation. The city council finds that establishing a voluntary administrative citation procedure ensures the availability of an independent hearing and retains full opportunity to obtain judicial review of a citation.

(Ord. No. 18-02, § 1, 4-11-2018)

Sec. 30-45 - Definitions

As used in this section, the following terms shall have the respective meanings ascribed to them:

Citation means an administrative citation issued to a motorist for a designated traffic offense occurring within the city.

Designated traffic offense means those traffic offenses eligible for administrative citation as designated by Minn. Stat. § 169.999, subd. 1(b)(1), (2) and (3), as it may be amended from time to time.

Flyer means A document which informs a person receiving an administrative citation of:

(1) The recipient's right to challenge the citation or opt for a standard criminal citation;

(2) The city's process for handling challenges to administrative traffic citations;

(3) The process for paying a traffic citation; and

(4) The effect of an administrative traffic citation on a recipient's driving record.

Issuing officer means the licensed peace officer employed by or under contract with the city who issues any particular administrative citation.

Manager means the Falcon Heights city manager or manager's designee.

Recipient means the person who receives an administrative citation under this chapter.

(Ord. No. 18-02, § 1, 4-11-2018)

Sec. 30-46 - Authorization

Licensed peace officers employed or under contract with the city may issue administrative citations for designated traffic offenses occurring within the city. The fine for committing a designated traffic offense shall be the amount stated in Minn. Stat. § 169.999, subd. 5, as it may be amended from time to time.

(1) *Form of citation.* An issuing officer must use the uniform administrative traffic citation form approved by the commissioner of public safety. The officer shall also serve upon the recipient the current version of the city's response form. The response form shall reference the response options stated at Minn. Stat. § 904.030(C); and shall

provide directions for returning the response form.

(2) *Delivery to city.* The issuing officer shall deliver a copy of the administrative traffic citation to the city manager within a reasonable time of the date of issuance.

(3) *Response to citation.* A recipient shall respond to the citation within 14 days of receipt. The recipient may:

a. Admit the violation stated in the citation and agree to pay the fine;

b. Deny the violation stated in the citation and request a hearing; or

c. Request that the administrative citation be converted to a standard traffic citation and filed for processing by the Violations Bureau of the Ramsey County District Court.

(4) *Standard citation issued if no response.* If the city manager receives no written response to a citation within the 14-day response period, the city manager shall request that the peace officer who issued the citation convert the allegations into a standard traffic citation, file that regular citation at the district court and mail a copy to the recipient.

(Ord. No. 18-02, § 1, 4-11-2018)

Sec. 30-47 - Hearing officers

The city shall maintain a list of hearing officers available to conduct hearings on the merits of an administrative citation, if requested by a recipient. Hearing officers shall have executed a contract to provide hearing officer services with the Ramsey County Sheriff's Department. The hearing officer shall have executed a contract to provide hearing officer services with the Ramsey County Sheriff's Department or with one of the cities that receive law enforcement services from the Ramsey County Sheriff's Department.

(1) *Request for hearing.* If the recipient responds by requesting a hearing, the city manager shall assign the case to a hearing officer on the list. The manager shall notify the hearing officer, the recipient and the issuing officer of the assignment in writing. The hearing officer shall schedule a hearing within a reasonable date of receiving the notice. Any delays in holding the hearing shall be reported to the city manager by the hearing officer.

(2) *Citation materials.* At assignment, the city manager shall transmit a copy of the citation to the hearing officer. Within five days of assignment, the issuing officer or the officer's department shall transmit copies of all materials relating to the citation to the hearing officer, including but not limited to additional written reports; certificates of calibration, logs, and other documentation required to support the evidentiary use of speed detection equipment under Minn. Stat. § 169.14; relevant certificates of training for the citing officer; and any pictures showing the alleged offense. The hearing officer shall transmit a copy of any materials received to the recipient at the earliest opportunity but at least three days in advance of the hearing.

(3) *Hearing.* At the hearing, the hearing officer shall receive the testimony of any witnesses, witness statements, and comments presented by the person cited. The hearing officer will consider these items alongside the materials submitted by the issuing officer, and may weigh the evidence and make credibility determinations to the best of

the hearing officer's ability. The hearing officer is not required to apply the rules of evidence in making determinations about the evidence presented. The issuing officer is not required to attend the hearing.

(4) *Decision, findings.* After considering all of the evidence submitted, the hearing officer shall determine, by a preponderance of the evidence, whether the person cited did or did not violate the statute or statutes identified in the citation. The hearing officer shall make written findings supporting the determination and transmit them to the cited person and the city manager within five days of closing the hearing.

(5) *Payment following finding of violation.* If the hearing officer finds a violation, the fine for the designated traffic offense is due within 30 days of the date the findings are sent to the recipient. The hearing officer may not alter or reduce the fine for any offense or combine multiple offenses into a single fine. Payment of fines due shall be made to the city manager.

(6) *Standard citation issued if no payment.* If payment is not made within 30 days, the manager shall request that the issuing officer or the officer's department issue a standard traffic citation for the offenses in the administrative citation, mail a copy of the citation to the individual and file the citation, along with the hearing officer's written findings, with the Ramsey County District Court.

(Ord. No. 18-02, § 1, 4-11-2018)

Sec. 30-48 - Designated administrative traffic citation program manager

Pursuant to Resolution No. 18-11, the city council has designated the Ramsey County Sheriff's Department and its licensed peace officers to administer the city's administrative traffic citation program and to perform the duties of the city and the city manager as specified therein.

(Ord. No. 18-02, § 1, 4-11-2018)

Sec. 30-49 - Severability

Should any section, subdivision, clause or other provision of this article be held to be invalid by any court of competent jurisdiction, such decision shall not affect the validity of the article as a whole, or of any part thereof, other than the part held to be invalid.

(Ord. No. 18-02, § 1, 4-11-2018)

Chapter 34 - PARKS AND RECREATION[1]

Article/Division/Section:

ARTICLE I - IN GENERAL

Secs. 34-1 – 34-18 - Reserved

ARTICLE II - PUBLIC CONDUCT IN PARKS

Sec. 34-19 - Purpose

It is the purpose of this article to protect and promote the public health, safety, and general welfare of the people of the city by regulating the use of and management of public parks and facilities within the city. This section is in addition to all other sections, statutes and regulations that might be applicable to the city.

(Code 1993, § 3-4.01(A))

Sec. 34-20 - Hours and access; permits

(a) *Hours.* The parks shall be open to the public between the hours of 6:00 a.m. and 10:00 p.m. No person shall remain, stop, use or be present in any park between the hours of 10:00 p.m. and 6:00 a.m. Exceptions may be made when special use permits have been authorized and issued.

(b) *Permits.* The city shall require permits for the exclusive use of all or portions of specific areas, buildings, and other facilities and for conducting events of a cultural, educational, political, religious or recreational nature; and for specific exemption from any provision of

this article. Any person, group or association of persons required to obtain a permit shall file an application for such permit with the clerk.

(1) The holder of a permit shall be liable for any loss, damage, or injury sustained by the parks or by any person resulting from the negligence of the person or persons to whom such permits are issued.

(2) The grantee of a permit shall not transfer or relinquish said permit to another person or group without the written permission of the clerk.

(3) The council shall have the authority to revoke a permit upon evidence of good cause.

(4) Council may, by resolution, adopt rules, policies, and procedures from time to time for issuance of exclusive use permits.

(Code 1993, § 3-4.01(B); Ord. No. 0-94-10, § 1, 9-28-1994)

Sec. 34-21 - Operation of bicycles; animals; camps; tennis court permits

(a) No person shall ride or operate a bicycle in any park except for designated bikeways or surfaces normally provided for vehicular traffic.

(b) People are prohibited from bringing animals in public parks, except:

(1) Dogs accompanying a person engaged in search or rescue activities;

(2) Service dogs as provided in Minnesota Statutes § 256C.02;

(3) Dogs on a leash six feet or less in length except leashed dogs are prohibited in playgrounds, tennis and basketball courts, park shelters, ice rinks and areas with a sign prohibiting dogs.

(c) No person shall establish or maintain any camp or other temporary lodging or sleeping place in any park.

(d) Any person with a tennis court permit has the right to use the court for the time specified on the permit.

(Code 1993, § 3-4.01(C); Ord. No. 0-94-10, § 1, 9-28-1994; Ord. No. 09-04, § 1, 10-28-2010)

Sec. 34-22 - Unlawful conduct

(a) *Defacement and destruction of property.* No person shall tamper with, climb on, deface, destroy or remove any part of any park building, structure, sign, light pole, drinking fountain, plantings, table, grill, equipment, or other property.

(b) *Fires.* No person shall start or maintain a fire in any park site, except small recreational fires in designated grills provided or intended for that purpose.

(c) *Alcoholic and intoxicating beverages.* No person shall transport, possess, offer for sale, consume or be under the influence of any beer, wine, liquor or other alcoholic or intoxicating beverage in any park site. Notwithstanding any other provisions of this Code, the only sanction to be taken against a person who violates this subsection by being

intoxicated shall be ejection from the park; provided, that nothing in this subsection prohibits prosecution of such person for trespass should the person refuse to leave the park.

(d) *Unlawful sales.* No person shall sell or offer for sale, any object, merchandise or service or conduct any commercial enterprise except concessions invited by the city in conjunction with city-sponsored events or activities.

(Code 1993, § 3-4.01; Ord. No. 97-04, § 1, 6-25-1997)

Secs. 34-23 – 34-54 - Reserved

ARTICLE III - TOBACCO-FREE PARKS

Sec. 34-55 - Purpose

The City of Falcon Heights believes that there is sufficient medical evidence showing that the use of tobacco and secondhand smoke is a danger to the health, safety and general welfare of the community. Numerous studies have found that tobacco smoke is a cause for diseases and second hand smoke is particularly hazardous for children and the elderly. Discarding of tobacco products on the ground can result in litter and pose a risk of harm by, among other things being ingested by young children. The purpose of this article is to set forth rules banning the use of tobacco products in city parks, thereby making such areas cleaner, safer and more enjoyable for residents and the general public.

(Ord. No. 12-06, § 1, 6-27-2012)

Sec. 34-56 - Definitions

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

City parks means any open or enclosed land improvements or facility which is owned, leased and operated by the City of Falcon Heights and which is reserved, designated or used for a playground, picnic area, garden area, bike or walking path, trail, nature preserve, green space, tennis court, sports or athletic field, skating rink, warming house, or other recreational open space area, and includes city-owned parking areas serving city parks or city facility and sidewalks located directly adjacent to a city park or facility.

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; 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. Tobacco excludes any tobacco product that has been approved 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 being marketed and sold solely for such an approved purpose.

Use means smoking, inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, weed, or plant in any manner of in any form, chewing, sniffing, and spitting.

(Ord. No. 12-06, § 1, 6-27-2012)

Sec. 34-57 - Prohibited activities

(a) *Tobacco use prohibited in certain areas.* Tobacco use is prohibited in the following areas:

(1) City parks;

(2) Inside motor vehicles owned or operated by the city;

(3) Inside motor vehicles at city parks.

(b) *Exceptions.* Notwithstanding any other provision to the contrary, the following areas are exempt from the provisions of this article:

(1) City streets, easements, and sidewalks unless located adjacent or within city parks.

(Ord. No. 12-06, § 1, 6-27-2012)

Sec. 34-58 - Posting of signs

"Tobacco-Free Grounds" sign or signs with a similar designation will be clearly and conspicuously displayed at city parks to notify the public that smoking and other tobacco use is prohibited.

(Ord. No. 12-06, § 1, 6-27-2012)

Sec. 34-59 - Enforcement

(a) *Complaints.* Any citizen who desires to register a complaint under this article may initiate enforcement with the city administrator or his/her designee.

(b) *Violation and penalty.* It shall be a petty misdemeanor for any person to use tobacco in an area where tobacco use is prohibited by the provisions of this article.

(c) *Other applicable laws.* This article shall not be interpreted or construed to permit tobacco use where it is otherwise restricted by other applicable laws.

(Ord. No. 12-06, § 1, 6-27-2012)

Footnotes:

[1] **State Law reference –** General authority relative to parks, Minn. Stats. § 412.221, subd. 6; parks generally, Minn. Stats. ch. 448.

Chapter 38 - SOLID WASTE[1]

Article/Division/Section:

ARTICLE I - IN GENERAL

Secs. 38-1 – 38-18 - Reserved

ARTICLE II - COLLECTION AND DISPOSAL[2]

Sec. 38-19 - Refuse defined

Refuse means all waste products which are composed wholly or partly of such materials as garbage, rubbish, leaves, grass, brush, and other waste materials; or any other such substance which may become a nuisance.

(Code 1993, § 5-3.02(A))

Sec. 38-20 - Required collection of garbage and refuse

(a) Every household and commercial/industrial establishment in the city must be under a contract for the collection of garbage and refuse with a licensed garbage hauler. A household in a multi-dwelling property is considered to be under a garbage collection contract if the owner, association, or management entity has a contract with a licensed hauler.

(b) A household or commercial/industrial establishment may be exempt from the requirement to be under a garbage and refuse contract if the household or commercial/industrial establishment hauls garbage or refuse from their own residence or business property and complies with the following standards:

(1) Garbage is hauled in a timely manner such that it does not accumulate and become a nuisance;

(2) Garbage is hauled in containers equipped with tightfitting covers and which are also watertight on all sides and the bottom.

(c) Garbage and refuse is dumped or unloaded only in the county at designated sanitary landfills, or other facilities authorized by the county.

(Code 1993, § 5-3.02(B); Ord. No. 0-92-3, 6-24-1992)

Sec. 38-21 - Storage of refuse

(a) *Metal or plastic nondisposable containers required.* The owner or occupant of any dwelling or any other person having refuse shall provide sufficient nondisposable containers for the storage of all refuse accumulated on the premises between collections. Each metal or plastic nondisposable container shall be watertight, shall have a tightfitting lid, and shall be impervious to insects, rodents, vermin and absorption of moisture.

(b) *Placing of nondisposable containers.* Where alleys are platted and open for traffic, nondisposable containers shall be placed at the rear of the property adjoining the alley. Where no such alley exists, nondisposable containers shall be stored in a side yard, adjacent to the residence, and shall not be placed in the front yard of the residence.

(c) *Placing of waterproof bags.* Waterproof bags may be placed next to the street, curb or alley, provided they do not remain there for a period longer than 24 hours prior to the time scheduled for collection.

(d) *Placement of refuse containers after collection*. Where refuse containers are brought to the curb (street) for collection, said containers must be returned to the location specified in subsection (b) of this section within 24 hours after collection.

(Code 1993, § 5-3.02(C))

Sec. 38-22 - Fees for collection of recyclables

(a) Recyclable materials shall mean items of refuse which are deemed acceptable for processing for reuse and collected/deposited at an appropriate recycling center.

(b) The owners of all residential properties shall pay a fee for the collection of recyclable materials. Recycling fees and penalties and assessment of unpaid fees are as established by the city council.

(Code 1993, § 5-3.02(D))

State Law reference – Recycling, Minn. Stats. § 115A.551 et seq.

Sec. 38-23 - Recycling scavenging prohibited

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

Authorized or designated recycling program means a program for the collection and recycling of recyclable materials which is instituted, sponsored and controlled by the city.

Recyclable materials means items of refuse which are part of an authorized recycling program and which are intended for transportation, processing, and manufacturing or reuse.

Scavenging means the unauthorized collection of recyclable materials that have been set out by residents of the city specifically for participating in the recycling programs.

(b) *Purpose.* This section is designed to prevent unauthorized collections of recyclable materials that are set out by city residents as part of the designated recycling program. Unauthorized collection or "scavenging" may reduce the volumes of material collected as part of a designated program and thereby threaten the economic viability of the program. Scavenging may also cause confusion among participating residents and thereby disrupt the publicity and educational processes of the program. This section is also designed to insure that a designated recycling program will be implemented in an orderly fashion to avoid adverse effects on the public health, welfare, safety and environment.

(c) *Ownership.* Ownership of recyclable materials set out for the purpose of participating in the recycling programs shall remain with the person or household from which the materials originated until collected by an authorized collector. Upon removal by the city or its designated agents or contractors from a designated collection point, ownership of properly prepared and stored recyclable materials intended for a city authorized collection program shall be vested in the authorized collector. Materials not prepared, cleaned, or stored according to city specifications shall remain the responsibility and property of the individuals or household from which the materials originated. Nothing in this article shall abridge the right of any individual or household to give or sell their recyclable materials to any recyclable materials program.

(d) *Unauthorized collection.* It shall be unlawful for any person or hauler who is not authorized by the city to take or collect recyclable material set out for authorized collection within the city.

(Code 1993, § 5-3.02(D), (E))

Footnotes:

[1] **State Law reference –** Waste Management Act, Minn. Stats. ch. 115A.

[2] **State Law reference –** Mandatory that city provide for solid waste collection, Minn. Stats. § 115A.941; rubbish removal, Minn. Stats. ch. 443.

Chapter 42 - STREETS, SIDEWALKS AND OTHER PUBLIC PLACES[1]

Article/Division/Section:

ARTICLE I - IN GENERAL

Sec. 42-1 - Street construction

Before any improvement, construction or alteration of any kind is undertaken in a street, the person proposing such improvement, construction or alteration shall procure a permit from the city. No building permits will be issued for any construction within the city unless the building site is located adjacent to an existing street, or unless provision for street construction has been made in full compliance with this Code.

(Code 1993, § 3-1.01)

Sec. 42-2 - Snow removal on alleyways

Snow removal shall be the responsibility of the owners of the property that abuts the alley. The snow shall be removed from alleys within 24 hours after a snowfall of two inches or more has ended. In the event of noncompliance, the property owners will be given notice that the city will remove the snow 24 hours after the date of notice. If the property owner fails to bring the property into compliance by the end of the 24-hour period, the unplowed alley may be deemed a public nuisance and the city may remove the snow and bill benefited owners for the reasonable value of such service. If the property owners fail to pay for these services within 30 days, the city may proceed to levy a special assessment (cost plus interest) against the improved property pursuant to Minn. Stats. § 429.101.

(Code 1993, § 3-3.01)

Secs. 42-3 – 42-22 - Reserved

ARTICLE II - TELECOMMUNICATION FACILITIES RIGHT-OF-WAY MANAGEMENT

Sec. 42-23 - Purpose; intent; interpretation

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

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

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

(Ord. No. 02-01, § 1(3-6.01), 4-24-2002)

Sec. 42-24 - Management of the right-of-way

Pursuant to the authority granted to the city under state and federal statutory, administrative and common law, the city hereby elects pursuant to Minn. Stats. § 237.163, subd. 2(b), to manage the right-of-way under its jurisdiction. The term "manage the right-of-way" means the authority of the city to do any or all of the following:

(1) Require registration;

(2) Require construction performance bonds and insurance coverage;

(3) Establish installation and construction standards;

(4) Establish and define location and relocation requirements for equipment and facilities;

(5) Establish coordination and timing requirements;

(6) Require right-of-way users to submit henceforth required by the city project data reasonably necessary to allow the city to develop a right-of-way mapping system including GIS system information;

(7) Require right-of-way users to submit, upon request of the city, existing data on the location of user's facilities occupying the public right-of-way within the city. The data may be submitted in the form maintained by the user in a reasonable time after receipt of the request based on the amount of data requested;

(8) Establish right-of-way permitting requirements for excavation and obstruction;

(9) Establish removal requirements for abandoned equipment or facilities, if required in conjunction with other right-of-way repair, excavation or construction; and impose reasonable penalties for unreasonable delays in construction.

(Ord. No. 02-01, § 1(3-6.02), 4-24-2002)

Sec. 42-25 - Definitions

The definitions included in Minn. Stats. § 237.162 and Minn. Rule 7819.0100, subpt. 1—25 are hereby adopted by reference and incorporated into this article as if set out in full.

(Ord. No. 02-01, § 1(3-6.03), 4-24-2002)

Sec. 42-26 - Administration

The city administrator is the principal city official responsible for the administration of the rights-of-way, right-of-way permits, and the ordinances related thereto. The city administrator may delegate any or all of the duties hereunder. Authority granted to the city administrator under this section may, in the alternative, be exercised by the deputy clerk.

(Ord. No. 02-01, § 1(3-6.04), 4-24-2002)

Sec. 42-27 - Registration; bond; exceptions

(a) *Registration.* Each person who occupies, uses, or seeks to occupy or use, the right-of-way or place any equipment or facilities in the right-of-way, including by lease, sublease or assignment, or who has, or seeks to have, equipment or facilities located in any right-of-way must register with the city. Registration will consist of providing application information to, and as required by the city, paying a registration fee, and posting a performance and restoration bond. Registration fee and bond amount shall be set by resolution of the city council.

(b) *Performance and restoration bond.* The performance and restoration bond required in this section, and in sections 42-31(a)(5) and 42-34(d) shall be in an amount determined in the city's sole discretion, sufficient to serve as security for the full and complete performance of the obligations under this section, including any costs, expenses, damages, or loss the city pays or incurs because of any failure to comply with this section or any other applicable laws, regulations or standards. During periods of construction, repair or restoration of rights-of- way or equipment or facilities in rights-of-way, the performance and restoration bond shall be in an amount sufficient to cover 100 percent of the estimated cost of such work, as documented by the person proposing to perform such work, or in such lesser amounts as

may be determined by the city administrator, taking into account the amount of equipment and facilities in the right-of-way, the location and method of installation of the equipment and facilities, the conflict or interference of such equipment or facilities with the equipment or facilities of other persons, and the purposes and policies of this section. Sixty days after completion of the work, the performance and restoration bond may be reduced in the sole determination of the city.

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

(d) *Exceptions.*

(1) Nothing herein shall be construed to repeal or amend the rights of persons to plant or maintain boulevard plantings or gardens in the area of the right-of-way between their property and the street curb. Persons planting or maintaining boulevard plantings or gardens shall not be deemed to use or occupy the right-of-way, and shall not be required to obtain any permits or satisfy any other requirements for planting or maintaining such boulevard plantings or gardens under this article. However, plantings must not violate applicable clear zone requirements nor obstruct visibility on the roadway, and the city may remove such plantings, if necessary for maintenance, safety, or construction purposes, with no compensation due the property owner.

(2) Irrigation systems shall be allowed in the right-of-way without a permit and installers shall be exempt from registration. There shall be no compensation for removal necessary for any permitted utility project. No compensation shall be paid for any irrigation system if removal is required or if it is damaged by any city or municipal activity or by any permitted utility activity.

(3) Resident-owned sewer and water service lines to a city main and resident-owned drain tile lines shall not be required to register, unless requested by the city, but shall be required to obtain permits for excavation and obstruction.

(4) Nothing herein relieves a person from complying with the provisions of Minn. Stats. ch. 216D ("One Call Excavation Notice System").

(Ord. No. 02-01, § 1(3-6.05), 4-24-2002)

Sec. 42-28 - Registration information

(a) *Required information*. The information provided to the city administrator at the time of registration shall include, and be on the form approved by the city or this article, but not be limited to:

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

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

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

a. Verifying that an insurance policy has been issued to the registrant by an insurance company licensed or otherwise authorized to do business in the state, or a form of self insurance acceptable to the city administrator;

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

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

d. Requiring that the city administrator be notified 30 days in advance of cancellation of the policy or material modification of a coverage term;

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

(4) The city may require a copy of the actual insurance policies if necessary to ensure the city administrator that the policy provides adequate third party claim coverage and city indemnity and defense coverage.

(5) If the person is a corporation, a copy of the certificate required to be filed under Minn. Stats. § 300.06 as recorded and certified to by the secretary of state.

(6) A copy of the person's order granting a certificate of authority from the state public utilities commission (PUC) or other authorization or approval from the applicable state or federal agency to lawfully operate, where the person is lawfully required to have such authorization or approval from said commission or other state or federal agency.

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

(Ord. No. 02-01, § 1(3-6.06), 4-24-2002; Ord. No. 18-01, § 1, 4-11-2018)

Sec. 42-29 - Construction plan; exceptions

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

way. The city shall maintain in the file a copy of the city's construction plan for construction projects. The utility facility plans shall be kept up-to-date by the registrant. The plans shall be on file and available for public inspection. The plan shall include, but not be limited to, the following information:

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

(2) How the registrant will accommodate the city plan;

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

It is the registrant's responsibility to keep informed on available plans. The term "project" in this section shall include both next-year projects and five-year projects but does not include individual service line hookups and minor maintenance unless they are part of an area-wide program.

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

(Ord. No. 02-01, § 1(3-6.07), 4-24-2002)

Sec. 42-30 - Permit requirement; extensions; penalty

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

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

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

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

(b) *Permit extensions.* No person may excavate or obstruct the right-of-way beyond the date or dates specified in the permit unless such person:

(1) Makes a supplementary application for another right-of-way permit before the expiration of the initial permit; and

(2) A new permit or permit extension is granted.

An extension can, at the discretion of the city administrator, or the city administrator's designee, be granted orally and without application of a separate permit fee.

(c) *Delay penalty.* In accordance with Minn. Rules 7819.1000 subpt. 3 notwithstanding subsection (b) of this section, the city shall establish and may impose a delay penalty for unreasonable delays in right-of-way excavation, obstruction, patching, or restoration. The delay penalty shall be established from time to time by city council resolution and shall include any delays or damages charged by the city's construction contractor and may include liquidated damages consistent with the contract. A delay penalty will not be imposed if the delay in project completion is due to circumstances beyond the control of the applicant including, without limitation, inclement weather, acts of God, or civil strife.

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

(Ord. No. 02-01, § 1(3-6.08), 4-24-2002; Ord. No. 18-01, § 1, 4-11-2018)

Sec. 42-31 - Permit applications; additional bond

(a) *Application for a permit is made to the city administrator.* Right-of-way permit applications shall contain, and will be considered complete only upon compliance with the requirements of the following provisions:

(1) Registration with the city pursuant to this article.

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

(3) Payment of money due the city for:

a. Permit fees, estimated restoration costs and other management costs;

b. Prior obstructions or excavations;

c. Any undisputed loss, damage, or expense suffered by the city because of applicant's prior excavations or obstructions of the right-of-way or any emergency actions taken by the city;

d. Franchise fees or other charges, if applicable.

(4) Payment of disputed amounts due the city for prior disputed fees, penalties or other charges by posting security or depositing in an escrow account an amount equal to at least 110 percent of the amount owing.

(5) When an excavation permit is required for purposes of installing additional equipment or facilities, and a performance and restoration bond which is in existence is insufficient with respect to the additional equipment or facilities in the sole determination of the

city, the permit applicant may be required by the city to post an additional performance and restoration bond in accordance with section 42-27(b).

(b) *Deadline for action.* The city shall approve or deny a small wireless facility permit application within 90 days after receiving a complete application. The small wireless facility permit, and any associated encroachment or building permit shall be deemed approved if the city fails to approve or deny the application within the review periods established in this section.

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

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

(2) Consist of substantially similar equipment; and

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

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

(d) *Tolling of deadline for action.* The 90-day deadline for action may be tolled if

(1) The city receives applications within a single seven-day period from one or more applicants seeking approval of permits for more than 30 small wireless facilities. In such case, the city may extend the 90-day deadline for all such applications by an additional 30 days by informing the affected applicants in writing of such extension.

(2) The applicant fails to submit all required documents or information and the city provides written notice of incompleteness to the applicant within 30 business days of receipt of the application, clearly and specifically delineating all missing documents or information. Information delineated in the notice is limited to documents or information publicly required as of the date of application and reasonably related to the city's determination whether the proposed equipment falls within the definition of a small wireless facility and whether the proposed deployment satisfies all health, safety, and welfare regulations applicable to the small wireless facility permit request. Upon applicant's submittal of additional information in response to a notice of incompleteness, the city has ten days to notify the applicant in writing of any information requested in the initial notice of incompleteness that is still missing. Second or subsequent notices of incompleteness may not specify documents or information that were delineated in the original notice of incompleteness. Requests for information not requested in the initial notice of incompleteness do not toll the 90-day deadline for action.

(3) The city and applicant may agree in writing to toll the review period.

(Ord. No. 02-01, § 1(3-6.09), 4-24-2002; Ord. No. 18-01, § 1, 4-11-2018)

Sec. 42-32 - Issuance of permit; conditions

(a) *Permit issuance.* If the applicant has satisfied the requirements of this article, the city shall issue a permit.

(b) *Conditions.* The city administrator may impose reasonable conditions upon the issuance of the permit and the performance of the applicant thereunder to protect the health, safety and welfare or, when necessary, to protect the right-of-way and its current and future use.

(c) *Small wireless facility conditions.* In addition to part b, the erection or installation of a wireless support structure, the collocation of a small wireless facility, or other installation of a small wireless facility in the right of way, shall be subject to the following conditions:

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

(2) No new wireless support structure installed within the right of way shall exceed 50 feet above ground level in height without the city's written authorization, provided that the city may impose a lower height limit in the applicable permit to protect the public health, safety and welfare or to protect the right of way and its current use, and further provided that a wireless support structure that replaces an existing wireless support structure in the public right of way that is greater than 50 feet above ground level in height may be placed at the height of the existing wireless support structure, subject to such conditions or requirements as may be imposed in the applicable permit.

(3) No wireless facility constructed in the right of way after May 30, 2017 may extend more than ten feet above a wireless support structure existing on May 30, 2017.

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

(5) Where an applicant proposes collocation on a decorative wireless support structure, sign, or other structure not intended to support small wireless facilities, the city may impose reasonable requirements to accommodate the particular design, appearance, or intended purpose of such structure.

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

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

(1) Management costs;

(2) Up to $150.00 per year for rent on the city structure;

(3) $25.00 per year for maintenance associated with the collocation;

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

a. $73.00 per radio node less than or equal to 100 maximum watts;

b. $182.00 per radio node over 100 maximum watts;

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

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

(e) *Routine obstructions and excavations.* A public right-of-way user may negotiate a permit plan that, among other conditions, allows for routine excavations and obstructions without separate notice and separate compensation for projects. Projects that do not involve excavation of the paved surface and lasting less than four hours in duration may be included in such plan.

(Ord. No. 02-01, § 1(3-6.10), 4-24-2002; Ord. No. 18-01, § 1, 4-11-2018)

Sec. 42-33 - Permit fees

(a) *Excavation permit fee.* The city shall impose an excavation right-of-way permit fee schedule specifying fees that are adequate to recover the following costs:

(1) City management costs;

(2) Degradation costs, if applicable;

(3) Mapping costs.

Permit fees shall be established by resolution of the city council, as amended from time to time.

(b) *Obstruction permit fee.* The city shall establish the obstruction permit fee that shall be in an amount sufficient to recover the city management costs.

(c) *Small wireless facility permit fee.* The city shall impose a small wireless facility permit fee in an amount sufficient to recover:

(1) Management costs, and;

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

(d) *Payment of permit fees.* No right-of-way permit shall be issued without payment of any and all applicable permit fees unless the city allows applicants to pay such fees within 30 days of billing.

(e) *Nonrefundable.* Permit fees that were paid for a permit that the city administrator has revoked for a breach as stated in section 42-43 are not refundable. Permit fees paid for work that is subsequently cancelled are not refundable.

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

(Ord. No. 02-01, § 1(3-6.11), 4-24-2002; Ord. No. 18-01, § 1, 4-11-2018)

Sec. 42-34 - Right-of-way patching and restoration

(a) *Timing.* The work to be done under the excavation permit, and the patching and restoration of the right-of-way as required herein, must be completed within the dates specified in the permit, increased by as many days as work could not be done because of extraordinary circumstances beyond the control of the permittee or when work was prohibited as unseasonable or unreasonable under section 42-37.

(b) *Temporary surfacing, patch and restoration.* The permittee shall patch its own work.

(c) *City restoration.* If the city restores any part of the right-of-way, permittee shall pay the costs thereof within 30 days of billing. If the city restores only the surface of the right-of-way and during the 24 months following such restoration, the pavement settles due to improper back-filling, the permittee shall pay to the city, within 30 days of billing, all costs related to restoring the right-of-way or associated with having to correct the defective work, which may include removal and replacement of any or all work done by the permittee, provided, however, that the city will first give the permittee notice of the pavement defect and reasonable opportunity to correct the defect. These costs shall include administrative overhead, mobilization, material, labor, and equipment.

(d) *Permittee restoration.* If the permittee restores the right-of-way itself, the city may require, at the time of application for a permit, posting of a performance and restoration bond in an amount determined by the city administrator to be sufficient to cover the cost of repair and restoration. The permittee shall determine the type of security it will provide in accordance with Minn. Rule § 7819.3000. If, within 24 months after completion of the restoration of the right-of-way, the city administrator determines that the right-of-way has been properly restored, the posted security shall be released.

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

(f) *Standards.* The permittee shall perform temporary surfacing, patching and restoration including back-fill, compaction, and landscaping according to the standards and with the materials specified by the city administrator. The city administrator shall have the authority to prescribe the manner and extent of the restoration, and may do so in written procedures of general application or on a case-by-case basis. The city administrator in exercising this authority shall comply with PUC standards for right-of-way restoration and require conformance to MN/DOT standard specifications.

(g) *Guarantees.* The permittee guarantees its work and shall maintain it for 24 months following its completion. During this 24-month period it shall, upon notification from the city administrator, correct all restoration work to the extent necessary, using the method

required by the city administrator. Said work shall be completed within five business days of the receipt of the notice from the city administrator, not including days during which work cannot be done because of circumstances constituting force majeure or days when work is prohibited as unseasonable or unreasonable under section 42-37.

(h) *Duty to correct defects.* The permittee shall correct defects in patching, or restoration of the public right-of-way performed by permittee or its agents. The permittee, upon notification from the city, shall correct all restoration work to the extent necessary under state law and Minnesota Rules, using the method required by the city. Said work shall be completed within ten business days of the receipt of the notice from the city, not including days during which work cannot be done because of circumstances constituting force majeure or days when work is prohibited as unseasonable or unreasonable under section 42-37.

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

(Ord. No. 02-01, § 1(3-6.12), 4-24-2002)

Sec. 42-35 - Joint applications; fees

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

(b) *Shared fees.* Registrants who apply for permits for the same obstruction or excavation may share in the payment of the permit fee. Registrants must agree among themselves as to the portion each will pay and indicate the same on their applications.

(c) *City construction projects.* Registrants who join in a scheduled utility installation or obstruction or excavation coordinated with a city construction project by the city administrator, whether or not it is a joint application by two or more registrants or a single application, are not required to pay the obstruction and degradation portions of the permit fee, but a permit is still required.

(Ord. No. 02-01, § 1(3-6.13), 4-24-2002)

Sec. 42-36 - Supplementary applications; permit extensions

(a) *Limitation on area.* A right-of-way permit is valid only for the area of the right-of-way specified in the permit. No permittee may do any work outside the area specified in the permit, except as provided herein. Any permittee which determines that an area greater than that specified in the permit must be obstructed or excavated must, before working in that greater area:

(1) Make application for a permit extension and pay any additional fees required thereby; and

(2) Be granted a new permit or permit extension.

The city administrator or the city administrator's designee may orally approve the permit extension and an additional fee will not be required.

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

(Ord. No. 02-01, § 1(3-6.14), 4-24-2002)

Sec. 42-37 - Obligations; prohibitions

(a) *Compliance with other laws.* Obtaining a right-of-way permit does not release the permittee of its duty to obtain all other necessary permits, licenses, and authority and to pay all fees required by the city or other appropriate jurisdiction or other applicable rule, law or regulation. The permittee shall comply with other local codes and with road load restrictions. A permittee shall comply with all requirements of local, state and federal laws, including Minn. Stats. ch. 216D ("One Call Excavation Notice System"). A permittee shall perform all work in conformance with all applicable codes and established rules and regulations, and is responsible for all work done in the right-of-way pursuant to its permit, regardless of who does the work.

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

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

(d) *Traffic control.* Traffic control shall conform to the Minnesota Manual on Uniform Traffic Control Devices, including the Temporary Traffic Control Zones Field Manual and any directions of the city engineer.

(Ord. No. 02-01, § 1(3-6.15), 4-24-2002)

Sec. 42-38 - Denial of permit

(a) The city may deny a permit for failure to meet the requirements and conditions of this article or if the city determines that the denial is necessary to protect the public health,

safety, and welfare or when necessary to protect the right-of-way and its current and future use. The city may deny a permit if the applicant has failed to comply with previous permit conditions. The city may withhold issuance of a permit until conditions of previous permit are complied with.

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

(Ord. No. 02-01, § 1(3-6.16), 4-24-2002; Ord. No. 18-01, § 1, 4-11-2018)

Sec. 42-39 - Work requirements

The excavation, back-filling, patching and restoration, and all other work performed in the right-of-way shall be done in conformance with Minn. Rules 7819.1100 and 7819.5000 and shall conform to MN/DOT standard specifications and other applicable local requirements, insofar as they are not inconsistent with Minn. Stats. §§ 237.162 and 237.163.

(Ord. No. 02-01, § 1(3-6.17), 4-24-2002)

Sec. 42-40 - Completion; inspection

(a) *Notice of completion.* When the work under any permit hereunder is completed, the permittee shall furnish a completion certificate in accordance with Minn. Rules 7819.1300.

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

(c) *Authority of city.*

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

(2) The city administrator may issue an order to the permittee to correct any work which does not conform to the terms of the permit or other applicable standards, rules, laws, conditions, or codes, so long as the nonconformance constitutes a "substantial breach" as set forth in Minn. Stats. § 237.163, subd. 4(c)(1)-(5). The order shall state that failure to correct the violation will be cause for revocation of the permit. Within ten days after issuance of the order, the permittee shall present proof to the city administrator that the violation has been corrected. If such proof has not been presented within the required time, the city administrator may revoke the permit pursuant to section 42-43.

(3) The cost of any action required by the city shall be paid by the permittee.

(Ord. No. 02-01, § 1(3-6.18), 4-24-2002)

Sec. 42-41 - Work done without a permit

(a) *Emergency situations.*

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

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

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

(Ord. No. 02-01, § 1(3-6.19), 4-24-2002)

Sec. 42-42 - Supplementary notification

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

(Ord. No. 02-01, § 1(3-6.20), 4-24-2002)

Sec. 42-43 - Permittee breach; probation; revocation of permits

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

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

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

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

(4) The failure to complete the work in a timely manner; unless a permit extension is obtained, or unless the failure to complete work is due to reasons beyond the permittee's control, or failure to relocate existing facilities as specified in section 42-45;

(5) The failure to correct, in a timely manner, work that does not conform to a condition indicated on an order issued pursuant to section 42-40;

(6) Failure of the utility to pay any required costs, fees, or charges billed by the city; or

(7) Failure to provide traffic control that conforms to the provisions of the Minnesota Manual on Uniform Traffic Control Devices, including the Temporary Traffic Control Zones Field Manual on Uniform Traffic Control Devices.

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

(c) *Response to notice of breach.* Within three business days of receiving notification of the breach, permittee shall provide the city with a plan, acceptable to the city that will cure the breach. The permittee's failure to so contact the city, or the permittee's failure to submit an acceptable plan, or the permittee's failure to reasonably implement the approved plan, shall be cause for immediate revocation of the permit. Further, the permittee's failure to so contact the city, or the permittee's failure to submit an acceptable plan, or the permittee's failure to reasonably implement the approved plan, shall automatically revoke the permit and may include placing the permittee on probation for one full year. No plan will be unreasonably rejected.

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

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

(f) *Revoked permit.* Revocation of a right of way permit or small wireless facility permit shall be made in writing within three business days of the decision to revoke the permit and shall document the basis for the revocation. If the city revokes a utility's permit for breach of this article, the utility will not be allowed to install any utility or to obstruct or excavate within the city right-of-way until the breach situation is corrected to the satisfaction of the city administrator and the permit is reissued.

(Ord. No. 02-01, § 1(3-6.21), 4-24-2002; Ord. No. 18-01, § 1, 4-11-2018)

Sec. 42-44 - Mapping information

(a) *Mapping information.* Each registrant and permittee shall provide mapping information required by the city in accordance with Minn. Rules 7819.4000 and 7819.4100.

(b) *Required application information.* The city requires as part of its permit application the filing of all the following information:

(1) Location and approximate depth of applicant's mains, cables, conduits, switches, and related equipment and facilities, with the location based on:

a. Offsets from property lines, distances from the centerline of the public right-of-way, and curblines as determined by the city;

b. Coordinates derived from the coordinate system being used by the city; or

c. Any other system agreed upon by the right-of-way user and city.

(2) The type and size of the utility facility;

(3) A description showing aboveground appurtenances;

(4) A legend explaining symbols, characters, abbreviations, scale, and other data shown on the map; and

(5) Any facilities to be abandoned, if applicable, in conformance with Minn. Stats. § 216D.04, subd. 3.

(c) *Changes and corrections.* The application must provide that the applicant agrees to submit "as built" drawings, reflecting any changes and variations from the information provided under subsection (b) of this section.

(d) *Additional construction information.* In addition, the right-of-way user shall submit to the city at the time the project is completed a completion certificate according to Minn. Rules 7819.1300.

(e) *Conveying permit data; conversion costs.* A right-of-way user is not required to provide or convey mapping information or data in a format or manner that is different from what is currently utilized and maintained by that user. A permit application fee may include the cost to convert the data furnished by the right-of-way user to a format currently in use by the city. These data conversion costs, unlike other costs that make up permit fees, may be included in the permit fee after the permit application process.

(f) *Data on existing facilities.* At the request of the city, a right-of-way user shall provide existing data on its existing facilities within the public right-of-way in the form maintained by the user at the time the request was made, if available.

(Ord. No. 02-01, § 1(3-6.22), 4-24-2002)

Sec. 42-45 - Location and relocation of facilities

(a) *Conformity to regulations.* Placement, location, and relocation of facilities must comply with the Act, with other applicable law, and with Minn. Rules 7819.3100, 7819.5000, and 7819.5100, to the extent the rules do not limit authority otherwise available to cities. By

submitting a request for a permit the person recognizes they must conform to the existing ordinances and codes of other units of government related to underground placement regardless of how the application is written or permit granted. Utility poles and guy anchors, and any other equipment, shall conform to NCHRP 350 standards for crashworthiness or must be located outside of applicable clear zones. Any installation that does not conform to the state department of transportation clear zone standards must be approved by the city administrator, and the facility owner shall indemnify and hold harmless the city.

(b) *Relocation of facilities.* A registrant must promptly and at its own expense, with due regard for seasonal working conditions, permanently remove and relocate its facilities in the right-of-way in accordance with the provisions of Minn. Rule 7819.3100, which is incorporated herein and made a part hereof.

(c) *Relocation notification procedure.*

(1) The city administrator shall notify the utility owner at least six months in advance of the need to relocate existing facilities so the owner can plan the relocation.

(2) The city administrator shall provide a second notification to the owner one month before the owner needs to begin the relocation.

(3) The utility owner shall begin relocation of the facilities within one week of the second notification. All utilities shall be relocated within one month.

(4) The city administrator may allow a different schedule if it does not interfere with the city's project.

(5) The utility owner shall diligently work to relocate the facilities within the above schedule.

(6) When emergency, natural disaster, or unforeseen changes to a programmed project necessitate relocation of a facility, the city shall notify the utility owner as soon as possible, but shall be exempt from the notification schedule described above.

(7) In the event that emergency work by the city or another governmental entity in the city right-of-way requires relocation of a utility, the notification requirements above are waived. The city and utility shall coordinate efforts to minimize delay.

(d) *Delay to city project.* The city administrator shall notify the utility owner if the owner's progress will not meet the relocation schedule. If the owner does not take action to insure the relocation will be completed in accordance with the above schedule and the city administrator determines this delay will have an adverse impact on a city project, the city administrator may hire a competent contractor to perform the relocation. In that event, the city may charge the utility owner all costs incurred to relocate the facility. The city may charge the utility owner for all costs incurred and requested by a contractor working for the city that is delayed because the relocation is not completed in the scheduled timeframe and for all other additional costs incurred by the city due to the delay. However, this does not exempt the utility company from paying for the value of any taking of said property by occupation without compensation.

(Ord. No. 02-01, § 1(3-6.23), 4-24-2002)

Sec. 42-46 - Pre-excavation facilities location

In addition to complying with the requirements of Minn. Stats. ch. 216D ("One Call Excavation Notice System"), before the start date of any right-of-way excavation, each registrant that has facilities or equipment in the area to be excavated shall mark the horizontal placement of all said facilities. Any registrant's facilities or equipment that are in the area of work shall notify and work closely with the excavation contractor to establish the exact location of its facilities and the best procedure for excavation to protect the safety of workers and right-of-way users and other utility users. If the utility is not at the approved location, it shall be exposed at the permittee's expense or by the city upon written notice to the permittee. The city may, upon said notice, locate said utility at the permittee's expense.

(Ord. No. 02-01, § 1(3-6.24), 4-24-2002)

Sec. 42-47 - Damage to other facilities

When the city does work in the right-of-way and finds it necessary to maintain, support, or move a registrant's facilities to protect it, the city administrator shall notify the local representative as early as is reasonably possible. The costs associated therewith will be billed to that registrant and must be paid within 30 days from the date of billing. Each registrant shall be responsible for the cost of repairing any facilities in the right-of-way that it or its facilities damage. When the registrant does damage to city facilities in the right-of-way, such as, but not limited to, culverts, road surfaces, curbs and gutters, or tile lines, it shall correct the damage immediately. If it does not, the city may make such repairs as necessary and charge all of the expenses of the repair to the registrant, which shall be paid within 30 days of billing. Each registrant shall be responsible for the cost of repairing any damage to the facilities of another registrant caused during the city's response to an emergency occasioned by that registrant's facilities.

(Ord. No. 02-01, § 1(3-6.25), 4-24-2002)

Sec. 42-48 - Right-of-way vacation

(a) *Rights of registrant.* If the city vacates a right-of-way that contains the facilities of a registrant, the registrant's rights in the vacated right-of-way are governed by Minn. Rules 7819.3200 and other applicable laws.

(b) *Relocation of facilities.* If the vacation requires the relocation of the public right-of-way user's equipment or facility; and the vacation proceedings are initiated by the public right-of-way user or the city for a public project, the public right-of-way user shall pay the relocation costs. If the vacation proceedings are initiated by a person other than the public right-of-way user, the person initiating the vacation shall pay the relocation costs.

(Ord. No. 02-01, § 1(3-6.26), 4-24-2002)

Sec. 42-49 - Indemnification and liability

(a) *Limitation of liability.* Upon the issuance of a public right-of-way permit, the city does not assume any liability for:

(1) Injuries to persons, damage to property or loss of service claims by parties other than the registrant or the city; or

(2) Claims or penalties of any sort resulting from the installation, presence, maintenance or operation of equipment or facilities by registrants or permittees or activities of registrants or permittees.

(b) *Indemnification; defense of registrant; litigation.*

(1) *Indemnification of city, city officials.* A registrant or permittee shall indemnify, keep and hold the city, its officials, employees and agents, free and harmless from any and all costs, liabilities, and claims for damages of any kind arising out of the construction, presence, installation, maintenance, repair or operation of its equipment and facilities, or out of any activity undertaken in or near a public right-of-way, whether or not any act or omission complained of is authorized, allowed or prohibited by a public right-of-way permit. The foregoing does not indemnify the city for its own negligence except for claims arising out of or alleging the city's negligence in issuing the permit or in failing to properly or adequately inspect or enforce compliance with a term, condition or purpose of a permit.

(2) *Defense of registrant.* This section is not, as to third parties, a waiver of any defense or immunity otherwise available to the registrant, permittee or city, and the registrant or permittee, in defending any action on behalf of the city, shall be entitled to assert in any action every defense or immunity that the city could assert on its own behalf.

(3) *City consent for litigation settlement.* If the registrant or permittee is required to indemnify and defend, it shall thereafter have control of the litigation, but the registrant or permittee may not settle the litigation without the consent of the city. The city's consent shall not be unreasonably withheld.

(4) *Permits conditional to ownership rights.* All permits are granted subject to the ownership rights the city may have in the property involved and to the extent that state, federal or local laws, rules, and regulations allow and said permit is subject to all such laws and rules.

(Ord. No. 02-01, § 1(3-6.27), 4-24-2002)

Sec. 42-50 - Discontinued operations; abandoned or unusable facilities

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

(b) *Removal of facilities.* Any registrant that has abandoned or unusable facilities in any right-of-way shall remove them from that right-of-way if required in conjunction with other right-of-way repair, excavation, or construction, unless the city waives this requirement.

(Ord. No. 02-01, § 1(3-6.28), 4-24-2002)

Sec. 42-51 - Appeal

A right-of-way user that:

(1) Has been denied registration;

(2) Has been denied a permit;

(3) Has had a permit revoked; or

(4) Believes that the fees imposed are invalid;

may have the denial, revocation or fee imposition reviewed, upon request, by the city council. The city council shall act on a timely written request. A decision by the city council affirming the denial, revocation or fee imposition will be in writing and supported by written findings establishing the reasonableness of the decision.

(Ord. No. 02-01, § 1(3-6.29), 4-24-2002)

Sec. 42-52 - Reservation of regulatory and police powers

A permittee's or registrant'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.

(Ord. No. 02-01, § 1(3-6.30), 4-24-2002)

Sec. 42-53 - Penalty for violation

Violation of this article shall result in the assessment of a penalty of $500.00 per occurrence per site per mile per day as long as may be applicable unless a penalty or fine is otherwise specifically designated in this article.

(Ord. No. 02-01, § 1(3-6.32), 4-24-2002)

Secs. 42-54 – 42-79 - Reserved

ARTICLE III - COURTESY BENCHES

Sec. 42-80 - Definition

A courtesy bench is a bench provided for the public to wait for regularly scheduled public transportation.

(Ord. No. 05-01, § 1(3-6.03(A)), 1-12-2005)

Sec. 42-81 - Location

(a) Courtesy benches shall be located along regularly scheduled public transportation routes.

(b) No courtesy bench may be placed within five feet of an existing transit shelter of any kind

located within a right-of-way.

(c) Courtesy benches may be located on public rights-of-way if the abutting property is zoned commercial or business property (B-1, B-2 and B-3 zoning districts) or multifamily residential (R-4 zoning district).

(d) Courtesy benches may be located on public property or on private property within commercial or business districts (B-1, B-2 and B-3 zoning districts) if permission is obtained from the owner of the land. Courtesy benches may be allowed in zoning district R-4 if permission os obtained from the owner of the land.

(e) Courtesy benches shall not be located in zoning districts R-1 and R-2.

(Ord. No. 05-01, § 1(3-6.03(B)), 1-12-2005)

Sec. 42-82 - Annual license required

Courtesy benches must be licensed as provided by this article.

(Ord. No. 05-01, § 1(3-6.03(C)), 1-12-2005)

Sec. 42-83 - Specifications

(a) *Physical requirements.* Courtesy benches shall be no more than 3½ feet high, seven feet long and three feet wide. Courtesy benches must be erected on a concrete pad no more than eight feet long and four feet wide.

(b) *Installation.* Courtesy benches must be installed parallel with the curb.

(c) *Regulations.* Courtesy benches must not render the bus stop noncompliant with the Americans with Disabilities Act (ADA) and placement must allow for normal transit shelter maintenance, including adequate access for replacement of glass.

(d) *License number.* Courtesy benches must display the license number assigned to it.

(e) *Responsibility if licensee.* Courtesy bench licensees must maintain the bench at the location designated in the license and keep the bench in good repair, painted, the sign face maintained in good condition, and the bench structure kept in a usable condition.

(f) *Maintenance.* When directed by the city administrator as necessary to address refuse and litter issues and in no event less than once per week, courtesy bench sites shall be cleaned and maintained. Cleaning and maintenance shall include picking up litter or debris around the bench and removing graffiti and stickers. Ice and snow shall be removed from the courtesy bench site such that the courtesy bench site is fully accessible in a timely manner after snow or other weather event. Benches shall be inspected weekly for any damaged or broken parts. Any damaged or broken parts shall be replaced or repaired within 48 hours after damage or breakage is discovered or reported.

(g) *Sign area.* The sign area of courtesy bench signs shall not exceed 11 square feet and must only be on the street-facing side. No flashing signs, motion signs or illuminated signs are permitted on courtesy benches. The definitions in section 113-3 apply to this section.

(h) *Compliance.* Courtesy benches must comply with sections 113-449, 113-450 and chapter 113, article VII, division 3.

(Ord. No. 05-01, § 1(3-6.03(D)), 1-12-2005)

Sec. 42-84 - Removal

At the request of the city administrator, a courtesy bench shall be removed at licensee's sole expense to allow for right-of-way improvements or maintenance. If the location of the courtesy bench is a safety hazard, if the courtesy bench interferes with pedestrian or vehicular traffic, or if the courtesy bench's public transportation route changes, then said courtesy bench shall be removed at the licensee's sole expense. Removal shall occur within 30 days of written notice provided by the city administrator to the licensee.

(Ord. No. 05-01, § 1(3-6.03(E)), 1-12-2005)

Sec. 42-85 - License procedures

An application for a courtesy bench license shall be made on the form supplied by the city and must be accompanied by the fee established by the city council and proof of insurance coverage. The city administrator shall approve or deny the application. Upon 45 days written notice, the applicant may appeal the city administrator's decision to the city council. Written permission must be obtained from adjacent property owners before a license is issued for a new bench location.

(Ord. No. 05-01, § 1(3-6.03(F)), 1-12-2005)

Sec. 42-86 - Insurance

No license shall be issued or continued in operation unless there is in full force and effect a liability insurance policy issued by an insurance company authorized to do business in the state and acceptable to the city for each courtesy bench in the amount of $500,000.00 combined single limit. Such policy must be endorsed to show the city as an additional insured and the city shall receive advance notice of not less than 30 days of the cancellation of coverage. Copies of such policy shall be filed in the office of the city clerk.

(Ord. No. 05-01, § 1(3-6.03(G)), 1-12-2005)

Footnotes:

[1] **State Law reference –** General authority relative to streets, Minn. Stats. § 412.221, subd. 6; roads generally, Minn. Stats. ch. 160.

Chapter 46 - TRAFFIC AND VEHICLES[1]

Article/Division/Section:

ARTICLE I - IN GENERAL

Sec. 46-1 - State statutes adopted

The following state statutes are adopted and incorporated as if set out at length in this Code and shall be enforced within the city:

(1) Minn. Stats. ch. 169.

(2) Minn. Stats. ch. 170.

(3) Minn. Stats. ch. 171.

(Code 1993, § 7-1.01)

State Law reference – Adoption by reference, Minn. Stats. § 471.62.

Sec. 46-2 - Parking and driving of motor vehicles on private property

(a) *Purpose.* The city council has determined that the regulation of parking and driving motor vehicles on private property is necessary and desirable in order to assure adequate ingress and egress for fire trucks and other emergency vehicles to operate adequately in such areas and to otherwise provide for the government and good order in the city, the prevention of crime, the protection of private property, the benefit of residents, trade and commerce, and the promotion of health, safety, order, convenience and the general welfare.

(b) *Parking restrictions.* No person shall stop, stand, or park a motor vehicle at any place on any private driving area within the city where official signs prohibit such.

(c) *Sign installation.* The official signs shall be installed after passage of a resolution by the city council stating the specific area on which parking is to be prohibited, after finding that

the parking prohibition is necessary and desirable in order to protect private property and promote the health, safety, order, convenience and general welfare and that the area regulated is affected with the public interest.

(d) *Driving restrictions.* No person shall operate a motor vehicle on any privately owned parking lot or area within the city at a speed greater than is safe and reasonable under the conditions of traffic existing and in no event shall any such vehicle be operated in excess of a speed of 15 miles per hour. All operation and driving of motor vehicles on parking lots shall be done in a careful manner so that no sudden starting or erratic movement of such vehicle is deliberately engaged in by the driver. It shall be unlawful for any person to operate any motor vehicle upon such lot in any manner that would constitute careless driving if done on a public street. No person shall engage in any drag racing or exhibition driving on any such parking lot or area.

(e) *One-way traffic signs.* No person shall drive a motor vehicle into or out of a privately owned parking lot into a public street where official one-way traffic signs prohibit such driving. The official signs shall be installed after passage of a resolution by the city council stating the specific area on which driving is to be regulated and the terms of the regulation and finding that the regulation is necessary and desirable in order to protect private property and promote the health, safety, order, convenience and general welfare and that the area regulated is affected with the public interest.

(Code 1993, § 7-2.01)

Sec. 46-3 - Prohibiting motorized vehicles on public walkways and pathways

(a) *Prohibited.* No person shall ride, propel or move a motorized vehicle upon any public walkway, pathway or sidewalk.

(b) *Load limits.* No person shall drive any vehicle of any kind which has a gross weight on any single axle, (as defined in Minn. Stats. § 169.83) exceeding three tons, on any of the public streets in the city at a time when Ramsey County designates load limits for county roads. Contractors will be notified of weight restrictions by information provided on building permit forms.

(c) *Exceptions*. The provisions of subsections (b) and (c) of this section shall not apply to fire apparatus, snowplowing equipment, buses, garbage trucks, road maintenance equipment or emergency vehicles of public utilities used incidental to making repairs.

(Code 1993, § 7-3.01)

Sec. 46-4 - Snowmobile regulations

(a) Minn. Rules 6100.3300-6100.5800 are incorporated herein by reference.

(b) No person shall operate a snowmobile in the city except on public trails on public property specifically designated and posted for such use by the governmental agency having jurisdiction and control over the use of such property.

(Code 1993, § 7-7.01)

Sec. 46-5- Authority to set speed limits on City streets.

The city engineer may establish speed limits for city streets under the city's jurisdiction in accordance with the provisions set forth at Minnesota Statutes Section 169.14. The procedures relied upon to set speed limits pursuant to this section shall be kept by City Engineer and updated as needed.

(Ord. No. 21-03, § 1, 09-22-2021)

Secs. 46-6—46-25 - Reserved

ARTICLE II - PARKING[2]

Sec. 46-26 - Removal of motor vehicles

Any motor vehicle parked in violation of this chapter may be removed without notice to the owner or operator, by any employee of the county highway department, any police officer, or any person, firm or corporation employed or designated for this purpose by the city. The motor vehicle so removed may be towed to and stored in any parking lot or garage designated by the city or its policing agency. Payment of the towing and impound charges shall not relieve the owner or operator from payment of the fine or penalty for violation of this chapter or any other applicable ordinance of this city.

(Code 1993, § 7-6.01)

Sec. 46-27 - Parking; restrictions; uniform parking fine

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

Passenger vehicle means a passenger automobile, pickup truck, van, and motorcycle.

Recreational vehicle means travel trailers including those that telescope or fold down, chassis-mounted campers, motor homes, tent trailers, and converted buses that provide temporary human living quarters. Recreational vehicle is a vehicle that is not used as the residence of the owner or occupant, is used while engaged in recreational or vacation activities, and is either self-propelled or towed on the highways incidental to the recreational or vacation activities.

Trailer means any vehicle designed for carrying property or passengers on its own structure and for being drawn by a motor vehicle.

Truck means every motor vehicle designed, used or maintained primarily for the transportation of property.

Street or public grounds means all public streets, highways, roads, alleys, lanes and park roads in the city and all public property in the city, whether owned by the city or some other public entity.

Vehicle means any passenger vehicle, recreational vehicle, trailer, truck, or other vehicle used or intended to be used for the transportation of persons or property, including all property or cargo located within, loaded upon or attached to any such vehicle.

(b) *Restrictions on parking of vehicles.*

(1) No recreational vehicle, truck, unhitched trailer, bus or school bus shall be parked on any street or public grounds within the city for an additional time than is necessary to load or unload such recreational vehicle, truck, unhitched trailer, bus or school bus, not exceeding 90 minutes.

(2) No vehicle shall be parked on any alley within the city except for normal pickup and delivery of passengers or commercial goods, not exceeding 30 minutes.

(3) No passenger vehicle or hitched trailer in combination with a passenger vehicle shall be parked on any street or public grounds within the city for more than 48 consecutive hours.

(4) No vehicle shall be parked on any street or public ground that has been designated a "No Parking" area or an area where parking has been restricted to certain hours or days, by motion or resolution of the city council, and posted as such.

(5) No vehicle shall be parked on any boulevard within the city.

(6) No person shall park a vehicle, except an authorized emergency vehicle, within an area designated a fire lane.

(7) No vehicle shall be parked on any street or public grounds in front of a public or private driveway or alley or within five feet of any public or private driveway or alley.

(8) No vehicle shall be parked on any public or private property, including commercial property, without the express or implied consent of the property owner or his or her agent and shall not remain parked in violation of the terms of such consent. The terms of such consent may be posted in a conspicuous place by the owner or his or her agent.

(9) No vehicle shall be parked on any city street during snow removal, as described in section 46-28.

(c) *Uniform parking fine.* The uniform fine for each violation of this section shall be set according to the City Fee Schedule. The fine established by this section shall be imposed regardless of the time of the year of a violation.

(Code 1993, § 7-4.01; Ord. No. 08-05, § 1, 12-10-2008; Ord. No. 20-03 § 1, 2-26-2020)

Sec. 46-28 - Parking of motor vehicles during snow removal periods

(a) *Purpose and policy.* The purpose of this section is to regulate the parking of motor vehicles on the public streets of the city during periods of snow removal. Any motor vehicle parked on a public street of this city during a period of snow removal, as specified in detail herein,

is declared to be a public nuisance which interferes with and impedes the orderly removal of snow from said streets, interferes with and impedes the safe movement of emergency and other vehicular traffic, and is thus a danger to the health, safety and welfare of the inhabitants of this city.

(b) *Parking restrictions during snow removal.* Parking of a motor vehicle on an unplowed public street or within 30 feet of an intersection during a snow removal period shall be prohibited. The term "snow removal period" means:

1. For a maximum of 48 hours commencing after a snowfall where at least two inches of snow has accumulated on the public streets of this city, or

2. Until a street has been plowed full-width; whichever comes first.

(c) A snow removal period is in effect if section 46-28(b)(2) has been satisfied and an additional two inches of snow falls during the same storm event.

(Code 1993, § 7-5.01; Ord. No. 20-03 § 2, 2-26-2020)

Footnotes:

[1] **State Law reference –** Traffic generally, Minn. Stats. ch. 169; powers of local authorities, Minn. Stats. § 169.04.

[2] **State Law reference –** Stopping, standing and parking, Minn. Stats. § 169.32 et seq.; authority to regulate standing or parking of vehicles, Minn. Stats. § 169.04.

Chapter 50 - UTILITIES[1]

Article/Division/Section:

ARTICLE I - IN GENERAL

Secs. 50-1 – 50-33 - Reserved

ARTICLE II - SEWERS AND SEWAGE DISPOSAL

Sec. 50-34 - General operation

The city sanitary sewer system shall be operated as a public utility from which revenues will be derived, subject to the provisions of this Code.

(1) *Connections to sewer required*. All buildings constructed within the city on property adjacent to a sewer main or in a block through which the system extends, shall be provided with a connection to the municipal sanitary sewer system.

(2) *Disposal of wastes*. Discharge of wastes shall be controlled by applicable state rules.

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

(Code 1993, § 4-1.01)

Sec. 50-35 - Prohibited uses and actions

(a) *Discharge of industrial wastes.* It shall be unlawful to discharge into the sanitary sewer system any industrial wastes unless prior approval of the city engineer is obtained. The city engineer shall approve the discharge of industrial wastes when, in his or her opinion, the proposed wastes will not be of an unusual amount or character. When in the opinion of the city engineer, the proposed wastes are of an unusual amount or character, the city engineer may approve such wastes, provided the prior approval of the City of Saint Paul city council is obtained.

(b) *Discharge of surface waters prohibited.* It shall be unlawful to discharge or cause to be discharged into the sewer system, either directly or indirectly, any roof, stormwater, surface water or groundwater of any type or kind, or water discharged from any air conditioning unit or system.

(c) *Tampering with sewer system prohibited.* No person shall maliciously, willfully or negligently uncover, deface or tamper with any structure, appurtenance or equipment that is a part of the sewer system.

(d) *Prohibited connections.* No buildings located on property lying outside the city limits shall be connected to the sanitary sewer system unless authorized by the city council and the City of Saint Paul city council.

(Code 1993, § 4-1.02)

Sec. 50-36 - Fees; penalties

(a) *Residential*. For the purpose of providing funds to meet operation, maintenance and also replacement costs of the city's sewer system, a quarterly user fee will be charged to each lot, parcel, building or premises connected to the sewer system. The sewer service charge payment is as established by the city council.

(b) *Commercial and industrial*. In the event that any commercial or industrial user's lot, parcel of land, building or premises discharging sanitary sewage, industrial wastes, water or other liquid into the sewer system of the city directly or indirectly, is supplied in whole or in part with water not obtained from the city or the City of St. Paul, the user shall immediately install necessary metering equipment as approved by the city engineer to measure the quantity of water used; and the sewer rental charge shall be based on the quantity of water used. Whenever the owner, lessee or occupant fails to install such metering equipment where it is not practical to measure the amount of water used on the premises by meter or meters, the city engineer shall estimate the volume of water from private sources which discharge into the sewer system of the city, and such estimate shall be used in lieu of the metered volume of water from private sources to determine the sewer rental charges. No appeal may be made from such estimates by the user other than by installation of a meter as provided above.

(c) *Penalties and assessment*. Penalties for late payment and assessment of unpaid fees are as established by the city council.

(Code 1993, § 4-1.04)

Sec. 50-37 - Maintenance of individual connections

It shall be the responsibility of the property owner or occupant to maintain the sewer service from the sewer stub into the house or building. Any required right-of-way permit shall also be maintained.

(Code 1993, § 4-1.05)

Sec. 50-38 - Residential sewer connections

(a) *Plumbing inspector.* The plumbing inspector shall supervise all sewer connections made to the city sanitary sewer system and all excavations for the purpose of installing or repairing sanitary sewer installations.

(b) *Permits; application.* Any person desiring to connect a lot, parcel of land, building or premises to the city sanitary sewer system shall apply to the city for a permit for such a connection. Any sewer repair shall also require a permit. The application shall be submitted on forms provided at the clerk's office. All costs and expenses incident to the installation and connection or repair shall be paid by the permit holder and the owner shall indemnify the city for any loss or damage that may directly or indirectly result from the installation or repair of the sewer connection including restoring streets and street surfaces.

(c) *Penalties.* Any person who commences work for which a permit is required under this section, without first acquiring the necessary permit, shall be required to pay double the standard fees and shall be subject to all penalties.

(d) *Conditions.*

(1) Permits shall only be issued to persons who have been duly certified or licensed by the state.

(2) No permit shall be issued until the plumbing in the building conforms to the Minnesota Plumbing Code.

(e) *Required information.* The plumbing inspector shall sign the permit to show that the work and material conform to this Code. A sketch showing installation including kind and size of pipe, the type of joint used, and length of house connection, the depth at the street, the depth at the house, the distance from either side of the house where the connection is made to the house plumbing, and any other information listed on the permit form or required by the plumbing inspector.

(f) *Repair of public right-of-way.* No connection or repair to the municipal sanitary sewer system shall receive final approval until all streets, sidewalks, curbs and boulevards or other public improvements have been restored and approved by the city engineer. Approval shall be given upon a showing that the restoration complies with all applicable laws, ordinances and standards.

(Code 1993, § 4-2.01)

Secs. 50-39 – 50-64 – Reserved

ARTICLE III - STORM SEWER UTILITY

Sec. 50-65 - Stormwater drainage utility established.

The city storm sewer system shall be operated as a public utility pursuant to Minn. Stats. § 444.075; the revenues from such system shall be subject to the provisions of this article and Minnesota Statutes.

(Code 1993, § 3-5.01(intro.))

Sec. 50-66 - Fee

(a) *Definition of residential equivalent factor (REF).* One REF is defined as the ratio of the average runoff generated by one acre of a given land use to the average volume of runoff generated by one acre of typical single-family residential land, during a standard one-year rainfall event.

(b) *Stormwater drainage fee calculations.* Stormwater drainage fees for parcels of land shall be determined by multiplying the REF for parcels of land use by the parcel's acreage and then multiplying the resulting product by the stormwater drainage rate. The REF values for various land uses are as follows:

Classification	Land uses	REF
1	Single-family and duplex	0.25
2	Schools and institutions	1.25
3	Multiple-family residential, churches and governmental buildings	2.50
4	Commercial	5.00
5	Golf courses and open undeveloped areas	0.25

For the purpose of calculating stormwater drainage fees, all developed one-family and duplex parcels shall be considered to have land equal to one-fourth acre.

(c) *Credits*. Property owners who apply for a reduction in fees due to site facilities that improve water quality or reduce its outflow rate must apply for a variance paying the usual variance request fee. The city engineer will review the site and make a recommendation to the city council. There will also be a cap of 25 percent. Any adjustments of stormwater drainage fees shall not be retroactive.

(d) *Payment of fees.* Statements for stormwater drainage fee shall be invoiced with the other utility charges and shall be due and payable with same. Whenever possible, any rate increases will be based on the index from the Engineering News Report and rate increases will be made by resolution.

(e) *Penalties and assessment*. Penalties for late payment and assessment of unpaid fees are as stipulated by ordinance.

(Code 1993, § 3-5.01(A)-(E))

Secs. 50-67 – 50-69 - Reserved

ARTICLE IV - ILLICIT DISCHARGE AND DISPOSAL PROHIBITED

Sec. 50-70 - Purpose and findings.

(a) *Purpose.* The purpose of this Article is to promote, preserve and enhance the natural resources within the City and protect them from adverse effects occasioned by non-storm water discharged by regulating discharges that would have an adverse and potentially irreversible impact on water quality and environmentally sensitive land.

(b) *Findings.* The City Council hereby finds that non-storm water discharges to the City's municipal separated storm sewer system are subject to higher levels of pollutants that enter

into receiving water bodies adversely affecting the public health, safety and general welfare by impacting water quality, creating nuisances, impairing other beneficial uses of environmental.

(Ord. No. 09-05, § 1, 6-24-2010)

Sec. 50-71 - Definitions.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Best management practice (BMP) means erosion and sediment control and water quality management practices that are the most effective and practicable means of controlling, preventing, and minimizing the degradation of surface water, including construction-phasing, minimizing the length of time soil areas are exposed, prohibitions, and other management practices published by state or designated area-wide planning agencies.

Discharge means adding, introducing, releasing, leaking, spilling, casting, throwing, or emitting any pollutant, or placing any pollutant in a location where it is likely to pollute waters of the state.

Erosion means the group of natural processes, including weathering, dissolution, abrasion, corrosion, and transportation, by which material is worn away from the earth's surface or the erosive process of washing away soil by water.

Groundwater is water contained below the surface of the earth in the saturated zone including, without limitation, all waters whether under conned, unconfined, or perched conditions, in near surface unconsolidated sediment or regolith, or in rock formations deeper underground.

Illicit connection is defined as either of the following:

Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system (including any non-storm water discharge) including 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; or,

Any drain or conveyance connected from a residential, commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

Illicit discharge means any direct or indirect non-storm water discharge to the storm sewer system, except as exempted in this chapter.

MPCA means the Minnesota Pollution Control Agency.

Municipal separate storm sewer system (MS4) means the system of conveyances (including sidewalks, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) owned and operated by the City and designed or used for collecting or conveying storm water, and which is not used for collecting or conveying sewage.

National Pollutant Discharge Elimination System (NPDES) means the national program for issuing, modifying, revoking, and reissuing, terminating, monitoring, and enforcing permits, and imposing and enforcing pretreatment requirements under sections 307, 318, 402, and 405 of the Clean Water Act, United States Code, title 33, sections 1317, 1328, 1342, and 1345.

Person means any individual, firm, corporation, partnership, franchise, association or governmental entity.

Pollutant means any substance which, when discharged has potential to or does any of the following:

Interferes with state designated water uses;

Obstructs or causes damage to waters of the state;

Changes water color, odor, or usability as a drinking water source through causes not attributable to natural stream processes affecting surface water or subsurface processes affecting groundwater;

Adds an unnatural surface film on the water;

Adversely changes other chemical, biological, thermal, or physical condition, in any surface water or stream channel;

Degrades the quality of ground water; or

Harms human life, aquatic life, or terrestrial plant and wildlife. Pollutant includes but is not limited to dredged soil, solid waste, incinerator residue, garbage, wastewater sludge, chemical waste, biological materials, radioactive materials, rock, sand, dust, industrial waste, sediment, nutrients, toxic substance, pesticide, herbicide, trace metal, automotive fluid, petroleum-based substance, and oxygen-demanding material.

Pollute means to discharge pollutants into waters of the state.

Pollution means the direct or indirect distribution of pollutants into waters of the state.

State designated water uses means uses specified in state water quality standards.

Storm sewer system is a conveyance or system of conveyances that is owned and operated by the City or other entity and designed or used for collecting or conveying storm water.

Storm water means precipitation runoff, storm water runoff, snow melt off, and any other surface runoff and drainage.

Surface waters means all waters of the state other than ground waters, which include ponds, lakes, rivers, streams, tidal and nontidal wetlands, public ditches, tax ditches, and public drainage systems except those designed and used to collect, convey, or dispose of sanitary sewage.

(Ord. No. 09-05, § 1, 6-24-2010)

Sec. 50-72 - Administration.

The City and its authorized representatives are authorized to administer, implement and enforce the provisions of this Article.

(Ord. No. 09-05, § 1, 6-24-2010)

Sec. 50-73 - Illegal disposal and dumping.

(a) No person shall throw, deposit, place, leave, maintain, or keep any substance upon any street, alley, sidewalk, storm drain, inlet, catch basin conduit or drainage structure, business place, or upon any public or private land, so that the same might be or become a pollutant, unless the substance is in containers, recycling bags, or any other lawfully established waste disposal device.

(b) No person shall intentionally dispose of grass, leaves, dirt, or landscape material into a water resource, buffer, street, road, alley, catch basin, culvert, curb, gutter, inlet, ditch, natural watercourse, flood control channel, canal, storm drain or any fabricated natural conveyance.

(Ord. No. 09-05, § 1, 6-24-2010)

Sec. 50-74 - Illicit discharges and connections.

(a) No person shall cause any illicit discharge to enter the storm sewer system or any surface water unless such discharge:

(1) Consists of non-storm water that is authorized by an NPDES point source permit obtain from the MPCA;

(2) Is associated with firefighting activities or other activities necessary to protect public health and safety;

(3) Is one of the following exempt discharges: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wetland flows, dechlorinated swimming pools and any other water source not containing pollutant;

(4) Consists of dye testing as long as the City provided a verbal notification prior to the time of the test

(b) No person shall use any illicit connection to intentionally convey non-storm water to the City's storm sewer system.

(c) The construction, use, maintenance or continued existence of illicit connections to the storm sewer system is prohibited. This prohibition expressly 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.

(d) A person is considered to be in violation of this Article if the person connects a line conveying sewage to the storm sewer system, or allows such a connection to continue.

(Ord. No. 09-05, § 1, 6-24-2010)

Sec. 50-75 - General provisions.

All owners or occupants of property shall comply with the following general requirements:

(1) No person shall leave, deposit, discharge, dump, or otherwise expose any chemical or septic waste in an area where discharge to streets or storm sewer system may occur. This section shall apply to both actual and potential discharges.

a. Individual septic systems must be maintained to prevent failure, which has the potential to pollute surface water.

b. Recreational vehicle sewage shall be disposed to a proper sanitary waste facility. Waste shall not be discharged in an area where drainage to streets or storm sewer systems may occur.

c. For pools, water must be allowed to sit two (2) days without the addition of chlorine to allow for chlorine to evaporate before discharging in an area where drainage to streets or storm sewer systems may occur.

(2) Runoff of water into the storm sewer system shall be minimized to the maximum extent practicable. Runoff of water into the storm sewer system from the washing down of paved areas is prohibited unless necessary for health or safety purposes.

(3) Mobile washing companies (carpet cleaning, mobile vehicle washing, etc) shall dispose of wastewater to the sanitary sewer. Wastewater must not be discharged where drainage to streets or storm sewer system may occur.

(4) Storage of materials, machinery and equipment must comply with the following requirements:

a. Objects, such as motor vehicle parts containing grease, oil or other hazardous substances, and unsealed receptacles containing hazardous materials shall not be stored in areas susceptible to runoff.

b. Any machinery or equipment that is to be repaired or maintained in areas susceptible to runoff shall be placed in a confined area to contain leaks, spills, or discharges.

(5) Debris and residue shall be removed as follows:

a. All motor vehicle parking lots and private streets shall be swept at least once a year in the spring to remove debris. Such debris shall be collected and properly disposed.

b. Fuel and chemical residue or other types of potentially harmful material, such as animal waste, garbage or batteries shall be removed as soon as possible and disposed of properly. Household hazardous waste may be disposed of through the county collection program or at any other appropriate disposal site and shall not be placed in a trash container.

(Ord. No. 09-05, § 1, 6-24-2010)

Sec. 50-76. Industrial activity discharges.

Any person subject to an industrial activity NPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the City prior to the allowing of discharges to the storm sewer system. All facilities that have storm water discharges associated with industrial activity must adhere to the following provisions:

(a) Any person responsible for a property or premise, who is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the storm sewer system. These BMPs shall be part of a storm water pollution prevention plan (SWPPP) as necessary for compliance with requirements of the NPDES permit.

(Ord. No. 09-05, § 1, 6-24-2010)

Sec. 50-77. Notification of Spills.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of

any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into the storm sewer system, or water of the state said person shall take all necessary 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 no later than the next business day.

(Ord. No. 09-05, § 1, 6-24-2010)

Sec. 50-78. Enforcement.

(a) Notice of Violation. A violation of this Article is a Public Nuisance punishable in accordance with section 1-7 of the City Code. When the City finds that a person has violated a prohibition or failed to meet a requirement of this section, the person is deemed to have created a Public Nuisance subject to abatement and assessment. The City may require the following:

(1) The performance of monitoring, analysis, and reporting;

(2) The implementation of source control or treatment BMPs; and

(3) Any other requirement deemed necessary to abate the public nuisance.

(Ord. No. 09-05, § 1, 6-24-2010)

Secs. 50-79 – 50-80 - Reserved

ARTICLE V - STREET LIGHT UTILITY SYSTEM[2]

Sec. 50-81 - Street light utility

A city street lighting utility system is hereby established and continued. The utility system consists of all street lighting whether owned by the city or otherwise, for which the city purchases and supplies electrical energy from a public utility and any additional facilities acquired or operated by the city in the future.

(Ord. No. 10-01, § 1, 1-27-2009)

Sec. 50-82 - Cost of system

(a) The cost of the street lighting utility system are the administrative costs, capital costs, maintenance and energy costs associated with the operation of the street lighting utility system.

(b) The city council shall by resolution establish a fee schedule to pay for the cost of the street lighting utility system. The city council shall apportion the cost of the system against all developed property in the city. Single family residential property shall be charged based upon a per unit charge and all other property shall be charged based upon a front foot

charge.

(c) Street lighting costs shall be billed with water bills.

(Ord. No. 10-01, § 1, 1-27-2009)

Sec. 50-83 - Certification of unpaid bills

On or before October 1st of each year, the clerk must list the total unpaid charges for street lighting against each separate lot or parcel to which they are attributable. The council will then spread the charges against property benefited as a special assessment under Minnesota Statutes, Section 429.101 and other pertinent statutes for certification to the county and collection the following year with real estate taxes.

(Ord. No. 10-01, § 1, 1-27-2009)

Sec. 50-84 - Street lighting utility fund

All fees and assessments received pursuant to this article shall be place in a dedicated fund for the purpose of paying the costs of the street lighting system.

(Ord. No. 10-01, § 1, 1-27-2009)

Footnotes:

[1] **State Law reference –** Municipal utilities, Minn. Stats. § 412.321 et seq.

[2] **Editor's note –** Ord. No. 10-01, § 1, adopted Jan. 27, 2010, amended the Code by adding provisions designated as Art. IV, §§ 50-60 – 50-63. For purposes of classification, said provisions have been included herein as Art. V, §§ 50-81 – 50-84.

Chapter 54 - VEGETATION

Article/Division/Section:

ARTICLE I - IN GENERAL

Secs. 54-1 – 54-33 - Reserved

ARTICLE II - PLANTING, MAINTENANCE AND REMOVAL

Sec. 54-34 - Purpose

(a) Purpose. It is the purpose of this article to promote and protect the public health, safety, and general welfare by providing for the regulation of the planting, maintenance, and removal of trees, shrubs, and other plants within the city.

(b) Plant protection. It is the intent of the council to conduct a plant protection and export program pursuant to the authority granted by Minn. Stats. § 18G.

(c) The provisions of this section are adopted as an effort to control and prevent the spread of shade tree pests and to maintain a healthy urban forest, in addition to and in accordance with Minn. Stats. §§ 89.001, 89.01 and 89.51-64.

(Code 1993, § 8-4.01; Ord. No. 18-09, § 1, 9-26-2018)

Sec. 54-35 - Applicability

This Code provides full power and authority over all trees, plants and shrubs located within street rights-of-way, parks and public places within the city; and to trees, plants and shrubs located on private property that constitute a hazard as described herein.

(Code 1993, § 8-4.02)

Sec. 54-36 - City forester

The city forester shall be under the direction of the city administrator at all times. The authority and duties of the city forester are as follows:

(1) The forester shall have jurisdiction and supervision over all trees, shrubs, and other plants growing within the city.

(2) The forester may order the trimming, treatment or removal of any trees or plants on public or private property that constitute a nuisance or hazard, or whenever necessary to prevent the spread of disease or harmful insects.

(3) The forester shall act as the city tree inspector and shall coordinate all activities between the state department of agriculture and the council.

(Code 1993, § 8-4.03; Ord. No. 18-09, § 2, 9-26-2018)

Sec. 54-37 - Regulations for public property

(a) *Planting.*

(1) No trees, shrubs or herbaceous plant materials, including annual or perennial flowers, may be planted in a public right-of-way except by authorized city personnel.

(2) No tree shall be planted on a public right-of-way, except to replace a tree that has been removed or that has been identified as a new location for a tree by the city administrator.

(3) The city administrator shall determine the specific location of any tree to be planted on a public right-of-way.

(4) Any tree to be planted on a public right-of-way must be of cultivated nursery stock, and must be at least 1½ inches in diameter, measured at a point two feet above the ground.

(5) Any tree to be planted on a public right-of-way must be planted in soil adequate to insure growth, in accordance with standards set by the forester.

(b) *Maintenance of trees.*

(1) Public trees will be trimmed according to a schedule established by the forester and approved by the city administrator.

(2) Only persons authorized by the city administrator may trim boulevard trees.

(3) The forester may chemically vaccinate boulevard trees against disease whenever necessary.

(c) *Removal of trees.*

(1) The city administrator has sole authority to order removal of any tree on a public right-of-way.

(2) Trees will be removed by city staff or contracted firms.

(d) *Miscellaneous.* No person shall:

(1) Damage, cut, trim, carve, kill or injure any tree or plant on public property;

(2) Attach any rope, wire or other contrivance to any tree or plant on public property unless authorized by the forester;

(3) In any way injure or impair the natural beauty or usefulness of any area of public property; nor

(4) Cause or permit any wire charged with electricity or any harmful gaseous, liquid or solid substances to come into contact with any tree or plant on public property.

(e) *Care and maintenance of boulevards and adjacent property*. Owners of property abutting the right-of-way of a public street or alley shall properly maintain the grass on the property and on the public right-of-way to the curbline or traveled portion of the street or alley. Proper maintenance shall include sodding, planting, mowing or weed abatement whenever necessary.

(Code 1993, § 8-4.04; Ord. No. 0-95-03, § 1, 1-25-1995; Ord. No. 20-02, § 1, 2-12-2020)

Sec. 54-38 - Regulations for private property

(a) *Purpose and application.* It is the purpose of this section to prohibit the uncontrolled growth of vegetation, while permitting the planting and maintenance of landscaping which promotes resiliency, diversity and a richness to the quality of life. There are reasonable expectations regarding the proper maintenance of vegetation on any lot or parcel of land. It is in the public's interests to provide standards regarding the maintenance of vegetation because vegetation which is not maintained may threaten public health, safety, order, and may decrease adjacent property values. It is also in the public's interests to encourage diverse landscaping, particularly that which restores native vegetation. Native vegetation requires fewer inputs of water, fertilizers, and herbicides. It also supports pollinators and birds. The city enacts this section to balance these competing interests.

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

Edible landscaping means the intentional planting, caring for, or otherwise cultivating plants that could produce food that is consumed by people. These plants include fruit and nut trees, berry bushes, vegetables, herbs, or edible flowers.

Native plants are those grasses (including prairie grasses), sedges (solid, triangular-stemmed plants resembling grasses), rushes, forbs (flowering broadleaf plants), vines, trees and shrubs that are plant species native to the state of Minnesota prior to European settlement.

Noxious weeds are annual, biennial, or perennial plants that the Commissioner of Agriculture designated to be injurious to public health, the environment, public roads, crops, livestock, or other property (Minnesota Noxious Weed Law, Minn. Stat. Sec. 18.75-18.91).

Ornamental plants means grasses, flowering annual, biennial, and perennial plants, shrubs, trees, and vines that may not be native to Minnesota, but are adapted. Ornamental grasses do not include turfgrasses.

Turf grass means commercially available cultured turf grass varieties, including bluegrass, fescue and ryegrass blends, commonly used in regularly cut lawn areas.

Planned landscape area means an area where ornamental plants, or native plants are planted pursuant to a plan.

Rain garden means a shallow excavated depression (typically no more than 18 inches deep) with loosened sub-soils in which ornamental or native plants that are adapted to moist conditions and have deep roots are planted for the purpose of infiltrating and filtering rain water and reducing storm water runoff. Temporary ponding of water in rain gardens typically occurs for no more than 48 hours after rainfall assuming no subsequent rainfall.

Residential garden means an area of edible landscaping on a lot that is conducted by the property owners or residents of that lot.

Restoration area means an area where native plants are being, or have been, intentionally re-established

Weeds are (i) prohibited noxious weeds or (ii) any volunteer plant, except trees and other woody vegetation, which is not customarily or intentionally planted. For the purposes of this definition, weeds do not include dandelions or clover.

(c) *Location of restoration areas, planned landscape areas, and edible landscaping areas.*

(1) *Setback.* A restoration area, planned landscape area, or residential garden must provide the following minimum setbacks:

a. Front lot line, corner side lot line, or rear lot line abutting a street or alley: two feet, and two feet from publicly maintained pavement or sidewalk

b. Interior side lot line or rear lot line not abutting a street or alley: two feet;

provided, however, for the exception in the required side yard or rear yard setback, as described in section 54-38(c)(2).

(2) *Mitigations for reductions in side or rear yard setback.* A required interior side yard or rear yard (not abutting a street or alley) setback may be reduced to zero feet for a restoration area, planned landscape area, or residential garden if:

a. A fence at least three feet in height is installed on the lot line adjoining the restoration area, planned landscape area, or residential garden; or

b. The restoration area, planned landscape area, or residential garden abuts:

1. A restoration area, planned landscape area, or residential garden on any adjoining lot;

2. A public park or open space;

3. A wetland, pond, lake or stream;

4. Natural area; or

c. The restoration area or planned landscape area is located on slopes equal to, or greater than, three feet horizontal to one foot vertical (3:1).

(d) *Maintenance Standards.* Every owner of property shall maintain the vegetation growing thereon according to the minimum standards set forth in this subsection:

(1) The setback area required by section 54-38(c) shall be composed of a soil retention cover

such as mulch, regularly mowed turf grasses or groundcovers maintained at six inches or less, native or ornamental plants maintained at ten inches or less, trees or shrubs, or as may be required by the city administrator to protect the soil and aesthetic values on the lot and adjacent property.

(2) Non-woody vegetation in a planned landscape area shall be cut at least once annually between April 15 and July 15 to a height no greater than 10 inches.

(3) It is unlawful to plant any tree or shrub within five feet of a property lot line abutting a right-of-way of a public street or alley.

(4) Property owners shall prune trees and shrubs located on private property so they will not obstruct pedestrian sidewalk traffic, nor obstruct the view of any traffic sign, street, alley, or intersection. Overhanging portions of trees and shrubs must be pruned to maintain a minimum clearance of eight feet over all sidewalks, and 16 feet over all streets.

(5) Properties shall be free of blight and blighting factors, as described in section 22-19.

(6) Properties shall be free of public nuisances, as described in section 22-47.

(7) 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 to remove the native plants or other vegetation from the drainage and utility easement at no expense to the city if the city determines the native plants or vegetation interferes with the utility easement. 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 drainage and utility easements.

(8) Retail sales of produce from edible landscaping activities shall not occur on the property.

(e) *Trees.* Persons responsible for growing any trees, shrubs or other plants on private property must comply with the following regulations:

(1) *Planting.*

a. It is unlawful to plant any of the following trees:

1. Box elder, Acer negundo;
2. Silver maple, Acer saccharinum;
3. Female ginkgo, Ginkgo biloba;
4. Eastern cottonwood, Populus deltoides;
5. Lombardy poplar, Populus nigra italica; or
6. Chinese elm, Ulmus pumila.

b. It is unlawful to plant any tree within five feet of a property lot line abutting a right-of-way of a public street.

(2) *Inspection and investigation of hazards and nuisances.*

a. The city administrator or duly authorized agents shall inspect all premises as often as practicable, to determine whether any declared hazards or public nuisances exists. The city administrator or duly authorized agents shall investigate all reported incidents of infection.

b. The city administrator or duly authorized agents may enter private premises at any reasonable time for the purpose of carrying out any of the duties assigned under this section.

c. It is unlawful for any person to prevent, delay, or interfere with the city administrator, forester, or duly authorized agents while in the performance of official duties related to this chapter.

(3) *Abatement of hazards and nuisances on private property.*

a. *Order procedure.* If the city administrator determines that trimming, treatment, or removal of a tree or plant on private property is necessary to abate a public hazard or nuisance, the city shall serve a written order upon the responsible property owner or occupant to correct the condition.

b. *Abatement of disease.* The city administrator shall order the treatment or removal of any infected tree or wood constituting a nuisance as described in section 54-39. Removal and abatement shall be in accordance with the technical opinion of the forester or the department of agriculture. Trees impacted by a shade tree pest shall be removed or effectively treated so as to destroy and prevent as fully possible the spread of the shade tree pest.

c. *Time limit.* The order or notification shall set a time limit for compliance, depending on the urgency of the hazard or nuisance.

d. *Authority to abate.* If, after notification, the responsible person fails to correct the condition within the time prescribed, the city administrator may order city staff or a contracted firm to abate the hazardous or nuisance condition.

e. *Cost of abatement.* The responsible person shall be billed for the full cost of the abatement plus any additional administrative costs. If the bill is unpaid, the cost shall be certified to the county auditor as a special assessment against the property.

(Code 1993, § 8-4.05; Ord. No. 18-09, § 3, 9-26-2018; Ord. No. 20-02, § 2, 2-12-2020; Ord. No. 20-04, § 3, 5-13-2020; Ord. No. 20-07, § 1, 12-09-2020)

Sec. 54-39 - Declared shade tree pests, control measures, and control areas

Declaration of a shade tree pest. The council may by ordinance declare any vertebrate or invertebrate animal, plant pathogen, or plant in the community threatening to cause significant damage to a shade tree or community tree, as defined by Minn. Stats. § 89.001, to be a shade tree pest and prescribe control measures to effectively eradicate, control, or manage the shade tree pest, including necessary timelines for action. The following are considered public nuisances whenever they may be found within the city:

(1) Oak wilt disease

a. Oak wilt disease is a shade tree pest and is defined as any living or dead tree, log, firewood, limb, branch, stump, or other portion of a tree from any species of the genus Quercus existing within the control area defined that has bark attached and that exceeds three inches in diameter or ten inches in circumference and contains to any degree any spore or reproductive structures of the fungus Ceratocystis fagacearum.

b. *Control measures.*

Installation of a root graft barrier. A root graft barrier can be ordered installed to prevent the underground spread of oak wilt disease. The city will mark the location of the root graft barrier. The barrier disrupts transmission of the fungus within the shared vascular systems of root drafted trees. The barrier is created by excavating or vibratory plowing a line at least 42 inches deep between any oak tree infected with oak wilt disease and each nearby and apparently healthy oak tree within 50 feet of the infected tree.

c. *Removal and disposal of trees.*

1. *On property zoned for residential and commercial use.* On property that is zoned residential and commercial the city may mark for removal of trees that have the potential to produce spores of the fungus Ceratocystis fagacearum. After, and in no case before, the installation of the root graft barrier and no later than May 1 of the year following infection, all marked trees must be felled. The stump from such felled trees must not extend more than three inches above the ground or, if taller, must be completely debarked.

   If, however, after the city prescribes the location for a root graft barrier, the city determines that installation of the barrier is impossible because of the presence of pavement or obstructions such as a septic system or utility line, the city may mark for removal all oak trees whether living or dead, infected or not and located between an infected tree and marked barrier location. These marked trees must be felled and disposed of no later than May 1 of the year following infection. The stump from such felled trees must not extend more than three inches above the ground or, if taller, must be completely debarked.

2. *On all other property.* On all other property, the city may mark for removal all oak trees whether living or infected or not and located between and infected tree and marked barrier location. These marked trees must be felled and disposed of no later than May 1 of the year following infection. The stump from such felled trees must not extend more than three inches above the ground or, if taller, must be completely debarked.

   All wood more than three inches in diameter or ten inches in circumference from such felled trees must be disposed of by burying, debarking, chipping or sawing into wane-free lumber, or by splitting into firewood, stacking the firewood, and immediately covering the woodpile with unbroken four-mill or thicker plastic sheeting that is sealed into the ground until October 1 of the calendar year following the calendar year in which the tree was felled, or by burning before May 1 of the year following infection. Wood chips from infected trees may be stockpiled or immediately used in the landscape.

d. *Control area.* The control area for oak wilt disease is defined as all lands within the boundaries of the city.

(2) Emerald ash borer.

a. Emerald ash borer is a shade tree pest and is defined as an insect that attacks and kills ash trees. The adults are small, iridescent green beetles that live outside of trees during the summer months. The larvae are grub- or worm-like and live underneath the bark of ash trees.

b. Control measures that may be taken to abate emerald ash borer are those state statute.

c. *Control area.* The control area for emerald ash borer is defined as all lands within the boundaries of the city.

(3) Dutch elm disease.

a. Dutch elm disease is a shade tree pest and is defined as a disease of elm trees caused by the fungus Ophiostoma ulmi or Ophiostoma nova-ulmi, and includes any living dead tree, log, firewood, limb branch, stump, or other portion of a tree from any species of the genus Ulmus existing within the control area defined that has bark attached and that exceeds three inches in diameter or ten inches in circumference and could contain bark beetles or any spore or reproductive structures of the fungus Ophiostoma ulmi or Ophiostoma novo-ulmi. Any tree infected with the Dutch elm disease fungus or which harbors any of the elm bark beetles (Scolytus multistratus, S. schevyrewi, or Hylurgopinus rufipes) or any other pest capable of producing an epidemic, and any dead elm tree or part, including logs, branches, stumps, firewood or other material that contains elm bark are considered nuisances.

b. Control measures that may be taken to abate Dutch elm disease are:

1. *Use of fungicide.* Fungicides may be effective in prevent Dutch elm disease when injected into living trees that do not already show symptoms of Dutch elm disease. Fungicide injections on private lands are optional and, if performed, are at the landowner's expense. Treating with fungicide on public lands requires the approval of the city administrator or their designee.

2. *Removal and disposal of trees.* Prompt removal of diseased trees or branches reduces breeding sites for elm bark beetles and eliminates the source of Dutch elm disease fungus. Trees that wilt before July 15 must be moved by April 1 of the following year. Diseased trees not promptly removed will be removed by the city at the landowner's expense. Wood may be retained for use as firewood or saw logs if it is debarked or covered from April 15 to October 15 with four mill plastic. The edges of the cover must be buried and sealed to the ground.

c. *Control area.* The control area for oak wilt disease is defined as all lands within the boundaries of the city.

d. *Unlawful storage, transporting and disposing of elm wood.* It is unlawful for any person other than licensed tree services to transport, store or dispose of any bark-bearing elm wood between April 15 and September 1 of each year.

(Ord. No. 18-09, § 4, 9-26-2018; Ord. No. 20-02, § 5, 2-12-2020)

Chapter 101 - GENERAL AND ADMINISTRATIVE PROVISIONS

Article/Division/Section:

Sec. 101-1 - Application of chapter one

The provisions of chapter 1 of this Code apply to this part.

Chapter 105 - BUILDINGS AND BUILDING REGULATIONS

Article/Division/Section:

ARTICLE I - IN GENERAL

Sec. 105-1 - Placement of addresses on principal structures

(a) *Purpose.* The placement of numbers indicating correct addresses on all principal structures and accessory dwelling units within the city is deemed to be in the interests of health, welfare and safety of its residents. Properly numbered structures will allow for identification for police and fire protection purposes.

(b) *Numbered addresses.* All residential structures and garages abutting alleys shall have the proper street address affixed as designated by the city. All businesses or commercial establishments shall have the proper street addresses affixed to both the front and back of the establishment.

(c) *Requirements.* All letters shall be a minimum of four inches in height.

(Code 1993, § 5-3.04)

Sec. 105-2 - Fire code

The Minnesota State Fire Code, as now or hereafter amended, is hereby adopted by reference. A copy shall be available in the city offices.

(Code 1993, § 2-3.02)

State Law reference – State fire code, Minn. Stats. § 299F.011; adoption by reference, Minn. Stats. § 471.62.

Secs. 105-3 – 105-22 - Reserved

ARTICLE II - STATE BUILDING CODE

Sec. 105-23 - Codes adopted by reference

The Minnesota State Building Code, as adopted by the commissioner of administration pursuant to Minn. Stats. §§ 16B.59—16B.75, including all of the amendments, rules and regulations established, adopted and published from time to time by the state commissioner of administration, through the building codes and standards division is hereby adopted by reference with the exception of the optional chapters, unless specifically adopted in this Code. The Minnesota State Building Code is hereby incorporated in this Code as if fully set out herein.

(Ord. No. 03-05, § 1, 8-13-2003)

State Law reference – Adoption by reference, Minn. Stats. § 471.62.

Sec. 105-24 - Application, administration and enforcement

The application, administration, and enforcement of the Code shall be in accordance with the Minnesota State Building Code. The code enforcement agency of this municipality is called the Falcon Heights building official. This code shall be enforced by the state certified building official designated by this municipality to administer the code.

(Ord. No. 03-05, § 2, 8-13-2003)

Sec. 105-25 - Permits and fees

The issuance of permits and the collection of fees shall be as authorized in Minn. Stats. §326B.153. Permit fees shall be assessed for work governed by this Code in accordance with the fee schedule adopted by the municipality. In addition, a surcharge fee shall be collected on all permits issued for work governed by this Code in accordance with Minn. Stats. 326B.148.

(Ord. No. 21-02, § 1, 4-28-2021)

Sec. 105-26 - Optional provisions

The following are hereby adopted:

(1) Minn. Rules chapter 1306 with subpart 2, Existing and New Buildings. All floors, basements, and garages are included in this floor area threshold.

(2) Minn, Rules chapter 1335, Floodproofing Regulations, sections 100 through sections 1406 of the 1972 edition of the “Floodproofing Regulations” from the Office of the Chief Engineers, U.S. Army, Washington, D.C.

(3) Appendix chapter K (Grading), of the 2018 International Building Code

(Ord. No. 21-02, § 1, 4-28-2021)

Secs. 105-27 – 105-55 - Reserved

ARTICLE III - PROPERTY MAINTENANCE[1]

Sec. 105-56 - General requirements

The requirements of this article apply to all buildings, structures and property within the city. All buildings and portions of buildings, including mechanical, electrical, plumbing and other building systems, previously constructed or installed in accordance with city and state codes must be maintained in conformance with the requirements of the codes in effect at the time of construction or installation.

(Ord. No. 12-04, § 1, 5-23-2012)

Sec. 105-57 - Purpose

The purpose of this article is to protect, preserve, and promote the physical and mental health of the people, investigate and control communicable diseases, regulate privately and publicly-owned dwellings for the purpose of sanitation and public health, and protect the safety of the people and promote the general welfare by legislation which shall be applicable to all dwellings now in existence or constructed in the future and which (i) establishes minimum standards for basic equipment and facilities for light, ventilation and heating, for safety from fire, for the use and location, and amount of space for human occupancy, and for safe and sanitary maintenance; (ii) determines the responsibilities of owners, operators and occupants of dwellings; and (iii) provides for the administration and enforcement of this article.

(Ord. No. 12-04, § 1, 5-23-2012)

Sec. 105-58 - International Property Maintenance Code adopted

The International Property Maintenance Code, 2012 Edition, is hereby adopted by reference and incorporated herein, subject to the amendments set forth in this article.

(Ord. No. 12-04, § 1, 5-23-2012)

Sec. 105-59 - Deletions

The following sections of the International Property Maintenance Code are deleted: 302.4, 302.8, 303, 307, 402.1, 404.4.1, 404.5, 503.4, Chapter 8 all sections.

(Ord. No. 12-04, § 1, 5-23-2012)

Sec. 105-60 - Amendments

The following sections of the International Property Maintenance Code are amended to read as follows:

Section 101.1 Title

These regulations shall be known as the Property Maintenance Code of the City of Falcon Heights hereinafter referred to as "this Code."

Section 102.3 Application of Other Codes

Repairs, additions, or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of the Minnesota State Building Code and Falcon Heights City Code.

Section 102.7 Referenced Codes and Standards

The codes and standards referenced in this Code shall mean the applicable provision of the Falcon Heights City Code or Minnesota State Building Code, whichever is the most restrictive requirement permitted under statute and considered part of the requirements of this Code to the prescribed extent of each such reference. Where differences occur between provisions of this Code and the referenced standards, the provisions of this Code shall apply unless preempted by or in conflict with the State Building Code.

Section 103.2 Appointment

The City Administrator or the City Administrator's designated agents shall be the code official responsible for the administration and enforcement of this Code. Given limited city resources and local community standards, the City Administrator and other City Code Officials shall have discretion in responding to complaints of violations and prioritizing compliance initiatives and enforcement actions.

Section 103.5 Fees

The fees for activities and services performed by the City in carrying out its responsibilities under this Code shall be adopted by Resolution of the City Council.

Section 106.3 Prosecution of Violation

Any person failing to comply with a notice of violation or order served in accordance with Section 107 shall be deemed guilty of a misdemeanor and the violation shall be deemed a strict liability offense. If the notice of violation is not complied with, the code official shall institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this Code or of the order or direction made pursuant thereto. Any expenses incurred by the City in carrying out the enforcement of the provisions of this Code shall be included as a special assessment against the property.

Section 107.2 Form

Such notice prescribed in Section 107.1 shall be in accordance with all of the following:

1. Be in writing.
2. Include a description of the real estate sufficient for identification.
3. Include a statement of the violation or violations and why the notice is being issued.
4. Include a correction order allowing a reasonable time to make the repairs and improvements required to bring the dwelling unit or structure into compliance with the provisions of this Code.
5. Inform the property owner of the right to appeal.

6. Include a statement of the right to impose a special assessment in accordance with Section 106.3.

Section 108.1 General

When a structure or equipment is found by the code official to be unsafe, or when a structure is found unfit for human occupancy, or is found unlawful, such structure shall be subject to the provisions of this Code.

Section 108.2 Closing of Vacant Structures

If the structure is vacant and unfit for human habitation and occupancy, and is not in danger of structural collapse, the code official is authorized to post the premises and order the structure closed up so as not to be an attractive nuisance. Upon failure of the owner to close up the premises within the time specified in the order, the code official shall cause the premises to be closed and secured through any available public agency or by contract or arrangement by private persons and the cost thereof shall be assessed to the real estate upon which the structure is located.

Section 108.3 Notice

Whenever the code official has determined a structure or equipment is unsafe, a structure is unfit for human occupancy or a structure is unlawful under the provisions of this Article, notice shall be posted in a conspicuous place in or about the structure affected by such notice and served on the owner or the person or persons responsible for the structure or equipment in accordance with Section 107.3. If the notice pertains to equipment, it shall also be placed on the unsafe equipment. The notice shall be in the form prescribed in Section 107.2.

Section 108.4 Posting

Upon failure of the owner or person responsible to comply with the notice provisions within the time given, the code official shall place a posting on the premises or on the defective equipment which shall provide a statement of the penalties for occupying the premises or operating the equipment.

Section 108.4.1 Posting Removal

The code official shall provide written approval and remove the posting whenever the defect or defects upon which the enforcement action and posting were based have been eliminated. It shall be unlawful for any person to deface, obscure or remove a posting without the approval of the code official. Any person who defaces, obscures or removes a posting shall be subject to the penalties provided by this Code.

Section 108.5 Prohibited Occupancy

Any occupied structure posted by the code official shall be vacated as ordered by the code official. Any person who shall occupy posted premises or shall operate posted equipment, and any owner or any person responsible for the premises who shall let anyone occupy a posted premises or operate posted equipment shall be liable for the penalties provided by this Code.

Section 109.6 Hearing

Any person ordered to take emergency measures shall comply with such order forthwith. Any affected person shall thereafter, upon filing a written notice of appeal with the Clerk, be afforded an appeal/hearing as described in this Code.

Section 110.3 Failure to Comply

If the owner of a premise fails to comply with a demolition order within the time prescribed, the code official shall cause the structure to be demolished and removed, either through an available public agency or by contract or arrangement with private persons, and the cost thereof assessed to the real estate upon which the structure is located.

Section 111.1 Application for Appeal

Any person directly aggrieved by a notice issued under this Code, may within ten days after service of the same, appeal to the Council by filing a written notice of appeal with the Clerk. In the case of an appeal from a notice issued to vacate pending elimination of imminent dangers, the appeal shall be heard as soon as possible after the time of filing. In the case of appeals from other notices, the appeal shall be heard at such time as may be established by the Council, but the taking of an appeal from a notice other than one to vacate pending the elimination of imminent dangers shall, during the pendency of such appeal, restrain the City and its officers from proceeding in any manner to enforce such notice.

Section 111.2 Decision of the Council

All appeals under this Code shall be heard by the Council. The Council may affirm in whole or in part or deny the existence of a violation of this Code, and if the violation is found to exist, confirm or modify the corrective action to be taken or the order requiring vacation of the premises and the time allowed for it.

Section 111.3 Correction of Violation by City; Assessment of Cost

In all cases of violation of this Code to which M.S. 145A.03 through 145A.09 are applicable, the Sanitarian may proceed as provided in M.S. 145A.03 through 145A.09 to abate or remove the violation and to have the cost of it specially assessed against the lot or parcel where the violation was located. In suitable cases, said statutory remedies and procedure may be used either concurrently with, or separate from, the procedures prescribed in this Code.

Section 112.4 Failure to comply

Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be guilt of a misdemeanor.

Section 201.3 Terms Defined in Other Codes

Where terms are not defined in this Code and are defined in the Falcon Heights City Code or the Minnesota State Building Code, such terms shall have the meanings ascribed to them as stated in those codes.

Section 304.14 Insect Screens

Except for owner-occupied residential dwellings, during the period from May 15 to October 15 every door, window and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored shall be supplied with approved tightly fitting screens of not less than 16 mesh per inch (16 mesh per 25 mm), and every screen door used for insect control shall have a self-closing device in good working condition.

Section 305.1 General

The interior of a rental structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. Occupants shall keep that part of the structure which they occupy or control in a clean and sanitary condition. Every owner of a structure containing a rooming house, housekeeping units, a hotel, a dormitory, two or more dwelling units or two or more nonresidential occupancies, shall maintain, in a clean and sanitary condition, the shared or public areas of the structure and exterior property. The property owner is ultimately responsible for the whole property.

Section 307.1 General

Every exterior and interior flight of stairs shall have handrails on both sides of the stair.

Exception: Stairs having four or more risers and permitted by the Minnesota State Building Code to be less than 44" wide may have handrails on one side. Stairs having less than four risers and permitted by the Minnesota State Building Code to be less than 44" wide are not required to have handrails.

Every open portion of a stair, landing, balcony, porch, deck, ramp or other walking surface which is more than 30 inches (762 mm) above the floor or grade below shall have guards.

Handrails shall not be less than 34 inches (864 mm) high or more than 38 inches (965 mm) high measured vertically above the nosing of the tread or above the finished floor of the landing or walking surfaces. Guards shall not be less than 42 inches (1067 mm) high above the floor of the landing, balcony, porch, deck, or ramp or other walking surface.

Exceptions:

1. Guards may be not less than 36 inches (914mm) high where permitted by the Minnesota State Building Code.
2. Guards shall not be required where exempted by the adopted building code.

Section 308.4 Multiple Occupancies

The owner of a structure containing two or more dwelling units, a multiple occupancy, a rooming house or a nonresidential structure shall be responsible for extermination in the public or shared areas of the structure and exterior property. If infestation is caused by failure of an occupant to prevent such infestation in the area occupied, the occupant shall be responsible for extermination. Whenever infestation exists in two or more dwelling units in a dwelling, extermination of the infested areas shall be the responsibility of the owner and

operator.

Section 401.3 Alternative Devices

In lieu of the means for natural light and ventilation herein prescribed, artificial light or mechanical ventilation complying with the Minnesota State Building Code shall be permitted.

Section 402.3 Other Spaces

All other spaces shall be provided with natural or artificial light to permit the maintenance of sanitary conditions, and the safe occupancy of the space and utilization of the appliances, equipment and fixtures. Minimum artificial light shall provide 10 foot candles of light over the room area at a height of 30 inches.

Section 505.1 General. Amended to read:

Every sink, lavatory, bathtub or shower, drinking fountain, water closet or other plumbing fixture shall be properly connected to either a public water system or to an approved private water system. All kitchen sinks, lavatories, laundry facilities, bathtubs and showers shall be supplied with hot or tempered and cold running water in accordance with the Minnesota State Building Code.

Section 602.2 Residential Occupancies

Dwellings shall be provided with heating facilities capable of maintaining a room temperature of 68°F (20°C) at a distance 3 feet above floor level in all habitable rooms, bathrooms and toilet rooms based on the winter outdoor design temperature of -15 ° F.

Cooking appliances shall not be used to provide space heating to meet the requirements of this section.

Section 602.3 Heat supply

Every owner and operator of any building who rents, leases or lets one or more dwelling units or sleeping units on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat during the period from September 15 to May 15 to maintain a temperature of not less than 68°F (20°C) at a distance 3 feet above floor level in all habitable rooms, bathrooms, and toilet rooms.

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. The winter outdoor design temperature shall be -15 ° F.

Section 602.4 Occupiable Work Spaces

Indoor occupiable work spaces shall be supplied with heat during the period from September 15 to May 15 to maintain a temperature of not less than 65°F (18°C) at a distance 3 feet above floor level during the period the spaces are occupied.

Section 604.2 Service

The size and usage of appliances and equipment shall serve as a basis for determining the need for additional facilities in accordance with the currently adopted National Electrical Code. Dwelling units shall be served by a three-wire, 120/240 volt, single-phase electrical service having a rating of not less than 60 amperes.

Section 605.2 Receptacles

Every habitable space in a dwelling shall contain at least two separate and remote receptacle outlets. Every laundry area and bathroom in a dwelling shall contain at least one receptacle. Any electrical outlet within six feet of a water source or water outlet shall include operable ground fault circuit interrupter protection.

Section 606.1 General

Elevators, dumbwaiters and escalators shall be maintained in compliance with Minnesota Elevators and Related Devices Code. The most current certification of inspection shall be on display at all times within the elevator or attached to the escalator or dumbwaiter, or the certificate shall be available for public inspection in the office of the building operator. The inspection and tests shall be performed at not less than the periodical intervals listed in Minnesota Elevators and Related Devices Code, except where otherwise specified by the authority having jurisdiction.

Section 702.1 General

A safe, continuous and unobstructed path of travel shall be provided from any point in a building or structure to the public way. Means of egress shall comply with the Minnesota State Fire Code.

Section 702.2 Aisles

The required width of aisles in accordance with the Minnesota State Fire Code shall be unobstructed.

Section 702.3 Locked Doors

All means of egress doors shall be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort, except where the door hardware conforms to that permitted by the Minnesota State Building Code.

Section 702.4 Emergency Escape Openings

Required emergency escape openings for Group IRC, Group R and Group I-1 shall comply with Minnesota State Fire Code Section 1026, Emergency Escape and Rescue.

Section 704.1 General

All systems, devices and equipment to detect a fire, actuate an alarm, or suppress or control a fire or any combination thereof shall be maintained in an operable condition at all times in accordance with the Minnesota State Fire Code.

Section 704.2 Smoke Alarms

Single or multiple-station smoke alarms shall be installed and maintained in Groups R-2, R-3, R-4 and in dwellings not regulated in Group R occupancies, regardless of occupant load at all of the following locations:

1. on the ceiling or wall outside of each separate sleeping area in the immediate vicinity of bedrooms.
2. in each room used for sleeping purposes.
3. In each story within a dwelling unit, including basements and cellars but not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

Single or multiple-station smoke alarms shall be installed in other groups in accordance with the Minnesota State Fire Code.

(Ord. No. 12-04, § 1, 5-23-2012)

Secs. 105-61 – 105-85 - Reserved

ARTICLE IV - RENTAL HOUSING[2]

Sec. 105-86 - Purpose

It is the purpose of this article 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 and multifamily rental dwellings in the city.

(Ord. No. 13-06, § 1, 12-11-2013; Ord. No. 19-06, § 9, 9-11-2019)

Sec. 105-87 - Definitions

For the purposes of this article, the terms defined in this section shall have the meanings given them as follows:

Compliance official means the city administrator or his or her designee.

Operate means to charge a rental charge or other form of compensation for the use of a unit in a rental dwelling/multifamily rental dwelling.

Rental dwelling means any single-family dwelling, accessory dwelling unit, duplex dwelling, or triplex dwelling, which is rented for more than four consecutive months in any calendar year. Rental dwelling does not include Minnesota Department of Health–licensed rest homes, convalescent care facilities, nursing homes, hotels, motels, managed home-owner associations, cooperatives, or on- campus college housing.

Multifamily rental dwelling means any building or portion thereof, including the real property upon which it is located and which surrounds it, that contains four or more dwelling units that may be attached side-by-side, stacked floor-to-ceiling, and/or have a common entrance

and have a common owner that are being rented out. Multifamily rental dwelling does not include Minnesota Department of Health–licensed rest homes, convalescent care facilities, nursing homes, hotels, motels, managed home-owner associations, cooperatives, or on-campus college housing.

(Ord. No. 13-06, § 1, 12-11-2013; Ord. No. 19-06, § 10, 9-11-2019)

Sec. 105-88 - License required

No person, firm, partnership, corporation or other legal entity shall operate a rental dwelling or multifamily rental dwelling in the city without first obtaining a license. The license is issued annually and is valid until the date of expiration. Changes that result in a 25% change in ownership of a property requires a new license. The new owner(s) must submit an application for a new license within thirty calendar days of acquiring the property. Property owners that are listed on a stock exchange are exempt from section 105-88.

(Ord. No. 13-06, § 1, 12-11-2013; Ord. No. 19-06, § 11, 9-11-2019)

Sec. 105-89 - 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 60 days prior to the expiration date of the license, and shall specify the following:

(1) Name and address of the owner of the rental dwelling/multifamily rental dwelling.

(2) Name and address of any agent actively managing the rental dwelling/multifamily rental dwelling. The agent must live within the Seven County Metropolitan area and must have a background check conducted by the police department.

(3) Name and address of all partners if the registrant is a partnership.

(4) Name and address of all officers of the corporation if the registrant is a corporation.

(5) Name and address of the vendee if the rental dwelling/multifamily rental dwelling is owned or being sold on a contract for deed.

(6) Legal address of the rental dwelling/multifamily rental dwelling.

(7) Number and kind of units within the rental dwelling/multifamily rental dwelling classified as dwelling units, tenement units, or rooming units or other.

(8) Name and address of on-site operating manager, if any.

(9) If property contains an accessory dwelling unit, property owner must reside on the property and verify their permanent residency in either the single-family residence or accessory dwelling unit on the property.

(Ord. No. 13-06, § 1, 12-11-2013; Ord. No. 19-06, § 12, 9-11-2019)

Sec. 105-90 - License approval

The compliance official may either approve or deny the license, or may delay action for up to 60 days to permit the city to complete any investigation of the application or the applicant as

deemed necessary. If the compliance official approves the license, a license shall be issued to the applicant. If the compliance official denies the application, a notice of denial shall be sent to the applicant at the business address provided on the application along with the reasons for the denial. The notice shall also inform the applicant of their right to appeal the decision to the city council pursuant to the process set forth in this article.

(Ord. No. 13-06, § 1, 12-11-2013)

Sec. 105-91 - License renewal

Notwithstanding the application signature requirements, renewals of the license as required annually by this Code may be made by filling out the required renewal form provided by the city to the owner, operator or agent of a rental dwelling/multifamily rental dwelling and mailing said form together with the required registration fee to the compliance official. Failure to file the completed application with the city at least 60 days prior to the expiration of the license is a violation of this article.

(Ord. No. 13-06, § 1, 12-11-2013; Ord. No. 19-06, § 13, 9-11-2019)

Sec. 105-92 - License fees

The license fees shall be in the amount established by the City Council. Failure to pay the license fee for renewal of a license is a violation of this article.

(Ord. No. 13-06, § 1, 12-11-2013; Ord. No. 19-06, § 14, 9-11-2019)

Sec. 105-93 - Furnish license

Every registrant of a rental dwelling/multifamily rental dwelling shall be given a copy of the license. The license shall contain a statement that the tenant or tenants may contact the attorney general for information regarding the rights and obligations of owners and tenants under state law. The statement shall include the telephone number and address of the attorney general.

(Ord. No. 13-06, § 1, 12-11-2013; Ord. No. 19-06, § 15, 9-11-2019)

Sec. 105-94 - City inspections

(a) Rental dwellings shall be inspected by the compliance official or designated representative in their entirety every 24 months. An application and payment is required annually on a continuous basis. Rental-dwellings that fail their first inspection will be subjected to additional inspections until an inspection certificate is given by the compliance official. Rental dwellings that fail their first inspection will be subjected to an inspection the subsequent year.

(b) Multifamily rental dwellings shall be inspected by the compliance official or designated representative every 24 months. An inspection will be made of the common areas of the property. An application and payment is required annually on a continuous basis. Multifamily rental dwellings that fail their first inspection will be subjected to additional inspections until an inspection certificate is given by the compliance official. Multifamily

rental dwellings that fail their first inspection will be subjected to an inspection the subsequent year.

(c) Pursuant to this section, the compliance official shall make inspections to determine the condition of rental dwellings/multifamily rental dwellings located within the city for the purpose of enforcing the rental licensing standards. The compliance official or designated representative may enter, examine and survey at all reasonable times all rental dwellings/multifamily rental dwellings and premises after obtaining consent from an occupant of the premises. In the event that an occupant of the premises does not consent to entry by the compliance official or designate representative, and if there is probable cause to believe that an inspection is warranted, then application may be made to the court for an administrative or other search warrant for the purpose of inspecting the premises.

(d) The city may, upon receipt of a creditable third party complaint or a complaint by residents with reasonable concerns, require an inspection of rental dwellings/multifamily rental dwellings. A complaint-based inspection may require individual dwelling units to be inspected.

(e) The owner's rental housing license may be suspended, revoked or denied renewal for failing to maintain the licensed building in compliance with the property maintenance code as set forth in chapter 105, article III of this Code or otherwise failing to comply with the requirements of the City Code or applicable state or federal law.

(Ord. No. 13-06, § 1, 12-11-2013; Ord. No. 19-06, § 16, 9-11-2019)

Sec. 105-95 - Maintenance standards

(a) Every rental dwelling/multifamily rental dwelling shall maintain the standards in chapter 105, article III, housing code, and chapter 22, blight, 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.

(b) Any code violation noted by the city must be remedied in a timely fashion by the property owner and reinspected for compliance by the city.

(Ord. No. 13-06, § 1, 12-11-2013; Ord. No. 19-06, § 17, 9-11-2019)

Sec. 105-96 - Crime free/criminal activity lease requirements

(a) All tenant leases, except for state licensed residential facilities and subject to all preemptory state and federal laws, shall contain the following crime free/criminal activity language:

(1) *Drug-related activity.*

a. Resident, any members of the resident's household or a guest or other person affiliated with resident shall not engage in drug-related criminal activity, on or near the premises.

b. Resident, any member of the resident's household or a guest or other person affiliated with resident shall not engage in any act intended to facilitate drug-related criminal activity on or near the premises.

c. Resident or members of the household will not permit the dwelling unit to be used for, or to facilitate drug-related criminal activity, regardless of whether the individual engaging in such activity is a member of the household, or a guest.

d. Resident, any member of the resident's household or a guest, or other person affiliated with the resident shall not engage in the unlawful manufacturing, selling, using, storing, keeping, or giving of a controlled substance at any locations, whether on or near the premises or otherwise.

e. Violation of the above provisions shall be a material and irreparable violation of the lease and good cause for immediate termination of tenancy.

(2) *Criminal activity.*

a. Resident, members of the resident's household, guests, or other persons under the resident's control shall not engage in criminal activity, engage in any act intended to facilitate criminal activity, or permit the dwelling unit to be used for or facilitate criminal activity on or near the premises.

b. Three criminal activity violations involving the same tenancy within a continuous 12-month period shall be a substantial and material violation of the lease and good cause for termination of the tenancy.

c. Notwithstanding the above provision, criminal activity that jeopardizes the health, safety, and welfare of the landlord, his or her agent, other residents, neighbors or other third party, or involving imminent or actual serious property damage shall be a material and irreparable violation of the lease and good cause for immediate termination of tenancy.

(3) *Definitions.*

a. The term "criminal activity" means the violation of the following:

1. Minn. Stats. §§ 609.75 through 609.76, which prohibit gambling;

2. Minn. Stats. §§ 609.321 through 609.324, which prohibit prostitution and acts relating thereto;

3. Minn. Stats. § 340A.401, which prohibit the unlawful sale of alcoholic beverages;

4. Minn. Stats. §§ 97B.021, 97B.045, 609.66 through 609.67 and 624.712 through 624.716, and section 30-3 of this Code, which prohibit the unlawful possession, transportation, sale or use of a weapon;

5. Minn. Stats. §§ 609.185, 609.19, 609.195, 609.20, and 609.205 which prohibit murder and manslaughter;

6. Minn. Stats. §§ 609.221 , 609.222, 609.223, and 609.2231 which prohibit assault;

7. Minn. Stats. §§ 609.342, 609.343, 609.344, 609.345, and 609.3451 which prohibit criminal sexual conduct;

8. Minn. Stats. §§ 609.52 which prohibit theft;

9. Minn. Stats. §§ 609.561, 609.562, 609.563, 609.5631, and 609.5632 which prohibit arson;

10. Minn. Stats. § 609.582 which prohibit burglary;

11. Minn. Stats. § 609.595 which prohibit damage to property;

12. Chapter 22, article III of this Code, which prohibits nuisances;

13. Minn. Stats. § 609.72, which prohibit 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; and

14. Section 30-3 of the Falcon Heights City Code which prohibits the discharge of a firearm.

b. The term "drug related criminal activity" means the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use of a controlled substance or any substance represented to be drugs in violation of Minn. Stats. §§ 152.01 through 152.025, and 152.027, subds. 1 and 2 and Section 102 of the Controlled Substance Act, 21 U.S.C. § 802).

(4) *Non-exclusive remedies.* The crime free/criminal activity provisions are in addition to all other terms of the lease and do not limit or replace any other provisions.

a. These lease provisions shall be incorporated into every new lease for a tenancy beginning January 1, 2009 and all renewed leases thereafter.

b. Upon determination by the compliance official that a licensed premises or unit within a licensed premises was used in violation of the drug-related activity provision of subsection (a)(1) or criminal activity provision of subsection (a)(2)(c), the city shall cause notice to be made to the owner and property manager of the violation. The owner or property manager shall notify the tenant or tenants within ten days of the notice of violation of the crime free/criminal activity lease language and proceed with termination of the tenancy of all tenants occupying the unit. The owner shall not enter into a new lease for a unit located in the licensed property with an evicted tenant for a period of one year after the eviction.

c. Upon determination by the compliance official that a licensed premises or unit within a licensed premises was used for criminal activity as set forth in subsection (a)(2) herein, the city shall cause notice to be made to the owner and property manager of the violation and direct the owner and property manager to take steps to prevent further criminal activity violations.

d. If a second criminal activity violation occurs within a continuous 12-month period involving the same tenancy, the city shall cause notice to be made to the owner and property manager of the second violation. The owner or property manager shall respond in writing within ten days of receipt of the notice with an action plan to prevent further criminal activity violations.

e. If a third criminal activity violation occurs within a continuous 12-month period involving the same tenancy, the city shall cause notice to be made to the owner and property manager of the third violation. The owner or property manager shall notify the tenant or tenants within ten days of the violation of the crime free/criminal activity lease language within the lease and proceed with termination of the tenancy of all tenants occupying the unit. The owner shall not enter into a new lease for a unit located in the licensed property with an evicted tenant for a period of one year

after the eviction.

f. The provisions of subsections c., d., e., and f. herein do not apply if the determination that the premises have been used in violation of the crime free/criminal activity provisions of subsections (a)(1) and (a)(2) herein originates from a call from or at the request of one or more of the tenants occupying the premises for police or emergency assistance, or in the case of domestic abuse, from a call for assistance from any source. The term "domestic abuse" has the meaning given in Minn. Stat. § 518B.01, subd. 2.

(Ord. No. 13-06, § 1, 12-11-2013)

Sec. 105-97 - Revocation, suspension, and civil fines

(a) *Violations.* The following actions by property owners or license holders are misdemeanors and are subject to civil penalties, may constitute the basis for revocation of licenses and/or may result in injunctive action by the city. The property owner shall be responsible for the conduct of its agents or employees while engaged in normal business activities on the licensed premises. Any violation of this article shall be considered an act of the property owner or license holder for purposes of imposing a civil penalty or license revocation. If a license is revoked it is unlawful for the owner to permit new occupancy of any vacant rental unit, or any units that become vacant during license injunction.

(b) *Basis for sanctions.* The compliance official may revoke, suspend, deny or decline to renew any license issued under this article for part or all of a rental dwelling/multifamily rental dwelling upon any of the following grounds:

(1) *Leasing without a license.* Leasing residential units without a license is subject to license suspension or revocation;

(2) *Violation of codes.* Violation of the city maintenance code, building code, or fire code;

(3) *Hazardous or uninhabitable units.* Leasing units that are deemed hazardous or uninhabitable or units within a building that are deemed hazardous or uninhabitable;

(4) *Commission of a felony.* Commission of a felony related to the licensed activity by the property owner or manager;

(5) *Consideration of suspension or revocation.* At any time during a license period, if a rental property does not meet or exceed the criteria established for the current license, the license may be brought forth to the city council for consideration of license suspension or revocation;

(6) *Updated application requirement.* Failure to provide an updated application with current information within 30 days of application renewal request from the city;

(7) *False statements.* False statements on any application or other information or report required by this article to be given by the applicant or licensee;

(8) *Fees.* Failure to pay any application, inspection, penalty, reinspection or reinstatement fee required either by this section or city council resolution. Fee amounts are subjected to change through the city fee schedule;

(9) *Correction of deficiencies.* Failure to correct dwelling deficiencies in the time specified in a compliance order;

(10) *Inspection.* Failure to schedule an inspection within 90 days of application filed and/or allow an authorized inspection of a rental dwelling/multifamily rental dwelling;

(11) *Violation of statute.* Violation of an owner's duties under Minn. Stats. §§ 299C.66 to 299C.71 ("Kari Koskinen Manager Background Check Act");

(12) *Delinquent taxes or fines.* Real estate or personal property taxes or municipal utilities have become delinquent or have unpaid fines.

(c) *Penalties.*

(1) *Revocation.* Any violation of this article may be grounds to revoke a license. Any civil penalty, revocation or combination thereof under this section does not preclude criminal prosecution under this article or Minnesota statutes. All fines are cumulative and revocation periods will run consecutively.

(2) *Violation.* Any person that maintains a rental dwelling/multifamily rental dwelling without having a property registered or after the registration for the property has been revoked or suspended or who permits new occupancy in violation is guilty of a misdemeanor and upon conviction is subject to a fine and imprisonment as prescribed by state law.

a. *First violation:* Compliance official will give notice to the licensee of the violation, request fine payment and direct the licensee to take steps to prevent further violations.

b. *Second violation:* If a second violation occurs within 60 days of a first violation the compliance official will give notice to the licensee of the violation, request fine payment and direct the licensee to take steps to prevent further violations.

c. *Third or more violation:* If another instance of violations occurs within 60 days of the calendar year compliance official will give notice to the licensee of the violation, request fine payment and direct the licensee to take steps to prevent further violations. If a fourth or subsequent violation occurs, suspension of the license will be pending until a hearing.

(3) *Suspension.* The city council may temporarily suspend a license pending a hearing on the suspension or revocation when, in its judgment, the public health, safety, and welfare is endangered by the continuance of the licensed activity.

(4) *Civil fines.* The city council may impose civil fines in addition to revocation or suspension for violations of any provision of this article as follows:

Within One Calendar Year	Fine Per Unit/Common Building
First Violation	$300.00
Second Violation	$600.00
Third or more within a 12-month period	$900.00
Renting without a license after 30 days' notice shall be subject to $1,000.00 fine per unit and also be a misdemeanor offense	

(Ord. No. 13-06, § 1, 12-11-2013; Ord. No. 19-06, § 18, 9-11-2019)

Sec. 105-98 - Hearing on penalties, revocation, violation, suspension and civil fines

(a) *Hearing.* Following receipt of a notice of denial or nonrenewal issued by the compliance official or a notice of a violation and penalty issued under section 105-97 of this article, an applicant or license holder may request a hearing before the city council. A request for a hearing shall be made by the applicant or license holder in writing and filed with the compliance official or compliance official's designee within ten days of the mailing of the notice of denial or alleged violation. Following receipt of a written request for hearing, the applicant or license holder shall be afforded an opportunity for a hearing before a committee consisting of the compliance official or compliance official's designees. After the committee conducts the hearing it shall report its findings and make a recommendation to the full city council.

(b) *Findings.* If after the hearing the applicant or license holder is found ineligible for a license, or in violation of this article, the council may affirm the denial, impose a civil penalty, suspend, or revoke a license or impose any combination thereof.

(c) *Default.* If the applicant or license holder has been provided written notice of the denial, nonrenewal, or violation and if no request for a hearing is filed within the ten-day period, then the denial or revocation take immediate effect by default. The compliance official or designee shall mail notice of the denial, fine, suspension, or revocation to the applicant or license holder. The compliance official shall investigate compliance with the denial or revocation.

(d) *Penalties for default.* Failure to comply with all terms of this section during the term of revocation, suspension or nonrenewal is a misdemeanor and grounds for extension of the term of revocation, suspension or continuation of nonrenewal of the license.

(e) *Appeal.* Following receipt of a decision by the compliance official to deny, revoke, suspend, or not renew a license, the owner/licensee may request a hearing before the city council. The request must be made in writing to the compliance official within ten days of the compliance official's decision.

(f) *Written notice, hearing.* A decision to revoke, suspend, deny, or not renew a license shall be preceded by written notice to the applicant or licensee of the alleged grounds therefor and the applicant or licensee will be given an opportunity for a hearing before the city council before final action to revoke, suspend, deny, or not renew a license. A hearing will be conducted before the city council at a public meeting, or the city council may retain an administrative hearing officer or other impartial third party to conduct the public hearing. The licensee shall have the right to be represented by counsel, the right to respond to the charged violations, and the right to present evidence through witnesses. The rules of evidence do not apply to the hearing and the city council may rely on all evidence it determines to be reasonably credible. The determination to suspend or revoke the license shall be made upon a preponderance of the evidence. It is not necessary that criminal charges be brought in order to support a suspension or revocation of a license violation nor does the dismissal or acquittal of such a criminal charge operate as a bar to suspension or revocation.

(g) *Decision basis.* The council shall give due regard to the frequency and seriousness of violations, the ease with which such violations could have been cured or avoided and good faith efforts to comply and shall issue a decision to deny, not renew, suspend or revoke a license only upon written findings.

(h) *Affected facility.* The council may suspend or revoke a license or not renew a license for part or all of a facility.

(i) *Suspension.* Licenses may be suspended for up to 90 days and may, after the period of suspension, be reinstated subject to compliance with this article and any conditions imposed by the city council at the time of suspension including, but not limited to, receivership or city obtaining control to manage the property temporarily.

(j) *Written decision, compliance.* A written decision to revoke, suspend, deny, or not renew a license or application shall specify the part or parts of the facility to which it applies. Thereafter, and until a license is reissued or reinstated, no rental units becoming vacant in such part or parts of the facility may be relet or occupied.

(k) *Continuing obligations, penalty.* Revocation, suspension or nonrenewal of a license shall not excuse the owner/licensee from compliance with all terms of this article, this Code, and state laws for as long as any units in the facility are occupied. Failure to comply with all terms of this article during the term of revocation, suspension or nonrenewal is a misdemeanor and grounds for extension of the term of such revocation or suspension or continuation of nonrenewal, or for a decision not to reinstate the license, notwithstanding any limitations on the period of suspension, revocation or nonrenewal specified in the city council's written decision.

(l) *New licenses prohibited.* A person who has a rental license revoked may not receive a rental license for another property within the city for a period of one year from the date of revocation. The person may continue to operate other currently licensed rental properties if the properties are maintained in compliance with city codes and other applicable regulations.

(Ord. No. 13-06, § 1, 12-11-2013)

Sec. 105-99 - Summary action

(a) When the condition of the rental dwelling/multifamily 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 compliance official shall have the authority to summarily condemn or close off such area of the rental dwelling/multifamily rental dwelling.

(b) Any person aggrieved by a decision of the compliance official 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 administrator shall schedule a date for hearing before the city council and notify the aggrieved person of the date.

(c) The hearing shall be conducted in the same manner as if the aggrieved person had not received summary action.

(d) The decision of the compliance official shall not be voided by the filing of such appeal. Only after the city council has held its hearing will the decision of the compliance official be affected.

(Ord. No. 13-06, § 1, 12-11-2013; Ord. No. 19-06, § 19, 9-11-2019)

Sec. 105-100 - Applicable laws

Licenses shall be subject to all of the ordinances of the city and the State of Minnesota relating to rental dwellings/multifamily rental dwellings; and this article shall not be construed or interpreted to supersede or limit any other such applicable ordinance or law.

(Ord. No. 13-06, § 1, 12-11-2013; Ord. No. 19-06, § 20, 9-11-2019)

Sec. 105-101 - Multiple suspensions

If the license of more than one dwelling unit in a licensed premises is suspended within 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 section 105-96.

(Ord. No. 13-06, § 1, 12-11-2013)

Secs. 105-102 – 105-109 - Reserved

ARTICLE V - ELECTRICAL REGULATIONS[3]

Sec. 105-110 - Purpose; application of this article

(a) The purpose of this article is to implement the provisions of the Minnesota State Building Code and Minnesota Rules Chapter 1315 which adopts the National Electrical Code.

(b) The provisions of this article shall apply to all installations of electrical conductors, fittings, devices, fixtures hereinafter referred to as "electrical equipment", within or on public and private buildings and premises, with the following general exceptions. The provisions of this article do not apply to the installations in mines, ships, railway cars, aircraft, automotive equipment or the installations or equipment employed by a railway, electric or communication utility in the exercise of its functions as a utility, except as otherwise provided in this article.

(c) As used in this article, "reasonably safe to persons and property" as applied to electrical installations and electrical equipment means safe to use in the service for which the installation or equipment is intended without unnecessary hazard to life, limb or property.

(d) For purposes of interpretation of the provisions of this article, the most recently published edition of the National Electrical Code shall be prima facie evidence of the definitions and scope of words and terms used in this article.

(Ord. No. 11-02, § 1, 7-13-2011)

Sec. 105-111 - Electrical inspector, qualifications and appointment

Creation; qualifications. There is hereby created the office of electrical inspector. The person chosen to fill the office of electrical inspector shall be of good moral character, shall be possessed of such executive ability as is requisite for the performance of his duties and shall have a thorough knowledge of the standard materials and methods used in the installation of electrical equipment; shall be well versed in approved methods of construction for safety to persons and property; the statutes of the state relating to electrical work and any orders, rules and regulations issued by authority thereof; and the National Electrical Code as approved by the American Standards Association; shall have two years' experience as an electrical inspector or five years' experience in the installation of electrical equipment, or a graduate mechanical or electrical engineer with two years of practical electrical experience.

(1) *Licensed inspector.* The electrical inspector shall be a licensed master or journeymen electrician as defined under Minnesota Statutes.

(2) *Duties of the electrical inspector.* It shall be the duty of the inspector to enforce the provisions of this article. The inspector shall, upon application, grant permits for the installation or alteration of electrical equipment, and shall make inspections of electrical installations, all as provided in this article. The inspector shall keep complete records of all permits issued, inspections and reinsertions made and other official work performed in accordance with the provisions of this article.

a. *No financial interest.* It shall be unlawful for the inspector to engage in the sale, installation or maintenance of electrical equipment, directly or indirectly, and the inspector shall have no financial interest in any concern engaged in any such business.

b. *Authority of electrical inspector.* The inspector shall have the right during reasonable hours to enter any building or premises in the discharge of his official duties, or for the purpose of making any inspection, reinsertion or test of electrical equipment contained therein or its installation. When any electrical equipment is found by the inspector to be dangerous to persons or property because it is defective or defectively installed, the person responsible for the electrical equipment shall be notified in writing and shall make any changes or repairs required in the judgment of the inspector to place such equipment in safe condition. If such work is not completed within 15 days, or any longer period that may be specified by the inspector in said notice, the inspector shall have the authority to disconnect or order discontinuance of electrical service to said electrical equipment. In cases of emergency where necessary for safety to persons and property, or where electrical equipment may interfere with the work of any fire department, the inspector shall have the authority to disconnect or cause disconnection immediately of any electrical equipment.

(Ord. No. 11-02, § 1, 7-13-2011; Ord. No. 21-01, § 4, 01-13-2021)

Sec. 105-112 - Standards for electrical equipment installation

(a) All installations of electrical equipment shall be reasonably safe to persons and property and in conformity with the provisions of this article and the applicable statutes of the state and all orders, rules and regulations issued by the authority thereof. All electrical equipment shall be listed and labeled by a testing agency.

(b) Conformity of installations of electrical equipment with applicable regulations set forth in the current National Electrical Code as adopted by the Minnesota Rules shall be prima facie evidence that such installations are reasonably safe to persons and property. Noncompliance with the provisions of this article or the National Electrical Code as adopted by the Minnesota Rules shall be prima facie evidence that the installation is not reasonably safe to persons and property.

(c) The electrical inspector may, with approval of the building official, authorize installations of special wiring methods other than herein provided for.

(d) Buildings or structures moved from without to within and within the limits of the city shall conform to all of the requirements of this Code for new buildings or structures.

(e) Existing buildings or structures hereafter changed in use shall conform in all respects to the requirements of this Code for the new use.

(Ord. No. 11-02, § 1, 7-13-2011)

Sec. 105-113 - Connections to installations

(a) It shall be unlawful for any person to make connections from a supply of electricity to any electrical equipment for the installation of which a permit is required or which has been disconnected or ordered to be disconnected by the electrical inspector.

(b) The public or private utility providing services shall disconnect the same upon a written order from the electrical inspector, if the inspector considers any electrical installation unsafe to life and property or installed contrary to this Code.

(Ord. No. 11-02, § 1, 7-13-2011)

Sec. 105-114 - Permits and inspectors

(a) *Permit required.* An electrical permit is required for each installation, alteration, addition or repair of electrical work for light, heat and power within the limits of the city. Permits for the installation of electrical work in new structures shall only be issued to electrical contractors duly licensed by the state. Permits for the installation, alteration, addition or repair of electrical work in existing structures shall only be issued to electrical contractors duly licensed by the state or to resident owners of property where the work is to be done.

(b) *Public service corporation exception.* No permit shall be required for electrical installations of equipment owned, leased, operated or maintained by a public service corporation which is used by said corporation in the performance of its function as a utility, except that such electrical installation shall conform to the minimum standards of the National Electrical Safety Code.

(c) *Ownership.* Ownership of any transmission or distribution lines or appurtenances thereto, including, but not limited to, transformers, shall not be transferred by a public service corporation to any person, except another franchised public service corporation dealing in electric energy for distribution and sale, without a permit first having been issued therefore by the city. Such permit shall be issued only after the facilities to be transferred have been inspected and approved as provided in this article and upon payment of an inspection fee as set forth in this section of the article.

(d) *Application and plans.* Application for such permit, describing the electrical work to be done, shall be made in writing, to the city by the person so registered to do such work. The application shall be accompanied by such plans, specifications and schedules as may be necessary to determine whether the electrical installation as described will be in conformity with all the legal requirements. The fees for electrical inspection as set forth in this section shall accompany such application. If applicant has complied with all of the provisions of this section, a permit for such electrical installation shall be issued.

(e) *Concealment.* All electrical installations which involve the concealment of wiring or equipment shall have a "rough-in" inspection prior to concealment, wherein the inspector shall be duly notified in advance, excluding Saturday, Sunday and holidays.

(f) *Inspection fees.*

(1) *Permits required.* Before commencing any installation of any work regulated by this section, a permit therefore shall be secured from the building department and the fee for such permit paid. The fees schedule set forth in Minn. Stats. § 326B.37 is adopted by reference and incorporated herein. No such permit shall be issued to do any of the work or make any installation regulated by this section except to persons licensed to do such work under the terms of this section. Holders of a contractor's license shall not obtain permits for electrical work unless the work is supervised by them and is performed by workers employed by them or their firm.

(2) *Fees double, when.* Should any person begin work of any kind, such as set forth in this section, or for which a permit from the electrical inspector is required by ordinance, without having secured the necessary permit therefore from the inspector of buildings either previous to or during the day of the commencement of any such work, or on the next succeeding day where such work is commenced on a Saturday or on a Sunday or a holiday, he shall, when subsequently securing such permit, be required to pay double the fees provided for such permit.

(3) *Additional fees and/or shortages.* Additional fees and/or fee shortages must be received by the city within 14 days of written notice. If additional fees and/or fee shortages are not received within 14 days of notice, permits for electrical installations will not be accepted by the city until such time as the additional fees and/or fee shortages are received.

(g) *Electrical inspections.*

(1) At regular intervals, the electrical inspector shall visit all premises where work may be done under annual permits and shall inspect all electrical equipment installed under such a permit since the day of his last previous inspection, and shall issue a certificate of approval for such work as is found to be in conformity with the provisions of this section, after the fee required has been paid.

(2) When any electrical equipment is to be hidden from view by the permanent placement of parts of the building, the person installing the equipment shall notify the electrical inspector and such equipment shall not be concealed until it has been inspected and approved by the electrical inspector or until 24 hours, exclusive of Saturdays, Sundays and holidays, shall have elapsed from the time of such scheduled inspection; provided, that on large installations where the concealment of equipment proceeds continuously, the person installing the electrical equipment shall give the electrical inspector due notice and inspections shall be made periodically during the progress of the work.

(3) If upon inspection, the installation is not found to be fully in conformity with the provisions of this section, the electrical inspector shall at once forward to the person making the installation a written notice stating the defects which have been found to exist.

(Ord. No. 11-02, § 1, 7-13-2011)

Secs. 105-115 through 105-119 - Reserved

(Ord. No. 22-01, § 2, 7-13-2022)

ARTICLE VI – VACANT PROPERTIES

Sec. 105-120 - Definitions

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Compliance official has the meaning assigned in section 105-87.

Vacant properties means a property with a building or buildings constructed or reconstructed for a business or residential purpose that is unoccupied. This definition does not include an uninhabited accessory dwelling unit, unless both the accessory dwelling unit and single-family residence are unoccupied.

(Ord. No. 22-01, § 1, 7-13-2022)

Sec. 105-121 - Policy

The purpose of this subsection is to protect the public health, safety, and welfare by establishing a program for the identification and registration of vacant properties within the City.

(Ord. No. 22-01, § 1, 7-13-2022)

Sec. 105-122 - Registration required; form

(1) The owner of a vacant Property located within the City, or an agent of the owner, shall register the property with the compliance official. The registration shall be submitted on forms provided by the compliance official and shall include the following information supplied by the owner:

(a) Street address of the Vacant property;
(b) The names and addresses of the owner or owners;
(c) The contact phone number and email address of the owners and any property managers or caretakers responsible for the upkeep or supervision of the property;
(d) The date the building became vacant, the period of time the building is expected to remain vacant;
(e) A plan for compliance with all applicable provisions of City Code and other applicable regulations, including building maintenance, snow removal, yard maintenance, and nuisance prevention;

(f) Whether service for water, sewer, natural gas and electric utilities is active;
(g) The owner must notify the compliance official of any changes in information supplied as part of the vacant building registration within 30 days of any change;
(h) The addresses of all other properties within the City, whether vacant, undeveloped, or occupied, that the owner owns or has an ownership interest in;
(i) If a property is vacant and the owner fails to complete the registration process, the City may administratively register the property.

(2) The current owner of a vacant property shall file a new registration with the compliance official within 30 days of any of the following occurring:

(a) Any transfer of ownership interest in the property;
(b) Change of the contact phone number or email address of the owner or the property manager or caretaker; or
(c) Change to the plan for compliance with applicable City Code provisions.

(3) The owner of a vacant property shall file a new registration every two years.

(Ord. No. 22-01, § 1, 7-13-2022)

Sec. 105-123 - Presumptions, exceptions, and fee waivers.

(1) Any one of the following conditions shall constitute a rebuttable presumption that a building is vacant. It shall be the responsibility of the owner to establish that it is not a vacant property if any of these conditions exist.

(a) Discontinuance of trash service;
(b) Disconnection from water or sewer service; or
(c) Water usage of less than an average of 50 gallons over a three-month period.

(2) Vacant properties are not required to register or pay the registration fee if any of the following apply:

(a) The City or any governmental entity is the owner of the vacant property;
(b) The owner possesses a valid building permit for remodeling the building located thereon or for construction of a new building on such property;
(c) There is a valid, unexpired business license issued by the City;
(d) There is a valid, unexpired residential rental license issued pursuant to Article IV of Chapter 105;
(e) There is a valid development agreement or redevelopment agreement with the City; or
(f) The property is actively marked as "for sale" at a reasonable price by the owner or the owner's designee, broker, or agent. It is the obligation of the vacant Property owner to produce evidence of active marketing at a reasonable price to claim this exemption. A property listed on the MLS (multiple listing service) or similar listing service is presumed to be actively marketed.

(3) The following vacant properties are required to register, but the registration fee is waived;

(a) Residential properties with one or two dwelling units where the owner intends to resume

occupancy of at least one unit as a dwelling within 180 days; provided, however, that failure to actually resume use of the vacant Property as a dwelling within 180 days will result in imposition of the waived registration fee; or

(b) The City Administrator may grant a waiver of the registration fee one time for an owner suffering hardship and for which the registration fee is a burden.

(Ord. No. 22-01, § 1, 7-13-2022)

Sec. 105-124 - Recordkeeping

The compliance official shall maintain a record of all vacant buildings that have become known to the compliance official, including those registered and those not registered.

(Ord. No. 22-01, § 1, 7-13-2022)

Sec. 105-125 - Fees

The City Council may, by fee schedule or ordinance, adopt a fee or fees for the registration required by this article. If adopted, the fee must be limited to the reasonable costs associated with registration, enforcement, and compliance of this article.

(Ord. No. 22-01, § 1, 7-13-2022)

Footnotes:

[1] **Editor's note –** Ord. No. 12-04, § 1 adopted May 23, 2012, amended Art. III in its entirety to read as set out herein. Former Art. III, §§ 105-56 – 105-63, pertained to housing code and derived from the Code of 1993, §§ 10-1.01, 10-1.02, 10-2.01 – 10-2.04. 10-3.01, 10-4.01; Ord. No. 97-05, § 1, adopted July 9, 1997.

[2] **Editor's note –** Ord. No. 13-06, § 1, adopted Dec. 11, 2013, amended Art. IV in its entirety to read as set out herein. Former Art. IV, §§ 105-86 – 105-99, pertained to similar subject matter and derived from Ord. No. 08-04, § 1, adopted Oct. 22, 2008.

[3] **Editor's note –** Ord. No. 11-02, § 1, adopted July 13, 2011, set out provisions intended for use as Art. IV, §§ 105-70 – 105-74. Inasmuch as there were already provisions so designated, these provisions have been redesignated as Art. V, §§ 105-110 – 105-114, at the discretion of the editor.

Chapter 107 - STORMWATER MANAGEMENT

Article/Division/Section:

Sec. 107-1 - Statutory authorization

This chapter is adopted pursuant to Minn. Stats. § [462.351 for cities and towns, and § 394.21 for counties having a population of less than 300,000 according to the 1950 Federal census] (1990).

(Ord. No. 01-01, § 1, 4-25-2001)

Sec. 107-2 - Findings

The City of Falcon Heights hereby finds that uncontrolled and inadequately planned use of wetlands, woodlands, natural habitat areas, areas subject to soil erosion and areas containing restrictive soils adversely affects the public health, safety and general welfare by impacting water quality and contributing to other environmental problems, creating nuisances, impairing other beneficial uses of environmental resources and hindering the ability of the City of Falcon Heights to provide adequate water, sewage, flood control, and other community services. In addition, extraordinary public expenditures may be required for the protection of persons and property in such areas and in areas which may be affected by unplanned land usage.

(Ord. No. 01-01, § 2, 4-25-2001)

Sec. 107-3 - Purpose

The purpose of this chapter is to promote, preserve and enhance the natural resources within the City of Falcon Heights and protect them from adverse effects occasioned by:

(1) Poorly sited development or incompatible activities by regulating land disturbing or development activities that would have an adverse and potentially irreversible impact on water quality and unique and fragile environmentally sensitive land;

(2) Minimizing conflicts and encouraging compatibility between land disturbing and development activities and water quality and environmentally sensitive lands; and

(3) Requiring detailed review standards and procedures for land disturbing or development activities proposed for such areas, thereby achieving a balance between urban growth and development and protection of water quality and natural areas.

(Ord. No. 01-01, § 3, 4-25-2001)

Sec. 107-4 - Definitions

For the purposes of this chapter, the following terms, phrases, words, and their derivatives shall have the meaning stated below. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directive.

Applicant. Any person who wishes to obtain a building permit, zoning or subdivision approval.

Control measure. A practice or combination of practices to control erosion and attendant pollution.

Detention facility. A permanent natural or manmade structure, including wetlands, for the temporary storage of runoff which contains a permanent pool of water.

Flood fringe. The portion of the floodplain outside of the floodway.

Floodplain. The areas adjoining a watercourse or water basin that have been or may be covered by a regional flood.

Floodway. The channel of the watercourse, the bed of water basins, and those portions of the adjoining floodplains that are reasonably required to carry and discharge floodwater and provide water storage during a regional flood.

Hydric soils. Soils that are saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part.

Hydrophytic vegetation. Macrophytic plant life growing in water, soil or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content.

Land disturbing or *development activities.* Any change of the land surface including removing vegetative cover, excavating, filling, grading, and the construction of any structure.

Person. Any individual, firm, corporation, partnership, franchise, association, or governmental entity.

Public waters. Waters of the state as defined in Minn. Stats. § 103G.005, subdivision 15.

Regional flood. A flood that is representative of large floods known to have occurred generally in the state and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of a 100-year recurrence interval.

Retention facility. A permanent natural or manmade structure that provides for the storage of stormwater runoff by means of a permanent pool of water.

Sediment. Solid matter carried by water, sewage, or other liquids.

Structure. Anything manufactured, constructed or erected which is normally attached to or positioned on land, including portable structures, earthen structures, roads, parking lots, and paved storage areas.

Wetlands. Lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this definition, wetlands must have the following three attributes:

(1) Have a predominance of hydric soils;

(2) Are inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and

(3) Under normal circumstances support a prevalence of such vegetation.

(Ord. No. 01-01, § 4, 4-25-2001)

Sec. 107-5 - Scope and effect

(a) *Applicability.* Every applicant for a building permit, subdivision approval, or a permit to allow land disturbing activities must submit a stormwater management plan to the city administrator. No building permit, subdivision approval, or permit to allow land disturbing activities shall be issued until approval of the stormwater management plan or a waiver of the approval requirement has been obtained in strict conformance with the provisions of this ordinance. The provisions of section 107-9 of this chapter apply to all land, public or private, located within the City of Falcon Heights.

(b) *Exemptions.* The provisions of this chapter do not apply to:

(1) Any part of a subdivision if a plat for the subdivision has been approved by the city council on or before the effective date of this chapter;

(2) Any land disturbing activity for which plans have been approved by the watershed management organization within six months prior to the effective date of this chapter;

(3) A lot for which a building permit has been approved on or before the effective date of this chapter;

(4) Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles; or

(5) Emergency work to protect life, limb, or property.

(c) *Waiver.* The city council, upon recommendation of the planning commission, may waive any requirement of this chapter upon making a finding that compliance with the requirement will involve an unnecessary hardship and the waiver of such requirement will not adversely affect the standards and requirements set forth in section 107-6. The city council may require as a condition of the waiver, such dedication or construction, or agreement to dedicate or construct as may be necessary to adequately meet said standards and requirements.

(Ord. No. 01-01, § 5, 4-25-2001)

Sec. 107-6 - Stormwater management plan approval procedures

(a) *Application.* A written application for stormwater management plan approval, along with the proposed stormwater management plan, shall be filed with the city administrator, and shall include a statement indicating the grounds upon which the approval is requested, that the proposed use is permitted by right or as an exception in the underlying zoning district, and adequate evidence showing that the proposed use will conform to the standards set forth in this chapter. Prior to applying for approval of a stormwater management plan, an applicant may have the stormwater management plans reviewed by the appropriate departments of the city.

Two sets of clearly legible blue or black-lined copies of drawings and required information shall be submitted to the city administrator and shall be accompanied by a receipt evidencing the payment of all required fees for processing and approval as set forth in subsection 107-7(e), and a bond when required by subsection 107-7(d), in the amount to be calculated in accordance with that section. Drawings shall be prepared to a scale appropriate to the site of the project and suitable for the review to be performed. At a minimum the scale shall be one inch equals 100 feet.

(b) *Stormwater management plan.* At a minimum, the stormwater management plan shall contain the following information.

(1) *Existing site map.* A map of existing site conditions showing the site and immediately adjacent areas, including:

a. The name and address of the applicant, the section, township and range, north point, date and scale of drawing and number of sheets;

b. Location of the tract by an insert map at a scale sufficient to clearly identify the location of the property and giving such information as the names and numbers of adjoining roads, railroads, utilities, subdivisions, towns and districts or other landmarks;

c. Existing topography with a contour interval appropriate to the topography of the land but in no case having a contour interval greater than two feet;

d. A delineation of all streams, rivers, public waters and wetlands located on and immediately adjacent to the site, including depth of water, a description of all vegetation which may be found in the water, a statement of general water quality and any classification given to the water body or wetland by the Minnesota Department of Natural Resources, the Minnesota Pollution Control Agency, and/or the United States Army Corps of Engineers;

e. Location and dimensions of existing stormwater drainage systems and natural drainage patterns on and immediately adjacent to the site delineating in which direction and at what rate stormwater is conveyed from the site, identifying the receiving stream, river, public water, or wetland, and setting forth those areas of the unaltered site where stormwater collects;

f. A description of the soils of the site, including a map indicating soil types of areas to be disturbed as well as a soil report containing information on the suitability of the soils for the type of development proposed and for the type of sewage disposal proposed and describing any remedial steps to be taken by the developer to render

the soils suitable;

g. Vegetative cover and clearly delineating any vegetation proposed for removal; and

h. One hundred-year floodplains, flood fringes and floodways.

(2) *Site construction plan.* A site construction plan including:

a. Locations and dimensions of all proposed land disturbing activities and any phasing of those activities;

b. Locations and dimensions of all temporary soil or dirt stockpiles;

c. Locations and dimensions of all construction site erosion control measures necessary to meet the requirements of this chapter;

d. Schedule of anticipated starting and completion date of each land disturbing activity including the installation of construction site erosion control measures needed to meet the requirements of this chapter; and

e. Provisions for maintenance of the construction site erosion control measures during construction.

(3) *Plan of final site conditions.* A plan of final site conditions on the same scale as the existing site map showing the site changes including:

a. Finished grading shown at contours at the same interval as provided above or as required to clearly indicate the relationship of proposed changes to existing topography and remaining features;

b. A landscape plan, drawn to an appropriate scale, including dimensions and distances and the location, type, size and description of all proposed landscape materials which will be added to the site as part of the development;

c. A drainage plan of the developed site delineating in which direction and at what rate stormwater will be conveyed from the site and setting forth the areas of the site where stormwater will be allowed to collect;

d. The proposed size, alignment and intended use of any structures to be erected on the site;

e. A clear delineation and tabulation of all areas which shall be paved or surfaced, including a description of the surfacing material to be used; and

f. Any other information pertinent to the particular project which in the opinion of the applicant is necessary for the review of the project.

(Ord. No. 01-01, § 6, 4-25-2001)

Sec. 107-7 - Plan review procedure

(a) *Process.* Stormwater management plans meeting the requirements of section 107-6, shall be submitted by the city administrator to the planning commission for review in accordance with the standards of section 107-8. The commission shall recommend approval, recommend approval with conditions, or recommend denial of the stormwater management plan. Following planning commission action, the stormwater management plan shall be submitted to the city council at its next available meeting. City council action on the stormwater management plan must be accomplished within 120 days following the date the

application for approval is filed with the zoning administrator.

(b) *Duration.* Approval of a plan submitted under the provisions of this chapter shall expire one year after the date of approval unless construction has commenced in accordance with the plan. However, if prior to the expiration of the approval, the applicant makes a written request to the [planning department, department of community development, zoning administrator] for an extension of time to commence construction setting forth the reasons for the requested extension, the planning department may grant one extension of not greater than one single year. Receipt of any request for an extension shall be acknowledged by the [planning department, department of community development, zoning administrator] within 15 days. The [planning department, department of community development, zoning administrator] shall make a decision on the extension within 30 days of receipt. Any plan may be revised in the same manner as originally approved.

(c) *Conditions.* A stormwater management plan may be approved subject to compliance with conditions reasonable and necessary to insure that the requirements contained in this ordinance are met. Such conditions may, among other matters, limit the size, kind or character of the proposed development, require the construction of structures, drainage facilities, storage basins and other facilities, require replacement of vegetation, establish required monitoring procedures, stage the work over time, require alteration of the site design to insure buffering, and require the conveyance to the City of Falcon Heights or other public entity of certain lands or interests therein.

(d) *Performance bond.* Prior to approval of any stormwater management plan, the applicant shall submit an agreement to construct such required physical improvements, to dedicate property or easements, or to comply with such conditions as may have been agreed to. Such agreement shall be accompanied by a bond to cover the amount of the established cost of complying with the agreement. The agreement and bond shall guarantee completion and compliance with conditions within a specific time, which time may be extended in accordance with subsection (b) of this section.

The adequacy, conditions and acceptability of any agreement and bond shall be determined by the city council or any official of the City of Falcon Heights as may be designated by resolution of the city council.

(e) *Fees.* All applications for stormwater management plan approval shall be accompanied by a processing and approval fee of $300.00.

(Ord. No. 01-01, § 7, 4-25-2001)

Sec. 107-8 - Approval standards

(a) *Approval.* No stormwater management plan which fails to meet the standards contained in this section shall be approved by the city council.

(b) *Site dewatering.* Water pumped from the site shall be treated by temporary sedimentation basins, grit chambers, sand filters, upflow chambers, hydro-cyclones, swirl concentrators or other appropriate controls as appropriate. Water may not be discharged in a manner that causes erosion or flooding of the site or receiving channels or a wetland.

(c) *Waste and material disposal.* All waste and unused building materials (including garbage, debris, cleaning wastes, wastewater, toxic materials or hazardous materials) shall be properly disposed of off-site and not allowed to be carried by runoff into a receiving channel

or storm sewer system.

(d) *Tracking.* Each site shall have graveled roads, access drives and parking areas of sufficient width and length to prevent sediment from being tracked onto public or private roadways. Any sediment reaching a public or private road shall be removed by street cleaning (not flushing) before the end of each workday.

(e) *Drain inlet protection.* All storm drain inlets shall be protected during construction until control measures are in place with a straw bale, silt fence or equivalent barrier meeting accepted design criteria, standards and specifications contained in the MPCA publication "Protecting Water Quality in Urban Areas."

(f) *Site erosion control.* The following criteria (subsections (1) through (5)) apply only to construction activities that result in runoff leaving the site.

(1) Channelized runoff from adjacent areas passing through the site shall be diverted around disturbed areas, if practical. Otherwise, the channel shall be protected as described below. Sheetflow runoff from adjacent areas greater than 10,000 square feet in area shall also be diverted around disturbed areas, unless shown to have resultant runoff rates of less than one-half foot per second across the disturbed area for the one-year storm. Diverted runoff shall be conveyed in a manner that will not erode the conveyance and receiving channels.

(2) All activities on the site shall be conducted in a logical sequence to minimize the area of bare soil exposed at any one time.

(3) Runoff from the entire disturbed area on the site shall be controlled by meeting either subsections a. and b. or a. and c.

a. All disturbed ground left inactive for 14 or more days shall be stabilized by seeding or sodding (only available prior to September 15) or by mulching or covering or other equivalent control measure.

b. For sites with more than ten acres disturbed at one time, or if a channel originates in the disturbed area, one or more temporary or permanent sedimentation basins shall be constructed. Each sedimentation basin shall have a surface area of at least one percent of the area draining to the basin and at least three feet of depth and constructed in accordance with accepted design specifications. Sediment shall be removed to maintain a depth of three feet 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 acres disturbed at one time, silt fences, straw bales, or equivalent control measures shall be placed along all sideslope and downslope sides of the site. If a channel or area of concentrated runoff passes through the site, silt fences shall be placed along the channel edges to reduce sediment reaching the channel. The use of silt fences, straw bales, or equivalent control measures must include a maintenance and inspection schedule.

(4) Any soil or dirt storage piles containing more than ten cubic yards of material should not be located with a downslope drainage length of less than 25 feet from the toe of the pile to a roadway or drainage channel. If remaining for more than seven days, they shall be stabilized by mulching, vegetative cover, tarps, or other means. Erosion from piles which will be in existence for less than seven days shall be controlled by placing straw bales or silt fence barriers around the pile. In-street utility repair or construction soil or

dirt storage piles located closer than 25 feet of a roadway or drainage channel must be covered with tarps or suitable alternative control, if exposed for more than seven days, and the stormdrain inlets must be protected with straw bale or other appropriate filtering barriers.

(g) *Stormwater management criteria for permanent facilities.*

(1) An applicant shall install or construct, on or for the proposed land disturbing or development activity, all stormwater management facilities necessary to manage increased runoff so that the two-year, ten-year, and 100-year storm peak discharge rates existing before the proposed development shall not be increased and accelerated channel erosion will not occur as a result of the proposed land disturbing or development activity. An applicant may also make an in-kind or monetary contribution to the development and maintenance of community stormwater management facilities designed to serve multiple land disturbing and development activities undertaken by one or more persons, including the applicant.

(2) The applicant shall give consideration to reducing the need for stormwater management facilities by incorporating the use of natural topography and land cover such as wetlands, ponds, natural swales and depressions as they exist before development to the degree that they can accommodate the additional flow of water without compromising the integrity or quality of the wetland or pond.

(3) The following stormwater management practices shall be investigated in developing a stormwater management plan in the following descending order of preference:

a. Natural infiltration of precipitation on-site;

b. Flow attenuation by use of open vegetated swales and natural depressions;

c. Stormwater retention facilities; and

d. Stormwater detention facilities.

(4) A combination of successive practices may be used to achieve the applicable minimum control requirements specified in subsection (1), above. Justification shall be provided by the applicant for the method selected.

(h) *Design standards.* Stormwater detention facilities constructed in the City of Falcon Heights shall be designed according to the most current technology as reflected in the MPCA publication "Protecting Water Quality in Urban Areas", and shall contain, at a minimum, the following design factors:

(1) A permanent pond surface area equal to two percent of the impervious area draining to the pond or one percent of the entire area draining to the pond, whichever amount is greater;

(2) An average permanent pool depth of four to ten feet;

(3) A permanent pool length to width ratio of three to one or greater;

(4) A minimum protective shelf extending ten feet into the permanent pool with a slope of ten to one, beyond which slopes should not exceed three to one;

(5) A protective buffer strip of vegetation surrounding the permanent pool at a minimum width of one rod (16.5 feet) [this width is consistent with the draft rules developed by the Board of Water and Soil Resources under the Wetland Conservation Act of 1991];

(6) All stormwater detention facilities shall have a device to keep oil, grease, and other floatable material from moving downstream as a result of normal operations;

(7) Stormwater detention facilities for new development must be sufficient to limit peak flows in each subwatershed to those that existed before the development for the ten-year storm event. All calculations and hydrologic models/information used in determining peak flows shall be submitted along with the stormwater management plan;

(8) All stormwater detention facilities must have a forebay to remove coarse-grained particles prior to discharge into a watercourse or storage basin.

(i) *Wetlands.*

(1) Runoff shall not be discharged directly into wetlands without presettlement of the runoff.

(2) A protective buffer strip of natural vegetation at least one rod (16.5 feet) in width shall surround all wetlands. [This width is consistent with the draft rules developed by the Board of Water and Soil Resources under the Wetland Conservation Act of 1991.]

(3) Wetlands must not be drained or filled, wholly or partially, unless replaced by restoring or creating wetland areas of at least equal public value. Replacement must be guided by the allowing principles in descending order of priority.

a. Avoiding the direct or indirect impact of the activity that may destroy or diminish the wetland;

b. Minimizing the impact by limiting the degree or magnitude of the wetland activity and its implementation;

c. Rectifying the impact by repairing, rehabilitating, or restoring the affected wetland environment;

d. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the activity, and

e. Compensating for the impact by replacing or providing substitute wetland resources or environments. [Compensation, including the replacement ratio and quality of replacement should be consistent with the requirements outlined in the rules which will be adopted by the Board of Water and Soil Resources to implement the Wetland Conservation Act of 1991.]

(j) *Steep slopes.* No land disturbing or development activities shall be allowed on slopes of 18 percent or more.

(k) *Catch basins.* All newly installed and rehabilitated catch basins shall be provided with a sump area for the collection of coarse-grained material. Such basins shall be cleaned when they are half filled with material.

(l) *Drain leaders.* All newly constructed and reconstructed buildings will route drain leaders to pervious areas wherein the runoff can be allowed to infiltrate. The flow rate of water exiting the leaders shall be controlled so no erosion occurs in the pervious areas.

(m) *Inspection and maintenance.* All stormwater management facilities shall be designed to minimize the need of maintenance, to provide access for maintenance purposes and to be structurally sound. All stormwater management facilities shall have a plan of operation and maintenance that assures continued effective removal of pollutants carried in stormwater runoff. The director of public works, or designated representative, shall inspect all

stormwater management facilities during construction, during the first year of operation, and at least once every five years thereafter. The inspection records will be kept on file at the public works department for a period of six years. It shall be the responsibility of the applicant to obtain any necessary easements or other property interests to allow access to the stormwater management facilities for inspection and maintenance purposes.

(n) *Models/methodologies/computations.* Hydrologic models and design methodologies used for the determination of runoff and analysis of stormwater management structures shall be approved by the director of public works. Plans, specification and computations for stormwater management facilities submitted for review shall be sealed and signed by a registered professional engineer. All computations shall appear on the plans submitted for review, unless otherwise approved by the director of public works.

(o) *Watershed management plans/Groundwater management plans.* Stormwater management plans shall be consistent with adopted watershed management plans and groundwater management plans prepared in accordance with Minn. Stats. §§ 103B.231 and 103B.255, respectively, and as approved by the Minnesota Board of Water and Soil Resources in accordance with state law.

(p) *Easements.* If a stormwater management plan involves direction of some or all runoff off of the site, it shall be the responsibility of the applicant to obtain from adjacent property owners any necessary easements or other property interests concerning flowage of water.

(Ord. No. 01-01, § 8, 4-25-2001)

Sec. 107-9 - Lawn fertilizer regulations

(a) *Use of impervious surfaces.* No person shall apply fertilizer to or deposit grass clippings, leaves, or other vegetative materials on impervious surfaces, or within stormwater drainage systems, natural drainage ways, or within wetland buffer areas.

(b) *Unimproved land area.* Except for driveways, sidewalks, patios, areas occupied by structures or areas which have been improved by landscaping, all areas shall be covered by plants or vegetative growth.

(c) *Fertilizer content.* Except for the first growing season for newly established turf areas, no person shall apply liquid fertilizer which contains more than one-half percent by weight of phosphorus, or granular fertilizer which contains more than three percent by weight of phosphorus, unless the single application is less than or equal to one-tenth pound of phosphorus per 1,000 square feet. Annual application amount shall not exceed one half pound of phosphorus per 1,000 square feet of lawn area.

(d) *Buffer zone.* Fertilizer applications shall not be made within one rod (16.5 feet) of any wetland or water resource. [This distance is consistent with the draft rules developed by the Board of Water and Soil Resources under the Wetland Conservation Act of 1991.]

(Ord. No. 01-01, § 9, 4-25-2001)

Sec. 107-10 - Penalty

Any person, firm or corporation violating any provision of this chapter shall be fined not less than $5.00 nor more than $500.00 for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

(Ord. No. 01-01, § 10, 4-25-2001)

Chapter 109 - SUBDIVISIONS AND PLATTING[1]

Article/Division/Section:

ARTICLE I - IN GENERAL

Sec. 109-1 - Definitions

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alley means minor ways that are used primarily for vehicular service access to the back or the sides of properties otherwise abutting on a street.

Arterial streets and highways means those that are used primarily for fast or heavy traffic.

Collector streets means those which carry traffic from minor streets to the major system of arterial streets and highways, including the principal entrance streets of a residential development and streets for circulation within such a development.

Marginal access streets means minor streets which are parallel to and adjacent to arterial streets and highways, and which provide access to abutting properties and protection from through traffic.

Minor streets means those that are used primarily for access to the abutting properties.

Street means a way for vehicular traffic, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, land, place or however otherwise designated.

Subdivision means 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, except those separations:

(1) Where all the resulting parcels, tracts, lots, or interests will be 20 acres or larger in size and 500 feet in width for residential uses and five acres or larger in size for commercial and industrial uses;

(2) Creating cemetery lots;

(3) 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.

(Code 1993, § 9-17.01)

State Law reference – Subdivision defined, Minn. Stats, § 462.358, subd. 12.

Sec. 109-2 - Variances

(a) *Hardship.* Where the city council finds that extraordinary hardships may result from strict compliance with these regulations, it may vary the regulations so that substantial justice may be done and the public interest secured, provided that such variation will not have the effect of nullifying the intent and purpose of the general community plan or these regulations.

(b) *Large scale development.* The standards and requirements of these regulations may be modified by the city council in the case of a plan and program for a complete community, or a neighborhood unit, which in the judgment of the city council provide adequate public spaces and improvements for the circulation, recreation, light, air and service needs of the tract when fully developed and populated, and which also provide such covenants or other legal provisions as will assure conformity to and achievement of the plan.

(c) *Conditions.* In granting variances and modifications, the city council may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements so varied or modified.

(Code 1993, § 9-17.07)

Sec. 109-3 - Platting required

All subdivisions that create five or more lots or parcels that are 2½ acres or less in size shall be platted.

State Law reference – Mandatory requirements, Minn. Stats. § 462.358, subd. 3a.

Secs. 109-4 – 109-24 - Reserved

ARTICLE II - APPROVAL PROCEDURES[2]

Sec. 109-25 - Generally

(a) *Preapplication procedure.*

(1) *Sketches; information required.* Previous to the filing of an application for conditional approval of the preliminary plat (general subdivision plan), the subdivider shall submit to the planning commission for review, subdivision sketch plans which shall contain the following information: tract boundaries, north point, streets on and adjacent to the tract, significant topographical and physical features, proposed general street layout, and proposed general lot layout and other information related to any restrictions on the use of the land including easements, protective covenants and zoning district. This step does not require formal application, fee or filing of plat with the city council.

(2) *Sketches not formal filing of plat.* Such sketch plans will be considered as submitted for preliminary and informal discussion between the subdivider and the planning commission. Submission of a subdivision sketch plan shall not constitute formal filing of a plat.

(3) *Conformity of design plans.* As far as may be practical on the basis of a sketch plan, the planning commission will informally advise the subdivider as promptly as possible of the extent to which the proposed subdivision conforms to the design standards of this chapter and will discuss possible plan modifications necessary to secure conformance.

(b) *Procedures for conditional approval of preliminary plat.*

(1) *Preliminary plat; improvements.* On reaching conclusions informally as recommended above regarding his or her general program and objectives, the subdivider shall cause to be prepared a preliminary plat, together with improvement plans and other supplementary material as specified in section 109-27.

(2) *Submission of preliminary plat.* Six copies of the preliminary plat and supplementary materials specified shall be submitted to the administrator with written application for conditional approval at least 14 days prior to the planning commission meeting at which it is to be considered together with the application fee for such submittal. The administrator shall promptly forward one copy each of the preliminary plat and supplemental materials to the following: consulting engineer, planning consultant, and when such land abuts a county or state highway copies shall be sent to the county highway engineer or state highway commissioner.

(3) *Engineering report.* The engineering consultant shall submit his or her written report concerning the engineering aspects of the project to the planning commission at least seven days prior to the meeting at which the plat is to be considered.

(4) *Plat compliance report.* The planning consultant shall examine the plat for compliance with this and other ordinances of the city and the city's comprehensive plan and shall submit a written report to the planning commission at least seven days prior to the meeting at which the plat is to be considered.

(5) *Public hearing.* A public hearing shall be held by the planning commission after the filing of the preliminary plat. This hearing shall be held if possible, at the next regularly scheduled meeting of the planning commission. A notice of the time, place, and purpose of the hearing shall be published in the official city newspaper at least ten days prior to the date of the hearing. In addition, the city shall notify, in writing, the subdivider and each owner of affected property and property situated wholly or partly within 350 feet of the exterior boundary of the subject property.

(6) *Recommendation report.* After consideration of all hearings, reports, comments, and suggestions, the planning commission shall within 30 days after the public hearing submit to the city council, in writing, a report summarizing its recommendations and rationale concerning the preliminary plat. Copies of the engineer's and planning consultant's reports shall also be forwarded to the city council along with the preliminary plat and application.

(7) *Conditional approval; disapproval.* Following review of the planning commission recommendation and other material submitted for conformity thereof to these regulations and negotiations with the subdivider on changes deemed advisable and the kind and extent of improvements to be made by him or her, the city council shall, within 30 days, act thereon as submitted or modified, and if approved, the city council shall express its approval as conditional approval and state the conditions of such approval, if any, or if disapproved, shall express its disapproval and its reasons therefor.

(8) *Action of city council noted.* The action of the city council shall be noted on two copies of the preliminary plat, referenced and attached to any conditions determined. One copy shall be returned to the subdivider and the other retained by the city council.

(9) *Conditional approval not indicative of final approval.* Conditional approval of a preliminary plat shall not constitute approval of the final plat (subdivision plat). Rather it shall be deemed an expression of approval to the layout submitted on the preliminary plat as a guide to the preparation of the final plat which will be submitted for approval of the city council and for recording upon fulfillment of the requirements of these regulations and the conditions of the conditional approval, if any.

(c) *Procedures for approval of final plat.*

(1) *Conformity to preliminary plat.* The final plat shall conform substantially to the preliminary plat as approved, and, if desired by the subdivider, it may constitute only that portion of the approved preliminary plat which he or she proposes to record and develop at the time, provided, however, that such portion conforms to all requirements of these regulations.

(2) *Application for approval.* Application for approval of the final plat shall be submitted in writing to the city council at least 30 days prior to the meeting at which it is to be considered, together with the application fee for such submittal.

(3) *Final plat requirements.* Ten copies of the final plat and other exhibits required for approval shall be prepared as specified in section 109-27(b), and shall be submitted to the city council within six months after approval of the preliminary plat; otherwise such approval shall become null and void unless an extension of time is applied for and granted by the city council.

(4) *Public hearing; approval or disapproval.* At the discretion of the city council, a public hearing may be held. Notice of said hearing shall be published in the official city newspaper at least ten days prior to the date of the hearing. At such hearing all persons interested therein may be heard and the city council may thereafter approve or disapprove the plat. Such approval or disapproval shall be given not more than 60 days after the filing of any final plat with a formal request for its approval. The grounds for any refusal to approve a plat shall be set forth in the proceedings of the city council and reported to the person or persons applying for such approval. Plats after approval may then be recorded as now provided by law and further described in the City's Administrative Procedures Manual.

(Code 1993, § 9-17.02)

State Law reference – Effect of subdivision approval, Minn. Stats. § 462.358, subd. 3c.

Sec. 109-26 - Dividing existing lots

(a) *Procedure for dividing existing lots.*

(1) *Preapplication.* Prior to the filing of an application for conditional approval of the proposed subdivision of an existing tract of land, either by division of an existing lot, or metes and bounds description of an existing tract, the subdivider shall submit to the city council plans and data provided in section 109-25(a)(1). This step does not require formal application, fee or filing of plat with the city council.

(2) *Submission of sketch plans.* Such sketch plans will be considered as submitted for preliminary and informal discussion between the subdivider and the planning commission. Submission of a subdivision sketch plan shall not constitute formal filing of a plat.

(3) *Conformity to design standards; modifications.* As far as may be practical on the basis of a sketch plan, the planning commission will informally advise the subdivider as promptly as possible of the extent to which the proposed subdivision conforms to the design standards of this chapter and will discuss possible plan modifications necessary to secure conformance.

(b) *Conditional approval.*

(1) *Preliminary survey; supplementary material.* On reaching conclusions informally as recommended above regarding his or her general program and objectives, the subdivider shall cause to be prepared a preliminary survey, together with improvement plans and other supplementary material as specified in section 109-27.

(2) *Submission of material; application.* Six copies of the preliminary survey and supplementary material specified shall be submitted to the administrator with written application for conditional approval together with an application fee for such submittal at least 14 days prior to the planning commission meeting at which it is to be considered.

(3) *Engineering report.* The engineering consultant shall submit his or her written report concerning the engineering aspects of the project to the planning commission at least seven days prior to the meeting at which the plat is to be considered.

(4) *Compliance report.* The planning consultant shall examine the plat for compliance with this chapter and other ordinances of the city and the city's comprehensive plan and shall submit a written report to the planning commission at least seven days prior to the meeting at which the plat is to be considered.

(5) *Public hearing.* A public hearing shall be held by the planning commission after the filing of the preliminary survey. This hearing shall be held if possible, at the next regularly scheduled meeting of the planning commission. A notice of the time, place, and purpose of the hearing shall be published in the official city newspaper at least ten days prior to the date of the hearing. In addition, the city shall notify, in writing, the subdivider and each owner of affected property and property situated wholly or partly within 350 feet of the exterior boundary of the subject property.

(6) *Recommendation report.* After consideration of all hearings, reports, comments, and suggestions, the planning commission shall within 30 days after the public hearing submit to the city council, in writing, a report summarizing its recommendations and rationale concerning the preliminary survey. Copies of the engineer's and planning consultant's reports shall also be forwarded to the city council along with the preliminary survey and application.

(7) *Approval; disapproval.* Following review of the preliminary survey and other material submitted for conformity thereof to the existing regulations and ordinances of the city, and negotiations with the subdivider on changes deemed advisable and the kind and extent of improvements to be made by him or her, the council shall, within 30 days, act thereon as submitted or modified, and if approved, shall refer the preliminary survey to the planning commission for its approval or disapproval, and if disapproved, the planning commission and city council shall express its disapproval and the reasons therefor.

(8) *Action of city council noted.* The action of the city council shall be noted on two copies of the preliminary survey, referenced and attached to any conditions determined. One copy shall be returned to the subdivider and the other retained by the city council.

(9) *Conditional approval not indicative of final approval.* Conditional approval of a preliminary survey shall not constitute approval of the final survey. Rather, it shall be deemed an expression of approval to the layout submitted on the preliminary survey as a guide to the preparation of the final survey which will be submitted for approval of the city council and for recording upon fulfillment of the requirements of these regulations and the conditions of the conditional approval, if any.

(c) *Final survey.*

(1) *Conformity to preliminary survey.* The final survey shall conform substantially to the preliminary survey as approved, and, if desired by the subdivider, it may constitute only that part of the approved preliminary survey which he or she proposes to record and develop at the time, provided, however, that such portion conforms to all requirements of these regulations.

(2) *Application for approval.* Application for approval of the final survey shall be submitted in writing to the city council at least 30 days prior to the meeting at which it is to be considered.

(3) *Final survey requirements.* Ten copies of the final survey and other exhibits required for approval shall be prepared as specified in section 109-27(b), and shall be submitted to the city council within six months after approval of the preliminary survey; otherwise such approval shall become null and void unless an extension of time is applied for and granted by the city council.

(4) *Public hearing; approval; disapproval.* At the discretion of the city council, a public hearing may be held. Notice of said hearing shall be published in the official city newspaper at least ten days prior to the date of the hearing. At such hearing all persons interested shall be heard and the city council may thereafter approve or disapprove the survey. Such approval or disapproval shall be given not more than 60 days after the filing of any survey with a formal request for its approval. The grounds for any refusal to approve a survey shall be set forth in the proceedings of the city council and reported to the person applying for such approval. Surveys after approval, may then be recorded as now provided by law and further described in the city's Administrative Procedures Manual.

(Code 1993, § 9-17.03)

Sec. 109-27 - Plats and data

(a) *Conditional approval.* Topographical data required as a basis for the plat in subsection (b) of this section shall include existing conditions as follows except when otherwise specified by the city council.

(1) The date.

(2) Map scale.

(3) Name and address of: owner, subdivider, surveyor*, engineer*, designer* (*include license numbers and seals).

(4) The name of the proposed subdivision and all subdivisions adjacent to it.

(5) Description:

a. Field survey of the boundary lines of the tract giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor.

b. Descriptions, reference ties and elevations of all benchmarks.

c. Total acreage of the proposed subdivision.

(6) Existing conditions:

a. Zoning district, including exact boundary lines of the district. If more than one district, any proposed changes in the zoning district lines including dimensions and/or the zoning code text applicable to the area to be subdivided.

b. Topographic data with a contour interval of not more than two feet and showing spot elevations at all breaks in grade, along all drainage channels, and at selected points not more than 100 feet apart in all directions in extremely flat areas. Wooded areas, power transportation poles and lines, gas lines, single trees with a diameter of eight inches or more as measured three feet above the base of the trunk, and other significant existing features for the proposed subdivision and adjacent property.

c. Soils information prepared by qualified licensed professional.

d. The location, right-of-way width, and names of existing or platted streets or other public ways. Park and other public lands, permanent buildings, and structures, easements, section and corporate lines within the subdivision and to a distance 100 feet beyond.

e. The location, size, grade and direction of flow of existing sewers, water mains, culverts, drains and underground facilities on the property and to a distance of 100 feet beyond. Such elevations and locations of catch basins, inverts, manholes, hydrants and street pavement width and type.

f. Proposed public improvements, highways, or other major improvements planned by public authorities for future construction on or near the site.

g. Photographs (if required by planning commission), camera locations, direction of view, and key numbers.

(7) Design features:

a. Layout of proposed streets, alleys, pedestrian ways and easements showing right-of-way widths, gradients, and proposed street names. Preliminary dimensions of lots and blocks with their layout numbers using consecutive numbering of all lots and blocks beginning with a number "1" within the subdivision; outlots shall be designated by alphabetical order beginning with "A."

b. Areas intended to be dedicated or reserved residential lots, typical lots sizes plus information about all proposed uses within the subdivision. Minimum front and side buildings setback lines. Location, size, and gradients of proposed sanitary sewers, storm sewers, water mains, and plans for surface drainage and flood control.

(8) When required by planning commission, the petitioner shall provide the following supplemental information:

a. Profiles showing existing ground surface and proposed street grades including extensions for a reasonable distance beyond the limits of the proposed subdivision, typical cross sections of the proposed grading, roadways and sidewalks.

b. Draft of protective covenants whereby the subdivider proposes to regulate land in the subdivision and otherwise protect the proposed development.

(b) *Final plat.* Final plat shall be drawn in ink on tracing cloth on sheets and shall be at a scale of 100 feet to one inch or larger (preferred scale of 50 feet to one inch). Where necessary, the plat may be on several sheets accompanied by an index sheet showing the entire

subdivision. For large subdivisions the final plat may be submitted for approval progressively in contiguous sections satisfactory to the city council. The final plat shall show the following:

(1) State requirements by law (for clarification see Minn. Stats. § 505.02).

(2) Name of all thoroughfares.

(3) Names and locations of all public grounds.

(4) Dimensions of all lots, thoroughfares, and public grounds.

(5) All inlots, outlots, and blocks numbered in accordance with state statutes.

(6) Indication that all monuments have been set.

(7) All data necessary to locate monuments and to trace all interior and exterior boundary lines.

(8) The plat graphically shown with measurements in accordance with state statutes.

(9) Ditto marks are not to be used anywhere on the plat.

(10) Where a pond constitutes a boundary line within or on the plat, a survey line shall be shown in relation to the water line.

(11) The outside boundary lines of the plat shall close with an error not to exceed one foot in 7,500 feet.

(12) All ponds, swamps and all public highways or thoroughfares laid out, opened, or traveled (existing before platting) shall be correctly shown.

(13) Name and adjacent boundary lines of any adjoining plat.

(Code 1993, § 9-17.05)

Sec. 109-28 - Plans and data for subdivisions

While it is understood that generally a proposed subdivision of an existing lot, or conveyance by metes and bounds description will not be a development of the scope contemplated by the presentation and acceptance of a plat, the city council hereby declares that it is in the best interests of community planning and development to require the same or similar plans and data for such a subdivision, as it does for the presentation and acceptance of a plat. The city council shall require compliance with this section which is hereby made applicable to all conveyances when the parcel of land conveyed is less than 2½ acres in area and 150 feet in width.

(Code 1993, § 9-17.06)

Sec. 109-29 - Fees and costs

The zoning administrator shall charge each applicant for subdivision or platting approval such fees as may be prescribed therefor by ordinance. Each applicant shall also pay all legal, engineering, planning, and similar out-of-pocket costs incurred by the city in connection with the

respective matter. The zoning administrator with the approval of the city council may require each applicant to deposit with the city in escrow a cash amount based on an estimate by the zoning administrator of such fees and costs. Any surplus shall be refunded to and any additional costs paid by the applicant. The obligation to pay such fees and costs shall not be affected by the disposition of the matter.

(Code 1993, § 9-17.08)

Secs. 109-30 – 109-46 - Reserved

ARTICLE III - DESIGN STANDARDS[3]

Sec. 109-47 - Streets

(a) *Conformity to master plan.* The arrangement, character, extent, width, grade and location of all streets shall conform to the city's master plan and shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety and in their appropriate relation to the proposed uses of the land to be served by such streets.

(b) *Reserve strips.* Reserve strips controlling access to streets shall be prohibited except where their control is definitely placed in the city under conditions approved by the city council.

(c) *Street job requirement.* Street jobs with centerline offsets of less than 125 feet shall be avoided.

(d) *Street, street line requirements.* When connecting street lines deflect from each other at any one point by more than ten degrees they shall be connected by a curve with a radius adequate to facilitate safe driving conditions and provide a pleasing appearance. Streets shall be laid out so as to intersect at a minimum of 90 degrees included angle.

(e) *Curbline requirements.* Curblines at street intersections shall be rounded with a radius of 15 feet, or of a greater radius where the city council may deem it necessary. The city council may permit comparable cutoffs or chords in place of rounded corners.

(f) *Right-of-way widths.* Street right-of-way widths shall be as shown in the city's master plan and where not shown therein shall be not less than as provided in this article.

(Code 1993, § 9-17.04(1))

Sec. 109-48 - Right-of-way

(a) *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 where the city council finds it will be practicable to require the dedication of the other half when the adjoining property is subdivided. Wherever a half street is adjacent to a tract to be subdivided, the other half of the street shall be platted within such tract.

(b) *Dead-end streets.* Dead-end streets, designed to be so permanently, shall not be longer than 400 feet and shall be provided at the closed end with a turnaround having an outside roadway diameter of at least 80 feet, and a street property line diameter of at least 100 feet.

(c) *Street names.* Street names shall be subject to the approval of the city council.

(d) *Street grades.* Street grades, wherever feasible, shall meet current policies of the American Association of State Highway Officials for urban areas (AASHO).

(e) *Street grade requirement.* No street grades shall be less than one percent.

(Code 1993, § 9-17.04(2))

Sec. 109-49 - Alleys

(a) Alleys shall be provided to commercial and industrial districts, except that the city council may waive this requirement where other definite and assured provision is made for service access, such as off-street loading, unloading, and parking consistent with and adequate for the uses proposed.

(b) The width of an alley shall be a minimum of 20 feet.

(c) Alley intersections and sharp changes in alignment shall be avoided, but where necessary, corners shall be cut off sufficiently to permit safe vehicular movement.

(d) Dead-end alleys shall be avoided.

(Code 1993, § 9-17.04(3))

Sec. 109-50 - Easements

(a) Easements across lots or centered on rear or side lot lines shall be provided for utilities where necessary and shall be at least ten feet wide.

(b) Where a subdivision is traversed by a watercourse, drainageway, channel or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially with the lines of such watercourse, and such further width or construction, or both, as will be adequate for the purpose. Parallel streets or parkways may be required in connection therewith.

(c) The lengths, widths, and shapes of blocks shall be determined with due regard to:

(1) Provision of adequate building sites suitable to the special needs of the type of use contemplated;

(2) Zoning requirements as to lot sizes and dimensions;

(3) Needs for convenient access, circulation, control and safety of street traffic;

(4) Limitations and opportunity of topography.

(d) Block lengths shall not exceed 1,000 feet or be less than 300 feet.

(Code 1993, § 9-17.04(4))

Sec. 109-51 - Lots

(a) The lot size, width, depth, shape and orientation and the minimum building setback lines shall be appropriate for the location of the subdivision and for the type of development and use contemplated.

(b) Lot dimensions shall conform to chapter 113, zoning.

(Code 1993, § 9-17.04(5))

Sec. 109-52 - Public sites and open spaces

(a) Where a proposed park, playground, school or other public use shown in a city's master plan is located in whole or in part in a subdivision, the city council may require the dedication or reservation of such area within the subdivision in those cases in which the planning commission deems such requirements to be reasonable.

(b) Where deemed essential by the city council, upon consideration of the particular type of development proposed in the subdivision, and especially in large-scale neighborhood unit developments not anticipated in the city's master plan, the city council may require the dedication or reservation of such other areas or sites of a character, extent and location suitable to the needs created by such development for schools, parks and other neighborhood purposes.

(Code 1993, § 9-17.04(6))

Sec. 109-53 - Parkland dedication

(a) As a condition to approval of any subdivision of land, the owner shall dedicate a portion of the gross area of such land for public park, playground, open space, trail system or other public recreational purposes according to the following schedule:

(1) Eight percent for land zoned R-1 one-family residential district;

(2) Nine percent for land zoned R-2 two-family residential district;

(3) Ten percent for land zoned R-4 medium density multiple-family district - apartment buildings;

(4) Ten percent for land zoned R5-M mixed use high density residential district;

(5) Ten percent for land zoned B business district; and

(6) Prorated percentage according to subsections (1)-(4) of this section for land zoned planned unit development district.

(b) The land to be dedicated for public purposes under subsection (a) of this section shall be reasonably adaptable to the use intended, shall be at a location convenient to people to be served thereby, and shall not be used in computing compliance with open space or density requirements under chapter 113, zoning.

(c) The area of land required to be dedicated for said purposes shall be reduced by not more than one-half by the area of land in the subdivision which by restrictive covenant or other instrument on terms satisfactory to the city will be available as a common area for use by owners or occupants of such land.

(d) At the option of the city and in lieu of such dedication, the owner shall pay to the city for such purposes a cash payment equal to the fair market value of the land that would otherwise be required to be dedicated under this section.

(e) The dedication requirements are presumptively appropriate. A subdivider may request a deviation from the presumptive requirements based upon the anticipated impact of that particular subdivision. The request must be made before final subdivision approval by the city.

(f) Property being subdivided without an increase in the number of lots shall be exempt from the dedication requirements if similar requirements were satisfied in conjunction with an earlier subdivision. If the number of lots is increased, then the dedication shall be based on the additional lots created.

(Code 1993, § 9-17.04(7); Ord. No. 11-04, § 1, 9-14-2011)

Footnotes:

[1] **State Law reference –** Subdivision regulations, Minn. Stats. § 462.358.

[2] **State Law reference –** Review procedures required, Minn. Stats. § 462.358, subd. 3b.

[3] **State Law reference** – Design standards authorized, Minn. Stats. § 462.358, subd. 2a.

Chapter 113 - ZONING[1]

Article/Division/Section:

ARTICLE I - IN GENERAL

Sec. 113-1 - Purpose and intent

The purpose and intent of this chapter is to:

(1) Protect and promote the health, safety, comfort, convenience and general welfare of the people who are citizens of, reside in, transact business in or own property in the city;

(2) Divide the city into zones and districts to restrict and regulate therein the location, construction, reconstruction, alteration and improvements of land and structures thereon;

(3) Promote the orderly development of the residential, business, industrial, recreational, and public uses;

(4) Provide adequate light, air, and convenience of access to property;

(5) Limit congestion in the public rights-of-way;

(6) Prevent overcrowding of land and undue concentration of structures by regulating the use of land and buildings and the bulk of buildings in relation to the land and buildings surrounding them;

(7) Provide for the compatibility of different land uses and the most appropriate use of land throughout the city;

(8) Stage development and redevelopment to coincide with the availability of necessary public services;

(9) Protect the character and maintain the stability of residential, business, and commercial and industrial areas within the city, and prohibit uses, buildings, or structures which are incompatible with the character of development in such areas;

(10) Provide adequate privacy;

(11) Provide protection against fire, explosions, obnoxious fumes, and other hazards in the interest of public health, safety and comfort;

(12) Prevent environmental pollution;

(13) Prevent the destruction or improvident exploitation of community resources;

(14) Preserve the value of land and buildings throughout the city;

(15) Provide for the gradual elimination of those uses of land, buildings, structures, and improvements, and of those buildings, structures and improvements, which do not conform to the standards for the areas in which they are located and which may adversely affect the development and the value of property in such areas;

(16) Provide for the regulation and control of such nonconforming buildings, structures, or improvements and uses of land as is necessary or appropriate for the rehabilitation of the areas blighted thereby;

(17) Provide for the enforcement of this chapter, to define and limit the powers and duties of the administrative officers and agencies responsible therefor, and to provide penalties for the violation of the provisions herein contained;

(18) Provide for the wise use and conservation of energy resources; and

(19) Assist in the implementation of the comprehensive city plan.

(Code 1993, § 9-1.01)

State Law reference – General purposes of zoning, Minn. Stats. § 462.357, subd. 1.

Sec. 113-2 - Chapter cumulative

(a) *No consent or permit implied.* Nothing contained in this chapter shall be deemed to be a consent, license or permit to use any property or to locate, construct or maintain any building, structure, facility, improvement or to carry on any trade, industry, occupation or activity.

(b) *Provisions cumulative.* Except as herein provided, the provisions of this chapter are cumulative, both with respect to the provisions herein contained and with respect to other laws and ordinances, not in effect or hereafter ordained or enacted, governing the same subject matters as this chapter. It is noted, however, that the land use districts are mutually exclusive in that uses permitted include only those listed and are not cumulative from district to district. Land uses not listed as permitted are prohibited.

(Code 1993, § 9-1.02(1))

Sec. 113-3 - Definitions

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accessory building means a subordinate building which is located on the same lot as the main building and the purpose of which is clearly incidental to that of the principal building.

Accessory dwelling unit means a second dwelling unit contained within a single-family

dwelling or within a detached building located on the same lot as a single-family dwelling. This definition includes accessory dwelling units constructed in connection with a private garage, a private garage converted into an accessory dwelling unit, or a newly constructed detached building located on the same lot as a single-family dwelling.

Accessory use means a use incidental or subordinate to the principal use of the same land.

Administrator means the zoning administrator of the city.

Adult uses, defined but not allowed in any district, and includes the following:

(1) *Adult entertainment center* means an enclosed building or a part of an enclosed building, no portion of which enclosed building is licensed to sell liquor, which contains one or more coin-operated mechanisms which when activated permit a customer to view a live person unclothed or in such attire, costume or clothing as to expose to view any portion of the female breast below the top of the areola, or any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals, or the charging of any admission or fee for the viewing of any such activity.

(2) *Adults-only bookstore* means an establishment having as a substantial or significant portion of its stock in trade, books, magazines, films for sale or viewing on premises by use of motion picture devices or other coin-operated means, and other periodicals which are distinguished or characterized by their principal emphasis on matters depicting, describing or relating to nudity, sexual conduct, sexual excitement or sadomasochistic abuse, as defined in this section, or an establishment with a segment or section devoted to the sale or display of such material, for sale to patrons therein.

(3) *Adults-only motion picture theater* means an enclosed building used regularly and routinely for presenting programs, material distinguished or characterized by an emphasis on matter depicting, describing or relating to nudity, sexual conduct, sexual excitement or sadomasochistic abuse, as defined in this section, for observation by patrons therein.

(4) *Massage parlor* means an establishment or place primarily in the business of providing massage services but not a therapeutic massage enterprise as defined in this section.

(5) *Rap parlor* means an establishment or place primarily in the business of providing nonprofessional conversation or similar services for adults.

(6) *Sauna* means an establishment or place primarily in the business of providing a steam bath and massage services.

Affordable apartment building means that at least 50 percent of the units are reserved for persons whose income is no more that 60 percent of the median, an additional 20 percent of the units are reserved for persons whose income is no more that 110 percent of the median and at least ten percent of the units are reserved for persons whose income is no more that 150 percent of the median for the Twin Cities metropolitan area.

Agricultural building means a structure on agricultural land as defined in "farm, rural" of this section designed, constructed, and used to house farm implements, livestock or agricultural produce or products used by the owner, lessee or sublessee of the building and members of their immediate families, their employees and persons engaged in the pickup or delivery of agricultural produce or products.

Agriculture. See Farm, rural (agriculture) and Farm, suburban (agriculture).

Alley means public right-of-way giving secondary access to abutting property.

Amusement devices means any game of skill or chance requiring the payment of money to play or operate.

Amusement establishment means any building, area, or place whose principal purpose is providing entertainment derived from the operation of amusement devices.

Animal unit means a unit of measure used to compare differences in the production of animal wastes which has a standard as the amount of waste produced on a regular basis by a slaughter steer or heifer.

Animals, domestic pets means dogs, cats, birds, and similar animals commonly kept in a residence. Animals considered wild, exotic or nondomestic, such as bears, lions, wolves, ocelots, and similar animals shall not be considered domestic pets.

Animals, farm, means cattle, hogs, horses, bees, sheep, goats, chickens and other animals commonly kept for commercial food-producing purposes.

Antenna means equipment used for transmitting or receiving telecommunication, television, or radio signals, or other 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.

Antenna, commercial means any pole, spire or structure, or any combination, to which an antenna is, or could be, attached, or which is designed for an antenna to be attached, and all supporting lines, cables, wires and braces erected for the commercial use of information.

Antenna, satellite dish means a parabolic-shaped antenna (including all supporting apparatus) used for receiving television signals, which is located on the ground or exterior of, or outside of, any building or structure.

Apartment means a room or suite of rooms with cooking facilities designed to be occupied as a residence by a single family.

Apartment building. The term "apartment building" means a multifamily dwelling that may be owner occupied or rental, including condominiums and cooperatives.

Apparel and accessory stores means retail stores primarily engaged in selling new clothing, shoes, hats, underwear, and related articles for personal wear and adornment. Uniform stores, furriers, and custom tailors carrying stocks of materials are included.

Applicant means any individual, partnership, corporation, association, society or group seeking and/or receiving a special event permit from the city.

Area, net developable means those lands within a development parcel remaining after the deletion of floodplains, wetlands, slopes greater than 12 percent, and unbuildable easements or rights-of-way.

Attorney means the city attorney of Falcon Heights.

Auto or motor vehicle reduction yard means a lot or yard where one or more unlicensed motor vehicles, or the remains thereof, are kept for the purpose of dismantling, wrecking, crushing, repairing, rebuilding of parts, sale as scrap, storage, or abandonment. (See also Junkyard.)

Automobile repair establishments means establishments primarily engaged in general automotive repair, including the installation, repair, or sale and installation of automotive

exhaust systems and automotive transmissions.

Automobile service station (gas station; service station) means a place where any motor fuel, lubricating oil or grease for operating motor vehicles is offered for sale to the public and deliveries are made directly into motor vehicles. This definition includes greasing, oiling or sale of automobile accessories on the premises. This definition also includes minor repairs and replacement of 1½ tons capacity. This definition includes a private site where sales and service are not offered to the general public but motor fuel is stored and deliveries are made directly to employee, company owned, or leased motor vehicles. Such private service stations shall comply with all standards as outlined in section 113-383.

Barbershops means establishments primarily engaged in furnishing barber and men's hair styling services, including barber colleges.

Basement means a portion of a building between the floor and ceiling, located partly above and partly below grade and having one-half or less of its floor-to-ceiling height below the average grade of the adjoining ground. Underground houses that meet all other requirements of the building code shall not be considered basements.

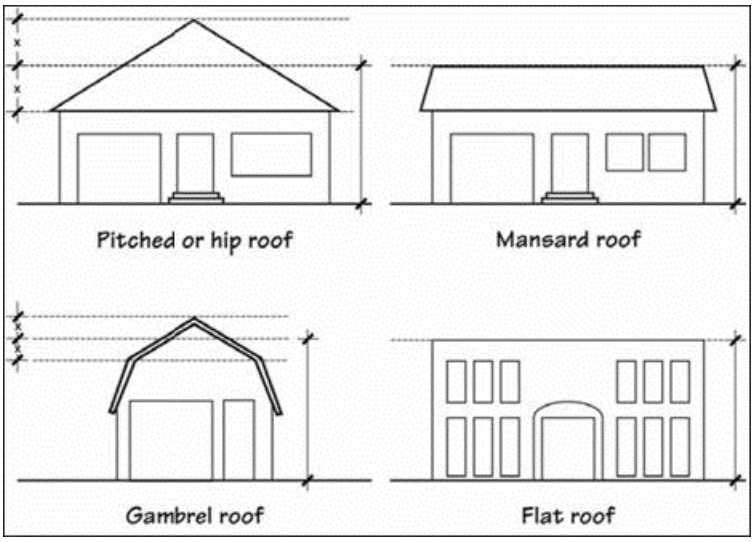
Beauty shops means establishments primarily engaged in furnishing beauty or hairdressing services. Beauty and cosmetology schools are included in this industry. Beauty shops include beauty and barber shops (combined), beauty culture schools, beauty shops or salons, cosmetology shops or salons, facial salons, hairdressers, manicure and pedicure salons, and unisex hairdressers.

Boardinghouse means a building other than a motel or hotel where, for compensation and by pre-arrangement for definite periods, meals or lodging are provided for three or more unrelated persons.

Building means any structure, either temporary or permanent, having a roof and used or built for the shelter or enclosure of any person, animal, or property of any kind. When any portion thereof is completely separated from every other part thereof by area separation, each portion of such building shall be deemed as a separate building.

Building code means the Minnesota State Building Code as adopted by the city.

Building height means the vertical distance between the average grade level at the building line and the uppermost point on a flat roof, to the mean distance of the highest gable on a pitched, hip, or gambrel roof, to the deck line of a mansard roof, and to the uppermost point on all other roof types.



Middle line on images for pitched/hip and gambrel roofs denotes mean distance. Image for reference only. Refer to city Code for complete definition.

Building official means the officer or other designated authority, certified by the state, charged with the administration and

enforcement of the Minnesota State Building Code, or his or her duly authorized representative.

Building setback means the minimum horizontal distance between the building and the lot line.

Building setback line means a line within a lot parallel to a public right-of-way line, a side or rear lot line, a bluff line, or a high water mark or line, behind which buildings or structures must be placed.

Business means any occupation, employment, or enterprise wherein merchandise is exhibited or sold, or where services are offered for compensation.

Cable and other pay television services means establishments primarily engaged in the dissemination of visual and textual television programs, on a subscription or fee basis. Establishments which are primarily engaged in cable casting and which also produce taped program materials are included.

Carport means an automobile shelter having one or more sides open.

Cellar means that portion of the building having more than one-half of the clear floor-to-ceiling height below the average grade of the adjoining ground. Underground buildings that meet all other requirements of the building code shall not be considered cellars.

Church means a building, together with its accessory buildings and uses, where persons regularly assemble for religious worship and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

Club or *lodge* means a nonprofit association of persons who are bona fide members paying annual dues, and the use of their premises being restricted to members and their guests. Serving of alcoholic beverages to members and their guests may be allowed providing such serving is secondary and incidental to the operation of a dining room for the purpose of serving food and meals.

Commercial art services means establishments primarily engaged in providing commercial art or graphic design services for advertising agencies, publishers, and other business and industrial users.

Commercial automobile repair means the replacement of any part or repair of any part which does not require the removal of the engine head or pan, engine, transmission, or differential; incidental body and fender work, minor painting and upholstering service when said service is applied to passenger automobiles and trucks not in excess of 7,000 pounds gross vehicle weight.

Commercial food producing farm operations. See Farm, rural.

Commercial photography services means establishments primarily engaged in providing commercial photography services for advertising agencies, publishers, and other business and industrial users.

Commercial recreation means bowling alley, cart track, jump center, golf, pool hall, vehicle racing or amusement, dance hall, skating, tavern, theater, firearms range and similar uses.

Community means the City of Falcon Heights except as otherwise indicated.

Comprehensive municipal plan means the policies, statements, goals, and interrelated plans for private and public land and water use, transportation and community facilities, including recommendations for planned execution, documented in texts, ordinance, code and maps, which

constitute the guide for the future development of the community or any portion of community, as on file with the city planning commission. This shall include the city comprehensive plan and all subsequent amendments, additions, and elements developed as per requirements of the Metropolitan Land Planning Act (Minn. Stats. §§ 473.851—473.871)

Computer programming, and data processing services means establishments primarily engaged in providing computer programming and data preparation and processing services. Establishments of this industry perform a variety of additional services, such as computer software design and analysis; modifications of custom software; and training in the use of custom software. Also included are application software programming, computer code authors, computer programs or systems software development (custom), computer software writers (freelance), software programming, calculating service, computer time-sharing, data entry, data processing, data verification, keypunch, leasing of computer time, optional scanning, rental of computer time, service bureaus (computer), and tabulating.

Conditional use means a use which is generally appropriate in a specified zoning district but requires special planning considerations and, in certain instances, unusual and extraordinary limitations peculiar to the use for the protection of the public health, safety and welfare or the integrity of the Falcon Heights comprehensive plan.

Condominium. See Dwelling, multiple or apartment building.

Convenience store means a retail establishment that generally sells a limited range of food products, nonprescription drugs, candy and other perishable goods. This includes soda and similar beverage dispensing and food products, which can be heated and/or prepared on site.

Council means the governing body of the City of Falcon Heights, Minnesota.

Curb level means the grade elevation of the curb in front of the center of the building. Where no curb has been established, the city engineer shall determine a curb level or its equivalent for the purpose of this chapter.

Dance studios, schools and halls means establishments primarily engaged in operating dance studios, schools, and public halls or ballrooms.

Depth of lot means the horizontal distance between the frontage right-of-way line and rear lot line. On a corner lot, the side with the largest frontage is its depth, and the side with the lesser frontage is its width.

Depth of rear yard means the horizontal distance between the rear building line and the rear lot line.

Development means any manmade change to real estate, including but not limited to construction or reconstruction of buildings, installing manufactured homes or travel trailers, installing utilities, construction of roads or bridges, erection of levees, walls, or fences, drilling, mining, filling, dredging, and storage of materials.

Disposal area, on-site sewage treatment means that ground within the confines of the lot that does not contain buildings and has an elevation of at least 80 inches above the highest known or calculated water table or bedrock formation; does not slope in excess of 13 percent; and meets the requirements of permeability as determined by the rate of water percolation in the soil.

Dredging means the process by which soils or other surface materials, normally transported by surface water erosion into a body of water, are removed for the purpose of deepening the body of water.

Drinking establishments, bars and taverns means establishments primarily engaged in the retail sale of alcoholic drinks, such as beer, ale, wine, and liquor, for consumption on the premises.

Drive-in means any use where products and/or services are provided to the customer under conditions where the customer does not have to leave the car or where service to the automobile's occupants is offered regardless of whether service is also provided within a building. This shall include, but not necessarily be limited to, the following: car and truck wash, drive-in banking, restaurants where some or all customers may consume their food and/or beverages in an automobile, restaurants providing carryout or delivery service, service stations, parcel pick-up, and similar uses.

Drive-through facility means the use of land, buildings or structures, or parts thereof, to provide or dispense products or services, either wholly or in part, through an attendant or window or automated machine, to persons remaining in motorized vehicles that are in a designated stacking lane. A drive-through facility may be permitted only as an accessory use in combination with a bank of financial institution. A drive-through facility does not include a vehicle washing facility, a vacuum cleaning station accessory to a vehicle washing facility, or an automobile/gasoline service station.

Drugstores/pharmacies means establishments engaged in the retail sale of prescription drugs, proprietary drugs, and nonprescription medicines, and which may also carry a number of related lines, such as cosmetics, toiletries, tobacco, and novelty merchandise. These stores are included on the basis of their usual trade designation rather than on the stricter interpretation of commodities handled. This industry includes drugstores which also operate a soda fountain or lunch counter.

Dwelling means a building or one or more portions thereof occupied or intended to be occupied exclusively for human habitation, but not including rooms in hotels, motels, nursing homes, boardinghouses, nor trailers, tents, cabins, or trailer coaches. (See also Dwelling unit.)

Dwelling, attached, means a dwelling that is joined to another dwelling at one or more sides by a party wall or wall.

Dwelling, detached, means a dwelling that is entirely surrounded by open space on the same lot.

Dwelling, duplex or two-family, means a residential building containing two complete dwelling units.

Dwelling, multifamily, means a residential building, or portion of a building, containing three or more dwelling units which may or may not be served by a common entrance.

Dwelling, single-family, means a residential building containing one detached dwelling unit.

Dwelling, townhouse, means a residential building containing two or more dwelling units with at least one common wall, each unit so oriented as to have all exits directly to the out-of-doors.

Dwelling unit means a residential accommodation including complete kitchen and bathroom facilities, permanently installed, which is arranged, designed, used, or intended for use exclusively as living quarters for one family.

Dwelling unit, attached. See accessory dwelling unit.

Earth-sheltered buildings means any building constructed so that 50 percent or more of the

exterior surface is covered or in contact with earth. Exterior surface includes all walls and roof, but excludes garages and other accessory buildings. Earth covering on walls is measured from the floor of the structure's lowest level. Earth covering on the roof must be at least 12 inches deep to be included in calculations of earth covering. Partially completed buildings shall not be considered earth-sheltered buildings. Earth-sheltered buildings are permitted by conditional use permit only.

Eating establishments means establishments primarily engaged in the retail sale of prepared food and drinks for on-premises or immediate consumption. Caterers and industrial and institutional food service establishments are also included in this industry.

Educational institution means a college or university authorized by the state to award degrees.

Electric vehicle means any vehicle that operates either partially or exclusively on electrical energy from an off-board source that is stored on board.

Electric vehicle charger means battery charging equipment that has as its primary purpose the transfer of electric energy (by conductive or inductive means) to a battery or other energy storage device in an electric vehicle.

Electric vehicle charger-private means an electric vehicle charger with restricted access to the public.

Electric vehicle charger-public means an electric vehicle charger that is publicly available or available to visitors of the primary use.

Electric vehicle supply equipment means any equipment or electric component used in charging electric vehicles at a specific location.

Engineer means the City Engineer of Falcon Heights.

Essential services (governmental uses, building, and storage) means governmental services such as office buildings, garages, temporary open space, open storage when not the principal use, fire and police stations, recreational areas, training centers, correctional facilities, or other essential uses proposed by federal, state, county, local, special districts, and school districts, except that schools shall not be permitted under this provision.

Essential services (public utility uses) means underground or overhead gas, electrical, steam, or water distribution systems, collection, communication, supply, or disposal system including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, or other similar equipment and accessories; but not including buildings or transmission services.

Essential services (public utility uses, transmission services, buildings and storage) means transmission service such as electrical power lines of a voltage of 35 kv or greater, or bulk gas or fuel being transferred from station to station and not intended for en route consumption or other similar equipment and accessories.

Exterior storage (includes open storage) means the storage of goods, materials, equipment, manufactured products, and similar items not fully enclosed by a building.

Family means an individual, or two or more persons each related by blood, marriage, domestic partnership, adoption, or foster care arrangement living together as a single housekeeping unit, or group of not more than four persons not so related, maintaining a

common household.

Farm, rural (agriculture) means a rural farm is a commercial food-producing use on ten or more contiguous acres and as defined under a portion of the Minnesota Agricultural Property Tax Law (Minn. Stats. § 273.111).

Farm, suburban (agriculture) means a suburban farm is a noncommercial food-producing use primarily intended for the use of the residents, and usually on less than ten contiguous acres. Suburban agricultural uses may include production of crops such as fruit trees, shrubs, plants, flowers, vegetables, and domestic pets.

Farmer's market means an open-air public market at which vendors sell farm products directly to consumers.

Feed lot means the place of housing or feeding of livestock or other animals for food, fur, pleasure, or resale purposes in yards, lots, pens, buildings, or other areas not normally used for pasture or crops and in which substantial amounts of manure or related other wastes may originate by reason of such feeding of animals.

Fence means a partition, structure, wall, or gate erected as a dividing marker, visual or physical barrier, or enclosure.

Fill means any act by which soil, earth, sand, gravel, rock, or any similar material is deposited, placed, pushed, or transported and shall include the conditions resulting therefrom.

Final plat means a drawing or map of an approved subdivision, meeting all requirements of the subdivision chapter, and in such form as required by the community for purposes of recording.

Financial institution means a place of business where people store, borrow and exchange money including banks, trust companies, savings banks, savings and loan associations, credit unions, check cashing facilities, and loan and thrift companies.

Firearm means any weapon (including starter gun) which will, can, or is designed to, or may readily be converted to expel any missile, projectile, bullet or other mass through a barrel by means of explosives or gas or air or electronic mechanism, and any frame, receiver, muffler or silencer of any such weapon, but excluding the following: children's toy guns, "BB" guns, antique firearms, scuba guns, medical instruments, industrial tools such as stud and nail guns and any replica of any firearm which replica cannot, is not designed to, and cannot be readily converted to, expel any missile, projectile, bullet or other mass through a barrel by any means.

Firearm, antique means any firearms (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before 1898.

Firearms dealer means a person who is federally licensed to sell firearms and operates a gun shop in which firearms are sold from a permanent business location or any person engaged in the business of repairing firearms or making or fitting special barrels, stocks or trigger mechanisms to firearms.

Flood means a general and temporary condition of partial or complete inundation of normally dry land areas from overflow of inland or tidal waves, or the unusual and rapid accumulation or runoff of surface waters from any source.

Floodplain or *flood prone area* means any land area susceptible to being inundated by water from any source (see Flood).

Flood-proofing means any combination of structural and nonstructural additions, changes or

adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floor area means a gross area of the main floor of a residential building measured in square feet and not including an attached garage, breezeway, or similar attachment.

Floor area gross means the sum of the gross area of the various floors of a building measured in square feet. The basement floor area shall not be included unless such area constitutes a story.

Floor area ratio means the numerical value obtained through dividing the gross floor area of a building by the net area of the lot or parcel of land on which such building are located.

Floor plan, general, means a graphic representation of the anticipated use of the floor area within a building or structure.

Florists means establishments primarily engaged in the retail sale of cut flowers and growing plants. This excludes retail nurseries and lawn and garden supply stores.

Food stores means retail stores primarily engaged in selling food for home preparation and consumption. Included are grocery and convenience food stores, meat and fish markets, fruit and vegetable markets, candy, nut, and confectionery stores, dairy products stores, retail bakeries, retail coffee stores, spice and herb stores, retail water and mineral water stores, and vitamin food stores.

Footing means the foundation below frost line as prescribed by the building code.

Frontage means that boundary of a lot that abuts a public street or private road.

Fuel dealers means establishments primarily engaged in the retail sale of fuel oil, liquefied petroleum gas (bottle gas), and coal and wood dealers.

Garage, private, means a detached accessory building or portion of the principal building, including a carport, which is used primarily for the storing of passenger vehicles, trailers, recreational vehicles, or farm trucks.

Garage, public, means a building or portion of a building, where vehicles are kept for remuneration or hire and in which any sale of gasoline, oil, and accessories is only incidental to the principal use.

Garment pressing, and agents for laundries and dry cleaners means establishments primarily engaged in providing laundry and dry cleaning services but which have the laundry and dry cleaning work done by others. Establishments in this industry may do their own pressing, finishing work, alterations and incidental repairs.

Governing body means the city council of the City of Falcon Heights, Minnesota.

Group home, large, means a state licensed residential facility serving from seven through 16 persons or a licensed day care facility serving from 13 through 16 persons.

Gun shop means a building or a portion of a building occupied by a firearms dealer that has devoted some portion of its floor area to the sale of firearms or ammunition.

Hardware stores means establishments primarily engaged in the retail sale of a number of basic hardware lines, such as tools, builders' hardware, paint and glass, housewares and household appliances, and cutlery.

Health care, offices and clinics means establishments of health practitioners engaged in furnishing medical, surgical and other health services to persons, but does not include inpatient

health care services. Included are individual practitioners, group clinics in which a group of practitioners are associated for the purpose of carrying on their profession, and clinic which provide the same services through practitioners that are employees. Practitioners may or may not be licensed or certified, depending on state law.

Home furnishing; appliance and equipment stores means retail stores selling goods used for furnishing the home such as furniture, floor coverings, draperies, glass and chinaware, domestic stoves, refrigerators, other household electrical and gas appliances, radios, televisions, computers and software, consumer electronics, prerecorded audio and video tapes and discs, music, and musical instruments. Establishments selling electrical and gas appliances are included in this group only if the major part of their sales consists of articles for home use.

Home occupation means an occupation carried on in a dwelling unit by the resident thereof, provided that the use is limited in extent and incidental and secondary to the use of the dwelling unit for residential purposes and does not change the character thereof.

Hotels and motels means commercial establishments, known to the public as hotels, motor hotels, motels, or tourist courts, primarily engaged in providing lodging, or loading and meals, for the general public. Hotels which are operated by membership organizations and open to the general public are included in this industry. Also included are auto courts, bed and breakfast inns, cabins and cottages, casino hotels, hostels, hotels (except residential), inns (furnishing food and lodging), motels, recreational hotels, resort hotels, seasonal hotels, ski lodges and resorts, tourist cabins, and tourist courts.

Institutional housing means housing for students, nurses, the mentally ill, infirm, elderly, physically retarded, and similar housing of a specialized nature.

Junkyard means an area where discarded or salvaged materials are bought, sold, exchanged, stored, baled, cleaned, packed, dissembled, or handled, including but not limited to scrap iron and other metals, papers, rags, rubber products, bottles, and used building materials. Storage of such material in conjunction with a permitted manufacturing process when within an enclosed area or building shall not be included.

Kennel, commercial, means any place where four or more of any type of domestic pets, over four months of age, are boarded, bred, trained, or offered for sale.

Kennel, private, means any place where four or more of any type of domestic pets, over four months of age, are owned by any member or members of the household.

Land alteration means the excavation or grading of land involving movement of earth and materials in excess of 100 cubic yards.

Land reclamation means the reclaiming of land by depositing material so as to elevate the grade or depositing of a total of more than 50 cubic yards of material per lot or parcel, either by hauling in or regrading the area.

Landscaping means planting trees, shrubs, and turf such as grasses and shrubs.

Laundries, power, means establishments primarily engaged in opening mechanical laundries with steam or other power. Included are family and commercial power laundries, and laundry collecting and distributing outlets operated by power laundries.

Laundromats, self-serve, means establishments primarily engaged in the operation of coin-operated or similar self-service laundry and dry cleaning equipment for use on the premises, or in apartments, dormitories, and similar locations.

Laundry and garment services means establishments primarily engaged in furnishing laundry and garment services such as the repair, alteration, and storage of clothes for individuals and for the operation of hand laundries. Included are diaper services and dressmaking services.

Loading space means a space, accessible from a street, alley, or way, in or outside of a building, for the use of trucks while loading and unloading merchandise or materials.

Lodging room means a room rented as sleeping and living quarters, but without cooking facilities. In a suite of rooms without cooking facilities, each room which provides sleeping accommodations shall be counted as one lodging room.

Lot means a parcel of land designated by metes and bounds, registered land survey, plat, or other means, and which description is either recorded in the office of the county recorder or registrar of titles or used by the county treasurer or county assessor to separate such parcel from other lands for tax purposes. The word "lot" shall include the words "piece," "parcel," and "plots;" the word "building" includes all other structures of every kind regardless of similarity to buildings; and the phrase "used for" shall include the phrases "arranged for," "designed for," "intended for," "maintained for," and "occupied for."

Lot area means the area of the horizontal plane within the lot lines.

Lot area, minimum per dwelling unit means the minimum number of square feet or acres of lot area required per dwelling unit.

Lot, buildable, means a lot which meets or exceeds all requirements of the city land use and development ordinances without the necessity variances.

Lot, corner, means a lot situated at the junction of, and abutting on two or more intersecting streets; or a lot at the point of a deflection in alignment of a single street, the interior angle of which does not exceed 135 degrees.

Lot depth means the mean horizontal distance between the front and rear lines of a lot.

Lot, interior, means a lot other than a corner lot, including through lots.

Lot line means the property line bounding a lot except that where any portion of a lot extends into a public right-of-way or a proposed public right-of-way, the line of such public right-of-way shall be the lot line.

Lot line, front, means that boundary of a lot which abuts a public street or a private road. In the case of a corner lot, it shall be the shortest dimension of a public street. If the dimensions of a corner lot are equal, the front lot line shall be designated by the owner. In the case of a corner lot in a nonresidential area, the lot shall be deemed to have frontage on both streets.

Lot line, rear, means that boundary of a lot which is opposite to the front lot line. If the rear lot line is less than ten feet in length, or if the lot forms a point at the rear, the rear lot line shall be a line ten feet in length within the lot, parallel to, and at the maximum distance from the front lot line.

Lot line, side, means any boundary of a lot which is not a front lot line or a rear lot line.

Lot, through and *double frontage* mean:

(1) Any lot other than a corner lot which abuts more than one street. On a through lot, all the street lines shall be considered the front lines for applying this chapter; or

(2) A lake or stream frontage lot having a public road as one lot line and a water body at the opposite lot line.

Lot width means the horizontal distance between the side lot lines of a lot measured at the setback line.

Mailing services means establishments primarily engaged in furnishing services for direct mail advertising, such as creating, producing, and mailing of direct mail advertising. This industry also includes establishments primarily engaged in compiling and selling mailing lists.

Manufacturing, general, means all manufacturing, pounding, processing, packaging, treatment, or assembly of goods or materials which involve a risk of offensive or dangerous noise, odor, or pollution beyond the lot on which the use is located. Such uses include, but are not limited to, the following: sawmill; refineries; commercial feedlots; acid; cement; explosives; flour, feed, and grain milling or storage; meat packing, slaughterhouses; coal or tar asphalt distillation; rendering of fat, grease, lard, or tallow; alcoholic beverages; poisons; exterminating agents; glue; lime; gypsum; plaster of Paris; tanneries; automobile parts; paper and paper products including storage; electric power generation facilities; vinegar works; junkyards; auto reduction yards; foundry; forge; casting of metal products; rock, stone, cement products, poultry keeping, processing and slaughter.

Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designated for use with or without a permanent foundation when attached to the required utilities.

Manufacturing, limited, means all compounding, processing, packaging treatment, or assembly of goods and materials, provided such use will not involve the risk of offensive odors, glare, smoke, dust, noise, vibrations, or other pollution extending beyond the lot on which the use is located. Such uses include, but are not limited to, the following: lumberyards, machine shops, products assembly, sheet metal shops, plastics, electronics, general vehicle repair (repair garage), body work and painting, contractor shops and storage yard, food and nonalcoholic beverages, signs and displays, printing, publishing, fabricated metal parts, appliances, clothing, textiles, and used auto parts.

Manure means any solid or liquid containing animal excreta.

Massage means 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.

Measured distances means the nearest foot. If a fraction is one-half foot or less, the "integral foot" next below shall be taken.

Medical uses means those uses concerned with the diagnosis, treatment, and care of human beings. These include: hospitals, dental services, medical services or clinic, nursing or convalescent home, orphan's home, rest home, and sanitarium.

Miscellaneous retail establishments means retail establishments which fall into the following categories: drugstores, liquor stores, used merchandise stores (including antiques), miscellaneous shopping goods stores (sporting goods and bicycles, books, stationary, jewelry, hobby and toys, camera and photographic supplies, gift and novelty, luggage and leather, and sewing), nonstore retailers (catalog and mail order houses, automatic merchandising machine operators, and direct selling establishments), florists, tobacco stores and stands, news dealers and newsstands, optical goods stores and other miscellaneous retail establishments.

Mobile home means a single-family detached dwelling unit designed for yearround

occupancy, constructed at a factory or assembly plant and drawn to the site on a permanently attached undercarriage and wheels. "Mobile home" shall not include "trailer (recreational vehicle)" nor shall it include modular or prefabricated dwelling units which meet or exceed the requirements of the Minnesota Building Code.

Mobile home park means any site or tract of land designed, maintained or intended for the placement of two or more occupied mobile homes. "Mobile home park" shall include any building, structure, vehicle, or enclosure intended for use as part of the equipment of such mobile home park.

Mobile storage structures means any assembly of materials which is so designed, constructed or reconstructed to make it portable and capable of movement from one site to another, designed to be used without a permanent foundation, designed with the purpose of storing tangible property and not for occupancy by persons.

Modular or *prefabricated home* means a nonmobile dwelling unit for yearround building site where final installations are made permanently affixing the dwelling unit to the site. Said dwelling unit shall be equivalent to a unit constructed on the site, meeting all requirements of the Minnesota Building Code. The term includes "manufactured" homes built in conformance to Minn. Stats. §§ 327.31—327.33.

Motion picture theaters means commercially operated theaters primarily engaged in the indoor exhibition of motion pictures.

Motor courts, motor hotel or motel means a building or group of buildings other than a hotel used primarily as a temporary residence of a motorist.

Municipality means the City of Falcon Heights.

New construction means, for the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM (flood insurance rate map) or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

Nit means a unit of measurement for luminance. The total amount of light emitted from a sign divided by the surface area of the sign (candelas per square meter).

Noise, ambient, means the all-encompassing noise associated with a given environment, being either a composite of sounds transmitted by any means from many sources near and far or a single predominant source.

Nominal five-acre parcel means a five-acre parcel not reduced by more than ten percent due to road right-of-way dedication.

Nonconforming use or *lot* means any legal use or lot already in existence, recorded or authorized before the adoption of official controls or amendments thereto that would not have been permitted to become established under the terms of the official controls as now written.

Nudity means the showing of the human male or female genitals, pubic area or buttocks with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple, or the depiction of covered male genitals in a discernibly turgid state.

Nursery, day, means a use where care is provided for three or more children under kindergarten age for periods of four hours or more per day for pay.

Nursery, landscape, means a business growing and selling trees, flowering and decorative plants, and shrubs which may be conducted within a building or without (commercial production).

Nursing home means a building with facilities for the care of children, the aged, infirm, or place of rest for those suffering bodily disorder. Said nursing home shall be licensed by the state as provided by law.

Office uses means those commercial activities that take place in office buildings, where goods are not produced, sold, or repaired, including, but not limited to, banks, professional offices, governmental offices, insurance offices, real estate offices, telephone exchanges, utility offices, radio broadcasting, and similar uses.

Official control means legislatively defined and enacted policies, standards, precise detailed maps, and other criteria, all of which control the physical development of a municipality or a county, or any part thereof, or any detail thereof, and the means of translating into ordinances all or any part of the general objectives of the comprehensive municipal plan. Such official controls may include, but are not limited to, ordinances or the code establishing zoning, subdivision controls, site plan regulations, sanitary codes, building codes, housing codes, and official maps.

Official map means a map adopted in accordance with the provisions of Minn. Stats. § 462.59.

Open sales lots means lands devoted to the display of goods for sale, rent, lease, or trade, where such goods are not enclosed within a building.

Open storage means storage of any material outside of a building.

Outdoor means activity conducted outside of a permanent structure or building.

Owner means all persons with an interest in a property as fee simple owner, life estate holder, encumbrancer, or otherwise.

Paint, glass, and wallpaper stores, retail, means establishments engaged in selling primarily paint, glass, and wallpaper, or any combination of these lines, to the general public. While these establishments may sell primarily to construction contractors, they are known as retail in the trade. Establishments which do not sell to the general public or who are known in the trade as wholesale are excluded.

Parking space means a suitably surfaced and permanently maintained area on privately owned property either within or outside of a building of sufficient size to store one standard automobile.

Pawn shop, defined but not allowed in any district. A business which loans money on deposit or pledge of personal property, or other valuable thing, or which deals in the purchasing of personal property or other valuable thing on condition of selling the same back again at a stipulated price, or which loans money secured by chattel mortgage on personal property, taking possession of the property or any part thereof so mortgaged.

Pedestrian way means a public or private right-of-way across or within a block or tract, to be used by pedestrians.

Performance standards means the minimum development standards as adopted by the governing body and on file in the office of the zoning administrator.

Person means any person, association, partnership, firm, business trust, corporation or company.

Personal wireless services means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange services.

Photocopying and duplicating services means establishments primarily engaged in reproducing text, drawings, plans, maps, or other copy, by blueprinting, photocopying, mimeographing, or other methods of duplication other than printing or microfilming.

Photographic studios, portrait, means establishments primarily engaged in still or video portrait photography for the general public.

Photovoltaic system means an active solar energy system that converts solar energy directly into electricity.

Planning commission means the duly appointed planning commission of the city.

Porch means a roofed, open area attached to a building with direct access to and from the building to which it is attached.

Precious metal dealer means any person, who, either as principal or agent, engages in the business of buying coins or secondhand items containing precious metal, including, but not limited to, jewelry, watches, eating utensils, candlesticks, and religious and decorative objects; excluding businesses which deal only in coins and not other precious metals.

Precious metal item means an item made in whole or in part of metal and containing more than one percent by weight of silver, gold or platinum.

Precious metals means silver, gold, and platinum.

Principal structure or use means one which determines the predominant use as contrasted to accessory use or structure.

Proprietary school means any private business, trade, or correspondence school operated for a profit or charging tuition that is licensed by the state under Minn. Stats. ch. 141.

Protective or restrictive covenant means a contract entered into between private parties which constitutes a restriction of the use of a particular parcel of property.

Public land means land owned and/or operated by a governmental unit, including school and other special districts.

Public utility means persons, corporations, or governments supplying gas, electric, transportation, water, sewer, or landline telephone service to the general public. For the purpose of this chapter, personal wireless services shall not be considered public utility uses, and are defined separately.

Radio broadcasting stations means establishments primarily engaged in broadcasting aural programs by radio to the public. Included in this industry are commercial religious, educational, and other radio stations. Also included are establishments primarily engaged in radio broadcasting and which produce radio program materials.

Recreation equipment means play apparatus such as swing sets and slides, sandboxes, poles for nets, unoccupied boats and trailers not exceeding 25 feet in length, picnic tables, lawn chairs, barbecue stands and similar equipment or structures, but not including tree houses, swimming pools, playhouses exceeding 25 square feet in floor area, or sheds utilized for storage of equipment.

Recreational vehicle means any vehicle or structure designed and used for temporary, seasonal human living quarters which meets all of the following qualifications:

(1) It is not used as the permanent residence of the owner or occupant;

(2) It is used for temporary living quarters by the owner or occupant while engaged in recreation or vacation activities;

(3) It is towed or self-propelled on public streets or highways incidental to such recreation or vacation activities;

(4) Examples of such vehicles include van campers, tent camping trailers, self-contained travel trailers, pick-up campers, camping buses, and self-contained self-propelled truck chassis mounted vehicles providing living accommodations.

Renewable energy easement means an easement that limits the height or location, or both, of permissible development on the burdened land in terms of a structure or vegetation, or both, for the purpose of providing access for the benefited land to wind or sunlight passing over the burdened land.

Renewable energy system means a solar energy or wind energy system. Passive systems that serve dual functions, such as greenhouses or windows, are not considered renewable energy systems.

Research laboratory means an establishment or other facility for carrying on an investigation in the natural, physical, or social sciences, which may include engineering and product development. This definition does not include research laboratories operated by a school or educational institution. Research laboratories owned or operated by schools or educational institutions shall be defined as schools.

Retail business uses means stores and shops selling personal carriers or goods over a counter.

Roadside sales stand means a structure used only for the display and sale of products with no space for customers within the structure, on a seasonal basis.

Roof pitch means the final exterior slope of a building roof typically, but not exclusively, expressed as a ratio of the distance, in inches, of vertical "rise" to the distance, in inches, of horizontal "run," such as 3:12, 9:12, 12:12.

Sadomasochistic abuse means flagellation or torture by or upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.

Sale, garage, means a sale of used household and personal items conducted on residential premises, where the property sold consists of items owned by the occupant of the premises at which the sale takes place, or by friends of such occupant, and where the sale is conducted by such occupant or friends. Items for sale shall not have been purchased for resale or received on consignment for the purpose of resale.

Sale, residential boutique means the sale of handcrafted items conducted on residential premises, where the items sold are made by the occupant of the premises at which the sale takes place, or by friends of such occupant, and where the sale is conducted by said occupant or friends of such occupant. Items for sale shall be made in the home and not purchased for resale from any retail or wholesale business source nor received on consignment for the purpose of resale.

Sale, sidewalk, means the selling of goods by a business proprietor just outside of the public customer entrance of the proprietor's business where the merchandise sold outside is similar to what is ordinarily sold inside the abutting business and the sales are managed and operated by the abutting business proprietor.

School means a building used for the purpose of elementary, middle (junior high) or secondary (high school) education, public or private, which meets all the requirements of compulsory education laws of the state.

School (proprietary) means any private business, trade or correspondence operated for a profit or charging tuition that is licensed by the state under Minn. Stats. ch. 141.

Screening means earth mounds, berms or ground forms; fences and walls; landscaping (plant materials) or landscaped fixtures (such as timbers); used in combination or singularly, as to block direct visual access to an object throughout the year. Approval by the city council of all site and construction plans prior to development of construction or installation of any screening is required.

Secondhand goods store means any store engaged in the business of selling or receiving tangible personal property which has been previously used, rented, owned or leased, but excluding stores which engage in the sale of any used: automobiles; electronic equipment such as stereos, cameras, computers, televisions, audio and video equipment, and similar equipment or appliances; jewelry and precious gems; or guns. Stores which engage in any pawning activity whatsoever fall within the definition of "pawn shop" and shall not be included within the definition of "secondhand goods store."

Secretarial and stenographic services means establishments primarily engaged furnishing secretarial, typing, word processing, resume writing, and court reporting services. This category also includes the services of editing, letter writing, and proofreading.

Setback yard means the minimum horizontal distance between a structure and street right-of-way, lot line, or other reference point as provided by ordinance. Distances are to be measured perpendicularly from the property line to the most outwardly extended portion of the structure.

Sexual conduct means acts of masturbation, homosexuality, sexual intercourse, or physical contact with a person's unclothed genitals, pubic area, buttocks or, if such person is a female, her breast.

Sexual excitement means the condition of human male or female genitals when in a state of sexual stimulation or arousal.

Shooting gallery means a covered shooting range equipped with targets for practice with firearms.

Shopping center means any grouping of two or more principal retail uses whether on a single lot or on abutting lots under multiple or single ownership.

Sign means a display, illustration, structure, or device which directs attention to an object, product, place, activity, person, institution, organization, or business.

(1) *Sign, advertising*. A sign that directs attention to a business or profession or commodity, service, or entertainment not sold or offered upon the premises, where such sign is located or to which it is attached.

(2) *Sign area*. The entire area within the continuous perimeter enclosing the extreme limits of such sign. However, such perimeter shall not include any structural elements

lying outside of such sign and not forming an integral part of border of the sign. The maximum square footage of multifaced signs shall not exceed two times the allowed square footage of a single-faced sign.

(3) *Sign, business*. A sign that 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.

(4) *Sign, courtesy bench*. A sign which is affixed to a courtesy bench or shelter.

(5) *Sign, dynamic display.* Any 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 or any other component of the sign. This includes displays that incorporate technology or methods allowing the sign face to change the image without having to physically or mechanically replace the sign face or its components as well as 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.

(6) *Sign, flashing*. An illuminated sign which has a light source not constant in intensity or color at all times while such sign is in use.

(7) *Sign, ground*. A sign which is supported by one or more uprights, poles, or braces in or upon the ground.

(8) *Sign, identification*. A sign which identifies the inhabitant of the dwelling or occupant of a building.

(9) *Sign, illuminated*. A sign which is lighted with an artificial light source.

(10) *Sign, motion*. A sign that has moving parts or signs which produce moving effects through the use of illumination.

(11) *Sign, nameplate*. A sign which states the name and/or address of the business, industry, or occupant of the site and is attached to said building or site.

(12) *Sign, pedestal*. A ground sign usually erected on one central shaft or post which is solidly affixed to the ground.

(13) *Sign, permanent*. Any sign on a lot or parcel of land more than 365 consecutive days.

(14) *Sign, real estate*. A sign offering property (land and/or buildings) for sale, lease, or rent.

(15) *Sign, roof*. A sign erected upon or above a roof or parapet of a building.

(16) *Sign, shopping center or industrial park*. A business sign designating a group of shops or offices (more than three).

(17) *Sign, structure*. The supports, uprights, braces, and framework of the sign.

(18) *Sign, temporary or seasonal*. A sign placed on a lot or parcel of land for a period not to exceed 90 days out of any 12-month period.

(19) *Sign, wall*. A sign attached to or erected against the wall of a building with the exposed face of the sign a plane parallel to the plane of said wall.

(20) *Sign, warning*. A sign which warns the public of a danger, or hazard in the immediate vicinity and is obviously not intended for advertising purposes.

Solar means rays from the sun.

Solar access means a view of the sun, from any point on the collector surface, that is not obscured by any vegetation, building, or object located on parcels of land other than the parcel upon which the solar collector is located, between the hours of 9:00 a.m. and 3:00 p.m. Standard time on any day of the year.

Solar collector means a device, structure or a part of a device or structure for which the primary purpose is to transform solar radiant energy into thermal, mechanical, chemical, or electrical energy.

Solar collector surface means any part of a solar collector that absorbs solar energy for use in the collector's energy transformation process. Collector surface does not include frames, supports and mounting hardware.

Solar daylighting means a device specifically designed to capture and redirect the visible portion of the solar spectrum, while controlling the infrared portion, for use in illuminating interior building spaces in lieu of artificial lighting.

Solar energy means radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.

Solar energy device means a system or series of mechanisms designed primarily to provide heating, to provide cooling, to produce electrical power, to produce mechanical power, to provide solar daylighting or to provide any combination of the foregoing by means of collecting and transferring solar generated energy into such uses either by active or passive means. Such systems may also have the capability of storing such energy for future utilization. Passive solar systems shall clearly be designed as a solar energy device such as a trombe wall and not merely a part of a normal structure such as a window.

Solar energy easement See "renewable energy easement."

Solar energy system means a device or structural design feature, a substantial purpose of which is to provide daylight for interior lighting or provide for the collection, storage and distribution of solar energy for space heating or cooling, electricity generating, or water heating.

Solar heat exchanger means a component of a solar energy device that is used to transfer heat from one substance to another, either liquid or gas.

Solar hot water system means a system that includes a solar collector and a heat exchanger that heats or preheats water for building heating systems or other hot water needs, including residential domestic hot water and hot water for commercial processes.

Solar mounting devices means devices that allow the mounting of a solar collector onto a roof surface or the ground.

Solar storage unit means a component of a solar energy device that is used to store solar generated electricity or heat for later use.

Solar system, active means a solar energy system that transforms solar energy into another form of energy or transfers heat from a collector to another medium using mechanical, electrical, or chemical means.

Solar system, building-integrated means an active solar system that is an integral part of a principal or accessory building, rather than a separate mechanical device, replacing or

substituting for an architectural or structural component of the building. Building-integrated systems include, but are not limited to, photovoltaic or hot water solar systems that are contained within roofing materials, windows, skylights, and awnings.

Solar system, grid-intertie means a photovoltaic solar system that is connected to an electric circuit served by an electric utility company.

Solar system, off-grid means a photovoltaic solar system in which the circuits energized by the solar system are not electrically connected in any way to electric circuits that are served by an electric utility company.

Solar system, passive means a solar energy system that captures solar light or heat without transforming it to another form of energy or transferring the energy via a heat exchanger.

Special event means any temporary, outdoor privately-sponsored event open to the general public and held on privately owned property except:

(1) Any permanent place of worship, stadium, athletic field, arena, theatre, auditorium;

(2) Any event conducted on the campus of the University of Minnesota or the grounds of the Minnesota State Fair;

(3) Special events or activities sponsored by the city;

(4) Family gatherings, including family reunions, graduation parties, baptisms, confirmations, weddings, wedding receptions, funerals and funeral processions;

(5) Garage sales and residential boutique sales as regulated in section 113-174;

(6) Block parties and neighborhood meetings;

(7) Any event attended by fewer than 150 persons at one time which does not require any special services and does not involve the sale of alcohol;

(8) Any event that is otherwise regulated by the city through the use of another regulatory manner, such as an interim use permit or conditional use permit; and

(9) The use of traditional public forums as alternative channels of communication by the public, provided that such use is for the free exercise of constitutionally protected activities and does not disrupt or interfere with traffic on public streets or the use of public places by other members of the public.

Special flood hazard area means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as zone A on the FHBM (Flood Hazard Boundary Map). After detailed ratemaking has been completed in preparation for publication of the flood insurance rate map, zone A usually is refined into zones A, AO, AH, A1—30, AE, A99, AR, AR/A1—30, AR/AE, AR/AO, AR/AH, AR/A, VO, or V1—30, VE, or V. For purposes of these regulations, the term "special flood hazard area" is synonymous in meaning with the phrase "area of special flood hazard."

Special services means the exclusive allocation of city resources, including, but not limited to, city personnel, equipment, rights-of-way, property or facilities for use in conjunction with a specific event or activity, as requested by the host or sponsor of the event, or as requested by or on behalf of any person attending the event, or deemed necessary by city staff in order to maintain public safety. Special services shall include, but not be limited to, any of the following: street closures; requiring police officers to stop or reroute traffic; special police protection; stationing emergency vehicles at or in the immediate vicinity of the event; exclusive use of city streets as a staging area or for event parking; additional street cleaning and garbage removal

services; special signage, such as temporary no parking signs; the use of any city building, equipment or other property for any purpose other than the normal daily operations of the city; or the city otherwise providing exclusive services.

Story (floor) means that portion of a building included between the surface of any floor and the surface of the floor next above. A basement shall be counted as a story and a cellar shall not be counted as a story. For purposes of this chapter, a story shall also include each multiple of 12 feet between the ground and eave.

Street means a public right-of-way that affords a primary means of access to abutting property.

Street, collector, means a street that serves or is designed to serve as a trafficway for a neighborhood or as a feeder to a major road or as designated on the comprehensive municipal plan.

Street, major or thoroughfare, means a street which serves or is designed to serve heavy flows of traffic and which is used primarily as a route for traffic between neighborhoods and/or other heavy traffic-generating areas or as designated on the comprehensive municipal plan.

Street, minor, means a street intended to serve primarily as an access to abutting properties.

Street pavement means the wearing or exposed surface of the roadway used by vehicular traffic.

Street width means the width of the right-of-way measured at right angles to the centerline of the street.

Structural alteration means any change, other than incidental repairs, which would affect the supporting members of a building, such as bearing walls, columns, beams, girders, or foundations.

Structure for floodplain management purposes, means a walled and roofed building, including gas or liquid storage tanks, that is principally above ground. The term includes recreational vehicles and travel trailers on site for more than 180 days.

Studio means a facility where students study or practice fine arts, pottery, or martial arts.

Substantial improvement means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either, (a) before the improvement or repair is started, or (b) if the structure has been damaged, and is being restored, before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure regardless of the actual work performed. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or (2) any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a historic structure.

Subdivision means a described tract of land, which is to be, or has been divided into two or more lots or parcels for the purpose of transfer of ownership, building development, or for tax assessment purposes. The term includes resubdivision and where it is appropriate to the context, relates to either the process of subdividing, or to the land subdivided, or to the development for which it is being subdivided.

Substandard structure means any building or structure lawfully existing on the effective date of the ordinance from which this chapter is derived or any amendment thereto which building or structure does not conform with the regulations, including dimensional standards, for the district in which it is located after the effective date of the ordinance from which this chapter is derived or such amendment.

Supper club means a building with facilities for the preparation and serving of meals and where meals are regularly served at tables to the general public. The building must be of sufficient size and design to permit the serving of meals to not less than 50 guests at one time. Intoxicating liquors may be sold on-sale and live entertainment and/or dancing shall be permitted.

Swimming pool means any enclosure in ground or above ground on private property having a water surface area exceeding 100 square feet and a water depth of not less than 1½ feet.

Tanning salons means establishments primarily engaged in providing tanning services to the public through the use of tanning beds, and other tanning equipment.

Tavern or bar means a building with facilities for the serving of beer, wine, set-ups and other alcoholic beverages and may include short order foods.

Television broadcasting stations means establishments primarily engaged in broadcasting visual programs by television to the public, except cable and other pay televisions services. Included in this industry are commercial, religious, educational, and other television stations. Also included are establishments primarily engaged in television broadcasting and which produce taped television program materials.

Therapeutic massage enterprise means a person who operates a business which hires only certified therapeutic massage therapists to provide therapeutic massage to the public. The owner/operator of a therapeutic massage enterprise need not be certified as a therapeutic massage therapist if he or she does not at anytime practice or administer massage to the public.

Tower means any ground- or roof-mounted pole, spire, structure, or combination thereof including supporting lines, cables, wires, braces, and masts, intended primarily for the purpose of mounting an antenna, meteorological device, or similar apparatus abovegrade.

Tower, multi-user means a tower that is designed to accommodate the antennas of more than one telecommunications provider, personal wireless service provider or governmental entity.

Tower site means a location on which is or may be located one or more telecommunication radio or television antennas available for connection and use by any person, firm or corporation.

Transportation terminal means truck, taxi, air, bus, train, and mass transit terminal and storage area, including motor freight (solid and liquid) terminal.

Truck stop means a motor fuel station devoted principally to the needs of tractor-trailer units and trucks, and which may include eating and/or sleeping facilities.

Urban farm means the production, distribution and sale of food, excluding the production of poultry, livestock and bees.

Variance means a modification or variation of the strict provisions of this chapter, as applied to a specific piece of property in order to provide relief for a property owner because of undue hardship or particular difficulty imposed upon the property by this chapter. A variance shall normally be limited to height, bulk, density, and yard requirements. A modification in the allowable uses within a district shall not be considered a variance.

Vehicle repair means general repair, rebuilding, or reconditioning of engines, motor vehicles, or trailers, including bodywork, framework, welding and major painting services.

Veterinary means those uses concerned with the diagnosis, treatment and medical care of animals, including animal or pet hospitals.

Video rental stores means establishments primarily engaged in renting recorded videotapes and discs to the general public for personal or household use.

Warehousing means the storage, packing, and crating of materials or equipment, within an enclosed building or structure.

Wholesaling means the selling of goods, equipment, and materials by bulk to another person who in turn sells the same to customers.

Yard setback means the open space of an occupied lot that is not covered by any principal structure.

(1) *Yard, front setback,* means a yard extending across the front of the lot between the inner side yard lines and lying between the front line of the lot and the nearest building line.

(2) *Yard, rear setback,* means a yard extending across the rear of the lot between the inner side yard lines and lying between the rear line of the lot and the nearest building line.

(3) *Yard, required setback,* means a yard area which may not be built on or covered by structures because of the setbacks for said structures within the zoning district.

(4) *Yard, side setback,* means a yard between the side line of the lot and the nearest building line.

Zoning district means an area or areas within the city in which the regulations and requirements of this chapter are uniform.

(Code 1993, § 9-1.02(2), subd. 2; Ord. No. 0-91-2, 1-23-1991; Ord. No. 0-91-8, § 1, 5-22-1991; Ord. No. 0-93-06, § 2, 6-23-1993; Ord. No. 0-94-05, § 1, 3-23-1994; Ord. No. 0-95-01, § 1, 5-10-1995; Ord. No. 95-04, § 1, 5-24-1995; Ord. No. 0-97-01, § 2, 2-12-1997; Ord. No. 97-07, § 1, 9-24-1997; Ord. No. 0-99-09, § 1, 12-15-1999; Ord. No. 00-02, § 1, 7-26-2002; Ord. No. 03-02, § 1, 2-12-2003; Ord. No. 05-01, § 1, 1-12-2005; Ord. No. 06-03, § 1, 9-13-2006; Ord. No. 07-03, § 1, 1-10-2007; Ord. No. 08-03, § 1, 8-27-2008; Ord. No. 09-02, § 1, 8-12-2009; Ord. No. 10-06, § 1, 9-8-2010; Ord. No. 12-03, § 1, 5-9-2012; Ord. No. 13-01, § 1, 4-10-2013; Ord. No. 13-02, § 1, 5-22-2013; Ord. No. 13-05, § 1, 11-13-2013; Ord. No. 19-04, § 1, 5-8-2019)

State Law reference – Earth-sheltered buildings defined, Minn. Stats. § 216C.06, subd. 14; zoning provisions related to earth-sheltered buildings, Minn. Stats. § 436.357, subd. 1.

Sec. 113-4 - Application and interpretation

(a) *Interpretation.* In the interpretation and application of the provisions of this chapter, the provisions thereof shall be held to be the minimum requirements for the promotion of the public health, safety, convenience and welfare of the citizens and residents of the city.

(b) *Conformance.* No structure or improvement shall be erected, converted, enlarged, reconstructed or altered, and no structure or land shall be used for any purpose nor in any manner that is not in conformity with the provisions of this chapter.

(c) *District uses*. The uses as set out in the provisions for the various districts shall be the uses

allowed under this chapter.

(Code 1993, § 9-2.01)

Sec. 113-5 - Nonconforming uses, buildings and structures

(a) *Nonconformities* . Any nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of an additional control under this chapter, may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion, except as specifically provided in this chapter, unless:

(1) The nonconformity or occupancy is discontinued for a period of more than one year; or

(2) Any nonconforming use is destroyed by fire or other peril to the extent of greater than 50 percent of its market value, and no building permit has been applied for within 180 days of when the property is damaged. In this case, a municipality may impose reasonable conditions upon a building permit in order to mitigate any newly created impact on adjacent property.

Any subsequent use or occupancy of the land or premises shall be a conforming use or occupancy.

(b) *Unlawful use, buildings, and structures*. No unlawful use of property existing on the effective date of the ordinance from which this chapter is derived nor any building or structure which is unlawfully existing on such day shall be deemed a nonconforming use or a nonconforming building or structure.

(c) *Nonconforming structures under construction*. Any nonconforming structure that is ready for or under construction on the effective date of the ordinance from which this chapter is derived may be completed and occupied in accordance with the requirements of any valid building permit issued therefor prior to such effective date.

(d) *Change from one nonconforming use to another*. A nonconforming use may be changed only to a use permitted in the district in which it is located; except that if no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or a more restrictive classification, and provided such change is approved by the city council. Once changed to a conforming use, no building or land shall be permitted to revert to a nonconforming use. A nonconforming use, all or partially conducted in a building or buildings, may be changed to another nonconforming use only upon determination by the city council, after a public hearing, that the proposed new use will be no more detrimental to its neighborhood and surroundings than is the use it is to replace and that there is no conforming use available for the building or buildings. In determining relative "detriment," the planning commission shall take into consideration, among other things, traffic-generated, nuisance characteristics, such as emission of noise, dust, and smoke; fire hazard; and hours and manner of operation.

(e) *Additions and enlargements.*

(1) *Conforming use*. A nonconforming building or structure for a conforming use may be expanded provided that the expansion does not increase the nonconformity of the building or structure and is in compliance with other Code requirements.

(2) *Nonconforming use*. A nonconforming building or structure designed or intended for a nonconforming use may not be added to or enlarged structurally.

(3) *Land*. The nonconforming use of land, not involving a building or structure, or in connection with which any building or structure thereon is incidental or accessory to the principal use of the land, shall not be expanded, intensified or extended beyond the area it occupies.

(f) *Relocation of building or structure.*

(1) *Requirements.* Whenever an existing building is to be moved from its present location to a location within the city, the person or business association proposing to move said structure should first comply with the following specific requirements:

a. File an application for a permit within 60 days of the moving date with the zoning administrator providing the following information:

1. Location from which structure or building is being moved;

2. Location within the city to which the building or structure is being moved;

3. Construction plans for the building, if available;

4. The site plan for the location in the city upon which the building or structure is going to be placed;

5. Plans and specs which shall include the foundation; exterior repairs and improvements, including windows and doors; roofing, electrical and plumbing modifications; heating systems; and any necessary interior reconstruction decorating, all to be in accordance with applicable building codes and which shall indicate that the structure once moved shall be in reasonable conformance with surrounding property including but not limited to sodding, grading and planting.

b. Upon presentation of this application, deposit the fee as established by the city with the zoning administrator to defray costs incurred by the city in processing the application, inspecting the building and doing whatever else is necessary to determine whether the building conforms with or can be made to conform with existing codes. If any portion of the escrow payment required is not used, the amount remaining shall be returned to the petitioner following satisfactory completion of subsection (f)(1)d. of this section.

c. If the city requires an additional deposit to guarantee any street repairs that may be required following the process of moving the building, deposit such amount up to maximum established by the council with the zoning administrator. Any unused portion of such deposit will be returned to the petitioner following satisfactory completion of subsection (f)(1)d. of this section.

d. Furnish a surety bond to the city in the amount of 1½ times the estimated costs of remodeling, refurbishing or otherwise constructing or reconstructing such building in accordance with the plans and specifications and the city's building code and such bond shall be further conditioned that work will be completed within 90 days of issuance of the permit. The bond shall operate in favor of the city and shall hold the city harmless from any loss or damage by reason of improper or inadequate work performed by the holder of said license under the provisions of this chapter. In addition, the bond shall set forth that the site will be cleaned up and that all

rubbish, material, extra fill, dirt, debris and leftover materials shall be removed within 15 days after the building is moved on to the site.

e. Deposit with the zoning administrator a copy of a certificate of insurance indicating that the petitioner has sufficient insurance to protect the municipality and public from any and all damage that may result either directly or indirectly from the moving of said building.

(2) *Building inspection.* Upon receipt of the application, the zoning administrator shall inform the building inspector who shall inspect the building and be reimbursed for time and travel involved in making such inspection.

(3) *Site alterations.* The city engineer shall determine whether or not drainage of the new site is feasible and available and in connection therewith may require any appurtenances or new installations all of which shall be at petitioner's expense.

(4) *Review of application; approval requirements.* The city council shall review the application and grant the permit if all of the foregoing requirements have been met and so long as the council is satisfied that:

a. The building is not too large to move without endangering persons or property in the city;

b. The building is not in such a state of deterioration or disrepair or is otherwise structurally so unsafe that it could not be moved without endangering persons and/or property in the city;

c. The building is not structurally unsafe or unfit for the purpose for which it is being moved into the city.

(Code 1993, § 9-2.02; Ord. No. 0-89-9, 5-9-1989; Ord. No. 05-03, §§ 1—3, 6-8-2005)

State Law reference – Nonconformities, Minn. Stats. § 462.357, subds. 1c, 1e.

Sec. 113-6 - Lot provisions

(a) *Use of nonconforming lots*. A lot of record existing upon the effective date of the ordinance from which this chapter is derived, which does not meet the requirements of this chapter as to area or width, but which meets all other chapter requirements, may be utilized for single-family detached dwelling purposes provided it is zoned residential and the measurements of such area or width are within 66 2/3 percent of the requirements of this chapter, but said lot of record shall not be more intensively developed unless combined with one or more abutting lots or portions thereof so as to create a lot meeting the requirements of this chapter.

(b) *Building restriction.* Except in the case of planned unit developments (PUDs) as provided for hereinafter, not more than one principal building shall be located on a lot.

(Code 1993, § 9-2.03; Ord. No. 99-05, § 1, 8-25-1999)

Secs. 113-7 – 113-30 - Reserved

ARTICLE II - ADMINISTRATION AND ENFORCEMENT

DIVISION 1 - GENERALLY

Sec. 113-31 - Enforcement; violations; penalties

(a) *Zoning administrator and city attorney*. The zoning administrator, with the assistance of the city attorney, shall have the authority to enforce, and be responsible for the enforcement of this chapter. Any complaint received shall be promptly investigated by the zoning administrator. If the matter cannot be adjusted by the zoning administrator to the satisfaction of the complainant, he or she shall promptly be reported to the city attorney, who shall then proceed to enforce the chapter according to its provisions following approval and receipt of instructions from the city council.

(b) *Violations; cancellation of permits*. If any condition in any permit, including variances and conditional use permits, is violated, the zoning administrator shall serve notice on the owner of the permit that unless the violation is corrected in the time set by the zoning administrator, not to exceed ten days, the permit shall at the expiration of said period be terminated, provided, that if said owner shall within a period of 20 days from the service of said notice, correct the violation, the order shall be stayed until the appeal has been heard. Said notice shall be served either by personal service or by registered or certified mail, the period herein provided shall be extended by three days, not counting Saturdays, Sundays, or legal holidays. If an appeal is filed, it shall be processed as provided in this chapter. If there is no appeal, or if on appeal the zoning administrator is sustained, the permit shall terminate and the zoning administrator shall refer the matter to the city attorney for such action as is required under this chapter.

(c) *Injunctive relief*. The zoning administrator, upon approval of the city council, shall have the authority to petition the district court of the county, or such court as shall have jurisdiction to hear the matter, for injunctive relief against continued violations of any of the provisions of this chapter. It shall be the duty of the city attorney to represent the zoning administrator in the action.

(Code 1993, § 9-15.07)

State Law reference – Zoning violations, Minn. Stats. § 462.362.

Sec. 113-32 - Zoning administrator

(a) *Establishment; appointment.* There is hereby established the office of zoning administrator, which shall be filled by the city administrator unless otherwise appointed by the city council.

(b) *Duties.* The duties of the zoning administrator shall be to:

(1) Administer and enforce the provisions of this chapter either directly or through the building inspector;

(2) Issue building permits;

(3) Issue such other permits as are required by this chapter upon the determination thereof by the proper authority;

(4) Issue certificates of occupancy;

(5) Keep and maintain a permanent record of this chapter, to enter upon such record all amendments thereof, to provide for public inspection thereof at all times, and pursuant to the determination of the council to provide for the distribution or sale thereof;

(6) Keep secure the official land use map and the official zoning map and to make amendments thereof or additions thereto upon adoption thereof, to provide for public inspection thereof during official business hours of the city and pursuant to the determination of the council to provide for the distribution or sale thereof;

(7) Maintain all city plans (comprehensive municipal or guide plan and others) in an up-to-date condition;

(8) Assign conditional and other permit numbers to all land uses in the city which are automatically granted a permit upon enactment of the ordinance from which this chapter is derived; this may be done at such time as existing land uses change, alter, expand, construct, move or otherwise require an amendment due to change following enactment of the ordinance from which this chapter is derived;

(9) Prepare and submit to the planning commission, and the council, if appropriate, applications for building permits, variances, conditional use permits and appeals;

(10) Maintain records of all permits issued, appeals, variances, conditional use permits and the disposition thereof;

(11) Receive, file and forward to the respective official bodies applications for variances, conditional uses and appeals;

(12) Publish and attend to the service of all notices required under the provisions of this chapter and to make or prepare and file affidavits of service thereof;

(13) Refer to the city attorney all violations of this chapter that cannot be handled administratively;

(14) Assure that all building permits comply with the terms of this chapter;

(15) Conduct inspections of buildings and land to determine compliance with the terms of this chapter.

(c) *Discretion; interpretation.* The zoning administrator shall not have the discretion to vary the terms and provisions of this chapter. He or she shall have the power and the responsibility to interpret any provisions of this chapter that may be unclear. In the discharge of this duty the city attorney shall provide advice to him or her upon request. In the making of any such interpretation, the zoning administrator shall set forth a decision in writing, including reasons thereof.

(Code 1993, § 9-15.01)

Sec. 113-33 - Conformity of building plan to regulations

Upon application for a building permit, a detailed site and development plan, if applicable, shall be submitted to the zoning administrator indicating conformance with regulations of this chapter. Plan submission requirements shall be as noted herein and as may be requested by the zoning administrator.

(Code 1993, § 9-2.12)

Sec. 113-34 - Payment of city expenses

All applicants for the issuance of any permit or final plan approval shall pay in addition to the fees and charges for platting, subdividing, rezoning, and the permits for variances for land development or redevelopment within the city, all out-of-pocket expenses incurred by the city in employing the services of any engineer, legal counsel, or other professional consultants with regard to reviewing said plat, subdivision, application for rezoning and conditional use permit or variance.

(Code 1993, § 9-2.14)

Sec. 113-35 - Amendments

(a) *Initiation of amendments.* An amendment to this chapter may be initiated by the city council, the planning commission, or by petition of a property owner whose property would be affected by the proposed amendment.

(b) *Application for amendment.* All applications for amendments initiated by a property owner shall be filed with the zoning administrator on an official application form. The application shall be accompanied by a fee established by city council resolution and a cash escrow, in an amount determined by the zoning administrator, to reimburse the city for all out-of-pocket costs the city may incur in reviewing the application. When the amendment involves the changing of zoning district boundaries, the application shall be accompanied by an abstractor's certified property certificate listing the property owners within 350 feet of the boundaries of the property to which the amendment relates.

(c) *Public hearing.* When a proposed amendment to this chapter has been properly initiated, the city clerk shall call a public hearing before the planning commission. A notice of the time, place, and purpose of the hearing shall be published in the city's official newspaper at least ten days prior to the hearing. When an amendment involves changes in district boundaries affecting an area of five acres or less, a similar notice shall be mailed at least ten days before the date 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. The failure to give mailed notice to individual property owners, or defects in the notice shall not invalidate the proceeding, provided a bona fide attempt to comply has been made. The planning commission shall conduct the hearing and make a recommendation to the city council.

(d) *Action by city council.* The city council shall not act upon a proposed amendment until it has received the recommendation of the planning commission or until 60 days after the first regular planning commission meeting at which the proposed amendment was considered.

(e) *Consistency with comprehensive plan.* No amendment to this chapter shall be adopted which is in conflict with the city's comprehensive plan.

(f) *Time deadline; approval requirements.* Pursuant to Minn. Stats. § 15.99, an application for an amendment must be approved or denied within 60 days from the date a properly completed application is received by the city unless the time period is waived by the applicant or extended as provided by statute. Approval of an amendment shall require a majority vote of all the members of the city council. Amendments which change all or part of the existing classification of a zoning district from residential to either commercial or

industrial require a two-thirds majority vote of all members of city council.

(Code 1993, § 9-15.05; Ord. No. 97-06, § 1, 9-24-1997)

State Law reference – Amendments, Minn. Stats. § 462.357, subds. 2 – 4.

Sec. 113-36 - Fees and costs

The zoning administrator or other administrative office having jurisdiction therein shall charge each applicant, petitioner or other person requesting a permit, rezoning or other zoning approval or review such fees as may be prescribed therefor by ordinance or by resolution published in the same manner as an ordinance. Each applicant, petitioner or other person shall also pay all legal, engineering, planning, and similar out-of-pocket costs incurred by the city in connection with the respective matter. The zoning administrator with the approval of the council may require each applicant, petitioner or other person to deposit with the city in escrow a cash amount based on an estimate by the zoning administrator of such fees and costs. Any surplus shall be refunded to and any additional costs paid by the applicant, petitioner or other person. The obligation to pay such fees and costs shall not be affected by the disposition of the matter.

(Code 1993, § 9-15.06)

Secs. 113-37 – 113-60 - Reserved

DIVISION 2 - APPEALS AND VARIANCES

Sec. 113-61 - Board of adjustments and appeals

The city council shall act as the board of adjustments and appeals.

(Code 1993, § 9-15.02)

State Law reference – Board of adjustments and appeals, Minn. Stats. § 462.354, subd. 2.

Sec. 113-62 - Variances

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

Practical difficulties means the same as that term defined in Minn. Stats. § 462.357, as may be amended, meaning 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 a variance, if granted, shall not alter the character of the locality. Economic considerations alone shall not constitute practical difficulties. Practical difficulties include but are not limited to inadequate access to direct sunlight for solar energy systems.

Variance means a modification of or variation from the provisions of this chapter consistent with the state enabling statute for municipalities, as applied to a specific property and granted pursuant to the standards and procedures of this chapter.

(b) *Purpose.* The purpose of this division is to provide the procedure and criteria for variances.

(c) *Application.*

(1) Any owner of property or a person holding a contract to purchase property, or an optionee holding an option conditioned solely on the grant of a variance, or the duly authorized agent of such appellant, may make application for a variance. The application shall be made on forms prepared by the zoning administrator.

(2) The application shall contain the legal description of the property, the zoning district in which it is located, a brief statement of the reasons the variance is requested, a statement of the ownership interest therein of the applicant and the names and addresses of the owners of all abutting property as listed on the current real estate tax rolls. The application shall be verified.

(d) *Use variances prohibited.* Variances may not be approved for a use that is not allowed in the zoning district where the property is located.

(e) *Review criteria.* The city council shall not approve any variance request unless they find that failure to grant the variance will result in practical difficulties on the applicant, and, as may be applicable, all of the following criteria have been met:

(1) The variance would be in harmony with the general purposes and intent of this chapter.

(2) The variance would be consistent with the comprehensive plan.

(3) That, there are practical difficulties in complying with this chapter.

(4) That the granting of the variance will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety.

(5) That the requested variance is the minimum action required to eliminate the practical difficulties.

(6) Variances shall be granted for earth sheltered construction as defined in Minn. Stats. § 216C.06, subd. 14, when in harmony with this chapter. Variances may be approved for the temporary use of a one-family dwelling as a two-family dwelling.

(f) *Conditions.* The city may attach conditions to the grant of the variance. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

(g) *Procedure.*

(1) All applications for variances shall be referred to the planning commission for study and recommendation to the city council.

(2) Within 60 days, the planning commission shall forward its recommendations to the city council; if no recommendation is transmitted within 60 days after referral of the application for variance to the planning commission, the city council may take action without further awaiting such recommendation.

(3) Variances are granted or denied by motion of the city council.

(h) *Termination.* The violation of any condition of the variance shall be the basis for the city council, following a hearing, to terminate the variance. If the property is not used or improvements substantially begun within a period of one year after the decision granting the variance, unless the variance decision provides otherwise, the variance shall be terminated.

Unless the city council specifically approves a different time when action is officially taken on the request, approvals which have been issued under the provisions of this section shall expire without further action by the planning commission or the city council, unless the applicant commences the authorized use or improvement within one year of the date the variance is issued; or, unless before the expiration of the one-year period, the applicant shall apply for an extension thereof by completing and submitting a request for extension, including the renewal fee as established by city council. The request for extension shall state facts showing a good faith attempt to complete or utilize the approval permitted in the variance. A request for an extension not exceeding one year shall be subject to the review and approval of the zoning administrator. Should a second extension of time, or any extension of time longer than one year, be requested by the applicant, it shall be presented to the planning commission for a recommendation and to the city council for a decision.

(Code 1993, § 9-15.03; Ord. No. 11-01, § 1, 7-13-2011)

State Law reference – Variances, Minn. Stats. § 462.357, subd. 6(2).

Secs. 113-63 – 113-82 - Reserved

DIVISION 3 - CONDITIONAL USE PERMITS[2]

Sec. 113-83 - Purpose and public policy

Conditional uses are those uses authorized by this chapter which require special planning consideration due to traffic circulation and access needs or impacts, operational characteristics, proximity to other similar uses, impact on neighboring property, etc., and which therefore need special conditions imposed to establish or control these factors in order to protect the public health, safety and welfare and to assure compliance and harmony with the comprehensive plan of the city. In the enactment of the ordinance from which this chapter is derived, the city recognizes that there are certain uses that, because of their characteristics, limited number, or unique character, cannot be classified into any particular district or districts without providing for such districts extensive regulatory provisions herein. It is also recognized that there may be uses that are not provided for in this chapter. Certain uses, while generally not suitable in a particular zoning district, may, under some circumstances and conditions be suitable. A conditional use permit shall apply to the use and land and not to a particular person or firm; any change in land ownership, lease, rental, occupancy or similar change shall not affect the permit or its conditions except as may be specifically authorized and required by the city. Conditional use permits may be issued for any of the following:

(1) Any of the uses or purposes for which such permits are required or permitted by the provisions of this chapter.

(2) Public utility or public service uses or public buildings in any district when found to be necessary for the public health, safety, convenience or welfare.

(3) To permit the location of any of the following uses in a district from which they are excluded by the provisions of this chapter: library, community center, church, hospital, any institution of an educational, philanthropic or charitable nature, cemetery or mausoleum.

(Code 1993, § 9-15.04(1))

Sec. 113-84 - Application; information required

(a) *Generally; fee*. Any owner of property, or a person holding a contract to purchase property, or an optionee holding an option conditioned solely on the grant of a conditional use permit; or the duly authorized agent of such applicant, may make application for a conditional use permit; however, any proceedings to classify certain uses as conforming uses may be initiated either by such application or by the city council or by the city planning commission. The application shall be made on forms prepared by the zoning administrator, and filed with him or her. The application shall contain the section number of the chapter which permits the issuance of the permit, a brief statement describing the use and why the applicant feels that it can be permitted, a statement of the ownership interest in the property of the applicant, as well as the additional information required below. An application for a conditional use permit shall be accompanied by payment of a fee as set from time to time by the city council in addition to the regular building permit fee, if any.

(b) *Site plan and graphic or written material; location map, etc.* A site plan and supplementary graphic or written material shall be provided with the application, containing the following information and/or such additional or lesser information as may be required by the zoning administrator:

(1) Name, address, and legal description of project/development.

(2) Location map, showing zoning district boundaries including area within one-half mile of the site.

(3) Name and mailing address of developer/owner and engineer/architect.

(4) Date of plan preparation.

(5) Scale and a north point indicator.

(6) Boundary line of property with their dimensions.

(7) Location identification and dimensions of existing and proposed:

a. Topographic contours of minimum intervals of two feet.

b. Adjacent streets and on-street right-of-way.

c. On-site streets and street right-of-way.

d. All utility and utility right-of-way easements.

e. Lighting plan, showing the lighting of parking areas, walks, security lights and driveway entrance lights.

f. Buildings and structures including:

1. Elevation drawings of all proposed building and structures with dimensions.

2. Elevation, height above mean sea level of all floors and roofs, when structure is sited in an area prone to flooding as determined by the city engineer.

3. Gross square footage of existing and proposed buildings and structures.

4. Exterior finish materials.

5. Type of business, proposed number of employees, and times of operations.

g. All parking facilities.

h. Water bodies and drainage ditches.

i. Fences and retaining walls.

j. Landscape plan, showing size and species of each planting.

k. On- and off-site traffic flow.

l. Parking plan.

(8) Site statistics including square footage, percentage of coverage, dwelling unit density, and percentage of park or open space.

(9) Names and addresses of the owners of all property abutting the subject property, as contained in the current real estate tax rolls, including property located across the street, avenue or alley from the subject property.

(Code 1993, § 9-15.04(2))

Sec. 113-85 - Hearing; development standards

(a) *Public hearing.* The planning commission shall hold a public hearing preceded by ten days' published and mailed notice. Mailed notice should be given to property owners within 350 feet of the property for which the conditional use permit is sought.

(b) *Review of applicant's plan*. The planning commission and/or council shall consider to what extent the applicant's plan minimizes possible adverse effects of the proposed conditional use, what modifications to the plan and what conditions on approval could further minimize the adverse effects of the proposed use.

(c) *General requirements.* The following development standards shall be considered general requirements for all conditional use permits except as hereinafter provided:

(1) The land area and setback requirements of the property containing such a use or activity meet the minimums established for the district.

(2) When abutting a residential use, the property shall be screened and landscaped.

(3) Where applicable, all city, county, state and federal laws, regulations and ordinances shall be complied with and all necessary permits secured.

(4) Signs shall not adversely impact adjoining or surrounding residential uses.

(5) Adequate off-road parking and loading shall be provided. Such parking and loading shall be screened and landscaped from abutting residential uses.

(6) The road serving the use or activity must be of sufficient design to accommodate the proposed use or activity, and such use or activity shall not generate such additional extra traffic as to create a nuisance or hazard to existing traffic or to surrounding land use.

(7) All access roads, driveways, parking areas, and outside storage, service, or sales areas shall be surfaced or grassed to control dust and drainage.

(8) All open and outdoor storage, sales and service areas shall be screened from view from public streets and from abutting residential uses or districts.

(9) All lighting shall be designed to prevent any direct source of light being visible from adjacent residential areas or from the public streets.

(10) The use or activity shall be properly drained to control surface water runoff.

(11) The architectural appearance and functional plan of the building and site shall not be so dissimilar to the existing buildings or area as to cause impairment in property values or constitute a blighting influence.

(12) The proposed water, sewer and other utilities shall be capable of accommodating the proposed use.

(13) That the proposed use conforms to the comprehensive municipal plan. Such a finding shall be based upon the following considerations:

a. That certain uses may not be considered appropriate within the interior of residential neighborhoods because of noise, traffic, or other conditions that would tend to affect adversely the residential character of the neighborhood and possibly reduce property values. These uses are considered appropriate only on the periphery of residential neighborhoods, or under such conditions as the planning commission may deem proper. The uses may represent "buffer" uses for those areas lying between single-family dwellings and nonresidential uses.

b. That certain uses are considered, as a rule, unsuitable in business districts because of inherent business characteristics (e.g. traffic, noise, glare), proximity to residential areas, the fact that they tend not to serve nearby residential areas, or may adversely affect nearby permitted business uses.

c. That certain temporary uses that are generally not suitable within a particular zoning district are potentially suitable on a temporary basis. This may be due to the lack of development on existing property, to a short-term need (such as highway construction), or to a limited degree of adverse effects upon adjacent land use.

(d) *Exceptions.* These standards shall be strictly applied unless it is found in the particular case that the community safety, health and welfare can as well or better be served by modifying them. Any special requirements applicable to the particular case that are imposed elsewhere in this chapter shall be met in each case.

(e) *Recommendations.* When applications are reviewed by the planning commission but acted upon by the city council, the planning commission shall recommend to the city council whatever action it deems advisable, including all recommended conditions on the granting of the conditional use permit.

(Code 1993, § 9-15.04(3))

Sec. 113-86 - Action

In acting upon applications for conditional use permits, consideration shall be given to the effect of the proposed use upon the health, safety, morals, comfort, convenience and welfare of the occupants of the surrounding lands, existing and anticipated traffic conditions, including parking facilities on adjacent sites. When applications are reviewed by the planning commission but acted upon by the city council, the city council may hold whatever public hearings it deems advisable or may return the application to the planning commission for further consideration.

(1) *Approval.* If it is determined that the general and special requirements of this chapter

will be satisfied by the applicant's plan, the city may grant such permit and may impose conditions relating to the general and special requirements in each case, including durational conditions. Approval shall be by resolution.

(2) *Denial.* Conditional use permits may be denied by resolution. Such resolution shall state the reasons for denial, but may incorporate by reference the minutes and recommendations of the planning commission, staff reports, hearing testimony and any other material relevant to the decision.

(Code 1993, § 9-15.04(4))

Sec. 113-87 - Violations; termination

If compliance with all of the conditions of the conditional use permit has not taken place within the time prescribed by the city, the permit is deemed terminated, unless the council, in its sole discretion, extends the time for compliance for an additional permit not to exceed one year. Any violation of a continuing condition shall be grounds for revocation of the conditional use permit, after notice of violation served upon the permit holder in the manner of a civil summons at least ten days prior to hearing, and upon the council finding at the revocation hearing that the condition violated remains necessary to carry out the purposes of this section and that the permit holder is unable or unwilling to satisfy the condition. Such finding shall be made by majority vote, upon the preponderance of the evidence presented by the zoning administrator and anyone appearing on behalf of the permit holder.

(Code 1993, § 9-15.04(5))

Sec. 113-88 - Performance bond

The city may require a performance bond or other security, to guarantee performance of the conditions in any case where such performance is not otherwise guaranteed. Such security shall be provided prior to the issuance of building permits or initiation of work on the proposed improvements or development and shall be in an amount 1.25 times the approved estimated costs of labor and materials for the proposed improvements or development.

(Code 1993, § 9-15.04(6))

Secs. 113-89 – 113-119 - Reserved

DIVISION 4 - INTERIM USE PERMITS

Sec. 113-120 - Purpose and intent

The purpose and intent of allowing interim uses is to allow a use:

(1) For a temporary period of time until a permanent location is obtained or while the permanent location is under construction.

(2) That is presently judged acceptable by the city council, but that with anticipated development or redevelopment, will not be acceptable in the future or will be replaced in the future by a permitted or conditional use allowed within the respective district.

(3) Which is reflective of anticipated long-range change to an area and which is in

compliance with the comprehensive plan provided that said use maintains harmony and compatibility with surrounding uses and is in keeping with the architectural character and design standards of existing uses and development.

(Code 1993, § 9-15.08(1); Ord. No. 03-02, § 2, 2-12-2003)

Sec. 113-121 - Procedure

Interim uses shall be processed according to the standards and procedures for a conditional use permit as established by article II, division 3 of this chapter.

(Code 1993, § 9-15.08(2); Ord. No. 03-02, § 2, 2-12-2003)

Sec. 113-122 - General standards; termination

(a) An interim use shall comply with the following:

(1) Meet the standards of a conditional use permit set forth in section 113-85 of this chapter, except that screening and landscaping shall not be required unless specifically enumerated as a condition in the permit.

(2) Conform to the applicable general performance standards of article VI, division 3 of this chapter, except that screening and landscaping shall not be required unless specifically enumerated as a condition in the permit.

(3) The use is allowed as an interim use in the respective zoning district.

(4) The date or event that will terminate the use can be identified with certainty.

(5) The use will not impose additional unreasonable costs on the public.

(6) The user agrees to any conditions that the city council deems appropriate for permission of the use.

(b) An interim use shall terminate on the happening of any of the following events, whichever occurs first:

(1) The date or event stated in the permit.

(2) Upon violation of conditions under which the permit was issued.

(3) Upon change in the city's zoning regulations that render the use nonconforming.

(Code 1993, § 9-15.08(3); Ord. No. 03-02, § 2, 2-12-2003)

Secs. 113-123 – 113-142 - Reserved

ARTICLE III - ZONING DISTRICTS ESTABLISHED; ZONING MAP

Sec. 113-143 - Districts

The city is hereby divided into the following use districts and groups of use districts:

(1) Residential districts:

a. R-1 one-family residential district.

b. R-2 one- and two-family residential district.

c. R-3 medium density multiple-family residential district-apartment buildings.

d. R-4 high density multiple-family residential district-apartment buildings.

e. R-5M mixed use high density residential district.

(2) Business districts:

a. B-1 limited business district.

b. B-2 limited business district.

c. B-3 Snelling and Larpenteur community business district.

(3) Special purpose districts:

a. Planned unit development.

b. Public land (P-1).

(Code 1993, § 9-3.01; Ord. No. 10-06, § 2, 9-8-2010)

Editor's note – Ord. No. 10-06, § 2, adopted Sept. 8, 2010, set out provisions intended for use as § 113-144(1). For purposes of classification, and at the editor's discretion, these provisions have been included as § 113-143(1).

State Law reference – Zoning districts authorized, Minn. Stats. § 462.357, subd. 1.

Sec. 113-144 - Zoning district map

(a) *Adoption of zoning map.* The boundaries of the above districts are hereby established as shown on that certain original map entitled Zoning Map, City of Falcon Heights, Minnesota, which map is properly approved and filed, hereinafter referred to as the "zoning map." Said map and all of the notations, references and other information shown thereon shall have the same force and effect as if fully set down herein and are hereby incorporated by reference and made a part of this chapter.

(b) *District boundary lines.* The district boundary lines on said map are intended to follow street right-of-way lines, street centerlines or lot lines unless such boundary line is otherwise indicated on the map. In the case of unsubdivided property or in any case where street or lot lines are not used as boundaries, the district boundary lines shall be determined by use of dimensions or the scale appearing on the map. Whenever any street or public way is vacated, any zoning district line following the centerline of said vacated street or way shall not be affected by such vacation.

(c) *Conditional use permits.* When any conditional use permit is issued which affects any

zoning district in a substantial way, said permit shall be coded and noted on the zoning district map by the zoning administrator so as to clearly indicate the use so permitted which may not otherwise be clearly evident from the map or text of this chapter.

(Code 1993, § 9-3.02)

Sec. 113-145 - Annexed territory

Areas being annexed shall be appropriately zoned in accordance with the comprehensive municipal plan at the time of annexation. Pending official zoning action by the city council, all annexed land shall be considered as zoned R-1.

(Code 1993, § 9-2.09)

Secs. 113-146 – 113-173 - Reserved

ARTICLE IV - DISTRICT REGULATIONS

Sec. 113-174 - One-family R-1 residential district

(a) *Scope.* The provisions of this section apply to the R-1 one-family residential district.

(b) *Permitted Uses.* Within any R-1 one-family residential district, no structure or land shall be used except for one or more of the following uses: one-family detached dwellings.

(c) *Conditional uses.* Within any R-1 one-family residential district, no structure or land shall be used for the following uses except by conditional use permit:

(1) Public parks and playgrounds.

(2) Schools, provided no buildings shall be located within 50 feet of any lot line of an abutting lot in an R use district. Any fence erected around a play area shall be not less than 15 feet from a street line when said fence would be across the street from an R use district.

(3) Municipal buildings and structures, excluding storage of maintenance equipment and trucks over 1½ tons, stockpiling of aggregate and open storage of material, but including firefighting apparatus, provided these shall not be located within 30 feet of any lot line of an abutting lot in an R use district.

(4) Essential service structures, provided no building shall be located within 50 feet from any lot line of an abutting lot in an R use district. The architectural design of service structures should be compatible to the neighborhood in which they are to be located.

(5) Golf courses, country clubs, tennis clubs, public swimming pools serving more than one family.

(6) Off-street parking: when the proposed site of the off-street parking abuts on a lot which is in a B district and subject to those conditions set forth in article VI, division 2, subdivision II, and such other conditions as found necessary by the council to carry out the intent of this chapter. However, such off-street parking shall be permitted as a conditional use in any R-1 one-family use district for

church parking purposes.

(7) Room and/or board for up to four persons.

(8) Home occupations not meeting the definitions and requirements of section 113-391.

(d) *Permitted accessory uses.* No accessory structures or use of land shall be permitted except for one or more of the following uses:

(1) Home occupations meeting the definitions and requirements of section 113-391.

(2) Private tennis courts, provided no portion of the paved or fenced area is within a required front yard or less than ten feet from a property line.

(3) One private garage or carport and parking space as regulated in section 113-240.

(4) Private automobile repair or reconditioning as regulated in section 113-250.

(5) Planned landscape areas and edible landscape areas, including residential gardens, as defined and regulated in section 54-38.

(6) Keeping of domestic pets as required in the Code.

(7) Signs as provided in subsection (g) of this section.

(8) Decorative landscape features and fences as regulated herein.

(9) Accessory buildings other than detached private garages as regulated herein. The design and placement of the accessory buildings must be approved by the planner as being in harmony with the surrounding residential neighborhood.

(10) Buildings temporarily located for purposes of constructing on the premises for a period not to exceed the time necessary for such construction (approved by zoning administrator).

(11) One composting area, or one compost structure as defined in section 113-240(l), of plant material including leaves, grass clippings, plant trimmings, fruits, vegetables and peels, but excluding animal derived materials such as bones, meat scraps and dairy products, not to cover more than 25 square feet in area and five feet in height in the rear yard. A larger composting area requires a permitted accessory use permit. A compost area must be set back at least five feet from any property line. The compost shall be maintained according to accepted composting practices for the residential yard.

(12) Garage and residential boutique sales limited to four sales each calendar year per residential unit, not to exceed ten consecutive days or two consecutive weekends each.

(13) Keeping of chickens as regulated by the Code.

(14) Beekeeping as regulated by the Code.

(15) Electric vehicle chargers for private use.

(16) Accessory dwelling units as provided in section 113-240.

(e) *Lot area, height, lot width and yard requirements.*

(1) No structure or building shall exceed two stories or 25 feet in height, whichever is lesser in height, except as provided in section 113-243.

(2) A side yard abutting a street shall be at least 20 percent of the width of the lot.

(3) The following minimum requirements shall be observed subject to the additional requirements, exceptions and modifications as set forth in this section and section 113-241.

Lot Area	Lot Width	Front Yard	Side Yard	Rear Yard
10,000 sq. ft.	75 feet interior lot, 90 feet corner	30 feet	5 feet	30 feet

Flexibility may be provided by allowing the side yard to be decreased to a minimum of three feet if a maintenance easement is recorded on the deeds of all affected properties. (No fences or significant landscaping could be installed in the easement areas).

(f) *Off-street parking and loading.* As provided in article VI, division 2 of this chapter.

(g) *Signs.* As provided in section 113-449.

(h) *Swimming pools.* As permitted in section 113-382.

(Code 1993, § 9-4.01; Ord. No. 0-89-12, 7-26-1989; Ord. No. 0-89-16, 11-8-1989; Ord. No. 0-91-2, 1-23-1991; Ord. No. 0-91-13, § 2, 11-27-1991; Ord. No. 0-99-09, § 3, 12-15-1999; Ord. No. 00-01, 6-3-2000; Ord. No. 07-05, § 1, 5-9-2007; Ord. No. 13-04, § 2, 7-24-2013; Ord. No. 19-04, § 2, 5-8-2019; Ord. No. 20-05, § 2, 10-14-2020; Ord. No. 20-07, § 2, 12-09-2020)

Sec. 113-175 - One- and two-family R-2 residential district

(a) *Scope.* The provisions of this section apply to the R-2 one- and two-family residential district.

(b) *Permitted uses.* No structure or land shall be used except for one or more of the following uses:

(1) One- or two-family detached dwellings.

(2) All permitted uses in the R-1 district.

(c) *Conditional uses.* Conditional uses shall be as permitted in the R-1 district.

(d) *Permitted accessory uses.* No accessory structures or use of land shall be permitted except for one or more of the following uses: all accessory uses as permitted in the R-1 district.

(e) *Lot area, height, lot width and yard requirements.* The following minimum requirements shall be observed subject to any additional requirements, exceptions or modifications as set forth herein:

(1) One-family building as required in the R-1 district.

(2) Two-family building as required for a one-family building except that any building

with two families shall have a minimum lot area of 12,500 square feet.

(f) *Off-street parking and loading.* As provided in article VI, division 2 of this chapter.

(g) *Signs.* As provided in section 113-449.

(h) *Swimming pools.* As permitted in section 113-382.

(i) *Permitted encroachments on required yards.* As permitted in the R-1 district.

(Code 1993, § 9-5.01; Ord. No. 0-93-07, § 6, 7-28-1993)

Sec. 113-176. - R-3 medium density multiple-family residential district-apartment buildings.

(a) *Scope.* The provisions of this section apply to the R-3 medium density multiple-family residential district.

(b) *Permitted uses.* All permitted uses in the R-2 district.

(c) *Conditional uses.* No structure or land shall be used for the following uses except by conditional use permit, except that multifamily dwellings shall not exceed 12 per acre.

(1) Any conditional use permitted in the R-1 and R-2 districts.

(2) Conversion or enlargement of existing homes to accommodate one-, two-, three- or four-dwelling units.

(3) Large group homes as defined in this chapter.

(4) Townhouses. See performance standards as permitted in article VI, division 3 of this chapter.

(5) Buildings containing two or more dwelling units not exceeding 12 dwelling units per acre.

(d) *Permitted accessory uses.* The following uses shall be permitted accessory uses:

(1) All accessory uses as permitted in the R-1, R-2 districts.

(2) Conversion or enlargement as required by terms of a conditional use permit.

(e) *Lot area, height, lot width and yard requirements.*

(1) See performance standards as permitted in article VI, division 3 of this chapter (or as required by conditional use permit).

(2) No structure or building shall exceed three stories, or 30 feet, whichever is lesser in height, except as provided in section 113-243.

(3) A side yard abutting on a street shall not be less than 30 feet in width, and when a side yard of a multifamily structure abuts a single-family residence, the side yard shall not be less than 20 feet.

(4) The following minimum requirements shall be observed subject to additional requirements except as a modification set forth in this section and section 113-241.

Lot Area	Lot Width	Front Yard	Side Yard	Rear Yard
12,500 sq. ft.	90 feet	30 feet	10 feet or ½ the height of the building, whichever is greater	30 feet

*Lot area for single-family residence may be reduced to 10,000 square feet.

(Code 1993, § 9-7.01; Ord. No. 0-93-07, § 7, 7-28-1993; Ord. No. 10-06, § 3, 9-8-2010)

Editor's note – Ord. No. 10-06, § 3, adopted Sept. 8, 2010, changed the title of § 113-176 from "R-4 medium density multiple-family residential district-apartment buildings" to "R-3 medium density multiple-family residential district-apartment buildings". This historical notation has been preserved for reference purposes.

Sec. 113-177 - B-1 neighborhood convenience district

(a) *Scope.* The provisions of this section apply to the B-1 neighborhood convenience district.

(b) *Purpose and intent.* The purpose of the neighborhood convenience business district is to provide for small-scale consumer goods stores and limited service establishments which deal directly with the customer by whom the goods and services are consumed. The maximum business size limit is 5,000 square feet. Some business areas may be further restricted by zoning regulations to avoid adverse impacts on residential neighborhoods. The district is primarily intended to serve the surrounding neighborhood rather than the entire community. It is designed to be accessible to retail customers from the nearby neighborhoods, to be compatible with the character of the neighborhoods, and to minimize the blighting influence on surrounding residential neighborhoods by limiting and controlling the uses that are permitted.

(c) *Permitted uses.* No structure or land shall be used except for the following specific uses:

(1) Barbershops, except barber colleges.

(2) Beauty shops, but excluding cosmetology schools.

(3) Convenience stores, excluding motor fuel facilities.

(4) Coin and philatelic (stamp) stores.

(5) Drugstores/pharmacies.

(6) Florists.

(7) Garment pressing, and agents for laundries and dry cleaners, with a maximum of six employees.

(8) Health care, offices and clinics.

(9) Laundries - power, with a maximum of six employees.

(10) Laundromats - self serve.

(11) Miscellaneous retail establishments (small) (excluding repair and service establishments and gun shops) having a maximum floor area of 1,000 square feet which sell food, apparel and small specialty shopping goods including antiques, sporting goods, books, stationery, jewelry, cameras, novelty and optical stores and small cafes and restaurants.

(12) Offices, business and professional.

(13) Holiday tree sales.

(d) *Conditional uses.* The following uses are permitted subject to the issuance of a conditional use permit (CUP):

(1) Automobile repair establishments subject to the following conditions:

a. The use is existing as of the date of adoption of the amendment from which this section is derived.

b. The structure and use shall not be expanded without city council approval, based upon finding that the expansion is a furtherance of the public health and safety and will not negatively impact the surrounding neighborhood.

c. Any change in use shall be to the same or another B-1 permitted or conditional use.

d. No more than five cars shall be parked outdoors overnight at any one time, and cars shall be parked in an orderly fashion in a designated area.

e. There shall be no outdoor storage of supplies, materials or trash.

f. Trash containers and parking areas shall be screened from view from residential areas to the maximum degree practicable in consultation with city officials and upon approval by the city council after review by the planning commission.

(2) Adult and child care facilities and nursery schools subject to licensing by the state.

(3) Motor fuel stations as an integral part of a convenience store located at the corner of a minor arterial and collector street as defined by the comprehensive plan.

(4) Secondhand goods stores as defined in this chapter.

(e) *Permitted accessory uses.* The following uses shall be permitted accessory uses:

(1) Off-street parking and loading, signs, fences, and decorative landscape features as regulated herein.

(2) Temporary construction buildings (approved by zoning administrator).

(3) Accessory structures other than private garages as regulated herein. The design, placement, screening and size of the accessory buildings must be approved by the city council as being in harmony with the surrounding business district and neighborhood after review and recommendation by the planning commission.

(4) Essential service structures, provided no building shall be located within 30 feet of an abutting lot in an R district. The placement of the essential service structure must be approved by the city council as being in harmony with the surrounding business district and neighborhood after review and recommendation by the planning commission.

(5) Public telephone booths or drive-up service. The placement of the telephone booth or drive-up service must be approved by the city council as being in harmony with the

surrounding business district and neighborhood after review and recommendation by the planning commission.

(6) Planned landscape areas and edible landscape areas, including residential gardens, as defined and regulated in section 54-38.

(7) Electric vehicle chargers for public use.

(8) Other as deemed to be normal, customary, and incidental by the zoning administrator.

(f) *Other requirements.* All uses shall in addition to all other requirements comply with the following standards:

(1) No bars on doors or windows during business hours.

(2) No automatic interior or exterior security lock doors or doors that require request for entry or exit during business hours.

(3) No exterior storage of merchandise except for nursery stock associated with a florist.

(4) No exterior sales of merchandise except for a three-day period twice a year as a sidewalk sale or for merchandise associated with a florist.

(g) *Lot area, height, lot width and yard requirements.*

(1) Minimum lot area 10,000 square feet.

(2) Maximum principal building height two stories or 25 feet, except as provided by section 113-243 of this chapter. Accessory buildings are subject to section 113-240.

(3) Minimum lot width 90 feet.

(4) Maximum building/use size 5,000 square feet, except where otherwise noted.

(5) Minimum building yard requirements:

a. Front, 30 feet.

b. Side, ten feet, but 30 feet if abutting a street or R district.

c. Rear, 20 feet.

(6) Maximum lot coverage, including the total area of roofs, driveways, parking lots, sidewalks and similar impermeable surfaces, 75 percent.

(Code 1993, § 9-8.01; Ord. No. 0-93-07, § 1, 7-28-1993; Ord. No. 0-94-05, § 2, 3-23-1994; Ord. No. 0-95-01, § 2, 5-10-1995; Ord. No. 0-99-09, § 4, 12-15-1999; Ord. No. 00-02, §§ 2, 3, 7-26-2000; Ord. No. 19-01, § 1, 1-9-2019; Ord. No. 20-07, § 3, 12-09-2020)

Sec. 113-178 - B-2 limited business district

(a) *Scope.* The provisions of this section apply to the B-2 limited business district.

(b) *Purpose and intent.* The primary purpose of the limited business district is to provide for office and limited service, employment and institutional uses which are freestanding in nature, require larger sites and are or can be made to be compatible with adjacent land uses. It is also intended to accommodate certain existing businesses for the purpose of maintaining them as conforming uses. Except where current retail or wholesale businesses are specifically listed, the limited business district is not intended to accommodate retail or

wholesale businesses. The district is designed to minimize the blighting influence on the surrounding residential neighborhoods by limiting and controlling the uses that are permitted.

(c) *Permitted uses.* No structure or land shall be used except for the following uses:

(1) Financial institutions with hours open to the public no earlier than 8:00 a.m. and no later than 6:00 p.m. An automatic teller machine may operate for 24 hours a day.

(2) Health care, offices and clinics.

(3) Offices, business and professional.

(4) City-owned community facilities provided there shall be no unscreened outdoor storage of materials, supplies or equipment, or trucks and trailers exceeding a capacity of 1½ tons.

(5) Holiday tree sales.

(d) *Conditional uses.* The following uses are permitted subject to the issuance of a conditional use permit (CUP):

(1) Drive-through facilities as an accessory use to a financial institution.

(2) Churches.

(3) Adult and child care facilities and nursery schools subject to licensing by the state.

(4) Dance studios, schools and halls.

(5) Florist, garden supply and garden wholesale stores.

(6) Funeral homes and mortuaries.

(7) Limited fabricating and processing of a product in conjunction with any permitted use when such products are wholly processed within a building and such use is deemed appropriate and consistent with the character of the district and environs. Where such uses consist of more than one principal building, plans for such development shall be submitted as a planned unit development (PUD).

(8) Historical buildings, museums, art institutes and galleries.

(9) Photographic studios, portrait.

(10) Radio broadcasting stations, television broadcasting stations, and cable and other pay television service stations, excluding external antenna systems.

(11) Studios.

(12) Research centers and laboratories excluding medical waste processing facilities.

(13) Schools or studio for music, art or interior design.

(14) Veterinary clinics with no animal boarding.

(e) *Permitted accessory uses*. Any accessory use permitted in section 113-177(e). The requirements of section 113-178(f)(3) and (4) shall not apply.

(f) *Other requirements.* All uses shall in addition to all other requirements apply the following standards:

(1) No bars on doors or windows during business hours.

(2) No automatic interior or exterior security lock doors or doors that require request for entry or exit during business hours.

(3) No exterior storage of merchandise except for nursery stock associated with a garden supply store or florist.

(4) No exterior sales of merchandise except for nursery stock associated with a garden supply store or florist.

(g) *Lot area, height, width and yard requirements.* Subject to exception under article V of this chapter.

(1) Minimum lot area 12,500 square feet.

(2) Maximum principal building height two stories or 25 feet, except as provided by section 113-243 of this chapter, three stories or 35 feet maximum allowed by CUP or PUD. Accessory buildings are subject to section 113-240(f).

(3) Minimum lot width 90 feet.

(4) Minimum building yard requirements:

a. Front, 30 feet.

b. Side, ten feet, but 30 feet if abutting a street or R district.

c. Rear, 20 feet.

(5) Maximum lot coverage, including the total area of roofs, driveways, parking lots, sidewalks and similar impermeable surfaces, 75 percent.

(h) *Interim uses.* The following uses are allowed subject to the issuance of an interim use permit: farmer's markets that meet the following criteria:

(1) Operate no more than one day per week.

(2) Site includes not less than 284 parking spaces for customers of the market.

(3) Market may not operate before 6:30 a.m. or after 8:00 p.m.

(4) Permittee must name a managing agent who is responsible for the conduct of the vendors in compliance with the conditions of the interim use permit.

(Code 1993, § 9-9.01; Ord. No. 0-93-07, § 3, 7-28-1993; Ord. No. 0-94-05, § 3, 3-23-1994; Ord. No. 0-99-09, §§ 5—7, 12-15-1999; Ord. No. 00-02, §§ 4, 5, 7-26-2000; Ord. No. 03-02, § 3, 2-12-2003; Ord. No. 06-03, § 3, 9-13-2006; Ord. No. 19-01, § 2, 1-9-2019)

Sec. 113-179 - B-3 Snelling and Larpenteur community business district

(a) *Scope.* The provisions of this section apply to the B-3 Snelling and Larpenteur community business district.

(b) *Purpose and intent.*

(1) The district applies only to the northeast, northwest, and southwest quadrants of the Larpenteur and Snelling intersection. The district is designed to provide retail sales and services that serve the surrounding neighborhoods' and community's needs. Retail sales and services that serve a larger geographic area are available in larger, nearby business districts in adjacent cities. By limiting and controlling the uses that are permitted, the

district is designed to be accessible to retail customers from the nearby neighborhoods and the community, to be compatible with the character of the neighborhoods and overall community, and to minimize the blighting influence on the surrounding residential neighborhoods.

(2) Furthermore, the district provides for and encourages compact centers for retail sales and services by grouping businesses into patterns of workable relationships that complement each other. The district is designed to be easily accessible to users. It excludes highway oriented and other high traffic volume businesses that would tend to disrupt the cohesiveness of the shopping center or its circulation patterns and shared parking arrangements.

(c) *Permitted uses.* No structure or land shall be used except for the following uses:

(1) Auto parts and accessory stores.

(2) Apparel and accessory stores.

(3) Beauty shops and barbershops.

(4) Bowling alleys.

(5) Coin and philatelic (stamp) stores.

(6) Commercial art services.

(7) Commercial photography services.

(8) Computer programming and data processing services.

(9) Dance studios, schools and halls.

(10) Eating establishments.

(11) Financial institutions and insurance establishments with hours open to the public no earlier than 8:00 a.m. and no later than 6:00 p.m. An automatic teller machine may operate 24 hours a day.

(12) Food stores, excluding the outdoor sales of produce, meat and seafood.

(13) Garment pressing, and agents for laundries and dry cleaners.

(14) Hardware stores.

(15) Health services, offices and clinics.

(16) Home furnishing, appliance and equipment stores.

(17) Laundry and garment services.

(18) Laundromats - self serve.

(19) Mailing services.

(20) Miscellaneous retail establishments, including antique stores but excluding fuel dealers and gun shops.

(21) Motion picture theaters.

(22) Offices, business and professional.

(23) Office supply and art supply stores, retail.

(24) Paint, glass and wallpaper stores, retail.

(25) Personal service establishments as follows: tax return preparation services, diet centers, costume and dress suit rental stores, photograph services.

(26) Photographic studios, portrait.

(27) Physical fitness facilities.

(28) Precious metal dealers with a precious metal dealer license.

(29) Photocopying and duplicating shops, provided not more than six employees are employed on the premises at one time.

(30) Public and essential service uses.

(31) Schools and studios for art, music and interior design.

(32) Secretarial and stenographic services.

(33) Tanning salons.

(34) Therapeutic massage enterprise.

(35) Video rental stores.

(d) *Conditional uses*. The following uses are permitted subject to the issuance of a CUP:

(1) Animal grooming and pet stores provided there shall be no boarding of animals on the site.

(2) Basement storage of goods not sold on the premises provided that the space is completely finished and ready for use, is sprinkled, has elevator access, provides two pedestrian accesses, has an existing loading dock or area that does not conflict with adjacent residential areas or entry to businesses and is approved by the city fire marshal.

(3) Car washes which are accessory to the principal use and meet the requirements for service stations, section 113-383.

(4) Adult, child care and nursery school facilities subject to licensing by the state.

(5) Charitable gambling establishments as a principal use in accordance with the city's licensing requirements, section 30-4.

(6) Custom manufacturing of handmade goods that are sold on the premises provided the manufacturing operation is incidental to a retail operation.

(7) Drinking establishments, bars and taverns, subject to the city's licensing requirements, chapter 6, article II of this Code.

(8) Gun shops are a conditional use on the northwest corner of Snelling and Larpenteur as long as the following conditions exist:

a. A minimum of 1,000 feet from any residential zone except for a minimum of 150 feet from any residential zone when the residential zone is buffered by a separate commercial facility.

b. A minimum of 750 feet from any park.

c. A minimum of 1,000 feet from any public or private preschool, elementary or secondary school or church.

(9) Hotels and motels by PUD.

(10) Motor fuel or service stations subject to the design and performance standards as specified in section 113-383.

(11) Multifamily housing by PUD.

(12) Satellite communications dishes as an accessory use.

(13) Secondhand goods store, as defined in this chapter.

(14) Veterinary clinics with no boarding of animals on the site and no external runs.

(e) *Permitted accessory uses.*

(1) Any accessory use permitted in section 113-177(e).

(2) Limited repair and service operations which are incidental to a principal use.

(3) One pool table per 2,000 square feet of area excluding area devoted to bowling lanes and one video or electronic game per 300 square feet of area excluding area devoted to bowling lanes are permitted accessory uses to a bowling alley.

(4) The limited sale of used merchandise is allowed as an accessory use, but only if the following conditions are met:

a. The sale of used merchandise must be clearly incidental to the sale of new merchandise of the same general type.

b. The used merchandise which is sold on the premises must be acquired by the owner of the principal use only on a "trade-in" basis from customers trading in used merchandise at the time they purchase new merchandise of the same general type.

c. The portion of used merchandise on the premises may not, at any time, occupy more than ten percent of the sales area of the premises.

(f) *Other requirements.* All uses shall, in addition to all other requirements, apply the following standards:

(1) No bars on doors or windows during business hours.

(2) No automatic interior or exterior security lock doors that require request for entry or exit during business hours.

(3) No exterior storage of merchandise.

(4) No exterior sales of merchandise except twice a year for three days at a time as a sidewalk sale.

(g) *Building height and yard requirements.*

(1) Maximum principal building height is three stories or 35 feet, except as provided for in section 113-243. Accessory buildings are subject to section 113-240(f).

(2) Minimum building yard requirements:

a. Front, 30 feet.

b. Side, 20 feet, but 30 feet if abutting a street and 40 feet if abutting an R district. No side yard shall be required for a party wall subject to section 113-241.

c. Rear, 20 feet, but ten feet if abutting an alley.

d. Maximum lot coverage, 75 percent. This requirement shall only apply to sites that abut an R district to provide sufficient land area for buffering, landscaping and screening. Coverage may be increased by the city if a permanent screen or buffer, other than a wooden fence, is constructed which provides 100 percent yearround opacity for adjacent residential areas after approval by the city council and review by the planning commission.

(Code 1993, § 9-10.01; Ord. No. 0-89-2, 1-11-1989; Ord. No. 0-91-8, § 1, 5-22-1991; Ord. No. 0-93-07, § 3, 7-28-1993; Ord. No. 0-94-05, § 4, 3-23-1994; Ord. No. 0-95-01, §§ 3, 4, 5-10-1995; Ord. No. 97-03, § 1, 6-25-1997; Ord. No. 0-99-09, § 8, 12-15-1999; Ord. No. 00-02, §§ 6, 7, 9, 7-26-2000; Ord. No. 06-03, § 4, 9-13-2006; Ord. No. 19-01, § 3, 1-9-2019)

Sec. 113-180 - Public land (P-1)

(a) *Scope.* The provisions of this section apply to public land.

(b) *Generally.* All public (city, state, school district, state fair, University of Minnesota, and other) land owned and operated for public purposes is zoned for what may be the most appropriate private use should the land be sold, leased, or otherwise transferred from public ownership and/or use.

(c) *Allowed uses.* The "public land" overlay district is in addition to and not in lieu of the regular or original zoning district applied on the zoning map with the following uses

(1) *Private use of land.* Designate land areas that, if sold or otherwise made available for private use, the city council shall determine, after public hearing, the permanent zoning. No private building or occupancy permits shall be issued until said determination is made by the city council.

(2) *University of Minnesota.* University of Minnesota uses permitted shall be those indicated on the official campus plan of the university and placed on file with the city. The city shall be given not less than 30 days notice of any construction, change in use, or other land use activity affecting the community environment including impact upon city facilities, services, and road system.

(3) *State fair.* This district also applies to lands utilized for buildings, structures, and activities of the Minnesota state fair or the various states of the United States of America. Permitted uses shall include yearround activities such as recreation and others not directly associated with normal and commonly known "state fair" activities and purposes as approved by the city council; such uses may include tennis courts, play fields, picnic areas, and others intended for local community and/or general public use. All uses shall be in accordance with a state fair development and operations plan on file with the city. The city shall be given not less than 30 days notice of any new development, construction, or change in use on any portion of the state fair property

affecting city services, facilities and road system.

(4) *Official public plans.* School district, city, and other public lands to be developed and used in accordance with official public plans on file with the city.

(5) *Signs.* All signs visible from a public right-of-way (road, street, highway) and located or proposed for location on public land shall be considered as a structure to be included on plans by the university, fairgrounds, and school districts subject to review by the city.

(Code 1993, § 9-11.01)

Sec. 113-181 - R-4 high density multiple-family residential district-apartment buildings

(a) *Scope.* The provisions of this section apply to the R-4 high density multiple-family residential district.

(b) *Permitted uses.* All permitted uses in the R-2 district.

(c) *Conditional uses.* No structure or land shall be used for the following uses except by conditional use permit:

(1) Any conditional use permitted in the R-1 and R-2 districts.

(2) Conversion or enlargement of existing homes to accommodate one-, two-, three- or four-dwelling units.

(3) Large group homes as defined in this chapter.

(4) Townhouses. See performance standards as permitted in article VI, division 3 of this chapter.

(5) Buildings containing three or more dwelling units not exceeding 28 dwelling units per acre. A maximum of 40 dwelling units per acre are allowed if:

a. At least 80 percent of the required parking spaces are below grade and integrated into the apartment building; and

b. The property abuts Larpenteur or Snelling Avenue; and

c. The property does not abut property zoned R-1.

(d) *Permitted accessory uses.* The following uses shall be permitted accessory uses:

(1) All accessory uses as permitted in the R-1, R-2 districts.

(2) Conversion or enlargement as required by terms of a conditional use permit.

(3) All accessory uses as permitted in the R-1 and R-2 districts except that the keeping of chickens and bees, as regulated by the Code, is only allowed as accessory to a single-family or two-family home.

(e) *Lot area, height, lot width and yard requirements.*

(1) See performance standards as permitted in article VI, division 3 of this chapter (or as required by conditional use permit).

(2) No structure or building shall exceed three stories, or 30 feet, whichever is lesser in height, except as provided in section 113-243.

(3) A side yard abutting on a street shall not be less than 30 feet in width, and when a side yard of a multifamily structure abuts a single-family residence, the side yard shall not be less than 20 feet.

(4) The following minimum requirements shall be observed subject to additional requirements except as a modification set forth in this section and section 113-241:

Lot Area	Lot Width	Front Yard	Side Yard	Rear Yard
12,500 sq. ft.	90 feet	30 feet	10 feet or ½ the height of the building, whichever is greater	30 feet

*Lot area for single-family residence may be reduced to 10,000 square feet.

(Ord. No. 10-06, § 4, 9-8-2010; Ord. No. 13-04, § 3, 7-24-2013; Ord. No. 20-05, § 3, 10-14-2020)

Sec. 113-182 - R-5M mixed use high density residential district

(a) *Scope.* The provisions of this section apply to the R-5M mixed use high density residential district.

(b) *Purpose and intent.* The purpose of the mixed use high density residential district is to provide high density, primarily apartment style, rental and condominium housing with limited commercial uses within the same structure. The intent of the district is to meet or exceed the city's comprehensive plan density goal of 28 residential units per acre.

(c) *Permitted uses.*

(1) Apartment buildings with a maximum of 40 dwelling units per acre.

(2) Permitted uses in the B-2 zoning district.

(3) State licensed residential facilities serving from seven through 16 persons.

(4) State licensed day care facilities serving from 13 to 16 persons.

(d) *Conditional uses.*

(1) Conditional uses in the B-2 zoning district.

(2) Public parks and playgrounds.

(3) Municipal buildings and structures.

(4) Essential service structures.

(e) *Interim uses.* Farmers' markets that meet the following criteria: Operate no more than one day per week; site includes not less than 284 parking spaces for customers of the market;

market may not operate before 6:30 a.m. or after 8:00 p.m.; a managing agent must be named who is responsible for the conduct of the vendors in compliance with the conditions of the interim use permit.

(f) *Permitted accessory uses.*

(1) Off-street parking and loading, signs, fences, and decorative landscape features as regulated herein.

(2) Temporary construction buildings.

(3) Accessory uses in the B-2 zoning district.

(g) *Lot area, height, lot width, and yard requirements.*

(1) The following minimum requirements shall be observed subject to additional requirements except as modified in this section and in section 113-241:

Lot Area	Lot Width	Front Yard	Side Yard	Rear Yard
2.5 acres	200 feet	30 feet	10 feet or ½ the height of the building, whichever is greater	30 feet

(2) The required setback from a lot line abutting property zoned R-1 is 50 feet.

(3) If there is a commercial use on the first floor, the required setback from a lot line abutting Larpenteur Avenue or Snelling Avenue is 15 feet.

(4) Except as provided in section 113-243, the maximum height is four stories or 40 feet, whichever is less.

(Ord. No. 10-06, § 5, 9-8-2010)

Secs. 113-183 – 113-198 - Reserved

ARTICLE V - PLANNED UNIT DEVELOPMENT (PUD)

Sec. 113-199 - Purpose

The planned unit development district is intended to permit flexibility of site design, the conservation of land and open space through clustering of buildings and activities, and an incentive to developers to plan creatively by providing density bonuses. This flexibility can be achieved by allowing deviations from standards including setbacks, heights and similar regulations. PUDs are characterized by central management, integrated planning and architecture, joint or common use of parking, open space and other facilities, and a harmonious selection and efficient distribution of uses.

(Code 1993, § 9-16.01)

Sec. 113-200 - Required use

PUD zoning is required for all developments having two or more principal uses or structures on a single parcel of land and may include townhouses, apartment projects involving more than one building, residential subdivisions, multi-use structures such as an apartment building with retail at ground floor level, commercial developments, mixed residential and commercial developments, and similar projects.

(Code 1993, § 9-16.02)

Sec. 113-201 - General requirements and standards

(a) *Comprehensive plan/Code consistency.* A PUD must be consistent with the city comprehensive plan and the intent and purpose of the city Code provisions relative to land use, subdivision and development.

(b) *Operating and maintenance requirements for PUD common open space/facilities.* Whenever joint common open space or service facilities for individual owners or users are provided within the PUD, the PUD plan shall provide reasonable assurance of adequate operation and maintenance of such open space and service facilities.

(c) *Staging of public and common open space.* When a PUD provides for common or public open space, the total area of common or public open space or security in any stage of development, shall, at a minimum, bear the same relationship to the total open space to be provided in the entire PUD as the stages or units completed or under development bear to the entire PUD.

(d) *Development stages.* Whenever any PUD is to be developed in stages, no such stage shall, when averaged with all previously completed stages, have a residential density that exceeds 125 percent of the proposed residential density of the entire PUD.

(e) *Urban development and availability of public services*. All development shall be carefully phased so as to ensure that it will not cause an unreasonable burden upon the city in providing services and utilities or cause a deleterious impact upon the natural environment.

(Code 1993, § 9-16.03)

Sec. 113-202 - Permitted uses and standards

The permitted uses, standards, and development plan shall be set forth in the ordinance rezoning the property to PUD.

(Code 1993, § 9-16.04)

Sec. 113-203 - Procedure for processing a planned unit development

(a) *Approval process.* Planned unit developments may be permitted in the legislative discretion of the city council. The application and hearing process for planned unit developments will be as required for other zoning chapter amendments.

(b) *Preapplication conference.* Before filing an application for PUD, the applicant of the proposed PUD shall arrange for and attend a conference with the city administrator. The primary purpose of the conference shall be to provide the applicant with an opportunity to gather information and obtain guidance as to the general suitability of his or her proposal for the area for which it is proposed and its conformity to the provisions of this chapter before incurring substantial expense in the preparation of plans, surveys and other data.

(c) *Application information.* An applicant shall submit a completed application form furnished by the city, together with the following information:

(1) Drawings in schematic form containing the following:

a. The location, size of site and the proposed uses of the land to be developed.

b. The density of land use to be allocated to the several parts of the site to be developed.

c. The location and size of all useable open space and the form of organization to own and maintain such space.

d. The use, height, bulk and approximate location of buildings and other structures.

e. The plans for the distribution of sanitary wastes, stormwater, and the provisions of other utilities.

f. The plans for parking of vehicles and the location and width of proposed streets, curbs, gutter and landscaping.

g. A schedule showing the proposed times within which application for final approval of all sections of the planned unit development are intended to be filed.

(2) A written statement must include the following:

a. A narrative explanation of the general character of the planned unit development, its integration with the surrounding land uses and justification of any requested density bonuses.

b. A statement identifying the final ownership and describing maintenance of all parts of the development including streets, structures and useable open space.

c. The total anticipated population of the planned unit development, with breakdowns as to the estimated number of school age children, adults and families.

(3) The following exhibits:

a. Abstractor's certified property certificate showing the names and addresses of property owners within 350 feet of the outer boundaries of the property.

b. Location map showing property in relation to the city as a whole and to the city's primary elements such as thoroughfares, schools, parks and shopping areas.

c. A legal description of the property including approximate total acreage.

d. Boundary survey prepared by a registered surveyor of the property and 100 feet beyond showing:

1. Existing property lines and dimensions.

2. Ownership of all parcels.
3. Platting and easements.
4. Street and railroad rights-of-way.
5. Buildings.
6. Utility lines and facilities.

e. A topographic map prepared by a registered civil engineer or registered land surveyor covering the entire tract proposed for development which contains the following information:

1. Contour lines at no more than foot intervals.
2. Hydrologic information including drainage patterns, wetlands, and land subject to periodic flooding.
3. Soil and subsoil conditions.
4. Vegetation including classification of tree cover by species.

f. Any other material requested by the city council, planning commission or city staff.

(Code 1993, § 9-16.05)

Sec. 113-204 - Coordination with subdivision approval

If development of the PUD requires subdivision approval, the PUD and subdivision shall be processed concurrently.

(Code 1993, § 9-16.06)

Sec. 113-205 - Development contract

The city and the developer shall enter into a development contract setting forth any improvements required to be undertaken by the developer. This contract may be combined with the development contract required for subdivision approval.

(Code 1993, § 9-16.07)

Sec. 113-206 - Rezoning

If approved by the city council, the property shall be rezoned PUD in accordance with the terms of approval. If a concurrent plat application is being processed, PUD rezoning shall be concurrent with final plat approval.

(Code 1993, § 9-16.08)

Sec. 113-207 - Control of planned unit development following completion

(a) *Modification of structures.* After the certificate of occupancy has been issued, the use of the land and the construction, modification or alteration of any buildings or structures within

the planned development shall be governed by the final development plan.

(b) *Changes in final development plan.* After the certificate of occupancy has been issued, no changes shall be made in the approved final development plan except upon application as provided below:

(1) Any minor extensions, alterations or modifications of existing buildings or structures may be authorized by the planning commission if they are consistent with the purposes and intent of the final plan. No change authorized by this section may increase the volume of any building or structure by more than ten percent.

(2) Any building or structure that is totally or substantially destroyed may be reconstructed only in compliance with the final development plan unless an amendment to the final development plan is approved.

(3) Changes in the use of common open space or any other substantial changes in the final development plan may be authorized by an amendment to the final development plan.

(Code 1993, § 9-16.09)

Sec. 113-208 - Amendment of plan

Any substantial changes in the final development plan, including but not limited to changes in land use, increases in development density or intensity or changes in the provisions for common open spaces shall require a PUD amendment. The amendment process for planned unit developments shall be the same as that for all other amendments to this chapter. (See section 113-35.)

(Code 1993, § 9-16.10)

Sec. 113-209 - Urban farm planned unit development district

(a) *Legal description.* The legal description of this PUD is lots 1 and 2, block 1, Urban Farm Project Addition.

(b) *Purpose.* The purpose of the urban farm PUD district is to provide for the mixed uses of an urban farm and an apartment building.

(c) *Scope.* The provisions of this section apply to the urban farm planned unit development.

(d) *Permitted uses.* The following uses are permitted subject to the development plan for the PUD, subsection 113-209(f), and the standards and requirements of the R-5M zoning district, except as modified herein:

(1) On lot 1, block 1, an urban farm. At least 21 paved parking spaces must be maintained next to the main building adjacent to Larpenteur Avenue, as well as at least 24 overflow parking stalls. The urban farm may have up to:

976 square feet of retail space;

2,201 square feet of office/training/kitchen space;

8,580 square feet of distribution/warehouse space;

849 square feet of greenhouse space; and

576 square feet of yard storage building space.

(2) On lot 2, block 1, a 68-unit apartment building with at least 68 parking spaces. At least 54 of the required parking spaces must be below grade and integrated into the apartment building. The site may have up to:

60,537 square feet of residential living space;

Four stories with underground parking; and

Private access easement between lot 1 and lot 2 to be recorded into the property record of both parcels.

(e) *Permitted accessory uses.*

(1) On lots 1 and 2, block 1, the accessory uses in the R-5M zoning district;

(2) On lot 1, block 1, seasonal hoop houses for growing vegetables.

(f) *Development plan.* The PUD must be maintained in accordance with the following development plan which is on file with the city and which is incorporated herein by reference:

(1) Urban farm project addition plat;

(2) Topographic survey and grading, drainage and utility plan prepared by Jacobson Engineers & Surveyors dated July 28, 2014;

(3) The following prepared by LHB for lot 1, block 1:

Architectural site plan w/landscape layout dated August 18, 2014;

First floor plan dated August 18, 2014;

Yard storage building - Color option 1 dated July 28, 2014 or yard storage building - Color option 2 dated August 18, 2014;

Exterior elevations - Color option 1 dated August 18, 2014 or exterior elevations - Color option 2 dated July 28, 2014.

(4) The following plans prepared by Kelly Brothers, Ltd and their contractors/partners for lot 2, block 1 with up to a five percent variance as approved by the city administrator:

a. Development plans, dated October 31, 2018 including;

- Grading plan
- Drainage plan
- Utility plan
- Floor plans
- Elevations
- Operations and maintenance plan

b. Development plans, dated September 3, 2020 including:

- Site plan
- Landscape plan

(Ord. No. 13-02, § 2, 5-22-2013; Ord. No. 14-02, § 1, 9-10-2014; Ord. No. 17-01, § 1, 6-14-2017; Ord. No. 18-10, § 1, 11-14-2018; Ord. No. 20-06, § 1, 10-14-2022)

Sec. 113-210 - South 215.125 feet of lot 1, block 1, Lindig Addition planned unit development

(a) *Legal description.* The South 215.125 feet of Lot 1, Block 1, Lindig Addition, Ramsey County Minnesota.

(b) Zoning Regulations. The R-4, Medium Density Multiple-family Residential District regulations shall apply to the Property subject to the following modifications:

(1) The only permitted use is one residential building with three dwelling units.

(2) No conditional uses.

(3) The building may not exceed two stories or 32 feet in height.

(4) Site plan, survey, parking, and landscape plan prepared by Lot Surveys Company Inc. dated June 11, 2009 on file with the City Clerk.

(5) Setbacks as depicted on the Site Plan.

(6) Design Development plan and elevations prepared by Gaetz Architects dated August 31, 2009 on file with the City Clerk.

(7) The Site Plan, survey, parking, and landscape plan together with the Design Development Plan and elevations are the Final Development Plan.

(Ord. No. 19-03, 3-27-2019)

Sec. 113-211 - Amber Union planned unit development

(a) *Legal description.* The legal description of this PUD is the North Half of the Northeast Quarter of the Northeast Quarter of the Northeast Quarter, in section 21, township 29, range 23, Ramsey County, Minnesota, except that part taken for Snelling and Larpenteur Avenues.

(b) *Purpose.* The purpose of the Amber Union planned unit development is to provide for the mixed uses of multi-family apartments and a retail space.

(c) *Permitted uses and zoning regulations.* The R5-M mixed use high density residential district regulations shall apply to the property subject to the following modifications:

(1) Permitted uses: One principal structure consisting of 111,640 square feet and 89 apartment units and one principal structure consisting of 59,195 square feet, 39 apartment units, and one retail space.

(2) No conditional uses.

(3) No interim uses.

(4) Setbacks as depicted in the site plan dated September 23, 2019 prepared by Kimley Horn and Mohagen Hansen.

(d) Parking. Vehicle parking shall be as follows:

(1) 108 parking stalls as depicted on the Site Plan dated September 23, 2019 prepared by Kimley Horn.

(2) 41 parking stalls as depicted on Exhibit A (Parking Easement) dated [inset date] prepared by Buhl GTA, recorded at Ramsey County as document number [insert number].

(3) 10 parking stalls as depicted on Exhibit B dated (Encroachment Agreement) [insert date] prepared by the City of Falcon Heights, recorded at Ramsey County as document number [insert number].

(4) At no time shall there be less than 149 parking stalls dedicated to the permitted uses of the Amber Union Planned Unit Development. A different arrangement of parking is subject to approval by the city administrator.

(e) *Development plan.* The PUD must be maintained in accordance with the following development plan, which is on file with the city and which is incorporated herein by reference.

(1) The following plans prepared by Buhl GTA, LP and their contractors/partners with up to five percent variance as approved by the city administrator:

a. Site development plans, dated September 23, 2019 prepared by Kimley Horn and Mohagen Hansen including:

1. Demo plan.
2. Erosion and sediment control plan.
3. Site plan.
4. Grading plan.
5. Storm sewer plan.
6. Utility plan.
7. Security plan.

b. Security Plan, dated May 6, 2019 prepared by Kimley Horn and Mohagen Hansen

c. Landscaping plans, dated July 15, 2019 prepared by Damon Farber.

1. Tree protection plan.
2. Landscape plan.

d. Floor plans, dated September 23, 2019 prepared by Mohagen Hansen.

(Ord. No. 19-05, § 1, 6-12-2019; Ord. No. 19-07, § 1, 10-23-2019)

Sec. 113-212 – Amber Flats planned unit development

(a) *Legal description.* The legal description of this PUD is as follows:

PID 212923110029: The East 250 feet of the North 500 feet except the West 150 feet of the East 160 feet of the North 283 feet of the Northwest quarter of the Northeast quarter of the Northeast quarter of Section 21, Township 29, Range 23, West of the Fourth Principal Meridian;

PID 212923110038: The West 150 feet of the East 160 feet of the North 283 feet of the Northwest quarter of the Northeast quarter of the Northeast quarter of Section 21, Township 29, Range 23, West of the Fourth Principal Meridian.

("Subject Property")

(b) *Purpose.* The purpose of the Amber Flats Planned Unit Development is to provide for multi-family apartments.

(c) *Permitted uses and zoning regulations*. The R-5M mixed use high density residential district regulations shall apply to the property subject to the following modifications:

a. Permitted uses:

1. One principal structure consisting of 117,000 square feet and 96 apartment units.
2. No conditional uses.
3. No interim uses.
4. Setbacks as depicted in the Architectural Site Plan dated October 16, 2023 prepared by UrbanWorks Architecture, LLC.

b. Parking. Vehicle parking shall be as follows:

1. 55 surface parking stalls as depicted in the Architectural Site Plan dated October 16, 2023 prepared by UrbanWorks Architecture, LLC.
2. 66 sublevel parking stalls as depicted in the Sublevel 1 - Overall Plan dated October 16, 2023 prepared by UrbanWorks Architecture, LLC.

(d) *Development plan.* The PUD must be maintained in accordance with the following development plan, which is on file with the city and which is incorporated herein by reference.

(1) The following plans prepared by UrbanWorks Architecture, LLC with up to five percent variance to not increase nonconformities from City Code, as approved by the city administrator:

a. Site development plans, dated October 16, 2023, prepared by UrbanWorks Architecture, LLC including:

1. Site demolition plan.
2. Erosion and sediment control plan.
3. Site dimension plan.
4. Grading and drainage plan.
5. Utility plan.
6. Architectural site plan, including overall, sublevel 1, level 1, level 2.
7. Building elevations.

(e) *Additional conditions*. The PUD must be maintained in accordance with the following additional conditions.

(1) Trees shall be planted and/or maintained along Larpenteur Avenue and Underwood Street as shown in plans submitted by UrbanWorks Architecture,

LLC, dated October 16, 2023.

(2) Snow storage may not be stored in any parking area for more than 48 hours.

(3) Open space as shown on plans submitted by UrbanWorks Architecture, LLC, dated October 16, 2023, may not be converted into additional parking.

(4) Charging stations for not less than four electric vehicles must be provided on site.

Secs. 113-213 – 113-239 - Reserved

ARTICLE VI - SUPPLEMENTAL DISTRICT REGULATIONS

DIVISION 1 - GENERALLY

Sec. 113-240 - Accessory buildings and structures

(a) *Time of construction.* No accessory building shall be constructed on a lot prior to the time of construction of the principal building or land use to which it is accessory.

(b) *Proximity to principal building.* An accessory building shall be considered as an integral part of the principal building if it is located less than 12 feet from the principal building with respect to firewall and other requirements of the building code.

(c) *Garage restrictions.* Garages in a residential district must be set back at least five feet from an interior side or rear lot line unless:

(1) The garage meets all of the following:

a. Is located on an alley, and is accessed from the alley or from a public street abutting an alley on a corner lot;

b. Is located in the rear 28 feet of the lot; and

c. Is oriented such that the vehicular access door is perpendicular to the alley; or

(2) The garage meets all of the following:

a. Is detached from the principal structure;

b. Is accessed from a driveway off of a public street, not an alley;

c. Is replacing an existing garage that is located less than five feet from the side lot line; and

d. Is located a minimum of five feet to the rear of the principal structure on the nearest adjoining property that is closed to the garage; or is located at least ten feet from any portion of the principal structure on the nearest adjoining property; or

(3) The garage meets all of the following:

a. Is detached from the principal structure;

b. Is accessed off an alley;

c. Is replacing an existing garage that is located less than five feet from the side lot line; and

d. Is located in the rear 30 feet of the lot.

(d) *Garage locations; conditional.*

(1) If all the conditions of subsection (c)(1) of this section are met, the garage can be located not less than one foot from an interior side or rear lot line.

(2) If all of the conditions of subsection (c)(2) of this section are met, the garage can be located at the same side yard setback as the existing garage that is being replaced, except that the new garage shall not be located less than two feet from the side lot line. The replacement garage does not have to be in the same location as the existing garage.

(3) If all of the conditions of subsection (c)(3) of this section are met, the replacement garage can be located at the same side yard setback as the existing garage, except the garage shall not be located less than two feet from the side lot line.

(e) *Yard setbacks; building locations.* The corner side yard setback for accessory buildings, including garages and accessory dwelling units, shall adhere to the setback requirement for principal buildings as described in section 113-174(e)(2) (20 percent of the lot width). The rear yard and interior side yard setbacks shall be those required for garages and accessory buildings on interior lots. Lots smaller than 75 feet wide shall have a minimum corner side yard setback requirement of not less than fifteen feet. Garages on these lots may be located closer than 15 feet from the corner side lot line if the vehicular access door does not face the side street. In no case shall a garage or other accessory building be located within the corner side yard.

(f) *Height limitations.* No accessory building in a residential district shall exceed the height of the principal building. No detached garage in a residential district shall exceed 15 feet in height, unless it contains an accessory dwelling unit. A detached garage containing an accessory dwelling unit may not exceed two stories or 25 feet in height, whichever is lesser in height.

(g) *Building location in certain districts.* Accessory buildings in the business and industry districts shall be located any place to the rear of the principal building, subject to the building code, and the fire zone regulations.

(h) *Prohibited location.* No detached garages or other accessory buildings shall be located nearer to the front lot line than the principal building on that lot with the exception of an attached garage in an R-1 zone.

(i) *Height limitation in certain districts.* No accessory building in a business or industrial district shall exceed the height of the principal building except by conditional use permit.

(j) *Yard setbacks and building location in certain districts.* An accessory building in the business or industrial districts may be located within the rear yard setback, provided that the lot is not a through lot and said accessory building does not occupy more than 25 percent of the required rear yard. An accessory building shall be a part of the principal building if it is located less than 12 feet from the principal building. No accessory building shall be located less than ten feet from a rear lot line.

(k) *Standards for utility structures.* Utility structures and other similar buildings shall conform to the following standards in residential districts:

(1) All structures 120 square feet or larger shall require a building permit.

(2) All such structures shall be secure from wind displacement.

(3) The area of such buildings shall not be less than 35 square feet. Only one such

building shall be permitted per lot and permitted only within the single-family districts.

(4) The height of detached utility structures shall not exceed 12 feet. If attached, the structure shall not exceed the height of the principal building.

(5) Exterior colors or materials matching the principal structure or earthen tones shall be utilized. No door or other access opening in a utility structure shall exceed 28 square feet in area.

(l) *Compost structure requirements.* One accessory structure for compost not to cover more than 25 square feet in area and five feet in height in the rear yard. A compost structure must meet the setback requirements in section 113-240(e).

(m) *Garage conversion requirements.* When an attached garage is converted to dwelling space, a replacement garage of the same or greater size must be constructed on the property. Furthermore, the existing driveway leading to the converted garage must be replaced with grass or approved landscaping materials unless the driveway provides access to the new garage. The curb cut provided to such a driveway may be removed by the city in the event the street curbs and gutters are rebuilt.

(n) *Street access for alley property.* No property located on an alley shall be permitted a new curb cut for street access.

(o) *Prohibited use.* No accessory building or structure shall be used for living purposes or as a dwelling unit, unless it is an authorized accessory dwelling unit under this chapter.

(p) *Detached accessory building conditions.* Detached accessory buildings shall not occupy more than 40 percent of the area of a required rear yard, and shall not exceed a total of 1,000 square feet.

(q) *Minimum distance between buildings.* The minimum distance between the principal building and an unattached accessory building shall be five feet.

(r) *Minimum setback.* The minimum setback from the rear lot line of a through lot shall be 30 feet.

(s) *Tents.* A tent is not an approved accessory building and may not be used as a dwelling unit on any lot.

(t) *Detached garage condition.* Detached garages in a residential district must be located entirely within the rear 30 feet of the lot if there is an adjacent alley.

(u) *Accessory dwelling units*. Accessory dwelling units shall conform to the following standards where allowed as a permitted accessory use:

(1) An accessory dwelling unit shall be located on a lot occupied by a single-family dwelling.

(2) No more than one accessory dwelling unit shall be allowed on a lot.

(3) Either the principal dwelling unit or the accessory dwelling unit shall be owner-occupied and both dwelling units shall be under unified ownership. The accessory dwelling unit may not be sold independently of the principal dwelling unit and may not be a separate tax parcel.

(4) An accessory dwelling unit may be attached to, detached from, or internal to a single-family dwelling unit building. Accessory dwelling units attached or internal to a single-family dwelling unit building must be fully separated from

the principal dwelling unit by means of a wall or floor and have a separate entrance than the principal dwelling unit. The separating wall may have a door connecting the accessory dwelling unit to the principal dwelling unit.

(5) Only one unit, either the accessory dwelling unit or principal dwelling unit, may be rented at one time. For the purposes of this provision, a "rented" accessory dwelling unit is one that is being occupied by a person or persons other than the family occupying the principal dwelling unit. Rented accessory dwelling units must comply with all provisions outlined in chapter 105, article iv.

(6) The accessory dwelling unit must comply with all Minnesota State Building Code provisions as they apply to single-family dwelling unit buildings.

(7) An accessory dwelling unit shall be assigned a unique address identifier to differentiate it from the principal dwelling. All accessory dwelling units shall be identified by "Unit A" following the primary property address. It shall be the responsibility of the property owner to inform the United States Postal Service (USPS) of the new address.

(8) A detached accessory dwelling unit may be located above a detached garage or within a separate, existing or newly constructed, accessory building meeting the standards for accessory buildings established in this section.

(9) Home occupations meeting the definitions and requirements of section 113-391 are permitted in accessory dwelling units.

(10) Dimensional standards for all accessory dwelling units shall conform to the following guidelines:

a. The maximum height of an accessory dwelling unit shall meet the requirements as set forth in section 113-240(f).

b. An accessory dwelling unit shall include at least 250 square feet of living area, up to a maximum of 1000 square feet of living area, but in no case shall an accessory dwelling unit exceed 75% of the principal dwelling's four-season living area (exclusive of the accessory dwelling unit). For the purposes of this provision, "living area" shall include kitchen areas, bathrooms, living rooms, bedrooms (including the closet which defines the bedroom), and other rooms, and shall exclude utility rooms, hallways, entryways, storage areas, and garages.

c. An accessory dwelling unit shall not occupy more than 40% of the area of a required rear yard.

d. An accessory dwelling unit must meet all setback standards as outlined in section 113-174.

e. An accessory dwelling unit shall include a maximum of two bedrooms.

f. All accessory dwelling units shall meet the standards for principal buildings; notwithstanding this requirement, detached accessory dwelling units shall not be located closer to the front property line than the principal building.

(11) The entryway to a detached accessory dwelling unit shall be connected to a street or alley frontage with an improved walkway.

(12) An accessory dwelling unit shall be constructed so as to be compatible with the

existing principal dwelling, as well as the surrounding neighborhood in terms of design, form, height, materials, and landscaping.

(Code 1993, § 9-2.04; Ord. No. 0-89-12, 7-26-1989; Ord. No. 0-89-16, 11-8-1989; Ord. No. 0-90-1, 1-10-1990; Ord. No. 0-90-8, 8-22-1990; Ord. No. 0-91-13, § 1, 11-27-1991; Ord. No. 0-95-07, §§ 1—3, 10-11-1995; Ord. No. 0-96-01, § 1, 2-28-1996; Ord. No. 98-04, § 1, 6-24-1998; Ord. No. 0-99-10, § 1, 12-15-1999; Ord. No. 01-02, § 1, 10-10-2001; Ord. No. 19-04, § 3, 5-8-2019)

Sec. 113-241 - Required yards and open spaces

(a) *Existing yards.* No yards, now or hereafter provided for a building existing on the effective date of the ordinance from which this chapter is derived shall subsequently be reduced below, or further reduced if already less than, the minimum yard requirements of this chapter for equivalent new construction in any zone.

(b) *Permitted encroachments on required yards.* The following shall be permitted encroachments into setback and height requirements except as restricted by other sections of this chapter:

(1) In any yards:

a. Posts, off-street parking, flues, sills, pilasters, lintels, cornices, eaves (up to three feet), gutters, awnings, open terraces, steps, sidewalks, essential services, stoops, or similar features provided that they do not extend five feet above the height of the principal structure or to a distance less than three feet from any lot line;

b. Yard lights and nameplate signs, trees, shrubs, plants;

c. Floodlights or other sources of light illuminating authorized illuminated signs, or light standards for illuminating parking areas, loading areas, or yard for safety and security reasons, provided the direct source of light is not visible from the public right-of-way or adjacent residential property;

d. No deck, uncovered porch, or air conditioner shall be less than five feet from a side or rear yard line and if in the required front yard area, a variance shall be required;

e. An exposed ramp is a permitted encroachment, provided that a setback of at least five feet in the side and rear yard is met and the design and materials are approved by the zoning administrator as being in harmony with the surrounding residential neighborhood and the documented medical needs of the user;

f. Chimneys, flagpoles and open fire escapes may not extend more than five feet above the principal structure or three feet from any lot line. Basement egress window wells may not extend closer than three feet to any lot line.

(2) In side and rear yards:

a. Fences that meet all other provisions of this chapter;

b. Walls and hedges six feet in height or less;

c. Bays not to exceed a depth of three feet or containing an area of more than 30 square feet, fire escapes and basement egress window wells not to exceed a width of three feet.

(3) On a corner lot, nothing shall be placed or allowed to grow in such a manner as materially to impede vision between a height of 2½ and ten feet above the centerline grades of the intersecting streets within a triangular area 30 feet from the intersecting street right-of-way lines.

(4) In no event shall off-street parking, structures of any type, buildings, or any impervious surfaces cover more than 75 percent of the lot areas, except for R-1 zoned land which is regulated by the schedule below:

Lot Area (sq. ft.)	Maximum Impervious Lot Coverage
7,370 or less	45%
Over 7,370 to 15,800	3,320 sq. ft. or 30%, whichever is greater
Over 15,800 to 34,000	4,940 sq. ft. or 20%, whichever is greater
Over 34,000	6,800 sq. ft. or 15%, whichever is greater

(5) Porches with open railings which do not have walls, doors, windows or screens and which do not extend above the roof line of the building to which they are attached may encroach into the required front yard six feet if they are a minimum 24 feet from any front lot line. The encroachment into the front yard may not exceed 50 square feet.

(c) *Street frontage.* All buildable lots must have frontage on and direct access to an improved public street except for planned unit development in which private streets have been approved by the city.

(Code 1993, § 9-2.05; Ord. No. 0-96-01, § 2, 2-28-1996; Ord. No. 0-96-05, § 1, 8-14-1996; Ord. No. 99-05, § 2, 8-25-1999; Ord. No. 03-01, § 1, 1-22-2003; Ord. No. 12-03, § 2, 5-9-2012)

Sec. 113-242 - Fences

Fences may be allowed in any zone and are subject to the following:

(1) All fences shall require a zoning permit in addition to any other required permits.

(2) If a fence is less than seven feet tall, a building permit is not required. If it is over seven feet, a building permit is required.

(3) Fences in residential districts shall be comprised of chain-link, wood, plastic, or metal, but shall not be electric, barbed, weaved, or welded wire, except as allowed as a security arm.

(4) All fences shall be kept in good repair, painted, trimmed and well maintained.

(5) That side of the fence considered to be the face (finished side as opposed to structural supports) shall face abutting property.

(6) In the event a fence is adjacent to and parallel with the front lot line, side lot line on the street side of a corner lot, or rear lot line adjacent to and parallel with an alley, such

fence shall be set back at least one foot from the street and alley right-of-way or property line.

(7) Fences are not allowed in a 30-foot visibility triangle on street corners. This area is measured beginning at the intersection of the projected property lines of two intersecting streets, thence 30 feet along one property line, thence diagonally to a point thirty 30 feet from the point of beginning.

(8) Fences may be permitted along property lines subject to the following:

a. Fences may be placed along property lines provided no physical damage of any kind results to abutting property.

b. Fences in commercial and industrial districts may be erected on the lot line to a height of six feet above grade plus two feet for a security arm. The security arm may be barbed, weaved, or welded wire.

c. Where the property line is not clearly defined, a certificate of survey may be required by the zoning administrator to establish the property line.

d. Fences located within the side and rear yard nonbuildable setback areas beginning at the front building line and fences located within the buildable area of a lot shall not exceed six feet in height from finished grade. Fence posts may extend an additional six inches.

e. In residential districts, fences along or within the front nonbuildable setback area shall not exceed 36 inches in height from finished grade. Fence posts may extend an additional six inches.

(Code 1993, § 9-2.06; Ord. No. 19-02, § 1, 3-13-2019)

Sec. 113-243 - Height limitations

(a) *Conditional use permit.* Any structural height that exceeds this chapter must have a conditional use permit.

(b) *Exemptions.*

(1) Height limitations shall not apply to belfries, cupolas and domes, monuments, public and public utility facilities, silos, barns, church spires, chimneys, smokestacks, flagpoles, and parapet walls extending not more than four feet above the limiting height of the building.

(2) Height limitations shall not apply to rooftop structures such as mechanical equipment, elevator shaft and equipment enclosures and similar structures, provided said exceptions do not exceed ten feet in height above the roofline and the area does not exceed 15 percent of the roof area.

(3) Height limitations shall not apply to private T.V. or radio reception antennae extending more than ten feet above the limiting height of the building except if any portion of the structure exceeds four feet in diameter and is more than 20 percent opaque, a conditional use permit shall be required. Any T.V. or radio transmission or reception device or structure not attached to the principal building shall require a conditional use permit.

(c) *Airport.* In all cases, however, no structure shall violate the limits and provisions of the airport plan of the Metropolitan Development Guide.

(Code 1993, § 9-2.07(1); Ord. No. 0-93-07, § 5, 7-28-1993)

Sec. 113-244 - Telecommunication towers and antennas

(a) *Purpose.* In order to accommodate the communication needs of residents and businesses while protecting the public health, safety, and general welfare of the community, the council finds that these regulations are necessary to:

(1) Maximize the use of existing and approved towers and buildings to accommodate new personal wireless service antennas in order to reduce the number of new towers necessary to serve the community;

(2) Ensure antennas and towers are designed, located, and constructed in accordance with all applicable Code requirements to avoid potential damage to adjacent properties from failure of the antenna and tower through structural standards and setback requirements;

(3) Require antennas and tower sites to be secured in order to discourage trespassing and vandalism; and

(4) Require tower equipment to be screened from the view of persons located on properties contiguous to the site and/or to be camouflaged in a manner to compliment existing structures to minimize adverse visual effects of antennas and towers.

(b) *Permits.*

(1) It shall be unlawful for any person, firm, or corporation to erect, construct, place or re-erect, replace, or make structural repairs to any tower without first making application for and securing a building permit as provided in this chapter, except as provided in subsection (b)(3) of this section.

(2) The applicant shall provide a report from a qualified and licensed professional engineer that demonstrates the tower's compliance with all applicable structural and electrical standards, including but not limited to the Minnesota State Building Code, and includes the engineer's certification.

(3) Permits are not required for:

a. Adjustment, repair, or replacement of existing antennas or the elements of an antenna array affixed to a tower or antenna, provided that adjustment or replacement does not reduce the safety factor.

b. Routine maintenance (e.g., painting) and other nonstructural-related repairs of towers.

c. Antennas and/or towers erected temporarily for test purposes, for emergency communication, or for broadcast remote pick-up operations, provided that all requirements of subsection (b)(5) of this section are met, with the exception of subsection (b)(5)(i) of this section (regarding corrosive material) which is waived. Temporary antennas shall be removed within 72 hours following installation, unless additional time is approved by the building official. Temporary towers erected for emergency purposes may be exempt from setback requirements of this article as determined by the building official.

(4) The fee to be paid is that prescribed under building permit fees.

(5) All antennas and towers erected, constructed, or located within the city, including all necessary wiring, shall comply with the following requirements:

a. All applicable provisions of this chapter.

b. Towers and their antennas shall be certified by a qualified and licensed professional engineer to conform to the latest structural standards and wind loading requirements of the Minnesota State Building Code and the electronics industry association and all other applicable reviewing agencies.

c. With the exception of necessary electric and telephone service and connection lines approved by the city, no part of any antenna or tower nor any lines, cable, equipment, or wires or braces in connection with either shall at any time extend across or over any part of the right-of-way, public street, highway, sidewalk, or property line.

d. Towers and their antennas shall be designed to conform to accepted electrical engineering methods and practices and to comply with the provisions of the National Electrical Code.

e. Antennas which are directly mounted to the ground, or which are mounted in any other way which would allow an individual to easily make contact with the active element, shall be shielded or fenced to reduce its shock hazard.

f. All towers shall be constructed to conform to the requirements of the occupational safety and health administration.

g. All towers shall be reasonably protected against unauthorized climbing.

h. Antennas and towers may only be erected in accordance with applicable zoning restrictions.

i. Towers shall be constructed of corrosive resistant metal material.

j. Persons responsible for all communication towers and their antennas shall maintain a general liability insurance policy that provides coverage for any damage to property or injuries to persons caused by collapse of the tower. Said insurance policy shall provide coverage on an occurrence basis in an amount no less than $1,000,000.00.

(c) *Inspections; notice of violations.* All towers may be inspected at least once each year by an official of the city to determine compliance with original construction standards. Deviations from original design for which a permit is obtained constitutes a violation of this section. Notice of violations shall be sent by registered mail to the owner of the property and the owner shall have 30 days from the date the notification is issued to make repairs. The owner shall notify the city that the repairs have been made, and as soon as possible thereafter, another inspection shall be made and the owner notified of the results.

(d) *Height and zoning district restrictions.*

(1) *Tower height determination.* The height of towers shall be determined by measuring the vertical distance from the tower's point of contact with the ground to the highest point of the tower, including all antennas or other attachments. When towers are mounted upon other structures, the combined height of the structure, the tower, the antenna, and all attachments must meet the height restrictions of this section.

(2) *Antenna height determination.* Antenna height includes the height of the antenna from

the base of the antenna to the peak and all other attachments.

(3) *Height restrictions per zone.* Zoning district restrictions and maximum heights for towers and antennas are as follows:

a. Rooftop antennas ten feet or less in height are a permitted use in all zoning districts except that commercial antennas are not permitted in an R-1 zone.

b. Towers or antennas no more than 110 feet in height are a permitted use in a P-1/R-1 zone except on the elementary school property located at 1393 Garden Avenue.

c. Towers or antennas over ten feet in height but no more than 110 feet in height are a conditional use in P-1 and B-2 zones if the property does not abut R-1 zoned property.

d. Nonfreestanding towers and nonfreestanding antennas over ten feet in height, which are attached to a structure over 45 feet in height are a conditional use in all zoning districts under the following conditions:

1. The tower and antennas are located upon structures allowed as principal or conditional uses in the underlying zoning district or upon public structures.

2. The tower and antennas are limited to a height of 15 feet projecting above the structure. The city may permit antenna heights of up to 25 feet above the structure if the applicant can demonstrate that, by a combination of tower or antenna design, positioning of the structure or by screening erected or already in place on the structure, off-site views of the antenna are minimized.

(4) *Amateur radio antennas.* In accordance with the preemption ruling PRB1 of the Federal Communications Commission, towers supporting amateur radio antennas that comply with all other requirements of this section are exempted from the height limitations of this section, provided that such height is technically necessary to receive and broadcast amateur radio signals, and does not exceed 70 feet total height.

(e) *Site location and setbacks.* In residential and business districts towers and antennas must be located in the rear yard. In all districts, towers and antennas shall conform to each of the minimum setback requirements:

(1) Towers shall meet the principal structure setbacks of the underlying zoning district except that towers and antennas must be set back one foot from all property lines for each foot of tower and/or antenna.

(2) Towers shall not be located between a principal structure and a public street.

(3) A tower or antenna setback may be reduced through a conditional use permit, at the sole discretion of the city council, to allow the integration of a tower into an existing or proposed structure such as a church steeple, light pole, public communications tower, power line support device, or similar structure. The term "integration" may include replacement of an existing structure to include a personal wireless service provider, but does not include replication of a structure.

(4) Only one tower shall exist at any one time on any one parcel, unless additional towers or antennas could be incorporated into existing structures such as a church steeple, light pole, power line support device, public communications building or other similar structure.

(f) *Lighting.* 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. When incorporated into the approved design of the tower for camouflage purposes, light fixtures used to illuminate ball fields, parking lots, or similar areas may be attached to the tower.

(g) *Signs and advertising.* No signage, advertising, or identification of any kind intended to be visible from the ground or other structures is permitted, except applicable warning and equipment information signage required by the manufacturer or by federal, state, or local authorities.

(h) *Accessory utility buildings.* All utility buildings and structures accessory to a tower shall be architecturally designed to blend in with the surrounding environment and shall meet the minimum setback requirements for accessory structures of the underlying zoning district. Ground-mounted equipment shall be screened from view by suitable vegetation, except where a design of nonvegetative screening better reflects and complements the architectural character of the surrounding neighborhood.

(i) *Design standards.* Proposed or modified towers and antennas shall meet the following requirements:

(1) Towers and antennas (including antenna cables) shall be designed to blend into the surrounding environment to the maximum extent possible as determined by the city through the use of building materials, colors, texture, screening, landscaping, and other camouflaging architectural treatment, except in instances where the color is dictated by federal or state authorities such as the Federal Aviation Administration;

(2) Personal wireless service towers shall be of a monopole design unless the city council determines that an alternative design would better blend in to the surrounding environment.

(j) *Collocation requirement.* All personal wireless service towers erected, constructed, or located within the city shall comply with the following requirements:

(1) A proposal for a new personal wireless service tower shall not be approved unless the city council finds that the telecommunications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building that is greater than 60 feet in height, within a one-quarter mile search radius for towers less than 110 feet in height or a one-half mile search radius for towers equal to or greater than 110 feet in height of the proposed tower due to one or more of the following reasons:

a. The planned equipment would exceed the structural capacity of the existing or approved tower or building as documented by a qualified and licensed professional engineer, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.

b. Existing or approved towers and buildings within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified radio frequency engineer.

c. Other unforeseen reasons that make it infeasible to locate the planned telecommunications equipment upon an existing or approved tower or building.

(2) The applicant must demonstrate that a good faith effort to collocate on existing towers and structures was made, but an agreement could not be reached.

(3) Any proposed personal wireless service tower shall be designed, structurally, electrically, and in all respects, to accommodate both the applicant's antennas and comparable antennas for at least two additional users if the tower is over 90 feet in height or for at least one additional user if the tower is over 60 feet in height. Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights.

(k) *Antennas mounted on roofs, walls, and existing towers.* The placement of commercial antennas on roofs, walls, and existing towers may be approved by the city, with a conditional use permit, provided the antennas meet the requirements of this chapter. In addition to the submittal requirements required elsewhere in this chapter, an application for a building permit for antennas to be mounted on an existing structure shall be accompanied by the following information:

(1) A site plan showing the location of the proposed antennas on the structure and documenting that the request meets the requirements of this chapter;

(2) A building plan showing the construction of the antennas and the proposed method of attaching them to the existing structure, and documenting that the request meets the requirements of this chapter;

(3) Certification by a qualified and licensed professional engineer indicating the existing structure or tower's ability to support the antennas.

(l) *Nonconforming existing antennas and towers.* Antennas and towers in residential districts and in existence as of the effective date of the ordinance from which this chapter is derived that do not conform or comply with this section are subject to the following provisions:

(1) Towers may continue in use for the purpose used and existing as of the effective date of the ordinance from which this chapter is derived, but may not be replaced or structurally altered without complying in all respects with this section.

(2) If such towers are subsequently damaged or destroyed due to any reason or cause whatsoever, the tower may be repaired and restored to its former use, location, and physical dimensions upon obtaining a building permit for the repair or restoration, but without otherwise complying with this chapter, provided, however, that if the cost of repairing the tower to the former use, physical dimensions, and location would be 50 percent or more of the cost of a new tower of like kind and quality, then the tower may not be repaired or restored except in full compliance with this section.

(m) *Abandoned or unused towers or portions of towers.* All abandoned or unused towers and associated facilities shall be removed within 12 months of the cessation of operations at the site unless a time extension is approved by the city. In the event that a tower is not removed within 12 months of the cessation of operations at a site, the tower and associated facilities may be removed by the city and the costs of removal assessed against the property. After the facilities are removed, the site shall be restored to its original or an improved state.

(n) *Interference with public safety telecommunications.* No new or existing telecommunications service shall interfere with public safety telecommunications.

(o) *Additional submittal requirements.*

(1) In addition to the information required elsewhere in this chapter for an application for a building permit for towers and their antennas, applications for conditional use permits for such towers shall include the following supplemental information:

a. A report from a qualified and licensed professional engineer which does the following:

1. Describes the tower height and design including a cross section and elevation;

2. Documents the height above grade for all potential mounting positions for collocated antennas and the minimum separation distances between antennas;

3. Describes the tower's capacity, including the number and type of antennas that it can accommodate; and

b. For all personal wireless service towers, a letter of intent committing the tower owner and his or her successors to allow the shared use of the tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use, so long as there is no negative structural impact upon the tower and there is no disruption to the service provided.

(2) Before the issuance of a building permit, the following supplemental information shall be submitted:

a. Confirmation that the proposed tower complies with the requirements of the Federal Aviation Administration, Federal Communications Commission, and any appropriate state review authority or that the tower is exempt from those regulations; and

b. A report from a qualified and licensed professional engineer that demonstrates the tower's compliance with the applicable structural and electrical, but not radio frequency, standards.

(p) *Exemptions.* The following antennas are exempt from the requirements under this section except as otherwise provided in this subsection:

(1) Satellite earth station antennas no more than ten feet in height that are two meters or less in diameter and located or proposed to be located in a business district;

(2) Antennas designed to receive signals as follows:

a. Antennas that are one meter or less in diameter and that are designed to receive direct broadcast satellite service, including direct-to-home satellite services;

b. Antennas that are one meter or less in diameter and that are designed to receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instructional television fixed services, and local multipoint distribution services; or

c. Antennas designed to receive television broadcast signals;

(3) Antennas exempted under this section are subject to the following requirements:

a. Antennas (including antenna cables) shall be designed to blend into the surrounding environment through the use of appropriate colors, except in instances where the color is dictated by federal or state authorities such as the Federal Aviation Administration;

b. No lighting, signage, advertising, or identification of any kind intended to be visible from the ground or other structures is permitted, except applicable warning and equipment information signage required by the manufacturer or by federal, state, or local authorities;

c. Antennas and any guy wires or guy wire anchors shall not be erected within a public or private utility and drainage easements, and shall be set back a minimum of five feet from all lot lines;

d. Antennas shall meet the setback requirements specified under this section and, to the extent feasible, placed in a position that is not visible from the street, unless placement in accordance with these requirements would impair reception of an acceptable signal;

e. Ground-mounted antennas shall not exceed ten feet in height and all other antennas must meet the height limitations in this section, unless the applicable height limitation would impair reception of an acceptable signal; in which case, antennas shall be limited to the minimum height necessary to obtain an acceptable signal;

f. Antennas shall not be constructed, installed, or maintained so as to create a safety hazard or cause damage to the property of other persons;

g. With the exception of necessary electric and telephone service and connection lines approved by the city, no part of any antenna nor any lines, cable, equipment, or wires or braces in connection with the antenna shall at any time extend across or over any part of the right-of-way, public street, highway, sidewalk, or property line;

h. Antennas, masts, and supporting cables shall conform to the latest structural standards and wind loading requirements of the Minnesota State Building Code and the electronics industry association and any other applicable reviewing agencies;

(4) Satellite earth station antennas no more than ten feet in height, and satellite earth station antennas in excess of one meter in diameter and antennas designed to receive direct broadcast services or multichannel multipoint distribution services in excess of one meter in diameter may be allowed as a conditional use within the residential zoning districts of the city and, in addition to the requirements of this section, shall comply with the following standards:

a. The lot on which the antenna is located shall be of sufficient size to assure that an obstruction-free receive window can be maintained within the limits of the property ownership;

b. Except where the antenna is screened by a structure exceeding the antenna height, landscape buffering and screening shall be maintained on all sides of the antenna in a manner in which growth of the landscape elements will not interfere with the receive window;

c. The antenna is not greater than three meters in diameter; and

d. The conditional use permit provisions of this chapter are considered and determined to be satisfied;

(5) Satellite earth station antennas in excess of two meters in diameter and antennas designed to receive direct broadcast services or multichannel multipoint distribution services in excess of one meter in diameter are allowed as a conditional use within the B-1, B-2, B-3, P-1, P-1/R-1, and P-1/B-2 districts of the city and, in addition to the requirements of this section, shall comply with the following standards:

a. The lot on which the antenna is located shall be of sufficient size to assure that an obstruction-free transmit-receive window or windows can be maintained within the limits of the property ownership;

b. Except where the antenna is screened by a structure exceeding the antenna height, landscape buffering and screening shall be maintained on all sides of the antenna in a manner in which growth of the landscape elements will not interfere with the transmit-receive window; and

c. The conditional use permit provisions of this chapter are considered and determined to be satisfied.

(q) *Violations.* Any person who shall violate any of the provisions of this section shall be guilty of a misdemeanor.

(Code 1993, § 9-2.07(2); Ord. No. 0-97-01, § 1, 2-12-1997; Ord. No. 97-07, § 3, 9-24-1997)

Sec. 113-245 - Essential services

Essential services as defined herein shall be permitted as authorized and regulated by state law and Code of the city, except as further regulated herein.

(Code 1993, § 9-2.08)

Sec. 113-246 - Land reclamation

Land reclamation as defined herein shall be permitted only by conditional use permit in all districts.

(Code 1993, § 9-2.10)

Sec. 113-247 - Mining

Mining shall be permitted only by conditional use permit.

(Code 1993, § 9-2.11)

Sec. 113-248 - Firewood storage

(a) *Scope.* This section applies to the storage of wood on residential properties within the city. The section shall apply to any wood or wood product usually used or intended to be used as firewood.

(b) *Conditions of storage.* To protect the public health and safety, woodpiles must be erected, located, and maintained in a safe and orderly fashion:

(1) In neat and secure stacks;

(2) The maximum height allowed for the woodpile is six feet;

(3) No wood shall be stored within the required minimum area of setback from the street right-of-way;

(4) No wood shall be stored in any yard which is commonly considered the front yard.

(c) *Exemptions.* Wood stored or kept in a covered structure impervious to the elements is exempt from the conditions outlined in subsection (b) of this section.

(d) *Existing woodpiles.* Any woodpile in existence as of the date of the passage of the

ordinance from which this chapter is derived which does not comply with the provisions of this section must be moved or placed in compliance within 90 days after written notice to comply has been given to the occupant of the residence by the zoning administrator. Such notice shall be in writing and shall be served upon the property owner either in person or by mail.

(Code 1993, § 9-2.13)

Sec. 113-249 - Manufactured homes

Manufactured or mobile homes as defined in this chapter and per Minn. Stats. § 327.31, subd. 6, shall be permitted on any legal lot in the R-1 and R-2 residential districts under the following conditions that apply also to any other type of principal residential building permitted:

(1) No principal residential building shall be less than 50 feet by 20 feet in outside dimensions (20 feet one side and 50 feet the other).

(2) All one- and two-family residential buildings shall have a basement as defined and regulated in the city building code.

(3) All residential buildings shall meet all structural and other requirements of the city building code.

(Code 1993, § 9-11.02)

Sec. 113-250 - Private automobile repair and reconditioning

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

Major repair means rebuilding, overhauling, or reconditioning of engines, motor vehicles or trailers including body, frame or fender straightening or repair, painting, and vehicle cleaning by steam or automatic car washing devices.

Minor repair means common maintenance including oil and filter change; battery or tire change; mounting of tires on rims; auto tune-up; replacing car lights, antifreeze, hoses, thermostats, manifolds and pipes.

(b) *Requirements.* Private automobile repair may be conducted in residential zones subject to the following conditions:

(1) *Vehicle registration.* Automobiles on which repair work is done must be registered to the owner or occupant of the property.

(2) *Location of repair work.* In R-1, R-2, and R-4 residential districts minor repair work may be done in a private garage, a garage attached to a dwelling unit, or on an improved driveway surface; and major repair work may be done in a private garage, a garage attached to the dwelling unit, or, if a permit is obtained from the city zoning administrator, on an improved driveway surface. In an R-4 zone, the location of major and minor repair work shall also be governed by regulations of the property owner.

(3) *Hours.* Except as herein provided, major and minor repair work may be conducted between the hours of 8:00 a.m. and 8:00 p.m.

(4) *Permit.* Where an automobile repair permit is required, an application shall be made on forms provided by the city zoning administrator. An automobile repair permit shall expire ten days after issuance unless extended for five additional days by the city zoning administrator. Further extensions shall require approval of the city council.

(5) *Nuisance.* In no event shall major or minor repair work be conducted in a manner that creates an unreasonable disturbance for the owners of adjacent or nearby property.

(Code 1993, § 9-13.07)

Sec. 113-251 - Vehicle sales

(a) *Residential district.* Motor vehicles and recreational vehicles which are permitted within the respective residential district may be advertised for sale and sold provided the vehicle is owned by the resident where the vehicle is parked and the vehicle is currently licensed and operable. Vehicles that are displayed for sale shall not be parked or stored on public property or the public rights-of-way on Snelling Avenue and its frontage roads, Hamline Avenue, Fairview Avenue, Roselawn Avenue and Cleveland Avenue. At no time shall any commercial vehicle be parked within a residential district and advertised for sale.

(b) *Nonresidential district.* Motor, commercial, and recreational vehicles shall not be displayed for sale or sold within nonresidential districts unless as part of an approved licensed sales dealership or for short-term parking (12 hours or less) if the vehicle is owned by an employee of said business where the vehicle is parked with the consent of the business owner.

(Code 1993, § 9-13.08; Ord. No. 2004-01, § 1(9-13.08), 5-5-2004)

Sec. 113-252 - Drive-through facilities

Drive-through facilities are prohibited except when specifically allowed by a conditional use permit in a zoning district. When allowed, all drive-through facilities must comply with the following requirements:

(1) The drive-through facility, service window and speakers must be located at least 100 feet from a residential zoned or used property and must be visually screened from adjoining residential property.

(2) The entrance and exit drive lanes to the drive-through facility must be at least 75 feet from a street intersection.

(3) The lot on which the drive-through facility is located must be at least 35,000 square feet in area.

(4) The minimum on-site stacking distance available for the drive-through must be 180 feet in length.

(5) Drive-through facilities may only be operated between the hours of 7:00 a.m. and 8:00 p.m.

(6) No speaker noise may be audible from adjacent residential property.

(7) A traffic study must be completed documenting that the drive-through facility will not create traffic problems.

(Ord. No. 06-03, § 2, 9-13-2006)

Sec. 113-253 - Mobile storage structures

Mobile storage structures may be located as a temporary structure on property within the city upon issuance of a permit by the city clerk. They are allowed for a period not exceeding 72 hours in duration on a public street and not exceeding four weeks on private property, from time of delivery to time of removal. No more than one mobile storage structure may be located on a specific piece of property within the city at one time. Such temporary structure may not be located on a specific property more than two times in any 90 calendar-day period. Such temporary structure shall be located no closer than ten feet to the property line unless on a driveway and must be placed on an impervious surface. Such structure may not be placed in a fire lane, or sidewalk. Such structure may not exceed eight feet six inches in height, ten feet in width or 20 feet in length. It shall be the obligation of the owner or user of such temporary structure to secure it in a manner that does not endanger the safety of persons or property in the vicinity of the temporary structure.

(Ord. No. 07-03, § 2, 1-10-2007)

Sec. 113-254 - Solar energy systems

(a) *Purpose and scope.* The City of Falcon Heights has adopted this section to meet the comprehensive plan goal of becoming a sustainable, energy efficient community and to preserve the health, safety and welfare of the community's citizens by promoting the safe, effective and efficient use of solar energy systems to reduce consumption of fossil fuels. This section applies to all solar energy installations in the City of Falcon Heights.

(b) *Permitted accessory use.* Active solar energy systems are an accessory use in all zoning districts, subject to the following requirements:

(1) *Height.* Active solar energy systems must meet the following height requirements:

a. Building- or roof-mounted solar energy systems shall not exceed the maximum allowed height in any zoning district. For purposes for height measurement, solar energy systems other than building-integrated systems shall be considered to be mechanical devices and are restricted consistent with other building-mounted mechanical devices.

b. Ground- or pole-mounted solar energy systems shall not exceed 20 feet in height when oriented at maximum tilt.

(2) *Setback.* Active solar energy systems must meet the accessory structure setback for the zoning district in which the system is located.

a. *Roof-mounted solar energy systems.* In addition to the building setback, the collector surface and mounting devices for roof-mounted solar energy systems shall not extend beyond the exterior perimeter of the building on which the system is mounted or built. Exterior piping for solar hot water systems shall be allowed to extend beyond the perimeter of the building on a side yard exposure.

b. *Ground-mounted solar energy systems.* Ground-mounted solar energy systems may not extend into the side yard or rear setback when oriented at minimum design tilt.

(3) *Visibility.* Active solar energy systems shall be designed to blend into the architecture of the building or be screened from routine view from public rights-of-way other than alleys. The color of the solar collector is not required to be consistent with other roofing materials.

a. *Building integrated photovoltaic systems.* Building integrated photovoltaic solar energy systems shall be allowed regardless of whether the system is visible from the public right-of-way, provided the building component in which the system is integrated meets all required setbacks and regulations for the district in which the building is located.

b. *Solar energy systems with mounting devices.* Solar energy systems using roof-mounting devices or ground-mount solar energy systems shall not be restricted if the system is not visible from the closest edge of any public right-of-way other than an alley. Roof-mount systems that are visible from the nearest edge of the street frontage right-of-way shall not have a highest finished pitch steeper than the roof pitch on which the system is mounted, and shall be no higher than 12 inches above the roof.

c. *Coverage.* Roof- or building-mounted solar energy systems, excluding building-integrated systems, shall not cover more than 80 percent of the south-facing or flat roof upon which the panels are mounted. The surface area of pole- or ground-mount systems shall not exceed half the building footprint of the principal structure.

d. *Lot coverage.* The surface area of pole- of ground-mount systems shall be treated as impervious coverage as regulated for each zoning classification. Allowed impervious coverage may be increased by up to ten percent above maximum lot coverage for the zone provided 100 percent of the excess is accounted for by an approved solar ground- or pole-mounted solar energy system.

(4) *Approved solar components.* Electric solar energy system components must have a UL listing and solar hot water systems must have an SRCC rating.

(c) *Plan approval required.* All solar energy systems shall require administrative approval by the zoning and planning administrator.

(1) *Plan applications.* Plan applications for solar energy systems shall be accompanied by a site plan and by to-scale horizontal and vertical (elevation) drawings. The drawings must show the location of the system on the building or on the property for a ground-mount system, including the property lines.

(2) *Pitched roof-mounted solar energy systems.* For all roof-mounted systems other than a flat roof, the elevation must show the highest finished slope of the solar collector and the slope of the finished roof surface on which it is mounted.

(3) *Flat roof-mounted solar energy systems.* For flat roof applications, a drawing shall be submitted showing the distance to the roof edge and any parapets on the building and shall identify the height of the building on the street frontage side, the shortest distance of the system from the street frontage edge of the building, and the highest finished height of the solar collector above the finished surface of the roof.

(4) *Compliance with building code.* All active solar energy systems shall require a building permit.

(5) *Compliance with state electric code.* All photovoltaic systems shall comply with the Minnesota State Electric Code.

(6) *Compliance with state plumbing code.* Solar thermal systems shall comply with applicable Minnesota State Plumbing Code requirements.

(7) *Utility notification.* No grid-intertie photovoltaic system shall be installed until evidence has been given to the planning and zoning department that the owner has submitted notification to the utility company of the customer's intent to install an interconnected customer-owned generator. Off-grid systems are exempt from this requirement.

(8) *Plan approvals.* Applications that meet the design requirements of this section shall be granted administrative approval by the zoning and planning administrator. Plan approval does not include building, electric, or plumbing code approval. If applicable, such approvals must also be obtained.

(Ord. No. 13-05, § 2, 11-13-2013)

Secs. 113-255 – 113-280 - Reserved

DIVISION 2. - OFF-STREET PARKING AND LOADING

Subdivision I - In General

Secs. 113-281 – 113-308 - Reserved

Subdivision II - Off-Street Parking

Sec. 113-309 - Scope and purpose

(a) The provisions of this subdivision shall apply to all buildings, structures and uses of land herein governed by this chapter.

(b) Regulation of off-street parking and loading spaces in this chapter is to alleviate or prevent congestion of the public right-of-way and to promote the safety and general welfare of the public by establishing minimum requirements for off-street parking, loading and unloading from motor vehicles in accordance with the utilization of the various parcels of land and structures.

(c) Structures or uses for which a building permit has been issued prior to the effective date of the ordinance from which this chapter is derived, but for which work has not been completed shall be exempt from the hereinafter stated parking requirements if the structure is completed within six months after the effective date of the ordinance from which this chapter is derived.

(Code 1993, § 9-13.04)

Sec. 113-310 - Residential districts

Off-street parking and loading shall be as required and regulated in specific sections of this chapter and by the applicable general provisions of this section herein.

(1) The following provisions apply to the R-1 and R-2 districts:

a. Parking shall be permitted on hard-surfaced areas designed for that purpose and for providing access to garage, carport or open parking area and provided that no driveway or off-street open parking area shall be located closer than five feet from the property line on that side. The five feet of property known as the side yard shall be landscaped as shall the remainder of the front yard applying to the residential portion of the house and continuing to the far lot line removed from the access and/or parking driveway. Parking shall not be permitted in any part of landscaped yards, boulevards, grass portion of street right-of-way or other such areas (except as allowed for boats and unoccupied trailers under "exterior storage" provisions of this chapter). And provided further that from November 15 to April 1, the unsurfaced portion of the front yard of any property in a residential district may be used for parking one passenger vehicle registered in the name of a resident, if there is a single driveway, and the vehicle is parked parallel to the driveway and on one uniform side of the driveway, and the width of the parking area does not exceed eight feet. For purposes of this chapter a "passenger vehicle" shall mean a two- or four-door sedan or van used primarily for transporting passengers, and shall not include pickups, trucks, campers, recreational vehicles or buses.

b. At least two parking spaces are required for each dwelling unit. At least one of the parking spaces must be enclosed.

c. No motor vehicle over one ton capacity bearing a commercial license and no commercially-licensed trailer shall be parked or stored in a residential district except when loading, unloading, or rendering service. No campers, boats, trailers, or snowmobiles shall be parked or stored in any front or side yard; boats and unoccupied trailers meeting criteria for "exterior storage" under this chapter may be stored in the rear yard.

d. One-family homes may utilize the public street for the loading and unloading of furniture, moving trucks and other common and customary activities associated with residential use, excluding service and repair of vehicles except for the changing of tires, provided such activities do not block street traffic, cause traffic congestion or hazards, or otherwise constitute a public nuisance.

(2) The following provisions apply to the R-3 and R-4 districts:

a. All accessory off-street parking facilities required herein shall be located as follows:

1. Spaces accessory to multiple-family dwellings on the same lot as the principal use served and within 200 feet of the main entrance to the principal building served. Parking as required by the building code for the handicapped shall be provided.

2. Off-street parking spaces shall not be located on or project into a street or alley right-of-way.

3. No driveway or off-street open parking area shall be located closer than five feet from an adjacent lot zoned or used for residential purposes.

4. Off-street parking spaces shall not be located within any required front or side yard setback.

b. Reserved.

c. Off-street parking facilities accessory to residential use shall be utilized solely for the parking of passenger automobiles and/or one truck not to exceed 7,000 pounds gross capacity for each dwelling unit. Under no circumstances shall required parking facilities accessory to residential structures be used for the storage of commercial vehicles or for the parking of automobiles belonging to the employees, owners, tenants, or customers of nearby business or manufacturing establishments.

d. The number of off-street parking spaces required for various land uses as specified herein shall be considered as absolute minimum requirements. Additional off-street parking spaces may be required by the zoning administrator or planning commission. It is public policy that all public streets in the city are intended primarily for the movement of traffic; on-street curb parking shall be considered a privilege that may or may not be granted on a street-by-street basis.

e. Off-street parking spaces required (one space equals 350 square feet) shall be as follows for:

Multiple-family dwellings. At least one parking space per dwelling unit except that one and one-quarter parking spaces per dwelling unit are required for multiple units of ten or less that abut no parking (on street curb) zones. Electric vehicle charging stations may be counted toward satisfying minimum off-street parking space requirements. In the event the final calculation of parking spaces includes a portion of a parking space, the total number of parking spaces should be rounded up.

(3) The following provisions apply to the R-5M district: The requirements of the R-4 district shall apply except that at least 80 percent of the required parking spaces for apartment buildings shall be below grade and integrated into the apartment building.

(Code 1993, §§ 9-4.01(5), 9-5.01(5), 9-6.01(5), 9-7.01(5), 9-13.04(1); Ord. No. 0-96-01, § 4, 2-28-1996; Ord. No. 09-01, § 1, 4-8-2009; Ord. No. 10-06, §§ 6, 7, 9-8-2010; Ord. No. 12-07, § 1, 7-11-2012)

Sec. 113-311 - Surfacing and drainage

Off-street parking areas shall be improved with a durable and dustless surface. Parking areas shall be so graded and drained as to dispose of all surface water accumulation within the parking area. All driveways and off-street parking areas shall be permanently surfaced with either concrete or asphalt or impervious decorative pavement such as brick between the street and garage. (This does not require the resurfacing of existing driveways with parallel tracks into one contiguous surface.) Commercially zoned properties and R-4 properties shall utilize asphalt, concrete or a reasonable substitute surface as approved by the city engineer and capable of carrying a wheel load of 4,000 pounds. All surfacing must be completed prior to occupancy unless other arrangements have been made with the zoning administrator.

(Code 1993, § 9-13.04(2); Ord. No. 0-96-01, § 4, 2-28-1996)

Sec. 113-312 - Location

All required accessory off-street parking facilities required herein shall be located as follows:

(1) Spaces accessory to one- and two-family dwellings as regulated in sections 113-174 and 113-175.

(2) Spaces accessory to multiple-family dwellings as regulated in sections 113-175 and 113-176.

(3) Spaces accessory to uses located in a business district shall be within 500 feet of a main entrance to the principal building served. Parking as required by the building code for the handicapped shall be provided.

(4) There shall be no off-street open parking space within ten feet of any street right-of-way.

(5) No driveway or off-street open parking area shall be located closer than five feet from an adjacent lot zoned or used for residential purposes, except when adjoining an existing parking area on the adjacent lot.

(Code 1993, § 9-13.04(3))

Sec. 113-313 - Reserved

Sec. 113-314 - Miscellaneous provisions

(a) *Existing off-street parking spaces.* Existing off-street parking spaces and loading spaces upon the effective date of the ordinance from which this chapter is derived shall not be reduced in number unless the result exceeds the requirements set forth herein.

(b) *Parking for seating facilities.* In stadiums, sport arenas, churches and other places of public assembly, in which patrons or spectators occupy benches, pews or other similar seating facilities, each 24 inches of such seating facilities shall be counted as one seat for the purpose of determining requirements for off-street parking facilities under this chapter.

(c) *Parking space.* Required parking spaces shall be at least nine feet wide and 18 feet long. Up to 50 percent of the required spaces may be designated compact spaces. Compact parking spaces shall be at least eight feet wide and 16 feet long. Compact spaces shall be identified through appropriate signage. Unless alternative requirements are designated by the city engineer, parking spaces shall be served by access drives with minimum dimensions provided as follows:

Stall Angle (degrees)	Curb Length (feet)	Vehicle Projection (feet)	Aisle (feet)	Traffic Flow
45	9	22	14	One way
60	9	21	16	One way
75	9	21	18	One way
90	9	18	24	Two way
90 compact	8	16	24	Two way
Parallel	23	8.5	22	

Electric vehicle charging stations may be counted toward satisfying minimum off-street parking space requirements.

All electric vehicle charging stations must include signage designating the space for only electric vehicle charging, unless no other spaces available. Signage must meet all guidelines as required by Article VII of this chapter.

For commercial or multifamily dwelling parking areas with ten to twenty parking stalls utilizing electric vehicle charging stations, at least one electric vehicle charging station must comply with all relevant American with Disabilities (ADA) requirements. For commercial or multifamily dwelling parking areas with more than twenty parking stalls utilizing electric vehicle charging stations, at least two electric vehicle charging stations must comply with all relevant American with Disabilities (ADA) requirements.

Handicapped parking spaces. Spaces for the handicapped shall be at least 12 feet wide and 18 feet in length. The size, number, and location of stalls reserved for handicapped parking shall be provided and identified as required by applicable regulations. These spaces are included in the computation for the minimum parking space requirement.

(d) *Use of parking facilities.* Off-street parking facilities accessory to residential use shall be utilized solely for the parking of passenger automobiles and/or one truck not to exceed 7,000 pounds gross capacity for each dwelling unit. Under no circumstances shall required parking facilities accessory to residential structures be used for the storage of commercial vehicles or for the parking of automobiles belonging to the employees, owners, tenants or customers of nearby business or manufacturing establishments.

(e) *Joint parking facilities.* Off-street parking facilities for a combination of mixed buildings, structures or uses may be provided collectively in any district (except residential districts) in which separate parking facilities for each separate building, structure or use would be required, provided that the total number of spaces provided shall equal the sum of the separate requirements of each use during any peak hour parking period and a copy of the private joint parking agreement is approved by the zoning administrator and placed on file with the city along with a certificate of occupancy for all land area involved.

(f) *Control of off-street facilities.* When required, accessory off-street parking facilities that are provided elsewhere than on the lot in which the principal use served is located shall be in the same ownership or control, either by deed or long-term lease, as the property occupied by such principal use, and the owner of the principal use shall file a recordable document with the zoning administrator requiring the owner and his or her heirs and assigns to maintain the required number of off-street parking spaces during the existence of said principal use.

(g) *Use of parking area.* Required off-street parking space in any district shall not be utilized for open storage of goods or for the storage of vehicles which are inoperable, for sale or for rent or other nonparking purposes except by the granting of a variance.

(h) *Lot coverage.* In residential districts, no more than 32 percent of the required front yard area shall be surfaced or utilized for driveway or vehicle storage space, but in no case shall a driveway in a required front yard exceed 24 feet in width as measured at the property line.

(i) *Minimum spaces required.* The number of off-street parking spaces required for various land uses as specified herein shall be considered as absolute minimum requirements.

Additional off-street parking spaces may be required by the zoning administrator or planning commission.

(j) *Parking restrictions.* Parking shall be permitted on hard-surfaced areas designed for such use only; parking shall not be permitted in landscaped yards, boulevards, grass portion of street right-of-way or other such areas, except as provided in section 113-310(1)(a).

(Code 1993, § 9-13.04(5); Ord. No. 0-91-10, § 1, 6-19-1991; Ord. No. 0-96-01, § 4, 2-28-1996; Ord. No. 12-07, § 2, 7-11-2012)

Sec. 113-315 - Design and maintenance of off-street parking areas

(a) *Design.* Parking areas shall be designed so as to provide adequate means of access to a public alley or street. Such driveway access widths shall be in accordance with the state highway department standards, but in no case shall they exceed 32 feet in width unless a conditional use permit has been obtained approving the larger width. Driveway access shall be so located as to cause the least interference with traffic movement. There shall be only one driveway access for each one-family residential lot.

(b) *Calculating space.* When the calculation of the number of off-street parking spaces required results in a fraction, such fraction shall require a full space.

(c) *Signs.* No signs shall be located in any parking area except as necessary for orderly operation of traffic movement and/or electric vehicle charging, and such signs shall not be a part of permitted advertising space. Signs shall conform to zoning district regulations.

(d) *Surfacing.* All driveways and off-street parking areas shall be permanently surfaced with either concrete or asphalt or impervious decorative pavement such as brick between the street and garage. (This does not require the resurfacing of existing driveways with parallel tracks into one contiguous surface.)

(e) *Lighting.* Any lighting used to illuminate an off-street parking area shall be so arranged so it is not directly visible from the adjoining property and in a downward vertical direction. However, in no case shall such lighting exceed two footcandles in a business or industrial zone nor 0.5 footcandle in a residential zone measured at the lot line.

(f) *Curbs and landscaping.* A six-inch-high, poured-in-place concrete curb shall be provided around the periphery of all parking lots and internal access roads, except where the city engineer determines that a curb would impede the drainage plan. When the parking lot is for six spaces or more, a curb or screening not over four feet in height shall be erected along the front yard setback line and grass or planting shall occupy the space between the sidewalk and curb or screening. Wheel guards as approved by the zoning administrator may be used.

(g) *Planting islands*. Within any parking lot containing more than 20 parking stalls, the city may require landscaped planting islands of a type, size and location as approved by the city council.

(h) *Parking space for six or more cars.* When a required off-street parking space for six or more cars is located adjacent to a residential district, a fence or screen not less than four feet in height shall be erected along the residential district property line, plus additional screening as may be required by the zoning administrator.

(i) *Maintenance of off-street parking space.* It shall be the joint responsibility of the operator and owner of the principal use or building to reasonably maintain the parking space,

accessways, landscaping and required fencing.

(j) *Access.* All off-street parking spaces shall have access from driveways and not directly from the public street.

(k) *Determination of areas.* The parking space per vehicle shall not be less than 350 square feet of parking and maneuvering area or an area equal to the width of the parking space multiplied by the length of the parking space plus 15 feet.

(l) *Proximity to buildings.* No parking space shall be closer than ten feet to any building.

(m) *Fire access lanes.* Fire access lanes shall be provided as required by the building or fire code or the zoning administrator.

(n) *Calculation of floor space for parking requirements.* Floor area or gross floor area of a building for purposes of calculating required parking space for retail uses shall include only that floor space devoted to retail sales as defined herein; it shall not include storage space, restrooms, interior pedestrian mall space unless retail activities are located on floor area of said mall, hallways, enclosed walkways, utility rooms, window displays, office of building management or maintenance, lobbies or similar floor space not generating a demand or need for parking space. Due consideration shall, however, be given to floor area which may and could reasonably be expected to be converted to retail or other commercial activity and thereby increase the need for parking space.

(o) *Shopping centers and large retail outlets.* Shopping centers or individual retail outlets with over 5,000 square feet of floor area shall provide parking on the basis of 5.5 spaces per 1,000 square feet of gross leasable area.

(p) *Setbacks (yards).* Except as specifically authorized and permitted by zoning district provisions, off-street parking shall not be located in required yards.

(q) *Number of spaces.* Off-street parking spaces shall not be reduced in number unless said number exceeds the requirements set forth herein.

(r) *Off-street parking requirements.* Off-street parking spaces required (one space equals 350 square feet) shall be as follows unless the city determines, based upon a professional analysis of parking for any specific use, that a reasonable parking ratio for such use should be otherwise:

(1) One- and two-family residences. At least two spaces per dwelling unit. Accessory dwelling units used in conjunction with a single-family residence are not required to have additional parking added to the standards single-family residence parking requirement.

(2) Multiple-family dwellings. At least one parking space per dwelling unit except that one and one-quarter parking spaces per dwelling unit are required for multiple units of ten or less that abut no parking (on street curb) zones. In the event the final calculation of parking spaces includes a portion of a parking space, the total number of parking spaces should be rounded up.

(3) Churches, theaters, auditoriums, mortuaries, and other places of assembly. One space for each five seats or for each ten feet of pew length. Based upon maximum design capacity.

(4) Offices. One space for each 200 square feet of gross floor space.

(5) Hotel, motel. One space per unit, plus one space per employee, plus one space for

each three persons who may be accommodated in a bar, restaurant, meeting room, swimming pool, convention facility or similar place of public assembly based upon maximum design capacity.

(6) Schools, elementary and junior high. Three spaces for each classroom.

(7) High school through college. One space for each four students based on design capacity plus three additional spaces for each classroom.

(8) Hospitals. One space for each three hospital beds, plus one space for each three employees other than doctors, plus one space for each resident and regular staff doctor. Bassinets shall not be counted as beds.

(9) Sanitarium, convalescent home, rest home, nursing home, or institution. One space for each six beds for which accommodations are offered, plus one space for each two employees on maximum shift.

(10) Additional parking. Additional parking shall be provided for all schools with theaters, auditoriums, swimming pools, gyms, football stadiums or other places of public assembly or participation in the amount of one space for each three persons based upon maximum design capacity.

(11) Drive-in food or fast food establishments. One space for each 15 square feet of gross floor space in the building allocated to drive-in operation, plus additional space as may be determined by the zoning administrator based upon advice from the planning commission. Drive-through lanes for food pick-up must be able to stack eight cars on site without interfering with the site parking.

(12) Bowling alley. Six spaces for each alley, plus additional spaces as may be required herein for related uses such as a restaurant.

(13) Motor fuel station. Two spaces plus three spaces for each service stall.

(14) Retail. One space for each 150 square feet of gross floor area.

(15) Medical or dental clinic. Six spaces per doctor or dentist or one space for each 200 square feet of gross floor area, whichever is greater.

(16) Restaurant and/or cafeteria. One space per 2.5 seats, plus one space per 20 square feet of the combined area of bar, lounge and public space, minus the first 250 square feet plus one space per 50 square feet of banquet dining area, plus one space per five seats outdoor dining.

(17) Furniture store, wholesale, auto sales, repair shops. Three spaces for each 1,000 square feet of gross floor area. Open sales lots shall provide two spaces for each 5,000 square feet of lot area, but not less than three spaces.

(18) Industrial, warehouse, storage, handling of bulk goods. One space for each two employees on maximum shift or one for each 2,000 square feet of gross floor area, whichever is the larger.

(19) Uses not specifically noted. As determined by the planning commission.

(20) Planned unit developments and conditional uses. Spaces to be provided in amounts and locations as per approved site development plans and permit conditions imposed by the planning commission.

(21) Auto repair, bus terminal, taxi terminal, boats and marine sales and repair, bottling

company, shop for a trade employing six or fewer people, garden supply store, building material sales in structure. Eight off-street parking spaces, plus one additional space for each 800 square feet of floor area over 1,000 square feet.

(22) Skating rink, dance hall, or public auction house. Twenty off-street parking spaces plus one additional off-street parking space for each 200 square feet of floor space over 2,000 square feet.

(23) Golf driving range, miniature golf, archery range. Ten off-street parking spaces plus one for each 100 square feet of floor area.

(24) Baseball fields, stadiums. At least one parking space for each eight seats of design capacity.

(25) Community centers, physical culture studios, libraries, private clubs, lodges, art galleries. Ten spaces plus one for each 150 square feet in excess of 2,000 square feet of floor area in the principal structure.

(26) Animal hospitals and professional offices. Three spaces plus at least one space for each 200 square feet of floor area.

(27) Business service establishment. At least one off-street parking space for each 200 square feet of floor area.

(28) Food delivery restaurants. Parking requirements are one stall per employee on duty, one stall per seat should be provided, one stall per two delivery vehicles when owned, operated, and stored by employees, one stall per delivery vehicle when owned and operated by restaurant. One loading bay per store is required.

(29) Parking ratio. Based on a professional analysis of parking for any specific use, the city council may determine a reasonable parking ratio for such use.

(Code 1993, § 9-13.04(6); Ord. No. 0-91-10, § 2, 6-19-1991; Ord. No. 12-07, § 3, 7-11-2012)

Secs. 113-316 – 113-333 - Reserved

Subdivision III - Off-Street Loading

Sec. 113-334 – Location

All required loading berths shall be off-street and shall be located on the same lot as the building or use to be served. A loading berth shall be located at least 25 feet from the intersection of two street rights-of-way and at least 50 feet from a residential district, unless within a building. Loading berths shall not occupy the required front yard space.

(Code 1993, § 9-13.05(1))

Sec. 113-335 - Size

Unless otherwise specified in this chapter, a required loading berth shall be not less than 12 feet in width, 50 feet in length, and 14 feet in height, exclusive of aisle and maneuvering space.

(Code 1993, § 9-13.05(2))

Sec. 113-336 - Street access

Each required loading berth shall be located with appropriate means of vehicle access to a street or public alley in a manner which will least interfere with traffic.

(Code 1993, § 9-13.05(3))

Sec. 113-337 - Accessory use

Any space allocated as a loading berth or maneuvering area so as to comply with the terms of this chapter shall not be used for the storage of goods, inoperable vehicles, or be included as a part of the space requirements necessary to meet the off-street parking area.

(Code 1993, § 9-13.05(4))

Sec. 113-338 - Alterations

Any structure erected or substantially altered for a use which requires the receipt of distribution of materials or merchandise by trucks or similar vehicles, shall provide off-street loading space as required for a new structure.

(Code 1993, § 9-13.05(5))

Sec. 113-339 - Schools

No public or private schools shall load or unload buses from public streets but shall provide off-street loading and unloading facilities.

(Code 1993, § 9-13.05(6))

Sec. 113-340 - Repair and service

No motor vehicle repair work or service of any kind shall be permitted in conjunction with loading facilities provided in any residential district.

(Code 1993, § 9-13.05(7))

Sec. 113-341 - Utilization

Space allocated to any off-street loading shall not, while so allocated, be used to satisfy the space requirements for any off-street parking facilities or portions thereof.

(Code 1993, § 9-13.05(8))

Sec. 113-342 - Central loading

Central loading facilities may be substituted for loading berths on the individual zoning lots provided the following conditions are fulfilled:

(1) Each zoning lot served shall have direct access to the central loading area without

crossing streets or alleys at grade.

(2) Total berths provided shall meet the requirements based on the sum of the several types of uses served. (Area of types of uses may be totaled before computing number of loading berths.)

(3) No zoning lot served shall be more than 300 feet removed from the central loading area.

(Code 1993, § 9-13.05(10))

Sec. 113-343 - Minimum facilities

Uses for which off-street loading facilities are required herein, but which are located in buildings of less floor area than the minimum prescribed for such required facilities, shall be provided with adequate receiving facilities, accessible by motor vehicle off any adjacent alley, service drive, or open space on the same zoning lot as approved by the zoning administrator.

(Code 1993, § 9-13.05(11))

Sec. 113-344 - Business districts

Off-street loading spaces accessory to uses allowed in the several business districts shall be provided in accordance with the following minimum requirements:

(1) Any use listed in a residential district that is also permitted in any of the several business districts shall provide loading spaces as established for that use in the preceding section for residence districts.

(2) Business or office establishments containing less than 10,000 square feet of gross floor area shall be provided with adequate facilities, accessible by motor vehicle off any adjacent alley, street service drive, or open space on the same zoning lot.

(3) For all other uses, loading berth facilities shall be provided in accordance with the number and location determined necessary by the zoning administrator.

(Code 1993, § 9-13.05(12))

Sec. 113-345 - Other zoning districts

Off-street loading spaces (number, type, location) shall be provided by the nature of the specific use as determined and approved by the zoning administrator.

(Code 1993, § 9-13.05(13))

Sec. 113-346 - Temporary use permit

Loading or unloading from any street or other public right-of-way may be permitted for nonresidential uses in any zoning district only upon issuance of a "temporary use" permit by the zoning administrator.

(Code 1993, § 9-13.05(14))

Sec. 113-347 - Use by taxi, bus

Taxi or public transit bus as approved by the city council may use areas designated for loading.

(Code 1993, § 9-13.05(15))

Secs. 113-348 – 113-367 - Reserved

DIVISION 3 - DESIGN AND PERFORMANCE STANDARDS

Sec. 113-368 - Minimum standards

All uses, buildings, and structures permitted pursuant to this chapter shall conform to the performance and design standards set forth in this division; said standards are determined to be the minimum standards necessary to comply with the intent and purposes of this chapter as set forth in this division.

(Code 1993, § 9-14.01(1))

Sec. 113-369 - The principal building

(a) Except as provided by a conditional use permit issued pursuant to this chapter, there shall be no more than one principal building on any one lot or parcel of land.

(b) No cellar, garage, recreational vehicle or trailer, basement with unfinished exterior above or accessory building shall be used at any time as a dwelling unit, unless authorized as an accessory dwelling unit under this chapter.

(c) Principal buildings with more than one use, in which one of those uses is a dwelling unit, shall require a conditional use permit.

(d) All principal buildings hereafter erected on unplatted land shall be so placed as to avoid obstruction of future street or utility extensions and shall be so placed as to permit reasonably anticipated future subdivisions and land use.

(e) The keeping of animals except for domesticated pets inside of the dwelling unit shall be prohibited.

(Code 1993, § 9-14.01(2))

Sec. 113-370 - Exterior storage

(a) All existing uses shall comply with this standard by January 1, 1987.

(b) In all districts, all personal property shall be stored within a building or be fully screened so as not to be visible from adjoining properties and public streets, except for the following:

(1) Laundry drying and playground equipment.

(2) Construction and landscaping materials and equipment currently (for a period not greater than 12 months) being used on the premises.

(3) Garden equipment and materials if these are used or intended for use on the premises.

(4) Off-street parking of licensed passenger automobiles and pickup trucks.

(5) Boats and unoccupied trailers, less than 25 feet in length, are permissible if stored in the rear yard more than ten feet from any property line.

(6) In single-family residential districts (R-1), closed refuse or garbage containers, so long as they are stored in a side yard, adjacent to the residence, and shall not be placed in the front yard of the residence.

(c) In nonresidential districts, exterior storage of personal property may be permitted by variance provided any such property is so stored for purposes related to a use of the property permitted by this chapter and will not be contrary to the intent and purpose of this chapter.

(d) In all districts, all waste, refuse or garbage shall be kept in an enclosed building or properly contained in a closed container designed for such purposes. The owner of vacant land shall be responsible for keeping such land free of refuse and weeds. Existing uses shall comply with this provision within 90 days following the effective date of the ordinance from which this chapter is derived.

(e) All exterior storage not included as a permitted accessory use, a permitted use, or included as part of a variance, or otherwise permitted by provisions of this chapter, shall be considered as refuse.

(Code 1993, § 9-14.01(3))

Sec. 113-371 - Environmental pollution

(a) Regardless of the source, the city council may take such action as is necessary to abate foul odors.

(b) No use shall be permitted which will cause or result in the pollution of any tributary to any lake, stream or other body of water.

(Code 1993, § 9-14.01(4))

Sec. 113-372 - Screening

(a) Screening shall be required in residential zones where:

(1) Any off-street parking area contains more than four parking spaces and is within 30 feet of a residential zone; and

(2) Where the driveway to a parking area of more than six parking spaces is within five feet of an adjoining residential use or zone.

(b) Where any business or industrial use (structure, parking or storage) is adjacent to property zoned for residential use, that business or industry shall provide screening along the boundary of the residential property. Screening shall also be provided where a business, parking lot, or industry is across the street from a residential zone, but not on the side of a business or industry considered to be the front.

(c) All exterior storage shall be screened. The exceptions are:

(1) Merchandise being displayed for sale;

(2) Materials and equipment currently used for construction on the premises;

(3) Merchandise located on service station pump islands.

(d) The screening required in this section shall consist of earth mounds, berms, or ground forms; fences and walls; landscaping (plant materials) or landscaped fixtures (such as timbers) used in combination or singularly so as to block direct visual access to an object.

(e) Required screening shall be as approved by the city council. Existing land uses may be required to install screening if so ordered by the city council following public hearing.

(Code 1993, § 9-14.01(5))

Sec. 113-373 - Landscaping

(a) Landscaping on a lot shall consist of a finished grade and vegetation as described in section 54-38, or as may be required by the zoning administrator to protect the soil and aesthetic values on the lot and adjacent property.

(Code 1993, § 9-14.01(6); Ord. No. 20-02, § 6, 2-12-2020)

Sec. 113-374 - Reasonable maintenance and repairs required

In all districts, all structures, landscaping and fences shall be reasonably maintained and kept in a good state of repair so as to avoid health or safety hazards and prevent a degradation in the value of adjacent property.

(Code 1993, § 9-14.01(7))

Sec. 113-375 - Lighting, lighting fixtures and glare

(a) All existing uses shall comply by January 1, 1989.

(b) In all districts, any lighting used to illuminate an off-street parking area, or other structure or area, shall be arranged as to deflect light away from any adjoining residential zone or from the public streets. Direct or sky-reflected glare, whether from floodlights or from high temperature processes such as combustion or welding shall not be directed into any adjoining property. The source of light shall be hooded or controlled so as not to light adjacent property. Bare lightbulbs shall not be permitted in view of adjacent property or public right-of-way. No light or combination of lights which cast light on a public street shall exceed two footcandle meter reading as measured from the centerline of said street nor shall any light or combination of lights which cast light on residential property exceed 0.5 footcandle.

(c) Lighting standards shall not exceed 25 feet or the height of the principal building on a lot, without a conditional use permit.

(Code 1993, § 9-14.01(8))

Sec. 113-376 - Traffic control

(a) The traffic generated by any use shall be controlled so as to prevent:

(1) Congestion of the public streets;

(2) Traffic hazards; and

(3) Excessive traffic through residential areas, particularly truck traffic.

(b) Internal traffic shall be so regulated as to ensure its safe and orderly flow. Traffic into and out of business areas shall in all cases be forward-moving with no backing into streets.

(c) On any corner lot, nothing shall be placed or allowed to grow in such manner as to impede vision between a height of 2½ and ten feet above the centerline grades of the intersecting streets within 15 feet of the intersecting street right-of-way lines. This restriction shall also apply to the planting of crops and to yard grades that result in elevations that impede vision within 15 feet of any intersecting street right-of-way lines.

(d) Minimum distance for access drives from corners shall be no closer than 20 feet from intersecting street right-of-way lines.

(Code 1993, § 9-14.01(9))

Sec. 113-377 - Storage of hazardous materials and explosives

(a) All existing uses shall comply with this standard by January 1, 1989.

(b) All uses associated with the bulk storage of over 2,000 gallons of oil, gasoline, liquid fertilizer, chemicals and similar liquids shall require a conditional use permit in order that the zoning administrator may have assurance that fire, explosion, water or soil contamination hazards are not present that would be detrimental to the public health, safety and general welfare. All existing, aboveground liquid storage tanks having a capacity in excess of 2,000 gallons shall secure a conditional use permit within 12 months following enactment of the ordinance from which this chapter is derived; the zoning administrator shall require the development of diking around said tanks, suitably sealed to hold a leakage capacity equal to 115 percent of the tank capacity. Any existing storage tank that, in the opinion of the planning commission, constitutes a hazard to the public safety shall discontinue operations within five years following enactment of the ordinance from which this chapter is derived.

(c) No activities involving the commercial storage, use or manufacture of materials or products which could decompose by detonation shall be permitted except such as are specifically permitted by the city council. Such materials shall include but not be confined to all primary explosives such as lead azide and mercury fulminate, all high explosives and boosters such as TNT, tetryl and nitrates, propellants and components thereof such as nitrocellulose, black powder and nitroglycerine, blasting explosives such as dynamite, and nuclear fuel and reactor elements such as uranium 235 and plutonium. Explosives shall include grain storage and other dust sources.

(Code 1993, § 9-14.01(10))

Sec. 113-378 – 113-379 – Reserved

Sec. 113-380 - Dwelling units in commercial districts

(a) Dwelling units for watchman and family shall be considered as accessory uses and shall conform to all applicable regulations for the district in which located, except as herein modified.

(b) A dwelling unit in the commercial district located in a commercial structure shall not occupy the basement or the front half of the ground floor.

(c) A dwelling unit in a commercial or industrial building shall not contain more than one bedroom unless said building is part of a planned unit development.

(d) No dwelling unit shall be permitted in a business district except as part of a planned unit development.

(e) A dwelling unit which is a part of the principal building shall be provided with two exits.

(f) All buildings shall conform to the building code and applicable fire codes.

(g) Residential use shall not be permitted on the ground floor of any building in the B-2 district.

(Code 1993, § 9-14.01(13))

Sec. 113-381 - Coin-operated machines

Coin-operated automatic machines dispensing food, soft drinks and other food and materials shall not be permitted outside of a building.

(Code 1993, § 9-14.01(14))

Sec. 113-382 - Swimming pools

(a) *Private swimming pools; general requirements.* Private swimming pools as regulated by this section are defined as any enclosure designed, intended or used for the containment of water, whether constructed above ground level or below ground level and in excess of 18 inches in depth or 100 square feet of surface area which is designed, intended or used for swimming, wading or other recreational use by the owner, family, guest of the property owner without payment of a fee.

(b) *Permit required; application; inspection.*

(1) *Building permit.* No swimming pool shall be constructed, excavated or established in the city without first obtaining a building permit.

(2) *Application.* An application for permit shall be submitted to the building inspector which includes the type and size of the pool, together with a site plan containing the following information:

a. Complete plans and specifications for the construction of the pool.

b. A site plan showing the location of all existing structures on the lot including house, garage, fences; location of existing underground or overhead wiring, utility easements, trees and similar other significant improvements or natural features; and location of structures on adjacent lots.

c. The proposed location of pumps, filters, wiring, electrical sources, protective fencing, back flush and drainage outlets, grading plans and finish elevation around the pool.

(3) *Inspection.* All wiring, installation of heating units, grading, installation of pipe, or other construction shall be subject to inspection and shall conform to the state building code.

(c) *Minimum setback requirements.*

(1) *Utility lines.* No pool shall be located within ten feet (measured horizontally) of underground or overhead utility lines of all types.

(2) *Easements.* No pool shall be located within any private or public utility, drainage, walkway or other easement.

(3) *Special rules; single-family districts.* Special rules for pools in single-family residential districts:

a. *Rear yard setback.* No pool shall be located within eight feet of any rear lot line.

b. *Side yard setback.* No pool shall be located within five feet of any side lot line.

c. *Front yard setback.* No pool shall be located within five feet of any required front yard.

d. *Setback to existing structures.* No pool shall be located within six feet of any principal structure or footing.

e. *Setback requirements for pool equipment.* No pool filter unit, pump, heating unit and/or any other noisemaking mechanical equipment shall be located within 25 feet of any residential structure on adjacent property and not closer than eight feet to any lot line.

(4) *Special rules; two-family or multiple-family.* This paragraph applies to pools in two-family residential districts or multiple-family residential districts. Private swimming pools intended for and used by occupants and guests of occupants of multiple-family dwellings shall adhere to the following regulations:

a. No part of the water surface of the swimming pool shall be closer than 50 feet to any lot line.

b. No pumps, filter, or other apparatus used in connection with the pool shall be located closer than 50 feet to any lot line.

(d) *Miscellaneous requirements.*

(1) *Liability.* All pools shall be so constructed as to avoid hazard, damage or considerable inconvenience to adjacent property owners or property. The property owner shall be liable for damages to any business or private property caused during pool construction.

(2) *Drainage.* All back flushing or pool drainage water shall be directed onto the owner's property or onto approved public drainageways, and shall not drain onto adjacent private land. Drainage onto public streets or other public drainageways shall require a conditional use permit.

(3) *Lighting.* Any pool lighting aboveground shall be directed toward the pool and not toward adjacent property.

(4) *Filling of the pool.* Filling of pools from fire hydrants or other public facilities shall require the permission of the appropriate city officials.

(e) *Protective fencing.*

(1) *Height.* Pools shall be completely enclosed with four-foot fencing which shall effectively prevent the entrance of children and be without external hand or foot holds that would enable a child to climb over it. Chainlink fence may be used. Fencing of aboveground pools shall not be required if the poolsides meet the fence stipulations above and it is provided with a removable ladder.

(2) *Gates and latches.* The fence openings shall be equipped with self-closing gates and self-latching devices. All the openings shall be inaccessible to small children and at least four feet from ground level. In the alternative, the perimeter of the yard, including driveway entrance, may be fenced and enclosed. The opening between the bottom of the fence and gates and the ground shall be no more than four inches.

(3) *Posts.* All fence posts shall be placed no further than eight feet apart and be of decay- or corrosion-resistant materials and shall be set in concrete bases or other suitable method.

(4) *Construction fence*. No person shall fill or cause to be filled a newly constructed pool or a pool under construction with water to a depth of more than 18 inches until the building inspector authorizes the filling of the pool with water. Such authorization shall be withheld until, as a minimum, the permittee has completely enclosed the swimming pool with a construction fence. This requirement does not apply to aboveground pools if the walls are at least four feet abovegrade. Said construction shall be:

a. Snow fence or similar design and securely anchored in place.

b. Constructed with its base flush to the ground.

c. At least four feet in height and have supportive posts placed no more than eight feet apart.

d. In place until a permanent fence completely enclosing the pool is installed to the specifications identified above and said fence is approved by the building inspector. Said installation and approval shall be achieved no later than ten days after the building inspector authorized the filling of the pool.

(f) *Additional permits.*

(1) *Separate permit for certain structures.* Unless included within the swimming pool permit, a separate building permit shall be required for any pump house, filter house, pool enclosure or any other structure erected in conjunction with a swimming pool. Such structures shall conform to all provisions of the building code. Such structures shall also conform to the setback requirements set forth in subsection (c) of this section.

(2) *Permit required for changes.* All changes, alterations or improvements made to swimming pools or accessory structures other than routine maintenance shall require a permit.

(Code 1993, § 9-14.01(15))

Sec. 113-383 - Service stations

(a) *Conformance with minimum requirements.* Before a permit for a service station is granted, the minimum requirements of the zoning district in which the service station is to be located shall be met.

(b) *Regulations.* A drainage system, subject to approval by the city engineer, shall be installed. The entire site other than that taken up by a structure or planting, shall be surfaced with concrete or other material approved by the zoning administrator. Pump islands shall not be placed in the required yards. A box curb not less than six inches above grade shall separate the public right-of-way from the motor vehicle service areas, except at approved entrances and exits. No driveways at a property line shall be less than 50 feet from the intersection of two street right-of-way lines. Each service station shall have at least two driveways with a minimum distance of 170 feet between centerlines when located on the street.

(c) *Parking regulations.* No vehicles shall be parked on the premises other than those utilized by employees or awaiting service. No vehicle shall be parked or be awaiting service longer than 15 days.

(d) *Exterior storage; items for sale.* Exterior storage besides vehicles shall be limited to service equipment and items offered for sale on pump islands; exterior storage of items offered for sale shall be within yard setback requirements and shall be located in containers such as the racks, metal trays, and similar structures designed to display merchandise. Existing service stations shall comply with this requirement within three months of the effective date of the ordinance from which this chapter is derived.

(e) *Screening; maintenance.* All areas utilized for the storage, disposal of debris, discarded parts and similar items shall be fully screened. All structures and grounds shall be maintained in an orderly, clean and safe manner. Existing service stations shall comply with this requirement within nine months of the effective date of the ordinance from which this chapter is derived.

(f) *Business activities not permitted.* Business activities not listed in this section are not permitted on the premises of a service station unless a conditional use permit is obtained specifically for such business. Such activities include but are not limited to the following:

(1) Automobile and truck wash;

(2) Rental of vehicles, equipment, or trailers; and

(3) General automobile retail sales.

(Code 1993, § 9-14.01(16))

Sec. 113-384 - Drainage

(a) No land shall be developed or altered and no use shall be permitted that results in surface water runoff causing unreasonable flooding, erosion or deposit of minerals on adjacent properties or water bodies. Such runoff shall be properly channeled into a storm drain, a natural watercourse or drainageway, a ponding area or other public facility.

(b) The zoning administrator, upon inspection of any site which has created drainage problems or could create drainage problems with proposed new development, may require the owner of said site or contractor to complete a grading plan and apply for a grading permit.

(c) The owner or contractor of any natural drainage improvement or alteration may be required by the zoning administrator to obtain recommendations from the state department of natural

resources, the soil conservation agent, the affected watershed district, and/or the community engineer, as well as obtaining a local grading permit.

(d) On any slope in excess of 13 percent where, in the opinion of the zoning administrator, the natural drainage pattern may be disturbed or altered, the zoning administrator may require the applicant to submit both a grading plan and a soil conservation plan prior to applying for a building permit.

(Code 1993, § 9-14.01(17))

Sec. 113-385 - Access drives; construction standards

(a) *Limit of access drives.* The number and types of access drives onto major streets may be controlled and limited in the interests of public safety and efficient traffic flow.

(b) *Restrictions.* Access drives may not be placed closer than five feet to any side or rear lot line. No access drive shall be closer than three feet to any single- or two-family residence, no closer than five feet to any multiple-family building or commercial building. The number and types of access drives onto major streets may be controlled and limited in the interests of public safety and efficient traffic flow.

(c) *Access permit.* Access drives onto major roads or any alley shall require an access permit from the zoning administrator. This permit shall be acquired prior to the issuance of any building permits. The zoning administrator shall determine the appropriate location, size and design of such access drives and may limit the number of access drives in the interest of public safety and efficient traffic flow. The zoning administrator may refer the request for an access drive permit onto a road to the planning commission for their comments.

(d) *Design/construction standards.* Driveway/accessway design and construction standards are as follows:

(1) For all driveways (resurfaced, reconfigured, reconstructed, relocated, new):

a. All driveways and off-street parking areas shall be permanently surfaced with either concrete or asphalt or impervious decorative pavement such as brick between the street and garage. (This does not require the resurfacing of existing driveways with parallel tracks into one contiguous surface.)

b. The minimum pavement thickness for asphalt driveways shall be two inches of bituminous surfacing on four inches of aggregate base. The minimum pavement thickness for concrete driveways shall be 3½ inches of concrete for R-1 and R-2 structures and six inches of concrete for multiple-family and commercial buildings. Two inches of aggregate base is required for all concrete driveways.

c. The minimum driveway slope as measured from the edge of the street to the right-of-way line, shall be one percent and the maximum driveway slope shall be ten percent.

d. In areas where sidewalks currently exist, all new or reconstructed driveways shall require six inches deep concrete sidewalk to be constructed to match the existing sidewalk width, when the existing sidewalk is affected by the permanent change.

(2) For new, reconfigured and relocated driveways:

a. All new driveways connecting to existing concrete curb and gutter section shall be

constructed with a five-foot radius. The existing concrete curb and gutter at the driveway opening shall be removed from the nearest joints to the driveway location. Saw cutting of the existing curb will not be allowed. Concrete gutter shall be placed through the driveway opening to properly drain the street. Expansion joint material shall be placed at the curb, sidewalk (if applicable) and right-of-way line as part of the driveway construction.

b. The minimum driveway angle to the street, at the driveway opening, shall be 60 degrees.

c. Setbacks:

1. Driveways must be at least five feet from any rear or side lot line.

2. Driveways must meet the corner side yard setback requirements for garages in section 113-240(e).

3. Driveways shall not be closer than three feet to any single- or two-family residence or five feet to any multiple-family building or commercial building.

d. Openings:

1. Driveway openings shall be a minimum of five feet from the side yard property line.

2. The minimum distance between driveway openings on the same lot shall be 25 feet where two openings are allowed in this chapter.

(e) *Emergency vehicle access.* All lots or parcels shall have direct adequate physical access for emergency vehicles along the frontage of the lot or parcel from either an existing dedicated public roadway, or an existing private roadway approved by the planning commission.

(f) *Proximity to corner.* Access drives shall not be closer than 20 feet to a corner.

(g) *Permit to public roads.* A driveway access permit to a public road shall be secured from the public agency with jurisdiction and maintenance responsibilities over the road, prior to the issuance of a building permit.

(Code 1993, § 9-14.01(18); Ord. No. 0-91-10, § 3, 6-19-1991)

Sec. 113-386 - Tennis courts

(a) In all districts, the following standards shall apply:

(1) A conditional use permit shall be required for all public, semi-public and commercial tennis courts.

(2) An application for a conditional use permit shall include a site plan showing:

a. The size, shape and pavement and subpavement materials;

b. The location of the court, the location of the house, garage, fencing, septic systems and any other structural improvements on the lot;

c. The locations of structures on all adjacent lots;

d. A grading plan showing all revised drainage patterns and finished elevations at the four corners of the court;

e. Landscaping and turf protection around the court;

f. Location of existing and proposed wiring and lighting facilities.

(b) Tennis courts shall not be located closer than ten feet on any side or rear lot line. Tennis courts shall not be located within any required front yard.

(c) Tennis courts shall not be located over underground utility lines of any type, nor shall any court be located within any private or public utility, walkway, drainage or other easement.

(d) Solid tennis court practice walls shall not exceed ten feet in height. A building permit shall be required for said walls. Said walls shall be set back a minimum of 30 feet from any lot line.

(e) Chainlink fencing surrounding the tennis court may extend up to ten feet in height above the tennis court surface elevation.

(Code 1993, § 9-14.01(19))

Sec. 113-387 - Vegetation cutting

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

Clear cutting means the removal of all live vegetation in excess of six inches in diameter at four feet of height on any area of 20,000 square feet or more in size.

Selective cutting means the removal of single scattered live trees or shrubs in excess of six inches in diameter at four feet of height.

(b) *Clear cutting prohibited.* Clear cutting of vegetation shall not be permitted within any required yard of any lot or parcel within any zoning use district except as may be approved by the zoning administrator.

(c) *Selective cutting conditional.* Selective tree cutting may occur on any lot provided any cutting on slopes of greater than 18 percent shall require a soil conservation district revegetation plan prior to issuance of a building permit.

(Code 1993, § 9-14.01(20))

Sec. 113-388 - Building permits and visual standards

(a) *Appearance of city.* It is hereby affirmed as essential public policy that the appearance of the city is a proper matter for public concern, and that all open spaces, buildings, signs, plantings and surfaces which may be seen from the public ways are subject to regulation and the provisions of this chapter.

(b) *Information submitted to zoning administrator.* Before construction may begin and before a permit is issued for any building, structure or land use other than a one-family, detached dwelling home, a complete set of plans shall be submitted to the zoning administrator including lot size, building location, drives, parking, loading areas, storage, utilities, fences, sidewalks, screening, landscaping, exterior elevation of the proposed building, and such other information as may be required or requested.

(c) *Refusal of construction permit.* The zoning administrator may, in any case, submit said plans for review by the planning commission and may refuse to issue construction permits if the development design is deemed incompatible with adjacent and nearby land uses and development and/or not meeting the general standards for appearance established by existing development throughout the city.

(Code 1993, § 9-14.01(21))

Sec. 113-389 - Quasi-public structures

No quasi-public structure shall be located within the public right-of-way except by conditional use permit. Such structures shall include trash containers, bicycle racks, benches, planting boxes, awnings, flagpoles, light standards, stairs, light wells, loading well, church directional signs, bus stop shelters and similar uses including vehicle parking.

(Code 1993, § 9-14.01(22))

Sec. 113-390 - Relocation of structures

No building, accessory building, or other major structure shall be relocated to a site within or from without the city without a permit. In the case of buildings, advice may be requested from the planning commission as to appearance, use conformity, and other considerations. (See section 113-5(f).)

(Code 1993, § 9-14.01(23))

Sec. 113-391 - Home occupations

(a) *Purpose.* The purpose of this section is to define and regulate home occupations so as to permit only those home occupations that are compatible with other permitted uses and with the residential character of neighborhoods. An additional purpose of this section is to protect the health, safety, and general welfare of the surrounding neighborhood. No home occupation shall be permitted which does not conform to the definition, procedures and requirements which follow in this section.

(b) *Definition.* A home occupation is a gainful occupation carried on in a dwelling unit, and not in any accessory building, within a residential district. The occupation shall clearly be secondary to the use of the dwelling for residential purposes, and shall not change its character.

(c) *License required.* No person shall conduct a home occupation without first having obtained a license from the zoning administrator and the approval of the council. Application for licenses, accompanied by the appropriate fee, shall state facts that constitute the basis for compliance with the requirements set forth in subsection (d) of this section. Home occupations for disabled persons that do not meet these conditions may apply for a conditional use permit.

(d) *Requirements.* The following requirements shall apply to home occupations within the city:

(1) No home occupations shall be permitted which may be detrimental to adjacent or nearby residential amenities.

(2) No home occupation shall be permitted which may increase the risk of fire or use of rescue squads at a greater level than would normally be expected in a residential district.

(3) Exterior storage shall not be permitted.

(4) Adequate off-street parking space for the home occupation must be available as approved by the zoning administrator; however, no home occupation shall be granted that creates the need for more than two parking spaces in addition to those already used by the occupants of the dwelling.

(5) No accessory uses in conjunction with a home occupation shall be permitted.

(6) No home occupation shall be permitted within an accessory building, unless the accessory building is permitted as an accessory dwelling unit (as defined in this chapter).

(7) No signs other than those normally utilized in a residential district shall be permitted.

(8) No over-the-counter retail or wholesale sales shall be permitted.

(9) Entrance to the home occupation shall be gained from within the structure with no separate exterior entrance.

(10) No stock in trade shall be stored on the premises.

(11) Only occupants of the dwelling unit may engage in the home occupation.

(12) No more than 20 two-way additional vehicle trips per day shall be generated by a home occupation.

(13) No home occupation shall be permitted which requires the use of commercial vehicle more often than would normally be expected in a residential district. For the purpose of this section, commercial vehicle shall be defined as a nonpassenger vehicle (as passenger vehicle is defined in section 113-310(1)(d)).

(14) No home occupation shall produce light, glare, noise, odor or vibration that has an objectionable effect on a nearby property.

(15) No equipment shall be used in a home occupation that creates electrical interference to surrounding property owners' radio or television signals.

(16) No home occupation shall be conducted between the hours of 9:00 p.m. and 9:00 a.m. on weekdays, or between the hours of 6:00 p.m. and 10:00 a.m. on weekends and holidays.

(17) No home occupation shall cause an increase in sewer or water usage that exceeds the normal range for residents in the city.

(18) Not more than 20 percent of the gross area of the dwelling unit shall be used to conduct a home occupation. The appearance of a residential dwelling shall in no way be changed or altered in a manner which would cause the premises to differ from its residential character.

(Code 1993, § 9-14.01(24); Ord. No. 0-93-09, §§ 1-3, 11-24-1993)

Sec. 113-392 - Prohibited dwelling units

No cellar, garage, tent, trailer, basement, or unfinished home or accessory building, shall be used as a dwelling unit, unless it is an authorized accessory dwelling unit under this chapter.

(Code 1993, § 9-14.01(25))

Sec. 113-393 - Solar systems

Access to sunlight for active and passive solar systems shall be protected in accordance with the City Code and all applicable state statutes and regulations.

(Code 1993, § 9-14.01(27); Ord. No. 13-05, § 3, 11-13-2013)

Secs. 113-394 – 113-399 - Reserved

DIVISION 4 - SPECIAL EVENTS

Sec. 113-400 - Purpose and intent

The purpose of this division is to promote the orderly, compatible and safe use of property for special events and to assure adequate provision of parking, traffic, sanitary facilities, utilities, peace and tranquility of residential neighborhoods and safety services.

(Ord. No. 13-01, § 2, 4-10-2013)

Sec. 113-401 - Permit required

No person on or after the effective date of this division shall conduct or allow to be conducted any special event as defined in this division without first obtaining a special event permit. No special event may be scheduled during the Minnesota State Fair or for one week prior and one week following the Minnesota State Fair.

(Ord. No. 13-01, § 2, 4-10-2013)

Sec. 113-402 - Permit standards

The following standards shall apply to all special events:

(1) *Maximum number of people.* The permittee shall not sell tickets to nor permit attendance at the permit location of more than the maximum number of people stated in the special event permit.

(2) *Sound equipment.* Sound producing equipment, including, but not limited to, public address systems, radios, phonographs, musical instruments and other recording devices, shall not be operated on the premises of the special event so as to be unreasonably loud or be a nuisance or disturbance to the peace and tranquility of the citizens of Falcon Heights.

(3) *Sanitary facilities.* In accordance with Minnesota State Board of Health regulations and standards, adequate sanitary facilities must be provided which are sufficient to accommodate the projected number of persons expected to attend the event.

(4) *Security.* The permittee shall employ at his or her own expense such security personnel as are necessary and sufficient, including off-duty police officers, to provide for the adequate security and protection of the maximum number of persons in attendance at the special event and for the preservation of order and protection of property in and around the event site. No permit shall be issued unless the city's police chief is satisfied that such necessary and sufficient security personnel will be provided by the permittee for the duration of the event.

(5) *Food service.* If food service is available on the premises, it shall be offered only by a holder of a retail food handler's license issued by Ramsey County Health Department.

(6) *Fire protection.* The permittee shall, at his or her own expense, take adequate steps to insure fire protection as determined by the fire chief.

(7) *Duration of special event.* Special events are allowed only on the days and hours specified on the permit. Special events must end by 9:00 p.m. and may not commence before 7:00 a.m. All structures, equipment, displays and refuse must be removed within 24 hours of the end time and date specified on the permit. Setting up for the event may commence not more than 24 hours before the time and date specified on the permit. No set up or removal activities shall occur between 10:00 p.m. and 7:00 a.m. An event may not exceed two consecutive calendar days and not more than one special event is allowed on a property at a time. There shall be no more than three special events per calendar year per property. However, each tenant in a multi-tenant building shall be permitted one special event per year. Multi-tenant buildings with less than five lease spaces shall be considered as a single property for purposes of this provision.

(8) *Cleanup plan.* The special event applicant is responsible for cleanup. Any cleanup required by the city may be charged to the applicant. Any city service that requires overtime will be at the expense of the applicant.

(9) *Accessory use.* The special event must be accessory to or promoting the established permitted or conditional use of the site.

(10) *Structures.* Tents, stands, and other similar temporary structures may be used, provided they are clearly identified on the submitted plan and provided that it is determined by the city administrator that they will not impair the parking capacity, emergency access, or the safe and efficient movement of pedestrian and vehicular traffic on or off the site. Temporary structures must be in compliance with applicable statutory and ordinance requirements.

(11) *Parking.* The submitted plan shall clearly demonstrate that adequate parking for the proposed event can and will be provided for the duration of the event. Determination of compliance with this requirement shall be made by the city administrator, who shall consider the nature of the event and the applicable parking requirements of article VI, division 2 of this chapter. Consideration shall be given to the parking needs and requirements of other occupants in the case of multi-tenant buildings. Parking on local streets is allowed provided that the petitioner arranges for traffic control by off-duty police officers, as approved in writing by the police chief, at the petitioner's expense. If off-street parking on private property not owned by the applicant is to be used for the event, written approval from that property's owner must be submitted with the permit application.

(12) *Signage.* Signage related to the special event shall be in compliance with the temporary sign standards of article VII of this chapter and shall be allowed for the

duration of the event. The city administrator may authorize special signage for purposes of traffic direction and control; the erection and removal of such signage shall be the responsibility of the applicant.

(13) *Display of permit.* The approved permit shall be displayed on the premises for the duration of the event.

(14) *Waiver.* The city administrator may grant a waiver from any of the requirements of this division in any particular case where the applicant can show that strict compliance with this division would cause exceptional and undue hardship by reason of the nature of the special event or by reason of the fact that the circumstances make the requirement of this division unnecessary. Such waiver must be granted without detriment to the public health, safety or welfare and without impairing the intent and purpose of these regulations.

(15) *Insurance.* Before the issuance of a permit, the permittee shall obtain public liability insurance and property damage insurance with limits determined by the city administrator. Limits for bodily injury and death shall be not less than $1,00,000.00 for one person and $1,000,000.00 for each occurrence; limits for property damage shall be not less than $200,000.00 for each occurrence; or a combination single limit policy of $2,000,000.00 or more. The city shall be named as an additional insured on the policy on a primary and noncontributory basis. Such insurance shall remain in full force and effect in the specified amounts for the duration of the permit. Evidence of insurance shall include an endorsement to the effect that the insurance company will notify the city clerk in writing at least ten days before the expiration or cancellation of the insurance.

(16) *Miscellaneous.* Prior to the issuance of a permit, the city administrator may impose any other conditions reasonably calculated to protect the health, safety and welfare of persons attendant or of the citizens of the City of Falcon Heights.

(Ord. No. 13-01, § 2, 4-10-2013; Ord. No. 21-01, § 5, 01-13-2021)

Sec. 113-403 - Application procedures

A written application for a special event permit shall be filed on forms provided by the city with the city clerk not less than 30 days before the date proposed for holding the special event. The written application shall be signed by the person, persons, or parties conducting the event and shall be accompanied by the fee payable hereunder. Upon submission of an application for a special event permit, city staff will review the request and advise the applicant of the need for additional information, if any.

(Ord. No. 13-01, § 2, 4-10-2013)

Sec. 113-404 - Fees

The fee for a special event license shall be as established by the city council.

(Ord. No. 13-01, § 2, 4-10-2013)

Sec. 113-405 - Granting a permit

Permits may be issued by the city administrator if the administrator determines the requirements of this division have been met. If the city administrator determines the activity does not meet these criteria, such application shall be denied.

(Ord. No. 13-01, § 2, 4-10-2013)

Sec. 113-406 - Denial of permit

If the city administrator denies the permit, the permit applicant may appeal the decision to the city council by filing a notice of appeal with the city clerk within ten days.

(Ord. No. 13-01, § 2, 4-10-2013)

Sec. 113-407 - Transferability

No permit granted under this division shall be transferred to any other person or place without consent of the city administrator, upon written application made therefore.

(Ord. No. 13-01, § 2, 4-10-2013)

Sec. 113-408 - Enforcement and penalties

(a) The police department and other such officers, employees, or agents as the city council or city administrator may designate, shall enforce the provisions of this division.

(b) The holding of a special event in violation of any provision of this division shall be deemed a public nuisance and may be abated as such.

(c) Any person violating any provision of this division is guilty of a misdemeanor and upon conviction shall be subject to the penalties set forth in Minnesota Statutes.

(Ord. No. 13-01, § 2, 4-10-2013)

Sec. 113-409 - Revocation of permit

The permit for a special event may be revoked by the city administrator for failure to comply with the provisions of this division and conditions of the permit. The revocation may be appealed to the city council by filing a written notice of appeal within ten days of the revocation with the city clerk.

(Ord. No. 13-01, § 2, 4-10-2013)

Secs. 113-410 – 113-414 - Reserved

ARTICLE VII - SIGNS

DIVISION 1 - GENERALLY

Sec. 113-415 - Noncommercial speech

The owner of any sign that is otherwise allowed by this article may substitute noncommercial speech in lieu of any other commercial speech or noncommercial speech. This substitution of copy may be made without any additional approval or permitting. The purpose of this section is to prevent any inadvertent favoring of commercial speech over noncommercial speech or favoring of any particular noncommercial speech over any other noncommercial speech. This section prevails over any more specific provision to the contrary. All noncommercial signs of any size may be posted in any number from 46 days before the state primary in a state general election year until ten days following the state general election subject to the applicable provisions of M.S. 211B.045.

(Ord. No. 10-04, § 1, 6-9-2010)

Sec. 113-416 - Permits

(a) *Permit required.* Except as otherwise provided in this section, no sign or structure shall be erected, constructed, altered, replaced with a dynamic display sign, rebuilt or relocated except as provided in this article and until a permit for the same has been issued by the zoning administrator upon application and to include such information as is required for a complete understanding of the proposed work.

(b) *Exceptions.* No permit will be required for the following:

(1) A change of copy on any advertising sign.

(2) A nameplate (identification) sign not exceeding two square feet of display surface on residence property stating only the name, address and profession of an occupant.

(3) A ground sign advertising either the sale or rental of the premises upon which it is maintained when such sign does not exceed ten square feet of display surface.

(4) Street, warning and other official or nonadvertising signs erected by a governmental body or by others where required pursuant to a legal authority.

(5) Election signs except those to be displayed on new, permanent structures or supporting elements. The only exemptions permitted by this paragraph shall apply only construed as relieving the owner of the sign from responsibility for its erection and maintenance in a good and safe condition.

(6) Noncommercial signs not exceeding ten square feet.

(c) *Permit fee and issuance.*

(1) An application for a permit shall be accompanied by a fee as per the approved permit fee schedule of the city.

(2) It shall be the duty of the zoning administrator, upon the filing of an application to examine the plans and specifications and other data and the premises upon which it is proposed to erect the sign or other advertising structure or display. If it shall appear that the proposed structure is in compliance with the requirements of this chapter, the zoning

administrator shall then issue the erection permit.

(d) *Expiration of permit.* If the work authorized under an erection permit has not been completed within six months after the date of issuance, the permit shall become null and void.

(Code 1993, § 9-13.01(1)-(4); Ord. No. 08-03, § 2, 8-27-2008)

Sec. 113-417 - Periodic inspection

The zoning administrator shall inspect every three years or at such other times as deemed necessary each sign, except residential, regulated by this article, to ascertain whether the same is secure or insecure and whether it is in need of removal or repair. To meet the expenses of such inspection, the permittee thereof shall pay to the city a fee as established and required by the city council. No inspection fee other than the original permit fee shall be charged during the calendar year in which the sign or other advertising structure is erected. The zoning administrator may maintain on file a photograph of any or all signs in place in the city; a new photograph may be taken at the time of each inspection.

(Code 1993, § 9-13.01(5))

Sec. 113-418 - Height abovegrade level

Except for necessary poles, uprights, pedestals, and other supporting structural elements, no portion of any sign shall be less than eight feet abovegrade level except for ground signs that are designed such that they present no hazard to pedestrians or vehicles. Signs that are erected near public streets or other vehicular drives shall be erected at sufficient height to avoid contact with said vehicles.

(Code 1993, § 9-13.01(6))

Sec. 113-419 - General setback requirements

Except as provided by conditional use permit, in any district, any portion of any sign exceeding 1½ square feet shall be set back ten feet from any street right-of-way line and five feet from any residentially zoned property line.

(Code 1993, § 9-13.01(7))

Sec. 113-420 - Painting requirement

The owner of any sign as defined and regulated by this article shall be required to have such sign properly painted at least once every two years, or as needed, including all parts and supports of the sign, and structures and backs of signs shall be painted a neutral color, unless such parts and supports are galvanized or treated otherwise to prevent rust. The need for painting shall be as determined by the zoning administrator.

(Code 1993, § 9-13.01(8))

Sec. 113-421 - Required marking on sign

Every sign or other advertising structure, when erected, shall have painted in a conspicuous place thereon, in letters not less than one inch in height, the date of erection, the permit number and the voltage of any electrical apparatus used in connection therewith.

(Code 1993, § 9-13.01(9))

Sec. 113-422 - Removal of obsolete and nonconforming signs

Any sign which does not conform to the regulations provided by this article shall be taken down and removed by the owner, agent or person having the beneficial use of the property, building or structure upon which the sign may be found within five years after the effective date of the ordinance from which this section is derived. After the expiration of the said five years and upon written notification from the zoning administrator, to the landowner and/or sign owner, said sign shall be removed within ten days and upon failure to comply with such notice within the time specified in such order, the zoning administrator is hereby authorized to cause removal of such sign and any expense incident thereto shall be paid by the owner of the sign or the owner of the property or of the building or structure to which such sign is attached.

(Code 1993, § 9-13.01(10))

Sec. 113-423 - Unsafe and unlawful signs

(a) If the zoning administrator shall find that any sign or other advertising structure regulated by this article is unsafe or insecure, or is a menace to the public or no longer advertises a bona fide business conducted or products sold, or has been constructed or erected or is being maintained in violation of the provisions of this article, he or she shall give written notice to the permittee thereof. If an unsafe or unlawful sign has not been removed within 60 days following written notice to landowner and/or sign owner, said sign may be removed with approval by the city council at the direction of the zoning administrator with the costs of such removal assessed to the owner of the sign.

(b) If the permittee fails to remove or alter the structure so as to comply with the standards set forth in this article within ten days after such notice, such sign or other advertising structure may be removed or altered to comply with this article by the zoning administrator at the expense of the permittee or owner of the property upon which it is located. The zoning administrator may cause any sign or other advertising structure which is in immediate peril to persons or property to be removed summarily and without notice.

(Code 1993, § 9-13.01(11))

Sec. 113-424 - Obstruction of fire escapes

No sign shall be erected, constructed or maintained so as to obstruct any fire escape, or any window or door or opening used as a means of egress or for firefighting purposes, or so as to prevent free passage from one part of a roof to another part thereof. No sign shall be attached in any form, shape or manner to a fire escape nor be so placed as to interfere with an opening required for legal ventilation.

(Code 1993, § 9-13.01(12))

Sec. 113-425 - Conformity with zoning and building codes

Except as allowed under the provisions of this article relating to projecting signs, every sign for which a permit is required shall rigidly conform to the requirements of rear yards, side yards, and setback restrictions of the zoning area district, of the lot upon which such sign is to be or is located and of any lot contiguous thereto as fully as if such sign were a part of the building wall or roof, except that the lighting reflectors may project beyond the top of such sign. All signs shall be in accordance with applicable provisions of the city building code.

(Code 1993, § 9-13.01(13))

Sec. 113-426 - Nonconforming signs-Compliance

It is recognized that signs exist within zoning districts that were lawful before this sign ordinance was enacted, which would be prohibited, regulated or restricted under the terms of this chapter or future amendments. It is the intent of this sign ordinance that nonconforming signs shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other signs or uses prohibited elsewhere in the same district. It is further the intent of this sign ordinance to permit legal nonconforming signs existing on the effective date of this sign ordinance, or amendments thereto, to continue as legal nonconforming signs provided such signs are safe, are maintained so as not to be unsightly, and have not been abandoned or removed subject to the following provisions:

(1) No sign shall be enlarged or altered in a way which increases its nonconformity.

(2) Should such sign or sign structure be destroyed by any means to an extent greater than 50 percent of its replacement cost and no building permit has been applied for within 180 days of when the property was damaged, it shall not be reconstructed except in conformity with the provisions of this section.

(3) Should such sign or sign structure be moved for any reason for any distance whatsoever, it shall thereafter conform to the regulations for the zoning district in which it is located after it is moved.

(4) No existing sign devoted to a use not permitted by the zoning code in the zoning district in which it is located shall be enlarged, extended or moved except in changing the sign to a sign permitted in the zoning district in which is it located.

(5) When a structure loses its nonconforming status all signs devoted to the structure shall be removed and all signs painted directly on the structure shall be repainted in a neutral color or a color which will harmonize with the structure.

(Ord. No. 08-03, § 3, 8-27-2008)

Secs. 113-427 – 113-448 - Reserved

DIVISION 2 - RESTRICTIONS BY ZONING DISTRICTS

Sec. 113-449 - Signs permitted in residential districts

Signs are permitted in the R-1, R-2, R-3, R-4 and, R-5M districts only as follows:

(1) For the purpose of selling, renting or leasing property, a sign not in excess of ten

square feet in gross surface area may be placed within the front yard, not less than 15 feet from a property line.

(2) Temporary poster signs for political advertising may be posted but must be removed by those responsible for their being posted within ten days following the election for which the sign was posted.

(3) Signs containing noncommercial speech.

(4) One nameplate sign for each dwelling unit that shall not exceed two square feet in area per surface, and no sign shall have more than two display surfaces.

(5) No sign shall be located within three feet of the property line.

(6) Churches, schools and other institutional users, allowed by virtue of pre-existing or conditional use, may have an illuminated sign not exceeding 50 square feet in gross surface area. Temporary signs advertising a special event may be posted after receiving a permit from the zoning administrator, and such sign shall not be greater than 70 square feet in gross surface area, not less than 30 feet from a property line and shall not be displayed longer than 30 days.

(7) Address numbers four inches on the house and alley side of garage.

(8) Signs other than those listed above require a conditional use permit.

(9) In the R-5M district signs allowed in the B-2 district are allowed for B-2 uses.

(Code 1993, §§ 9-4.01(6), 9-5.01(6), 9-7.01(6), 9-13.02(1); Ord. No. 10-06, § 8, 9-8-2010)

Sec. 113-450 - Business districts

(a) *Business district B-2.*

(1) Types of signs allowed. Business, dynamic display signs, nameplate, identification, illuminated, ground, pedestal, political, real estate sales, temporary, wall and courtesy bench signs.

(2) Number of each type of sign allowed per lot frontage. One real estate sales sign, two temporary signs, one nameplate sign, and one political sign. Courtesy bench signs are permitted on licensed courtesy benches.

(3) Size:

a. Except as provided herein, the total square footage of permanent sign area for each business shall not exceed one square foot of sign area for each lineal foot of unsigned building frontage, except where a location is a corner lot, the amount may be increased by one-half square foot of sign area per front foot of building.

b. No individual sign shall exceed 50 square feet in area.

c. Each real estate sales sign, temporary sign, and political sign shall not exceed 20 square feet in area.

d. Each nameplate sign shall not exceed 40 square feet in area.

(4) Height. The top of the display shall not exceed ten feet above the average grade for pedestal and ground signs, and not higher than the outside wall or parapet for wall signs.

(5) Setback. Any sign over six square feet shall be set back at least ten feet from any lot line. In no case shall any part of a sign be closer than two feet to a vertical line drawn at the property line. All signs over 20 square feet shall be set back at least 50 feet from any residential district.

(6) Corner lots. In the case of corner lots, the longer of the two walls may be used to compute all usable sign area.

(7) Alleys shall not be considered a public street.

(8) Signs on nonconforming uses shall be considered as if zoned B-1.

(9) The owner or lessee of any sign, or the owner of the land on which the sign is located shall keep the grass, weeds, or other growth cut and the area free from refuse between the sign and the street and also for a distance of six feet behind and at the ends of said sign.

(b) *Business districts B-1 and B-3.*

(1) *Types of signs allowed.* Business, nameplate, identification, illuminated, ground, pedestal, political, real estate sales, temporary, wall and courtesy bench signs. Dynamic display signs are permitted in B-3 districts only.

(2) *Number of each type of sign allowed per lot frontage.* One real estate sales sign, two temporary signs, one nameplate sign, one political sign for each candidate, and one business sign or one shopping center sign. If a shopping center sign is used, each business establishment located in the shopping center shall also be permitted one business or nameplate sign. Courtesy bench signs are permitted on licensed courtesy benches.

(3) *Size:*

a. Except as provided herein, the total square footage of permanent sign area for each business shall not exceed two square feet of sign area for each lineal foot of unsigned building frontage, except where a location is a corner lot, the amount may be increased by one square foot of sign area per front foot of building along a side lot line.

b. No individual sign shall exceed 150 square feet in area.

c. Each real estate sales sign, temporary sign, and political sign shall not exceed 20 square feet in area.

d. Each nameplate or business sign shall not exceed 75 square feet in area.

(4) *Height.* The top of the display shall not exceed 35 feet in height above grade except that roof signs shall not be permitted.

(5) *Setback.* Any sign over six square feet shall be set back at least ten feet from any lot line. In no case shall any part of a sign be closer than two feet to a vertical line drawn at the property line. All signs over 50 square feet shall be set back at least 50 feet from any residential or agricultural district.

(Code 1993, § 9-13.02(2), (3); Ord. No. 0-93-07, §§ 8, 9, 7-28-1993; Ord. No. 0-96-01, § 5, 2-28-1996; Ord. No. 05-01, §§ 3, 4, 1-12-2005; Ord. No. 08-03, §§ 4, 5, 8-27-2008)

Secs. 113-451 – 113-468 - Reserved

DIVISION 3 - RESTRICTIONS ON SPECIFIC TYPES OF SIGNS

Sec. 113-469 - Signs as traffic hazards

No sign may be erected that by reason of position, shape, flashing light, movement, color, or in any other manner constitutes a traffic hazard as determined by the zoning administrator. In particular, signs which may be confused with emergency or snow plow vehicle lights are prohibited.

(Code 1993, § 9-13.03(1))

Sec. 113-470 - Certain signs prohibited

No sign will be permitted that provides refuge from police surveillance, tends to accumulate debris as a fire hazard, or in any other way is a hazard to the public health, safety, convenience or general welfare. Private signs are not permitted within streets or other public rights-of-way, except on courtesy benches as regulated herein.

(Code 1993, § 9-13.03(2); Ord. No. 05-01, § 5, 1-12-2005)

Sec. 113-471 - Illuminated sign restrictions

(a) Any sign illuminated and located within 50 feet of a residential district lot line shall be diffused or indirect so as not to reflect direct rays of light into adjacent residences. All illuminated signs in business and industrial districts in close proximity to residential districts shall be designed so as to illuminate the sign and not residential property to the extent practicable.

(b) Illuminated signs lighted by any means as an integral part of the sign, by floodlights, or any other means which cast light away from the sign shall be governed as follows:

(1) Any combination of signs or light sources which cast light on a public street shall not exceed one footcandle meter reading as measured from the centerline of said street.

(2) Any combination of signs or lights which cast light on property zoned for residential use shall not exceed 0.4 footcandle meter reading as measured from any part of said residential area.

(3) In no instance shall exposed light bulbs be utilized to light signs, property, or merchandise for sale or rent. Said lights shall be hooded or controlled in some manner so as to direct light away from public streets or adjacent to nearby property.

(c) No sign may be brighter than is necessary for clear and adequate visibility.

(d) No sign may be of such intensity or brilliance as to impair the vision of a motor vehicle driver with average eyesight or to otherwise interfere with the driver's operation of a motor vehicle.

(e) No sign may be of such intensity or brilliance that it interferes with the effectiveness of an official traffic sign, device, or signal.

(Code 1993, § 9-13.03(3); Ord. No. 08-03, § 6, 8-27-2008)

Sec. 113-472 - Signs in public right-of-way

Signs shall not be permitted within the public right-of-way or easements except as follows:

(1) Public traffic control signs are permitted in any right-of-way.

(2) Signs erected by the city or the jurisdiction controlling the right of way.

(3) Courtesy bench signs are permitted on courtesy benches in the zoning districts specified herein.

(Code 1993, § 9-13.03(4); Ord. No. 05-01, § 6, 1-12-2005)

Sec. 113-473 - Flashing signs

Devices giving off an intermittent or rotating beam of rays of light shall be prohibited, except dynamic display signs, symbols or numerals indicating time and temperature as long as the display does not change more frequently than every 30 seconds. In no event, however, shall any light be permitted which may be confused with lights from a snowplow, police car, ambulance, or other emergency vehicle.

(Code 1993, § 9-13.03(5); Ord. No. 08-03, § 7, 8-27-2008)

Sec. 113-474 - Temporary and election signs

Temporary signs shall be permitted in any district in any yard area provided there shall be no more than three such signs on any lot and the total area of such signs shall not exceed 32 square feet. Temporary signs shall include election signs on residential property, commercial special sale signs, special occasion signs, garage sales, and similar signs. Election signs are permitted in any district on private property. Such signs must be removed within ten days following the election date.

(Code 1993, § 9-13.03(6))

Sec. 113-475 - Service station signs

Service stations may erect on pylon or pedestal a sign not to exceed 25 feet in height anywhere in setback area but no part of any such sign shall be closer to side lot lines than the required side yard setback nor within five feet of the rear lot line or ten feet of street right-of-way.

(Code 1993, § 9-13.03(7))

Sec. 113-476 - Real estate signs

Real estate (for rent, sale, or lease) signs may be placed in any yard of a lot containing the affected structure or land involved, provided such signs are not closer than ten feet to any property line and do not exceed a total of six square feet per lot frontage in residential areas and 32 square feet on any other lot. However, real estate signs over six square feet may be constructed in any residential area providing that:

(1) The sign area allowance for a combination of lots in aggregate shall not exceed 50

square feet;

(2) The signs are located at least 130 feet from any home;

(3) The signs are removed within one year unless an extension is given from the zoning administrator;

(4) A use permit is granted by the zoning administrator. Real estate signs over 32 square feet per lot frontage and exceeding other sign area limits in business and industrial areas shall require a variance.

(Code 1993, § 9-13.03(8))

Sec. 113-477 - Private traffic signs

Private traffic circulation signs in parking lots and pedestrian circulation signs in alleys or other hazardous situations may be permitted provided such individual signs do not exceed three square feet, the minimum number necessary for purposes intended is utilized, and such signs are utilized exclusively for purposes intended and permitted.

(Code 1993, § 9-13.03(9))

Sec. 113-478 - Vacant lots

Signs on vacant lots shall be permitted in accordance with this article except where governed by building frontage; in such cases, front footage of public right-of-way shall be utilized.

(Code 1993, § 9-13.03(10))

Sec. 113-479 - Rooftop displays and aerial searchlights

Rooftop balloons and rooftop displays are not permitted except in a commercial zone for a maximum of five days for a business grand opening or a special civic event sponsored or endorsed by the city council. A temporary sign permit is required for the balloon. Aerial searchlights are not permitted.

(Code 1993, § 9-13.03(11); Ord. No. 0-93-05, § 1, 5-26-1993)

Sec. 113-480 - Signs on windows and doors

This chapter does not apply to interior signs painted, attached by adhesive, or otherwise attached directly to or visible through windows and glass portion of doors except that such signs shall not be permitted in the B-1 district.

(Code 1993, § 9-13.03(12))

Sec. 113-481 - Ground signs

(a) No ground sign shall be erected, constructed, altered, rebuilt, or relocated to a height exceeding 20 feet above ground.

(b) The bottom of the facing of every ground sign shall be at least 30 inches above the ground, which space may be filled with platform or decorative trim of light wood, metal construction, brick, planters or plantings, etc.

(c) No private sign shall be erected, constructed, or maintained within the boundary of any street, avenue, highway, alley or public ground of the city, county or state.

(d) Portable signs supported by frames or posts rigidly attached to bases shall be so proportioned that the weight and size of the bases are adequate to resist the wind pressure specified in the building code. Such signs shall not exceed five feet in height or 15 square feet in area.

(e) The owner of a lot upon which there is a ground sign or the person occupying such lot or both are hereby required to keep such lot and such ground sign clean, sanitary, inoffensive and free and clear of all obnoxious substances and unsightly conditions.

(Code 1993, § 9-13.03(13))

Sec. 113-482 - Moving or revolving signs (motion signs)

Moving or revolving signs shall not be permitted except by the granting of a variance.

(Code 1993, § 9-13.03(14))

Sec. 113-483 - Wall signs

Wall signs attached to exterior walls of solid masonry or concrete shall be safely and securely attached.

(Code 1993, § 9-13.03(15))

Sec. 113-484 - Signs painted on walls

Signs shall not be painted directly on the outside wall of a building. Signs shall not be painted on a fence, tree, stone, or other similar objects or structures in any district.

(Code 1993, § 9-13.03(16))

Sec. 113-485 - Projecting signs

Signs shall in no case project from a building or structure more than one foot from the base of building. No projecting sign shall at the lowest point be less than eight feet above the sidewalk or the grade level. All projecting signs for which a permit is required shall be constructed entirely of fire-resistive materials approved by the zoning administrator for this purpose. All metal supports and braces for projecting signs shall be galvanized or of corrosive-resistant material or painted at least once annually.

(Code 1993, § 9-13.03(17))

Sec. 113-486 - Electric signs

All signs and displays using electric power shall have a cutoff switch on the outside of the premises and on the outside of the sign. All electrical work shall conform to this article and be subject to city inspection.

(Code 1993, § 9-13.03(18))

Sec. 113-487 - Construction signs

These signs are not to exceed 32 square feet in area and shall be allowed in all zoning districts during construction. Such signs shall be removed when the project is substantially completed.

(Code 1993, § 9-13.03(19))

Sec. 113-488 - Roof signs

Roof signs are prohibited in all districts.

(Code 1993, § 9-13.03(20))

Sec. 113-489 - Advertising signs

Advertising signs are prohibited. By October 1, 1985, all advertising signs shall be considered to be fully amortized and shall be removed by the owners.

(Code 1993, § 9-13.03(22))

Sec. 113-490 - Multifaced signs

Multifaced signs shall not exceed two times the allowed square footage of single-faced signs.

(Code 1993, § 9-13.03(23))

Sec. 113-491 - Large signs

Except for more restrictive subsections of this sign section, no sign that exceeds 100 square feet in area shall be erected or maintained that would:

(1) Prevent any traveler on any street from obtaining a clear view of approaching vehicles on the same street for a distance of 500 feet.

(2) Be closer than 1,350 feet to a national, state, or local park, historic site, picnic or rest area, church or school.

(3) Be closer than 100 feet to residential structures.

(Code 1993, § 9-13.03(24))

Sec. 113-492 - Dynamic display signs

Dynamic displays on signs are permitted subject to the following conditions:

(1) No dynamic display sign shall be located within 150 feet of a residential district lot line.

(2) Dynamic display signs are subordinate to ground and pedestal signs and must not be the predominant feature of the sign area. A dynamic display shall not occupy more than 25 percent of the sign area. Only one dynamic display is allowed per sign face.

(3) The images and messages displayed must be static, and a dynamic display shall display no more than one static image and/or message per 24-hour period, except when changes are necessary to correct the time and temperature information. Time and temperature information is considered a dynamic display and may not be included as a component of any other dynamic display. Except for time and temperature, change shall take place between 9:00 a.m. and noon.

(4) No dynamic display sign shall use more than one color of lighting. That is, it shall render images with one constant hue and brightness on an unlighted background.

(5) The transition from one static display to another must be without any special effects.

(6) The images and messages displayed must be complete in themselves without continuation in content to the next image or message or to any other sign.

(7) Dynamic displays must be designed and equipped to freeze the device in one position if a malfunction occurs. The displays must also be equipped with a means to immediately discontinue the display if it malfunctions, and the sign owner must immediately stop the dynamic display when notified by the city that the display is not complying with the standards of this section.

(8) All dynamic displays shall meet the following brightness standards in addition to those in section 113-471(c), (d), and (e):

a. Sunrise to sunset: no greater than 2,000 nits,

b. Sunset to sunrise: no greater than 500 nits.

(Ord. No. 08-03, § 8, 8-27-2008)

Secs. 113-493 – 113-499 - Reserved

ARTICLE VIII - FLOODPLAIN REGULATIONS[3]

Sec. 113-500 - Statutory authorization and purpose

(a) *Statutory authorization.* The legislature of the state has, in Minn. Stats. ch. 462, delegated the responsibility to local government units to adopt regulations designed to minimize flood losses.

(b) *Statement of purpose.*

(1) The city wishes to establish eligibility in the National Flood Insurance Program and in order to do so must meet the requirements of 44 CFR Part 60.3(a)

(2) The city wishes to minimize potential losses due to periodic flooding including loss of

life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

(Ord. No. 09-02, § 2, 8-12-2009)

Sec. 113-501 - Warning and disclaimer of liability

This article does not imply that areas will be free from flooding or flood damages. This article shall not create liability on the part of the city or any officer or employee thereof for any flood damages which result from reliance on this article or any administrative decision lawfully made thereunder.

(Ord. No. 09-02, § 2, 8-12-2009)

Sec. 113-502 - Permit requirements

(a) No person shall erect, construct, enlarge, alter, repair, improve, move, or demolish any building or structure without first obtaining a separate permit for each building or structure from the zoning administrator.

(b) No manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, fences, mining, dredging, filling, grading, paving, excavation or drilling operations, shall be commenced until a separate permit has been obtained from the zoning administrator for each change.

(c) No manufactured home shall be placed on improved or unimproved real estate without first obtaining a separate permit for each mobile home from the zoning administrator.

(Ord. No. 09-02, § 2, 8-12-2009)

Sec. 113-503 - Permit application

To obtain a permit, the applicant shall first file a permit application on a form furnished for that purpose. The form must be completed and submitted to the zoning administrator before the issuance of a permit will be considered.

(Ord. No. 09-02, § 2, 8-12-2009)

Sec. 113-504 - Duties of the zoning administrator

(a) The zoning administrator is appointed as the person responsible for receiving applications and examining the plans and specifications for the proposed construction or development.

(b) After reviewing the application, the zoning administrator may require any additional measures which are necessary to meet the minimum requirements of this article.

(c) The zoning administrator shall review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

(Ord. No. 09-02, § 2, 8-12-2009)

Sec. 113-505 - Review of permit application

The zoning administrator shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. 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.

(Ord. No. 09-02, § 2, 8-12-2009)

Sec. 113-506 - Subdivisions

The zoning administrator shall review subdivision proposals and other proposed new development to determine whether such proposals will be reasonably safe from flooding. If a subdivision proposal or other proposed new development is in a flood prone area, any such proposal shall be reviewed to assure that:

(1) All such proposals are consistent with the need to minimize flood damage within the flood prone area;

(2) All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; and

(3) Adequate drainage is provided to reduce exposure of flood hazard.

(Ord. No. 09-02, § 2, 8-12-2009)

Sec. 113-507 - Water supply system

The zoning administrator shall require within flood prone areas, new and replacement water supply systems to be designed to minimize or eliminate infiltration of flood waters into the systems.

(Ord. No. 09-02, § 2, 8-12-2009)

Sec. 113-508 - Sanitary sewage and water disposal systems

The zoning administrator shall require within flood prone areas:

(1) New and replacement sanitary sewage systems to be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters; and

(2) On-site waste disposal systems to be located to avoid impairment to them or contamination from them during flooding.

(Ord. No. 09-02, § 2, 8-12-2009)

Sec. 113-509 - Annexations and extraterritorial jurisdiction

The city shall not approve any development located in a special flood hazard area (SFHA) outside the corporate limits unless such development or plat is in the accordance with the floodplain ordinance that meets the minimum federal (44 CFR 60.3), state (Minnesota Regulation Parts 6120.5000 through 6120.6200), and local requirements for development within a special flood hazard area.

(Ord. No. 09-02, § 2, 8-12-2009)

Sec. 113-510 - Greater restriction

Where this article and other regulations conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Ord. No. 09-02, § 2, 8-12-2009)

Footnotes:

[1] **State Law reference –** Zoning generally, Minn. Stats. § 462.357.

[2] **State Law reference –** Conditional use permits, Minn. Stats. § 462.3595; conditional uses, Minn. Stats. § 462.357, subds. 1b, 8.

[3] **Editor's note –** Ord. No. 09-03, adopted Sept. 9, 2009 is a summary of Ord. 09-02 for publication purposes. It states: "This ordinance amends Chapter 13 of the Falcon Heights City Code, the zoning ordinance, concerning floodplain regulations. This ordinance adopts a model floodplain ordinance provided by the Minnesota Department of Natural Resources. The ordinance provides the general regulations for development in areas located in the floodplain, addresses potential conflicts with other City ordinances, delineates permitted uses, provides provisions for variances, regulates non-conformities and outlines penalties for violations."