MANTORVILLE, MINNESOTA

CODE OF ORDINANCES

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CITY OFFICIALS

OF

MANTORVILLE, MINNESOTA

CITY COUNCIL

MAYOR	Chuck Bradford
COUNCIL MEMBER	Lyle Hoaglund
COUNCIL MEMBER	Jeff Ingalls
COUNCIL MEMBER	Henry Blair
COUNCIL MEMBER	Lynnette Nash

CITY OFFICIALS

CITY ATTORNEY	Scott Riggs, Kennedy & Graven
CITY ENGINEER	Tim Hruska, WHKS

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§ 10.01 TITLE OF CODE.

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

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

§ 10.02 RULES OF INTERPRETATION.

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

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

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

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

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

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

§ 10.03 APPLICATION TO FUTURE ORDINANCES.

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

§ 10.04 CAPTIONS.

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

§ 10.05 DEFINITIONS.

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

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

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

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

COUNTY. Dodge County.

MAY. The act referred to is permissive.

MONTH. A calendar month.

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

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

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

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

SHALL. The act referred to is mandatory.

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

STATE. The State of Minnesota.

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

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

YEAR. A calendar year, unless otherwise expressed.

§ 10.06 SEVERABILITY.

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

§ 10.07 REFERENCE TO OTHER SECTIONS.

Whenever in 1 section reference is made to another section hereof, that reference shall extend and apply to the section referred to as subsequently amended, revised, recodified, or renumbered unless the subject matter is changed or materially altered by the amendment or revision.

§ 10.08 REFERENCE TO OFFICES.

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

§ 10.09 ERRORS AND OMISSIONS.

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

§ 10.10 OFFICIAL TIME.

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

§ 10.11 REASONABLE TIME.

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

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

§ 10.12 ORDINANCES REPEALED.

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

§ 10.13 ORDINANCES UNAFFECTED.

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

§ 10.14 EFFECTIVE DATE OF ORDINANCES.

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

§ 10.15 REPEAL OR MODIFICATION OF ORDINANCE.

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

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

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

§ 10.16 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE.

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

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

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

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

§ 10.18 COPIES OF CODE.

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

§ 10.19 ADOPTION OF STATUTES AND RULES BY REFERENCE.

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

§ 10.20 ENFORCEMENT.

(A) Any licensed peace officer of the city's Police Department, or the County Sheriff, or any Deputy Sheriff, shall have the authority to enforce any provision of this code.

(B) As permitted by M.S. § 626.862, as it may be amended from time to time, the City Clerk-Treasurer shall have the authority to administer and enforce this code. In addition, under that statutory authority, certain individuals designated within the code or by the Clerk-Treasurer or City Council shall have the authority to administer and enforce the provisions specified. All and any person or persons designated may issue a citation in lieu of arrest or continued detention to enforce any provision of the code.

(C) The City Clerk-Treasurer and any city official or employee designated by this code who has the responsibility to perform a duty under this code may, with the permission of a licensee of a business or owner of any property or resident of a dwelling, or other person in control of any premises, inspect or otherwise enter any property to enforce compliance with this code.

(D) If the licensee, owner, resident, or other person in control of a premises objects to the inspection of or entrance to the property, the City Clerk-Treasurer, peace officer, or any employee or official charged with the duty of enforcing the provisions of this code may, upon a showing that probable cause exists for the issuance of a valid search warrant from a court of competent jurisdiction, petition and obtain a search warrant before conducting the inspection or otherwise entering the property. This warrant shall be only to determine whether the provisions of this code enacted to protect the health, safety, and welfare of the people are being complied with and to enforce these provisions only, and no criminal charges shall be made as a result of the warrant. No warrant shall be issued unless there be probable cause to issue the warrant. Probable cause occurs if the search is reasonable. Probable cause does not depend on specific knowledge of the condition of a particular property.

(E) Every licensee, owner, resident, or other person in control of property within the city shall permit at reasonable times inspections of or entrance to the property by the City Clerk-Treasurer or any other authorized city officer or employee only to determine whether the provisions of this code enacted to protect the health, safety, and welfare of the people are being complied with and to enforce these provisions. Unreasonable refusal to permit the inspection of or entrance to the property shall be grounds for termination of any and all permits, licenses, or city service to the property. Mailed notice shall be given to the licensee, owner, resident, or other person in control of the property, stating the grounds for

the termination, and the licensee, owner, resident, or other person in control of the property shall be given an opportunity to appear before the City Clerk-Treasurer to object to the termination before it occurs, subject to appeal of the Clerk-Treasurer's decision to the City Council at a regularly scheduled or special meeting.

(F) Nothing in this section shall be construed to limit the authority of the city to enter private property in urgent emergency situations where there is an imminent danger in order to protect the public health, safety, and welfare.

§ 10.99 GENERAL PENALTY.

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

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

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

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

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

TITLE III: ADMINISTRATION

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30. CITY COUNCIL AND CITY OFFICIALS

31. CITY ORGANIZATIONS

32. FINANCE; REVENUE; TAXATION

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CHAPTER 30: CITY COUNCIL AND CITY OFFICIALS

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30.03 Establishment of the office of Clerk-Treasurer

§ 30.01 COMPENSATION OF MAYOR AND COUNCIL MEMBERS.

The compensation of the Mayor and the compensation of each Council Member shall be established from time to time by City Council ordinance pursuant to M.S. § 415.11, as it may be amended from time to time.

§ 30.02 ELECTIONS AND TERMS OF OFFICE OF MAYOR AND COUNCIL MEMBERS.

(A) *Date of election*. The regular city election shall be held biennially on the first Tuesday after the first Monday in November in every even-numbered year beginning with the 1974 election.

(B) *Terms*. Two Council Members shall be elected for 4-year terms at each biennial election commencing in 1978. The Mayor shall be elected for a 2-year term at each election commencing in 1976.
(Ord. 82, passed 5-16-1974)

§ 30.03 ESTABLISHMENT OF THE OFFICE OF CLERK-TREASURER.

The separate city offices of Clerk and Treasurer are abolished and such offices are hereafter combined into the single office of Clerk-Treasurer.
(Ord. 89, passed 12-17-1975)

CHAPTER 31: CITY ORGANIZATIONS

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VOLUNTEER FIRE AND RESCUE DEPARTMENT

§ 31.01 ESTABLISHMENT AND COMPOSITION.

There is hereby established in the City of Mantorville a Fire and Rescue Department consisting of a Chief, an Assistant Chief, a Fire Marshal, and not less than 10 nor more than 30 firefighters.
(Ord. 155, passed 4-28-2003; Am. Ord. --, passed 12-14-2009; Am. Ord. --, passed 7-12-2010)

§ 31.02 APPOINTMENT OF FIRE CHIEF.

The Fire Chief shall be appointed every 2 years by, and be responsible to, the City Council of the City of Mantorville. The Fire Chief shall be appointed for an indefinite term and shall serve at the pleasure of the City Council.
(Ord. 155, passed 4-28-2003; Am. Ord. --, passed 7-12-2010)

§ 31.03 FIRE BOARD.

The officers of the Fire and Rescue Department shall comprise the Fire Board.
(Ord. 155, passed 4-28-2003; Am. Ord. --, passed 7-12-2010)

§ 31.04 RELIEF ASSOCIATION.

The members and officers of the Fire and Rescue Department may organize themselves into a Relief Association. Before any benefits provided from the Special Fund of the Association are or become effective, they must first be ratified by the City Council. Similarly, any bylaw or articles of incorporation changes which affect the original benefits paid from the Special Fund shall not be effective nor remain effective until ratified by the City Council.
(Ord. 155, passed 4-28-2003; Am. Ord. --, passed 7-12-2010)

§ 31.05 INTERFERENCE WITH DEPARTMENT.

It shall be unlawful for any person to give or make, or cause to be given or made, an alarm of fire without probable cause, or to neglect or refuse to obey any reasonable order of the Chief at a fire, or to interfere with the Department in the discharge of its duties. A violation of this subchapter is a misdemeanor punishable in accordance with Minnesota law.
(Ord. 155, passed 4-28-2003; Am. Ord. --, passed 7-12-2010) Penalty, see § 10.99

§ 31.06 EFFECTIVE DATE.

This subchapter takes effect upon its passage and publication.
(Ord. 155, passed 4-28-2003; Am. Ord. --, passed 7-12-2010)

PARK AND RECREATION BOARD

§ 31.20 ESTABLISHMENT AND COMPOSITION.

A Park and Recreation Board is hereby established. The Board shall be composed of 7 members who shall serve staggered 4-year terms. In addition, 1 member from the city administrative staff may be appointed ex officio.
(Ord. 149, passed 1-28-2002)

§ 31.21 POWERS AND DUTIES.

The Park and Recreation Board shall have the power and duty to advise, adopt, and maintain parks and playgrounds, and to recommend expansions and plans for the development of the park system to the Council, and to establish, operate, and maintain recreational facilities within areas under its control.
(Ord. 149, passed 1-28-2002)

§ 31.22 EFFECTIVE DATE.

This subchapter becomes effective from and after its passage and publication.
(Ord. 149, passed 1-28-2002)

PLANNING AND ZONING COMMISSION

§ 31.35 ESTABLISHMENT.

A Planning Commission for the City of Mantorville is hereby established. The Planning Commission shall be the city planning agency authorized by M.S. § 462.354, Subdivision 1, as it may be amended from time to time.
(Ord. 101, passed 8-14-2006)

§ 31.36 COMPOSITION.

(A) The Planning Commission shall consist of 5 members from the resident population of the city, to be appointed by the Mayor with the approval of the City Council. The appointees shall be appointed to serve staggered terms of 3 years, commencing on the first day of January in the year of the appointment, except as noted in the table below. Upon expiration of a term, the appointee shall continue until reappointed or a successor is appointed. Absences from any 3 meetings in any 1-year period, unless excused in advance by the Chair, shall be grounds for removal for cause. In the event of any vacancy, the Mayor, with the approval of the City Council, shall appoint a person to complete the unexpired term. The City Council may appoint its own members to serve on the Planning Commission when other resident applicants are not immediately available. All terms for Planning Commission members shall be for 3 years, except that initial appointments made following the adoption of this provision shall have the expiration dates outlined in the table below:

Member	*Initial Term Expiration*
Voting Member 1	December 31, 2024
Voting Member 2	December 31, 2024
Voting Member 3	December 31, 2025
Voting Member 4	December 31, 2025
Voting Member 5	December 31, 2025

(B) Each of the 5 regular Planning Commission members shall have equal voting privileges. Any member may be removed for cause by majority vote of the City Council, upon written charge and after a public hearing.
(Ord. 101, passed 8-14-2006; Ord. 2022-03, passed 10-10-2022)

§ 31.37 ORGANIZATION, MEETINGS, AND THE LIKE.

(A) At the first regular meeting in January, or when otherwise deemed necessary, the Planning Commission shall elect a Chairperson and a Vice-Chairperson from among its appointed members. The Planning Commission may create and fill other offices as it may determine.

(B) The Planning Commission may hold at least 1 regular meeting each month at the time and place as it may fix by resolution. Special meetings may be called at any time by the Chairperson, or in the case of the Chairperson's absence, by the Vice-Chairperson. All meetings shall comply with the provisions of M.S. Chapter 13D.
(Ord. 101, passed 8-14-2006; Ord. 2022-03, passed 10-10-2022)

§ 31.38 POWERS AND DUTIES; COMPREHENSIVE PLAN.

(A) *Generally*. The Planning Commission shall have the powers and duties given to city planning agencies generally by law as an advisory body to the City Council. The Planning Commission shall also exercise the duties conferred upon it by the city code. It shall be the purpose of the Planning Commission to prepare and recommend to the City Council for adoption of a comprehensive plan for the physical development of the city, including proposed public buildings, street arrangements and improvements, efficient design of major thoroughfares for moving of traffic, parking facilities, public utility services, parks and playgrounds, a general land use plan and other matters relating to the physical development of the city. This plan may be prepared in sections, each of which shall relate to a

comprehensive plan program. After the Planning Commission has prepared and adopted the comprehensive plan, it shall periodically review the comprehensive plan and any ordinances or programs.

(B) *Means of adopting or amending the plan*. The Planning Commission shall recommend to the City Council the adoption and amendment from time to time of the comprehensive plan. A proposed comprehensive plan or amendment shall not be acted upon by the City Council until it has received a recommendation of the Planning Commission or until 60 days have elapsed from the date an amendment proposed by the City Council has been submitted to the Planning Commission for its recommendation.

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

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

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

(F) *Variances*. All applications for variances shall be reviewed by the City Council. Variances may be granted as authorized by city code § 150.111 and M.S. § 462.357, Subdivision 6(2) as they may be amended from time to time.
(Ord. 101, passed 8-14-2006; Am. Ord. --, passed 3-28-2016)

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CHAPTER 32: FINANCE; REVENUE; TAXATION

Section

32.01 Special assessment deferral for senior citizens and retired disabled homeowners
32.02 Adoption of Master Fee Schedule
Appendix A: Master Fee Schedule

§ 32.01 SPECIAL ASSESSMENT DEFERRAL FOR SENIOR CITIZENS AND RETIRED DISABLED HOMEOWNERS.

(A) *Special assessment deferral.* Pursuant to M.S. §§ 435.193 through 435.195, as they may be amended from time to time, senior citizens and retired disabled homeowners may defer special assessments levied against homestead property owned by the applicant if the criteria set forth in divisions (B) through (E) below are met by the applicant.

(B) *Eligibility.*

(1) Any person 65 years of age or older or totally and permanently disabled (as determined by the Social Security Administration) may defer special assessments levied against real property for public improvements if all of the following conditions are met.

(a) *Ownership.* The applicant must be the fee simple owner of the property or must be a contract vendee for fee simple ownership. An applicant must provide either a recorded deed or contract for deed with the application to establish a qualified ownership interest as required herein.

(b) *Homestead.* The property must be the applicant's principal place of domicile and classified on the city's and county's real estate rolls as the applicant's homestead.

(c) *Net income.* The applicant's median household income and net income of all other joint tenants, tenants in common, or contract vendees in title to the property may not exceed 50% of the median Dodge County household income during the year preceding the assessment levy. Net income determinations shall be made under a formula as set forth on a form provided by the city.

(2) The city may also, by resolution, make a finding of hardship on the basis of exceptional and unusual standards not covered by the above guidelines where the determination is made in a nondiscriminatory manner.

(C) *Interest on deferred assessment*. All deferred special assessments shall be subject to and charged simple interest at the prevailing rate applicable at the time the assessment was originally levied. The interest shall be payable upon termination of the deferral status.

(D) *Termination of deferral status*. Special assessment payments deferred pursuant to the eligibility requirements set forth by this section shall become payable effective upon the occurrence of 1 of the following events:

(1) *Sale of property*. The subject property is sold, transferred, subdivided, or any interest in the property is conveyed to another party by the fee owner qualified for deferral status;

(2) *Death of owner*. The death of the fee owner qualified for deferral status unless a surviving joint tenant, tenant in common, or contract vendee is eligible for the deferral benefit provided hereunder;

(3) *Non-homestead property*. The subject property loses its homestead status for any reason; or

(4) *No hardship*. The City Council determines there would be no hardship to require an immediate or partial payment of the deferred special assessment.

(E) *Filing for deferral status/fee*. An eligible applicant must file an application on or before September 15 of the year preceding the year for which deferral status is sought in order to implement the deferral status for the year. All deferral applications must be made on forms approved by the city and submitted to the City Clerk-Treasurer. The applicant will be charged an administrative fee listed on the schedule of fees for the purpose of processing the application.

(F) *Effective date*. This section shall be effective upon its passage and publication.
(Ord. 162, passed 8-22-2005)

§ 32.02 ADOPTION OF MASTER FEE SCHEDULE.

The Master Fee Schedule, attached hereto as Appendix A at the end of this chapter, is hereby adopted and shall become effective 5-16-2024.
(Ord. 158, passed 12-22-2003; Ord. 2021-01, passed 1-25-2021; Ord. 2022-01, passed 1-24-2022; Ord. 2023-01, passed 1-9-2023; Ord. 2024-01, passed 5-13-2024)

APPENDIX A: MASTER FEE SCHEDULE

Fees shall be hereby established. In the event of a conflict, this Master Fee Schedule shall prevail.

Administrative Fees	
Copies	$0.25 per page black and white; $0.10 if paper furnished $0.40 double-sided $1.00 per page, color
NSF/closed account/stop payment	$30.00 per check
Copy of Council meeting recording (disk)	$5.00 per disk
Duplicate license/permit (any type)	$10.00
Mileage reimbursement	At IRS allowed rate
Maps	$1.00 black and white $2.00 color
Assessment search	$30.00
Copy of City Code	$65.00 - binder $50.00 - non-binder
Affidavit of candidacy filing fee	$2.00
Open records/public information request	$19.00 per hour
Document recording	$50.00
Mowing/yard cleanup/other	$100.00 per hour with a one hour minimum
Over 60 days late fee for Fire Department calls	$25.00
Building Permit Fees	
Administrative fee	$75.00 (not applied to flat fee permits)
Plan review application fee	$150.00 *Applied toward plan review fee if permit is issued
Plan review fee	65% of building permit fee

Building Permit Fees (Cont'd)	
Valued permit fees	
$1-$999	$55.00
$1,000-$4,999	$55 + $20/$1,000 for each $1,000 > $1,000
$5,000-$19,999	$121 + $6/$1,000 for each $1,000 > $5,000
$20,000-$99,999	$216 + $5/$1,000 for each $1,000 > $20,000
$100,000-$249,999	$614.75 + $3.75/$1,000 for each $1,000 > $100,000
$250,000-$499,999	$1,176.75 + $3.65/$1,000 for each $1,000 > $250,000
$500,000-$749,999	$2,088.50 + $3.50/$1,000 for each $1,000 > $500,000
$750,000-$999,999	$2,962.25 + $3.25/$1,000 for each $1,000 > $750,000
$1,000,000-$1,999,999	$3,774.50 + $3.20/$1,000 for each $1,000 > $1,000,000
$2,000,000-$4,999,999	$6,950.75 + $2.25/$1,000 for each $1,000 > $2,000,000
$5,000,000-$9,999,999	$13,695.75 + $2.20/$1,000 for each $1,000 > $5,000,000
$10,000,000 and over	$24,695.75 + $2.20/$1,000 for each $1,000 > $10,000,000
Commercial re-shingle	Contact CMS to determine if flat fee
Flat fee permits: Reroof/side, repair or replace fixture/appliance, windows/doors. Egress windows - not flat fee	$125.00 (fee is half, $62.50, if only 1 item maintained per permit)
Manufactured home	$220.00
Demolition	$175.00
All others	$100.00
Reinspection fee (if special trip needed)	$80.00

Building Permit Fees (Cont'd)	
Mechanical permit	$35.00
Plumbing permit	$35.00
State surcharge fees per M.S. § 326.148	
$0-$1,000,000	$5/$10,000 for each value up to $1,000,000
$1,000,001-$2,000,000	$500+$4/$10,000 for each value between $1,000,001 and $2,000,000
$2,000,001-$3,000,000	$900+$3/$10,000 for each value between $2,000,001 and $3,000,000
$3,000,001-$4,000,000	$1,200+$2/$10,000 for each value between $3,000,001 and $4,000,000
$4,000,001-$5,000,000	$1,400$1/$10,000 for each value between $4,000,001-$5,000,000
Greater than $5,000,000	$1,500+$0.50/$10,000 for each value exceeding $5,000,000
Reissue of expired permit	Equal to original permit fee
Failure to obtain building permit	$150.00 or a sum equal to twice the building permit fee applicable to the project, whichever is greater
Permit/copy plans submitted electronically 11"x17" or smaller	$0.25 per page
Print/copy large plans (plat size) submitted electronically	$5 per page
Land Use Fees	
An additional fee of up to two hours of consultant time may be added to land use applications. See specific application for consultant costs. Consultant time beyond two hours will be discussed with the applicant prior to the city proceeding with the application.	
Preliminary plat	$350.00 plus $1.00/lot
Final plat	$150.00
Minor subdivision	$200.00 (less than three lots)

Land Use Fees (Cont'd)	
Variance	$250.00
Rezone	$250.00
Conditional use permit	$250.00
Parkland dedication	$100.00 per lot
Annexation	$300.00 plus all associated costs
Appeal	$150.00
Metes and bounds lot split	$250.00
Utilities	
Water/sewer accessibility charge to developers	
Water (WAC)	$1,000.00 per developable acre
Sewer (SAC)	$2,000.00 per developable acre
Connection fee for residential and commercial construction	
Water	$650.00 per building
Sewer	$2,639.00 per building
2024 utility rates	
Water base	$19.70
Water per thousand gallons	$4.90
Sewer base	$36.50
Sewer per thousand gallons water	$8.62
Water shut off/reconnection	$100.00
**Residents that leave for the winter months and request their water to be shut off at the curb will be charged the $100 fee when the water is turned back on. Monthly base fees are not charged when the water is shut off at the curb.	
Storm water	
Residential - less than two acres	$3.00 per month
Residential - more than two acres	$4.00 per month

Utilities (Cont'd)	
Nonresidential	$15.00 per acre with a $5.00 minimum charge
Sump-pump violations	$100.00 per day of non-compliance
Failure to install a water meter	$50.00 per month, in addition to regular utility charges
Outside water meter/meter replace	$400.00
MDH fee (set by state)	$0.81 per month
UB late fee	20% of outstanding current month bill
Bulk water rate	$10.00 per thousand gallons plus water base fee
License and Permit Fees	
Alcoholic beverages - set by state statute	
3.2% malt liquor on sale	$200.00
3.2% malt liquor off sale	$100.00
Consumption and display	$250.00 (check made out to State of Minnesota)
Intoxicating on sale	$2,500.00
Intoxicating off sale	$100.00
Club on sale	$100.00
Sunday intoxicating on sale	$200.00
Wine on sale	$500.00
Investigation	Associated costs
Temporary liquor	$25.00 per day
Mantorville brewery	$142.00
Mechanical amusement devices	$50.00 (1-4 devices); $15.00 each additional
Dog license Lifetime license Replacement tag	 $25.00 $5.00

License and Permit Fees (Cont'd)	
Dog impound fee 2024	$100 plus cost of impound
Kennel license	$150.00; renewal N/C
Chicken permit	$25.00; renewal N/C
Garbage haulers permit	$500.00 annually
Fireworks display	$25.00 each show
Peddlers/solicitor	
Per day, per applicant	$10.00
Background investigation	$100.00
Excavation permit (right-of-way)	$30.00
Water/sewer contractor permit	$30.00 (contractor's license to do work)
Bond amount	$25,000.00 (copy of state required bond)
Park shelter reservation	$30.00 per day
Permanent sign permit	$50.00 plus any required building permit
Rental property license	$25.00 each dwelling containing less than four units; $30.00 each dwelling for four to eight units; $3.50 per day (up to 20 days) for failure to renew license
Golf cart permit	$5.00 (handicapped)
Mantorville Fire Department 2023 Billing Rates	
Fire (e.g., structure, grass, vehicle, and the like)	
First two hours	$750.00
Hours beyond first two hours	$250.00 per hour
Incident where major equipment and manpower used	$750.00
Hours beyond first two hours	$250.00 per hour

Mantorville Fire Department 2023 Billing Rates (Cont'd)	
Request for assistance (minimal or no equipment used)	$250.00 per hour
Request for assistance (cancelled before arrival)	No charge
Alarm investigation (e.g., carbon monoxide, smoke/odor)	$500.00
False house alarm system triggered (investigate)	$500.00
False house alarm system triggered (cancelled before arrival)	No charge
Hazardous material spill (e.g., fuel spill and the like)	$500.00
Motor vehicle accident (per vehicle involved)	$750.00
First responder only request	No charge
Charge for foam	$250.00 per 5 gallons
Direct expense additions Mutual aid bills from other fire departments (typically fuel, foam)	
Mutual aid provided to other departments - cost of fuel and foam	
Travel time is not included in any billing hours.	
2023 Campsite Fee Schedule	
Water, sewer, electric Sites 1 through 10	
All fees listed include required state tax.	
One night	$30.00
Two nights	$60.00
Three nights	$90.00
Four nights	$120.00
Five nights	$150.00

2023 Campsite Fee Schedule (Cont'd)	
Six nights	$180.00
Weekly	$210.00
Monthly	$840.00

(Ord. 158, passed 12-22-2003; Ord. 2021-01, passed 1-25-2021; Ord. 2022-01, passed 1-24-2022; Ord. 2023-01, passed 1-9-2023; Ord. 2024-01, passed 5-13-2024)

CHAPTER 33: SERVICE CHARGES

Section

33.01 Charges for emergency services; collection; and collection of unpaid service charges and fees

§ 33.01 CHARGES FOR EMERGENCY SERVICES; COLLECTION; AND COLLECTION OF UNPAID SERVICE CHARGES AND FEES.

(A) *Authority*. This section is adopted pursuant to M.S. § 366.011, 366.012, and 415.01.

(B) *Charges for emergency services; collection.*

(1) The city or any other entity of the city (hereinafter collectively referred to as the "city" throughout this § 33.01) may impose a reasonable service charge for emergency services, including police, fire, rescue, medical, and related services provided by the city or contracted for by the city. If the service charge remains unpaid 30 days after a notice of delinquency is sent to the recipient of the service or the recipient's representative or estate, the city or its contractor on behalf of the city may use any lawful means allowed to a private party for the collection of an unsecured delinquent debt. The city may also use the authority of § 33.01(C) to collect unpaid service charges of this kind from delinquent recipients of services who are owners of taxable real property in the city, or areas served by the city for emergency services.

(2) The powers conferred by this section 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.

(C) *Collection of unpaid service charges and fees*. If the city is authorized to impose a service charge or fee on the owner, lessee, or occupant of property, or any of them, for a governmental service provided by the city, the city may certify to the County Auditor, on or before October 15 for each year, any unpaid service charges or fees which shall then be collected together with property taxes levied against the property. A charge or fee may be certified to the 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 or fee to the Auditor. The service charges or fees shall be subject to the same penalties, interest, and other conditions provided for the collection of property taxes. This section is in addition to any other law authorizing the collection of unpaid costs and service charges or fees.
(Ord. 2020-04, passed 11-23-2020)

TITLE V: PUBLIC WORKS

Chapter

50. GENERAL PROVISIONS

51. SEWER USE REGULATIONS

52. SEWER SERVICE CHARGE SYSTEM

CHAPTER 50: GENERAL PROVISIONS

Section

50.01 Discharges into the sanitary sewer system
50.02 Water meter system
50.03 Water and sewer service bills and rates; termination of service; reconnection charges
50.04 Sanitary sewer and water service connection and availability charges; mandatory connection to sanitary sewer
50.05 Reserved
50.06 Connection fee policy for water connections
50.07 Water availability charge
50.08 Sewer availability charge

§ 50.01 DISCHARGE INTO THE SANITARY SEWER SYSTEM.

(A) *Purpose*. In adopting this section, the City Council finds that the discharge of water from any roof, surface, ground, sump pump, footing tile, or swimming pool or other natural precipitation into the city sanitary sewer collection system has the potential to cause damage to residential property and overload the Wastewater Treatment Plant (WWTP). The damage can be caused by the backup of sewage into the living quarters of residential homes creating a potential health hazard and exceeding the capacity of the WWTP. The City Council, therefore, finds it essential to the maintenance of health, minimization of damage to property, and to maintain the life and capacity of the WWTP that the provisions of this section be strictly enforced to avoid and minimize these problems in the future.

(B) *Definition and method*. No water from any roof, surface, ground, sump pump, footing tile, swimming pool, or other natural precipitation shall be discharged into the sanitary sewer collection system. Dwellings, including new housing construction or houses under construction, and other buildings and structures which require, because of the infiltration of water into basements, crawl spaces, and the like, a sump pump system to discharge water shall have a permanently installed discharge line which shall not at any time discharge water into the sanitary sewer collection system. A permanent installation shall be one which provides for a year-round discharge connection to the city subdrain/storm sewer system. If there is no subdrain available, the surface discharge point shall be located no closer than 6 feet from the curb unless otherwise approved by the city in writing, and in no event shall a sump pump system discharge directly onto an adjacent property or roadway or in any manner that causes excessive water to accumulate and pool on an adjacent property or roadway. Every permanent installation shall also consist of a rigid discharge line, without valving or quick connections for altering the path of discharge and, if connected to the city subdrain/storm sewer line, include a check valve.

(C) *Disconnection.* Any person, firm, or corporation having a roof, surface, ground, sump pump, footing tile, or swimming pool now connected and/or discharging into the sanitary sewer system shall disconnect and/or remove the same. Any disconnects or openings in the sanitary sewer shall be closed or repaired in a manner as approved by the City Engineer or his or her representative.

(D) *Inspection.* Every person owning improved real estate or contractors/builders who are building a house within Mantorville that discharges into the city's sanitary sewer system or on the ground shall allow an employee of the city or their designated representative to inspect the buildings to confirm that there is no sump pump or other prohibited discharge into the sanitary sewer system. Any person refusing to allow their property to be inspected within 14 days of the date city employees or their designated representatives are denied admittance to the property shall immediately become subject to the surcharge hereinafter provided for. Any owner of property or contractor/house builder found to violate this section shall make the necessary changes to comply with this section and furnish proof of the changes to the city within 30 days from the date the violation was identified.

(E) *Future inspections.* At any future time, if the city has reason to suspect that an illegal connection may exist in a premises, the owner, after written notice, shall allow city representatives to inspect the building.

(F) *Violations.*

(1) Whoever shall violate any provision of this chapter for which no specific penalty is provided may be punished as set forth below.

(2) (a) Any person found to be violating any provision of this section shall be served by the city with written notice stating the nature of the violation and providing at least 90 days for the satisfactory correction thereof. The offender shall, within the period of time stated in the notice, permanently cease all violations.

(b) Any person who shall continue any violation beyond the time limit provided for in division (F)(1) above shall be guilty of a misdemeanor and on conviction thereof shall be fined in the amount at misdemeanor levels. Each day in which any such violation occurs shall be deemed a separate offense.

(c) Any person violating any of the provisions of this section shall become liable to the city for any expense, loss, or damage occasioned the city by reason of the violation. The city will also retain any and all civil remedies, including, but not limited to, injunction or abatement actions to remedy a violation.

(3) A surcharge established in the city's fee schedule may be imposed by invoice and/or added to every sewer billing mailed to property owners or to the contractor/builder of a new house which are not in compliance herein. The surcharge will be levied daily against those properties found not to be in compliance with this section until the property has been certified by the City Engineer or his or her representative that the property is in compliance. The surcharge will be levied against the property owner and/or contractor/builder of a new house on the thirty-first day after notice of the violation has been

provided to the owner/contractor/builder. Should an individual who has been notified of noncompliance with, and has corrected that noncompliance, be found that his or her sump pump system is out of compliance with this section a second time will be fined the established daily surcharge commencing upon the day he or she is found to be in noncompliance. There shall be no grace period for bringing the system into compliance.
(Ord. 170, passed 8-22-2005; Am. Ord. 2020-03, passed 7-27-2020) Penalty, see § 10.99

§ 50.02 WATER METER SYSTEM.

(A) *Purpose and findings.*

(1) Chapter 52 of this code provides that the city may, at its discretion, require nonresidential and residential users of the sanitary sewer and water system of the City of Mantorville to install water meters.

(2) As part of the Council's decision to improve the city's sewer and water system, the Council has determined that it is in the best interests of the city and the nonresidential and residential users of the sanitary sewer and water system to require the use of water meters and to regulate the use thereof at this time.

(3) All new construction and multi-unit dwellings shall be required to install 1 water meter per living unit.

(4) Any property owner who has more than 1 building on the same piece of property will not be required to install a separate water meter as long as the use is the same as the principle building.

(B) *Definitions.* Unless the context specifically indicates otherwise, the meaning of the terms used in this section shall be as designated in Chapter 52 or as hereafter designated. As used in this section, the following terms mean the following.

CONSUMER and ***CUSTOMER.*** Any users of a public wastewater collection system or public water system, or both.

MUNICIPAL UTILITY. Any public wastewater collection system or public water system owned, maintained, operated, and controlled by the city.

MUNICIPAL UTILITY METER. A device or instrument of a type approved by the city for the purpose of determining wastewater or water volume.

SERVICE. Providing a particular public utility to a consumer or customer.

USERS. Those residential, commercial, governmental, institutional, and industrial establishments which are connected to the public wastewater collection system, the public water system, or both.

(C) *Contractual contents*. Provisions of this section relating to municipal utilities shall constitute portions of the contract between the city and all consumers of municipal utility services, and every such consumer shall be deemed to assent to the same.

(D) *Installation of municipal utility meter*. Upon written notice to a user and within 60 days of the written notice, a user or consumer shall take delivery from the city of a municipal utility meter furnished by the city and shall, within the 60-day period, cause the municipal utility meter to be properly installed by a licensed plumber and located at an accessible site on the owner's/consumer's property. Delivery shall consist of the owner/consumer or its designated licensed plumber signing a receipt for the municipal utility meter at the City Hall or such other place as designated in the written notice. Following the proper installation of the municipal utility meter, the owner/consumer shall be solely responsible for any damages to the municipal utility meter caused by neglect, fire, freezing, or other casualty and after the repair or replacement thereof, the owner/consumer shall reimburse the city for the costs of repair or replacement. The city shall at all times be deemed to be the owner of the municipal water meter.

(E) *Application, connection, and sale of service*. Application for municipal utility services shall be made to the City Clerk-Treasurer and information shall be provided by the applicant to adequately set up the account for the applicant. No connection shall be made until the City Clerk-Treasurer has received all the necessary account information. All municipal utilities shall be sold and delivered to consumers under the then applicable rate applied to the amount of the utilities taken as metered or ascertained in connection with the rates or at the minimum rate as established from time to time by resolution of the City Council.

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

(G) *Meter test*. Whenever a consumer shall request the city to test any municipal utility meter in use by him or her, the request shall be accompanied by a cash deposit, as established from time to time by resolution of the City Council, for each meter to be tested. If any such meter was furnished by the city and found to be inaccurate due to no fault on the part of the consumer, the municipal utility meter shall be replaced with an accurate meter and the deposit thereon refunded. If the meter shall be found to be accurate in its recordings or calculations, it shall be reinstalled and the deposit shall be retained by the city to defray the cost of the test.

(H) *Specific unlawful acts and violations.*

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

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

(3) It is unlawful for any person to turn on or connect a utility when the same has been turned off or disconnected by the city for nonpayment of a bill, or for any other reason, without first having obtained a written permit to do so from the city.

(4) It is unlawful for any person to jumper or by means or device fully or partially circumvent a municipal utility meter, or to knowingly use or consume unmetered utilities or use the services for any utility system, the use of which the city has no knowledge.

(5) Any person who violates this division (H) or any other part of this section shall be guilty of a misdemeanor and upon conviction thereof shall be punishable in accordance with Minnesota law.

(I) *Amendment to Chapter 50.* Any part of Chapter 50 which is inconsistent with this section is hereby amended accordingly.

(J) *Effective date.* This section becomes effective from and after its passage and publication. (Ord. 157, passed 6-9-2003; Am. Ord. --, passed 6-22-2009) Penalty, see § 10.99

§ 50.03 WATER AND SEWER SERVICE BILLS AND RATES; TERMINATION OF SERVICE; RECONNECTION CHARGES.

(A) *Definitions.* For the purpose of this section, the following terms listed in alphabetical order shall have the following meanings:

ACCOUNT. A record of utility services used by each property and the periodic costs for those utility services.

CITY. Shall mean the City of Mantorville, County of Dodge, State of Minnesota.

CITY UTILITY SYSTEM. Facilities used for providing public utility service owned or operated by city of agency thereof, including sewer, storm sewer and water service.

DELINQUENT. An account is considered delinquent if payment is not received by the due date each month.

WATERWORKS SYSTEM. Water and sewer transmission pipes, lines, fixtures, meters and all necessary equipment and appurtenances owned or operated by the city utility system for the purpose of providing water and sewer services for public or private use.

(B) *Application and owner-customer responsibility*.

(1) *Applications for service; procedure*. All accounts shall be carried in the name of the owner of the real estate who personally, or by his or her authorized agent, applied for such service. The owner of the real estate shall be liable for water sewer services supplied to the property, whether he or she is occupying the property or not, and any unpaid charges shall be a lien upon the property. Every owner of the real estate shall be deemed by such application to consent to all ordinances, rules, and regulations of the city relating to the municipal water and sewer system.

(2) *Rental property*. Rental property may list the tenant as the responsible party for payment of the monthly bill if the owner of the real estate so wishes. However, the owner of the real estate will also be listed on the account and will be responsible for water supplied to the property and any charges unpaid by the resident.

(C) *Billing/payment/delinquency*.

(1) *Statements and payments*. Statements for total water and sewer charges for the preceding monthly period shall be mailed to each customer on or before the 3rd day of the month following the monthly period the statement covers. Each bill will specify the amount of water consumed and the charges for water and sewer in accordance with the current fee schedule, set annually by the City Council. The amount listed on the statement shall be due upon receipt and considered delinquent after the 15th day of each month. If payment in full is not made by the 15th, the account will be considered delinquent. If the 15th falls on a weekend or holiday, the next business day will be the due date.

(2) *Delinquency*. For those accounts considered delinquent a late fee will be charged to the account in the amount of 20% of the outstanding current month's statement.

(D) *No meter reads*. The city reads water meters electronically during the last week of every month. For reasons beyond the city's control, a reading may not be detected. In that case, the city will do an estimated reading based on the previous 12 months of usage. If the reading that is collected varies dramatically from typical readings, or no reading is detected, a letter will be mailed to the customer notifying them of such. The city will request to access the meter to check for abnormalities.

(E) *Utility rate schedule*. The utility rate schedule shall be adopted annually by resolution of the City Council.

(1) *Base fees*. Base fees are calculated for each individual residence receiving water and sewer utility. The base fee is a monthly charge to the property whether water and sewer is used or not. To avoid the monthly base fee for residents which are gone for extended periods of time, the water may be shut off at the curb stop and upon reconnection a $50 charge shall be added to the account. Base fees are in addition to the monthly user charge.

(2) *Base fees for multi-unit dwellings/sites*.

SEWER BASE FEE. For all buildings/sites with multiple units in which only 1 meter is installed, a single sewer base fee will be charged for each individual unit. (Base Fee X # of units).

WATER BASE FEE. For all buildings/sites with multiple units in which only 1 water meter is installed, a single water base fee will be charged for the entire building/site each month. (Base Fee X 1).

(3) *User charge*. The monthly user charge for water is based on the amount of water that passes through the water meter. The monthly user charge for sewer is based on the amount of water used for that billing period. The consumer is billed for all water pumped through the water meter.

(F) *Shut off for nonpayment*.

(1) *Shut off for nonpayment between April 16 and October 14*. If between April 16 and October 14 any utility account has been delinquent for more than 90 days or any delinquent amount exceeds $300, and satisfactory arrangements for payment have not been made, the city maintenance department may, after having complied with the procedural requirements of division (2) below, discontinue service to the delinquent customer by shutting off the water at the stop box. When water service to any premises has been discontinued, a reconnection fee of $50 will be added to the account balance. Service shall not be restored except upon the payment of all delinquent amounts and the reconnection fee. When an account becomes delinquent due to a returned check, the account will be charged a NSF fee of $30. If that account becomes disconnected, cash only will be accepted for payment of the outstanding balance and reconnect fee.

(2) If any utility account has been delinquent for more than 90 days or any delinquent amount exceeds $300, a cut-off notice may be mailed to the account holder, indicating that a failure to pay past due amounts will result in disconnection of the account holder's water service.

(a) The cut-off notice shall include the following information:

1. Notice that the account is significantly delinquent (more than 90 days or in excess of $300);

2. The total delinquent amount due on the account and instructions for how to make payment;

3. The right to dispute the amount due or disconnection at a hearing before the City Council, which can be requested by contacting the City Clerk no later than 10 days from the date of mailing; and

4. If the delinquent balance is not paid in full within 10 days or otherwise successfully disputed, the water service to the property will be disconnected.

(b) If the past due amount is not paid within 10 days of the mailing date and the customer does not otherwise successfully dispute the matter before the City Council, service will be discontinued for nonpayment.

(c) Water service will not be discontinued between October 15 and April 15.

(3) *Costs*. Any and all costs incurred by digging to locate any shut-off valve shall be borne by the property owner. All shut-off valves shall be kept readily accessible for service by maintenance personnel. In the event that any concrete or bituminous surface must be removed in order to gain access to any shut-off valve, all replacement costs shall be borne by the individual property owner.

(4) *Violations*. Any person who intentionally violates any of the provisions of this section shall be guilty of a misdemeanor as noted in § 10.99 herein.

(G) *Certification of delinquent amounts*.

(1) *Certification authorized*. In addition to any other method available to the city for the collection of unpaid accounts, the city may certify water and sewer charges that are considered delinquent as of October 1, plus any duly imposed late fees and penalties, to the County Auditor for collection with taxes during the following year. The process for certification is outlined in this division (G).

(2) *Notice required*. Before certifying delinquent amounts, the city shall mail the account holder written notice of its intent to certify the unpaid charges to their property taxes. The notice shall include the following information:

(a) Notice that the account is delinquent;

(b) The total delinquent amount due on the account and instructions for how to make payment;

(c) The right to dispute the amount due or its certification at a hearing before the City Council, which can be requested by contacting the City Clerk no later than 10 days from the date of mailing: and

(d) If the delinquent balance is not paid in full or otherwise successfully disputed, the amount due, including late fees, penalties, and any certification fee, will be certified to the County Auditor for collection with the following year's property taxes.

(3) *Certification*. Prior to November15 of each year, the City Council may then adopt a resolution certifying delinquent amounts, including any previously imposed late fees, penalties and any established certification fee, to the County Auditor for collection with the following year's property taxes. The resolution will thereafter be transmitted to the County Auditor on or before November 30. (Ord. 144, passed 10-23-2000; Am. Ord. --, passed 5-14-2007; Ord. 2023-02, passed 1-9-2023) Penalty, see § 10.99

§ 50.04 SANITARY SEWER AND WATER SERVICE CONNECTION AND AVAILABILITY CHARGES; MANDATORY CONNECTION TO SANITARY SEWER.

(A) *Findings*. The City Council of the city finds:

(1) It is in the best interests of public health, safety, and welfare, including but not limited to the protection of water quality for the health and safety of residents within the city, that properties within the city are served by and connect to city sanitary sewer and water service facilities.

(2) It is in the best interests of the city and its inhabitants that the cost of development and construction of sanitary sewer and water service facilities should be borne by the owner of the property which is served, and not the general taxpayers of the city.

(3) It is in the best interests of the city and its inhabitants that sanitary sewer and water service connection and availability charges vary in amount depending on the factors set forth in this section.

(B) *Purpose*. The purpose of the connection and availability charges established herein is as follows:

(1) To ensure that the city obtains sufficient funds to pay the cost of development and construction of sanitary sewer and water service facilities from the owners of the properties served;

(2) To equitably apportion the cost of development and construction of sanitary sewer and water service facilities among the owners of the properties served; and

(3) To reimburse the city for the cost of making and supervising connection of properties to sanitary sewer and water service facilities.

(C) *Connection charges*. Pursuant to M.S. § 444.075, connection charges, in amounts to be established by resolution of the City Council from time to time, are hereby established to apply to any parcel of land within the city which hereafter is either connected to city sanitary sewer and/or water

service facilities or required to connect to such facilities under division (E) of this section or other applicable ordinances or laws, or for which the owner of the parcel has requested connection. The City Council may establish by resolution more than 1 connection charge amount to apply in an equitable manner to different developments, circumstances, and portions of the city. Connection charge amounts may be based upon any or all of the following factors:

(1) The cost of making and supervising the connection to the facilities;

(2) The cost of development and construction of new or enlarged facilities to extend service coverage within the city;

(3) The cost of enlarging the capacity of the facilities in anticipation of future residential or commercial development, which cost may be included, without limitation, in connection charges applied to new developments regardless of whether the specific development was planned or under construction at the time the cost of enlarging the facilities' capacity was incurred; and

(4) Any other costs associated with providing sanitary sewer and/or water service facilities to properties within the city and either allowed or not prohibited by applicable law, including but not limited to costs of construction, reconstruction, repair, enlargement, and improvement of the facilities. Connection charges shall not apply to any parcel of land which was previously assessed for that parcel's full share of the costs set forth above.

(D) *Availability charges*. Pursuant to M.S. § 444.075, availability charges, in amounts to be established by resolution of the City Council from time to time, are hereby established as follows:

(1) To apply to any parcel of land within the city which is adjacent to city sanitary sewer and/or water service facilities, but which has not connected to the facilities, is not required to connect to the facilities by division (E) of this section or other applicable ordinances or laws, and for which the owner has not requested connection; and

(2) To apply to any parcel of land within the city for which the city has appropriated net revenues or approved bonds or other obligations to fund a project which will extend city sanitary sewer and/or water service to the parcel.

(3) Availability charge amounts may be based upon any or all of the same factors set forth in division (C) of this section for determining connection charge amounts. Availability charges may apply regardless of whether the particular parcel of land has been developed at the time the charge is imposed, provided, however, that the City Council may exempt a particular parcel from availability charges if the Council determines, in its sole discretion, that the parcel cannot be developed. Any availability charge that has been paid for a particular parcel of land will be deducted from any connection charge subsequently imposed on such parcel under division (C). Availability charges shall not apply to any parcel of land which was previously assessed for that parcel's full share of the costs set forth in division (C).

(E) *Mandatory connection; when connection is required.* The owners of all structures discharging wastewater and located on property adjacent to the city sanitary sewer service facilities shall be required, at each owner's expense, to install a suitable connection line to the city sanitary sewer. The deadline for connection may be determined by resolution of the City Council for a particular project or area of the city, and may include such conditions as the City Council deems appropriate. If no deadline has been determined by resolution, the connection shall be completed either within 90 days after the city sanitary sewer has become operational in cases where the sanitary sewer service is adjacent to properties with existing structures or immediately in cases where new structures are constructed on existing properties

adjacent to sanitary sewer services. In the event that any owner fails to complete the connection to the city sanitary sewer by the applicable deadline, the city shall have the right to enter onto the subject property and complete the connection, and all costs of completing the connection shall be added to the connection charge amount for the property under division (C) of this section.

(F) *Unpaid charges*.

(1) *Due date; delinquent charges*. Connection charges and availability charges shall be due and payable within 60 days after the date the charge is billed to the property owner. A charge that is not paid within such period shall be considered delinquent. On or before October 15 of each year, the City Clerk shall certify all delinquent charges to the Dodge County Auditor and such charges, along with interest at any legal rate established by resolution of the City Council from time to time, shall be added to the taxes against the respective parcel of land and collected thereafter as other taxes against the parcel are collected.

(2) *Payment of delinquent connection charges in installments*.

(a) A property owner whose property is subject to a delinquent connection charge under division (F)(1) of this section may petition the Board to allow certification of the charge to the County Auditor in annual installments, along with interest at the annual rate established by the City Council under division (F)(1). The City Council shall grant all such petitions which are filed in writing with the City Clerk within 30 days after the connection charge has become delinquent. The City Council may grant, but shall not be required to grant, any petition which is filed after the expiration of such 30 day period. A property owner may also file such petition with the City Clerk before the connection charge becomes delinquent, although the petition will not be deemed accepted and the City Council will not have authority to act on any such petition until the connection charge has become delinquent. If a petition is filed too late (in the sole judgment of the City Clerk) to allow the city to certify the first installment on the following year's property taxes, then the property owner shall make payment of the first installment plus interest directly to the City Clerk within 30 days after the City Council has approved the petition, and all subsequent installments and interest will be certified for payment with property taxes.

(b) The City Council shall have the discretion to determine the number of annual installments allowed for each petition granted based upon all relevant factors, including but not limited to the amount of the connection charge and the need for the city to recover construction costs within a reasonable period of time. The City Council, in its sole discretion, may also increase the number of annual installments to accommodate the proven financial hardship of an owner based on income, medical status, disability, and other relevant factors, provided, however, that any increase in the number of installments on such basis may be reviewed and the number of installments modified, in the City Council's sole discretion, in the event that the hardship is eliminated or alleviated due to a transfer of full or partial ownership or possession of the property, a change in financial circumstances of the owner, or any other circumstances which significantly reduce the hardship.

(c) A property owner's obligation to make approved installment payments under this section shall be binding on the property owner's successors and assigns, and shall also be a lien on the parcel of land to which the connection charge applies. Evidence of such lien may be filed against such parcel of land in the office of the Dodge County Recorder; provided, however, that any failure to file such lien with the Dodge County Recorder shall not eliminate or diminish, in any way, the obligation of the property owner or the property owner's successors and assigns to make the approved installment payments.

(d) If the property taxes become delinquent for any parcel of land which the City Council has approved for certification of the delinquent connection charges in installments, then the City Council may declare the total connection charge and accrued interest to become immediately due and payable. The City Council may also declare the total connection charge and accrued interest to become immediately due and payable if the first installment must be paid directly to the City Clerk under division (F)(2)(a) of this section and the property owner fails to pay the first installment when due. Thereafter, in either case, the City Clerk shall certify such total outstanding balance of the delinquent connection charge and any accrued interest to the Dodge County Auditor for collection thereafter as other taxes against the subject parcel of land are collected, along with continuing interest at the rate established under division (F)(1) of this section.
(Ord. 137, passed 10-26-1998; Am. Ord. --, passed 6-28-2010) Penalty, see § 10.99

§ 50.05 RESERVED.

§ 50.06 CONNECTION FEE POLICY FOR WATER CONNECTIONS.

(A) *Water connection policy*. The city acknowledges that numerous homes within the city are unserved by a municipal water system. Water mains and water lines may be constructed and extended when determined by the City Council to be economically feasible and necessary to supply water service to the inhabitants of the city. The City Council encourages municipal water service for currently unserved homes and buildings, as well as for newly constructed buildings. This policy encourages increased municipal water use, addresses residents' financial obligations, and protects water quality and residents' health and safety. Connection fees need to be established for properties currently unserved by municipal water service based upon financial estimates, citizen input, and study by the City Council. Projects of varying size will require a connection fee policy which is supplementary to other financing methods.

(B) *Water connection fee*. A water connection fee must be paid by the owner of a parcel of real property at the time the property is connected to the city's public water system unless the payment is arranged by another method. In order that connection fees be fairly and uniformly imposed, the City Council shall annually establish a schedule of connection charges in order to reflect changes in costs. When a new line is constructed or extended the City Council may establish a connection charge for that particular line based upon the cost of the construction or extension and said connection charge need not be the same as the charge to connect to the already existing water lines.

(C) *Water connection fee deferment.*

(1) The city may, by resolution, adopt a water connection fee deferment policy for property owners affected by a project. This policy may include provisions for age, income, medical status or disability. Any deferred connection fee based upon hardship will require findings of fact by the City Council as to the appropriateness of the deferment. Deferrals may also be made at Council's discretion for unimproved property affected by an improvement or until a property is improved. The City Council may choose to set an expiration date for connection fee deferrals, with a deadline to be determined by the City Council at the time of the deferment and based upon the circumstances of each project.

(2) When a water connection fee is deferred, the City Clerk will maintain a record of each parcel of property with the owner of the parcel, the amount of the connection fee, the interest accruing on said amount, and the length of terms of the repayment. Property owners and licensed plumbers or contractors shall notify city offices within 10 days that a private water system is out of compliance with local, county or Minnesota regulations.

(D) *Interest rate on unpaid balances.* The interest rate over the life of the repayment shall be determined at the time of a hearing on the deferment. It shall be calculated based upon the cost of financing over the life of the connection fee repayment plus any associated fixed costs. The interest amount shall be stated as a percentage rate. All connection fees for which the city defers payment will be recorded, at the city office so that there is a complete record of the landowner's obligation. The interest rate may also be modified annually when the fee schedule is adjusted. Past due balances shall be treated as unpaid taxes charged against the owner(s) of the property.

(E) *Land exempt from connection fees.* The City Council reserves the right to exempt land from a connection fee if it finds, in its discretion, the land cannot be developed and/or the improvement does not provide a benefit. However, no development of that property shall be permitted nor shall any physical connection to the city's utility/facilities be made by any development on that property until the connection fees are determined paid. The city may, by resolution, establish water connection fees at the time it is determined a property will benefit from the sewer/improvement.

(F) *Miscellaneous.* This section is not construed as limiting or modifying Minnesota statutes, but grants powers supplementary to those powers in existing statutes and regulations. This section becomes effective from and after its passage and publication.
(Ord. 161, passed 8-8-2005) Penalty, see § 10.99

§ 50.07 WATER AVAILABILITY CHARGE.

(A) *Water availability charge (WAC) established.* For the purpose of providing funds for the city's wells, water treatment, water storage and water distribution systems, and the plant and facilities connected therewith, and the payment of capital charges represented by bonds, certificates of indebtedness or otherwise, which may be used to finance the costs of additions or expansions to the facilities, and the payment of reasonable requirements or reserves for replacement in obsolescence thereof, there is hereby imposed upon each lot, parcel of land, building or premises having any

connection with the city's public water system a water availability charge (WAC) as hereinafter provided. Said charge shall be in addition to any other previous or future charge or assessment levied against the property. This method of financing is in addition to other methods of financing authorized by federal, state or Mantorville City ordinance and is to be utilized for newly platted areas or new developments.

(B) *Determination and administration charge*. The availability charge as hereinabove authorized shall be imposed in addition to the user charges for water service and shall be determined and administered as follows:

(1) *Payment required.*

(a) *Payment required prior to connection*. Prior to the issuance of the applicable permit or approval of a plat and before connection to the city's water system, a city water availability charge as hereinafter provided shall be paid.

(b) *Change by resolution*. Any change in the city's water availability charge as hereinafter set forth shall be by Council resolution.

(2) *Additional building permit*. If, after the initial availability charge is paid, an additional building permit is issued, the use of the property is changed, or new water connection is made, the availability charge shall be recalculated and any additional charges shall be paid prior to the connection being made.

(3) *Determination of charge*. The amount of the availability charge shall be determined by the City Council and shall be consistent for similar land uses. If the person or property owner responsible for the paying of the charge, shall question the correctness of the charge, that person may request a recalculation of the charge in writing to the City Clerk. The City Clerk shall respond within 6 months of the request and any disputed decisions shall be submitted to the City Council for final determination.

(4) *Definition*. ***DEVELOPABLE LAND***. The number of acres in the platted area, less park dedication land, wetlands, and storm water ponds. Whereas, this method of determining "developable acres" has been considered over other possible methods of calculations and it is fair and reasonable.

(5) *Calculation of charge*. The charge, as determined by the City Council, shall be based on developable land. The per acre charge of developable land is located on the master fee schedule.
(Ord. 180, passed 1-9-2006; Am. Ord. 180, passed 9-25-2006)

§ 50.08 SEWER AVAILABILITY CHARGE.

(A) *Sewer availability charge established*. For the purpose of providing funds for the city's waste water treatment, force mains, lift stations and sewage collection systems, and the plant and facilities connected therewith, and the payment of capital charges represented by bonds, certificates of

indebtedness or otherwise, which may be used to finance the costs of additions or expansions to the facilities, and the payment of reasonable requirements or reserves for replacement in obsolescence thereof, there is hereby imposed upon each lot, parcel of land, building or premises having any connection with the city's public sewer system a sewer availability charge (SAC) as hereinafter provided. Said charge shall be in addition to any other previous or future charge or assessment levied against the property. This method of charging is in addition to other means of financing authorized by federal, state, or Mantorville City ordinance and is to be utilized for newly platted areas or new developments.

(B) *Determination and administration of charge*. The availability charge as hereinabove authorized shall be imposed in addition to the user charges for sewer service and shall be determined and administered as follows:

(1) *Payment required.*

(a) *Payment required prior to connection.* Prior to the issuance of the applicable permit or approval of a plat and before connection to the city's sewer system, a city sewer availability charge as hereinafter provided for shall be paid.

(b) *Change by resolution.* Any change in the city's sewer availability charge shall be by Council resolution.

(2) *Additional building permit*. If, after the initial availability charge is paid, an additional building permit is issued, the use of the property is changed, or new sewer connection is made, the availability charge shall be recalculated and any additional charges shall be paid prior to the connection being made.

(3) *Determination of charge*. The amount of the availability charge shall be determined annually by the City Council and shall be consistent for similar land uses. If the person or property owner responsible for the paying of the charge shall question the correctness of the charge, that person may request a recalculation of the charge in writing to the City Clerk. The City Clerk shall respond within 6 months of the request and any disputed decisions shall be submitted to the City Council for final determination.

(4) *Calculation of charge*. The charge, as determined by the City Council, shall be based on developable land. The per acre charge of developable land is located on the master fee schedule.

(5) *Definition*. ***DEVELOPABLE LAND***. The number of acres in the platted area, less park dedication land, wetland, and storm water ponds. Whereas, this method of determining "developable acres" has been considered over other possible methods of calculation and it is fair and reasonable. (Ord. 181, passed 1-9-2006; Am. Ord. 181, passed 9-25-2006)

CHAPTER 51: SEWER USE REGULATIONS

Section

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§ 51.01 DEFINITIONS.

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

ACT. The Federal Water Pollution Control Act, also referred to as the Clean Water Act, as it may be amended from time to time, 33 U.S.C. §§ 1251 *et seq.*

ASTM. American Society for Testing Materials.

AUTHORITY. The City of Mantorville, Minnesota, or its representative thereof.

BIOCHEMICAL OXYGEN DEMAND (BOD5). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in 5 days at 20°C in terms of milligrams per liter (mg/l).

BUILDING DRAIN. The part of the lowest horizontal piping of a drainage system which receives the discharge from waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning 5 feet outside the building wall.

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

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

CHEMICAL OXYGEN DEMAND (COD). The quantity of oxygen utilized in the chemical oxidation of organic matter as determined by standard laboratory procedures, and as expressed in terms of milligrams per liter (mg/l).

COMPATIBLE POLLUTANT. Biochemical oxygen demand, suspended solids, pH, and fecal coliform bacteria, plus additional pollutants identified in the NPDES/SDS permit if the treatment facilities are designed to treat the pollutants to a degree which compiles with effluent concentration limits imposed by the permit.

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

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

FECAL COLIFORM. Any number of organisms common to the intestinal tract of man and animals whose presence in sanitary sewage is an indicator of pollution.

FLOATABLE OIL. Oil, fat, or grease in a physical state, such that it will separate by gravity from wastewater.

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

INCOMPATIBLE POLLUTANT. Any pollutant that is not defined as a compatible pollutant in this section, including nonbiodegradable dissolved solids.

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

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

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

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

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

INTERFERENCE. The inhibition or disruption of the city's wastewater disposal system process or operations which causes or significantly contributes to a violation of any requirement of the city's NPDES and/or SDS permit. The term includes prevention of sewage sludge use or disposal by the city in accordance with published regulations providing guidelines under § 405 of the Act or any regulations developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or more stringent state criteria applicable to the method of disposal or use employed by the city.

MPCA. Minnesota Pollution Control Agency.

NATIONAL CATEGORICAL PRETREATMENT STANDARDS. Federal regulations establishing pretreatment standards for introduction of pollutants in publicly-owned wastewater treatment facilities which are determined to be susceptible to treatment by the treatment facilities or would interfere with the operation of the treatment facilities, or pursuant to § 307(b) of the Act.

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

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

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

NORMAL DOMESTIC STRENGTH WASTE. Wastewater that is primarily introduced by residential users with a BOD5 concentration not greater than 200 mg/l and a suspended solids (SS) concentration not greater than 250 mg/l.

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

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

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

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

SEWAGE. The spent water of a community. The preferred term is ***WASTEWATER***.

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

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

(2) ***COMBINED SEWER.*** A sewer intended to serve as a sanitary sewer and a storm sewer.

(3) ***FORCE MAIN.*** A pipe in which wastewater is carried under pressure.

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

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

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

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

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

SHALL. Is mandatory; ***MAY*** is permissive.

SIGNIFICANT INDUSTRIAL USER. Any industrial user of the wastewater treatment facility which has discharged flow:

(1) In excess of 25,000 gallons per average work day;

(2) Has exceeded 5% of the total flow received at the treatment facility;

(3) Whose waste contains a toxic pollutant in toxic amounts pursuant to § 307(a) of the Act; or

(4) Whose discharge has a significant effect, either singly or in combination with other contributing industries, on the wastewater disposal system, the quality of sludge, the system's effluent quality, or emissions generated by treatment system.

SLUG. Any discharge of water or wastewater which in concentration of any given constituent, or in quantity of flow, exceeds for any period of duration longer than 15 minutes, more than 5 times the average 24-hour concentration of flows during normal operation, and shall adversely affect the collection and/or performance of the wastewater treatment works.

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

SUPERINTENDENT. The Utilities Superintendent or a deputy, agent, or representative thereof.

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

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

UNPOLLUTED WATER. Water of quality equal to or better than the effluent criteria in effect, or water that would not cause violation of receiving water quality standards, and would not be benefitted by discharge to the sanitary sewers and wastewater treatment facilities. (See ***NONCONTACT COOLING WATER***).

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

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

WASTEWATER TREATMENT WORKS or ***TREATMENT WORKS.*** An arrangement of any devices, facilities, structures, equipment, or processes owned or used by the city for the purpose of the transmission, storage, treatment recycling, and reclamation of municipal sewage, domestic sewage or industrial wastewater, or structures necessary to recycle or reuse water including interceptor sewers, outfall sewers, collection sewers, pumping, power, and other equipment and their appurtenances;

extensions, improvements, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled water supply such as standby treatment units and clear well facilities; and any works including land which is an integral part of the treatment process or is used for ultimate disposal or residues resulting from the treatment.

WATERCOURSE. A natural or artificial channel for the passage of water, either continuously or intermittently.

WPCF. The Water Pollution Control Federation.
(Ord. 119, passed 3-8-1988)

§ 51.02 CONTROL BY THE UTILITIES SUPERINTENDENT.

The Utilities Superintendent shall have control and general supervision of all public sewers and service connections in the city, and shall be responsible for administering the provisions of this chapter to the end that a proper and efficient public sewer is maintained.
(Ord. 119, passed 3-8-1988)

§ 51.03 GENERAL PROHIBITIONS AND REQUIREMENTS.

(A) It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the city, or in any area under city jurisdiction, any human or animal excrement, garbage, or objectionable waste.

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

(C) Except as provided hereinafter, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater.

(D) The owner(s) of all houses, buildings, or properties used for human occupancy, employment, recreation or other purposes from which wastewater is discharged, and which is situated with the city and adjacent to any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary sewer of the city, shall be required at the owner(s) expense to install a suitable service connection to the public sewer in accordance with the provisions of this chapter, or within timelines as directed by City Council resolution for a specific project. If there are no timelines directed for a specific project, connections shall be made within 90 days of the date the public sewer is operational, provided the public sewer is within 200 feet of the structure generating the wastewater. All

future buildings constructed on property adjacent to the public sewer shall be required to immediately connect to the public sewer. If sewer connections are not made pursuant to this section or the resolution for a specific project area, an official 30-day notice shall be served instructing the affected property owner to make the connection.

(E) In the event an owner shall fail to connect to a public sewer in compliance with a notice given or upon the termination of a deferred assessment or deferred connection fee period, the city shall undertake to have the connection made and shall assess the cost thereof against the benefitted property, or, if the connection cannot be made, shall assess the property accordingly pursuant to the benefit provided. The assessments, when levied, shall bear interest at the rate determined by the City Council and shall be certified to the County Auditor and shall be collected and remitted to the city in the same manner as assessments for local improvements. The rights of the city shall be in addition to any remedial or enforcement provisions of this or other ordinances or laws.
(Ord. 119, passed 3-8-1988; Am. Ord. passed 8-22-2005)

(F) (1) *Sewer connection policy*. The City Council of Mantorville acknowledges that numerous homes within the city are unserved by a municipal sewer system. Sewer mains and sewer lines may be constructed and extended when determined by the City Council to be economically feasible and necessary to supply sewer service to the inhabitants of the City of Mantorville. The City Council encourages municipal sewer service for currently unserved homes and buildings, as well as for newly constructed buildings. This policy encourages increased municipal sewer use, addresses residents' financial obligations, and protects water quality and residents' health and safety. Connection fees need to be established for properties currently unserved by municipal sewer service based upon financial estimates, citizen input, and study by the City Council. Projects of varying size will require a connection fee policy which is supplementary to other financing methods.

(2) *Sewer connection fee*. A sanitary sewer connection fee must be paid by the owner of a parcel of real property at the time the property is connected to the city's sanitary sewer system unless the payment is arranged by another method. In order that connection fees be fairly and uniformly imposed, the City Council shall annually establish a schedule of connection charges in order to reflect changes in costs. When a new line is constructed or extended, the City Council may establish a connection charge for that particular line based upon the cost of the construction or extension and the connection charge need not be the same as the charge to connect to the already existing sewer lines.

(3) *Sewer connection fee deferment*.

(a) The City of Mantorville may, by resolution, adopt a sewer connection fee deferment policy for property owners affected by a sewer project. This policy may include provisions for age, income, medical status, or disability. Any deferred connection fee based upon hardship will require findings of fact by the City Council as to the appropriateness of the deferment. Deferrals may also be made at Council's discretion for unimproved property affected by an improvement or until a property is improved. The City Council may choose to set an expiration date for connection fee deferrals, with a deadline to be determined by the City Council at the time of the deferment and based upon the circumstances of each project.

(b) When a sewer connection fee is deferred, the City Clerk-Treasurer will maintain a record of each parcel of property with the owner of the parcel, the parcel number, the amount of the connection fee, the interest accruing on the amount, and the length of terms of the repayment. Property owners have a duty to notify city offices within 10 days that their private wastewater treatment system is out of compliance with local, county, or Minnesota regulations.

(4) *Interest rate on unpaid balances*. The interest rate over the life of the repayment shall be determined at the time of a hearing on the deferment. It shall be calculated based upon the cost of financing over the life of the connection fee repayment plus any associated fixed costs. The interest amount shall be stated as an annual percentage rate. All connection fees for which the city defers payment will be recorded, at the city office, so that there is a complete record of the landowner's obligation. The interest rate may also be modified annually when the fee schedule is adjusted. Past due balances shall be treated as unpaid taxes charged against the owner(s) of the property.

(5) *Land exempt from connection fees*. The City Council reserves the right to exempt land from a connection fee if it finds, in its discretion, the land cannot be developed and/or the improvement does not provide a benefit. However, no development of that property shall be permitted nor shall any physical connection to the city's utility or drainage facilities be made by any development on that property until the connection fees are determined and paid. The city may, by resolution, establish sewer connection fees at the time it is determined a property will benefit from the sewer/improvement.

(6) *State law*. This section shall not be construed as limiting or modifying Minnesota statutes, but grants powers supplementary to those powers in existing state statutes and regulations.
(Ord. 160, passed 8-22-2005)
Penalty, see § 51.99

§ 51.04 PRIVATE WASTEWATER DISPOSAL.

(A) Where a public sewer is not available under the provisions of § 51.03(D), the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this section.

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

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

(D) The type, capacities, location, and layout of a private wastewater disposal system shall comply with all requirements of Minn. Rules, Chapter 7075, entitled *Individual Sewage Treatment System Standards*, as it may be amended from time to time. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

(E) At such time as a public sewer becomes available to a property serviced by a private wastewater disposal system, a direct connection shall be made to the public sewer within 90 days in compliance with this chapter, and within 30 days any septic tanks, cesspools, and similar private wastewater disposal systems shall be cleaned of sludge. The bottom shall be broken to permit drainage and the tank or pit filled with suitable material.

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

(G) No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by the MPCA or the Department of Health of the State of Minnesota. (Ord. 119, passed 3-8-1988) Penalty, see § 51.99

§ 51.05 BUILDING SEWERS AND CONNECTIONS.

(A) Any new connection(s) to the sanitary sewer system shall be prohibited unless sufficient capacity is available in all downstream facilities including, but not limited to, capacity for flow, BOD5, and suspended solids, as determined by the Superintendent.

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

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

(D) There shall be 2 classes of building sewer permits: for residential and commercial service, and for service to establishments producing industrial wastes. In either case, the application shall be supplemented by any plans, specifications, or any other information considered pertinent in the judgement of the city. The industry, as a condition of permit authorization, must provide information describing its wastewater constituents, characteristics, and type of activity.

(E) All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner(s). The owner(s) shall indemnify the city from any loss or damage that may be directly or indirectly occasioned by the installation of the building sewer.

(F) A separate and independent building sewer shall be provided for every building, except where on building stands at the rear of another on an interior lot and not private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway. The building sewer from the front building may be extended to the rear building and the whole considered 1 building sewer. The city does not and will not assume any obligation or responsibility for damage caused by or resulting from any such connection aforementioned.

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

(H) The size, slopes, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling of the trench, shall all conform to the requirements of the State of Minnesota, other federal, state or local rules and regulations of the city. In the absence of code provisions or in the amplification thereof, the materials and procedures set forth in appropriate specifications of the ASTM and WPCF Manual of Practice No. 9 shall apply.

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

(J) No person(s) shall make connection of roof downspouts, foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or indirectly to the wastewater disposal system.

(K) The connection of the building sewer into the public sewer shall conform to the requirements of the State of Minnesota Building and Plumbing Code or other applicable rules and regulations of the city, or the procedures set forth in appropriate specifications of the ASTM and the WPCF Manual of Practice No. 9. All the connections shall be made gastight and watertight, and verified by proper testing to prevent the inclusion of infiltration/inflow. Any deviation from the prescribed procedures and materials must be approved by the city prior to installation.

(L) The applicant for the building sewer permit shall notify the city when the building sewer is ready for inspection and connection to the public sewer. The connection and inspection shall be made under the supervision of the Superintendent or authorized representative thereof.

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

(N) No person shall make a service connection with any public sewer unless regularly licensed under this chapter to perform the work, and no permit shall be granted to any person except the regularly licensed person.

(O) Any person desiring a license to make a service connection with public sewers shall apply in writing to the City Council with satisfactory evidence that the applicant or employer is trained or skilled in the business and qualified to receive a license. All applications shall be referred to the Superintendent for recommendations to the City Council. If approved by the City Council, the license shall be issued by the City Clerk-Treasurer upon the filing of a bond as hereinafter provided.

(P) No license shall be issued to any person until a bond in an amount set by City Council from time to time, is given to the city, approved by the Council, is filed with the City Clerk-Treasurer conditioned that the licensee will indemnify and save harmless the city from all suits, accidents, and damage that may arise by reason of any opening in any street, alley, or public ground, made by the licensee or by those in the licensee's employment for any purpose whatever, and that the licensee will replace and restore the street and alley over the opening to the condition existing prior to keep and maintain the same to the satisfaction of the Superintendent, and shall conform in all respects to the rules and regulations of the Council relative thereto, and pay all fines that may be imposed on the licensee by law.

(Q) The license fee for making service connections is in an amount set by City Council from time to time. All licenses shall expire on February 1 of the license year unless the license is suspended or revoked by the City Council for cause.

(R) The City Council may suspend or revoke any license issued under this section for any of the following causes:

(1) Giving false information in connection with the application for a license;

(2) Incompetence of the licensee; and/or

(3) Willful violation of any provisions of this section or any rule or regulation pertaining to the making of the service connections.

(Ord. 119, passed 3-8-1988) Penalty, see §51.99

§ 51.06 USE OF PUBLIC SERVICES.

(A) No person(s) shall discharge or cause to be discharged any unpolluted water such as stormwater, groundwater, roof runoff, surface drainage, or noncontact cooling water to any sanitary sewer.

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

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

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

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

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

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

(D) The following described substances, materials, water, or wastes shall be limited in discharges to municipal systems to concentrations or quantities which will not harm either sewers, the wastewater treatment works treatment process or equipment, will not have an adverse effect on the receiving stream

and/or soil, vegetation and groundwater, or will not otherwise endanger lives, limb, public property, or constitute a nuisance. The Superintendent may set limitations lower than the limitations established in the regulations below, if, in his or her opinion, the more severe limitations are necessary to meet the above objectives. In forming his or her opinion as to the acceptability of wastes, the Superintendent will give consideration to the factors as the quantity of subject waste in reaction to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, the city's NPDES and/or SDS permit, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The limitations or restrictions on materials or characteristics of waste or wastewaters discharged to the sanitary sewer which shall not be violated without approval of the Superintendent are as follows:

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

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

(3) Any quantities of flow, concentrations, or both which constitute a slug as defined herein;

(4) Any garbage not properly shredded, as defined in § 51.01. Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments, or similar places where garbage originates from the preparation of food on the premises or when served by caterers;

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

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

(7) Noncontact cooling water or unpolluted storm, drainage, or groundwater;

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

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

(10) Any waters or wastes containing the following substances to the degree that any such material received in the composite wastewater at the wastewater treatment works in excess of the following limits for the materials:

Substance	***Daily Maximum Concentration (mg/l)***	***30-Day Average Concentration (mg/l)***
arsenic		
cadmium	1.2	0.5
copper	4.5	1.8
cyanide	0.8	0.23
lead	0.6	0.3
mercury		
nickel	4.1	1.8
silver		
total chromium	7.0	2.5
zinc	4.2	1.8
Phenolic compounds which cannot be removed by city's wastewater treatment system		

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

(12) Any waters or wastes containing BOD5 or suspended solids of the character and quantity that unusual attention or expense is required to handle the materials at the wastewater treatment works, except as may the permitted by specific written agreement subject to the provisions of division (Q) below.

(E) (1) If any waters or wastes are discharged or are proposed to be discharged to the public sewers which contain substances or possess the characteristics enumerated in division (D) above, and/or which in the judgement of the Superintendent, may have a deleterious effect upon the wastewater treatment facilities, processes, or equipment; receiving waters and/or soil, vegetation, and groundwater; or which otherwise create a hazard to life or constitute a public nuisance, the city may:

(a) Reject the wastes;

(b) Require pretreatment to an acceptable condition for discharge to the public sewers, pursuant to § 307(b) of the Act and all addendums thereof;

(c) Require control over the quantities and rates of discharge; and/or

(d) Require payment to cover the added costs of handling, treating, and disposing of wastes not covered by existing taxes or sewer service charges.

(2) If the city permits the pretreatment or equalization of waste flows, the design, installation, and maintenance of the facilities and equipment shall be made at the owners' expense, and shall be subject to the review and approval of the city pursuant to the requirements of the MPCA.

(F) No user shall increase the use of process water or, in any manner, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in divisions (C) and (D) above, or contained in the National Categorical Pretreatment Standards by any state requirements.

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

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

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

(J) The owner of any property serviced by a building sewer carrying industrial wastes may, at the discretion of the city, be required to provide laboratory measurements, tests, or analyses of waters or wastes to illustrate compliance with this chapter and any special condition for discharge established by the city or regulatory agencies having jurisdiction over the discharge. The number, type, and frequency

of sampling and laboratory analyses to be performed by the owner shall be as stipulated by the city. The industry must supply a complete analysis of the constituents of the wastewater discharge to assure that compliance with federal, state, and local standards are being met. The owner shall report the results of measurements and laboratory analyses to the city at the times and in the manner as prescribed by the city. The owner shall bear the expense of all measurements, analyses, and reporting required by the city. At the times as deemed necessary, the city reserves the right to take measurements and samples for analysis by an independent laboratory.

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

(L) Where required by the city, the owner of any property serviced by a sanitary sewer shall provide protection from an accidental discharge of prohibited materials or other substances regulated by this chapter. Where necessary, facilities to prevent accidental discharges of prohibited materials shall be provided and maintained at the owner's expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the Superintendent for review and approval prior to construction of the facility. Review and approval of the plans and operating procedures shall not relieve any user from the responsibility to modify the user's facility as necessary to meet the requirements of this chapter. Users shall notify the Superintendent immediately upon having a slug or accidental discharge of substances of wastewater in violation of this chapter to enable countermeasures to be taken by the Superintendent to minimize damage to the wastewater treatment works. The notification will not relieve any user of any liability for any expense, loss, or damage to the wastewater treatment system or treatment process, or for any fines imposed on the city on account thereof under any state and federal law. Employees shall ensure that all employees who may cause or discover such a discharge are advised of the emergency notification procedure.

(M) No person, having charge of any building or other premises which drains into the public sewer, shall permit any substance or matter which may form a deposit or obstruction to flow or pass into the public sewer. Within 90 days after receipt of written notice from the city, the owner shall install a suitable and sufficient catch basin or waste trap, or if one already exists, shall clean out, repair, or alter the same, and perform the other work as the Superintendent may deem necessary. Upon the owner's refusal or neglect to install a catch basin or waste trap or to clean out, repair, or alter the same after the period of 120 days, the Superintendent may cause the work to be completed at the expense of the owner or representative thereof.

(N) Whenever any service connection becomes clogged, obstructed, broken or out of order, or detrimental to the use of the public sewer, or unfit for the purpose of drainage, the owner shall repair or cause the work to be done as the Superintendent may direct. Each day after 7 days that a person neglects or fails to so act shall constitute a separate violation of this section, and the Superintendent may then cause the work to be done, and recover from the owner or agent the expense thereof by an action in the name of the city.

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

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

(Q) No statement contained in this section shall be construed as preventing any special agreement or arrangement between the City of Mantorville and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the city for treatment, subject to payment therefore by the industrial concern, providing that National Categorical Pretreatment Standards and the city's NPDES and/or State Disposal System permit limitations are not violated.
(Ord. 119, passed 3-8-1988) Penalty, see § 51.99

§ 51.07 INTERFERENCE WITH WASTEWATER FACILITIES.

No person(s) shall intentionally break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is part of the wastewater facilities. Any person violating this provision shall be subject to immediate arrest under the charge of a misdemeanor.
(Ord. 119, passed 3-8-1988) Penalty, see § 51.99

§ 51.08 USER RATE SCHEDULE FOR CHARGES.

Each user of sewer service shall pay the charge(s) applicable to the type of service, and in accordance with the provisions set forth in Chapter 52.
(Ord. 119, passed 3-8-1988) Penalty, see § 51.99

§ 51.09 POWERS AND AUTHORITY OF INSPECTORS.

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

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

(C) While performing necessary work on private properties, the Superintendent or duly authorized employees of the city shall observe all safety rules applicable to the premises established by the company, and the company shall be held harmless for injury or death to the city employees and the city shall indemnify the company against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in § 51.06.

(D) The Superintendent or other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all private properties through which the city holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the wastewater facilities lying within the easement. All entry and subsequent work, if any, on the easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.
(Ord. 119, passed 3-8-1988) Penalty, see § 51.99

§ 51.10 EFFECTIVE DATE.

This chapter shall be in full force and take effect from and after its adoption, passage, and publication as provided by law.
(Ord. 119, passed 3-8-1988)

§ 51.99 PENALTY.

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

(B) Any person who shall continue any violation beyond the time limit provided for in division (A) above shall be guilty of a misdemeanor. Each day in which any such violation occurs shall be deemed as a separate offense.

(C) Any person violating any of the provisions of this chapter shall become liable to the city for any expense, loss, or damage occasioned by the city by reason of the violation.
(Ord. 119, passed 3-8-1988) Penalty, see § 10.99

CHAPTER 52: SEWER SERVICE CHARGE SYSTEM

Section

52.01 Definitions
52.02 Establishment
52.03 Determination of sewer service charges
52.04 Sewer Service Fund
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52.06 Violations
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Appendix A: Equivalent Residential Units

§ 52.01 DEFINITIONS.

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

ADMINISTRATION. Those fixed costs attributable to administration of the wastewater treatment works (i.e., billing and associated bookkeeping and accounting costs).

BIOCHEMICAL OXYGEN DEMAND or ***BOD5.*** The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in 5 days at 20°C, expressed in milligrams per liter.

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

COMMERCIAL USER. Any place of business which discharges sanitary waste as distinct from industrial wastewater.

COMMERCIAL WASTEWATERS. Domestic wastewater emanating from a place of business as distinct from industrial wastewater.

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

EQUIVALENT RESIDENTIAL UNIT (ERU). A unit of wastewater volume of 319 gallons per day at a strength not greater than 200 mg/l of BOD5 and 250 mg/1 of total suspended solids.

EXTRA STRENGTH WASTE. Wastewater having a BOD and/or TSS greater than domestic waste as defined in this section and not otherwise classified as an incompatible waste.

GOVERNMENTAL USER. Users which are units, agencies or instrumentalities of federal, state, or local government discharging normal domestic strength wastewater.

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

INDUSTRIAL USERS or ***INDUSTRIES.*** Are:

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

(a) These are identified in the *Standard Industrial Classification Manual*, 1972, Office of Management and Budget, as amended and supplemental under 1 of the following divisions:

1. Division A. Agriculture, Forestry, and Fishing;

2. Division B. Mining;

3. Division D. Manufacturing; or

4. Division E. Transportation, Communications, Electric, Gas, and Sanitary Sewers.

(b) For the purpose of this definition, domestic waste shall be considered to have the following characteristics:

1. BOD5 - less than 200 mg/l; and

2. Suspended solids - less than 250 mg/l.

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

INDUSTRIAL WASTEWATER. The liquid processing wastes from an industrial manufacturing process, trade, or business including but not limited to all Standard Industrial Classification Manual Divisions A, B, D, E, and I manufacturers as distinct from domestic wastewater.

INSTITUTIONAL USER. Users other than commercial, governmental, industrial, or residential users, discharging primarily normal domestic strength wastewater (e.g. nonprofit organizations).

NORMAL DOMESTIC STRENGTH WASTEWATER. Wastewater that is primarily produced by residential users, with BOD5 concentrations not greater than 200 mg/l and suspended solids concentrations not greater than 250 mg/l.

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

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

PUBLIC WASTEWATER COLLECTION SYSTEM. A system of sanitary sewers owned, maintained, operated, and controlled by the city.

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

REPLACEMENT COSTS. Expenditures for replacement.

RESIDENTIAL USER. A user of the treatment facilities whose premises or building is used primarily as a residence for 1 or more persons, including dwelling units such as detached and semi-detached housing, apartments, and mobile homes; and which discharges primarily normal domestic strength sanitary wastes.

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

SEWER SERVICE CHARGE. The aggregate of all charges, including charges for operation, maintenance, replacement, debt service, and other sewer related charges that are billed periodically to users of the city's wastewater treatment facilities.

SEWER SERVICE FUND. A fund into which income from sewer service charges is deposited along with other income, including taxes intended to retire debt incurred through capital expenditure for wastewater treatment. Expenditure of the Sewer Service Fund will be for operation, maintenance and replacement costs; and to retire debt incurred through capital expenditure for wastewater treatment.

SHALL. Is mandatory; ***MAY*** is permissive.

SLUG. Any discharge of water or wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than 5 times the average 24-hour concentration of flows during normal operation and shall adversely affect the collection system and/or performance of the wastewater treatment works.

STANDARD INDUSTRIAL CLASSIFICATION MANUAL. Office of Management and Budget, 1972.

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

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

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

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

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

WASTEWATER TREATMENT WORKS or ***TREATMENT WORKS.*** An arrangement of any devices, facilities, structures, equipment, or processes owned or used by the city for the purpose of the transmission, storage, treatment, recycling, and reclamation of municipal sewage, domestic sewage or industrial wastewater, or structures necessary to recycle or reuse water, including interceptor sewers, outfall sewers, collection sewers, pumping, power, and other equipment and their appurtenances; extensions, improvements, remodeling, additions, and alterations thereof; elements essential to provide

a reliable recycled water supply such as standby treatment units and clear well facilities; and any works, including land which is an integral part of the treatment process or is used for ultimate disposal of residues resulting from the treatment.
(Ord. 131, passed 7-27-1992)

§ 52.02 ESTABLISHMENT.

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

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

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

(D) Sewer service rates and charges to users of the wastewater treatment facility shall be determined and fixed in a Sewer Service Charge System developed according to the provisions of this chapter. The Sewer Service Charge System developed with the assistance of Yaggy Colby Associates shall be adopted by resolution after enactment of this chapter, shall be published in the local newspaper, and shall be effective upon publication. Subsequent changes in sewer service rates and charges shall be adopted by Council resolution and shall be published in the local newspaper.

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

(F) Sewer service charges and the Sewer Service Fund will be administrated in accordance with the provisions of § 52.05.
(Ord. 131, passed 7-27-1992)

§ 52.03 DETERMINATION OF SEWER SERVICE CHARGES.

(A) (1) Users of the City of Mantorville wastewater treatment works shall be identified as belonging to 1 of the following user classes:

(a) Residential;

(b) Commercial;

(c) Industrial;

(d) Institutional; or

(e) Governmental.

(2) The allocation of users to these classes for the purpose of assessing user charges and debt service charges shall be the responsibility of the City Clerk-Treasurer. Allocation of users to user classes shall be based on the substantive intent of the definitions of these classes contained herein.

(B) The charges assessed residential users and those users of other classes who discharge normal domestic strength wastewater shall be calculated on the basis of wastewater volume. Those industrial users who discharge normal domestic strength wastewater only, can be classified as commercial users for the purpose of rate determination.

(C) For those users who discharge normal domestic strength wastewater as described in division (B) above, wastewater volume shall be calculated on the basis of equivalent residential units (ERU). Equivalent residential units, at a volume of 319 gallons per day, will be assigned to connections according to Tables I and II in Appendix A at the end of this chapter.

(D) The sewer service charge shall consist of a user charge for operation, maintenance, and replacement and a charge for debt service. These charges will be determined as follows:

(1) *For nonmetered users*. Calculation of user charge rate per equivalent residential unit:

(a)
$$Uc/\ ERU = \frac{Comr}{TotalERUs}$$

(b) Where:

1. Uc/ERU = Annual user charge for nonmetered users;

2. Comr = Total annual operation, maintenance, and replacement costs;

3. ERU = Equivalent Residential Unit; and

4. Total ERUs = The total number of ERUs based on total number of connections to the WWT facility.

(2) *For metered users.*

(a) Calculation of unit cost for treatment of normal domestic strength wastewater:

1. $$Uomr = \frac{Comr}{Tbwv}$$
2. Where:

a. Uomr = Unit cost for operation, maintenance, and replacement in $/Kgal;

b. Comr = Total annual OM&R costs; and

c. Tbwv = Total annual billable wastewater volume in Kgal.

(b) Calculation of user charge:

1. $$Uc = Uomr * bwv$$

2. Where:

a. Uc = User charge for metered users;

b. Uomr = Unit cost for operation, maintenance, and replacement in $/Kgal; and

c. bwv = Billable wastewater volume of a particular user in Kgal.

(E) Users may appeal the number of ERUs assigned to a particular connection by installing and maintaining, at their own expense, water meters of a type approved by the city. The meters shall be equipped with remote registering recorders located at an accessible site on the owner's property.

(F) The city may, at its discretion, require nonresidential users to install water meters for the purpose of determining wastewater volume. The city may require residential connections to install water meters as part of a comprehensive program to install meters throughout the city's water system. When so required, the meters shall be of a type approved by the city, equipped with remote registering recorders, and located at an accessible site on the owner's property.

(G) Local construction costs for the wastewater treatment facility will be recovered from users according to their contribution of wastewater flows and loadings into the treatment facility as follows.

(1) *Debt service charge for nonmetered user.*

(a) $$\frac{Dc}{ERU} = \frac{Cd}{TotalERUs}$$

(b) Where:

1. Dc = Annual debt service charge;
2. Cd = Annual debt service cost;
3. ERU = Equivalent Residential Unit; and
4. Total ERUs = The total number of ERUs connected to the treatment facility.

(2) *Debt service calculation for metered users.*

(a) Calculation of unit cost for debt service:

1. $$Uds = \frac{Cds}{Tbwv}$$
2. Where:
   a. Uds = Unit cost for debt service in $/Kgal;
   b. Cds = Cost of annual debt service; and
   c. Tbwv = Total annual billable wastewater volume in Kgal.

(b) Calculation of debt service charge:

1. $$Dc = Uds * bwv$$
2. Where:
   a. Dc = Debt service charge;
   b. Uds = Unit cost for debt service in $/Kgal; and

c. bwv = Billable wastewater volume of a particular user in Kgal.

(H) The sewer service charge will consist of the total of the user charge and the debt service charge.

(1) $SSC = Uc + Dc$

(2) Where:

(a) SSC = Annual Sewer Service Charge;

(b) Uc = Annual User Charge; and

(c) Dc = Annual Debt Service Charge.

(I) (1) Sewer service charge for nonmetered users:

(a) $\frac{SSC}{ERU} = \frac{Uc}{ERU} + \frac{Dc}{ERU}$

(b) Where:

1. SSC = Annual Sewer Service Charge;

2. Uc = Annual User Charge;

3. Dc = Annual Debt Service Charge; and

4. ERU = Equivalent Residential Unit.

(2) Sewer service charge for metered users:

(a) $SSC = Uc + Dc$

(b) Where:

1. SSC = Sewer service charge for metered users;

2. Uc = User charge; and

3. Dc = Debt service charge.

(J) (1) The sewer service charges established in this chapter shall not prevent the assessment of additional charges to users who discharge wastes with concentrations greater than normal domestic strength or wastes of unusual character, or contractual agreements with the users, as long as the following conditions are met.

(a) The user pays operation, maintenance, and replacement costs in proportion to the user's proportionate contribution of wastewater flows and loadings to the treatment plant, and no user is charged at a rate less than that of normal domestic strength wastewater.

(b) The measurements of the wastes are conducted according to the latest edition of Standard Methods for the Examination of Water and Wastewater in a manner acceptable to the city as provided for in Chapter 51.

(2) A study of unit costs of collection and treatment processes attributable to flow, BOD, TSS, and other significant loadings shall be developed for determining the proportionate allocation of costs to flows and loadings for users discharging wastes of greater than normal domestic strength or wastes of unusual character.
(Ord. 131, passed 7-27-1992)

§ 52.04 SEWER SERVICE FUND.

(A) The city hereby establishes a Sewer Service Fund as an income fund to receive all revenues generated by the Sewer Service Charge System, and all other income dedicated to the operation, maintenance, replacement, and construction of the wastewater treatment works, including taxes, special charges, fees, and assessments intended to retire construction debt. The city also establishes the following accounts as income and expenditure accounts within the Sewer Service Fund:

(1) Operation and Maintenance Account;

(2) Equipment Replacement Account; and

(3) Debt Retirement Account.

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

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

(D) Revenue generated by the Sewer Service Charge System sufficient for operation and maintenance shall be held separate and apart in the Operation and Maintenance Account.
(Ord. 131, passed 7-27-1992)

§ 52.05 ADMINISTRATION.

(A) *Generally*. The Sewer Service Charge System and Sewer Service Fund shall be administrated according to the following provisions.

(B) *Specifically*.

(1) (a) The City Clerk-Treasurer shall maintain a proper system of accounts suitable for determining the operation and maintenance, equipment replacement, and debt retirement costs of the treatment works, and shall furnish the City Council with a report of the costs annually in March in the Financial Statement.

(b) The City Council shall annually determine whether or not sufficient revenue is being generated for the effective operation, maintenance, replacement, and management of the treatment works, and whether sufficient revenue is being generated for debt retirement. The Council will also determine whether the user charges are distributed proportionately to each user in accordance with § 52.02 of this code and § 204(b)(2)(A) of the Federal Water Pollution Control Act, as it may be amended from time to time.

(c) The city shall thereafter, but not later than the end of the year, reassess, and as necessary, revise the Sewer Service Charge System then in use to insure the proportionality of the user charges and to insure the sufficiency of funds to maintain the capacity and performance to which the facilities were constructed, and to retire the construction debt.

(2) In accordance with federal and state requirements, each user will be notified annually in conjunction with a regular billing, of that portion of the Sewer Service Charge attributable to operation, maintenance and replacement.

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

(4) Bills for sewer service charges shall be rendered on a monthly basis succeeding the period for which the service was rendered and shall be due 10 days from the date of rendering. Any bill not paid in full 20 days after the due date will be considered delinquent. At that time, the city shall notify the delinquent owner/occupant in writing regarding the delinquent bill and subsequent penalty. The penalty shall be computed as 20% of the original bill and shall be increased the same 20% for every month the bill is outstanding. This division (B)(4) becomes effective 1-1-2001 after its passage and publication.
(Am. Ord. 145, passed 10-23-2000)

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

(6) Any additional costs caused by discharges to the treatment works of toxics or other incompatible wastes, including the cost of restoration of the receiving waters and environs, and sludge disposal, shall be borne by the discharger(s) of the wastes, at no expense to the city.
(Ord. 131, passed 7-27-1992)

§ 52.06 VIOLATIONS.

(A) Each and every sewer service charge levied by and pursuant to this chapter is hereby made a lien upon the lot or premises served, and all the charges which are on October 1 of each year past due and delinquent, shall be certified to the County Auditor as taxes or assessments on the real estate. Nothing in this chapter shall be held or construed as in any way stopping or interfering with the right of the city to levy as taxes or assessments against any premises affected any delinquent or past due sewer service charges.

(B) As an alternative to levying a lien, the city may, at its discretion, file suit in a civil action to collect the amounts as are delinquent and due against the occupant, owner, or user of the real estate, and shall also collect attorney's fees incurred by the city in the civil action as shall be fixed by the order of the court.

(C) In addition to all penalties and costs attributable and chargeable to recording notices of the lien or filing a civil action, the owner or user of the real estate being serviced by the treatment works shall be liable for interest upon all unpaid balances at the rate of 10% per annum.
(Ord. 131, passed 7-27-1992) Penalty, see § 10.99

§ 52.07 PRECEDENCE; EFFECTIVE DATE.

(A) The Sewer Service Charge System shall take precedence over any terms or conditions of agreements or contracts which are inconsistent with the requirements of § 204(b)(1)(A) of the Act and Federal Regulation 40 C.F.R. pt. 35.2140, as it may be amended from time to time, of the Environmental Protection Agency's grant regulations.

(B) This chapter shall be in full force and take effect from and after its adoption, passage, and publication as provided by law.
(Ord. 131, passed 7-27-1992)

APPENDIX A: EQUIVALENT RESIDENTIAL UNITS

The following tables shall be used as a guide for determining the number of ERUs for various user classes.

Table I: Equivalent Residential Units (ERUs) for Various Residential Dwellings	
Single-Family Homes, Townhouses, and Duplex Units	1.0 Unit
Condominiums and Apartment Units	1.0 Unit
Mobile Homes	1.0 Unit

Table II: Equivalent Residential Units (ERUs) for Various Commercial, Public, and Institutional Facilities		
Facility Description	***Parameter***	***Units***
Automobile Service	2 Service Bays	1.0 Unit
Banquet Room	1,000 Square Feet	1.0 Unit
Barber Shop	Each	1.0 Unit
Bowling Alley	3 Alleys	1.0 Unit
Car Wash - Self Service*	1 Stall	
Car Wash - Service Station	Each	4.0 Units
Churches	250 Seats	1.0 Unit
Fast Service Restaurant	600 Square Feet	1.0 Unit
General Office Building	4,000 Square Feet	1.0 Unit
Government Office Building*		
Hospitals	1 Bed	1.0 Unit
Laundromats	4 Washing Machines	1.0 Unit

Table II: Equivalent Residential Units (ERUs) for Various Commercial, Public, and Institutional Facilities		
Facility Description	***Parameter***	***Units***
Motels & Hotels	2 Rooms	1.0 Unit
Nursing Home	3 Beds	1.0 Unit
Restaurant, Drive-In	10 Parking Spaces	1.0 Unit
Restaurant*	600 Square Feet	
Retail Store	3,000 Square Feet	1.0 Unit
Rooming House	7 Beds	1.0 Unit
Schools*		
Service Station (Gas pumping only)	Each	1.0 Unit
Service Station with Service Center	Each	2.0 Units
Service Station with Service Center and Car Wash*		
Theatre	50 Seats	1.0 Unit
Theatre, Drive-In	50 Parking Spaces	1.0 Unit
Warehouse	15 Employees	1.0 Unit
NOTES TO TABLE: The areas listed in the parameters include all interior areas utilized by the public and the employees for the conduct of the facility. * User charge to be based upon metered usage.		

(Ord. 131, passed 7-27-1992)

TITLE VII: TRAFFIC CODE

Chapter

70. TRAFFIC REGULATIONS

71. PARKING REGULATIONS

CHAPTER 70: TRAFFIC REGULATIONS

Section

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MOTORIZED GOLF CARTS

§ 70.01 DEFINITIONS.

As used in this subchapter, the following terms will mean:

DESIGNATED ROADWAYS. City streets, avenues, and alleys not specifically excluded in this chapter. It does not mean federal or state trunk highways, or county highways or county state-aid highways unless permitted by county ordinance.

DRIVER. The person driving or having physical control over a motorized golf cart.

MOTORIZED GOLF CART. A gas or electric, three- or four-wheel vehicle commonly used to transport golfers and their golfing equipment while playing the sport of golf.
(Ord. 202305, passed 4-10-2023)

§ 70.02 PERMITS FOR MOTORIZED GOLF CARTS.

(A) No person shall operate a motorized golf cart on designated roadways without obtaining a permit as provided herein.

(B) Permit applications shall be available in the Clerk-Treasurer's office. At the time of application, the applicant shall provide:

(1) The applicant’s name;

(2) The applicant’s address;

(3) The applicant’s date of birth

(4) The application date;

(5) A copy of applicant's driver's license (applicants who are unable to produce a driver's license may present a letter from their physician certifying that they are safely able to operate a motorized golf cart on designated roadways);

(6) The applicant's certification that they have read and will comply with all the terms of this subchapter;

(7) Evidence of insurance complying with the provisions of M.S. § 65B.48, Subdivision 5, as may be amended from time to time. In the event a person operating a motorized golf cart under this section cannot obtain liability insurance in the private market, that person may purchase automobile insurance, including no-fault coverage, from the Minnesota Automobile Insurance Plan under M.S. §§ 65B.01 to 65B.12, at a rate determined by the Commissioner of Commerce;

(8) Current State of Minnesota vehicle registration and a description of the motorized golf cart, if required (applicants may provide a photograph of the vehicle in lieu of a description).

(D) Persons under the age of 21 shall be ineligible for a permit unless they possess a valid driver's license.

(E) All permits shall be valid for a period not to exceed 1 year but may be renewed.

(F) The permit fee shall be as set forth in the city's fee schedule, as it may be amended from time to time.

(G) No permit shall be granted or renewed if the applicant has had their driver's license revoked as the result of criminal proceedings.

(I) All permits shall expire on December 31 unless properly renewed prior thereto.
(Ord. 2023-05, passed 4-10-2023)

§ 70.03 REVOCATION OR DENIAL OF PERMITS.

(A) Any permit granted or authorized hereunder shall be revoked or denied under the following circumstances:

(1) Upon a finding that the holder of the permit has violated any of the provisions of this subchapter or M.S. Chapter 169, as may be amended from time to time, while operating their respective motorized golf cart;

(2) If there is evidence that the motorized golf cart is not safely or legally operated or has not been safely or legally operated within the city;

(3) If the insurance required by law for a permit is no longer in effect;

(4) If the application for a permit contained false or misleading information of documentation:

(5) If the driver's license of the permit holder is suspended, revoked, or cancelled: or

(6) Upon evidence that the permit holder is not able to operate the motorized golf cart in a manner that is safe, responsible, or lawful.

(B) The applicant or permit holder may appeal any such revocation or denial in a hearing before the City Council by filing with the City Clerk-Treasurer a notice of appeal, in writing, not later than 10 days after the date of the notice of revocation or denial.

(C) Individuals whose permits are revoked or denied are prohibited from re-applying for a permit for 1 year after the revocation or denial is issued. Three revocations of a permit within 10 years shall result in permanent revocation.
(Ord. 2023-05, passed 4-10-2023)

§ 70.04 OPERATION OF GOLF CARTS WITHIN THE CITY.

(A) Motorized golf carts operated pursuant to a city permit must display a slow-moving vehicle emblem as described by M.S. § 169.522.

(B) All motorized golf carts must prominently display their city permit sticker on the driver's side of the vehicle windshield. If the motorized golf cart does not have a windshield, the driver must have the permit in their possession while operating the vehicle on designated roadways.

(C) Drivers are not required to obtain a permit if motorized golf carts are being utilized solely to drag a baseball or other athletic field.

(D) Drivers are permitted to operate motorized golf carts only on designated roadways, not on state or federal highways, except to cross at designated intersections.

(E) When operating on designated roadways, motorized golf carts must be operated at the extreme right-hand side of the roadway, except when making a left turn, and cannot exceed a speed of 20 miles per hour.

(F) Motorized golf carts may only be operated on designated roadways from sunrise to sunset, unless equipped with original equipment headlights, taillights, and rear-facing brake lights.

(G) Motorized golf carts may not be operated as authorized through a permit in inclement weather conditions or at any time when there is insufficient light to clearly see persons and vehicles on the roadway at a distance of 500 feet.

(H) Motorized golf carts may not be operated with a passenger or passengers unless each such passenger is seated on a seat specifically designed for the transport of passengers. The number of occupants on a motorized golf carts may not exceed the design occupant load.

(I) No trailer, toboggan, sled or other device shall be pulled by a motorized golf cart while operating through a permit.

(J) Motorized golf carts may not be operated on city sidewalks, walking trails, or paths,

(K) Motorized golf carts may not be operated in city parks.

(L) Drivers of motorized golf carts must abide by all city parking regulations.

(M) Every person operating a motorized golf cart on designated roadways has all the rights and duties applicable to the driver of any other vehicle under the provisions of M.S. Chapter 169, as may be amended from time to time.
(Ord. 2023-05, passed 4-10-2023)

§ 70.05 LIMITATION OF LIABILITY.

Nothing in this subchapter shall be construed as an assumption of liability by the city for any injuries to persons or property that may result from the city's grant of a permit, or its failure to revoke a permit, for the operation of a motorized golf cart.
(Ord. 2023-05, passed 4-10-2023)

§ 70.06 CITY USE AUTHORIZED.

When conducting city business, authorized city staff may operate, without obtaining a permit, city-owned golf carts on city streets, sidewalks, trails, rights-of-way, and other public property.
(Ord. 2023-05, passed 4-10-2023)

SNOWMOBILES

§ 70.10 DEFINITIONS.

All definitions as used in M.S. § 84.81 are adopted and incorporated in this subchapter as if fully set forth herein. As used in this subchapter, the following terms shall mean:

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

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

PUBLIC ROAD RIGHT-OF-WAY. The entire right-of-way of a public road, including the traveled portions, banks, ditches, shoulder, median and boulevard of a road that is not privately owned.

SNOWMOBILE. A self-propelled vehicle designed for travel on snow or ice steered by skis or runners.
(Ord. --, passed 7-13-2009)

§ 70.11 TRAVEL ON CITY STREETS LIMITED.

Snowmobiles operating within the city shall travel from an operator's place of residence, out of the city, or from outside the city to the place of residence of the operator, by traveling the shortest possible route.
(Ord. --, passed 7-13-2009)

§ 70.12 PROHIBITED AREAS OF OPERATION.

No person shall drive or operate a snowmobile in any of the following areas:

(A) On public school grounds, city parks and other public land without written permission to do so by the proper public authority;

(B) On private property of another without written permission to do so by the owner or occupant of said property;

(C) On 5th Street from West Street to Blanch Street except while making a crossing at 5th Street at an angle of approximately 90 degrees to the direction of the street and at a place where no obstruction prevents a quick and safe crossing; or

(D) On any portion of a public road right-of-way which is not normally used or intended for vehicle travel.
(Ord. --, passed 7-13-2009)

§ 70.13 OPERATION GENERALLY.

Snowmobile operators shall abide by the following rules and regulations within the city limits:

(A) No one shall operate a snowmobile at a speed in excess of 15 miles per hour;

(B) No one shall operate a snowmobile in a careless, reckless or negligent manner so as to endanger the person or property of another or to cause injury or damage thereto;

(C) Snowmobiles shall come to a complete stop at all street intersections;

(D) Snowmobiles shall yield the right-of-way to all pedestrians and to all traffic which constitutes an immediate hazard; and

(E) Snowmobile operators shall abide by all provisions of M.S. §§ 84.81 to 84.90 and §§ 84.92 to 84.929, as amended.
(Ord. --, passed 7-13-2009)

§ 70.14 OPERATION BY MINORS LIMITED.

(A) No person under 14 years of age shall operate a snowmobile within a public road right-of-way within the city.

(B) No person 14 years of age or older, but less than 18 years of age shall operate a snowmobile within a public road right-of-way within the city unless they have in their immediate possession a valid snowmobile safety certificate for operation of a snowmobile issued by the Commissioner of Natural Resources for the State of Minnesota.

(C) No person under the age of 18 shall operate or ride upon a snowmobile without wearing a protective helmet or headgear that complies with the standards established by the Commissioner of Public Safety.
(Ord. --, passed 7-13-2009)

§ 70.15 TIMES OF OPERATION PROHIBITED.

No person shall drive or operate a snowmobile between the hours of 12:00 a.m. and 7:00 a.m. from Monday through Friday and between the hours of 1:00 a.m. and 7:00 a.m. on Saturday and Sunday.
(Ord. --, passed 7-13-2009)

§ 70.16 STATUTES ADOPTED.

M.S. §§ 84.81 to 84.90 and §§ 84.92 to 84.929, as amended, together with rules and regulations promulgated thereunder, are hereby adopted by reference, incorporated herein, and made a part hereof, except as otherwise provided herein.
(Ord. --, passed 7-13-2009)

TRUCK ROUTES AND LOAD LIMITS

§ 70.20 DEFINITIONS.

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

DEVIATING TRUCK. A truck which leaves or departs from a truck route.

TRUCK. Any vehicle designed or operated for the transportation of property and whose total weight loaded or unloaded exceeds 10,000 pounds, or is registered with a gross weight of 12,000 pounds or greater.

TRUCK ROUTE. Any street designated as such in this subchapter.
(Ord. 129, passed 3-9-1992)

§ 70.21 TRUCK TRAVEL RESTRICTED.

No truck shall be operated on any street other than a truck route and no truck shall be operated on any street in violation of a sign-posted load restriction, except as otherwise permitted in this subchapter.
(Ord. 129, passed 3-9-1992) Penalty, see § 10.99

§ 70.22 SHORTEST ROUTE TO DESTINATION.

Subject to posted seasonal load restriction and prohibitions of vehicular traffic, the operation of trucks is permitted upon any street where necessary to conduct the business at a destination point, provided streets upon which the traffic is permitted are used until reaching the intersection nearest the destination point.
(Ord. 129, passed 3-9-1992) Penalty, see § 10.99

§ 70.23 EMERGENCY VEHICLES.

The operation of emergency vehicles is permitted upon any street in the city.
(Ord. 129, passed 3-9-1992)

§ 70.24 STREET REPAIR OR CONSTRUCTION.

The operation and parking of trucks owned or operated by the city, public utilities, and any contractor or material men, while engaged in the repair, maintenance, or construction of streets, street improvement or street utilities, is permitted within the city.
(Ord. 129, passed 3-9-1992)

§ 70.25 DETOURS.

The operation of trucks upon any officially established detour in any case where the truck could be lawfully operated on the street for which the detour is established is permitted.
(Ord. 129, passed 3-9-1992)

§ 70.26 DESIGNATED TRUCK ROUTES.

The following streets within the city are truck routes:

Route	*From*	*To*
Highway 57 (Main Street)	Northern boundary of city limits	Southern boundary of city limits
County Road No. 12	Western boundary of city limits	Highway 57
East Street	Northern boundary of city limits	Seventh Street
Clay Street	Fourth Street	Ninth Street
Fourth Street	Clay Street	Highway 57 (Main Street)
Fifth Street	Eastern boundary of city limits	Clay Street
Sixth Street	Clay Street	Highway 57 (Main Street)
Seventh Street	Clay Street	East Street
Ninth Street	Clay Street	Highway 57 (Main Street)

(Ord. 129, passed 3-9-1992)

§ 70.27 MAPS.

The City Clerk-Treasurer shall keep and maintain accurate maps setting out the truck routes or streets upon which truck traffic is permitted and the maps shall be available to the public.
(Ord. 129, passed 3-9-1992)

§ 70.28 POSTING REQUIRED.

The City Council shall cause all truck routes and streets upon which truck traffic is permitted and truck routes and streets subject to load restrictions to be so sign-posted. No person shall be charged with violating the provisions of this subchapter by reason of operating or parking a truck upon a street in excess of load restrictions unless appropriate signs are posted on the street.
(Ord. 129, passed 3-9-1992)

§ 70.29 LAW ENFORCEMENT AUTHORITY.

Any law enforcement officer shall have the authority to require any person driving or in control of any truck not proceeding over a truck route or proceeding upon a street where load restrictions are sign-posted, to proceed to any public or private scale available for the purpose of weighing and determining whether this subchapter has been complied with.
(Ord. 129, passed 3-9-1992)

§ 70.30 OWNER'S RESPONSIBILITY.

In addition to the driver or operator, the owner of any truck being operated with his or her permission and consent shall be liable for any violation of this subchapter.
(Ord. 129, passed 3-9-1992)

§ 70.31 VIOLATIONS.

Any person who violates any provisions of this subchapter shall be guilty of a misdemeanor.
(Ord. 129, passed 3-9-1992) Penalty, see § 10.99

§ 70.32 EFFECTIVE DATE.

This subchapter becomes effective from and after its passage and publication.
(Ord. 129, passed 3-9-1992)

GENERAL PROVISIONS

§ 70.45 EXHIBITION DRIVING.

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

PERSON. Includes corporation, partnership, association, firm, or any other legal entity.

VEHICLE. Includes every device in, upon, or by which any person or property is or may be transported or drawn upon a street or alley, except devices moved by human power or used exclusively upon stationary rails or tracks.

(B) *Exhibition driving*. It shall be unlawful for any person of any type to drive and/or operate a vehicle within the limits of the City of Mantorville in such a manner so as to create or cause unnecessary or unusual engine noises or tire squeal, skidding, sliding, or swaying upon acceleration or stopping; or that simulates a temporary race; or that causes the vehicle to unnecessarily turn abruptly or away, which unreasonably annoys, disturbs, injures, or endangers the comfort, convenience, safety, health, welfare, or repose of persons in the vicinity thereof.

(C) *Violations*. Any person by himself or herself or itself or by his or her or its agent or employee who violates the provisions of this section shall be guilty of a misdemeanor.

(D) *Effective date*. This section shall take effect and be in force from and after its passage and publication.
(Ord. 85, passed 3-26-1975) Penalty, see § 10.99

§ 70.46 STATE HIGHWAY TRAFFIC REGULATION ACT ADOPTED.

(A) *Highway Traffic Regulation Act incorporated by reference*. The regulatory provisions of M.S. Chapters 168, 169, 169A, and 171, as they may be amended from time to time, are hereby adopted as a traffic ordinance regulating the use of highways, streets, and alleys within the City of Mantorville and are hereby incorporated in and made a part of this section as completely as if set out here in full.

(B) *Violations*. Any violation of the statutes adopted by reference in division (A) above is a violation of this section when it occurs within the City of Mantorville. Any person thus violating any provision of this section shall be guilty of such an offense and shall be punished by the penalty as is prescribed by the statutes (except where a different penalty is prescribed in this section).

(C) *Preservation of rights*. Except as provided by M.S. § 169.89, Subdivision 3, as it may be amended from time to time, the repeal of any ordinance or portion thereof by this section shall not affect or impair any act done or right vested or accrued, or proceeding, suit, or prosecution had or commenced shall remain in full force and effect to all intents and purposes as if the ordinance or part thereof so repealed has remained in force. No offense committed and no liability, penalty, or forfeiture either civilly or criminally incurred prior to the time when any such ordinance or part thereof shall be repealed or altered by the City of Mantorville shall be discharged or effected by the repeal or alteration, but prosecutions and suits for the offenses, liabilities, penalties, or forfeitures shall be instituted and proceeded with in all respects as if the prior ordinance or part thereof had not been repealed or altered.

(D) *Effective date*. This section becomes effective from and after its passage and publication.
(Ord. 76, passed 8-15-1973) Penalty, see § 10.99

§ 70.47 EXCESSIVE VEHICLE NOISES.

(A) It is unlawful for the operator of any truck on any public highway, street, parking lot or alley within the city to use, except in an emergency, a compression release engine brake that causes abnormal or excessive noise from the engine. For purposes of this section, ***COMPRESSION RELEASE ENGINE BRAKE*** means a dynamic brake, jake brake, jacobs brake, c-brake, paccar brake, transmission brake or other similar compression release engine brake system that alters the normal compression of the engine and subsequently releases that compression.

(B) M.S. §§ 169.69 and 169.693, as amended from time to time, are hereby adopted by reference. It is the intention of the City Council that all future amendments to such statutes are also adopted by reference as if they had been in existence at the time this section was adopted.

(C) Any person who violates division (A) or (B) of this section shall be guilty of a petty misdemeanor.
(Ord. 2023-03, passed 1-9-2023)

CHAPTER 71: PARKING REGULATIONS

Section

Parking During Snow Removal Operations

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71.02 Commencement of removal operations
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PARKING DURING SNOW REMOVAL OPERATIONS

§ 71.01 DEFINITIONS.

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

OWNER. Either a person who holds the legal title to real property or a person who holds the legal title of a vehicle, trailer, machinery, or equipment, or in the event a vehicle or trailer is subject to a conditional sale or lease agreement, the vendee or lessee of the vehicle or trailer shall be deemed the owner for the purpose of this subchapter.

PARKED. The stopping, standing, or parking of vehicles, trailers, machinery, equipment, or other device or property of any nature upon a street or alley whether accompanied or unaccompanied by the operator thereof.

SNOW REMOVAL PERIOD. The period of time commencing at the beginning of each snowfall and continuing until snow or ice plowing has been completed on the street or alley over the full width of the street or alley.

STREET or ***ALLEY.*** The entire width between boundary lines of any way or place when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular traffic. The term ***STREET*** specifically includes highway.

TRAILER. Every vehicle without motor power designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle.

VEHICLE. Every device in, upon, or by which any person or property is or may be transported or drawn upon a street or alley, except devices moved by human power or used exclusively upon stationary rails or tracks.
(Ord. 135, passed 12-19-1996)

§ 71.02 COMMENCEMENT OF REMOVAL OPERATIONS.

The City Street Supervisor, within 12 hours following the termination of snow, freezing rain, sleet, ice, snowdrifts, or other natural phenomena, which create or are likely to create hazardous road conditions impeding or likely to impede the free movement of fire, health, police, emergency, or other vehicular traffic or the safety and welfare of the community, shall commence the removal of the conditions from the streets, alleys, and highways within the city.
(Ord. 135, passed 12-19-1996)

§ 71.03 PARKING DURING SNOW REMOVAL PERIOD PROHIBITED.

No vehicle, trailer, machinery, equipment, or other device or property of any nature shall be parked, abandoned, or left unattended on any city street or alley in the city between the hours of 4:00 a.m. and noon during a snow removal period.
(Ord. 135, passed 12-19-1996) Penalty, see § 10.99

§ 71.04 EXEMPTIONS FROM PARKING PROHIBITION.

The foregoing provisions of § 71.03 shall not prohibit passenger vehicles from stopping for periods sufficient to load or discharge passengers from the vehicles. Commercial vehicles may stop for periods sufficient to load and unload cargo when special permission is obtained from the City Street Supervisor or the Police Department or Sheriff's Department provided the commercial vehicle is not left unattended.
(Ord. 135, passed 12-19-1996) Penalty, see § 10.99

§ 71.05 TOWING OF VEHICLES OR TRAILERS.

Any vehicle or trailer parked in or upon any street or alley in violation of this subchapter may be towed at the owner's expense.
(Ord. 135, passed 12-19-1996)

§ 71.06 TOWING OF VEHICLES OR TRAILERS VIOLATING THIS SUBCHAPTER; PILING OF SNOW.

(A) *Towing of vehicles.* Any vehicle, trailer, machinery, equipment, or other device or property of any nature which shall be left parked or standing in violation of this subchapter may be summarily removed without notice to the owner or operator by officers of the Police Department of the city or persons employed or designated by them and stored in any appropriate place. All necessary costs and expenses of towing, removing, and storage of the vehicles, trailers, machinery, equipment, or other device or property of any nature, shall be paid to the person doing the towing, by the person claiming the vehicles, trailers, or other property before release of the vehicles, trailers, or other property. The city shall not be responsible for any damage to the vehicles, trailers, or other property removed in accordance with the provisions of this subchapter.

(B) *Piling of snow.* No owner or occupant of real property abutting upon a public street or alley nor any person on behalf of any such owner or occupant shall:

(1) Push into or deposit upon the paved or improved roadway of any public street or alley, any snow or ice from the private property or from public boulevards adjoining the property;

(2) Pile snow at the heights and at the locations as to interfere with the view of the traveling public at public street and alley intersections and at private drives onto public streets and alleys; and/or

(3) A violation of the provisions of this division (B) shall not only subject the violator to petty misdemeanor penalties but shall also obligate the abutting owner or occupant and any agent of the owner or occupant, to reimburse the city for any expense incurred by it in removing snow unlawfully deposited or piled.
(Ord. 135, passed 12-19-1996) Penalty, see § 10.99

§ 71.07 VIOLATIONS.

Any person who violates any of the provisions of this subchapter shall be guilty of a petty misdemeanor and upon conviction thereof shall be punished by a fine in an amount not to exceed the amount permitted by Minnesota law.
(Ord. 135, passed 12-19-1996) Penalty, see § 10.99

§ 71.08 EFFECTIVE DATE.

This subchapter becomes effective from and after its passage and publication.
(Ord. 135, passed 12-19-1996)

GENERAL PARKING REGULATIONS

§ 71.20 DEFINITIONS.

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

CROSSWALK. The portion of a roadway ordinarily included within the prolongation or connection of the lateral lines of sidewalks at intersections.

CURB. The lateral boundaries of a roadway, whether or not marked by curbing.

DOUBLE PARKING. The parking of a vehicle on the roadway side of any vehicle stopped or parked at the edge or curb of a roadway.

DRIVER. Every person who drives or is in actual physical control of a vehicle.

INTERSECTION. The area embraced within the prolongation or connection of the lateral curbing lines, or if none, then the lateral boundary lines of the roadway of 2 streets which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different streets joining at any other angle may come in conflict.

MOTOR VEHICLE. Every vehicle which is self-propelled.

OWNER. A person who holds the legal title of a vehicle, or in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditions vendee or lessee or in the event a mortgagor of a vehicle is entitled to possession, then the conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of this subchapter.

PARK or ***PARKING.*** The stopping, standing, or parking of vehicles upon a street or alley whether accompanied or unaccompanied by the operator thereof, except temporary stops for the purpose of loading and unloading passengers.

PRIVATE ROAD OR DRIVEWAY. Every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

RIGHT-OF-WAY. The privilege of the immediate use of the street or alley.

ROADWAY. The portion of a street or alley improved, designed, or ordinarily used for vehicular travel.

SEMI-TRAILER. Every vehicle without motor power designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle.

SIDEWALK. The portion of a street between the curbing or the lateral lines of a roadway and the adjacent property lines, intended for the use of pedestrians.

STREET or ***ALLEY.*** The entire width between boundary lines of any way or place when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular traffic. The term ***STREET*** specifically includes highway.

TRAFFIC-CONTROL DEVICES. All signs, signals, markings, and devices not inconsistent with this subchapter placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning, or guiding traffic.

TRAILER. Every vehicle without motor power designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle.

TRUCK. Every motor vehicle designed, used, or maintained primarily for the transportation of property.

VEHICLE. Every device in, upon, or by which any person or property is or may be transported or drawn upon a street or alley, except devices moved by human power or used exclusively upon stationary rails or tracks.
(Ord. 130, passed 4-27-1992)

§ 71.21 PROHIBITED STOPS.

No person shall park a vehicle, whether attended or unattended, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control device, in any of the following places:

(A) On a sidewalk or on an improved boulevard between a sidewalk and a roadway;

(B) In front of a public or private driveway or alley or within 5 feet of the intersection of any public or private driveway or alley with any street;

(C) Within an intersection;

(D) Within 10 feet of a fire hydrant;

(E) On a crosswalk;

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

(G) At any place where temporary signs prohibit parking, stopping, or standing as long as the signs are in place;

(H) At any place where official signs or markings prohibit stopping, standing, or parking; and/or

(I) On a street or alley when directed or ordered to proceed by any person or police officer invested by law with authority to direct, control, or regulate traffic.
(Ord. 130, passed 4-27-1992) Penalty, see § 10.99

§ 71.22 PARKING PROHIBITED.

(A) *Private property*. No person shall park a vehicle or leave a vehicle parked on private property without consent of the owner or person in lawful possession of the property; provided, however, that enforcement of this division (A) on property the principal use of which is for other than single-family and duplex purposes is subject to the condition that there be a sign at each entrance to the parking lot stating: "Restricted Parking. For Use Only By _____," followed by a description of the type of parking permitted.

(B) *No parking zones*. No person shall park a vehicle, except as otherwise provided or unless directed to do so by a police officer, on any street or alley where the Council or the City Engineer has established a no parking zone and the zone is marked by a sign or yellow curbing.
(Ord. 130, passed 4-27-1992) Penalty, see § 10.99

§ 71.23 DOUBLE PARKING.

No person shall double park a vehicle, other than a truck, on any public street at any time, except as otherwise hereinafter provided. Trucks may be double parked not to exceed 15 minutes for the purpose of loading and unloading commodities under the following conditions:

(A) Alley access to the place of pickup or delivery does not exist; and

(B) Access to the curbing at or immediately adjacent to the place of pickup or delivery is blocked by other vehicles.
(Ord. 130, passed 4-27-1992) Penalty, see § 10.99

§ 71.24 PARKING OF CERTAIN VEHICLES RESTRICTED.

No person shall park any of the following described vehicles on any street or alley for more than 1 hour:

(A) Trucks of a capacity of more than 3/4 ton, according to manufacturer's rating;

(B) Trucks having an overall length of more than 20 feet, or width at any point of more than 6 feet; and

(C) Dump trucks, tractors, truck-tractors, trailers, boats and boat trailers, semi-trailers, or any heavy machinery.
(Ord. 130, passed 4-27-1992) Penalty, see § 10.99

§ 71.25 PARKING ZONES; GENERAL LIMITATION.

No person shall park any vehicle in any parking zone for a longer consecutive period of time than is designated on the signs erected in the zone. In those zones or areas where no signs are erected, no person shall park any vehicle for more than 24 consecutive hours.
(Ord. 130, passed 4-27-1992) Penalty, see § 10.99

§ 71.26 DISABLED VEHICLES.

The provisions of this subchapter relating to stopping, standing, and parking of vehicles shall not apply to the owner or driver of any vehicle which is disabled while on the roadway of any street or alley in the manner and to the extent that it is impossible to avoid stopping and temporarily leaving the disabled vehicle in an illegal position.
(Ord. 130, passed 4-27-1992)

§ 71.27 PRIMA FACIE EVIDENCE OF VIOLATION.

The presence of a vehicle in or upon any street or alley in the city, stopped, standing, or parked in violation of this subchapter, shall be prima facie evidence that the person in whose name the vehicle is registered as owner committed or authorized the commission of the violation.
(Ord. 130, passed 4-27-1992)

§ 71.28 VIOLATIONS.

Any person who violates any of the provisions of this subchapter shall be guilty of a petty misdemeanor.
(Ord. 130, passed 4-27-1992) Penalty, see § 10.99

§ 71.29 IMPOUNDING.

Any unoccupied vehicle found parked in violation of the provisions of this subchapter may be immediately removed and impounded by any police officer or person duly authorized by the police officer. The cost of removing and impounding the vehicle shall be borne by the owner thereof.
(Ord. 130, passed 4-27-1992)

§ 71.30 EFFECTIVE DATE.

This subchapter becomes effective from and after its passage and publication.
(Ord. 130, passed 4-27-1992)

TITLE IX: GENERAL REGULATIONS

Chapter

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91. RENTAL HOUSING

92. PARKS AND RECREATION

93. STREETS AND SIDEWALKS

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CHAPTER 90: ANIMALS

Section

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90.02 Running at large; licenses; vaccination
90.03 Impounding
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DOGS

§ 90.01 DEFINITIONS.

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

ANIMAL. Any mammal, reptile, amphibian, fish, bird, (including all fowl and poultry) or other member commonly accepted as a part of the animal kingdom. ***ANIMALS*** shall be classified as follows:

(1) ***DOMESTIC ANIMALS.*** Those animals commonly accepted as domesticated household pets. Unless otherwise defined, ***DOMESTIC ANIMALS*** shall include dogs, cats, caged birds, gerbils, hamsters, guinea pigs, domesticated rabbits, fish, non-poisonous, non-venomous and non-constricting reptiles or amphibians, and other similar animals.

(2) ***NON-DOMESTIC ANIMALS.*** Those animals commonly considered to be naturally wild and not naturally trained or domesticated, or which are commonly considered to be inherently dangerous to the health, safety, and welfare of the people. Unless otherwise defined, ***NON-DOMESTIC ANIMALS*** shall include:

(a) Any member of the large cat family (family felidae) including lions, tigers, cougars, bobcats, leopards and jaguars, but excluding commonly accepted domesticated house cats.

(b) Any naturally wild member of the canine family (family canidae) including wolves, foxes, coyotes, dingoes, and jackals, but excluding commonly accepted domesticated dogs.

(c) Any crossbreeds such as the crossbreed between a wolf and a dog, unless the crossbreed is commonly accepted as a domesticated pet.

(d) Any member or relative of the rodent family including any skunk (whether or not descented), raccoon, squirrel, or ferret, but excluding those members otherwise defined or commonly accepted as domesticated pets.

(e) Any poisonous, venomous, constricting, or inherently dangerous member of the reptile or amphibian families including rattlesnakes, boa constrictors, pit vipers, crocodiles and alligators.

(f) Any other animal which is not explicitly listed above but which can be reasonably defined by the terms of this subpart, including but not limited to bears, deer, monkeys and game fish.

AT LARGE. Off the premises of the owner and not under the custody and control of the owner or other person, either by leash, cord, chain, or otherwise restrained or confined.

DOG. Both the male and female of the canine species, commonly accepted as domesticated household pets, and other domesticated animals of a dog kind.

OWNER. Any person or persons, firm, association, or corporation owning, keeping, or harboring a dog.

RELEASE PERMIT. A permit issued by the City Clerk-Treasurer's office for the release of any dog that has been taken to Carriage House Animal Hospital. A release permit may be obtained upon payment of a fee to the City Clerk-Treasurer's office in accordance with the regular license requirement if the dog is unlicensed, payment of a release fee, and any maintenance costs incurred in capturing and impounding the dog. The impound fees shall be established by the City Council, and may be amended from time to time.
(Ord. 163, passed 2-28-2005; Am. Ord. passed 8-14-2006)

§ 90.02 RUNNING AT LARGE; LICENSES; VACCINATION.

(A) *Running at large prohibited.* It shall be unlawful for the dog or cat of any person who owns, harbors, or keeps a dog or cat, to run at large. A person, who owns, harbors, or keeps a dog or cat which runs at large shall be guilty of a misdemeanor. Dogs or cats on a leash and accompanied by a responsible person or accompanied by and under the control and direction of a responsible person, so as to be effectively restrained by command as by leash, shall be permitted in streets or on public land unless the city has posted an area with signs reading DOGS OR CATS PROHIBITED.

(B) *License required.*

(1) All dogs over the age of 6 months kept, harbored, or maintained by their owners in the city shall be licensed and registered with the city. Dog licenses shall be issued by the City Clerk-Treasurer's office upon payment of the license fee as established by the City Council, and as amended from time to time. The owner shall state, at the time application is made for the license and upon forms provided, his or her name and address and the name, breed, color, and sex of each dog owned or kept by him or her. No license shall be granted for a dog that has not been vaccinated against rabies, as evidenced by a certificate by a veterinarian qualified to practice in the state in which the dog is vaccinated.

(2) It shall be the duty of each owner of a dog subject to this section to pay to the City Clerk-Treasurer's office the license fee established by the City Council, and as amended from time to time.

(3) Upon payment of the license fee as established by City Council, and as that ordinance may be amended from time to time, the City Clerk-Treasurer's office shall issue to the owner a license certificate and metallic tag for each dog licensed. The tag shall have stamped on it the year for which it is issued and the number corresponding with the number on the certificate. Every owner shall be required to provide each dog with a collar to which the license tag must be affixed, and shall see that the collar and tag are constantly worn. In case a dog tag is lost or destroyed, a duplicate shall be issued by the City Clerk-Treasurer's office. A charge shall be made for each duplicate tag in an amount established by the City Council, and as amended from time to time. Dog tags shall not be transferable from 1 dog to another and no refunds shall be made on any dog license fee or tag because of death of a dog or the owner's leaving the city before the expiration of the license period.

(4) The licensing provisions of this division (B) shall not apply to dogs whose owners are non-residents temporarily within the city, nor to dogs brought into the city for the purpose of participating in any dog show, nor shall this provision apply to seeing eye dogs properly trained to assist blind persons for the purpose of aiding them in going from place to place.

(5) The funds received by the City Clerk-Treasurer's office from all dog licenses and metallic tags fees as established by the City Council, and as amended from time to time, shall first be used to defray any costs incidental to the enforcement of this subchapter; including, but not restricted to, the costs of licenses, metallic tags, and impounding and maintenance of the dogs.

(C) *Vaccination.*

(1) All dogs kept harbored, maintained, or transported within the city shall be vaccinated at least once every 2 years by a licensed veterinarian for rabies - with a live modified vaccine.

(2) A certificate of vaccination must be kept on which is stated the date of vaccination, owner's name and address, the dog's name (if applicable), sex, description and weight, the type of vaccine, and the veterinarian's signature. Upon demand made by the City Clerk-Treasurer's office or a law

enforcement officer, the owner shall present for examination the required certificate of vaccination for the dog. In cases where certificates are not presented, the owner or keeper of the dog shall have 7 days in which to present the certificate to the City Clerk-Treasurer's office or law enforcement officer. Failure to do so shall be deemed a violation of this section.
(Ord. 163, passed 2-28-2005) Penalty, see § 10.99

§ 90.03 IMPOUNDING.

(A) *Running at large*. Any dog running at large is hereby declared a public nuisance. A law enforcement officer may impound any dog unlicensed or any dog found running at large and shall give notice of the impounding of the dog to the City Clerk-Treasurer's office. The law enforcement officer shall not enter the property of the owner of a dog found running at large, or the owner of an unlicensed dog, unless the officer has first obtained the permission of the owner to do so or has obtained a warrant issued by a court of competent jurisdiction to search for and seize the dog. In case the owner is unknown, the City Clerk-Treasurer's office shall post notice at the city office that if the dog is not claimed within the time specified in division (C) of this section, it will be sold or otherwise disposed of. Except as otherwise provided in this section, it shall be unlawful to kill, destroy, or otherwise cause injury to any animal, including dogs running at large.

(B) *Biting dogs*. Any dog that has not been inoculated by a live modified rabies vaccine and which has bitten any person, wherein the skin has been punctured or the services of a doctor are required, shall be confined for a period of not less than 10 days, at the expense of the owner. The dog may be released at the end of the time if healthy and free from symptoms of rabies, and the payment of all costs by the owner. However, if the owner of the dog shall elect immediately upon receipt of notice of need for the confinement by the officer to voluntarily and immediately confine the dog for the required period of time in a veterinary hospital of the owner's choosing, not outside Dodge County, and provide immediate proof of confinement in the manner as may be required, the owner may do so. If, however, the dog has been inoculated with a live modified rabies vaccine and the owner has proof of the vaccination by a certificate from a licensed veterinarian, the owner may confine the dog to the owner's property.

(C) *Reclaiming*. All dogs conveyed to Carriage House shall be kept, with humane treatment and sufficient food and water for their comfort, at least 5 regular business days, unless the dog is a dangerous dog as defined under § 90.09 in which case it shall be kept for 7 regular business days or the times specified in § 90.09, and except if the dog is a cruelly-treated dog in which case it shall be kept for 10 regular business days, unless sooner reclaimed by their owners or keepers as provided by this section. In case the owner or keeper shall desire to reclaim the dog from the pound, the following shall be required, unless otherwise provided for in this code or established from time to time by resolution of the City Council:

(1) Payment of the release fee and receipt of a release permit as established by the City Council, and as amended from time to time;

(2) Payment of maintenance costs, as provided by the pound, per day or any part of day while the dog is in the pound; and

(3) If a dog is unlicensed, payment of a regular license fee as established by the City Council, and as amended from time to time, and a valid certificate of vaccination for rabies shots is required.

(D) *Unclaimed dogs*. At the expiration of the times established in division (C) of this section, if the dog has not been reclaimed in accordance with the provisions of this section, the officer appointed to enforce this section may let any person claim the dog by complying with all provisions in this section or cause the dog to be destroyed in a proper and humane manner and shall properly dispose of the remains thereof. Any money collected under this section shall be payable to the City Clerk-Treasurer's office.
(Ord. 163, passed 2-28-2005) Penalty, see § 10.99

§ 90.04 KENNELS.

(A) *Definition of kennel*. The keeping of 3 or more dogs on the same premises, whether owned by the same person or not and for whatever purpose kept, shall constitute a ***KENNEL***; except that a fresh litter of pups may be kept for a period of 3 months before that keeping shall be deemed to be a ***KENNEL.***

(B) *Kennel as a nuisance*. Because the keeping of 3 or more dogs on the same premises is subject to great abuse, causing discomfort to persons in the area by way of smell, noise, hazard, and general aesthetic depreciation, the keeping of 3 or more dogs on the premises is hereby declared to be a nuisance and no person shall keep or maintain a kennel within the city.
(Ord. 163, passed 2-28-2005) Penalty, see § 10.99

§ 90.05 NUISANCES.

(A) *Habitual barking*. It shall be unlawful for any person to keep or harbor a dog which habitually barks or cries. ***HABITUAL BARKING*** shall be defined as barking for repeated intervals of at least 5 minutes with less than 1 minute of interruption. The barking must also be audible off of the owner's or caretaker's premises.

(B) *Damage to property*. It shall be unlawful for any person's dog to damage any lawn, garden, or other property, whether or not the owner has knowledge of the damage.

(C) *Cleaning up litter*. The owner of any dog or person having the custody or control of any dog shall be responsible for cleaning up any feces of the dog and disposing of the feces in a sanitary manner whether on their own property, on the property of others or on public property.

(D) *Warrant required.* The law enforcement officer shall not enter the property of the owner of a dog described in this section unless the officer has first obtained the permission of the owner to do so or has obtained a warrant issued by a court of competent jurisdiction to search for and seize the dog.

(E) *Other.* Any dogs kept contrary to this section are subject to impoundment as provided in § 90.03.
(Ord. 163, passed 2-28-2005) Penalty, see § 10.99

§ 90.06 SEIZURE OF DOGS.

Any law enforcement officer may enter upon private property and seize any dog with the permission of the owner of the property, if that person is also the owner of the dog, provided that the following exist:

(A) There is an identified complainant other than the law enforcement officer making a contemporaneous complaint about the dog;

(B) The officer reasonably believes that the dog meets either the barking dog criteria set out in § 90.05(A); the criteria for cruelty set out in § 90.11; or the criteria for an at large dog set out in § 90.03(A);

(C) The officer can demonstrate that there has been at least 1 previous complaint of a barking dog; inhumane treatment of the dog; or that the dog was at large at this address on a prior date;

(D) The officer has made a reasonable attempt to contact the owner of the dog and the property to be entered and those attempts have either failed or have been ignored;

(E) The law enforcement officer shall not enter the property of the owner of a dog described in this section unless the officer has first obtained the permission of the owner to do so or has obtained a warrant issued by a court of competent jurisdiction to search for and seize the dog. If the officer has the permission of the owner, a property manager, landlord, innkeeper, or other authorized person to enter the property or has obtained a pass key from a property manager, landlord, innkeeper, or other authorized person to have that key shall not be considered unauthorized entry, and a warrant to search for and seize the dog need not be obtained; and

(F) Written notice of the seizure is left in a conspicuous place if personal contact with the owner of the dog is not possible.
(Ord. 163, passed 2-28-2005)

§ 90.07 DOGS PRESENTING A DANGER TO HEALTH AND SAFETY OF CITY.

If in the reasonable belief of any person or the law enforcement officer, a dog presents an immediate danger to the health and safety of any person, or the dog is threatening imminent harm to any person, or the dog is in the process of attacking any person, the officer may destroy the dog in a proper and humane manner whether or not the dog is on the property of its owner. Otherwise, the officer may apprehend the dog and deliver it to Carriage House Animal Hospital for confinement under § 90.05. If the dog is destroyed, the owner or keeper of the dog destroyed shall be liable to the city for the cost of maintaining and disposing of the dog, plus the costs of any veterinarian examination. If the dog is found not to be a danger to the health and safety of the city, it may be released to the owner or keeper in accordance with § 90.03(C).
(Ord. 163, passed 2-28-2005)

§ 90.08 DISEASED DOGS.

(A) *Running at large*. No person shall keep or allow to be kept on his or her premises, or on premises occupied by them, nor permit to run at large in the city, any dog which is diseased so as to be a danger to the health and safety of the city, even though the dog is properly licensed under this section, and a warrant to search for and seize the dog is not required.

(B) *Confinement*. Any dog reasonably suspected of being diseased and presenting a threat to the health and safety of the public, may be apprehended and confined in the pound by any law enforcement officer. The officer shall have a qualified veterinarian examine the dog. If the dog is found to be diseased in a manner so as to be a danger to the health and safety of the city, the officer shall cause the dog to be painlessly killed and shall properly dispose of the remains. The owner or keeper of the dog killed under this section shall be liable to the city for the cost of maintaining and disposing of the dog, plus the costs of any veterinarian examinations.

(C) *Release*. If the dog, upon examination, is not found to be diseased, the dog shall be released to the owner or keeper free of charge.
(Ord. 163, passed 2-28-2005) Penalty, see § 10.99

§ 90.09 DANGEROUS DOGS.

(A) *Attack by a dog*. It shall be unlawful for any person's dog to inflict or attempt to inflict bodily injury to any person or other dog whether or not the owner is present. This section shall not apply to an attack by a dog under the control of an on-duty law enforcement officer or to an attack upon an uninvited intruder who has entered the owner's home with criminal intent.

(B) *Destruction of dangerous dogs*. The law enforcement officer shall have the authority to order the destruction of dangerous dogs in accordance with the terms established by this chapter.

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

DANGEROUS DOG. A dog which has:

(a) Caused bodily injury or disfigurement to any person on public or private property;

(b) Engaged in any attack on any person under circumstances which would indicate danger to personal safety;

(c) Exhibited unusually aggressive behavior, such as an attack on another animal;

(d) Bitten 1 or more persons on 2 or more occasions; or

(e) Been found to be potentially dangerous and/or the owner has personal knowledge of the same, the dog aggressively bites, attacks, or endangers the safety of humans or domestic animals.

POTENTIALLY DANGEROUS DOG. A dog which has:

(a) Bitten a human or a domestic animal on public or private property;

(b) When unprovoked, chased or approached a person upon the streets, sidewalks, or any public property in an apparent attitude of attack; or

(c) Has engaged in unprovoked attacks causing injury or otherwise threatening the safety of humans or domestic animals.

PROPER ENCLOSURE. Securely confined indoors or in a securely locked pen or structure suitable to prevent the dog from escaping and to provide protection for the dog from the elements. A proper enclosure does not include a porch, patio, or any part of a house, garage, or other structure that would allow the dog to exit on its own volition, or any house or structure in which windows are open or in which door or window screens are the only barriers which prevent the dog from exiting. The enclosure shall not allow the egress of the dog in any manner without human assistance. A pen or kennel shall meet the following minimum specifications:

(a) Have a minimum overall floor size of 32 square feet;

(b) Sidewalls shall have a minimum height of 5 feet and be constructed of 11-gauge or heavier wire. Openings in the wire shall not exceed 2 inches, support posts shall be 1¼-inch or larger steel pipe buried in the ground 18 inches or more. When a concrete floor is not provided, the sidewalls shall be buried a minimum of 18 inches in the ground;

(c) A cover over the entire pen or kennel shall be provided. The cover shall be constructed of the same gauge wire or heavier as the sidewalls and shall also have no openings in the wire greater than 2 inches; and

(d) An entrance/exit gate shall be provided and be constructed of the same material as the sidewalls and shall also have no openings in the wire greater than 2 inches. The gate shall be equipped with a device capable of being locked and shall be locked at all times when the dog is in the pen or kennel.

UNPROVOKED. The condition in which the dog is not purposely excited, stimulated, agitated, or disturbed.

(D) *Designation as potentially dangerous dog*. The law enforcement officer shall designate any dog as a potentially dangerous dog upon receiving evidence that the potentially dangerous dog has, when unprovoked, then bitten, attacked, or threatened the safety of a person or a domestic animal as stated in division (C)(2) above. When a dog is declared potentially dangerous, the law enforcement officer shall cause 1 owner of the potentially dangerous dog to be notified in writing that the dog is potentially dangerous.

(E) *Evidence justifying designation*. The law enforcement officer shall have the authority to designate any dog as a dangerous dog upon receiving evidence of the following:

(1) That the dog has, when unprovoked, bitten, attacked, or threatened the safety of a person or domestic animal as stated in division (C)(1) above; and/or

(2) That the dog has been declared potentially dangerous and the dog has then bitten, attacked, or threatened the safety of a person or domestic animal as stated in division (C)(1) above.

(F) *Authority to order destruction*. The law enforcement officer, upon finding that a dog is dangerous hereunder, is authorized to order, as part of the disposition of the case, that the dog be destroyed based on a written order containing 1 or more of the following findings of fact:

(1) The dog is dangerous as demonstrated by a vicious attack, an unprovoked attack, an attack without warning or multiple attacks; or

(2) The owner of the dog has demonstrated an inability or unwillingness to control the dog in order to prevent injury to persons or other animals.

(G) *Procedure*. The law enforcement officer, after having determined that a dog is dangerous, may proceed in the following manner. The law enforcement officer shall cause 1 owner of the dog to be notified in writing or in person that the dog is dangerous and may order the dog seized or make orders

as deemed proper. This owner shall be notified as to dates, times, places, and parties bitten, and shall be given 14 days to appeal this order by requesting a hearing before the City Council for a review of this determination.

(1) If no appeal is filed, the law enforcement officer shall obtain an order or warrant authorizing the seizure and the destruction of the dog from a court of competent jurisdiction, unless the dog is already in custody or the owner consents to the seizure and destruction of the dog.

(2) If an owner requests a hearing for determination as to the dangerous nature of the dog, the hearing shall be held before the City Council, which shall set a date for the hearing not more than 3 weeks after demand for the hearing. The records of law enforcement or City Clerk-Treasurer's office shall be admissible for consideration by the law enforcement officer without further foundation. After considering all evidence pertaining to the temperament of the dog, the City Council shall make an order as it deems proper. The City Council may order that the law enforcement officer take the dog into custody for destruction, if the dog is not currently in custody. If the dog is ordered into custody for destruction, the owner shall immediately make the dog available to the law enforcement officer. If the owner does not immediately make the dog available, the law enforcement officer shall obtain an order or warrant authorizing the seizure and the destruction of the dog from a court of competent jurisdiction.

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

(H) *Stopping an attack*. If any law enforcement officer is witness to an attack by a dog upon a person or another animal, the officer may take whatever means the officer deems appropriate to bring the attack to an end and prevent further injury to the victim.

(I) *Notification of new address*. The owner of a dog which has been identified as dangerous or potentially dangerous shall notify law enforcement in writing if the dog is to be relocated from its current address or given or sold to another person. The notification shall be given in writing at least 14 days prior to the relocation or transfer of ownership. The notification shall include the current owner's name and address, the relocation address, and the name of the new owner, if any.
(Ord. 163, passed 2-28-2005) Penalty, see § 10.99

§ 90.10 DANGEROUS DOG REQUIREMENTS.

(A) *Requirements*. If the City Council does not order the destruction of a dog that has been declared dangerous, the City Council may, as an alternative, order any or all of the following:

(1) That the owner provide and maintain a proper enclosure for the dangerous dog as specified in § 90.09(C);

(2) Post the front and the rear of the premises with clearly visible warning signs, including a warning symbol to inform children, that there is a dangerous dog on the property as specified in M.S. § 347.51, as it may be amended from time to time;

(3) Provide and show proof annually of public liability insurance in the minimum amount of $300,000;

(4) If the dog is outside the proper enclosure, the dog must be muzzled and restrained by a substantial chain or leash (not to exceed 6 feet in length) and under the physical restraint of a person 16 years of age or older. The muzzle must be of a design as to prevent the dog from biting any person or animal, but will not cause injury to the dog or interfere with its vision or respiration;

(5) The dog must have an easily identifiable, standardized tag identifying the dog as dangerous affixed to its collar at all times as specified in M.S. § 347.51, as it may be amended from time to time, and shall have a microchip implant as provided by M.S. § 347.515, as it may be amended from time to time;

(6) All dogs deemed dangerous by law enforcement shall be registered with Dodge County within 14 days after the date the dog was so deemed and provide satisfactory proof thereof to law enforcement; and/or

(7) The dog must be licensed and up to date on rabies vaccination.

(B) *Seizure*. As authorized by M.S. § 347.54, as it may be amended from time to time, the law enforcement officer shall immediately seize any dangerous dog if the owner does not meet each of the above requirements within 14 days after the date notice is sent to the owner that the dog is dangerous. Seizure may be appealed to district court by serving a summons and petition upon the city and filing it with the district court.

(C) *Reclaiming dogs*. A dangerous dog seized under division (B) above may be reclaimed by the owner of the dog upon payment of impounding and boarding fees and presenting proof to the City Clerk-Treasurer's office that each of the requirements under division (A) above is fulfilled. A dog not reclaimed under this section within 14 days may be disposed of as provided under division (D) below, and the owner is liable to the city for costs incurred in confining and impounding the dog.

(D) *Subsequent offenses*. If an owner of a dog has subsequently violated the provisions under this section with the same dog, the dog must be seized by law enforcement. The owner may request a hearing as defined in ths subchapter. If the owner is found to have violated the provisions for which the dog was seized, the law enforcement officer shall order the dog destroyed in a proper and humane manner and the owner shall pay the costs of confining the dog. If the person is found not to have violated the provisions for which the dog was seized, the owner may reclaim the dog under the provisions of division (C) above. If the dog is not yet reclaimed by the owner within 14 days after the

date the owner is notified that the dog may be reclaimed, the dog may be disposed of as provided under division (C) above and the owner is liable to the City Clerk-Treasurer's office for the costs incurred in confining, impounding, and disposing of the dog.
(Ord. 163, passed 2-28-2005)

§ 90.11 BASIC CARE.

All dogs shall receive from their owners or keepers kind treatment, housing in the winter, and sufficient food and water for their comfort. Any person not treating their pet in a humane manner will be subject to the penalties provided in this section.
(Ord. 163, passed 2-28-2005) Penalty, see § 10.99

§ 90.12 BREEDING MORATORIUM.

Every female dog in heat shall be confined in a building or other enclosure in a manner that it cannot come in contact with another dog except for planned breeding. Upon capture and failure to reclaim the dog, every dog shall be neutered or spayed prior to being transferred to a new owner.
(Ord. 163, passed 2-28-2005) Penalty, see § 10.99

§ 90.13 ENFORCING OFFICER.

The Council is hereby authorized to appoint law enforcement officer(s) to enforce the provisions of this subchapter. In the officer's duty of enforcing the provisions of this section, he or she may from time to time designate assistants.
(Ord. 163, passed 2-28-2005)

§ 90.14 POUND.

Every year the Council shall designate an official pound to which dogs found in violation of this chapter shall be taken for safe treatment, and, if necessary, for destruction.
(Ord. 163, passed 2-28-2005)

§ 90.15 INTERFERENCE WITH OFFICERS.

No person shall in any manner molest, hinder, or interfere with any person authorized to capture dogs and convey them to the pound while engaged in that operation. Nor shall any unauthorized person break open the pound, or attempt to do so, or take or attempt to take from any agent, any dog taken up by him or her in compliance with this chapter, or in any other manner to interfere with or hinder the officer in the discharge of his or her duties under this chapter.
(Ord. 163, passed 2-28-2005) Penalty, see § 10.99

§ 90.16 VIOLATIONS.

(A) *Misdemeanor*. Unless otherwise provided, violation of this subchapter shall constitute a misdemeanor punishable as provided in § 10.99.

(B) *Petty misdemeanor*. Violations of portions of this subchapter are petty misdemeanors punishable as provided in § 10.99.
(Ord. 163, passed 2-28-2005)

LIVESTOCK

§ 90.30 DEFINITIONS.

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

PERSON. In addition to the usual meaning thereof, includes a corporation, partnership, association, firm, or any other legal entity.
(Ord. 87, passed 5-22-1975)

§ 90.31 PROHIBITION.

It shall be unlawful for any person to keep or harbor any horses, mules, cattle, sheep, swine, goats, chickens, turkeys, or other domestic fowls within the platted areas of the City of Mantorville or to permit the same to be done upon premises owned, occupied, or controlled by him or her, except on parcels of land containing 5 or more acres, and not within 1,000 feet of the historic district, and only upon filing for and being granted a conditional use permit.
(Ord. 87, passed 5-22-1975) Penalty, see § 10.99

§ 90.32 STABLES AND BARNS.

It shall be unlawful for any person to keep, maintain, or cause to be kept or maintained in any unplatted areas of the City of Mantorville any stable or barn located within 50 feet of a place of human habitation in which the stable or barn are kept or harbored horses, mules, cattle, sheep, swine, or goats. The stables or barns lawfully located shall be kept clean and free of noxious odors so as not to be injurious to health and safety or so as not to unreasonably annoy or disturb the comfort and repose of persons in the vicinity thereof.
(Ord. 87, passed 5-22-1975) Penalty, see § 10.99

§ 90.33 ANIMALS WITH CONTAGIOUS DISEASES.

Animals with contagious diseases of any kind shall be securely confined on the premises of the owner or harborer and shall not be permitted to approach within 50 feet of any public roadway or any place where animals belonging to or harbored by another person are confined or kept.
(Ord. 87, passed 5-22-1975) Penalty, see § 10.99

§ 90.34 VIOLATIONS.

Any person who violates any of the provisions of this subchapter shall be guilty of a misdemeanor.
(Ord. 87, passed 5-22-1975) Penalty, see § 10.99

§ 90.35 EFFECTIVE DATE.

This subchapter becomes effective from and after its passage and publication.
(Ord. 87, passed 5-22-1975)

CHICKENS

§ 90.36 CHICKENS.

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

CHICKEN COOP. A temporary structure for housing chickens made of wood or other materials that provides shelter from the elements.

CHICKEN RUN. A fenced outside area for keeping chickens.

PREMISES. Any platted lot or group of contiguous lots, parcels or tracts of land.

(B) *Permit; chickens limited.* No person shall keep or harbor chickens on any premises unless the city has granted them a permit. No permit shall be issued for the keeping or harboring of more than 6 hen chickens on any premises. No permit shall be issued for the keeping of a rooster on any premises. Roosters may be present, however, on any permitted premises for time periods not to exceed 48 hours strictly for the purpose of breeding, and then must be removed for a period no less than 14 days.

(C) *Conditions and restrictions.* The permit shall be subject to all terms and conditions of this subchapter and any additional conditions deemed necessary by the Council to protect the public health, safety and welfare. The necessary permit applications will be available in the City Clerk's office. An initial fee and a renewal fee, which the City Council may establish by resolution from time to time, shall be charged for each permit. Permits shall be effective for 1 year and may be renewed for additional 1 year periods.

(D) *Confinement.* Chickens must be confined at all times in a chicken coop or chicken run. Chicken coops and runs shall comply with the following requirements:

(1) *Setback.* The location of the chicken coop or run shall comply with the setback requirements for accessory structures in the zoning district in which the property lies.

(2) *Chicken coops.* Chicken coops must not exceed 60 square feet (by outside dimensions) or 6 feet in height, and must provide at least 2 square feet per chicken. Coops must be elevated with a clear open space of at least 24 inches between the ground and the floor or framing of the coops. The coops floor, foundation, and footings must be constructed to make the coop rodent resistant.

(3) *Chicken runs.* Chicken runs must not exceed 120 square feet or 6 feet in height, and may be enclosed with wood or woven wire.

(4) *Screening.* All chicken coops and runs shall be screened with a solid fence or landscaped buffer with a minimum height of 4 feet.

(5) *Feed.* Chicken feed must be stored in rodent and raccoon-proof containers.

(E) *Conditions.* The premises where chickens are kept must be maintained in a healthy and sanitary condition, in a manner that will prevent noxious or offensive odors from being carried to adjacent property.

(F) *Inspection.* Any chicken coop or run may be inspected at any reasonable time by a city animal control official or other agent of the city to determine compliance with this subchapter and the applicable permit.

(G) *Penalty.* A violation of this subchapter is a misdemeanor.
(Ord. --, passed 4-22-2013)

NON-DOMESTIC ANIMALS

§ 90.40 DEFINITIONS.

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

ANIMAL. Any mammal, reptile, amphibian, fish, bird, (including all fowl and poultry) or other member commonly accepted as a part of the animal kingdom. ***ANIMALS*** shall be classified as follows:

(1) ***DOMESTIC ANIMALS.*** Those animals commonly accepted as domesticated household pets. Unless otherwise defined, ***DOMESTIC ANIMALS*** shall include dogs, cats, caged birds, gerbils, hamsters, guinea pigs, domesticated rabbits, fish, non-poisonous, non-venomous and non-constricting reptiles or amphibians, and other similar animals.

(2) ***NON-DOMESTIC ANIMALS.*** Those animals commonly considered to be naturally wild and not naturally trained or domesticated, or which are commonly considered to be inherently dangerous to the health, safety, and welfare of the people. Unless otherwise defined, ***NON-DOMESTIC ANIMALS*** shall include:

(a) Any member of the large cat family (family felidae) including lions, tigers, cougars, bobcats, leopards and jaguars, but excluding commonly accepted domesticated house cats.

(b) Any naturally wild member of the canine family (family canidae) including wolves, foxes, coyotes, dingoes, and jackals, but excluding commonly accepted domesticated dogs.

(c) Any crossbreeds such as the crossbreed between a wolf and a dog, unless the crossbreed is commonly accepted as a domesticated pet.

(d) Any member or relative of the rodent family including any skunk (whether or not descented), raccoon, squirrel, or ferret, but excluding those members otherwise defined or commonly accepted as domesticated pets.

(e) Any poisonous, venomous, constricting, or inherently dangerous member of the reptile or amphibian families including rattlesnakes, boa constrictors, pit vipers, crocodiles and alligators.

(f) Any other animal which is not explicitly listed above but which can be reasonably defined by the terms of this subpart, including but not limited to bears, deer, monkeys and game fish. (Ord. passed 8-14-2006)

§ 90.41 PROHIBITED WITHIN CITY LIMITS.

It shall be illegal for any person to own, possess, harbor, or offer for sale, any non-domestic animal within the city limits. Any owner of such an animal at the time of adoption of this section shall have 30 days in which to remove the animal from the city after which time the city may impound the animal as provided for in this section. An exception shall be made to this prohibition for animals specifically trained for and actually providing assistance to the handicapped or disabled, and for those animals brought into the city as part of an operating zoo, veterinarian clinic, scientific research laboratory, or a licensed show or exhibition.
(Ord. passed 8-14-2006) Penalty, see § 90.42

§ 90.42 VIOLATIONS AND PENALTY.

(A) *Separate offenses*. Each day a violation of § 90.41 is committed or permitted to continue shall constitute a separate offense and shall be punishable as such under this section.

(B) *Misdemeanor*. Unless otherwise provided, violation of § 90.41 shall constitute a misdemeanor punishable by a fine up to $1,000 or imprisonment for up to 90 days or both.
(Ord. passed 8-14-2006)

CHAPTER 91: RENTAL HOUSING

Section

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§ 91.01 REGISTRATION CERTIFICATE REQUIRED.

(A) No owner shall allow another person to occupy, nor shall any person let to another for occupancy, any dwelling, or any real property upon which a manufactured home may be placed (rental unit), without first obtaining a registration certificate as provided in this chapter, or when the registration certificate, or the right to receive the registration certificate, is suspended or revoked. This registration certificate is also referred to within this chapter as a rental license or license. Any registration certificate obtained pursuant to this section shall be issued in the name of the owner. In the case of a multiple unit

dwelling, a registration certificate issued pursuant to this section includes and applies to both the entire dwelling as well as each individual rental unit within the dwelling. Any suspension or revocation of the registration certificate or the right to receive a registration certificate may involve the entire dwelling or an individual unit or units within the dwelling.

(B) The occupancy or rental of any dwelling or any real property upon which a manufactured home may be placed, or any apartment, or rooming unit in any dwelling for which a registration certificate is required, need not be interrupted or suspended for lack of a registration certificate if the same is due to the inability of the City Clerk-Treasurer to process the application in a timely manner, or if the owner is in the process of complying with a notice of deficiencies from the City Clerk-Treasurer within the period of time authorized by the City Clerk-Treasurer.
(Ord. 161, passed 7-28-2004) Penalty, see § 10.99

§ 91.02 APPLICATION FOR REGISTRATION CERTIFICATE.

An application for a registration certificate shall be filed by the owner with the City Clerk-Treasurer. An application for any dwelling to be converted to a use, which would require a registration certificate, shall be made and filed with the City Clerk-Treasurer at least 30 days prior to the conversion.
(Ord. 161, passed 7-28-2004)

§ 91.03 APPLICATION FORMS.

Application forms for registration certificates shall be supplied by the City Clerk-Treasurer and available at City Hall.
(Ord. 161, passed 7-28-2004)

§ 91.04 APPLICATIONS.

Each application for registration certificate shall contain the following information:

(A) Name, residence address, telephone number, and date of birth of the owner of the rental unit. If the owner is a partnership, the name of the partnership, and the name, residence address, telephone number, and date of birth of the managing partner. If the owner is a corporation, the name and address of the corporation, and the name, address, telephone number, and date of birth of the chief operating officer and majority shareholder(s). If the owner is a limited liability company or a limited liability company partnership, the name and address of the limited liability company or limited liability partnership and the name, address, telephone number, and date of birth of the chief manager/president.

If the dwelling is being sold on a contract for deed, the name and address of the contract vendee. Where the word owner is used in any part of the city housing code, it shall include all persons as outlined in this section;

(B) Name, residence address, telephone number, and date of birth of any agent appointed by the owner to accept service of process and to receive or give receipt for notices;

(C) Name, residence address, telephone number, and date of birth of any operator or agent actively involved in maintenance or management of the dwelling;

(D) Legal street address of the dwelling;

(E) Complete details of the number of kind of units offered for rent, classified as to the type on the application, and the facilities incorporated in the rental units;

(F) Any person making application for rental registration certificate must provide proof of identification by the use of a driver's license, state issued identification card, military identification card, or the other identification as is acceptable to the City Clerk-Treasurer. The identification provided must set forth the full name and date of birth of the person making the application; and

(G) An acknowledgment that the applicant has reviewed and understands the provisions of this chapter, intends to abide by the provisions and will include reference to this chapter in any written lease used in renting the property.
(Ord. 161, passed 7-28-2004)

§ 91.05 COMPLIANCE WITH ZONING REQUIREMENTS.

Every application for registration certificate shall be accompanied by a certificate issued by the City Clerk-Treasurer indicating that the proposed use of the dwelling is in compliance with zoning requirements.
(Ord. 161, passed 7-28-2004)

§ 91.06 INVESTIGATION.

The City Clerk-Treasurer may investigate all applications for the registration certificate to verify that the dwellings, apartments, or rooming units offered for rent comply with the provisions of this code.
(Ord. 161, passed 7-28-2004)

§ 91.07 ISSUANCE AND POSTING OF REGISTRATION CERTIFICATE.

Whenever the investigation of an application indicates that the dwellings, apartments, or rooming units offered for rent comply with all provisions of this code, the City Clerk-Treasurer shall issue a registration certificate. Every registrant of a dwelling, apartment, or rooming unit offered for rent shall post the registration certificate in a conspicuous place.
(Ord. 161, passed 7-28-2004)

§ 91.08 NOTICE OF VIOLATION.

Whenever the investigation of an application for registration certificate indicates that the dwelling, apartment, or rooming unit offered for rent does not comply with the provisions of the Mantorville City Code, the City Clerk-Treasurer shall serve a notice to the applicant. Additionally, owners of rental property must give notice of outstanding violations under this chapter to purchasers of the property.
(Ord. 161, passed 7-28-2004)

§ 91.09 REJECTION OF APPLICATION.

Whenever the investigation of an application for registration certificate indicates that the rental unit does not comply with the provisions of this code, and from the nature of the violations, the dwelling, apartment, or rooming unit cannot be brought up to meet the minimum requirements, the City Clerk-Treasurer shall return the application to the applicant stating the reasons for the rejection of the application.
(Ord. 161, passed 7-28-2004)

§ 91.10 TEMPORARY RENTAL REGISTRATION CERTIFICATES.

The City Clerk-Treasurer may issue a temporary rental registration certificate when corrections required following inspection do not constitute a fire, safety, or health hazard to the tenants or the general public, and the repairs are not practically feasibly as a result of factors beyond the rental unit's owner's control. The factors may include climatic conditions or the unavailability of contractors, supplies, or materials needed to make the corrections. A temporary rental registration certificate shall be conditioned upon the rental unit's owner making the needed corrections with timeliness determined by the City Clerk-Treasurer and identified on the temporary certificate. The temporary certificate shall expire if the work is not completed, inspected, and approved by the City Clerk-Treasurer.
(Ord. 161, passed 7-28-2004)

§ 91.11 APPEALS.

Any applicant whose application for registration certificate, after investigation has been rejected by the City Clerk-Treasurer, may request and shall be granted a hearing in the matter before the Board established pursuant to and under the procedures set forth in § 91.19.
(Ord. 161, passed 7-28-2004)

§ 91.12 FAILURE TO REGISTER.

Every person required to register a dwelling, apartment, or rooming unit offered for rent under the provisions of this chapter and who fails to do so, after being notified of the need to register or who allows the property to be occupied when the registration certificate or right to receive the registration certificate is revoked or suspended, shall be guilty of a violation of this code. Each day that a rental unit is rented out without a valid rental registration certificate on file for that property is a separate violation. A knowing violation of this section shall be a misdemeanor.
(Ord. 161, passed 7-28-2004) Penalty, see § 10.99

§ 91.13 CERTIFICATE RENEWAL AND NONTRANSFERABILITY.

(A) All registration certificates shall expire 1 year after date of issuance and must be renewed annually. All information requested by this chapter must be submitted at the time of renewal. Whenever the applicant certified that no change has been made in a rental unit, a renewal registration may be issued without inspection by the City Clerk-Treasurer, provided the owner certifies that the units are in compliance with this code, including any applicable provisions of the zoning, building, fire safety, or health ordinances.

(B) Every person who transfers title to property registered under this chapter shall provide the City Clerk-Treasurer with the name, residence address, telephone number, and date of transfer of title to the new owner within 10 days of the date of the transfer. Within 30 days of the date of the transfer, the new owner shall apply for a new registration certificate. In the case of an option contract where the holder of the option is collecting rents and/or is paying on the mortgage to the property while the option remains unexercised, the holder of the option shall be deemed to be the owner of the property for purposes of this section and shall be required to apply for a rental registration certificate in his or her name. The date the option contract is created shall be deemed to be the date the holder of the option becomes the owner for purposes of this section.

(C) Registration certificates may not be transferred or assigned.
(Ord. 161, passed 7-28-2004)

§ 91.14 SUSPENSION OR REVOCATION OF REGISTRATION CERTIFICATE.

(A) Any registration certificate issued by the city pursuant to the provisions of this chapter may be suspended or revoked upon a finding that the certificate holder, during the term of the certificate, failed to comply with any provision of the Mantorville City Code, any applicable federal or state statute or administrative rule, or any county ordinance.

(B) A person's right to apply and receive a registration certificate may be suspended or revoked upon a finding that the applicant has let to another for occupancy any rental unit without first obtaining a registration certificate as required by this chapter and, during the time, has failed to comply with any provision of the Mantorville City Code, any applicable federal or state statute or administrative rule, or any county ordinance.

(C) Whenever it appears to the Council that adequate grounds may exist for the suspension or revocation of a registration certificate, or the right to receive a registration certificate, the Council shall by resolution specify the nature of the alleged grounds and order that a hearing on the matter be held as provided below.

(D) No suspension or revocation shall be effective until after the license or permit holder has been afforded an opportunity for a hearing before the Mantorville City Council. License holders may offer any relevant evidence and the City Council will decide whether and/or under what circumstances the license may be suspended or revoked.

(E) Upon a finding that the registration certificate holder or applicant has violated any such statute, rule, or ordinance, the Council may invoke any of the sanctions provided in this chapter.
(Ord. 161, passed 7-28-2004)

§ 91.15 FEES.

(A) In addition to the other fees, as may be imposed by this code, a nonrefundable fee of $25 for each dwelling or rental property containing less than 4 living units, $30 for each dwelling building containing 4 to 8 units. If an application for renewal is not made prior to the expiration of the certificate, an additional fee of $3.50 per day shall be charged for each day thereafter up to 20 days or until the application is filed, whichever occurs first. In addition to any other fee provided by this section, an owner shall pay an additional fee of $50 if, without reasonable cause, the owner fails to keep a scheduled appointment.

(B) There shall be no additional fee charged for an initial inspection to determine the existence of a violation of this code, nor any fee for the first reinspection to determine compliance with an order to correct a code violation. An additional $50 fee shall be charged for each subsequent reinspection occurring after the due date for compliance with and order. The reinspection fee may be waived by the

City Clerk-Treasurer or the City Clerk-Treasurer's designees in case of an error or other reasonable cause, including with extension of time for compliance, an unclear or incorrect correction order, or a change of ownership during the time allotted for compliance. All fees collected under this chapter shall be paid to the city.

(C) The foregoing fee amounts may be amended from time to time by resolution of the City Council. The amended fee amounts will be set forth on the master fee schedule, Chapter 32, Appendix A.
(Ord. 161, passed 7-28-2004; Am. Ord. --, passed 2-9-2009)

§ 91.16 LEGISLATIVE INTENT.

(A) It is declared to be the purpose and intent of this chapter to protect and preserve the city's neighborhoods and the public health, safety, welfare, and morals of those who live there.

(B) The City Council determines that:

(1) There are persons residing in rental property in the city engaging in disorderly conduct which results in a hostile environment for other citizens living close to the rental property;

(2) There is currently no city ordinance which provides a formal procedure by which the city can notify a rental property owner or manger of the disorderly conduct occurring on the property; and

(3) There is currently no procedure by which the city can require a rental property owner or manger to respond to and resolve the occurrences of disorderly conduct occurring on his or her rental property and take administrative action against his or her rental registration certificate or right to obtain a rental registration certificate should he or she fail to do so.

(C) Accordingly, it is the intent of this chapter to address the serious and, at times, life threatening problems posed by the occurrence of disorderly conduct to the health and safety of all city residents in all portions of the city. At the same time, the City Council recognizes, acknowledges, and complies with all due process and property rights enjoyed by those who own or manage rental property as well as those who reside in the property. This chapter represents the city's good faith effort to balance those competing and legitimate interests.
(Ord. 161, passed 7-28-2004)

§ 91.17 DEFINITIONS.

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

APPROPRIATE ACTION. The action which a reasonable rental property owner would take based upon the facts and circumstances of each case so as to prevent a reoccurrence of the disorderly use.

DISORDERLY or ***DISORDERLY USE.*** The conduct occurring on the license premises or premises which violates a provision of this chapter, the Mantorville City Code, or Minnesota state statutes.

LICENSE. A registration certificate or the right to receive a registration certificate as required by this chapter.

LICENSED PREMISES or ***PREMISES.*** The property owned, operated, or managed by a rental property owner and shall refer to an individual unit within a multi-unit complex when applicable.

RENTAL PROPERTY OWNER. One who holds the license or who is otherwise obligated to obtain and maintain the license as required by this chapter.
(Ord. 161, passed 7-28-2004)

§ 91.18 CONDUCT ON LICENSED PREMISES.

(A) Any rental property owner shall be responsible to take appropriate action against persons occupying specific units in the licensed premises or premises who conduct themselves in a manner as to cause the premises to be disorderly in violation of the statutes or ordinances listed in this chapter. For purposes of this chapter, the term persons occupying the premises shall include any tenant, and those persons on the licensed premises whose presence the tenant has invited or to which the tenant has acquiesced. Violations of this section apply to individual units within buildings or complexes containing multiple units when the conduct occurs within a unit. Violations of this section by persons occupying specific units that occur within a common area of the licensed premises shall apply both to the individual unit and to the common area of the licensed premises.

(B) Disorderly use shall include, but not be limited to, behaviors described in the following ordinances and statutes:

(1) Any section of the Mantorville City Code regarding public protection, crimes, and offenses;

(2) M.S. §§ 617.80 through 617.87, as they may be amended from time to time, regarding public nuisances;

(3) M.S. §§ 617.23 through 617.299, as they may be amended from time to time, prohibiting obscenity;

(4) M.S. §§ 609.75 through 609.76, as they may be amended from time to time, prohibiting gambling;

(5) M.S. §§ 152.01 through 152.025 and 152.027, Subdivisions 1 and 2, as they may be amended from time to time, prohibiting the unlawful sale or possession of controlled substances;

(6) M.S. Chapter 340A, as it may be amended from time to time, prohibiting the unlawful sale, use, or possession of alcoholic beverages;

(7) M.S. §§ 97B.021, 97B.045, 609.66 through 609.67, and 624.712 through 624.716, as they may be amended from time to time, prohibiting the unlawful possession, transportation, sale, or use of a weapon;

(8) M.S. § 609.72, as it may be amended from time to time, prohibiting disorderly conduct; or

(9) M.S. §§ 609.221, 609.299, 609.223, 609.2231, and 609.224, as they may be amended from time to time, prohibiting assaults, except that domestic assaults, as the same are defined by state law, are not included herein.

(C) The Dodge County Sheriff's Office or City Clerk-Treasurer shall be charged with the responsibility of enforcing this chapter.

(D) Upon determination by the Dodge County Sheriff's Office or City Clerk-Treasurer that the licensed premises were involved in a disorderly use, the Dodge County Sheriff's Office or City Clerk-Treasurer shall notify the license holder by regular mail of the violation and direct the license holder to take appropriate action to prevent further violations. Notice shall be effective if mailed to the license holder at that person's last known address. This and subsequent notices are collectively referred to a disorderly use notices.

(E) If another instance of disorderly use on the premises occurs within 12 months of an incident for which a prior disorderly use notice was given, the license holder shall be notified of the instance of disorderly use and shall also be required to submit a written report or appropriate actions taken by the rental unit's owner to prevent further disorderly use of the premises. This written report shall be submitted to the Dodge County Sheriff's Office and City Clerk-Treasurer within 5 days of the notice of disorderly use of the premises and shall, in addition to the report of appropriate actions to be taken, detail all actions taken by the rental property owner in response to all notices to all notices of disorderly use of the premises within the preceding 12 months. Failure to submit the written report as required herein shall be a basis for the imposition of a fine and the revocation or suspension of the license or right to receive the license for the specific units or units located on the licensed premises as otherwise provided for in this chapter.

(F) If another instance of disorderly use of the premises occurs within 12 months of 2 or more prior disorderly use notices, the license or right to obtain the license may be revoked or suspended for a specific unit or units located on the licensed premises. If the notice of violation has been issued with respect to a common area of a building or complex of buildings then the license or right to obtain the license as to all units in the building or complex may be suspended or revoked.

(G) If another instance of disorderly use of the premises occurs within 12 months of the expiration of a prior suspension issued pursuant to the provisions of this chapter, the license or right to obtain the license may be revoked or suspended for the specific unit or units located on the licensed premises. If the notice of violation has been issued with respect to a common area of a building or complex of buildings then the license or right to obtain the license as to all units in the building or complex may be suspended or revoked.

(H) No suspension or revocation or other sanctions shall be imposed where 1 or more of the 3 required disorderly use notices were mailed or delivered to the landlord after the rental property owner has filed an unlawful detainer action with the district court for the particular unit or units identified in the disorderly use notice. Calls to the Sheriff made by rental property owners shall not be considered incidents of disorderly use in the implementation of this chapter. The initiation of an unlawful detainer action shall not be a bar to sanctions, however, unless the action is diligently pursued by the rental property owner. Notice of and a copy of the unlawful detainer action shall be delivered to the Dodge County Sheriff's Office and City Clerk-Treasurer. A determination that the licensed premises have been involved in a disorderly use as described in this chapter shall be made upon a preponderance of the evidence. It shall not be necessary that criminal charges be brought to support a determination of disorderly use, nor shall the fact of dismissal or acquittal of such a criminal charge operate as a bar to adverse license action under this section.

(I) This section applies to all leases, whether written or oral, and a landlord may consider any tenant's conduct listed in this chapter to be both a material breach of the lease and grounds for termination in any unlawful detainer action. Additionally, all written leases executed after 8-1-2004 shall contain a clause providing that conduct that violates this chapter constitutes both a material breach of the lease and grounds for termination of the lease.

(J) This chapter is not intended to supersede criminal sanctions that may be applied to the individual who violates the statutes and ordinances listed in this chapter.
(Ord. 161, passed 7-28-2004) Penalty, see § 10.99

§ 91.19 LICENSE SUSPENSION AND REVOCATION.

(A) Upon a determination that a license or right to obtain such a license may be superceded or revoked, or that a fine or other sanctions may be imposed, a public hearing shall be held before a body to be known as the Rental Housing Complaint Board, to be appointed by the Mayor. The Rental Housing Complaint Board shall consist of 1 City Council Member, 1 city resident, the Mayor, a registered rental property owner and a person employed in tow enforcement. All parties shall be afforded an opportunity to appear at the hearing after receiving reasonable notice. The notices shall state the time, place, and issues involved. At this hearing, rental property owners may present evidence of mitigating circumstances showing the absence of any need for a public hearing before the City Council to consider the revocation or suspension of the license or right to receive such a license, or the imposition of fines or other sanctions. The Board shall in good faith hear and consider this evidence in

making a determination to hold a public hearing. At the conclusion of the hearing, the board shall make a recommendation to the City Council regarding whether a need exists for a public hearing. The Board's recommendation must be submitted to the City Council for its consideration. If the City Council determines to call for a public hearing to consider the issue of suspension or revocation, or the imposition of a fine, the City Council shall follow the procedures described in division (B) below.

(B) No suspension or revocation shall be effective until the rental property owner has been afforded an opportunity for a hearing under §§ 14.57 to 14.70 of the Minnesota Administrative Procedure Act, as they may be amended from time to time. Should the City Council hold a public hearing pursuant to the recommendation of the Rental Housing Complaint Board, all interested parties, including law enforcement, shall be afforded an opportunity to appear at the hearing after receiving reasonable notice. The notice shall state the time, place, and issues involved. At the hearing, license holders may present evidence of mitigating circumstances that would allow a rental unit owner to retain his or her license or the right to obtain such a license. The City Council shall in good faith hear and consider this evidence in making its determination to revoke or suspend the license or right to receive a license, impose civil penalties, or impose other reasonable conditions based upon violations of this chapter. The City Council may postpone or discontinue the proceedings if it appears that the license has taken appropriate measures that will prevent further instances of disorderly use.

(C) The City Council reserves the right to impose any of the following sanctions for violations of this chapter:

(1) Suspend the license or right to receive a license for up to 60 days;

(2) Revoke the license or right to receive a license and establish the time period after which an application for a new certificate for the premises may be made;

(3) Impose a civil fine not to exceed an amount equal to 1 month's rent for each violation found as a result of the hearings; or

(4) Impose other reasonable conditions intended to limit future incidents of disorderly use.

(D) Upon expiration of the suspension or revocation period, a license holder shall pay to the city a reinstatement fee equal to $100 for the first unit re-license and $20 for each additional unit.
(Ord. 161, passed 7-28-2004)

§ 91.20 PROSPECTIVE TENANT BACKGROUND INVESTIGATIONS.

(A) The City Council has determined that there are persons residing in rental properly in Mantorville engaging in disorderly conduct which results in a hostile environment for other citizens living in or close to the rental property. It is the declared purpose and intent of this section to protect and preserve the city's neighborhoods and the public health, safety, welfare, and morals of its citizens by providing a system at the local level for criminal history/background investigations prospective tenants.

(B) Any owner of rental property may request that the Dodge County Sheriff's Office conduct a criminal history/background investigation of the prospective tenant. The request shall be on a form approved or provided by the Dodge County Sheriff's Office. The applicant shall pay an investigation fee as established on the Master Fee Schedule of the City Council.
(Ord. 161, passed 7-28-2004)

§ 91.21 EFFECTIVE DATE.

This chapter shall be in full force and effect from and after its passage and publication as required by law.
(Ord. 161, passed 7-28-2004)

CHAPTER 92: PARKS AND RECREATION

Section

92.01 Hours of operation
92.02 Use of roadway; parking
92.03 Overnight parking or camping
92.04 Pet animals
92.05 Glass containers
92.06 Littering
92.07 Riverside Park rules

92.99 Penalty

§ 92.01 HOURS OF OPERATION.

The public parks shall be open for public use between 7:00 a.m. and 10:00 p.m. of each day and additional hours as may be necessary to conclude city-authorized events. The periods of use or hours of use may be changed from time to time by authorized park personnel. However, notice is to be posted at entrances thereto advising of the change of hours or periods of use. It si unlawful to enter the park during the hours closed to use by the public, except by permission of authorized park personnel.
(Ord. passed 7-24-2006) Penalty, see § 92.99

§ 92.02 USE OF ROADWAY; PARKING.

All vehicles shall be operated only upon the roadways and parking areas. Vehicles shall not be parked on any grassy area within the park.
(Ord. passed 7-24-2006) Penalty, see § 92.99

§ 92.03 OVERNIGHT PARKING OR CAMPING.

It is unlawful for any person to park a motor vehicle in a public park after park hours or to camp in a public park.
(Ord. passed 7-24-2006) Penalty, see § 92.99

§ 92.04 PET ANIMALS.

Pet animals are permitted in city parks. All pet animals shall be adequately restrained by a durable leash, cord, chain, or other similar restraint and the pet animal shall be under the direct physical control of the owner, or restrained to a solid and permanent fixture. Pet owners shall pick up and properly dispose of all pet excrement.
(Ord. passed 7-24-2006) Penalty, see § 92.99

§ 92.05 GLASS CONTAINERS.

No glass containers shall be allowed in city parks.
(Ord. passed 7-24-2006) Penalty, see § 92.99

§ 92.06 LITTERING.

It is unlawful for any person to burn or otherwise dispose of garbage, refuse, fecal matter, or trash of any kind, except in designated receptacles or facilities within the city park.
(Ord. passed 7-24-2006) Penalty, see § 92.99

§ 92.07 RIVERSIDE PARK RULES.

The following rules apply to the use of Riverside Park, in addition to the other rules set forth in this chapter:

(A) Fishing is permitted in the Zumbro River, subject to state laws and regulations;

(B) Visitors shall not step onto or walk across the dam; and

(C) Swimming is prohibited.
(Ord. --, passed 2-9-2009)

§ 92.99 PENALTY.

Any person who violates any of the provisions of this chapter shall be guilty of a petty misdemeanor punishable by a fine not to exceed the amount set by Minnesota law.
(Ord. passed 7-24-2006; Am. Ord. --, passed 2-9-2009)

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CHAPTER 93: STREETS AND SIDEWALKS

Section

General Provisions

93.01 Unloading on street or sidewalk
93.02 Street and sidewalk obstruction
93.03 Materials on street or sidewalk
93.04 Sidewalk maintenance and repair

Right-Of-Way Construction Regulations

93.20 Election to manage the public right-of-way
93.21 Definitions and adoption of rules by reference
93.22 Permit requirement
93.23 Permit applications
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93.32 Supplementary notification
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93.34 Mapping data; information required
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93.37 Right-of-way vacation
93.38 Indemnification and liability
93.39 Abandoned facilities; removal of abandoned facilities
93.40 Appeal
93.41 Reservation of regulatory and police powers

GENERAL PROVISIONS

§ 93.01 UNLOADING ON STREET OR SIDEWALK.

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

§ 93.02 STREET AND SIDEWALK OBSTRUCTION.

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

§ 93.03 MATERIALS ON STREET OR SIDEWALK.

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

§ 93.04 SIDEWALK MAINTENANCE AND REPAIR.

(A) *Responsibility*. It is the responsibility of the owner of the property against which any sidewalk abuts to keep and maintain such sidewalk in safe and usable condition.

(B) *Construction, reconstruction and repair specifications*. All construction, reconstruction, and repair of sidewalks must be done in strict accordance with the specifications on file in the office of the City Clerk.

(C) *Notice; emergency and non-emergency*. When any section of sidewalk is in need of maintenance, repair or reconstruction to be safe and usable, the City Clerk must give notice to the abutting property owner. Such notice shall describe the work that must be done to restore the sidewalk to safe and usable condition. The notice shall also state that the work must be completed within 90 days if no emergency exists or within 10 days if, in the opinion of the City Engineer, an emergency exists. The notice shall be sent to the address of the abutting property owner as shown on the Dodge County property tax records.

(D) *Failure of owner to maintain and repair sidewalks*. If the owner of the abutting property fails to timely complete all work required by the notice described in division (C) above, then the Council may order the uncompleted work to be done under its direction and assess the cost of such work to the abutting property owner as a special assessment.
(Ord.--, passed 11-24-2008)

RIGHT-OF-WAY CONSTRUCTION REGULATIONS

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

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

§ 93.21 DEFINITIONS AND ADOPTION OF RULES BY REFERENCE.

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

§ 93.22 PERMIT REQUIREMENT.

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

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

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

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

(C) *Delay penalty*. In accordance with Minn. Rules part 7819.1000 subp. 3, as it may be amended from time to time and notwithstanding division (B) of this section, the city shall establish and impose a delay penalty for unreasonable delays in right-of-way excavation, obstruction, patching, or restoration. The delay penalty shall be set by City Council, as it may be amended from time to time.

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

§ 93.23 PERMIT APPLICATIONS.

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

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

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

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

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

(a) Verifying that an insurance policy has been issued to the registrant by an insurance company licensed to do business in the state, or a form of self-insurance acceptable to the Clerk, Utilities Superintendent or other person designated by the Council;

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

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

(d) Requiring that the Clerk, Utilities Superintendent or other person designated by the Council 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 Clerk, Utilities Superintendent or other person designated by the Council in amounts sufficient to protect the city and the public and to carry out the purposes and policies of this chapter.

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

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

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

(B) Payment of money due the city for:

(1) Permit fees shall be set by City Council as they may be amended from time to time, estimated restoration costs and other management costs;

(2) Prior obstructions or excavations;

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

(4) Franchise fees or other charges as set by City Council as they may be amended from time to time, if applicable.

§ 93.24 ISSUANCE OF PERMIT; CONDITIONS.

(A) *Permit issuance*. If the applicant has satisfied the requirements of this chapter, the Clerk, Utilities Superintendent or other person designated by the Council shall issue a permit.

(B) *Conditions*. The Clerk, Utilities Superintendent or other person designated by the Council may impose reasonable conditions upon the issuance of the permit and the performance of the applicant thereunder to protect the health, safety, and welfare or when necessary to protect the right-of-way and its current use.

§ 93.25 PERMIT FEES.

Permit fees shall be in an amount set by City Council, as they may be amended from time to time.

(A) *Excavation permit fee*. The City Council shall establish an excavation permit fee, as may be amended from time to time, in an amount sufficient to recover the following costs:

(1) The city management costs; and

(2) Degradation costs, if applicable.

(B) *Obstruction Permit Fee*. The City Council shall establish the obstruction permit fee, as may be amended from time to time, and shall be in an amount sufficient to recover the city management costs.

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

(D) *Non-refundable*. Permit fees as established by the City Council, as they may be amended from time to time, that were paid for a permit that the Clerk, Utilities Superintendent or other person designated by the Council has revoked for a breach as stated in § 93.33 are not refundable.

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

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

§ 93.26 RIGHT-OF-WAY PATCHING AND RESTORATION.

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

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

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

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

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

(D) *Duty to correct defects.* The permittee shall correct defects in patching, or restoration performed by the permittee or its agents. The permittee upon notification from the Clerk, Utilities Superintendent or other person designated by the Council, shall correct all restoration work to the extent necessary, using the method required by the Clerk, Utilities Superintendent or other person designated by the Council. The work shall be completed within 5 calendar days of the receipt of the notice from the Clerk, Utilities Superintendent or other person designated by the Council, not including days during which work cannot be done because of circumstances constituting force majeure or days when work is prohibited as unseasonal or unreasonable under this subchapter.

(E) *Failure to restore.* If the permittee fails to restore the right-of-way in the manner and to the condition required by the Clerk, Utilities Superintendent or other person designated by the Council, or fails to satisfactorily and timely complete all restoration required by the Clerk, Utilities Superintendent or other person designated by the Council, the Clerk, Utilities Superintendent or other person designated by the Council at his or her option may do the 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.

(F) *Degradation fee in lieu of restoration.* In lieu of right-of-way restoration, a right-of-way user may elect to pay a degradation fee as established by City Council, as it may be amended from time to time. However, the right-of-way user shall remain responsible for patching and the degradation fee shall not include the cost to accomplish these responsibilities.

§ 93.27 SUPPLEMENTARY APPLICATIONS.

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

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

§ 93.28 DENIAL OF PERMIT.

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

§ 93.29 INSTALLATION REQUIREMENTS.

The excavation, backfilling, patching and restoration, and all other work performed in the right-of-way shall be done in conformance with Minn. Rules part 7819.1100, as it may be amended from time to time and other applicable local requirements, in so far as they are not inconsistent with M.S. §§ 237.162 and 237.163, as they may be amended from time to time.

§ 93.30 INSPECTION.

(A) *Notice of completion.* When the work under any permit hereunder is completed, the permittee shall furnish a completion certificate in accordance Minn. Rules part 7819.1300, as it may be amended from time to time.

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

(C) *Authority of Clerk, Utilities Superintendent or other person designated by the Council.*

(1) At the time of inspection, the Clerk, Utilities Superintendent or other person designated by the Council may order the immediate cessation of any work which poses a serious threat to the life, health, safety, or well-being of the public.

(2) The Clerk, Utilities Superintendent or other person designated by the Council may issue an order to the permittee for any work which does not conform to the terms of the permit or other applicable standards, conditions, or codes. The order shall state that failure to correct the violation will be cause for revocation of the permit. Within 10 days after issuance of the order, the permittee shall present proof to the Clerk, Utilities Superintendent or other person designated by the Council that the violation has been corrected. If proof has not been presented within the required time, the Clerk, Utilities Superintendent or other person designated by the Council may revoke the permit pursuant to § 93.33.

§ 93.31 WORK DONE WITHOUT A PERMIT.

(A) *Emergency situations.*

(1) Each person with facilities in the right-of-way shall immediately notify the city of any event regarding its facilities which it considers to be an emergency. The owner of the facilities may proceed to take whatever actions are necessary to respond to the emergency. Within 2 business days after the occurrence of the emergency, the owner shall apply for the necessary permits, pay the fees associated therewith and fulfill the rest of the requirements necessary to bring itself into compliance with this chapter for the actions it took in response to the emergency.

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

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

§ 93.32 SUPPLEMENTARY NOTIFICATION.

If the obstruction or excavation of the right-of-way begins later or ends sooner than the date given on the permit, the permittee shall notify the Clerk, Utilities Superintendent or other person designated by the Council of the accurate information as soon as this information is known.

§ 93.33 REVOCATION OF PERMITS.

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

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

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

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

(4) The failure to complete the work in a timely manner; unless a permit extension is obtained or unless the failure to complete work is due to reasons beyond the permittees control; or

(5) The failure to correct, in a timely manner, work that does not conform to a condition indicated on an order issued pursuant to § 93.30.

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

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

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

§ 93.34 MAPPING DATA; INFORMATION REQUIRED.

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

§ 93.35 LOCATION OF FACILITIES.

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

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

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

§ 93.36 DAMAGE TO OTHER FACILITIES.

When the city does work in the right-of-way and finds it necessary to maintain, support, or move facilities to protect it, the Clerk, Utilities Superintendent or other person designated by the Council shall notify the local representative as early as is reasonably possible and placed as required. The costs associated therewith will be billed to that registrant and must be paid within 30 days from the date of billing. Each facility owner shall

be responsible for the cost of repairing any facilities in the right-of-way which it or its facilities damages. Each facility owner shall be responsible for the cost of repairing any damage to the facilities of another registrant caused during the city's response to an emergency occasioned by that owner's facilities.

§ 93.37 RIGHT-OF-WAY VACATION.

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

§ 93.38 INDEMNIFICATION AND LIABILITY.

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

§ 93.39 ABANDONED FACILITIES; REMOVAL OF ABANDONED FACILITIES.

Any person who has abandoned facilities in any right-of-way shall remove them from that right-of-way if required in conjunction with other right-of-way repair, excavation, or construction, unless this requirement is waived by the Clerk, Utilities Superintendent or other person designated by the Council.

§ 93.40 APPEAL.

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

§ 93.41 RESERVATION OF REGULATORY AND POLICE POWERS.

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

CHAPTER 94: ABANDONED PROPERTY

Section

94.01 Definition
94.02 Open areas
94.03 Nonconforming motor vehicles
94.04 Permitted debris storage
94.05 Violation deemed a public health and safety hazard
94.06 Abatement procedure
94.07 Effective date

94.99 Penalty

§ 94.01 DEFINITION.

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

DEBRIS. Shall include the following:

(1) Garbage, litter, or refuse;

(2) Dead trees and brush or the remains thereof;

(3) Wreckage from buildings or other structures;

(4) Inoperable machines, appliances, fixtures, and equipment or dismantled parts therefrom, that are so damaged, deteriorated, or obsolete as to have no substantial value and which constitute junk;

(5) Lumber piles and building materials not being used in actual construction on the premises; and

(6) Old or junk tires, iron, glass, broken or damaged furniture, mattresses, box springs, boxes, crates, cardboard, and other junk material and debris.
(Ord. 147, passed 11-12-2001)

§ 94.02 OPEN AREAS.

All open and parts of premises within the City of Mantorville shall be kept in a reasonably clean and neat condition. This requirement shall include the removal of debris as defined in this chapter. (Ord. 147, passed 11-12-2001) Penalty, see § 94.99

§ 94.03 NONCONFORMING MOTOR VEHICLES.

(A) ***MOTOR VEHICLE*** means every vehicle which is self-propelled.

(B) No person shall place, park, permit to remain, store, or leave upon an open space area of any premises governed by this chapter, any motor vehicle unless it conforms with all the following requirements:

(1) The vehicle must have affixed to it a valid current motor vehicle license;

(2) The vehicle must not lack essential parts that would render it inoperable; and

(3) The vehicle must not be in a wrecked, partially dismantled, or junked condition.

(C) If a motor vehicle fails to meet any of the above requirements, the owner or possessor of the motor vehicle shall be responsible to remove the motor vehicle to a duly licensed junk yard or other authorized place of deposit or storage within 10 working days of a written demand by the city. In the event the owner or possessor of the motor vehicle cannot be located, then it shall be deemed the responsibility of the owner of the premises to remove the motor vehicle to a duly licensed junk yard or other authorized place of deposit or storage within 10 working days of a written demand by the city. (Ord. 147, passed 11-12-2001) Penalty, see § 94.99

§ 94.04 PERMITTED DEBRIS STORAGE.

Anything herein to the contrary not withstanding, this chapter does not apply to:

(A) The activities of duly established and licensed junk yards;

(B) Any debris kept, deposited, or stored within a building provided the debris is so kept or stored therein so as not to be injurious to health and safety and so as not to be in violation of any other ordinance or law; and

(C) Any debris including garbage and refuse kept within covered metal or plastic fly-proof containers and which is periodically removed and disposed of at intervals not exceeding 1 week. (Ord. 147, passed 11-12-2001)

§ 94.05 VIOLATION DEEMED A PUBLIC HEALTH AND SAFETY HAZARD.

A person in violation of §§ 94.02 or 94.03 shall be deemed to have created in the city a public health and safety hazard. Any employee or other authorized agent of the city is hereby authorized to enter upon any premises within the city to inspect and determine if a violation of this chapter may exist. If a violation is found to exist as provided in § 94.02, the city shall mail by first-class mail a written notice of the violation to the owner of the premises at his or her address as listed on the records of the office of the Dodge County Treasurer. If the owner or owners of the premises fail to cause the debris to be removed within 30 working days of the written notice, the person or persons identified as the owner or owners of the premises will be subject to penalties and abatement by the city as provided in §§ 94.06 and 94.99.
(Ord. 147, passed 11-12-2001)

§ 94.06 ABATEMENT PROCEDURE.

If the owner or owners of premises fail, within the time limitations set forth in § 94.05, to abate a public health and safety hazard contained on any property, the city by and through its authorized personnel may enter upon the property and abate the public health or safety hazard by any reasonable means, including the contracting with a private person to do so. Any expenses incurred by the city in the abatement of a public health or safety hazard under this section shall be the responsibility of the property owner, and if subsequently unpaid, may be assessed against the property as provided in M.S. § 429.101, as it may be amended from time to time.
(Ord. 147, passed 11-12-2001)

§ 94.07 EFFECTIVE DATE.

This chapter becomes effective from and after its passage and publication.
(Ord. 147, passed 11-12-2001)

§ 94.99 PENALTY.

Any person who violates any of the provisions of this chapter shall be guilty of a misdemeanor and upon conviction thereof shall be punishable in accordance with Minnesota law.
(Ord. 147, passed 11-12-2001) Penalty, see § 10.99

CHAPTER 95: HEALTH AND SAFETY; NUISANCES

Section

Nuisances

95.01 Public nuisance
95.02 Public nuisances affecting health
95.03 Public nuisances affecting morals and decency
95.04 Public nuisances affecting peace and safety
95.05 Nuisance parking and storage
95.06 Inoperable motor vehicles
95.07 Building maintenance and appearance
95.08 Duties of city officers
95.09 Abatement

NUISANCES

§ 95.01 PUBLIC NUISANCE.

Whoever by his or her act or failure to perform a legal duty intentionally does any of the following is guilty of maintaining a public nuisance, which is a misdemeanor:

(A) Maintains or permits a condition which unreasonably annoys, injures or endangers the safety, health, morals, comfort, or repose of any considerable number of members of the public;

(B) Interferes with, obstructs, or renders dangerous for passage any public highway or right-of-way, or waters used by the public; or

(C) Is guilty of any other act or omission declared by law or §§ 95.02, 95.03, or 95.04, or any other part of this code to be a public nuisance and for which no sentence is specifically provided.
Penalty, see § 10.99

§ 95.02 PUBLIC NUISANCES AFFECTING HEALTH.

The following are hereby declared to be nuisances affecting health:

(A) Exposed accumulation of decayed or unwholesome food or vegetable matter;

(B) All diseased animals running at large;

(C) All ponds or pools of stagnant water;

(D) Carcasses of animals not buried or destroyed within 24 hours after death;

(E) Accumulations of manure, refuse, or other debris;

(F) Privy vaults and garbage cans which are not rodent free or fly tight or which are so maintained as to constitute a health hazard or to emit foul and disagreeable odors;

(G) The pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste, or other substances;

(H) All noxious weeds and other rank growths of vegetation upon public or private property;

(I) Dense smoke, noxious fumes, gas and soot, or cinders, in unreasonable quantities;

(J) All public exposure of people having a contagious disease;

(K) Any offensive trade or business as defined by statute not operating under local license; and

(L) Any grass or non-noxious weeds which exceed 8 inches in height, except for the following exceptions:

(1) Grass and non-noxious weeds in wetlands;

(2) Grass and non-noxious weeds growing on natural or altered slopes that are steeper than 2:1;

(3) Grass and non-noxious weeds growing on property that is being actively farmed;

(4) Prairie, meadow or natural landscape vegetation that is maintained and includes the cultivation of native grasses and does not contain any noxious weed growth; and

(5) Publicly-owned parks, trails, and nature areas.

(Am. Ord. 2020-04, passed 11-23-2020) Penalty, see § 10.99

§ 95.03 PUBLIC NUISANCES AFFECTING MORALS AND DECENCY.

The following are hereby declared to be nuisances affecting public morals and decency:

(A) All gambling devices, slot machines, and punch boards, except as otherwise authorized by federal, state, or local law;

(B) Betting, bookmaking, and all apparatus used in those occupations;

(C) All houses kept for the purpose of prostitution or promiscuous sexual intercourse, gambling houses, houses of ill fame, and bawdy houses;

(D) All places where intoxicating liquor is manufactured or disposed of in violation of law or where, in violation of law, people are permitted to resort for the purpose of drinking intoxicating liquor, or where intoxicating liquor is kept for sale or other disposition in violation of law, and all liquor and other property used for maintaining that place; and

(E) Any vehicle used for the unlawful transportation of intoxicating liquor, or for promiscuous sexual intercourse, or any other immoral or illegal purpose.
Penalty, see § 10.99

§ 95.04 PUBLIC NUISANCES AFFECTING PEACE AND SAFETY.

The following are declared to be nuisances affecting public peace and safety:

(A) All snow and ice not removed from public sidewalks 24 hours after the snow or other precipitation causing the condition has ceased to fall;

(B) All trees, hedges, billboards, or other obstructions which prevent people from having a clear view of all traffic approaching an intersection;

(C) All wires and limbs of trees which are so close to the surface of a sidewalk or street as to constitute a danger to pedestrians or vehicles;

(D) All obnoxious noises in violation of Minn. Rules Ch. 7030, as they may be amended from time to time, which are hereby incorporated by reference into this code;

(E) The discharging of the exhaust or permitting the discharging of the exhaust of any stationary internal combustion engine, motor boat, motor vehicle, motorcycle, all-terrain vehicle, snowmobile, or any recreational device except through a muffler or other device that effectively prevents loud or explosive noises therefrom and complies with all applicable state laws and regulations;

(F) The using or operation or permitting the using or operation of any radio receiving set, musical instrument, phonograph, paging system, machine, or other device for producing or reproduction of sound in a distinctly and loudly audible manner so as to disturb the peace, quiet, and comfort of any person nearby. Operation of any device referred to above between the hours of 10:00 p.m. and 7:00 a.m. in a manner so as to be plainly audible at the property line of the structure or building in which it is located, or at a distance of 50 feet if the source is located outside a structure or building shall be prima facie evidence of violation of this section;

(G) No person shall participate in any party or other gathering of people giving rise to noise, unreasonably disturbing the peace, quiet, or repose of another person. When a police officer determines that a gathering is creating such a noise disturbance, the officer may order all persons present, other than the owner or tenant of the premises where the disturbance is occurring, to disperse immediately. No person shall refuse to leave after being ordered by a police officer to do so. Every owner or tenant of the premises who has knowledge of the disturbance shall make every reasonable effort to see that the disturbance is stopped;

(H) Obstructions and excavations affecting the ordinary public use of streets, alleys, sidewalks, or public grounds except under conditions as are permitted by this code or other applicable law;

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

(J) Any use of property abutting on a public street or sidewalk or any use of a public street or sidewalk which causes large crowds of people to gather, obstructing traffic, and the free use of the street or sidewalk;

(K) All hanging signs, awnings, and other similar structures over streets and sidewalks, so situated so as to endanger public safety, or not constructed and maintained as provided by ordinance;

(L) The allowing of rain water, ice, or snow to fall from any building or structure upon any street or sidewalk or to flow across any sidewalk;

(M) Any barbed wire fence less than 6 feet above the ground and within 3 feet of a public sidewalk or way;

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

(O) Wastewater cast upon or permitted to flow upon streets or other public properties;

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

(Q) Any well, hole, or similar excavation which is left uncovered or in another condition as to constitute a hazard to any child or other person coming on the premises where it is located;

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

(S) The placing or throwing on any street, sidewalk, or other public property of any glass, tacks, nails, bottles, or other substance which may injure any person or animal or damage any pneumatic tire when passing over the substance;

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

(U) All other conditions or things which are likely to cause injury to the person or property of anyone.

(V) (1) *Noises prohibited.*

(a) *General prohibition.* No person shall make or cause to be made any distinctly and loudly audible noise that unreasonably annoys, disturbs, injures, or endangers the comfort, repose, health, peace, safety, or welfare of any person or precludes their enjoyment of property or affects their property's value. This general prohibition is not limited by the specific restrictions of this section.

(b) *Defective vehicles or loads.* No person shall use any vehicle so out of repair or so loaded as to create loud and unnecessary grating, grinding, rattling, or other noise.

(c) *Loading, unloading, unpacking.* No person shall create loud or excessive noise in loading, unloading, or unpacking any vehicle.

(d) *Radios, phonographs, paging systems, and the like.* No person shall use or operate or permit the use or operation of any radio receiving set, musical instrument, phonograph, paging system, machine, or other device for the production or reproduction of sound in a distinct and loudly audible manner as to unreasonably disturb the peace, quiet, and comfort of any person nearby. Operation of any such set, instrument, phonograph, machine, or other device between the hours of 10:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at the property line of the structure or building in which it is located, in the hallway or apartment adjacent, or at a distance of 50 feet if the source is located outside a structure or building, shall be prima facie evidence of a violation of this section.

(e) *Schools, churches, hospitals, and the like.* No person shall create any excessive noise on a street, alley, or public grounds adjacent to any school, institution of learning, church, or hospital when the noise unreasonably interferes with the working of the institution or disturbs or unduly annoys its occupants or residents and when conspicuous signs indicate the presence of the institution.

(2) *Hourly restriction of certain operations.*

(a) *Domestic power equipment*. No person shall operate a power lawn mower, power hedge clipper, chain saw, mulcher, garden tiller, edger, drill, or other similar domestic power maintenance equipment except between the hours of 7:00 a.m. and 10:00 p.m. on any weekday or between the hours of 9:00 a.m. and 9:00 p.m. on any weekend or holiday. Snow removal equipment is exempt from this provision.

(b) *Refuse hauling*. No person shall collect or remove garbage or refuse in any residential district except between the hours of 6:00 a.m. and 10:00 p.m. on any weekday or between the hours of 9:00 a.m. and 9:00 p.m. on any weekend or holiday.

(c) *Construction activities*. No person shall engage in or permit construction activities involving the use of any kind of electric, diesel, or gas powered machine or other power equipment except between the hours of 7:00 a.m. and 10:00 p.m. on any weekday or between the hours of 9:00 a.m. and 9:00 p.m. on any weekend or holiday.

(3) *Noise impact statements*. The Council may require any person applying for a change in zoning classification or a permit or license for any structure, operation, process, installation, or alteration or project that may be considered a potential noise source to submit a noise impact statement on a form prescribed by the Council. It shall evaluate each such statement and take its evaluation into account in approving or disapproving the license or permit applied for or the zoning change requested.

(W) Reflected glare or light from private exterior lighting exceeding 0.5 footcandles as measured on the property line of the property where the lighting is located when abutting any residential parcel, and 1 footcandle when abutting any commercial or industrial parcel;

(X) Reflected glare or light from private exterior lighting exceeding 0.5 footcandles as measured on the property line of the property where the lighting is located when abutting any residential parcel and 1 footcandle when abutting any commercial or industrial parcel; and

(Y) The discharging of excessive collections of water into an adjacent property or roadway caused by a sump pump in a manner that creates the pooling of such water on the adjacent property or roadway.

(Z) The use or operation of any recreational motor vehicle, on public or private property, in a manner that produces a distinct and loudly audible sound that unreasonably disturbs the peace, quiet, and comfort of any person nearby. This provision applies to any and all types of recreational motor vehicle, including, but not limited to, ATVs, motorized golf carts, UTVs, dirt bikes, dune buggies, and snowmobiles.
(Am. Ord. 2020-03, passed 7-27-2020; Am. Ord. 2023-03, passed 4-10-2023) Penalty, see § 10.99

§ 95.05 NUISANCE PARKING AND STORAGE.

(A) *Declaration of nuisance*. The outside parking and storage on residentially zoned property of large numbers of vehicles and vehicles, materials, supplies or equipment not customarily used for

residential purposes in violation of the requirements set forth below is declared to be a public nuisance because it (a) obstructs views on streets and private property, (b) creates cluttered and otherwise unsightly areas, (c) prevents the full use of residential streets for residential parking, (d) introduces commercial advertising signs into areas where commercial advertising signs are otherwise prohibited, (e) decreases adjoining landowners' and occupants' enjoyment of their property and neighborhood, and (f) otherwise adversely affects property values and neighborhood patterns.

(B) *Unlawful parking and storage.*

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

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

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

(a) No more than 4 vehicles per lawful dwelling unit may be parked or stored anywhere outside on residential property, except as otherwise permitted or required by the city because of nonresidential characteristics of the property. This maximum number does not include vehicles of occasional guests who do not reside on the property.

(b) Vehicles that are parked or stored outside in the front yard area must be on a paved or graveled parking or driveway area.

(c) Vehicles, watercraft and other articles stored outside on residential property must be owned by a person who resides on that property. Students who are away at school for periods of time but still claim the property as their legal residence will be considered residents on the property.
Penalty, see § 10.99

§ 95.06 INOPERABLE MOTOR VEHICLES.

(A) It shall be unlawful to keep, park, store, or abandon any motor vehicle which is not in operating condition, partially dismantled, used for repair of parts or as a source of repair or replacement parts for other vehicles, kept for scrapping, dismantling, or salvage of any kind, or which is not properly licensed for operation with the state, pursuant to M.S. § 168B.011, Subdivision 3, as it may be amended from time to time.

(B) This section does not apply to a motor vehicle enclosed in a building and/or kept out of view from any street, road, or alley, and which does not foster complaint from a resident of the city. A privacy fence is permissible.

(C) Any motor vehicles described in this section constitute a hazard to the health and welfare of the residents of the community in that the vehicles can harbor noxious diseases, furnish a shelter and

breeding place for vermin and present physical danger to the safety and well being of children and citizens; and vehicles containing fluids which, if released into the environment, can and do cause significant health risks to the community.
Penalty, see § 10.99

§ 95.07 BUILDING MAINTENANCE AND APPEARANCE.

(A) *Declaration of nuisance*. Buildings, fences, and other structures that have been so poorly maintained that their physical condition and appearance detract from the surrounding neighborhood are declared to be public nuisances because they (a) are unsightly, (b) decrease adjoining landowners and occupants' enjoyment of their property and neighborhood, and (c) adversely affect property values and neighborhood patterns.

(B) *Standards*. A building, fence, or other structure is a public nuisance if it does not comply with the following requirements.

(1) No part of any exterior surface may have deterioration, holes, breaks, gaps, loose or rotting boards or timbers.

(2) Every exterior surface that has had a surface finish such as paint applied must be maintained to avoid noticeable deterioration of the finish. No wall or other exterior surface may have peeling, cracked, chipped or otherwise deteriorated surface finish on more than 20% of:

(a) Any 1 wall or other flat surface; or

(b) All door and window moldings, eaves, gutters, and similar projections on any 1 side or surface.

(3) No glass, including windows and exterior light fixtures, may be broken or cracked, and no screens may be torn or separated from moldings.

(4) Exterior doors and shutters must be hung properly and have an operable mechanism to keep them securely shut or in place.

(5) Cornices, moldings, lintels, sills, bay or dormer windows, and similar projections must be kept in good repair and free from cracks and defects that make them hazardous or unsightly.

(6) Roof surfaces must be tight and have no defects that admit water. All roof drainage systems must be secured and hung properly.

(7) Chimneys, antennae, air vents, and other similar projections must be structurally sound and in good repair. These projections must be secured properly, where applicable, to an exterior wall or exterior roof.

(8) Foundations must be structurally sound and in good repair.

Penalty, see § 10.99

§ 95.08 DUTIES OF CITY OFFICERS.

For purposes of §§ 95.08 and 95.09, the Police Department, or Sheriff or person designated by the City Council under § 10.20, if the city has at the time no Police Department, may enforce the provisions relating to nuisances. Any peace officer or designated person shall have the power to inspect private premises and take all reasonable precautions to prevent the commission and maintenance of public nuisances. Except in emergency situations of imminent danger to human life and safety, no police officer or designated person shall enter private property for the purpose of inspecting or preventing public nuisances without the permission of the owner, resident or other person in control of the property, unless the officer or person designated has obtained a warrant or order from a court of competent jurisdiction authorizing the entry, as provided in § 10.20.

§ 95.09 ABATEMENT.

(A) *Notice*.

(1) Whenever the city determines that a public nuisance is being maintained or exists on a premises in the city, the City Clerk-Treasurer or his or her designed representative may abate the nuisance after providing written notice to the affected record property owner.

(2) The notice shall be given to the affected record property owner according to county land records by U.S. mail or personal delivery. Refusal by the recipient to accept the notice shall not constitute a defense that the notice was not received. If the record owner is not able to be found, the city shall attach a copy of the notice or a door hanger with the same information to the main entrance door of the principal structure on the property. The notice shall include the following information:

(a) The date;

(b) The address or legal description of the property;

(c) A description of the nuisance and the section of the city code which was violated;

(d) The steps to be taken in order to abate the nuisance;

(e) The date by which the nuisance must be abated (grass and weed violations must be abated within five calendar days from the date of the notice);

(f) That if the nuisance is not abated by the date stated, the city will abate the nuisance and the costs incurred by the city will be charged, and if left unpaid, will be certified to the County Auditor for collection with property taxes or specially assessed; and

(g) That the recipient has the right to request a hearing before the City Council and the date the hearing request must be made by.

(B) *Abatement*. If the nuisance is not abated by the date stated in the notice and no hearing has been requested, the city may abate the nuisance in consultation with the City Attorney. City staff must keep a record of the total cost of the abatement attributable to the property.

(C) *Emergency abatement*. Nothing in this section shall prevent the city, without notice or other process, from immediately abating any nuisance condition in an emergency situation which poses an imminent and serious hazard to the public health, safety, or welfare. To proceed with immediate abatement, and in consultation with the City Attorney, the city official shall determine that a public nuisance exists or is being maintained on the premises and that delay in abatement will unreasonably endanger the public health, safety, or welfare. If at all possible, the city official shall attempt to notify the record owner of the nature of the nuisance and the abatement prior to the abatement. If notification prior to abatement is not possible, the city official shall notify the record owner as soon as practicable after abatement.

(D) *Abatement charges*. When the abatement has been completed and the cost determined, the city shall prepare a bill and mail it to the record owner and thereupon the amount shall be immediately due and payable. If the record owner fails to pay the bill, the total charges may be certified by the city to the County Auditor for collection with property taxes as set forth in § 33.01 of this code or specially assessed in accordance with M.S. §§ 429.061 and 429.101, whichever may be applicable.
(Am. Ord. 2020-04, passed 11-23-2020)

[Text continues on Page 61]

CHAPTER 96: FIRE PROTECTION

Section

96.01 Fees for emergency protection fire service

Burning

96.10 Purpose
96.11 Definitions
96.12 Burning of prohibited materials
96.13 Open burning prohibited except by permit and in accordance with ordinance

96.99 Penalty

§ 96.01 FEES FOR EMERGENCY PROTECTION FIRE SERVICES.

(A) *Purposes and intent*. This section is adopted for the purpose of authorizing the City of Mantorville to charge for fire service as authorized by M.S. §§ 366.011, 366.012, and 415.01, as they may be amended from time to time, and is intended to supplement the city's authority contained in § 33.01 of this code for purposes of fire service charges.

(B) *Definitions*.

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

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

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

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

MUTUAL AID AGREEMENT. Means an agreement between the city and a town or other city for the city's fire department to provide assistance to the fire department of a town or other city.

(C) *Parties affected.*

(1) Owners of property within the city who receive fire service.

(2) Anyone who receives fire service as a result of a motor vehicle accident or fire within the city.

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

(D) *Rates.*

(1) The rates for fire services shall be established by the City Council and memorialized in the city's master fee schedule, as it may be amended from time to time.

(2) No charge if the call is cancelled or no assistance is provided at the incident.

(E) *Billing and collection.*

(1) Parties requesting and receiving fire services will be billed directlyin accordance with § 33.01 of this code. Additionally, if the party receiving fire services did not request services but a fire or other situation occurs, which, at the discretion of the fire department personnel in charge, requires fire service; the party will be charged and billed. All parties will be billed whether or not the fire service is covered by insurance. Any billable amount of the fire charge not covered by a party's insurance remains a debt of the party receiving the fire service. Collection of delinquent bills will be handled in accordance with § 33.01 of this code, including the certification of unpaid charges to the County Auditor for persons owning property within the city.

(2) False alarms will not be billed as a fire call.

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

(G) *Application of collections to budget.* All collected fire charges will be city funds and used to offset the expenses of the City Fire Department in providing fire services.
(Ord. 171, passed 12-12-2005; Am. Ord. 2020-04, passed 11-23-2020)

BURNING

§ 96.10 PURPOSE.

The purpose of this subchapter is to regulate burning within the city, to protect the public health, safety and welfare.
(Ord. --, passed 4-12-2010)

§ 96.11 DEFINITIONS.

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

BURNING. To consume by fire or to reduce to ashes by the action of heat or fire, including but not limited to open burning and burning in a wood burning device.

OPEN BURNING. The burning of any matter if the resulting combustion products are emitted directly into the atmosphere without passing through a stack, duct or chimney, except a recreational or camp fire as defined herein. Mobile cooking devices such as charcoal grills, wood smokers, manufactured hibachis, and propane or natural gas devices are not considered open burning devices.

PROHIBITED VEGETATIVE MATERIALS. Dry or green leaves; dry or green grass clippings; twigs, branches, tree limbs, or other wood that is green with leaves or needles, rotten, wet, oil soaked, or treated with paint, glue, or preservatives; and other similar materials that produce excessive or noxious smoke. Dry, clean paper and cardboard are not considered prohibited vegetative materials.

RECREATIONAL FIRE. A fire set with an approved starter fuel no more than 3 feet in height contained within a recreational fire site for recreational, ceremonial, or food preparation purposes, using dry, clean wood, producing little detectable smoke, odor or soot beyond the property line, and conducted with an adult tending the fire at all times. Fires that create a nuisance or health or safety hazards shall not be considered recreational fires for purposes of this subchapter. No more than 1 recreational fire shall be allowed on any property at one time.

RECREATIONAL FIRE SITE. An area of no more than 3 feet in diameter (as measured from the inside of the fire ring or border), completely surrounded by non-combustible and non-smoke or odor producing material, such as natural rock, cement, brick, tile, blocks or ferrous metal. Burning barrels are not a recreational fire site. Recreational fire sites shall not be located closer than 25 feet to any structure.

WOOD. Dry, clean fuels, such as twigs, branches, limbs, manufactured fireplace logs, charcoal, cord wood, or untreated dimensional lumber. ***WOOD*** does not include wood that is green with leaves or needles, rotten, wet, oil soaked, or treated with paint, glue or preservatives.

WOOD BURNING DEVICE. Any fireplace, free standing fireplace, fireplace insert, wood stove, or other wood heater, that burns wood or any other non-gaseous or non-liquid fuels, or any similar device burning any wood used for aesthetic or space-heating purposes in an interior space.
(Ord. --, passed 4-12-2010)

§ 96.12 BURNING OF PROHIBITED MATERIALS.

(A) No person shall conduct, cause or permit the burning of oils, petroleum fuels, rubber, plastic, chemically treated materials, or other materials that produce excessive or noxious smoke such as, but not limited to, tires, railroad ties, treated, painted or glued wood composite shingles, tar paper, insulation, composition board, sheet rock, wiring, paint or paint fillers.

(B) No person shall conduct, cause or permit the burning of hazardous waste or salvage operations, solid waste generated from an industrial or manufactured process, materials from a service or commercial establishment, or building materials generated from demolition of commercial or institutional structures.

(C) No person shall conduct, cause or permit burning of discarded materials resulting from the handling, processing, storage, preparation, serving or consumption of food.

(D) No person shall conduct, cause or permit the burning of any prohibited vegetative materials.

(E) No person shall conduct, cause or permit the burning of garbage.

(F) The use of burners described in M.S. § 88.16, Subd. 2(d), or its successor, are prohibited within the city's jurisdiction.
(Ord. --, passed 4-12-2010)

§ 96.13 OPEN BURNING PROHIBITED EXCEPT BY PERMIT AND IN ACCORDANCE WITH ORDINANCE.

(A) It is unlawful for any person to cause, allow, or permit open burning, except after obtaining a permit for the open burning issued by a DNR forestry official pursuant to M.S. Ch. 88, as it may be amended from time to time, and the open burning is conducted in accordance with the requirements of this subchapter, M.S. Ch. 88 and the conditions of the permit. The city must be notified by the DNR and approve the permit prior to its issuance.

(B) Permits shall not be issued for the burning of prohibited materials as set forth in § 96.12.

(C) A permit is not required for any fire which is a recreational fire as defined in § 96.11.
(Ord. --, passed 4-12-2010)

§ 96.99 PENALTY.

Any person who violates any provision of §§ 96.10 to 96.13 shall be a guilty of a misdemeanor. Any person who allows or permits burning to occur on the person's property in violation of §§ 96.10 *et seq.* shall also be guilty of a misdemeanor.
(Ord. --, passed 4-12-2010)

CHAPTER 97: CARE AND UPKEEP OF TREES

Section

97.01 Purpose
97.02 Definitions
97.03 Tree planting, maintenance, and removal of public trees
97.04 City's responsibilities
97.05 Private property owners' responsibilities
97.06 Hazard trees
97.07 Tree protection

97.99 Penalties, claims and appeals

§ 97.01 PURPOSE.

The purpose of this chapter is to enhance and protect the city's landscape and to promote and protect public health, safety and general welfare. It outlines the role and responsibilities of the city and of private landowners by providing for the regulation of the planting, maintenance and removal of trees on public lands and private property within the city.
(Ord. --, passed 4-11-2011)

§ 97.02 DEFINITIONS.

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

BOULEVARD. Area within a public right-of-way but outside of the normal traffic path.

CITY. The City of Mantorville, Minnesota.

PRIVATE PROPERTY. All property within the city which is not public property.

PUBLIC PROPERTY. Property which the city or a subdivision of the city owns or has reserved for public use, including but not limited to boulevards, parks, playgrounds, dikes, parkways, streets, public rights-of-way, sidewalks, alleys, and public parking lots.

PUBLIC RIGHT-OF-WAY. Property which the city has reserved for public use to provide traffic circulation and travel to abutting properties, including but not limited to streets, boulevards, alleys, sidewalks, provisions for public utilities, and cut and fill slopes.

PUBLIC UTILITY. Any public or private facility or system for producing, transmitting or distributing communications, electricity, gas, oil products, water, waste or storm water, which directly or indirectly serves the public or any part thereof within the corporate limits of the city.

TOPPING or ***TO TOP A TREE.*** The severe cutting back of limbs to stubs larger than 3 inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree.

TREE. Any tree, shrub, hedge or woody vegetation.

HAZARD TREE. A tree or any part thereof which:

(a) Has an infectious or destructive disease, insect problem or other pestilence which endangers the growth, health, life or well-being of trees in the city, or which threatens to or is capable of causing a spread of a disease, pestilence or insect infestation;

(b) Obstructs street lights, traffic signs, or the view of any street intersection;

(c) Obstructs the free passage of pedestrians or vehicles;

(d) Is causing the surface of a public street, curb or sidewalk to be up-heaved or otherwise disturbed;

(e) Harms or threatens to harm to a city-owned utility, building, or structure; or

(f) Constitutes a danger to the public health, safety or well-being.

LARGE TREE. A tree that will normally grow to a height of over 50 feet.

MEDIUM TREE. A tree that will normally grow to a height of more than 30 feet but not over a height of 50 feet.

PRIVATE TREE. A tree growing on private property.

PUBLIC TREE. A tree growing on public property.

SMALL TREE. A tree that will normally grow to a height of 30 feet or less.

TREE BOARD. See § 97.04(B).
(Ord. --, passed 4-11-2011)

§ 97.03 TREE PLANTING, MAINTENANCE, AND REMOVAL OF PUBLIC TREES.

(A) *Approval required.* No person may plant, remove, alter, destroy, cut or disturb any public tree within the city without permission of the city. A request to plant new public trees will be considered for approval based on relevant factors, including but not limited to the proposed location, the species requested, the cost of planting, care and maintenance, spacing, nearby utilities, and distance from curbs, sidewalks, corners, fire hydrants and driveways.

(B) *Public utility companies*. Public utility companies must notify and receive approval from the city before trimming any trees and must follow accepted arboricultural trimming standards.

(C) *Public tree planting specifications*.

(1) *Tree species*. The species should be selected from the list of recommended trees for SE Minnesota as prepared by the University of MN Extension Service Office.

(2) *Spacing*. The spacing of public trees will be in accordance with the size classes listed in this chapter. Small trees must be at least 15 feet apart, medium trees must be at least 30 feet apart, and large trees must be at least 40 feet apart. If trees of different sizes are next to each other (e.g. a small tree next to a medium tree), the spacing requirement for the larger tree shall apply. For this section a shrub or hedge that is maintained as a single entity such as in skirting or fencing applications will be considered a single tree.

(3) *Utilities*. Public trees, other than small trees, shall not be planted under or within 10 lateral feet of any overhead transmission or primary utility wire, or over or within 5 lateral feet of any underground water line, sewer line, transmission line, or other utility.

(4) *Boulevards*. Tree planting on boulevards is not permitted without permission of the city. Due to the narrow roads and boulevards in the city, any person desiring to plant trees, bushes, etc. in the boulevard area must contact the city maintenance department. The city will not be responsible for damage caused to any plantings in the boulevard area.

(5) *Distance from corners, fire hydrants and driveways*. Public trees shall not be planted closer than 30 feet to any street corner, measured from the point of the nearest intersecting curbs or curb lines. Public trees shall not be planted closer than 10 feet to any fire hydrant, or 5 feet from any driveway or walkway.

(6) *Buildings or structures*. Public trees shall not be planted within 5 feet of any building or structure.

(D) *Tree maintenance*. The city shall have the right, but not the obligation, to plant, prune, maintain, and remove public trees as may be necessary to ensure the public safety or to preserve or enhance the symmetry and beauty of public property.

(E) *Prevention of visual obstructions*. Every tree overhanging any street or right-of-way within the city shall be trimmed so that the branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection or street sign, and so that there shall be a clear space of at least 15 feet above the street, or 8 feet above the sidewalk. Every owner of any tree overhanging any street or right-of-way within the city shall be responsible to prune the branches so that such branches shall not interfere with the safe use of the street or sidewalk or obstruct the view of any street intersection. The city shall have the right to prune any tree on private property when it interferes with the safe use of the street or sidewalk or when it interferes with the visibility of any traffic control device or sign.
(Ord. --, passed 4-11-2011)

§ 97.04 CITY'S RESPONSIBILITIES.

(A) *Responsibility for public trees*. The city will be responsible for planting, management, and care of public trees. The city will allocate adequate resources to satisfy this responsibility, including but not limited to assigning and managing city staff to complete necessary tasks. If needed, the city may appoint or contract with a licensed arborist to perform the duties imposed by this chapter. The arborist must provide proof of liability insurance and workers compensation insurance.

(B) *Tree Board established*. The Mantorville Park Board will serve as the Tree Board. The Tree Board shall serve in an advisory capacity to the City Council concerning issues related to the well-being of trees within the city.
(Ord. --, passed 4-11-2011)

§ 97.05 PRIVATE PROPERTY OWNERS' RESPONSIBILITIES.

(A) *Protection and maintenance of public trees in boulevards*. The owner of private property abutting a boulevard shall have the following responsibilities for public trees located in the boulevard adjacent to the owner's property:

(1) Encourage periodic watering and fertilization when necessary to maintain the tree's good health and vigor; and

(2) Protection of trees against damage caused by lawn mowers, weed trimmers, snow blowers and similar equipment.

(B) *Hazard trees*. The owner of a private hazard tree shall be responsible for remediation of the tree, including but not limited to treatment, trimming, or removal, with the sole exception that the city shall be responsible for trimming or removing private trees which pose a hazard to city-owned utilities.
(Ord. --, passed 4-11-2011)

§ 97.06 HAZARD TREES.

(A) *Responsibility for costs relating to private hazard trees*. The city will be responsible for the cost of trimming or removing private trees which pose a hazard to city-owned utilities. In all cases not involving any city-owned utility, the owner of a private hazard tree will be solely and fully responsible for the cost of remediation of the tree, including but not limited to treatment, trimming or removal. If a private hazard tree is not removed or treated as ordered by the city or if the owner does not voluntarily pay to the city the cost of removal or treatment by the city, all costs incurred by the city for trimming, tree removal, treatment or eradicating or controlling the hazardous condition may be recovered by the city by special assessment upon the property owner.

(B) *City remediation of private hazard trees; notice; special assessment*. The city shall have the right to take action for remediation of private hazard trees as the city reasonably deems necessary for the protection of public health and safety. In all cases not limited to a hazard to a city-owned utility, the city shall serve written notice of the existence of a private hazard tree on the owner of the property where the tree is located. Such notice shall be served in person or by first class mail. Such notice shall describe the action which the city has deemed necessary to protect the public health and safety, and shall direct the owner to take such action within not less than 20 days after the date of the notice. The notice shall also advise the owner that if such action is not taken, the city will take such action and assess the cost against the property. If the owner does not take the directed action within the time specified in the notice, the city may take such action and the cost of such action shall become a special assessment against the property on which the tree was located if not paid in 30 days.

(C) *Right to hearing*. A property owner who receives a notice of the existence of a hazard tree pursuant to division (B) of this section shall have the right to object to the determination of the existence of a hazard tree and the directed remediation action in a hearing before the City Council. A request for a hearing must be in writing, must specifically describe the portion of the notice to which the owner objects, and must be delivered to the City Clerk within 14 days after the date of the notice to which the owner objects. A request for a hearing received after the 14-day period will be denied. Hearings will be held as soon as practicable after the city receives a timely request.

(D) *Imminent threat*. The city has the right to take immediate remediation action on any hazard tree if the city determines that the tree poses an imminent threat to public health or safety. In such cases, the city will not be obligated to comply with the notice and hearing provisions of this section. The cost of the remediation action will be charged to the property owner and if the charge is not paid within 30 days after the date of the invoice, the charge shall become a special assessment against the property on which the tree was located.
(Ord. --, passed 4-11-2011)

§ 97.07 TREE PROTECTION.

(A) *Damage to public trees*. No person shall modify any public tree. Modification may include but is not limited to posting signs with nails, staples, screws or other devices, hanging wires of any kind, damage from a vehicle collision, damage from a weed whip or lawn mower, and poison or toxin applications.

(B) *Protection of public trees near construction activities*. A person performing excavation, demolition, or construction activities near any public tree shall take all reasonable action to protect the tree from injury as a result of such activities.
(Ord. --, passed 4-11-2011)

§ 97.99 PENALTIES, CLAIMS AND APPEALS.

Any person who violates §§ 97.03 or 97.07 of this chapter shall be guilty of a misdemeanor, the sentence for which may include without limitation a payment of restitution to the city.
(Ord. --, passed 4-11-2011)

TITLE XI: BUSINESS REGULATIONS

Chapter

110. ALCOHOLIC BEVERAGES

111. GENERAL LICENSING PROVISIONS

112. PEDDLERS AND SOLICITORS

CHAPTER 110: ALCOHOLIC BEVERAGES

Section

110.01 Adoption of state law by reference
110.02 City may be more restrictive than state law
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110.23 Suspension and revocation

110.99 Penalties

§ 110.01 ADOPTION OF STATE LAW BY REFERENCE.

The provisions of M.S. § 340A, as they may be amended from time to time, with reference to the definition of terms, conditions of operation, restrictions on consumption, provisions relating to sales, hours of sale, and all other matters pertaining to the retail sale, distribution, and consumption of intoxicating liquor and 3.2% malt liquor are hereby adopted by reference and are made a part of this chapter as if set out in full. It is the intention of the City Council that all future amendments to M.S. § 340A are hereby adopted by reference or referenced as if they had been in existence at the time this chapter is adopted.
(Ord. --, passed 7-13-2009)

§ 110.02 CITY MAY BE MORE RESTRICTIVE THAN STATE LAW.

The Council is authorized by the provisions of M.S. § 340A.509, as it may be amended from time to time, to impose, and has imposed in this chapter, additional restrictions on the sale and possession of alcoholic beverages within its limits beyond those contained in M.S. § 340A, as it may be amended from time to time.
(Ord. --, passed 7-13-2009)

§ 110.03 DEFINITIONS.

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

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

RESTAURANT. An eating facility, other than a hotel, under the control of a single proprietor or manager, where meals are regularly prepared on the premises, where full waitress/waiter table service is provided, where a customer orders food from printed menus and where the main food course is served and consumed while seated at a single location. To be a restaurant as defined by this section, an establishment shall have a license from the state as required by M.S. § 157.16, as it may be amended from time to time, and meet the definition of either a "small establishment," "medium establishment" or "large establishment" as defined in M.S. § 157.16, Subd. 3d, as it may be amended from time to time. An establishment which serves prepackaged food that receives heat treatment and is served in the package or frozen pizza that is heated and served, shall not be considered to be a restaurant for purposes of this chapter unless it meets the definitions of a "small establishment," "medium establishment," or "large establishment."
(Ord. --, passed 7-13-2009)

§ 110.04 NUDITY ON THE PREMISES OF LICENSED ESTABLISHMENTS PROHIBITED.

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

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

(C) A violation of this section is a misdemeanor punishable as provided by law, and is justification for revocation or suspension of any liquor, wine, or 3.2% malt liquor license or any other license issued under this chapter or the imposition of a civil penalty.
(Ord. --, passed 7-13-2009)

§ 110.05 CONSUMPTION IN PUBLIC PLACES.

No person shall consume intoxicating liquor or 3.2% malt liquor on any public street, road, sidewalk, boulevard, parking lot or alley within the limits of the city.
(Ord. --, passed 7-13-2009)

§ 110.06 NUMBER OF LICENSES WHICH MAY BE ISSUED.

The city may issue the number of liquor licenses allowed under M.S. § 340A.413 or its successor, as amended from time to time. The Council is not required to issue the full number of licenses that it has available.
(Ord. --, passed 7-13-2009)

§ 110.07 TERM AND EXPIRATION OF LICENSES.

Each license shall be issued for a maximum period of 1 year. All licenses, except temporary licenses, shall expire on January 31 of each year unless another date is provided by ordinance. All licenses shall expire on the same date. Temporary licenses expire according to their terms. Consumption and display permits issued by the Commissioner of Public Safety, and the accompanying city consent to the permit, shall expire on March 31 of each year.
(Ord. --, passed 7-13-2009)

§ 110.08 KINDS OF LIQUOR LICENSES.

The City Council is authorized to issue the following licenses and permits, up to the number specified in § 110.07.

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

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

(C) Temporary 3.2% malt liquor licenses which may be issued only to a club, charitable, religious, or nonprofit organization.

(D) Off-sale intoxicating liquor licenses, which may be issued only to drug stores that have an off-sale license which was first issued on or before May 1, 1994, or to exclusive liquor stores. The fee for an off-sale intoxicating liquor license established by the Council under § 110.10 shall not exceed $240 or a greater amount which may be permitted by M.S. § 340A.408, Subd. 3, as it may be amended from time to time.

(E) On-sale intoxicating liquor licenses, which may be issued to the following establishments as defined by M.S. § 340A.101, as it may be amended from time to time, and this chapter: hotels, restaurants, bowling centers, clubs or congressionally chartered veteran's organizations, theaters and exclusive liquor stores. Club licenses may be issued only with the approval of the Commissioner of Public Safety. The fee for club licenses established by the Council under § 110.10 shall not exceed the amounts provided for in M.S. § 340A.408, Subd. 2b, as it may be amended from time to time. The Council may in its sound discretion authorize a retail on-sale licensee to dispense intoxicating liquor off the licensed premises at a community festival held within the city under the provisions of M.S. § 340A.404, Subd. 4b, as it may be amended from time to time. The Council may in its sound discretion authorize a retail on-sale licensee to dispense intoxicating liquor off the licensed premises at any convention, banquet, conference, meeting, or social affair conducted on the premises of a sports, convention, or cultural facility owned by the city, under the provisions of M.S. § 340A.404, Subd. 4a, as it may be amended from time to time; however, the licensee is prohibited from dispensing intoxicating liquor to any person attending or participating in an amateur athletic event being held on the premises.

(F) Sunday on-sale intoxicating liquor licenses, only after authorization to do so by voter approval at a general or special election as provided by M.S. § 340A.504, Subd. 3, as it may be amended from time to time. Sunday on-sale intoxicating liquor licenses may be issued only to a restaurant, club, bowling center, or hotel which has a seating capacity of at least 30 persons, which holds an on-sale intoxicating liquor license, and which serves liquor only in conjunction with the service of food. The maximum fee for this license, which shall be established by the Council under the provisions of § 110.10, shall not exceed $200, or the maximum amount provided by M.S. § 340A.504, Subd. 3c, as it may be amended from time to time.

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

(H) Temporary on-sale intoxicating liquor licenses, with the approval of the Commissioner of Public Safety, which may be issued only in connection with a social event sponsored by a club, charitable, religious, or other nonprofit corporation that has existed for at least 3 years. No license shall be for longer than 4 consecutive days, and the city shall issue no more than 12 days worth of temporary licenses to any 1 organization in 1 calendar year.

(I) On-sale wine licenses, with the approval of the Commissioner of Public Safety to: restaurants that have facilities for seating at least 25 guests at one time and meet the criteria of M.S. § 340A.404, Subd. 5, as it may be amended from time to time, and which meet the definition of restaurant in § 110.03; to licensed bed and breakfast facilities which meet the criteria in M.S. § 340A.401, Subd. 1, as it may be amended from time to time and to theaters that meet the criteria of M.S. § 340A.404(b), as it may be amended from time to time. The fee for an on-sale wine license established by the Council under the provisions of § 110.10, shall not exceed 1/2 of the license fee charged for an on-sale intoxicating liquor license. The holder of an on-sale wine license who also holds an on-sale 3.2% malt liquor license is authorized to sell malt liquor with a content over 3.2% (strong beer) without an additional license.

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

(K) Approval of the issuance of a consumption and display permit by the Commissioner of Public Safety. The maximum amount of the additional fee which may be imposed by the Council on a person who has been issued a consumption and display permit under the provisions of § 110.10 shall not exceed $300, or the maximum amount permitted by M.S. § 340A.14, Subd. 6, as it may be amended from time to time. Consumption and display permits shall expire on March 31 of each year.

(L) Culinary class limited on-sale licenses may be issued to a business establishment not otherwise eligible for an on-sale intoxicating liquor license that, as part of its business, conducts culinary or cooking classes for which payment is made by each participant or advance reservation is required. The license authorizes the licensee to furnish to each participant in each class, at no additional cost to the participant, up to a maximum of 6 ounces of wine or 12 ounces of intoxicating malt liquor, during and as part of the class, for consumption on the licensed premises only.

(M) Temporary off-sale wine licenses, with the approval of the Commission of Public Safety, may be issued for the off-sale of wine at an auction. A license issued under this division authorizes the sale of only vintage wine of a brand and vintage that is not commonly being offered for sale by any wholesaler in Minnesota. The license may authorize the off-sale of wine for not more than 3 consecutive days provided not more than 600 cases of wine are sold at any auction. The licenses are subject to the terms, including license fee, imposed by § 110.10.

(N) Brew pub on-sale intoxicating liquor or on-sale 3.2% malt liquor licenses, with the approval of the Commissioner of Public Safety, may be issued to brewers who operate a restaurant in their place of manufacture and who meet the criteria established at M.S. § 340A.301, Subd. 6(d) and 7(b), as it may be amended from time to time. Sales under this license at on-sale may not exceed 3,500 barrels per year. If a brew pub licensed under this section possesses a license for off-sale under division (O) below, the brew pub's total combined retail sales at on-sale or off-sale may not exceed 3,500 barrels per year, provided that off-sales may not total more than 500 barrels.

(O) Brewer off-sale intoxicating liquor licenses, with the approval of the Commissioner of Public Safety, may be issued to a brewer that is a licensee under division (N) above or that produces fewer than 3,500 barrels of malt liquor in a year and otherwise meets the criteria established at M.S. § 340A.301, Subd. 6(d) and 7(b), as it may be amended from time to time. Off-sale of malt liquor shall be limited to the legal hours for off-sale at exclusive liquor stores in the city. Malt liquor sold off-sale must be removed from the premises before the applicable off-sale closing time at exclusive liquor stores. All malt liquor sold under this license shall be packaged in the manner required by M.S. § 340A.301, Subd. 7, as it may be amended from time to time. Sales under this license may not exceed 500 barrels per year. If a brewer licensed under this section possesses a license under division (N) above, the brewer's total retail sales at on-sale or off-sale may not exceed 3,500 barrels per year, provided that off-sales may not total more than 500 barrels.

(P) Brewer temporary on-sale intoxicating liquor licenses may be issued, with the approval of the Commissioner of Public Safety, to brewers who manufacture fewer than 3,500 barrels of malt liquor in a year for the on-sale of intoxicating liquor in connection with a social event within the municipality sponsored by the brewer.
(Ord. --, passed 7-13-2009)

§ 110.09 LICENSE FEES; PRO RATA.

(A) No license or other fee established by the city shall exceed any limit established by M.S. § 340A, as it may be amended from time to time, for a liquor license.

(B) The Council may establish from time to time in the ordinance establishing fees and charges the fee for any of the liquor licenses it is authorized to issue. The license fee may not exceed the cost of issuing the license and other costs directly related to the enforcement of the liquor laws and this chapter. No liquor license fee shall be increased without providing mailed notice of a hearing on the proposed increase to all affected licensees at least 30 days before the hearing.

(C) The fee for all licenses, except temporary licenses, granted after the commencement of the license year shall be prorated on a quarterly basis.

(D) All license fees shall be paid in full at the time the application is filed with the city. If the application is denied, the license fee shall be returned to the applicant.

(E) A refund of a pro rata share of an annual license fee may occur only if authorized by M.S. § 340A.408, Subd. 5, as it may be amended from time to time.

(F) Off-sale intoxicating liquor licensees may request a reduction in their annual license fee by the amount specified in M.S. § 340A.408 if at the time of initial application or renewal they:

(1) Agree to have a private vendor approved by the city train all employees within 60 days of hire and annually thereafter in laws pertaining to the sale of alcohol, the rules for identification checks, and the responsibilities of establishments serving intoxicating liquors;

(2) Post a policy requiring identification checks for all persons appearing to be 30 years old or less;

(3) Establish a written cash award and incentive program to award employees who catch underage drinkers and a written penalty program to punish employees in the event of a failed compliance check; or

(4) Failure to abide by the provisions of this chapter may result in suspension of the license until the conditions of the fee reduction are met and may result in suspension and/or revocation of the license pursuant to § 110.23.
(Ord. --, passed 7-13-2009)

§ 110.10 COUNCIL DISCRETION TO GRANT OR DENY A LICENSE.

The Council in its sound discretion may either grant or deny the application for any license or for the transfer or renewal of any license. No applicant has a right to a license under this chapter.
(Ord. --, passed 7-13-2009)

§ 110.11 APPLICATION FOR LICENSE.

(A) *Form.* Every application for a license issued under this chapter shall be on a form provided by the city. Every application shall state the name of the applicant, the applicant's age, representations as to the applicant's character, with references as the Council may require, the type of license applied for, the business in connection with which the proposed license will operate and its location, a description of the premises, whether the applicant is owner and operator of the business, how long the applicant has been in that business at that place, and other information as the Council may require from time to time. An application for an on-sale intoxicating liquor license shall be in the form prescribed by the Commissioner of Public Safety and shall also contain the information required in this section. The form shall be verified and filed with the city. No person shall make a false statement in an application.

(B) *Financial responsibility*. Prior to the issuance of any license under this chapter, the applicant shall demonstrate proof of financial responsibility as defined in M.S. § 340A.409, as it may be amended from time to time, with regard to liability under M.S. § 340A.801, as it may be amended from time to time. This proof will be filed with the city and the Commissioner of Public Safety. Any liability insurance policy filed as proof of financial responsibility under this section shall conform to M.S. § 340A.409, as it may be amended from time to time. Operation of a business which is required to be licensed by this chapter without having on file with the city at all times effective proof of financial responsibility is a cause for revocation of the license.
(Ord. --, passed 7-13-2009)

§ 110.12 DESCRIPTION OF PREMISES.

The application shall specifically describe the compact and contiguous premises within which liquor may be dispensed and consumed. The description may not include any parking lot or sidewalk. The city may place restrictions or conditions on the dispensing and consuming of liquor on any patio or within any outdoor area on the licensed premises to ensure that liquor does not leave the premises.
(Ord. --, passed 7-13-2009)

§ 110.13 APPLICATIONS FOR RENEWAL.

At least 90 days before a license issued under this chapter is to be renewed, an application for renewal shall be filed with the city. The decision whether or not to renew a license rests within the sound discretion of the Council. No licensee has a right to have the license renewed.
(Ord. --, passed 7-13-2009)

§ 110.14 TRANSFER OF LICENSE.

No license issued under this chapter may be transferred without the approval of the Council. Any transfer of stock of a corporate licensee is deemed to be a transfer of the license, and a transfer of stock without prior Council approval is a ground for revocation of the license. An application to transfer a license shall be treated the same as an application for a new license, and all of the provisions of this code applying to applications for a license shall apply.
(Ord. --, passed 7-13-2009)

§ 110.15 INVESTIGATION.

(A) *Preliminary background and financial investigation*. On an initial application for a license, on an application for transfer of a license and, in the sound discretion of the Council that it is in the public interest to do so, on an application for renewal of a license, the city shall conduct a preliminary

background and financial investigation of the applicant or it may contract with the Commissioner of Public Safety for the investigation. The applicant shall pay with the application an investigation fee of $500 which shall be in addition to any license fee. If the cost of the preliminary investigation is less than $500, the unused balance shall be returned to the applicant. The results of the preliminary investigation shall be sent to the Commissioner of Public Safety if the application is for an on-sale intoxicating liquor license or an on-sale wine license.

(B) *Comprehensive background and financial investigation.* If the results of a preliminary investigation warrant, in the sound discretion of the Council, a comprehensive background and financial investigation, the Council may either conduct the investigation itself or contract with the Commissioner of Public Safety for the investigation. The investigation fee for this comprehensive background and financial investigation to be paid by the applicant shall be $500, less any amount paid for the initial investigation if the investigation is to be conducted within the state, and $10,000, less any amount paid for the initial investigation, if the investigation is required outside the state. The unused balance of the fee shall be returned to the applicant whether or not the application is denied. The fee shall be paid in advance of any investigation and the amount actually expended on the investigation shall not be refundable in the event the application is denied. The results of the comprehensive investigation shall be sent to the Commissioner of Public Safety if the application is for an on-sale intoxicating liquor license or an on-sale wine license.
(Ord. --, passed 7-13-2009)

§ 110.16 HEARING AND ISSUANCE.

The Council shall investigate all facts set out in the application and not investigated in the preliminary or comprehensive background and financial investigations. Opportunity shall be given to any person to be heard for or against the granting of the license. After the investigation and hearing, the Council shall in its sound discretion grant or deny the application. No license shall become effective until the proof of financial security has been approved by the Commissioner of Public Safety.
(Ord. --, passed 7-13-2009)

§ 110.17 RESTRICTIONS ON ISSUANCE.

(A) Each license shall be issued only to the applicant for the premises described in the application.

(B) Not more than 1 off-sale license shall be directly or indirectly issued within the city to any 1 person.

(C) No license shall be granted or renewed for operation on any premises on which taxes, assessments, utility charges, service charges, or other financial claims of the city are delinquent and unpaid.

(D) No license shall be issued for any place or any business ineligible for a license under state law.

(E) No license shall be issued to any person who is not a resident of the state. If the applicant is a corporation, all of the shareholders shall be residents of the state. The provisions of this division (E) shall not apply to any license existing on the effective date of this chapter or to the renewal of an existing license.

(F) No license shall be granted within 500 feet of any school or church. The distance is to be measured from the closest side of the church to the closest side of the structure on the premises within which liquor is to be sold.
(Ord. --, passed 7-13-2009)

§ 110.18 CONDITIONS OF LICENSE.

The failure of a licensee to meet any 1 of the conditions of the license specified below shall result in a suspension of the license until the condition is met.

(A) Within 90 days after employment, every person selling or serving liquor in an establishment which has an on-sale license shall receive training regarding the proper legal selling or serving of liquor to customers.

(B) Every licensee is responsible for the conduct of the place of business and the conditions of sobriety and order in it. The act of any employee on the licensed premises is deemed the act of the licensee as well, and the licensee shall be liable to all penalties provided by this chapter and the law equally with the employee.

(C) Every licensee shall allow any peace officer, health officer, city employee, or any other person designated by the Council to conduct compliance checks and to otherwise enter, inspect, and search the premises of the licensee during business hours and after business hours during the time when customers remain on the premises without a warrant.

(D) No on-sale establishment shall display liquor to the public during hours when the sale of liquor is prohibited.

(E) Compliance with financial responsibility requirements of state law and of this chapter is a continuing condition of any license.

(F) Failure by on off-sale intoxicating liquor licensee who has received a fee reduction pursuant to § 110.09(F) of this chapter to abide with the provisions of § 110.09(F).
(Ord. --, passed 7-13-2009)

§ 110.19 HOURS AND DAYS OF SALE.

(A) The hours of operation and days of sale shall be those set by M.S. § 340A.504, as it may be amended from time to time, except that the City Council may, by resolution or ordinance, provide for more restrictive hours than state law allows.

(B) No person shall consume nor shall any on-sale licensee permit any consumption of intoxicating liquor or 3.2% malt liquor in an on-sale licensed premises more than 30 minutes after the time when a sale can legally occur.

(C) No on-sale licensee shall permit any glass, bottle, or other container containing intoxicating liquor or 3.2% malt liquor to remain upon any table, bar, stool, or other place where customers are served, more than 30 minutes after the time when a sale can legally occur.

(D) No person, other than the licensee and any employee, shall remain on the on-sale licensed premises more than 30 minutes after the time when a sale can legally occur.

(E) Any violation of any condition of this section may be grounds for revocation or suspension of the license.
(Ord. --, passed 7-13-2009)

§ 110.20 MINORS ON PREMISES.

(A) No person under the age of 18 years shall be employed in any rooms constituting the place in which intoxicating liquors or 3.2% malt liquor are sold at retail on sale, except that persons under the age of 18 may be employed as musicians or to perform the duties of a bus person, host or dishwashing services in places defined as a restaurant, hotel, motel or other multi-purpose building serving food in rooms in which intoxicating liquors or 3.2% malt liquor are sold at retail on sale.

(B) No person under the age of 21 years may enter a licensed establishment except to work, consume meals on premises that qualify as a restaurant, or attend social functions that are held in a portion of the premises where liquor is not sold.
(Ord. --, passed 7-13-2009)

§ 110.21 RESTRICTIONS ON PURCHASE AND CONSUMPTION.

No person shall mix or prepare liquor for consumption in any public place of business unless it has a license to sell on-sale, or a permit from the Commissioner of Public Safety under the provisions of M.S. § 340A.414, as it may be amended from time to time, which has been approved by the Council, and no person shall consume liquor in any such place.
(Ord. --, passed 7-13-2009)

§ 110.22 CATERER'S PERMIT; NOTICE TO CITY OF CATERING EVENT WITH INTOXICATING ALCOHOL.

Unless and until the city establishes the position of Police Chief, the holder of a caterer's permit under M.S. § 340A.404, Subd. 12, who intends to cater an event which will include the serving of intoxicating liquor within the city limits shall notify the City Clerk where the event will take place. Such notice shall be given to the city either at least 5 business days prior to the event being held or immediately if the event is scheduled with the caterer less than 5 business days before it will be held. (Ord. --, passed 7-13-2009)

§ 110.23 SUSPENSION AND REVOCATION.

(A) The Council shall either suspend for a period not to exceed 60 days or revoke any liquor license upon finding that the licensee has failed to comply with any applicable statute, regulation, or provision of this chapter relating to liquor. Except in cases of lapse of proof of financial responsibility, no suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to the Administrative Procedures Act, M.S. §§ 14.57 to 14.70, as it may be amended from time to time. The Council may act as the hearing body under that act, or it may contract with the Office of Hearing Examiners for a hearing officer.

(B) The following are the minimum periods of suspension or revocation which shall be imposed by the Council for violations of the provisions of this chapter or M.S. § 340A, as it may be amended from time to time or any rules promulgated under that chapter as they may be amended from time to time:

(1) For commission of a felony related to the licensed activity, sale of alcoholic beverages while the license is under suspension, sale of intoxicating liquor where the only license is for 3.2% malt liquor, or violation of § 110.04, the license shall be revoked.

(2) The license shall be suspended by the Council after a finding under division (A) that the licensee has failed to comply with any applicable statute, rule, or provision of this chapter for at least the minimum periods as follows:

(a) For the first violation within any 3-year period, at least 1 day suspension in addition to any criminal or civil penalties which may be imposed.

(b) For a second violation within any 3-year period, at least 3 consecutive days suspension in addition to any criminal or civil penalties which may be imposed.

(c) For the third violation within any 3-year period, at least 7 consecutive days suspension in addition to any criminal or civil penalties which may be imposed.

(d) For a fourth violation within any 3-year period, the license shall be revoked.

(3) The Council shall select the day or days during which the license will be suspended.

(C) Lapse of required proof of financial responsibility shall effect an immediate suspension of any license issued pursuant to this chapter or state law without further action of the Council. Notice of cancellation or lapse of a current liquor liability policy shall also constitute notice to the licensee of the impending suspension of the license. The holder of a license who has received notice of lapse of required insurance or of suspension or revocation of a license may request a hearing thereon and, if a request is made in writing to the Clerk, a hearing before the Council shall be granted within 10 days. Any suspension under division (B) of this section shall continue until the Council determines that the financial responsibility requirements of state law and this chapter have again been met.

(D) The provisions of § 110.99 pertaining to administrative penalty may be imposed in addition to or in lieu of any suspension or revocation under this chapter.
(Ord. --, passed 7-13-2009)

§ 110.99 PENALTIES.

(A) Any person violating the provisions of this chapter or M.S. § 340A, as it may be amended from time to time, or any rules promulgated under that chapter as they may be amended from time to time is guilty of a misdemeanor and upon conviction shall be punished as provided by law.

(B) The Council shall impose a civil penalty of up to $2,000 for each violation of M.S. § 340A, as it may be amended from time to time, and of this chapter. Conviction of a violation in a court of law is not required in order for the Council to impose the civil penalty. A hearing under the Administrative Procedures Act, M.S. §§ 14.57 to 14.70, as it may be amended from time to time, is not required before the penalty is imposed, but the Council shall hold a hearing on the proposed violation and the proposed penalty and hear any person who wishes to speak. Non-payment of the penalty is grounds for suspension or revocation of the license. The following is the minimum schedule of presumptive civil penalties which must be imposed in addition to any suspension unless the license is revoked:

(1) For the first violation within any 3-year period, $500.

(2) For the second violation within any 3-year period, $1,000.

(3) For the third and subsequent violations within any 3-year period, $2,000.

(C) The term "violation" as used in § 110.23 includes any and all violations of the provisions in this section, or of M.S. § 340A, as it may be amended from time to time, or any rules promulgated under that chapter as they may be amended from time to time. The number of violations shall be determined on the basis of the history of violations for the preceding 3-year period. Revocation shall occur within 60 days following a violation for which revocation is imposed.
(Ord. --, passed 7-13-2009)

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CHAPTER 111: GENERAL LICENSING PROVISIONS

Section

Bingo Occasions, Lotteries, and Gambling Devices

111.01 Provisions of state law adopted
111.02 Licenses
111.03 Suspension and revocation
111.04 Effective date

111.99 Penalty

BINGO OCCASIONS, LOTTERIES, AND GAMBLING DEVICES

§ 111.01 PROVISIONS OF STATE LAW ADOPTED.

The provisions of M.S. §§ 349.11 through 349.23, as they may be amended from time to time, relating to the game of bingo. In addition the regulations of this subchapter shall apply to the conduct of bingo and lotteries and the use of the gambling devices within the city.
(Ord. 112, passed 6-12-1984)

§ 111.02 LICENSES.

(A) *License required.* The conduct of bingo and lotteries and the use of gambling devices within the city without a license is prohibited. Any organization authorized by law to conduct bingo occasions, use gambling devices or conduct lotteries may do so only after receiving a license so authorizing from the City Council. Licenses are of 3 kinds: a license to conduct bingo occasions; a license to use gambling devices, including the conduct of lotteries; and a combination license to conduct bingo occasions and use gambling devices, including the conduct of lotteries.

(B) *Application.* An application for a bingo license or a combination license shall state the location, time, and hours of bingo occasions for which permission is requested. An application for a license to use gambling devices and conduct raffles or a combination license shall state what gambling devices will be used and the dates and hours when they will be used or lotteries conducted. Each application shall

be made to the City Clerk-Treasurer on a form prescribed by him or her and shall be sufficient to show that the applicant is eligible for a license and that the operations described conform to the law and this subchapter. Each application shall be verified by a duly authorized officer of the organization seeking the license and by the designated bingo or gambling manager or both managers in the case of a combination license. No application shall be accepted unless it is accompanied by the full annual fee for the license sought. No person shall make a false statement in an application. Copies of each application shall be referred to the Police Chief or similar authority, Fire Chief, and Building Inspector of the city for their recommendations.

(C) *Duration of licenses*. All licenses issued under this subchapter shall be for a period of 1 year and shall expire 1 year from the date of issuance.

(D) *Fees*. The annual license fee for a bingo license shall be in an amount set by City Council from time to time. The annual fee for a license to use gambling devices shall be in an amount set by City Council from time to time. The fee for a combination license shall be in an amount set by City Council from time to time

(E) *Transfer*. No license issued under this subchapter shall be transferred to any other person or organization. No license shall be transferred to any location other than that specified in the license without the prior approval of the City Council.
(Ord. 112, passed 6-12-1984) Penalty, see § 111.99

§ 111.03 SUSPENSION AND REVOCATION.

No licensee shall have a vested right in any license issued under this subchapter. Any such license may be suspended for a period not exceeding 60 days or revoked by the City Council at any time for violation of any provision of this subchapter or applicable state law. The licensee shall be granted an opportunity for a hearing upon at least 10-days' notice before revocation or suspension is ordered. The notice shall state the time and place of the hearing and the nature of the charges against the licensee.
(Ord. 112, passed 6-12-1984)

§ 111.04 EFFECTIVE DATE.

This subchapter becomes effective from and after its passage and publication.
(Ord. 112, passed 6-12-1984)

§ 111.99 PENALTY.

Any person violating any provision of this subchapter is guilty of a misdemeanor.
(Ord. 112, passed 6-12-1984) Penalty, see § 10.99

CHAPTER 112: PEDDLERS AND SOLICITORS

Section

112.01 Definitions
112.02 Exceptions to definitions
112.03 Licensing; exemptions
112.04 License ineligibility
112.05 License suspension and revocation
112.06 License transferability
112.07 Registration
112.08 Prohibited activities
112.09 Exclusion by placard

§ 112.01 DEFINITIONS.

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

PEDDLER. A person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place, for the purpose of offering for sale, displaying or exposing for sale, selling or attempting to sell, and delivering immediately upon sale, the goods, wares, products, merchandise, or other personnel property that the person is carrying or otherwise transporting. The term ***PEDDLER*** shall mean the same as the term ***HAWKER***.

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

REGULAR BUSINESS DAY. Any day during which the City Hall is normally open for the purpose of conducting public business. Holidays defined by state law shall not be counted as regular business days.

SOLICITOR. A person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place, for the purpose of obtaining or attempting to obtain orders for goods, wares, products, merchandise, other personal property or services of which he or she

may be carrying or transporting samples, or that may be described in a catalog or by other means, and for which delivery or performance shall occur at a later time. The absence of samples or catalogs shall not remove a person from the scope of this provision if the actual purpose of the person's activity is to obtain or attempt to obtain orders as discussed above. The term shall mean the same as the term ***CANVASSER***.

TRANSIENT MERCHANT. A person who temporarily sets up business out of a vehicle, trailer, boxcar, tent, other portable shelter, or empty store front for the purpose of exposing or displaying for sale, selling or attempting to sell, and delivering, goods, wares, products, merchandise, or other personal property and who does not remain or intend to remain in any 1 location for more than 14 consecutive days.

§ 112.02 EXCEPTIONS TO DEFINITIONS.

(A) For the purpose of the requirements of this chapter, the terms ***PEDDLER, SOLICITOR,*** and ***TRANSIENT MERCHANT*** shall not apply to any person selling or attempting to sell at wholesale any goods, wares, products, merchandise, or other personal property to a retailer of the items being sold by the wholesaler. The terms also shall not apply to any person who makes initial contacts with other people for the purpose of establishing or trying to establish a regular customer delivery route for the delivery of perishable food and dairy products such as baked goods and milk, nor shall they apply to any person making deliveries of perishable food and dairy products to the customers on his or her established regular delivery route.

(B) In addition, persons conducting the type of sales commonly known as garage sales, rummage sales, or estate sales, as well as those persons participating in an organized multi-person bazaar or flea market, shall be exempt from the definitions of ***PEDDLERS, SOLICITORS,*** and ***TRANSIENT MERCHANTS***, as shall be anyone conducting an auction as a properly licensed auctioneer, or any officer of the court conducting a court-ordered sale. Exemption from the definitions for the scope of this chapter shall not excuse any person from complying with any other applicable statutory provision or local ordinance.

(C) Nothing in this chapter shall be interpreted to prohibit or restrict door-to-door advocacy. Persons engaging in door-to-door advocacy shall not be required to register as solicitors under § 112.07. The term ***DOOR-TO-DOOR ADVOCACY*** includes door-to-door canvassing and pamphleteering as vehicles for the dissemination of religious, political and other ideas.

§ 112.03 LICENSING; EXEMPTIONS.

(A) *County license required.* No person shall conduct business as a peddler, solicitor, or transient merchant within the city limits without first having obtained the appropriate license from the county as required by M.S. Chapter 329, as it may be amended from time to time, if the county issues a license for the activity.

(B) *City license required.* Except as otherwise provided for by this chapter, no person shall conduct business as either a peddler or a transient merchant without first having obtained a license from the city. Solicitors need not be licensed, but are still required to register pursuant to § 112.07.

(C) *Application.* Application for a city license to conduct business as a peddler or transient merchant shall be made at least 14 regular business days before the applicant desires to begin conducting business. Application for a license shall be made on a form approved by the City Council and available from the office of the City Clerk-Treasurer. All applications shall be signed by the applicant. All applications shall include the following information:

(1) Applicant's full legal name;

(2) All other names under which the applicant conducts business or to which applicant officially answers;

(3) A physical description of the applicant (hair color, eye color, height, weight, distinguishing marks and features, and the like);

(4) Full address of applicant's permanent residence;

(5) Telephone number of applicant's permanent residence;

(6) Full legal name of any and all business operations owned, managed, or operated by applicant, or for which the applicant is an employee or agent;

(7) Full address of applicant's regular place of business (if any);

(8) Any and all business related telephone numbers of the applicant;

(9) The type of business for which the applicant is applying for a license;

(10) Whether the applicant is applying for an annual or daily license;

(11) The dates during which the applicant intends to conduct business, and if the applicant is applying for a daily license, the number of days he or she will be conducting business in the city (maximum 14 consecutive days);

(12) Any and all addresses and telephone numbers where the applicant can be reached while conducting business within the city, including the location where a transient merchant intends to set up business;

(13) A statement as to whether or not the applicant has been convicted within the last five years of any felony, gross misdemeanor, or misdemeanor for violation of any state or federal statute or any local ordinance, other than traffic offenses;

(14) A list of the 3 most recent locations where the applicant has conducted business as a peddler or transient merchant;

(15) Proof of any requested county license;

(16) Written permission of the property owner or the property owner's agent for any property to be used by a transient merchant;

(17) A general description of the items to be sold or services to be provided;

(18) All additional information deemed necessary by the City Council;

(19) The applicant's driver's license number or other acceptable form of identification; and

(20) The license plate number, registration information, and vehicle identification number for any vehicle to be used in conjunction with the licensed business and a description of the vehicle.

(D) *Fee*. All applications for a license under this chapter shall be accompanied by an investigation fee of $100; all applications are sent to the County Sheriff's Department for approval.

(E) *Procedure*. Upon receipt of the completed application and payment of the license fee, the City Clerk-Treasurer, within 2 regular business days, must determine if the application is complete. An application is determined to be complete only if all required information is provided. If the City Clerk-Treasurer determines that the application is incomplete, the City Clerk-Treasurer must inform the applicant of the required necessary information that is missing. If the application is complete, the City Clerk-Treasurer must order any investigation, including background checks, necessary to verify the information provided with the application. Within 10 regular business days of receiving a complete application the City Clerk-Treasurer must issue the license unless there exist grounds for denying the license under § 112.04, in which case the Clerk-Treasurer must deny the license. If the City Clerk-Treasurer denies the license, the applicant must be notified in writing of the decision, the reason for denial, and of the applicant's right to appeal the denial by requesting, within 20 days of receiving notice of rejection, a public hearing before the City Council. The City Council shall hear the appeal within 20 days of the date of the request. The decision of the City Council following the public hearing can be appealed by petitioning the Minnesota Court of Appeals for a writ of certiorari.

(F) *Duration*. An annual license granted under this chapter shall be valid for 1 calendar year from the date of issue. All other licenses granted under this chapter shall be valid only during the time period indicated on the license.

(G) *License exemptions*.

(1) No license shall be required for any person to sell or attempt to sell, or to take or attempt to take orders for, any product grown, produced, cultivated, or raised on any farm.

(2) No license shall be required of any person going from house-to-house, door-to-door, business-to-business, street-to-street, or other type of place-to-place when the activity is for the purpose of exercising that person's state or federal constitutional rights such as the freedom of speech, press, religion and the like, except that this exemption may be lost if the person's exercise of constitutional rights is merely incidental to a commercial activity.

(3) Professional fund raisers working on behalf of an otherwise exempt person or group shall not be exempt from the licensing requirements of this chapter.
Penalty, see § 10.99

§ 112.04 LICENSE INELIGIBILITY.

The following shall be grounds for denying a license under this chapter:

(A) The failure of the applicant to obtain and show proof of having obtained any required county license;

(B) The failure of the applicant to truthfully provide any of the information requested by the city as a part of the application, or the failure to sign the application, or the failure to pay the required fee at the time of application;

(C) The conviction of the applicant within the past 5 years from the date of application for any violation of any federal or state statute or regulation, or of any local ordinance, which adversely reflects on the person's ability to conduct the business for which the license is being sought in an honest and legal manner. Those violations shall include but not be limited to burglary, theft, larceny, swindling, fraud, unlawful business practices, and any form of actual or threatened physical harm against another person;

(D) The revocation within the past 5 years of any license issued to the applicant for the purpose of conducting business as a peddler, solicitor, or transient merchant; and

(E) The applicant is found to have a bad business reputation. Evidence of a bad business reputation shall include, but not be limited to, the existence of more than 3 complaints against the applicant with the Better Business Bureau, the Attorney General's Office, or other similar business or consumer rights office or agency, within the preceding 12 months, or 3 complaints filed against the applicant within the preceding 5 years.

§ 112.05 LICENSE SUSPENSION AND REVOCATION.

(A) *Generally*. Any license issued under this section may be suspended or revoked at the discretion of the City Council for violation of any of the following:

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

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

(3) Conviction of any offense for which granting of a license could have been denied under § 112.04; and/or

(4) Violation of any provision of this chapter.

(B) *Multiple persons under 1 license*. The suspension or revocation of any license issued for the purpose of authorizing multiple persons to conduct business as peddlers or transient merchants on behalf of the licensee shall serve as a suspension or revocation of each authorized person's authority to conduct business as a peddler or transient merchant on behalf of the licensee whose license is suspended or revoked.

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

(D) *Public hearing*. Upon receiving the notice provided in division (C) of this section, the licensee shall have the right to request a public hearing. If no request for a hearing is received by the City Clerk-Treasurer within 10 regular business days following the service of the notice, the city may proceed with the suspension or revocation. For the purpose of mailed notices, service shall be considered complete as of the date the notice is placed in the mail. If a public hearing is requested within the stated time frame, a hearing shall be scheduled within 20 days from the date of the request. Within 3 regular business days of the hearing, the City Council shall notify the licensee of its decision.

(E) *Emergency*. If, in the discretion of the City Council, imminent harm to the health or safety of the public may occur because of the actions of a peddler or transient merchant licensed under this chapter, the City Council may immediately suspend the person's license and provide notice of the right to hold a subsequent public hearing as prescribed in division (C) of this section.

(F) *Appeals*. Any person whose license is suspended or revoked under this section shall have the right to appeal that decision in court.
Penalty, see § 10.99

§ 112.06 LICENSE TRANSFERABILITY.

No license issued under this chapter shall be transferred to any person other than the person to whom the license was issued.
Penalty, see § 10.99

§ 112.07 REGISTRATION.

All solicitors, and any person exempt from the licensing requirements of this chapter under § 112.03, shall be required to register with the city. Persons engaging in door-to-door advocacy shall not be required to register. The term ***DOOR-TO-DOOR ADVOCACY*** includes door-to-door canvassing and pamphleteering as vehicles for the dissemination of religious, political, and other ideas. Registration shall be made on the same form required for a license application, but no fee shall be required. Immediately upon completion of the registration form, the City Clerk-Treasurer shall issue to the registrant a certificate of registration as proof of the registration. Certificates of registration shall be nontransferable.
Penalty, see § 10.99

§ 112.08 PROHIBITED ACTIVITIES.

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

(A) Calling attention to his or her business or items to be sold by means of blowing any horn or whistle, ringing any bell, crying out, or by any other noise, so as to be unreasonably audible within an enclosed structure;

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

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

(D) Conducting business before 7:00 a.m. or after 9:00 p.m.;

(E) Failing to provide proof of license or registration, and identification, when requested; or using the license or registration of another person;

(F) Making any false or misleading statements about the product or service being sold, including untrue statements of endorsement. No peddler, solicitor, or transient merchant shall claim to have the endorsement of the city solely based on the city having issued a license or certificate of registration to that person; and/or

(G) Remaining on the property of another when requested to leave, or to otherwise conduct business in a manner a reasonable person would find obscene, threatening, intimidating, or abusive.
Penalty, see § 10.99

§ 112.09 EXCLUSION BY PLACARD.

No peddler, solicitor, or transient merchant, unless invited to do so by the property owner or tenant, shall enter the property of another for the purpose of conducting business as a peddler, solicitor, or transient merchant when the property is marked with a sign or placard at least 4 inches long and 4 inches wide with print of at least 48 point in size stating "No Peddlers, Solicitors, or Transient Merchants," or "Peddlers, Solicitors, and Transient Merchants Prohibited," or other comparable statement. No person other than the property owner or tenant shall remove, deface, or otherwise tamper with any sign or placard under this section.
Penalty, see § 10.99

TITLE XIII: GENERAL OFFENSES

Chapter

130. GENERAL OFFENSES

CHAPTER 130: GENERAL OFFENSES

Section

130.01 Discharging firearms
130.02 Curfew for minors

§ 130.01 DISCHARGING FIREARMS.

(A) *Shooting upon, over or near a cemetery*. No person shall, without permission from the proper officials, discharge a firearm upon or over a cemetery or within 100 yards thereof, unless the person is upon his or her own land.

(B) *Hunting near a city park*. No person shall hunt, shoot, or kill game within 1/2 mile of a city park unless the City Council has granted permission to kill game not desired within the limits prohibited by this division.

(C) *Discharge of firearms prohibited in certain places*. No person shall discharge a firearm on a lawn, park, playground, orchard, or other ground appurtenant to a school, church, or an inhabited dwelling, the property of another, or a charitable institution. This section does not prevent or prohibit the owner thereof from discharging firearms upon his or her own land.

(D) *Discharging firearms on highways prohibited*. No person shall discharge a firearm upon or over a public road or highway.

(E) *Exceptions*. This section shall not prohibit the firing of a military salute or the firing of weapons by persons of the nation's armed forces acting under military authority, and shall not apply to law enforcement officials in the proper enforcement of the law, or to any person in the proper exercise of the right of self defense, or to any person otherwise lawfully permitted by proper federal, state or local authorities to discharge a firearm in a manner contrary to the provisions of this section.

(F) If any of the above provisions are found to be in conflict with M.S. § 624.717, as it may be amended from time to time, the provisions of that statute shall prevail.
Penalty, see § 10.99

§ 130.02 CURFEW FOR MINORS.

(A) *Purpose*. The curfew for minors established by this section is maintained for 4 primary reasons:

(1) To protect the public from illegal acts of minors committed during the curfew hours;

(2) To protect minors from improper influences that prevail during the curfew hours, including involvement with gangs;

(3) To protect minors from criminal activity that occurs during the curfew hours; and

(4) To help parents control their minor children.

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

EMERGENCY ERRAND. A task that if not completed promptly threatens the health, safety, or comfort of the minor or a member of the minor's household. The term shall include, but shall not be limited to, seeking urgent medical treatment, seeking urgent assistance from law enforcement or fire department personnel, and seeking shelter from the elements or urgent assistance from a utility company due to a natural or human-made calamity.

OFFICIAL CITY TIME. The time of day as determined by reference to the master clock used by the Police Department.

PLACES OF AMUSEMENT, ENTERTAINMENT OR REFRESHMENT. Those places that include, but are not limited to, movie theaters, pinball arcades, shopping malls, nightclubs catering to minors, restaurants, and pool halls.

PRIMARY CARE or ***PRIMARY CUSTODY.*** The person who is responsible for providing food, clothing, shelter, and other basic necessities to the minor. The person providing primary care or custody to the minor shall not be another minor.

SCHOOL ACTIVITY. An event which has been placed on a school calendar by public or parochial school authorities as a school sanctioned event.

(C) *Hours*.

(1) *Minors under the age of 16 years*. No minor under the age of 16 years shall be in or upon the public streets, alleys, parks, playgrounds, or other public grounds, public places, public buildings; nor in or upon places of amusement, entertainment or refreshment; nor in or upon any vacant lot, between the hours of 10:30 p.m. and 5:00 a.m. the following day, official city time.

(2) *Minors ages 16 years to 18 years*. No minor of the ages of 16 or 17 years shall be in or upon the public streets, alleys, parks, playgrounds, or other public grounds, public places, public buildings; nor in or upon places of amusement, entertainment or refreshment; nor in or upon any vacant lot, between the hours of 12:00 midnight and 5:00 a.m. the following day, official city time.

(D) *Effect on control by adult responsible for minor*. Nothing in this section shall be construed to give a minor the right to stay out until the curfew hours designated in this section if otherwise directed by a parent, guardian, or other adult person having the primary care and custody of the minor; nor shall this section be construed to diminish or impair the control of the adult person having the primary care or custody of the minor.

(E) *Exceptions*. The provisions of this section shall not apply in the following situations:

(1) To a minor accompanied by his or her parent or guardian, or other adult person having the primary care and custody of the minor;

(2) To a minor who is upon an emergency errand at the direction of his or her parent, guardian, or other adult person having the primary care and custody of the minor;

(3) To a minor who is in any of the places described in this section if in connection with or as required by an employer engaged in a lawful business, trade, profession, or occupation; or to a minor traveling directly to or from the location of the business, trade, profession, or occupation and the minor's residence. Minors who fall within the scope of this exception shall carry written proof of employment and proof of the hours the employer requires the minor's presence at work;

(4) To a minor who is participating in or traveling directly to or from an event which has been officially designated as a school activity by public or parochial school authorities; or who is participating in or traveling directly to or from an official activity supervised by adults and sponsored by the city, a civic organization, school, religious institution, or similar entity that takes responsibility for the minor and with the permission of the minor's parent, guardian, or other adult person having the primary care and custody of the minor;

(5) To a minor who is passing through the city in the course of interstate travel during the hours of curfew;

(6) To a minor who is attending or traveling directly to or from an activity involving the exercise of First Amendment rights of free speech, freedom of assembly, or freedom of religion;

(7) To minors on the sidewalk abutting his or her residence or abutting the residence of a next-door neighbor if the neighbor does not complain to the city's designated law enforcement provider about the minor's presence; and/or

(8) To a minor who is married or has been married, or is otherwise legally emancipated.

(F) *Duties of person legally responsible for minor*. No parent, guardian, or other adult having the primary care or custody of any minor shall permit any violation of the requirements of this section by the minor.

(G) *Duties of other persons*. No person operating or in charge of any place of amusement, entertainment, or refreshment shall permit any minor to enter or remain in his or her place of business during the hours prohibited by this section unless the minor is accompanied by his or her parent, guardian or other adult person having primary care or custody of the minor, or unless one of the exceptions to this section applies.

(H) *Defense*. It shall be a defense to prosecution under this section that the owner, operator, or employee of an establishment promptly notified the city's designated law enforcement provider that a minor was present on the premises of the establishment during curfew hours and refused to leave.

(I) *Affirmative defense*. A law enforcement officer must look into whether a minor has an affirmative defense before making an arrest.
Penalty, see § 10.99

TITLE XV: LAND USAGE

Chapter

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CHAPTER 150: ZONING CODE

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GENERAL PROVISIONS

§ 150.001 TITLE.

This chapter shall hereafter be known as the Zoning Ordinance of the City of Mantorville, Minnesota, and may be referred to herein and cited as the Zoning Ordinance.
(Ord. 153, § 1.1, passed 3-24-2003)

§ 150.002 PURPOSE AND LEGAL AUTHORITY.

The general purpose of the Zoning Ordinance is to carry out the intent of the City of Mantorville's plans and policies and to promote and protect the public health, safety, order, convenience, and general welfare. This chapter is adopted pursuant to authority granted by Minnesota Statutes.
(Ord. 153, § 1.2, passed 3-24-2003)

§ 150.003 INTERPRETATION OF STANDARDS.

In their interpretation and application, the provisions of the Zoning Ordinance shall be held to be minimum requirements. Where the Zoning Ordinance imposes a greater restriction or standard than is imposed or required by other provisions of law or by other rules, regulations, or ordinances, the provisions of the Zoning Ordinance shall govern. When the provisions of state or federal law or other city regulations or ordinances set higher standards than those of the Zoning Ordinance, the provisions of the laws, regulations, or ordinances shall apply.
(Ord. 153, § 1.3, passed 3-24-2003)

§ 150.004 JURISDICTION.

This Zoning Ordinance shall apply to all lands, as defined herein, located within the corporate limits of the City of Mantorville, Minnesota.
(Ord. 153, § 1.40, passed 3-24-2003)

§ 150.005 ENFORCEMENT AND VIOLATIONS.

(A) *Generally*. In case of any violation of the Zoning Ordinance or any amendment or supplement thereto, any person aggrieved by the action may request the City Council to act in his or her behalf to prevent the unlawful location, erection, construction, reconstruction, alteration, conversion, maintenance, or use; to restrain, correct, or abate the violation; to prevent the occupancy of a building, structure, or land; or to prevent the occupancy of a building, structure, or in or about the premises. The procedures shall not limit taking action in a court of law.

(B) *Violations*. Any person, firm, or corporation violating any of the provisions of this Zoning Ordinance or any amendment or supplement thereto shall be guilty of a misdemeanor and upon conviction thereof shall be punishable in accordance with Minnesota law. Each and every day during which the violation continues shall be deemed to be a separate offense.

(C) *Relief from personal responsibility*. Any claim based upon an act or omission of an officer or employee exercising due care in the execution of any valid or invalid portions of this chapter and any claim based upon the performance or the failure to exercise or perform a discretionary function or duty, whether or not the discretion is abused, are hereby enumerated as exceptions to M.S. § 466.02, as it may be amended from time to time, and the section does not apply. The City of Mantorville shall defend, save harmless any of the officers or employees, whether elected or appointed, against any tort claim or demand, whether groundless or otherwise arising out of an alleged act or omission occurring in the performance of duty in the enforcement and administration of this Zoning Ordinance, except as provided in M.S. § 466.07, as it may be amended from time to time.
(Ord. 153, § 1.42, passed 3-24-2003) Penalty, see § 10.99

§ 150.006 RULES OF CONSTRUCTION.

(A) *Generally*. The language set forth in the text of this chapter shall be interpreted in accordance with the following rules of construction.

(B) *Specifically*.

(1) The singular number includes the plural, and plural the singular.

(2) The present tense includes the past and the future tenses, and the future the present.

(3) The word "shall" is mandatory while the word "may" is permissive.

(4) The masculine gender includes the feminine and neuter.

(5) The word "herein" means "these regulations."

(6) The word "building" shall include the word "structure."

(7) The word "used" shall include "arranged, designed, constructed, altered, converted, rented, leased," or "intended to be used."
(Ord. 153, § 2.1, passed 3-24-2003)

§ 150.007 DEFINITIONS.

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

ACCESSORY BUILDING OR STRUCTURE. A structure detached from the principal structure located on the same lot and customarily incidental and subordinate to the principal building or use.

ACCESSORY USE. A use of land or of a building or portion thereof customarily incidental and subordinate to the principal use of the land or building and located on the same lot with the principal use.

ALLEY. A public or private right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on some other street.

ALTER or ***ALTERATION.*** Any change, addition, or modification in construction or occupancy.

AMENITY. A natural or created feature that enhances the aesthetic quality, visual appeal, or makes more attractive or satisfying a particular property, place, or area (such as flowers, trees, architecture, cleanliness, or paint).

ANNEXATION. The incorporation of a land area into an existing community with a resulting change in the boundaries of that community.

APPLICANT. The owner of land proposing change of land use or his or her representative, according to this chapter. Consent shall be required from the legal owner of the premises.

APPURTENANCES. The visible, functional, or ornamental objects accessory to and part of the buildings.

AUTOMOBILE REPAIR, MAJOR. General repair, rebuilding, or reconditioning engines, motor vehicles or trailers, collision service, including body, frame, or fender straightening or repair, overall painting or paint job; vehicle steam cleaning.

AUTOMOBILE REPAIR, MINOR. Minor repairs, incidental body and fender work, painting and upholstering, replacement of parts and motor services to passenger automobiles and trucks not exceeding 9,000-pound gross weight, but not including any operation specified under ***AUTOMOBILE REPAIR, MAJOR***.

AUTOMOBILE SERVICE STATION. The retail dispensing or sales of vehicular fuels; servicing and repair of automobiles; and including as an accessory use the sale and installation of lubricants, tires, batteries, and similar vehicle accessories.

AVERAGE SETBACK. The mean setback from a street right-of-way of buildings on both sides of a lot.

BAR. Premises used primarily for the sale and dispensing of liquor by the drink for on-site consumption and where may be available for consumption on the premises as accessory to the principal use.

BASEMENT. The portion of a building, which is wholly, or 1/2 or more below the average grade of the ground level adjoining the building. A ***BASEMENT*** shall be counted as a story if used or intended to be used for dwelling or business purposes. No structure, which consists solely of a basement, shall for any period of time, be used as a dwelling.

BED AND BREAKFAST, GUEST HOUSE, or TOURIST HOME. Any dwelling providing certain rooms in excess of those used by members of the family, as herein provided, which are rented primarily to the traveling public, on a short-term basis, customarily overnight or for a weekend.

BLOCK. A unit of land bounded by streets or by a combination of streets and public land, railroad rights-of-way, waterways, or any other barrier to the continuity of development.

BOARD OF ADJUSTMENTS AND APPEALS. The Board of Adjustments and Appeals shall be composed of the members of the Mantorville City Council as authorized by M.S. § 462.354, Subdivision 2, as it may be amended from time to time.

BOARDING HOUSE. A dwelling unit or part thereof in which, for compensation, lodging, and meals are provided. Personal and financial services may be offered as well.

BOARDING KENNEL. A commercial establishment in which dogs or domesticated animals are housed, groomed, bred, boarded, trained, or sold all for a fee or compensation.

BUFFERYARD. Open spaces, landscaped areas, fences, walls, berms, or a combination thereof used to physically separate or screen 1 use of property from another so as to visually shield or block noise, lights, or other nuisances.

BUILDABLE AREA. The portion of a lot remaining after the minimum yard and open space requirements of this Zoning Ordinance have been met.

BUILDING. Any structure, either temporary or permanent, having a roof and used or built for the shelter or enclosure of any person, animal or chattel of property of any kind. Any portion completely separated from every other part of a building by division walls from the ground up and without openings, shall be deemed as a separate building.

BUILDING COVERAGE. The ratio of the horizontal area measured from the exterior surface of the exterior walls of the ground floor of all principal and accessory buildings on a lot to the total lot area.

BUILDING LINE. A line parallel to the street line touching that part of a building closest to the street.

BUILDING OFFICIAL. The authorized representative of the city, licensed by the State of Minnesota, to enforce the Minnesota State Building Code.

BUILDING SETBACK LINE. The line that is the required minimum distance from any lot line and that establishes the area within which the principal structure must be erected or placed.

BUSINESS SERVICES. Establishments primarily engaged in rendering services to business establishments on a fee or contract basis. Such as advertising and mailing, building maintenance; employment services; management and consulting services; protective services, equipment rental and leasing; commercial research; development and testing, photo finishing; and personal supply services.

CARPORT. A structure permanently attached to a dwelling having a roof supported by columns, but not otherwise enclosed, for the purpose of storage of motor vehicles.

CELLAR. A space with less than 1/2 of its floor-to-ceiling height above the average finished grade of the adjoining ground or with a floor-to-ceiling height of less than 6½ feet. A ***CELLAR*** shall not be counted as a story for purposes of height measurement. No structure, which consists solely of a ***CELLAR***, shall for any period of time be used as a dwelling.

CHILD. An individual 12 years of age or younger.

CHILD CARE FACILITY. A place or building other than the child's dwelling in which care, supervision, and guidance of a child unaccompanied by parents, guardian, or custodian is provided on a regular basis for a period of less than 24 hours a day, whether operated for profit or nonprofit.

CHURCH. A building 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.

CITY. The incorporated City of Mantorville, Dodge County, State of Minnesota.

COLUMBARIUM. A vault with niches for urns containing ashes of cremated bodies.

COMMERCIAL USE. Activity involving the sale of goods or services for profit.

COMPREHENSIVE PLAN or ***MASTER PLAN.***

(1) A compilation of policy statements, goals, standards, and maps for guiding the physical, social, and economic development, both private and public, of the municipality and its environs and may include, but is not limited to, the following:

(a) Statements of policies, goals, standards;

(b) A land use plan;

(c) A community facilities plan;

(d) A transportation plan; and

(e) Recommendations for plan execution.

(2) A ***COMPREHENSIVE PLAN*** represents the city's recommendations for the future development of the municipality.

CONDITIONAL USE. A use permitted in a particular zoning district upon showing that the use in a specified location will comply with all the conditions and standards for the location or operation of the use as specified in this Zoning Ordinance and authorized by the approving agency.

CONDITIONAL USE PERMIT. A document signed by the City Clerk-Treasurer specifying the requirements under which a conditional use may be permitted within a zoning district.

CONDOMINIUM. A building, or group of buildings, in which dwelling units, offices, or floor area are owned individually, and the structure, common areas, and facilities are owned by all the owners on a proportional, undivided basis.

CONTIGUOUS. Next to, abutting, or touching and having a boundary, or portion thereof, that is coterminous.

CONVENIENCE STORE. Any retail establishment offering for sale prepackaged food products, household items, newspapers and magazines, and sandwiches and other freshly prepared foods, such as salads, for off-site consumption.

COUNCIL. The City Council of the City of Mantorville, Minnesota.

COURT. An open unoccupied space on a lot bounded on 2 or more sides by the exterior walls of a dwelling or other building or buildings.

DAY CARE HOME. Restricted to a family dwelling in which foster care, supervision, and training for children of school or pre-school age out of their own home is provided during part of the day, which is less than 24 hours with no overnight accommodations or facilities and children are delivered and removed daily and for which all licenses shall be obtained.

DISTRIBUTION CENTER. An establishment engaged in the receipt, storage, and distribution of goods, products, cargo, and materials, including transshipment by boat, rail, air, or motor vehicle.

DOUBLE FRONTAGE LOT. A lot fronting more than 1 public street right-of-way.

DWELLING. Any building or portion thereof designed or used exclusively as the residence or sleeping place of 1 or more persons, but not including a tent, cabin, trailer, or other temporary or portable housing.

DWELLING, ATTACHED. A 1-family dwelling attached to 1 other 1-family dwelling by a common vertical wall, with each dwelling located on a separate lot, sometimes referred to as zero lot line development.

DWELLING, DETACHED. A dwelling that is not attached to any other dwelling by any means.

DWELLING, MULTI-FAMILY. A building containing 3 or more dwelling units, including units that are located 1 over the other.

DWELLING, QUADRA-PLEX. Four attached dwellings in 1 building in which each unit has 2 open space exposures and shares 1 or 2 walls with adjoining units.

DWELLING, SINGLE-FAMILY. A building designed or used exclusively for residence purposes by 1 family.

DWELLING, TOWNHOUSE. A 1-family dwelling in a row of at least 3 units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by 1 or more vertical common fire-resistant walls.

DWELLING, TRIPLEX. A building containing 3 dwelling units, each of which has direct access to the outside or to a common hall.

DWELLING, 2-FAMILY. A building designed or used exclusively for residence purposes for 2 families. Each unit is totally separated from the other by an unpierced wall extending from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both dwelling units.

DWELLING UNIT. One or more rooms designed, occupied, or intended for occupancy as a separate living quarter, with cooking, sleeping, and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household.

EARTH SHELTER STRUCTURE. A building or structure, which by the nature of its design utilizes a soil material as an insulating source or as an integral part of its design. The uses in the structure shall be governed by the provisions of the zoning district in which it is located.

EASEMENT. A grant of 1 or more of the property rights by the property owner to and/or for use by the public, a corporation, or another person or entity.

EGRESS. An exit.

ERECTED. Assembled, raised, built, constructed, reconstructed, moved upon, or any physical operation on the premises required for a building, excavation, fill, drainage, and the like.

ESSENTIAL SERVICES. Services and utilities needed for the health, safety, and general welfare of the community, such as underground, surface, or overhead electrical, gas, telephone, steam, water, sewerage, communications and including generating switching stations, poles, lines, pipes, pumping stations, repeaters, antennas, transmitters and receivers, valves and other utilities and the equipment, buildings, structures, and appurtenances necessary for the systems to furnish an adequate level of service for the area in which it is located including cable television.

EXISTING BUILDING OR STRUCTURE. A building or structure erected prior to the adoption of this chapter, or 1 for which a legal building permit has been issued.

EXTENDED CARE FACILITY. A long-term care facility or a distinct part of a facility licensed or approved as a nursing home, infirmary unit of a home for the aged, or a governmental medical institution.

FAMILY. Any number of persons inhabiting a dwelling unit comprising a single housekeeping unit and related by blood, marriage, adoption, or any unrelated person who resides therein as though a member of the family including the domestic employees.

FARM. A parcel of land, which is used for agricultural activities, including cropping, pasture, and raising of livestock or fowl for commercial purposes.

FILLING STATION. Buildings and premises where gasoline, oil, grease, batteries, tires, and automobile accessories may be supplied and dispensed at retail. Uses permissible at a filling station do not include major mechanical and body work, straightening of body parts, or other work involving noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in filling stations.

FLOOR AREA, GROUND. The area within the exterior walls of the principal building as measured from the outside walls at the ground floor level, not including garages or enclosed or unenclosed porches and not including attached utility or accessory rooms having 3 or more exterior sides.

FOOTING. The portion of the foundation of a structure, which spreads and transmits loads directly to the soil or the piles.

FRONTAGE. The side of a lot abutting on a street; the front lot line.

GARAGE, MUNICIPAL. A structure owned or operated by a municipality and used primarily for the parking and storing of vehicles owned by the municipality.

GARAGE, PRIVATE RESIDENTIAL. A detached accessory building or a portion of the principal building used for the storage of self-propelled passenger vehicles, non-commercial trailers and household equipment.

GARAGE, PUBLIC. A structure or portion thereof, other than a private residential garage used primarily for the parking and storage of vehicles, trailers, and available to the general public.

GARAGE, REPAIR. Any building, premises, and land in which or upon which a business, service, or industry involving the maintenance, servicing, repair, or painting of vehicles is conducted or rendered.

GOVERNING BODY. The body of the local government having the power to adopt ordinances.

GRADE.

(1) The average elevation of the land around a building.

(2) The percent of rise or descent of a sloping surface.

GREENBELT. An open area that may be cultivated or maintained in a natural state surrounding development or used as a buffer between land uses or to mark the edge of an urban or developed area.

GREENHOUSE. A building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of delicate or out-of-season plants for subsequent sale or for personal enjoyment.

GROUP HOMES; SUPERVISED LIVING FACILITY. A facility in which there is provided supervision, lodging, meals, and in accordance with the provisions of rules of the Department of Public Welfare, counseling and developmental habilitative or rehabilitative services to five or more persons who are mentally retarded, chemically dependent, adult mentally ill, or physically handicapped.

(1) ***CLASS A SUPERVISED LIVING FACILITY.*** A supervised living facility for ambulatory and mobile persons who are capable of taking appropriate action for self-preservation under emergency conditions as determined by program licensure provisions.

(2) ***CLASS A-1 SUPERVISED LIVING FACILITY.*** Shall include homes providing boarding and lodging for 6 or fewer ambulatory or mobile disabled persons.

(3) ***CLASS A-2 SUPERVISED LIVING FACILITY.*** Shall include homes providing boarding and lodging for more than 6 ambulatory or mobile disabled persons.

(4) ***CLASS B SUPERVISED LIVING FACILITY.*** A supervised living facility for ambulatory, non-ambulatory, mobile or non-mobile persons who are not mentally or physically capable of taking appropriate action for self-preservation under emergency conditions as determined by program licensure provisions.

HEIGHT. The vertical distance of a structure or building which for the purpose of this chapter will be measured from the lowest elevation of the finished grade surrounding the structure or building to the highest point of the structure or building.

HISTORIC SITE. A structure or place of outstanding cultural significance and designated as such by state or federal government or agency.

HOME BUSINESS. A home occupation or profession within the dwelling unit or an existing accessory structure, solely by the residents of the dwelling, which is detectable from off of the premises and is usually characterized by activity not normally present within a residential parcel or neighborhood. A ***HOME BUSINESS*** shall require a conditional use permit. (Example: home businesses may involve the storage of trade inventory incidental to the service, equipment, repair, or assembly service requiring equipment other than customarily found in a dwelling or accessory structure.)

HOME OCCUPATION.

(1) Any occupation, profession, or enterprise conducted in a dwelling unit by a member of the immediate family residing on the premises and carried out for gain;

(2) No more than 1 person is employed other than members of the immediate family residing on the premises;

(3) The use is incidental and subordinate to its use for residential purposes by its occupants, and not more than 25% of the area of 1 floor is used in the conduct of the home occupation;

(4) No structural alterations or construction involving features not customarily found in dwellings are required except that 1 nonilluminated sign not exceeding 1 square foot in area may be mounted flat against the wall of the main building;

(5) If the home occupation use consists of a barbershop or beauty parlor, there shall be a maximum usage of 2 chairs at any 1 time; and

(6) Adequate off-street parking is available for conducting the home occupation.

HOTEL. A facility offering transient lodging accommodations to the general public and providing additional services, such as restaurants, meeting rooms, entertainment, and recreational facilities.

INCIDENTAL. Subordinate and minor in significance and bearing a reasonable relationship with the primary use.

INFRASTRUCTURE. Facilities and services needed to sustain industry, residential, commercial, and all other land use activities.

INGRESS. Access or entry.

INSPECTION. A procedure of determining if the locations of buildings and structures and the general construction or erection utilized meet, the intent of this chapter.

INTERMEDIATE CARE FACILITY. A facility that provides, on a regular basis, personal care, including dressing and eating and health related care and services, to individuals who require the assistance but who do not require the degree of care and treatment that a hospital of skilled nursing facility provides.

JUNK. Any scrap, waste, reclaimable material, or debris, whether or not stored, for sale or in the process of being dismantled, destroyed, processed, salvaged, stored, baled, disposed, or other use or disposition.

JUNKYARD. Any area, lot, land, parcel, building, or structure, or part thereof, used for the storage, collection, processing, purchase, sale, salvage, or disposal of junk.

LANDSCAPE.

(1) An expanse of natural scenery.

(2) Lawns, trees, plants, and other natural materials, such as rock and wood chips, and decorative features, including sculpture, patterned walks, fountains, and pools.

LIGHT MANUFACTURING. Uses where products are assembled or produced that include no discharge of any form of emissions to the air, or water environment, or to the public utilities of the city other than wastes from restroom facilities. The uses shall create no audible noise beyond property lot lines.

LOADING SPACE. An off-street space or berth on the same lot with a building or contiguous to a group of buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts upon a street, alley, or other appropriate means of access. Required loading space is not to be included as off-street parking space in computation of required off-street parking space.

LONG-TERM CARE FACILITY. An institution or a distinct part of an institution that is licensed or approved to provide health care under medical supervision for 24 or more consecutive hours to 2 or more patients who are not related to the governing authority or its members by marriage, blood, or adoption.

LOT. A piece or parcel of land occupied or intended to be occupied by a principal building pr a group of the buildings and accessory buildings, or utilized for a principal use, or by other activity permitted thereon and including the open spaces required under this chapter and having frontage on a public street or approved private street.

LOT AREA. The total area within the lot lines of a lot, excluding any street rights-of-way.

LOT, CORNER. A lot or parcel of land abutting upon 2 or more streets at their intersection or upon 2 parts of the same street forming an interior angle of less than 135 degrees. The point of intersection of the street lines in the corner.

LOT COVERAGE. The portion of the lot that is covered by buildings.

LOT DEPTH. The average distance measured from the front lot line to the rear lot line.

LOT, DOUBLE FRONTAGE. A lot that fronts upon 2 parallel streets or that fronts upon 2 streets that do not intersect at the boundaries of the lot.

LOT FRONTAGE. The length of the front lot line measured at the street right-of-way line.

LOT, INTERIOR. A lot other than a corner lot.

LOT LINE. A line of record bounding a lot that divides 1 lot from another lot or from a public or private street or any other public space.

LOT LINE, FRONT. The lot line separating a lot from a street right-of-way.

LOT LINE, REAR. The lot line opposite and most distant from the front lot line.

LOT LINE, SIDE. Any lot line other than a front or rear lot line. A side lot line separating a lot from a street is called a ***CORNER SIDE LOT LINE***. A side lot line separating a lot from another lot or lots is called an interior side lot line.

LOT OF RECORD. A lot that exists as shown or described on a plat or deed in the records of the local registry of deeds (Dodge County Recorder's Office).

LOT, SUBSTANDARD. A parcel of land that has less than the minimum area or minimum dimensions required in the zone in which the lot is located.

LOT, THROUGH. A lot having frontage on 2 parallel or approximately parallel streets.

LOT WIDTH. The horizontal distance between the side lines of a lot measured at right angles to its depth along a straight line parallel to the front lot line at the minimum required building setback line.

MANUFACTURED HOME and ***MANUFACTURED BUILDING.*** The general term meaning a structure, transportable in 1 or more sections, which in the traveling mode, is 8 body feet or more in width or 40 body feet or more in length, or when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and including the plumbing, heating, air conditioning, and electrical systems contained therein, except that the term includes any structure which meets all of the requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of Housing and Urban Development or the authorized agent or successor thereof, and complies with the standards established in the Minnesota Statutes, as amended. This general definition includes structures commonly known as mobile homes as well as manufactured buildings built without a chassis and designed only for erection on permanent foundation and which possess roof lines such as conventional on the site constructed homes and buildings.

MANUFACTURED HOME PARK. Any lot or part thereof, or any parcel of land which is used or offered as a location for 2 or more manufactured homes used for any purpose set forth in the definition of manufactured home and manufactured building.

MANUFACTURED HOME SPACE or ***MANUFACTURED HOME LOT.*** A parcel of ground within a manufactured home park designed for the accommodation of 1 manufactured home.

MANUFACTURED HOUSING. Factory-built single-family structures that meet the National Manufactured Home Construction and Safety Standards Act (42 U.S.C. § 5401, as it may be amended from time to time), commonly known as the H.U.D. (U.S. Department of Housing and Urban Development) code. This general definition includes structures heretofore commonly known as mobile homes as well as manufactured building built without chassis and designed only for erection on a permanent frost-free foundation and which possess rooflines such as conventional on the site constructed homes and buildings.

MANUFACTURING. Establishments engaged in the mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the creation of products, and the blending of materials, such as lubricating oils, plastics, resins, or liquors.

MAUSOLEUM. A tomb or a building with vaults for the entombment of a number of bodies.

MOTEL. An establishment providing sleeping accommodations with a majority of all rooms having direct access to the outside without the necessity of passing through the main lobby of the building.

MUNICIPAL ATTORNEY. The licensed attorney designated by the governing body to furnish legal assistance for the administration and enforcement of these regulations and also known as the City Attorney.

NONCONFORMING LOT. A lot, which does not comply with the minimum lot area or frontage requirements of the district in which it is located.

NONCONFORMING SIGN. Any sign lawfully existing prior to the effective date of this chapter, or amendment thereto, that does not conform to all the standards and regulations of the adopted or amended ordinance.

NONCONFORMING STRUCTURE OR BUILDING. A structure or building which does not comply with the bulk, yard, setback, or height regulations of the district in which it is located.

NONCONFORMING USE. A use which does not conform to the applicable use regulations of the district in which it is located.

NUISANCE. An unreasonable interference with the enjoyment and use of property.

NURSERY. Land or greenhouses used to raise flowers, shrubs, and plants for sale.

NURSING HOME. See group homes, extended care facility, intermediate care facility, and/or long-term care facility.

OFFICE. A room or group of rooms used for conducting the affairs of a business, profession, service, industry, or government and generally furnished with desks, tables, files, and communication equipment.

OFFICE BUILDING. A building used primarily for conducting the affairs of a business, profession, service, industry, or government, or like activity, and may include ancillary services for office workers, such as a restaurant, coffee shop, newspaper or candy stand, and child-care facilities.

OFFICIAL MAP. An ordinance in map form adopted by the governing body that conclusively shows the location and width of proposed streets, public facilities, public areas, and drainage rights-of-way.

OPEN SALES LOT. Any open land used or occupied for the purpose of buying, selling, and/or renting merchandise and for the storing of same prior to sale.

OPEN SPACE. An area of land preserved from building development and reserved for the use of the general public or a homeowner's association for the purpose of active and passive recreation and certain necessary community facilities.

OUTDOOR ADVERTISING BUSINESS. Provisions of outdoor displays or display space on a lease or rental basis only.

OUTDOOR STORAGE. The keeping, in an unenclosed area, of any goods, junk, material, merchandise, or vehicles in the same place for more than 24 continuous hours.

OWNER. Any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having title to or sufficient proprietary interest in the land subject to these regulations.

PARCEL. A contiguous lot or tract of land and recorded as the property of the same persons or controlled by a single entity.

PARK. Area of public land developed and maintained primarily as pleasurable landscaped area providing for both active and passive recreational pursuits, including tot-lots, playgrounds, neighborhood parks, play field, and special purpose areas.

PARKING AREA. Any public or private area, under or outside of a building or structure, designed and used for parking motor vehicles including parking lots, garages, private driveways, and legally designated areas of public streets.

PARKING, OFF-SITE. Parking provided for a specific use but located on a site other than the 1 on which the specific use is located.

PARKING, ON-STREET. A temporary storage area for a motor vehicle that is located on a dedicated street right-of-way.

PARKING, SHARED. Joint use of a parking area for more than 1 use.

PARKING SPACE. A space for the parking of a motor vehicle within a public or private parking area.

PARKING SPACE, OFF-STREET. A temporary storage area for a motor vehicle that is directly accessible to an access aisle and that is not located on a dedicated street right-of-way.

PARTY WALL. A common shared wall between 2 separate structures, buildings, or dwelling units.

PERMIT. Written governmental permission issued by an authorized official, empowering the holder thereof to do some act not forbidden by law but not allowed without the authorization.

PERMITTED USE. Any use allowed in a zoning district and subject to the restrictions applicable to that zoning district.

PERSON. A corporation company, association, society, firm, partnership, or joint stock company, as well as an individual, a state, and all political subdivisions of a state or any agency or instrumentality thereof.

PLANNED UNIT DEVELOPMENT (P.U.D.). An area of a minimum contiguous size, as specified by ordinance, to be planned, developed, operated, and maintained according to plan as a single entity and containing 1 or more structures with appurtenant common areas.

PLAT.

(1) A map representing a tract of land showing the boundaries and location of individual properties and streets.

(2) A map of a subdivision or site plan.

PLAT, FINAL. A map of all or a portion of a subdivision or site plan that is presented to the approving authority for final approval.

PLAT, PRELIMINARY. A map indicating the proposed layout of the subdivision or site plan that is submitted to the approving authority for preliminary approval.

PLAT SKETCH. A concept, informal map of a proposed subdivision or site plan of sufficient accuracy to be used for the purpose of discussion and classification.

PORCH. A roofed open area, which may be screened, usually attached to or part of and with direct access to or from a building.

PRELIMINARY APPROVAL. The conferral of certain rights, prior to final approval, after specific elements of a development have been approved by the approving authority and agreed to by the applicant.

PRINCIPAL BUILDING. The primary building in which the main principal permitted use of the lot is conducted or accomplished.

PRINCIPAL USE. The primary or predominant use of any lot or parcel.

PROHIBITED USE. A use that is not permitted in a zoning district.

PUBLIC HEARING. A meeting announced and advertised in advance and open to the public, with the public given an opportunity to talk and participate.

PUBLIC IMPROVEMENT. Any drainage ditch, roadway, parkway, sidewalk, pedestrianway, tree, lawn, off-street parking area, lot improvement, or other facility for which the local government may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which local government responsibility is established.

PUBLIC NOTICE. The advertisement of a public hearing in a paper of general circulation, and through other media sources, indicating the time, place, and nature of the public hearing and where the application and pertinent documents may be inspected.

PUBLIC UTILITY. A closely regulated enterprise with a franchise for providing to the public a utility service deemed necessary for the public health, safety, and welfare.

QUORUM. A majority of the full authorized membership of a board or agency.

RECREATIONAL FACILITY. A place designed and equipped for the conduct of sports and leisure-time activities.

RECREATIONAL VEHICLE. A vehicular-type portable structure without permanent foundation that can be towed, hauled, or driven and primarily designed as a temporary living accommodation for recreational, camping and travel use and including, but not limited to, travel trailers, truck campers, camping trailers, and self-propelled motor homes.

RECREATIONAL VEHICLE PARK. Any lot or part thereof, or any parcel of land which is used or offered as a location for 2 or more recreational vehicles for any purpose set forth in the definition of recreational vehicle.

RECREATIONAL VEHICLE SPACE OR LOT. A parcel of ground within a recreation vehicle park designed for the accommodation of 1 recreation vehicle.

REPAIR. The reconstruction or renewal of a part of an existing building for the purpose of its maintenance. The word ***REPAIR*** shall not apply to any structural or spatial modifications.

RESIDENTIAL HEALTH CARE FACILITY. Residences usually occupied by the frail elderly that provide rooms, meals, personal care, and health monitoring services under the supervision of a professional nurse and that may provide other services, such as residential, social, and cultural activities, financial services, and transportation.

RESTAURANT An establishment where food and drink are prepared, served, and consumed primarily within the principal building.

RETAIL SALES. Establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of the goods.

RETAIL SERVICES. Establishments providing services or entertainment, as opposed to products, to the general public for personal or household use, including eating and drinking places, hotels and motels, finance, real estate and insurance, personal service, motion pictures, amusement and recreation services, health, educational and social services, museums, and galleries.

REZONE. To change the zoning classification of particular lots or parcels of land.

RIGHT-OF-WAY.

(1) A strip of land acquired by reservation, dedication, forced dedication, prescription, or condemnation and intended to be occupied by a road, crosswalk, railroad, electric transmission lines, oil or gas pipeline, water line, sanitary storm sewer, and other similar uses.

(2) Generally, the right of one to pass over the property of another.

ROOF The outside top covering of a building.

ROOF, FLAT. A roof that is not pitched and the surface of which is generally parallel to the ground.

ROOF, GABLE. A ridged roof forming a gable at both ends of the building.

ROOF, GAMBREL. A gabled roof with 2 slopes on each side, the lower steeper than the upper.

ROOF, HIP. A roof with sloping ends and sides.

ROOF MANSARD. A roof with 2 slopes on each of 4 sides, the lower steeper than the upper.

ROOF SHED. A roof with 1 slope.

SALVAGE YARD. Any area, lot, parcel, building or structure, or part thereof, used for the storage, collection, processing, purchase, sale, salvage, or disposal of scrap, waste, reclaimable material, or debris.

SCREENING. See ***BUFFERYARD.***

SETBACK. The distance between the building and any lot line.

SETBACK LINE. The line that is the required minimum distance from any lot line and that establishes the area within which the principal structure must be erected or placed.

SIGN. A publicly displayed message using words, letters, symbols, or pictures, bearing information warning, advertising, or other. However, the following shall not be included in the application of the regulations herein:

(1) Signs not exceeding 1 square foot in area and bearing only property numbers, post box numbers, names of occupants of premises, or other identification of premises not having commercial connotations;

(2) Flags and insignia of any government except when displayed in connection with commercial promotion;

(3) Legal notices: identification, information, or directional signs erected or required by governmental bodies;

(4) Integral decorative or architectural features of buildings except letters, trademarks, moving parts, or moving lights; and

(5) Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.

SIGN, FREE STANDING. A self-supporting sign resting on or supported by means of poles, standards, or any other type of base anchored to the ground.

SIGN, GRAPHICS. A sign, which is an integral part of the building facade. The sign is painted directly on, carved in, or otherwise permanently imbedded in the facade. Signs in shop windows are included unless they qualify as auxiliary signs.

SIGN, MARQUEE. A structure attached to and projecting from a wall of a building, located above an entrance, which is designed to identify a business or use located on the premises or to advertise present or scheduled events on the premises.

SIGN, NUMBER AND SURFACE AREA. For the purpose of determining number of signs, a sign shall be considered to be a simple display surface or display device containing elements organized, related, and composed to form a unit. Where matter is displayed in a random manner without organized relationship of elements, or where there is a reasonable doubt about the relationship of elements, each element shall be considered to be a single sign. The surface area of a sign shall be computed as including the entire area within a regular geometric form or combination of regular geometric forms comprising all of the display area of the sign.

SIGN, OFFICIAL. A sign placed by an authorized government body including, but not limited to, street, traffic and highway signs, posted legal notices, or parking signs.

SIGN, OFF-SITE. A sign other than an on-site sign.

SIGN, ON-SITE. A sign relating in its subject matter to the premises on which it is located, or to products, accommodations, services, or activities son the premises. On-site signs do not include signs erected by the outdoor advertising industry in the conduct of outdoor advertising business.

SIGN, PORTABLE. Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels, signs converted to A- or T-frames, menu and sandwich board signs, balloons used as signs, umbrellas used for advertising except that advertising umbrellas may be used in conjunction with the operation of a restaurant, and signs attached to or painted on vehicles parked and visible from the public right-of-way unless the vehicle is used for normal day-to-day operations of a business.

SIGN, ROOF. A sign mounted on the roof of a building or which depends upon a parapet wall for support.

SIGN, WALL. A sign mounted parallel to a building facade or other vertical building surface (which should not be mounted more than 18 inches from the wall surface they are attached to).

SIMILAR USE. A use that has the same characteristics and the specifically cited uses in terms of the following: trip generation and type of traffic, parking and circulation, utility demands, environmental impacts, physical space needs, and clientele.

SITE PLAN. The development plan for 1 or more lots on which is showing the existing and proposed conditions of the lot, including topography, vegetation, drainage, flood plains, wetlands, and waterways; landscaping and open spaces; walkways; means of ingress and egress; circulation; utility services; structures and buildings; signs and lighting; berms, buffers, and screening devices; surrounding development; and any other information that may be required in order that an informed decision can be made by the approving authority.

STORY. The portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it and including those basements used for the principal use.

STREET. A public or private right-of-way approved or accepted by public authority or user, which provides a primary means of public access to abutting property. The term ***STREET*** shall include avenue, drive, circle, road, parkway, boulevard, highway, thoroughfare, or any similar term.

STRUCTURE. Anything constructed, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground.

SUBDIVIDER. Any person having an interest in land that is the subject of an application for subdivision.

SUBDIVISION. The division of a lot, tract, or parcel of land into 2 or more lots, tracts, parcels, or other divisions of land for sale, development, or lease.

SWIMMING POOL. Any structure intended for swimming or recreational bathing that contains water over 24 inches deep. This includes in-ground, above-ground, and on-ground swimming pools, hot tubs, portable and non-portable spas, and fixed-inplace pools.

USE. The purpose for which land or a building or structure is arranged, designed, or intended, or for which either land or a building or structure is, or may be, occupied or maintained.

USE, CONDITIONAL. A use, which is permitted in a district only if a permit is expressly authorized by the governing body in accordance with § 150.110.

UTILITY EASEMENT. The right-of-way acquired by a utility or governmental agency to locate utilities, including all types of pipelines, telephone and electric cables, and towers.

VARIANCE. Permission to depart from the literal requirements of this Zoning Ordinance.

WAREHOUSE. A building used primarily for the storage of goods and materials.

YARD. An open space that lies between the principal building(s) and the nearest lot line. The minimum required yard as set forth in this chapter is unoccupied and unobstructed from the ground upward except as may be specifically provided in this Zoning Ordinance.

YARD AREA. The total square footage of the property.

YARD DEPTH. The shortest distance between a lot line and a yard line.

YARD, FRONT. A space extending the full width of a lot between any building and the front lot line and measured perpendicular to the building at the closest point to the front lot line. In the case of through lots, unless the prevailing front yard pattern on adjoining lots indicates otherwise, front yard shall be provided on all frontages. Where 1 of the yards that would normally be required on a through lot is not in keeping with the prevailing yard pattern, the governing body may waive the requirement for the normal front yard and substitute a special yard requirement which shall not exceed the average of the yards provided on adjacent lots.

YARD, REAR. A yard extending across the rear of the lot between inner side yard lines. In the case of through lots and corner lots, there will be no rear yards, but only front and side yards.

YARD, REQUIRED. The open space between a lot line and the yard line within which no structure shall be located except as provided in this Zoning Ordinance.

YARD, SIDE. A yard extending from the rear line of the required front yard to the rear lot line, or in the absence of any clearly defined rear lot line to the point on the lot farthest from the intersection of the lot line involved with the public street. In the case of through lots, side yards shall extend from the rear lines of front yards required. In the case of corner lots, yards remaining after front yards have been established shall be considered side yards.

ZERO LOT LINE. The location of a building on a lot in such a manner that 1 or more of the building's sides rests directly on a lot line.

ZONE. A specifically delineated area or district in a municipality within which uniform regulations and requirements govern the use, placement, spacing, and size of land and buildings.

ZONING. The delineation of districts and the establishment of regulations governing the use, placement, spacing, and size of land and buildings.

ZONING ADMINISTRATOR. The designated zoning administrator of the City of Mantorville, Minnesota, or his/her authorized representative.

ZONING CERTIFICATE. A document signed by the Zoning Administrator authorizing buildings, structures, or uses consistent with the terms of this Zoning Ordinance and for the purpose of carrying out and enforcing its provisions.

ZONING DISTRICT. A part, zone, or geographic area within the municipality within which certain zoning or development regulations apply.

ZONING MAP. The map or maps that are a part of this Zoning Ordinance and delineates the boundaries of zoning districts.
(Ord. 153, § 2.2, passed 3-24-2003)

§ 150.008 EFFECTIVE DATE.

This Zoning Ordinance shall be in full force and effect from and after its passage and publication in the manner provided by law.
(Ord. 153, § 6.1, passed 3-24-2003)

GENERAL REGULATIONS

§ 150.020 COMPLIANCE REQUIRED.

No land, building, or structure or part thereof shall hereafter be erected, altered, constructed, reconstructed, maintained, used, moved, or occupied except in conformity with the provisions of this Zoning Ordinance.
(Ord. 153, § 1.4, passed 3-24-2003) Penalty, see § 10.99

§ 150.021 NONCONFORMING USES AND STRUCTURES.

(A) *Generally*. Where the districts established by the Zoning Ordinance contain structures and uses of land and structures which were lawful before the Zoning Ordinance was passed or amended, but which would be prohibited, it is the intent of the Zoning Ordinance to permit these nonconformities to continue until they are removed as provided below, but not to encourage their survival.

(B) *Nonconforming uses of land.*

(1) No nonconforming uses of land shall be enlarged, increased, or extended to occupy a greater area of land than was occupied at the effective date of the Zoning Ordinance. No nonconforming use of land shall continue if it ceases for any reason (except where governmental action impedes access to the premises) for a period of more than 12 consecutive months or for 18 months during any 3-year period. No nonconforming use of land shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by the use at the effective. date of the provisions of the Zoning Ordinance.

(2) No lot area shall be so reduced or diminished that the yards or other open spaces shall be smaller than prescribed herein, nor shall the number of dwelling units be increased in any manner except in conformity with the area regulations herein prescribed, nor shall the area of any lot be reduced below the minimum requirements herein established.

(C) *Nonconforming uses of structure*. No nonconforming use of any structure may extend to any part of the structure, which was not manifestly arranged or designed for the use at the time of adoption of the Zoning Ordinance; and no use shall be extended to occupy any land outside the structure. Moreover, the structure shall not be enlarged, extended, constructed, reconstructed, moved, or structurally altered except for a permitted use.

(1) *Forfeiture by non-use*. No nonconforming use of structure shall continue if it is discontinued for 12 consecutive months or for 18 months during any 3-year period.

(2) *Change in use*. If no structural alterations are made, any nonconforming use of structure, or structure and premises in combination, may be changed to another nonconforming use of the same

nature, or to a more restricted use, or to a conforming use; provided, however, that change to a more restricted use or to another nonconforming use that may be made only if the relation of structure to surrounding property is such that adverse effects on occupants and neighboring property will not be greater than if the original nonconforming use continued and a conditional use permit is secured.

(3) *Repairs and maintenance*. On any buildings devoted in whole or in part to any nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring, or plumbing, to an extent not exceeding 10% of the current replacement value of the building, provided that the cubic content of the building as it existed at the time of the effective date of the Zoning Ordinance shall not be increased.

(D) *Nonconforming structure*. A nonconforming structure may be continued so long as it remains otherwise lawful, subject to the following provisions.

(1) *Enlargement or alteration*. No nonconforming structure may be enlarged or altered in any way, which increases its nonconformity.

(2) *Damage or destruction*. If a nonconforming structure is destroyed by any means to an extent of more than 50% of its current replacement cost (including materials and labor) at the time of destruction, it shall not be reconstructed except in conformity with the provisions of the Zoning Ordinance. If destroyed to less than 50% of its replacement costs the restoration shall begin within 12 months or the structure shall be made conforming.

(E) *Nonconforming lots of record*. A lot of record existing upon the effective date of this chapter in a Residential District, which does not meet the requirements of this chapter as to area or width may be utilized for single-family detached dwelling purposes or 2-family, duplex dwelling purposes, provided the measurements of the area or width are within 75% of the requirements of this chapter.

(F) *Permanent dwellings*. No cellar, detached garage, tent, trailer, recreational vehicles, or accessory building shall be used as a permanent dwelling. The basement portion of a finished home or apartment may be used for normal eating and sleeping purposes provided it is in compliance with the Minnesota State Building Code.

(G) *Temporary dwellings*. It shall not be lawful for any person to erect or occupy a temporary dwelling on any lot or parcel of land in the City of Mantorville, except that travel trailers and motor home coaches can be used for the purpose for a period not exceeding 2 consecutive weeks. Residing in basement or foundations structures before completion of the total structure shall not be permitted.

(H) *Lot area; reducing*. No lot area shall be so reduced or diminished that the yards or other open spaces shall be smaller than prescribed herein, nor shall the number of dwelling units be increased in any manner except in conformity with the area regulations herein prescribed, nor shall the area of any lot be reduced below the minimum herein established.

(I) Pursuant to authority granted by M.S. § 462.3593, Subd. 9, the city opts-out of the requirements of M.S. § 462.3593, which defines and regulates temporary family health care dwellings.

(Ord. 153, § 1.5, passed 3-24-2003; Am. Ord. 150, passed 8-24-2015; Am. Ord. 04-2016, passed 8-22-2016) Penalty, see § 10.99

§ 150.022 ERECTION OF MORE THAN 1 PRINCIPAL BUILDING.

The erection of more than 1 principal building on a lot shall not be permitted except as provided for in this chapter.
(Ord. 153, § 1.6, passed 3-24-2003) Penalty, see § 10.99

§ 150.023 YARD ENCROACHMENTS.

The following shall not be considered as encroachments into required yard setback areas:

(A) Chimneys, flues, belt courses, headers, sills, pilasters, lintels, ornamental features, cornices, eaves, gutters, steps, stoops, bay windows and the like, provided they do not project from the structure more than 4 feet;

(B) On grade terraces, decks, patios, and similar appurtenances;

(C) Front yard exception - where a structure will be developed adjacent to properties with existing structures, the front yard setback shall be the average setback of existing structures on that block; and

(D) Fences as specified in this chapter.
(Ord. 153, § 1.7, passed 3-24-2003)

§ 150.024 MANUFACTURED/MOBILE HOMES.

Manufactured homes shall be permitted in all residential districts, provided they meet the following standards:

(A) Exceed 20 feet in width at the narrowest side; and

(B) The dwelling is placed on a permanent frost-free foundation constructed in compliance with the Minnesota State Building Code.
(Ord. 153, § 1.8, passed 3-24-2003) Penalty, see § 10.99

§ 150.025 ACCESSORY BUILDINGS OR STRUCTURES.

(A) *Permit requirements*. No accessory building shall be placed, erected or constructed on a lot where a permitted principal structure has not been constructed. This section shall not be construed to

govern the sequencing of a construction project in which both the principal and accessory structures are to be built simultaneously. No accessory building shall be constructed or erected which does not comply with the Minnesota State Building Code.

(B) *Size and flooring*. Accessory buildings 200 square feet or more shall require placement on a non-porous flooring such as concrete or bituminous. Accessory buildings not requiring non-porous flooring shall be secured by being tied or anchored to the ground. Accessory buildings 200 square feet or less shall not require a building permit but must still abide by all pertinent sections of the Minnesota State Building Code.

(C) *Attached accessory structure*. An accessory building, including but not limited to car ports and breezeways attached to the principal structure on a lot, shall be made structurally a part thereof, shall be considered a part thereof and shall comply in all respects with the requirements of this chapter applicable to the principal building.

(D) *Detached*. Detached accessory buildings on lots less than 2 acres in size shall not exceed 1,400 square feet in total area. Detached accessory buildings on lots 2 acres or greater in size shall not exceed L600 square feet in total area. In all districts, all detached accessory buildings shall be located in the side or rear yards. Accessory buildings shall maintain a side yard setback as required by the district regulations. No accessory building shall be placed closer than 6 feet from the rear lot line or 6 feet from the principal structure.

(E) *Residential*. Detached accessory buildings in the residential districts shall not exceed 16 feet in height or exceed the height of the principal structure on the same lot, whichever is greater. The height is measured from the peak of the building to the ground directly below the peak.

(F) *Maximum*. Each lot shall have no more than 2 accessory buildings.

(G) *Maximum lot coverage*. The percentage of the lot area covered by a main building and accessory buildings shall not exceed the percentage as defined in the requirements of the current zoning district the property is located in.

(H) *Exterior appearance*. The exterior of the accessory structure shall have the same architectural style, siding and roofing compatible with the principal building. "Compatible" means that the exterior appearance of the accessory building is similar in design, exterior finish material and color palette as the primary structure.
(Ord. 153, § 1.9, passed 3-24-2003; Am. Ord. 01-2016, passed 9-26-2016; Am. Ord. 2024-02, passed 5-20-2024) Penalty, see § 10.99

§ 150.026 RELOCATING STRUCTURES.

(A) No structure, except for accessory buildings less than 250 square feet and temporary construction sheds or temporary construction sheds or construction offices located on the lot for 6

months or less during a construction project, shall be raised or moved prior to obtaining a conditional use permit. An application for the permit shall indicate the origin and destination of the building, the route over which it is to be moved and shall state the time in which the moving of the building is to occur. The permit shall also indicate the location of the structure on the lot along with setback distances. No permit to move a building shall be issued unless and until the following conditions are fully complied with and approved by the City Council.

(B) The building to be moved must comply in all respects with the Minnesota State Building Code and other pertinent state rules and city code provisions.

(C) The lot on which the building is to be located must meet all of the minimum dimensional requirements of the zoning district in which it is located.

(D) The building must be placed on the lot so as to meet all the front, side, and rear yard requirements as set forth in this chapter.

(E) In every case in which a permit shall be issued as herein provided, for the removal required or the displacement of any overhead electrical or other wires, it shall be the duty of the person, association, or corporation owning, operating, or controlling the wires to remove or displace the same, so far as the same may be necessary to effect the removal thereof, shall be authorized by the permit. The person to whom the permit shall have been issued shall notify the person, association, or corporation, owning, operating, or controlling the wires to remove or displace the same to facilitate the removal of the wires sufficiently to allow the passage of the building along the street over which the wires are suspended. Any expenses incurred or to be incurred in the moving, removing, or displacing of the wires shall be paid for by the person who makes the application for the permit.

(F) The City Clerk-Treasurer shall submit the application to the City Council to determine if the application meets the necessary conditions. After a public hearing, the Council shall take action to approve or disapprove the permit within 30 days after the hearing. No structure shall be moved by anyone other than a licensed and bonded mover.
(Ord. 153, § 1.10, passed 3-24-2003) Penalty, see § 10.99

§ 150.027 BUFFERYARDS AND SCREENING.

Bufferyards when required shall include plantings of coniferous trees and other evergreens not less than 3 feet in height and spaced not less than 8 feet apart, the remaining shall be planted in grass and maintained and kept free of debris. Alternative bufferyard plantings may be submitted to the city for consideration, and upon approval shall be considered an acceptable alternative. Berming or additional plantings may be required in addition when deemed necessary by the city. Fencing may be required in addition to or in lieu of plantings.
(Ord. 153, § 1.11, passed 3-24-2003) Penalty, see § 10.99

§ 150.028 FENCES AND LANDSCAPING.

(A) Fences, hedges, walls, and other landscaping shall be located entirely upon the property, which they serve.

(B) Barbed wire or above ground electric fences shall not be permitted, used, or constructed except in districts where livestock is permitted.

(C) As a good neighbor policy, fences should be placed with the good side facing adjacent properties.

(D) No fence, wall, or hedge shall exceed 6 feet in height, as measured from the finished grade, unless required by the city for screening, buffering or safety.

(E) No obstructing portion of a fence, wall, or hedge projecting into the front yard of a property shall exceed 30 inches in height. No portion of a fence, wall, or hedge projecting into the front yard of a property, which is above 30 inches in height as measured from the finished grade, shall be constructed with an opening to material ratio of less than 10 to 1. (Example: 10 inches of opening is required between each 1 inch of material).

(F) The fence and the area between a fence and property line shall be maintained in an attractive condition at all times.
(Ord. 153, § 1.12, passed 3-24-2003) Penalty, see § 10.99

§ 150.029 OUTSIDE STORAGE.

In all residential districts, all materials and equipment shall be stored within a building or fully screened so as not to be visible from adjoining properties and public streets, except for the following in good order: laundry drying, clothes lines, recreational equipment, construction and landscaping materials and equipment currently being used on the premises, agricultural equipment and materials if these are used or intended for use on the premises, off-street parking of licensed operating passenger vehicles, fire wood kept neat and orderly for use in the principal residence for heating shall be permissible.
(Ord. 153, § 1.13, passed 3-24-2003) Penalty, see § 10.99

§ 150.030 VISUAL OBSTRUCTION TO VEHICULAR TRAFFIC.

(A) *Intersections with traffic controls*. On any corner lot as a street intersection which has some form of traffic control (stop or yield signs), there shall be no obstruction to traffic visibility within the clear sight triangle which is formed by the intersection of the center line of 2 intersecting streets and a straight line joining the 2 center lines at points 80 feet distant from their point of intersection.

(B) *Intersections without traffic controls*. On any corner lot, in all districts, at a street intersection which does not have any form of traffic control, there shall be no obstruction to the traffic visibility within the clear sight triangle which is formed by the intersection of the center line of 2 intersecting streets and a straight line joining the 2 center lines at points 88 feet distant from their point of intersection. All objects within this area not exceeding 30 inches in height as measured from the centerline elevation of the street shall not be considered as an obstruction to vision.
(Ord. 153, § 1.14, passed 3-24-2003) Penalty, see § 10.99

§ 150.031 VACATED STREETS.

Whenever any street, alley, easement, or public way is vacated by official action, the zoning district abutting the centerline of the vacated area shall not be affected by the procedure.
(Ord. 153, § 1.15, passed 3-24-2003)

§ 150.032 ACCESS DRIVES AND ACCESS.

(A) The number and types of access drives onto major streets may be controlled and limited by the Council in the interests of public safety and efficient traffic flow.

(B) Access drives onto county roads shall require a review by the County Engineer. The County Engineer shall determine the appropriate location, size, and design of the access drives and may limit the number of access drives in the interest of public safety and efficient traffic flow.

(C) Access drives to principal structures which traverse wooded, steep, or open field areas shall be constructed and maintained to a width and base material depth sufficient to support access by emergency vehicles. The Council shall review all access drives (driveways) for compliance with accepted community access drive standards. All driveways shall have a minimum of 10 feet with a road strength capable of supporting emergency and fire vehicles.

(D) All lots or parcels shall have direct adequate physical access for emergency vehicles along the frontage of the lot or parcel from either an existing dedicated public roadway, or an existing private roadway approved by the Council.
(Ord. 153, § 1.16, passed 3-24-2003) Penalty, see § 10.99

§ 150.033 ESSENTIAL SERVICES.

Essential services shall be permitted in all zoning districts within the city.
(Ord. 153, § 1.17, passed 3-24-2003)

§ 150.034 OUTDOOR FURNACE SYSTEMS.

(A) *Generally*. The following standards shall be complied with.

(B) *Standards*.

(1) *Permit required*. No outdoor furnace system shall be constructed prior to the issuance of a building permit and zoning certificate.

(2) *Accessory structure*. Outdoor furnace systems shall be considered an accessory structure and shall meet the setbacks for accessory structures in the zoning district in which it is located.

(3) *Approved system*. The system shall be approved by the building official and shall meet all applicable U.B.C. Fire, Plumbing, and Building Codes.

(4) *Other regulations*. The outdoor furnace system shall be in compliance with local, state, and federal laws.

(5) *Outdoor storage*. Outdoor storage of wood for fuel shall be kept neat and orderly within a confined area and shall be maintained so as to avoid rodents from creating nests.

(6) *Burning materials*. Burning materials used in the furnace shall be limited to untreated wood products or organic fuels. Garbage, tires, and other materials shall not be considered acceptable fuel for burning.

(7) *Locate on property*. The outdoor furnace system shall be located entirely on the property, which it is intended to serve.
(Ord. 153, § 1.18, passed 3-24-2003) Penalty, see § 10.99

§ 150.035 WIND ENERGY CONVERSION SYSTEM (WECS).

(A) *Conditional use permit*. Each Wind Energy Conversion System shall require a conditional use permit.

(B) *Plans*. Each application for a conditional use permit shall be accompanied by a dimensional representation of the tower including the conversion system, base, and footings and an accurate plan containing the following information:

(1) Property lines;

(2) Proposed location of tower on site;

(3) Location of all existing structures on site;

(4) All above ground utility lines;

(5) All underground utility lines within a radius equal to the proposed WECS height; and

(6) Boundaries of all adjacent utility easements or reversed areas

(C) *WECS height*. The total height of the tower (including any portion of the rotor or axis extending above the tower) shall not exceed the horizontal distance between the base of the tower and the nearest lot line or building line except that the horizontal distance may extend beyond the nearest lot line or building line provided there are not overhead utility lines or easements therefor or if the abutting area is a public alleyway. Furthermore, the Council may allow the height requirement to be exceeded provided it is satisfied that the proposed structure will withstand the wind loads in the area. As evidence of this, the Council shall require the following information:

(1) Dimensional representation of the various structural components of the tower construction including the base and footings;

(2) Design data which shall indicate basis of design, including manufacturer's dimensional drawings, installation, and operation instructions; and

(3) Certification by an independent Registered Professional Engineer or sufficient, that the proposed structure will withstand wind loads in the area.

(D) *Tower access*. Climbing access to the WECS tower shall be limited either by means of a fence 6 feet high around the tower base with a locking portal, or by limiting tower climbing apparatus to no lower than 12 feet from the ground.

(E) *Wind access*. Contiguous property owners and planned developments may construct a WECS for their use in common. If property held by more than 1 single owner is used to meet the setback requirements, a site plan establishing easements or reserved areas must be submitted for approval.

(F) *Noise*. A WECS operation shall not produce noise in excess of the limits established by state standards.

(G) *Limited use*. WECS installed in accordance with the requirements of this chapter shall not generate power as a commercial enterprise as defined by the public utilities.

(H) *Electromagnetic interference*. A WECS shall not be installed in any location along the major axis of an existing microwave communications link where the level of electromagnetic interference with the possible effect on the microwave communications link of which is at a level satisfactory to the City Council.

(I) *Airspace*. A WECS shall be located or installed in compliance with the regulations of the airport approach zones and federal aviation regulations for clearance around VOR and DVOR stations.

(J) *Interconnect*. A WECS, if interconnected to an electric utility distribution system, shall meet the interconnect requirements of the electric utility company. In any case, the interconnect shall include a manual disconnect which complies with the National Electric Code.

(K) *Codes*. Construction and installation of a WECS shall comply with all city code provisions, and State and National Electric Codes in effect at the time of installation.

(L) *Liability*. No building permit shall be issued for the construction of a WECS until and unless the applicant for the building permit deposits with the City Clerk-Treasurer a policy of liability insurance indemnifying applicant from the liability for personal injury or property damage in the sum of at least $500,000. The policy of insurance so deposited shall contain a clause obligating the company issuing the same to give at least 30-days' written notice to the city before cancellation thereof, the building permit to be automatically revoked upon the lapse or termination of the policy.
(Ord. 153, § 1.19, passed 3-24-2003) Penalty, see § 10.99

§ 150.036 SEWAGE DISPOSAL.

It shall be unlawful for any owner of any premises which has access to the sanitary sewer system to permit the existence of outdoor toilets, or to construct, improve, or repair any individual on-site sewer treatment facility. All developed properties having access to the sanitary sewer system shall be connected to the sanitary sewer system. This provision shall not apply to temporary construction sites or portable units used in farming operations.
(Ord. 153, § 1.20, passed 3-24-2003) Penalty, see § 10.99

§ 150.037 FLOOD PLAIN CLASSIFICATION.

The flood plain classification applies to all zoning districts. The limits of the flood plain shall be established by the State of Minnesota,. Department of Natural Resources. Flood Plain Ordinance for the City of Mantorville shall be referred to for any activities in the flood plain.
(Ord. 153, § 1.21, passed 3-24-2003) Penalty, see § 10.99

§ 150.038 FROST DEPTH FOOTINGS.

In all zoning districts and in planned unit developments, all structures to be used for human occupation shall be built with continuous frost depth footings built in compliance with the standards set forth in the Minnesota State Building Code, except as permitted in an approved mobile home park.
(Ord. 153, § 1.22, passed 3-24-2003) Penalty, see § 10.99

§ 150.039 SOIL EROSION AND SEDIMENTATION CONTROL.

(A) *Generally*. Where the provisions of state law or other city regulation or ordinance set higher standards than those of this chapter, the provisions of the laws, regulations, or ordinances shall apply.

(B) *Specifically*.

(1) *General standards*. The following management practices shall be applied to all development and earth moving activities.

(a) All development shall conform to the natural limitations presented by the topography and soil in order to create the best potential for preventing soil erosion.

(b) Best management practices for erosion control and sediment control shall be applied to each development/construction site.

(c) Slopes over 18% in grade shall not be developed.

(d) Development on slopes with a grade between 12% and 18% shall be carefully reviewed to insure that adequate measures have been taken to prevent erosion, sedimentation, and structural damage.

(e) Erosion and siltation control measures shall be coordinated with the different stages of development. Appropriate control measures shall be installed prior to development when necessary to control erosion.

(f) Land shall be developed in increments of workable size such that adequate erosion and siltation controls can be provided as construction progresses. The smallest practical area of lands shall be exposed at any 1 period of time and no exposure shall exceed 60 days unless extended by the Council.

(g) Where the topsoil is removed, sufficient arable soil shall be set aside for respreading over the platted area. The topsoil shall be restored to a depth of 4 inches and shall be of a quality at least equal to the soil quality prior to development.

(h) The natural drainage system shall be used, as far as feasible for storage and flow of runoff except that no storm water drainage shall be discharged to marshlands, swamps, or wetlands. Storm water drainage shall be discharged to retention basins or other treatment facilities. Temporary storage areas or retention basins scattered throughout developed areas shall be encouraged to reduce peak flow, erosion damage, and construction cost.

(i) Public and private properties adjacent to the development site shall be protected from the effects of sedimentation. Any violations of this provision must be corrected by the owner to the satisfaction of the city within 5 days of receiving notification of such. If the violation is not remedied within the time period specified, the city may correct the problem and assess the costs incurred to the property owner.

(2) *Exposed slopes*. The following control measures shall be taken to control erosion during construction.

(a) No exposed slopes should be steeper in grade than 4 feet horizontal to 1 foot vertical.

(b) At the foot of each exposed slope, a channel and berm should be constructed to control runoff. The channelized water should be diverted to a sedimentation basin (debris basin, silt basin, or silt trap) before being allowed to enter the natural drainage system.

(c) Along the top of each exposed slope, a berm should be constructed to prevent runoff from flowing over the edge of the slope. Where runoff collecting behind the berm cannot be diverted elsewhere and must be directed down the slope, appropriate measures shall be taken to prevent erosion. The measures should consist of either an asphalt paved flow apron and drop chute laid down the slope or a flexible slope drain. At the base of the slope drain or flow apron, a gravel energy dissipater should be installed to prevent erosion at the discharge end.

(d) Exposed slopes shall be protected by means, which will effectively prevent erosion considering the degree of the slope, soils material, and expected length of exposure. Slope protection shall consist of mulch, sheets of plastic, burlap or jute netting, sod blankets, fast growing grasses or temporary seedlings of annual grasses. Mulch consists of hay, straw, wood chips, corn stalks, bark, or other protective material. Mulch should be anchored to slopes with liquid asphalt or stakes and netting, or should be worked into soil to achieve additional slope stability.

(e) Control measures, other than those specifically stated above, may be used in place of the above measures if it can be demonstrated that they will as effectively protect exposed slopes.
(Ord. 153, § 1.23, passed 3-24-2003) Penalty, see § 10.99

§ 150.040 PRESERVATION OF NATURAL DRAINAGEWAYS.

(A) *Waterways*.

(1) Every effort shall be made to retain the natural drainage systems in the city including existing wetlands and ponds. The natural drainage system shall be maintained by the city. Above-ground runoff disposal waterways may be constructed to augment the natural drainage system.

(2) The widths of a constructed waterway shall be sufficiently large to adequately channel runoff from a 10-year storm. Adequacy shall be determined by the expected runoff when full development of the drainage area is reached.

(3) No fences or structures shall be constructed across the waterway that will reduce or restrict the flow of water.

(4) The banks of the waterway shall be protected with permanent vegetation.

(5) The banks of the waterway should not exceed 4 feet horizontal to 1 foot vertical in gradient.

(6) The gradient of the waterway bed should not exceed a grad that will result in a velocity that will cause erosion of the banks of the waterway.

(7) The bend of the waterway should be protected with turf, sod, or concrete. If turf or sod will not function properly, rip rap may be used. Rip rap shall consist of quarried limestone, fieldstone (if random rip rap is used) or construction materials of concrete. The rip rap shall be no smaller than 2 inches square nor no larger than 2 feet square. Construction materials shall be used only in those areas where the waterway is not used as part of a recreation trail system.

(8) If the flow velocity in the waterway is such that erosion of the turf side wall will occur and the velocity cannot be decreased via velocity control structures, then other materials may replace turf on the side walls. Either gravel or rip rap would be allowed to prevent erosion at these points.

(B) *Sediment control of waterways.*

(1) To prevent sedimentation of waterways, pervious and impervious sediment traps and other sediment control structures shall be incorporated throughout the contributing watershed.

(2) Temporary pervious sediment traps could consist of a construction of bales of hey with a low spillway embankment section of sand and gravel that permits a slow movement of water while filtering sediment. The structures would serve as temporary sediment control features during the construction state of development. Development of housing and other structures shall be restricted from the area on either side of the waterway required to channel a 25-year storm.

(3) Permanent impervious sediment control structures consist of sediment basins (debris basins, de-silting basins or silt traps) and shall be utilized to remove sediment from runoff prior to it disposal in any permanent body of water.
(Ord. 153, § 1.24, passed 3-24-2003) Penalty, see § 10.99

§ 150.041 APARTMENTS, TOWNHOUSES, AND OTHER MULTI-FAMILY STRUCTURES.

(A) *Generally*. All multi-family structures with 3 or more units shall be subject to the following standards.

(B) *Standards*.

(1) *Requests for zoning certificate or conditional use permits*. All requests for zoning certificate or conditional use permits shall be accompanied by a series of site plans and data showing:

(a) Building locations, dimensions and elevations, all signs, structures, entry areas, storage sites and other structural improvements to the site;

(b) Circulation plans for both pedestrian and vehicular traffic;

(c) Fences and screening devices;

(d) Solid waste disposal provisions and facilities;

(e) Storm drainage plans;

(f) Firefighting and other public safety facilities and provisions such as hydrant locations and fire lanes;

(g) Data pertaining to numbers of dwelling units, size, lot area, ratio, and the like;

(h) Exterior wall materials and design information;

(i) A minimum of a 2-foot contour topographical map of the existing site;

(j) A grading plan illustrating the proposed grade changes from the original topographical map. All site areas, when fully developed, shall be completely graded so as to adequately drain and dispose of all surface water, storm water and groundwater in such a manner as to preclude large scale erosion, unwanted ponding, and surface chemical runoff;

(k) A recreation plan illustrating in detail all recreational facilities and structures;

(l) A landscape plan. The site, when fully developed, shall be landscaped according to a plan approved by the city. The landscaping plan shall specify the size, type, and location of all trees and shrubbery and the location of all seeded and sodded areas; and

(m) A solid erosion control plan for the construction period. Areas within the construction zone shall be fenced with construction limit fencing as per the plan to prohibit heavy machinery and/or materials from being placed on areas not to be disturbed during construction. This shall, at a minimum, include all slopes in excess of 18%.

(2) *Parking requirements.*

(a) Two off-street parking spaces per dwelling unit shall be provided on the site.

(b) Parking spaces shall not be located within 10 feet of the side or rear lot line.

(c) Bituminous or concrete driveways and parking areas with concrete curbing shall be required.

(3) *Screening.*

(a) Screening shall be required where any off-street parking area contains more than 6 parking spaces.

(b) All exterior storage shall be screened. The exterior storage screening required shall consist of a solid fence or wall not less than 5 feet in height, but shall not extend within 15 feet of any street, driveway, or lot line.

(c) Sidewalks shall be provided from the parking areas, loading zones, and recreation areas to the entrance of the building.

(d) Outdoor swimming pools or other intensive recreation shall observe setbacks required for the principal structure.

(4) *General building or structural requirements.*

(a) Requirements for exterior wall surfacing and covering shall be as follows.

1. All multiple-family dwelling buildings shall be designed and constructed to have the equivalence of a front appearance on each exterior surface.

2. All accessory or ancillary buildings, including garages, shall be designed and constructed with the same facing materials as the principal building. The materials shall be used in the same or better proportions as used on the principal building.

(b) Each multiple-family dwelling development containing more than 4 dwelling units shall include a play area.

(c) Any blighting or deteriorating aspects of the multiple-family dwelling development shall be placed and absorbed by the site itself, rather than by neighboring residential uses. This provision particularly applies to the location of parking areas.

(d) Except with townhouses and multiple-family dwellings of 4 or less units, no exterior trash or garbage disposal or storage shall be permitted. In the case of row housing and multiple-family dwellings of 4 units or more, all storage shall be completely enclosed by walls.
(Ord. 153, § 1.25, passed 3-24-2003)

§ 150.042 FUEL AND AUTO SERVICE STATION STANDARDS.

(A) *Setbacks*. When adjacent to residential districts, the service station, outdoor displays, tanks, pumps, and other structures shall be a minimum of 25 feet from adjoining property.

(B) *Curb and gutter*. Concrete curb and gutter shall be installed on all streets giving access to the station.

(C) *Fencing and screening*. When adjacent to residential property, there shall be a screening fence on the property line abutting residential property. When adjacent to commercial or industrial property, there shall be a bumper-type fence approximately 18 inches high between the station and the adjacent commercial or industrial property.

(D) *Vehicles*. No vehicles shall be parked on the premises other than those utilized by employees or those awaiting service. No vehicle shall be parked or be waiting service longer than 15 days.

(E) *Exterior storage and outdoor display*. Exterior storage besides vehicles shall be limited to service equipment and items offered for sale. 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.

(F) *Screening*. All areas utilized for the storage or disposal of trash, debris, discarded parts, and similar items shall be fully screened. All structures and grounds shall be maintained in an orderly, clean, and safe manner.

(G) *Lighting*. Lights shall be designed and placed in such a manner as to direct the light away from residential areas.
(Ord. 153, § 1.26, passed 3-24-2003) Penalty, see § 10.99

§ 150.043 DRIVE-IN BUSINESS STANDARDS.

(A) *Generally*. The following standards shall apply to drive-in business in all districts.

(B) *Standards*.

(1) *Design standards*.

(a) The entire area of any drive-in business shall have a drainage plan approved by the City Engineer.

(b) All areas not occupied by the structure or plantings shall be surfaced with a hard material, which will control dust and drainage.

(c) A fence or screen, of acceptable design to provide a buffer, not over 6 feet in height or less than 4 feet shall be constructed along the property line abutting a residential district and the fence or screen shall be adequately maintained.

(2) *General standards*.

(a) Electronic devices such as loudspeakers, automobile service devices, drive-in theater car speakers and similar instruments shall not be located within 300 feet of any residential district.

(b) No drive-in business shall be located within 200 feet of a public or parochial school or church.

(c) Landscaping shall be required.

(d) Exterior storage of trash and garbage disposal shall be screened by a wall not more than 6 feet in height and not less than 4 feet in height.

(3) *Site plan*.

(a) The site plan shall clearly indicate suitable storage containers for all waste material. Location and screening for exterior storage of trash and garbage disposal shall be identified.

(b) A landscaping plan shall be included and shall set forth complete specifications for plant materials and other features.

(c) Adequate area shall be designated for snow storage such that clear visibility shall be maintained from the property to any public street.

(d) The design of any structure shall be compatible with other structures in the surrounding area.
(Ord. 153, § 1.27, passed 3-24-2003) Penalty, see § 10.99

§ 150.044 BED AND BREAKFASTS, GUEST HOUSE OR TOURISM HOME.

(A) *Generally*. A bed and breakfast, guest house or tourism home establishment is allowed in residential zones by conditional use permit when the conditions listed in division (B) below are met.

(B) *Conditions*.

(1) The owner or operator shall reside on the property;

(2) The establishment shall conform with State Health and Building Code requirements;

(3) A minimum of 1 off-street parking space for each guest room and 2 additional off-street spaces for the owner or operator shall be provided;

(4) On-premises advertising for any bed and breakfast establishment located in any residential zone shall be limited to either 1 wall sign or 1 free standing sign not more than 2 square feet in area per sign face. No sign shall be internally illuminated;

(5) No cooking or cooking facilities shall be allowed or provided in the guest rooms; and

(6) The number of rentable rooms shall not exceed 5.
(Ord. 153, § 1.28, passed 3-24-2003; Am. Ord. 02-2016, passed 9-12-2016) Penalty, see § 10.99

§ 150.045 ANIMAL HOSPITALS.

Animal hospitals shall be located no closer than 100 feet to any residential district, restaurant, hotel, or motel in any district, and shall show that adequate measures and controls will be taken to prevent offensive noise and odor. No incineration of refuse shall be permitted on the premises.
(Ord. 153, § 1.29, passed 3-24-2003) Penalty, see § 10.99

§ 150.046 COUNTRY CLUB OR GOLF COURSE.

(A) No building shall be located within 100 feet of any property line.

(B) Facilities such as restaurants and bars may be permitted when conducted and entered from within the building.

(C) Swimming pools, tennis courts, and the like shall be located not less than 25 feet from any property line and adjoining property in any residential or commercial district shall be effectively protected by a wall, hedge, and/or screen planting.
(Ord. 153, § 1.30, passed 3-24-2003) Penalty, see § 10.99

§ 150.047 GOLF DRIVING RANGE AND AMUSEMENT PARKS.

(A) These uses and structures shall be located on major or secondary thoroughfares or nonresidential streets.

(B) Lights used to illuminate the premises shall be so directed and shielded as not to be an annoyance to traffic or developed residential property.

(C) Golf driving platforms shall be not less than 200 feet from any adjacent residential district or existing dwelling.
(Ord. 153, § 1.31, passed 3-24-2003) Penalty, see § 10.99

§ 150.048 NURSING HOMES.

Approval must be obtained from the proper agencies concerning health and safety conditions and the home must be licensed by the agencies.
(Ord. 153, § 1.32, passed 3-24-2003)

§ 150.049 HOSPITAL, CHURCH, OR OTHER RELIGIOUS OR ELEEMOSYNARY INSTITUTIONS.

These buildings shall be located on a major street on a minimum parcel of ½ acre and shall maintain a 10-foot wide minimum landscaped strip on all property lines abutting any residential district or residential streets.
(Ord. 153, § 1.33, passed 3-24-2003) Penalty, see § 10.99

§ 150.050 FERTILIZER PLANTS AND YARDS.

(A) The uses shall be located no closer than 200 feet to any residential districts.

(B) Adequate parking and loading areas shall be provided.

(C) Adequate ingress and egress shall be provided and shall be designed to minimize traffic hazard and congestion.

(D) Proponents shall show that odor, noise, and drainage shall not constitute a nuisance to surrounding areas.
(Ord. 153, § 1.34, passed 3-24-2003) Penalty, see § 10.99

§ 150.051 CEMETERIES, CREMATORIES, MAUSOLEUMS, AND COLUMBARIA.

(A) An adequate number of off street parking spaces shall be provided.

(B) Landscaping and screening shall be required and shall include a permanently maintained planting strip on all property lines abutting any residential district or residential street.

(C) No burial sites or structures shall be located closer than 50 feet from any property line.
(Ord. 153, § 1.35, passed 3-24-2003) Penalty, see § 10.99

§ 150.052 EXTRACTION OF MATERIALS AND MINERALS, OPEN PITS, AND IMPOUNDING OF WATER.

(A) *Generally*. All excavations, extraction of materials and minerals, open pits and impounding of waters hereafter established or enlarged shall conform with the provisions of this chapter and any other regulations of the City of Mantorville.

(B) *Definition*. For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

EXCAVATIONS. Any artificial excavation of the earth, dug, excavated or made by the removal from the natural surface of the earth of sod, soil, sand, gravel, stone or other matter or made by tunneling or breaking or undermining the surface of the earth. Excavating ancillary to other construction or any installation erected or to be erected, built, or placed thereon contemporaneously with or immediately following the excavation and covering or to cover the excavation when completed are excepted, if a permit has been issued for the construction or installation. Excavation not exceeding 50 square feet of surface area or 2 feet in depth and excavation including impounding of water for agricultural purposes are exempted.

(C) *Permit required.* No person shall hereafter dig, excavate, enlarge, make, maintain, or allow to be maintained, upon property owned or used, any open pit or excavation or any impounded water, without first making an application for and obtaining from the City of Mantorville a conditional use permit therefore.

(D) *Exhibits required.*

(1) Completed application form;

(2) A full description and map of the location of the land where the pit or excavation is or is to be, where the impounded waters are or are to be maintained and also a full description of the location on the land of the pit, excavation, or impounded waters;

(3) When required by the state, an approval by the state to impound the waters or to make the excavation as described in the application;

(4) The purpose of the pit or excavation or the quantity of water impounded;

(5) The highways, roads, or other public ways in the city upon and along which any material for removal is to be hauled or carried;

(6) The estimated time when building or removing will begin and be completed;

(7) An operations and reclamation plan; and

(8) Other maps or items as may be required by the city.

(E) *Conditions of permit.* In addition to items listed in § 150.110, the city may require the applicant to:

(1) Properly fence any pit or excavation;

(2) Slope the banks and otherwise properly guard and keep any pit or excavation in the condition as not to be dangerous from caving or sliding banks;

(3) Properly drain, fill, or level any pit or excavation, after created, so as to make the same safe and healthful;

(4) Keep any pit, excavation, or impounded waters within the limits for which the particular permit is granted;

(5) Remove excavated material from any pit or excavation, away from the premises, upon and along the highways, streets or other public ways as the city shall order and direct; and/or

(6) The city may require either the applicant or the owner or used of the property on which the open pit, excavation, or impounded waters is located to post a bond, in the form and sum as the city shall determine, with sufficient surety running to the city, conditioned to pay city extraordinary cost and expense or repairing, from time to time, any highways, streets, or other public ways where the repair work is made necessary by the special burden resulting from hauling and travel, in removing materials from any pit, excavation or impounded waters, the amount of the cost shall pay any expense the city may incur by reason of doing anything required to be done by any applicant to whom a permit is issued. (Ord. 153, § 1.36, passed 3-24-2003) Penalty, see § 10.99

§ 150.053 SWIMMING POOLS.

(A) *Permit required.* A building permit shall be required for any swimming pool, whether above or below grade, in which the depth of water exceeds 24 inches. Any application for a building permit to construct or erect a swimming pool shall be accompanied by plans of sufficient detail to show:

(1) The proposed location and its relationship to the other principal buildings on the lot and adjacent lots;

(2) The size of the pool;

(3) The location of natural features, utilities, and utility and drainage easements;

(4) The location, size, and a statement as to the types of equipment to be used in connection with the pool including but not limited to, filter unit, pump, wiring, heating unit, back-flush, and drainage outlet, fencing, and the pool itself; and

(5) Grading plans and finished elevations.

(B) *Location.* All pools shall meet the setback requirements for accessory structures and recreational appurtenances in the district in which they are located. Furthermore, pool locations must conform with requirements of National Electric Code and may not be within any private or public utility, walkway, drainage, or other easements.

(C) *Lot coverage.* Pools shall not occupy more than 5% of the lot area.

(D) *Design.* The pool shall be designed and constructed in such a manner so as not to endanger the health and safety of its users and to not unduly interfere with the use and enjoyment of adjacent property.

(E) *Drainage.* To the extent feasible, back flush water or water from pool drainage shall be directed onto the owners property or onto approved public drainage ways, and shall not drain onto adjacent private land. Drainage onto public streets or other public drainage ways shall require permission of the appropriate local city officials. Pools may not be drained into the city's sanitary sewer system.

(F) *Other codes*. The construction, plumbing, and electrical work connected with any pool shall conform to all other applicable codes of the City of Mantorville.

(G) *Safeguards*. Fencing shall be provided in strict compliance with the Minnesota State Building Code.

(H) *Application*. This chapter shall apply to all privately owned swimming pools constructed in the City of Mantorville and to all private swimming pools constructed in the future as specified herein. However, owners of pools constructed shall have a reasonable time to comply herewith after notification of the provisions of this chapter.
(Ord. 153, § 1.37, passed 3-24-2003) Penalty, see § 10.99

§ 150.054 ZONE CHANGES.

The provisions relative to nonconforming uses shall apply to structures, buildings, land, and uses which hereafter become nonconforming due to classification or reclassification of districts under this chapter.
(Ord. 153, § 1.38, passed 3-24-2003)

ZONING DISTRICTS

§ 150.065 ESTABLISHED.

(A) The following zoning districts are provided in order to promote and encourage the orderly and efficient development and use of land, buildings, and structures.

(B) The incorporated area of the City of Mantorville, Minnesota, is hereby divided into the following districts, which shall be known by the following respective symbols and names:

(1) R-1 District - Single-Family Residential District;

(2) R-2 District - Multi-Family Residential District;

(3) Transitional - Transitional District;

(4) Commercial - Commercial District; and

(5) Historic - Historic District.
(Ord. 153, § 3.1, passed 3-24-2003)

§ 150.066 OFFICIAL ZONING MAP.

The areas comprising these zoning districts and the boundaries of the districts are shown upon a map, which is a part of this chapter and which is on display in the City Clerk-Treasurer's Office, being designated as the Official Zoning Map of the City of Mantorville, with all proper notations, references, and other information shown thereon.
(Ord. 153, § 3.2, passed 3-24-2003)

§ 150.067 INTERPRETATION OF BOUNDARIES.

(A) Except where referenced on the Zoning Map to lot lines or other designated lines by dimensions shown on the map, the district boundary lines follow the centerline of streets, alleys, lakes, or rivers as they existed at the time of the adoption of this chapter.

(B) Questions concerning district boundary lines as shown on the Zoning Map shall be decided by the City Council.
(Ord. 153, § 3.3, passed 3-24-2003)

§ 150.068 CLASSIFICATION OF ANNEXED TERRITORY.

Areas hereafter annexed to the city are hereby declared to be in the R-1 Low Density Residential Zoning District.
(Ord. 153, § 3.4, passed 3-24-2003)

§ 150.069 R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT.

(A) *Purpose and intent*. The purpose of the R-1 Single-Family Residential District is to provide for low to moderate density dwellings and directly related, complementary uses and to protect the integrity of the neighborhoods.

(B) *Permitted uses*. The following shall be permitted uses in the R-1 Low Density Residential District:

(1) Single-family detached dwellings including manufactured homes, provided manufactured homes permitted in this District shall be minimally 20 feet in width, shall have a roof line such as used on conventional on-site construction homes and buildings, meet all building code regulations, and be built or erected on a continuous frost-free foundation;

(2) Public recreation including parks and playgrounds and hiking and/or biking trails;

(3) Wildlife, forest, and wetland preserves or management areas, and game refuges;

(4) Child care facilities serving 12 or fewer persons;

(5) Residential programs (as defined by state statutes) with a licensed capacity of 6 or fewer persons;

(6) Historic sites; and

(7) Essential services.

(C) *Accessory uses*. The following shall be accessory uses in the R-1 Low Density Residential District:

(1) Accessory buildings or structures customarily incidental to the permitted principal use when located on the same property; and

(2) Accessory dwelling units that are located within an attached garage of a single family detached dwelling.

(D) *Conditional uses*. The following shall be conditional uses in the R-1 Low Density Residential District:

(1) Home occupations;

(2) Schools, churches, and other similar educational and institutional uses;

(3) Single-family attached dwellings (zero lot line) as specified in § 150.007;

(4) Two-family dwellings (duplex);

(5) Planned unit developments;

(6) Public and semi-public utilities and facilities such as substations, transformer stations and regulator stations without service or storage yards;

(7) Community buildings;

(8) Child care facilities serving 13 or more persons;

(9) Gardens and nurseries;

(10) Cemeteries, mausoleums, columbaria, including animal cemeteries;

(11) Hospitals, mental institutions, sanitariums and funeral homes;

(12) Intermediate, extended and long-term care facilities;

(13) Bed and breakfast facilities with up to 4 guest rooms;

(14) Home businesses; and

(15) Satellite dishes more than 36 inches in diameter.

(E) *Lot area, frontage, and setback regulations.*

(1) The following minimum requirements shall apply in the R-1 District:

	Single-Family Detached	***Single-Family Attached***	***Duplex***	***Other Uses***
Lot Width:				
at street line	45 feet	30 feet per unit	50 feet	100 feet
at building line	66 feet	40 feet per unit	80 feet	100 feet
Lot Area:	7,920 sq. feet	4,000 sq. feet/unit	8,000/unit	16,000 sq. feet
Setbacks:				
front	25 feet	25 feet	25 feet	25 feet
side	5 feet	5 feet	5 feet	5 feet
rear	25 feet	25 feet	25 feet	45 feet

(2) All buildings, accessory buildings, parking areas, or other structures shall comply with the minimum setback o lined herein, except that no accessory buildings shall be located nearer than 6 feet from any side or rear lot line. There shall be a minimum clearance of 6 feet between any accessory building and the principal structure. Detached garages constructed with a vehicular entry door located in the garage wall adjacent to an alley, shall be a distance of at least 15 feet from the alley line.

(F) *Lots fronting more than 1 street.* Lots fronting more than 1 street shall maintain a yard on those streets conforming to the requirements for front yard setbacks, side yard setbacks shall be maintained from the remaining lot lines except when a lot line is adjacent to an alley from which rear yard setbacks shall be maintained.

(G) *Maximum lot coverage.* The percentage of lot area covered by a main building and accessory buildings shall not exceed 25% in the R-1 District.

(H) *Height regulations.* No structure, hereafter erected or altered, shall exceed 35 feet or 2½ stories in height, except as otherwise provided by this chapter.

(I) *Height limit exceptions*.

(1) Established building height limits shall not apply to barns, silos, belfries, cupolas, spires, monuments, radio or television antennae, flag poles, chimneys or flues, water towers, or to poles, towers and other structures for essential services, nor to similar structures or necessary mechanical appurtenances extending from a roof upward and not occupying more than 25% of the area of the roof as projected onto a horizontal plane.

(2) When permitted in this district, public buildings, community buildings, schools, churches, hospitals, and other institutions, public utility and public service buildings and those for essential services, may be erected to a height not exceeding 75 feet, provided the side yard width and the rear yard depth be each increased 1 foot over and above the district requirement for each 2 feet of building height above the height limit.
(Ord. 153, § 3.5, passed 3-24-2003; Am. Ord. 150, passed 8-24-2015) Penalty, see § 10.99

§ 150.070 R-2 MULTI-FAMILY RESIDENTIAL DISTRICT.

(A) *Purpose and intent*. It is the purpose and intent of the R-2 Medium to High Density Residential District to establish areas within the city for primarily multiple family dwellings and uses to serve the neighborhoods.

(B) *Permitted uses*. The following shall be permitted uses in the R-2 Medium to High Density Residential District:

(1) Single-family dwellings and manufactured homes as defined in § 150.069;

(2) Two-family dwellings (duplex);

(3) Multi-family dwellings including townhouses, garden apartments, tri-plexes and quadru-plexes in groups of not more than 24 dwelling units in any 1 building;

(4) Child care facilities serving 16 or fewer persons;

(5) Residential programs (as defined by state statutes) with a licensed capacity of 6 or fewer persons;

(6) Public recreation including parks, playgrounds and hiking and/or biking trails;

(7) Wildlife, forest, and wetland preserves or management areas, and game refuge areas;

(8) Historic sites;

(9) Essential services; and

(10) Satellite dishes not more than 36 inches in diameter.

(C) *Accessory uses*. The following shall be accessory uses in the R-2 Medium to High Density Residential District:

(1) Accessory buildings or structures customarily incidental to the permitted principal use when located on the same property; and

(2) Accessory dwelling units that are located within the attached garage of a single family detached dwelling.

(D) *Conditional uses*. The following shall be conditional uses in the R-2 Medium to High Density Residential District:

(1) Home occupations or home businesses;

(2) Schools, churches, and other similar educational and institutional uses;

(3) Hotels, motels, rooming and boarding houses;

(4) Bed and breakfast facilities with up to 6 guest rooms;

(5) Hospitals, mental institutions, sanitariums, funeral homes, mortuaries, cemeteries, mausoleums, columbaria, including animal cemeteries;

(6) Convalescent (rest) homes designed and licensed to provide care for the aged or infirm persons;

(7) Planned Unit Developments (P.U.D.);

(8) Single-family detached or attached dwellings (zero lot line);

(9) Mobile home parks, subject to standards in § 150.089;

(10) Child care facilities serving 17 or more persons;

(11) Satellite dishes more than 36 inches in diameter; and

(12) Neighborhood oriented commercial uses such as retail grocery stores, beauty parlors, residential services, accessory uses, and retail sales directly associated with a historic site and located on the same property as the historic site.

(E) *Lot area, frontage, and setback regulations*. The following requirements shall apply in the R-2 District:

	1 or 2 Families	***3-6 Units***	***7-12 Units***	***13+ Units***	***Other Uses***
Lot Width:					
at street line	50 feet	70 feet	70 feet	70 feet	100 feet
at building line	80 feet	90 feet	100 feet	100 feet	100 feet
Lot Area:					
3-6 units	8,000 sq. feet plus 1,750 sq. feet per unit over 2				
7-12 units	15,000 sq. feet plus 1,500 sq. feet per unit over 6				
13+ units	24,000 sq. feet plus 1,250 sq. feet per unit over 12				
Setbacks:					
front	25 feet	25 feet	25 feet	25 feet	25 feet
side	6.5 feet	8 feet	8 feet	8 feet	12 feet
rear	25 feet	25 feet	25 feet	25 feet	45 feet

(F) *Lots fronting more than 1 street*. Lots fronting more than 1 street shall maintain a yard on those streets conforming to the requirements for front yard setbacks; side yard setbacks shall be maintained from the remaining lot lines except when a lot line is adjacent to an alley from which rear yard setbacks shall be maintained.

(G) *Maximum lot coverage*. Lot coverage shall not exceed 40% in the R-2 Districts.

(H) *Height regulations*.

(1) No structure, hereafter erected or altered, shall exceed 40 feet or 4 stories in height, except as otherwise provided by this chapter.

(2) Provided, however, public and semi-public buildings, churches, cathedrals, temples, hospitals, and schools may be erected to a height of 75 feet when set back from all lot lines not less than 1 foot for each 2 feet of building height over the height limit.
(Ord. 153, § 3.6, passed 3-24-2003; Am. Ord. 150, passed 8-24-2015) Penalty, see § 10.99

§ 150.071 TRANSITIONAL DISTRICT.

(A) *Purpose and intent*. It is the purpose and intent of the Transitional District to provide a buffering or transitional area between dissimilar districts and to accommodate an area undergoing a change from 1 predominate form of use to another.

(B) *Permitted uses*. Permitted uses shall be any use permitted in the most restrictive district, not including a P.U.D., adjoining the Transitional District. For purposes of determining the most restrictive district, the following order is established:

(1) R-1 - Low Density Residential District is most restrictive;

(2) R-2 - Medium to High Density Residential District; and

(3) C - Commercial is least restrictive.

(C) *Conditional uses*. Conditional uses shall be any use permitted in an adjoining district, not including a P.U.D., and those defined as permitted uses in this Transitional District, and any use that is a conditional use in an adjoining district.
(Ord. 153, § 3.7, passed 3-24-2003) Penalty, see § 10.99

§ 150.072 COMMERCIAL DISTRICT.

(A) *Purpose and intent*. It is the purpose of the Commercial District to establish areas within the city for primarily commercial and related uses. The primary function of the Commercial District is to provide convenient and accessible locations for businesses that require such. The businesses and sales or display areas that are customarily incidental and traditionally carried out within a building shall be confined within that building.

(B) *Permitted uses*.

(1) Professional offices and services such as medical, dental clinics and eye clinics, architects and attorneys, surveyors, and engineer offices;

(2) Banks, financial institutions, insurance and real estate services;

(3) Lodging services such as hotels and motels;

(4) Food services including grocery stores, fruit, vegetable and meat markets, supermarkets, restaurants, cafes, supper clubs, delicatessens, candy shops and bakeries whose products are sold primarily at retail on the premises;

(5) Filling stations and convenience stores;

(6) Business services including banks, offices, postal stations, photocopy centers, and office or school supplies;

(7) Personal services including barber/beauty shops, reducing salons, photographic and camera shops/supplies, and funeral homes;

(8) Retail clothing services including dry cleaning/laundry establishments, laundromats, dressmaking/tailor shops, shoe sales/repair shops;

(9) Department, variety, clothing, furniture, antique, gift, drug, hardware and book stores, news shops, flower shops, show rooms for articles to be sold at retail;

(10) Automobile, truck, boat/trailer/implement sales and service establishments including equipment sales, washing services, commercial garages and repair shops (outdoor sales or storage subject to conditional use);

(11) Auto supply and parts (indoor display and sales only);

(12) Equipment services including radio and television shops, appliance sales and small appliance repair;

(13) Residence when included as an integral part of the principal building to be occupied by the owner or his or her employee;

(14) Retail sales of art, art supplies, school and office supplies, books and stationary, art galleries, art studios, picture framing;

(15) Plumbing, heating, and electrical sales and show rooms;

(16) News and communications offices and studios;

(17) Paint, wallpaper, and home decorating supplies;

(18) Government and utility buildings including vehicle and equipment garages;

(19) Public recreation including parks/playgrounds and hiking/biking trails;

(20) Recreational services including theaters, bowling alleys, pool/billiard rooms, dance halls, roller/ice skating rinks, coin operated amusements and similar commercial recreation facilities when contained within a building;

(21) Wildlife, forest, and wetland preserves or management areas and game refuge areas;

(22) Historic sites;

(23) Satellite dishes not more than 36 inches in diameter;

(24) Accessory uses customarily necessary to the permitted principal use; the use shall not be detrimental by reason of odor, smoke, noise, dust, or vibration;

(25) Schools, churches, assembly halls, and other educational and institutional uses; and

(26) Light manufacturing where all processing, fabricating, assembly, or disassembly of items takes place wholly within an enclosed building. Typical items for processing, fabricating, assembly, or disassembly include but are not limited to apparel, home accessories, food, drapes, clothing accessories, bedspreads, decorations, artificial plants, jewelry, instruments, computers, and electronic devices.

(C) *Conditional uses*.

(1) Multi-family dwellings and planned unit developments;

(2) Warehouses, distribution centers, and wholesaling merchandisers;

(3) Trucking and repair terminals;

(4) Bars, taverns, night clubs, private clubs, lodges, wholesale establishments, on and off sale liquor stores, trade schools, commercial/municipal parking garages and ramps;

(5) Drive-in or drive-through facilities associated with banks, restaurants, liquor stores, and the like;

(6) Veterinary clinics for small animals only (dogs, cats, and the like) with no outdoor cages, boarding, or storage;

(7) Child care facilities or group day care centers (including adult);

(8) Accessory buildings and uses customarily incidental to the permitted principal use when located on the same property and which will not be detrimental to the surrounding neighborhood by reason of odor, smoke, noise, dust, or vibration;

(9) Printing establishments, including newspaper and publishing houses;

(10) Apartments, provided they are located above the first floor level, the first level of which is occupied by a use permitted in the district;

(11) Underground bulk fuel storage facilities;

(12) Satellite dishes more than 36 inches in diameter;

(13) Public transportation terminals, public utility buildings, short wave/radio/television and other communications towers and transformer stations without storage yards;

(14) Adult uses as defined in § 150.090;

(15) Outdoor sales and/or storage of motorized vehicles, trucks, trailers, watercraft, recreation vehicles, and the like;

(16) Offsite parking lots; and

(17) Open air display areas for the sale of manufactured products such as outdoor furniture, hardware items, flower shops, and nursery stock.

(D) *Lot area, frontage, and setback requirements.*

(1) The following requirements shall apply in the Commercial District:

(a) Lot width - 50 feet at street line; and

(b) Lot area - 5,000 square feet.

(2) Except that in any district where public water or sanitary sewer services are not accessible, the minimum lot areas shall be increased as follows and any development of the lot shall be subject to the approval of the Council.

(3) Where both public sewer and public water supply are not accessible, the minimum lot area shall be 1 acre. (1 acre = 43,560 sq. feet or 4,840 sq. yards)

(4) Where a public water supply is accessible and private connections will be made to this supply system, but public sewer is not accessible, the minimum shall be 25,000 sq. feet. The minimum lot sizes may also be increased based upon plans for the proposed individual disposal system, including percolation tests and soil borings, which shall be submitted to the City Engineer for review prior to Council approval.

(5) Setbacks:

(a) Front - 0 feet;

(b) Rear - 15 feet; and

(c) Side - 0 feet.

(d) Thirty feet shall be required on that side of the property abutting any Residential District which shall include the required buffer yards and screening.

(E) *Height regulations*.

(1) No structure, hereafter erected or altered shall exceed 35 feet or 2 stories in height, except as otherwise permitted by this chapter.

(2) Provided, however, public and semi-public buildings, churches, cathedrals, temples, hospitals or schools may be erected to a height of 55 feet when set back from all lot lines not less than 1 foot, in addition to required setback dimensions, for each foot the building exceeds 35 feet in height.

(F) *Height limit exceptions*.

(1) Established building height limits shall not apply to barns, silos, belfries, cupolas, spires, monuments, radio or television antennae, flag poles, chimneys or flues, water towers, or to poles, towers and other structures for essential services, nor to similar structures or necessary mechanical appurtenances extending from a roof upward and not occupying more that 25% of the area of the roof as projected onto a horizontal plane.

(2) When permitted in a district, public buildings, community buildings, schools, churches, hospitals, and other institutions, public utility and public service buildings and those for essential services, may be erected to height not exceeding 75 feet, provided the side yard width and the rear yard depth be each increased 1 foot over and above the district requirement for each 2 feet of building height above the height limit.

(G) *Lots fronting on more than 1 street*. Lots fronting more than 1 street shall maintain a setback on those streets conforming to the requirements for front yard setbacks; side yard setbacks shall be maintained from the remaining lot lines except when a lot line is adjacent to an alley from which rear yard setbacks shall be maintained.

(H) *Lots of record*. Where existing lots fail to comply with the provisions of this chapter, the Council may after application for a conditional use permit as set forth in § 150.110 allow the minimum lot area to be reduced in conformity with the existing neighborhood, provided however, that lots of record in the R-1 District shall be deemed to comply with this section without provisional use permit provided the width of the lots is not less than 50 feet.

(I) *Buffer yards and screening*. All development in the Commercial District adjacent to or abutting any R-1, R-2, or residential use in the Commercial District and not separated therefrom by a street or alley, shall provide a buffer yard along the adjoining property line. See § 150.027.
(Ord. 153, § 3.8, passed 3-24-2003; Am. Ord. --, passed 9-10-2012) Penalty, see § 10.99

§ 150.073 HISTORIC DISTRICT.

(A) *Purpose and intent*. It is the purpose and intent of the Historic District to preserve the environmental values of the City of Mantorville and its identity derived through its established Historic District by:

(1) Protecting against destruction of or encroachment upon historic areas, structures, and premises;

(2) Encouraging uses, which will lead to their continuance, conservation and improvement in a manner appropriate to the preservation of the cultural, social, economic, political, and architectural heritage of the City of Mantorville;

(3) Preventing creation of environmental influences adverse to the purposes; and

(4) Assuring that new structures and uses within the districts will be in keeping with the character to be preserved and enhanced.

(B) *Establishment of Historic District*. The Historic District contains a set of regulations superimposed upon the existing zoning use districts, superceding existing underlying regulations only to the extent expressed in the Historic District provisions, leaving in effect, in all other respects, the regulations applicable to the underlying use district in which the land is situated. An HD postfixed to a use district code letter designates the Historic District. Within this district, all uses not allowed as permitted uses are prohibited.

(C) *Establishment of the Restoration Association*. The Mantorville Restoration Association (MRA) is hereby appointed the responsibility of giving counsel to the governing body regarding the advisability of issuing a permit for construction, reconstruction, exterior alteration, razing, or relocation of any building or structure within the Historic District. For this purpose, the Mantorville Restoration Association may make and alter rules and regulations for its own organization and procedure.

(D) *Applicability*. No building or structure, including signs, shall be erected, constructed, reconstructed, substantially altered or restored, or razed within the Historic District unless the same is first approved by the governing body, acting upon the advice of the Mantorville Restoration Association, and making a finding that the proposal is architecturally compatible with the historical and/or architectural aspects of the area. If any proposed construction, reconstruction, exterior alteration, or relocation of a building would otherwise require the approval of a variance in accordance with the procedures set forth in § 150.111, the City Engineer shall notify the governing body of the facts and at the next regularly scheduled meeting, the governing body shall have the power, in its discretion, to waive any standards required by this Zoning Ordinance and to grant approval without the necessity of the applicant obtaining a variance as required by § 150.111. Before granting the approval, and waiver, the governing body shall make a finding that the waiver is deemed necessary in furtherance of the purpose and intent of the Historic District.

(E) *Standard for review*. The Restoration Association and governing body shall consider the following in review and action upon any proposal subject to the provisions of this section.

(1) Exterior architectural features including all signs, which are subject to public view from a public street or public place.

(2) General design, arrangement, texture, material, color, and fenestration of the proposed building or structure and the relation of the factors to similar features of buildings or structures of the period between 1854 and 1900.

(3) The extent to which the building or structure would be architecturally harmonious or compatible with the period between 1854 and 1900.

(4) The extent to which the building or structure will promote the general welfare of the city and all citizens by the preservation and protection of historic places and areas of historic interest in the city.

(5) The extent to which the preservation and protection will promote the general welfare by maintaining and increasing real estate values; generating business, attracting tourists, students, writers, historians, artists, and artisans; attracting new residents; encouraging study and interest in American history; stimulating interest and study in architecture and design; educating citizens in American culture and heritage; and making the city a more attractive and desirable place in which to live.

(6) The Restoration Association or governing body shall not consider interior arrangement, relative size of the building or structure, detailed design or features not subject to any public view, and shall not make any requirements except for the purpose of preventing developments architecturally incompatible with the historic aspects of the Historic District.
(Ord. 153, § 3.9, passed 3-24-2003) Penalty, see § 10.99

SUPPLEMENTAL REGULATIONS

§ 150.085 SIGN REGULATIONS.

(A) *Purpose*. The purpose of this section is to protect and promote the health, safety and welfare of the people of Mantorville through the establishment of standard regulations and procedures governing the erection, use, location, and display of signs.

(B) *Permit required*. No sign shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered without a permit from the city except that signs permitted under division (C) of this section shall not need a permit from the city. The following 2 operations shall not be considered creating a new sign and therefore, shall not require a permit:

(1) *Replacing copy*. The changing of the advertising or message on an approved sign which is specifically designed for the use of a replaceable copy.

(2) *Maintenance*. Painting, cleaning and other normal maintenance and repair of a sign or a sign structure, unless a structural change is made or there is a change in the message.

(C) *Permitted, all districts*. The following shall be permitted in all zoning districts without a building permit as long as they do not meet the standards set for a building permit: Note; special situations exist for the Historic District - see division (H).

(1) *Any temporary sign*. Any temporary sign such as (real estate signs) located on the property being advertised for sale, rent or lease, not exceeding 8 square feet in area.

(2) *Governmental signs*. Governmental signs, such as traffic control, parking restrictions, information, notices, flags and insignia.

(3) *Bulletin boards*. For public, charitable or religious institutions and not exceeding 24 square feet in area.

(4) Historic markers, memorial signs, names of buildings, and date of erection when cut into any masonry surface or when constructed of metal and affixed flat against a structure.

(5) *Warning and identification signs*. Not exceeding 1 square foot in area and bearing only property numbers, post office box numbers, names of occupants of the premises, or other identification of premises not having commercial connotations.

(6) An electronic indication of time or temperature.

(7) Election signs as allowed by M.S. § 211B.045.

(8) *Banners*. Advertising banners that are for no more than 14 days.

(9) Integral decorative or architectural features of buildings, moving parts, or moving lights.

(10) *Private parking signs*. Signs directing or guiding traffic and parking on private property, but bearing no advertising matter.

(D) *Prohibited: all districts*. The following shall be prohibited in all zoning districts:

(1) Any permanent sign located in the public right-of-way or easement;

(2) Any sign which resembles the size, shape, form, and color of official traffic-control signs, emergency vehicle lights, or official markers;

(3) Any sign which obstructs any door, fire escape, stairway, or access to any building or structure; or

(4) Any sign which causes a safety hazard by interfering with driver's vision, sight lines and traffic visibility.

(E) *Construction/building permit*. All permanent signs over 6 feet tall and all permanent signs not located flush with the building shall require a building permit and shall be constructed to meet Building Code standards for wind resistance and wind loads. Signs with any electrical devices shall conform to the electrical code. In addition to the required items for a building permit, the following items must also be included in the permit application:

(1) Copies of stress sheets and calculations, if deemed necessary by the Building Inspector, showing the structure as designed for dead load and wind pressure;

(2) Name, address, phone, and if available, fax and e-mail of the person who has or will be erecting the sign; and

(3) The seal or certificate of a registered structural or civil engineer when required by the city Building Inspector.

(F) *Residential districts*.

(1) No flashing, moving, or intermittently lighted sign shall be permitted in any residential zoning district.

(2) There shall be no more than 2 illuminated name plates per residence measuring not more than 1 square foot in area.

(G) *Non-residential districts*. Signs shall be permitted in with permit districts subject to the following:

(1) Wall signs placed against the exterior wall of a building shall not extend more than 6 inches outside of a building's wall surface, shall not exceed 500 square feet in area for any 1 premise, and shall not exceed 20 feet in height above the mean centerline street grade.

(2) Projecting signs fastened to, suspended from, or supported by structures shall not exceed 100 square feet in area for any 1 premises, shall not extend more than 6 feet from the structure, shall not project into the public right-of-way, shall not exceed a height of 20 feet above the mean centerline street grade, and shall not be less than 10 feet above the sidewalk nor 15 feet above the driveway or an alley. No projecting sign shall be permitted to use the public right-of-way for support apparatuses. Support shall be located entirely on private property.

(3) Ground signs shall not exceed 20 feet in height above the mean centerline street grade, shall meet all setback requirements for the district in which they are located, and shall not exceed 100 feet in total perimeter measurement for any 1 premises.

(4) Roof signs shall not exceed 10 feet in height above the roof, shall meet all the setback and height requirements for the district in which they are located, shall not exceed 300 total feet in total perimeter measurement on any 1 premises.

(5) Flashing, moving, or intermittently lighted signs shall not be permitted on any non-residential lot abutting directly to or across any street from a residential district.

(6) Portable signs (trailer mounted signs) shall be permitted for a cumulative period of 90 days in any 1 year. They shall be no larger than 32 square feet (8 x 4) and shall comply with other applicable provisions herein (i.e. for residential districts). No permits are required for portable signs. Each entity is allowed 1 portable sign.

(7) Sandwich board/A-frame signs - Shall be permitted based on the following criteria:

(a) Sandwich boards may be used within the Commercial District;

(b) No more than 1 sandwich board/A-frame sign per owner shall be allowed;

(c) Sandwich boards/A-frame signs shall be placed on the sidewalk directly abutting the owner's building, or another location with permission from the owner of the property;

(d) Sandwich boards/A-Frame signs shall not exceed 10 square feet per side;

(e) Sandwich boards/A-frame signs shall be displayed only during the period from sunrise to sunset;

(f) Sandwich boards/A-frame signs shall not use any form of electricity or display lights or moving parts;

(g) Sandwich boards/A-frame signs shall not be affixed to the sidewalk, other signage or temporary or permanent structures; and

(h) Sandwich boards/A-frame signs shall not block driveways, entryways or pedestrian accesses, shall not significantly obstruct the sidewalk, and shall not impact sightline/view at street intersections.

(H) *Historic District*. The applicant shall submit proposed non-temporary signs in the Historic District to the MRA for comment. The MRA shall submit any comments to the city within 30 business days.

(I) *Measuring area*. The following shall determine the sign area:

(1) Support structures or bracing shall not be considered part of the sign area unless used as a part of the sign message.

(2) In the case of 2 identical display faces back to back, the area of only 1 face shall be considered the sign area. If a sign has more than 1 display face and the faces are not identical and back to back, each face shall be considered a separate sign.

(3) The entire surface area of free standing, projecting, roof and marquee signs shall be considered the sign area.

(4) When a message is applied to a translucent background that provides no border or frame, the sign area shall be the smallest rectangle which can encompass all words, letters, figures, emblems, and other elements of the sign message.

(J) *Measuring height.*

(1) A free standing sign shall be measured from the finished elevation at the base of the sign to the top of the sign face.

(2) Projecting signs and wall signs shall be measured from the finished elevation below the sign to the top of the sign face.

(3) Roof signs shall be measured from the top of the outside building wall to the top of the sign area.

(K) *Sign appearance.* The owner, lessee, or manager of the property on which a sign is located is responsible for the appearance of the sign, including the reasonable area around the base of the sign. Signs which have become a nuisance are subject to the requirements and remedies of Ch. 90 of the city code.

(L) No sign whether permanent or temporary, shall be placed on private property without the consent of the property owner.

(M) All signs are subject to regulation under Minnesota Rules, Ch. 8810 and M.S. Ch. 173 regarding advertising devices on property adjacent to highways; and M.S. § 211B.045 regarding noncommercial signs exemption.

(N) M.S. § 211B.045 states "In any municipality with an ordinance that regulates the size of noncommercial signs, notwithstanding the provisions of that ordinance, all noncommercial signs of any size may be posted from August 1 in a state general election year until 10 days following the state general election."
(Ord. 153, § 4.1, passed 3-24-2003; Am. Ord. --, passed 12-14-2009) Penalty, see § 10.99

§ 150.086 PARKING.

(A) *Parking; residential.* Two parking stalls shall be provided for each dwelling unit.

(B) *Parking; nonresidential.* Adequate off-street parking spaces shall be provided, but in no case shall fewer be provided than the ratio of 1 parking stall for:

(1) Each sleeping accommodation in any automobile court, motel, or tourist home, and each camp unit in any automobile camp;

(2) Each 3 sleeping accommodations in any hotel, boarding house, fraternity or sorority house, or dormitory;

(3) Each 3 beds in any hospital;

(4) Each 6 beds in any sanitarium, convalescent home, or similar establishment;

(5) Each doctor in any medical or dental clinic, plus 1 parking stall for each 2 employees and 1 for each 2 patients of the total patients in the clinic at any 1 time;

(6) Each 4 seats or other accommodations for customers and those in attendance in any restaurant, theater, auditorium, stadium, church, entertainment or recreation use, hall for meeting, dancing, social, or athletic events, and other places where the accommodations may be used by 12 or more persons at the same time, provided that for any public or private school the number of parking spaces shall not be less than 1 space for each 8 classroom seats, plus those required for employees;

(7) Each 300 feet of ground floor area in business or commercial use, each 1,000 square feet of upper floor area and each 1,000 square feet of basement floor area in the use, provided that for such establishments as drive-in markets and for similar and other businesses and uses catering to drive-in patronage, the required ratio shall be 1 parking stall for each 250 square feet of total area in business or commercial use within buildings and outside. When units or measurements used in determining the number of required parking spaces result in requirement of a fractional space any fraction up to and including ½ shall be disregarded and fractions over ½ shall require 1 parking space. For the purpose of this section, ***FLOOR AREA***, in the case of offices, merchandising, or service types of uses, shall mean the gross floor area used or intended to be used for services to the public as customers, patrons, clients, patients, or tenants, including areas occupied for fixtures and equipment used for display or sale of merchandise; and

(8) Each 2 persons, including proprietors, or maximum employment on the main shift and those on any immediately preceding or following shift, whichever is larger in any institutional, or public, business, or industrial use.

(C) *Parking standards*. Each parking stall shall not be less than 162 square feet in area exclusive of aisles, driveways, and walks.

(1) Access driveways to a single stall or parking lot shall be no less than 12 feet nor more than 30 feet in width where crossing the front property line from a street or road, except that driveways serving parking spaces for residential uses shall be not less than 9 nor more than 20 feet in width.

(2) Required parking stalls for dwellings, trailer coaches, mobile homes, motels, auto courts, and auto camps and similar uses shall be located on the same premises as the use they serve. For other uses they shall be located on the premises or within a 500-foot distance.

(3) The number of parking stalls required for serving several uses is the sum of the separate requirements, provided that upon application to the City Council for a conditional use permit showing that the parking demands of different uses may approve a reduction in the number of stalls required to that which will serve the maximum demand at any 1 time.

(4) Required parking spaces provided on a lot or in a building shall be kept available for parking during the times of parking demand and shall not be reduced in number.

(5) Parking stalls, truck loading spaces, aisles and access driveways shall be so graded and surfaced as to be smooth and to be free of dust, dirt, or mud.

(6) Truck loading spaces and truck parking and storage spaces off the street shall be provided as needed in connection with all buildings and uses delivering and receiving goods, materials, and supplies by trucks.

(7) Drives within parking areas shall meet the following minimum width:

Angle of Parking	***Width***
90 degrees	24 feet
60 degrees	17 feet
45 degrees	13 feet
30 degrees	12 feet

(8) All parking lots shall have areas reserved for snow storage that will not reduce the number of spaces available below the number of spaces required for this chapter.

(D) *Uses and required parking space*. The amount of required off-street parking space for new uses or buildings, additions thereto and additions to existing buildings as specified in this chapter, shall be determined in accordance with the following table and space so required and shall be irrevocably reserved for the use:

Residential	2 spaces per dwelling unit
Bed and breakfast facilities, motels, boarding and rooming houses	1 space per guest or sleeping room, plus 2 for employees/managers
Hospitals, sanitariums, convalescent homes, homes for the aged, or dormitories	1 per 3 beds plus 1 space for each 2 employees
Child care facilities	1 space per employee, plus 1 per seven children
Theaters, auditoriums, sports arenas, and churches	1 per 4 seats in the main assembly unit
Elementary schools	1 per 2 employees
Jr. or Sr. high schools	1 per 2 employees, plus 1 10 students
Dance hall, pool, billiard rooms, assembly halls and exhibition halls without fixed seats; community centers, civic clubs, fraternal orders; union halls and similar uses	1 per 4 people allowed within the maximum occupancy load as established by the State Fire Marshall
Bowling alleys	5 per alley, plus additional spaces as may be required for related uses in the same building

Mortuaries or funeral homes	1 for each 50 square feet of floor space in the slumber rooms, parlors, or individual service rooms
Restaurants, cafes, private clubs serving food and/or drinks, bars, taverns, and nightclubs	1 per 40 square feet of gross floor area of dining and bar area and 1 space per 80 square feet of kitchen area
Drive-in establishments and convenience foods; drive-in only	1 space for each 40 square feet of gross floor area of dining, and 1 space for each 80 square feet of kitchen area
Convenience food establishments with indoor seating	1 space for each 15 feet of gross floor area, but not less than 15 spaces
Medical or dental clinics, banks, business or professional offices	1 space for each 200 feet of floor area
Drive-in banks	4 for each teller window plus 1 for each 200 feet of floor area
Beauty parlors and barber shops	2 for each barber and/or beauty shop chair
Service garages, automobile repair body shops, and automobile sales	1 for each employee on duty at any 1 time, plus 2 for each stall in a body shop, plus 1 for each stall or service area or wash rack in a servicing or repair shop
Gasoline service station	1 for each employee, plus 1 for the owner/manager plus 2 for each stall receiving service
Gasoline-convenience store	6 off-street parking spaces plus 3 off-street parking spaces for each fuel pump
Retail and repair shops such as: furniture, appliance, clothing, thrift, accessory, and shoe stores and related repair shops	1 for each employee plus 1 for each 250 square feet of gross floor area
Industrial and manufacturing establishments	1 space for each employee on maximum shift or 1 space for each 2,000 square feet of gross floor area, whichever is more
Uses not specifically noted	Requirements for similar uses as determined by the city

(E) *Design standards*. In all districts where off-street parking lots are permitted or where required, the off-street parking lots shall be constructed and maintained subject to the following requirements.

(1) Adequate ingress and egress shall be provided.

(2) The parking lots shall be maintained in a useable dust-proof condition and condition, and shall be kept graded and drained to dispose of surface water in accordance with existing state, federal, and local regulations.

(3) Whenever the parking lot boundary adjoins property zoned for residential use, a set back of 8 feet from the lot line shall be required.

(4) Necessary curbs or other projections against damage to adjoining properties, streets, and sidewalks shall be provided and maintained.

(5) The above information shall be included in the plans submitted to the city. Plans for the construction of any such parking lot must be approved by the city before construction is started. No land shall be used for parking until given final approval by the city.

(F) *Loading spaces*. On the premises with every building, structure, or part thereof, erected and occupied for manufacturing, storage, commercial, retail, and related uses involving receipt or distribution of vehicles or materials or merchandise, there shall be provided and maintained on the lot adequate space for standing, loading, and unloading services in order to avoid undue interference with public use of the streets or alleys. The space, unless otherwise adequately provided for, shall be at minimum 10 feet by 25 feet loading space, with 14 feet height clearance for every 20,000 square feet or fraction thereof in excess of 3,000 square feet of building floor use or land use for the above mentioned purposes.
(Ord. 153, § 4.2, passed 3-24-2003) Penalty, see § 10.99

§ 150.087 HOME OCCUPATIONS.

(A) *Purpose*. A home occupation is any occupation for gain or support and can be beneficial to the community in that they provide services to its residents, as well as supplemental income and personal satisfaction to the residents.

(B) *Standards*. No home occupation shall be allowed which does not meet the following standards.

(1) The home occupation shall be conducted entirely within the home by resident occupants only.

(2) The home occupation shall not require more than 1/4 of the area of any floor for the purpose excluding day care centers.

(3) The home occupation shall not require any structural alterations or constructions involving features not customarily found in dwellings.

(4) The home occupation shall be consistent with and shall not detract from the residential character of the district in which the home is located.

(5) There shall be no outside storage of material or equipment or display of merchandise. (Ord. 153, § 4.3, passed 3-24-2003) Penalty, see § 10.99

§ 150.088 HOME BUSINESSES.

(A) *Purpose*. A home business is any occupation for gain or support and can be beneficial to the community in that they provide services to its residents, as well as supplemental income and personal satisfaction to the residents. However, a home business may result in activities that may have a negative impact upon the residential character of the community and surrounding neighborhood. It is for this reason that a conditional use permit shall be required for all home businesses, to ensure their compatibility with the neighborhood in which they are located.

(B) *Permit required.* A conditional use permit shall be required for all home businesses. Criteria in this section shall be in addition to criteria identified in § 150.110.

(C) *Standards*. No home business shall be allowed which does not meet the following standards.

(1) The home business shall be conducted entirely on the same parcel as the home by resident occupants only.

(2) The home business shall not require more than 25% of the area of any floor of the dwelling for the purpose, excluding day care centers, and shall not occupy more than 50% of the floor area of any existing accessory structure.

(3) The home business shall not require any structural alterations or construction involving features not customarily found in dwellings or accessory structures.

(4) The home business shall be consistent with and shall not detract from the residential character of the district in which the home is located.

(5) There shall be no outside storage of material or equipment or display of merchandise.

(6) There shall be no more than 1 unilluminated name plat advertising the business, measuring not more than 1½ square feet in area attached on the principal building near the building entrance.

(D) *Additional conditions*. In determining whether a particular home business is consistent with the residential character of a district, the city shall, in addition to those items listed in § 150.110, consider the following:

(1) Noise, odors, water, and air pollution;

(2) Vehicular and pedestrian traffic;

(3) Outside storage of stock or inventory;

(4) The use of flammable, explosive, or highly volatile materials;

(5) Excessive lights or noise at night; and

(6) Litter.

(Ord. 153, § 4.4, passed 3-24-2003) Penalty, see § 10.99

§ 150.089 MANUFACTURED HOME PARKS.

(A) *Generally*. All regulations prescribed by the State Board of Health or other authority having jurisdiction and the regulations of the Zoning Ordinance of the City of Mantorville shall be complied with.

(B) *Size*. Any manufactured home park established after the effective date of this chapter shall contain not less than 20 manufactured home lots and shall be at least 3 acres in area.

(C) *Access*.

(1) Each manufactured home park shall abut upon a public street and shall have no less than 2 ingress and egress locations abutting the public street.

(2) No vehicular entrance to, or exit from, any manufactured home park shall be located within 200 feet of any school, public playground, church, hospital, library, or institution for children except where the property is in another block or another street which the premises in question do not abut.

(D) *Setback requirements*. Structures in manufactured home parks shall be setback 20 feet from front and rear property lines and 12 feet from side property lines.

(E) *Building height*. No building or structure hereafter erected or altered in a manufactured home park shall exceed 25 feet or 1½ stories in height.

(F) *Interior requirements*. The following requirements shall apply to the interior of the manufactured home park.

(1) *Interior streets*. The minimum roadway width of interior 1-way streets with parking permitted on 1 side shall be 21 feet. The minimum roadway width of 2-way streets with parking permitted on 1 side shall be 30 feet. The minimum width of 2-way streets without parking shall be 20 feet. The streets shall be paved according to city specifications for residential streets, maintained in good condition, and lighted at night.

(2) *Lot area*. The minimum lot area per manufactured home site shall be 5,000 square feet.

(3) *Utilities*. Each manufactured home shall be equipped with 1 electric outlet and hookups for municipal water and sewer. Fire hydrants shall be located in accordance with generally accepted practices as determined by the City Fire Marshal and City Engineer.

(4) *Distance between manufactured homes*. The minimum distance between neighboring manufactured homes shall be 12 feet.

(5) *Setback from interior streets*. No manufactured home shall be located closer than 10 feet to the traveled portion of an interior street.

(6) *Off-street parking*. Off-street parking shall be provided at the ratio of 2 spaces for each manufactured home lot.

(G) *Required improvements*. In order that a manufactured home park or may be harmonious within itself and with the surrounding area, the following requirements shall be required.

(1) Adequate provisions for the control of surface drainage, approved by the City Engineer must be incorporated on the site.

(2) All areas not used for access, parking, circulation, buildings, and service shall be completely and permanently landscaped and the entire area maintained in good condition.

(3) A 12-foot bufferyard shall be located and maintained along all exterior boundary lot lines not bordering a street according to the bufferyard requirements in § 150.027.

(4) Skirting for manufactured homes is required. Skirting shall be a permanent exterior material color coordinated to match the decor of the manufactured home. All skirting shall be firmly attached and in good repair. No other buildings or structures shall be attached to a manufactured home, as specified by the building code. Accessory buildings allowed shall be 1 utility building per lot no larger than 120 square feet and 1 automobile storage garage no larger than 8% of the lot or 300 square feet, whichever is greater. No accessory building shall be places less than 2 feet from any lot line, less than 6 feet from the main structure and/or closer to the street than the front of the main structure.

Automobile storage garages shall be constructed in strict compliance with the Minnesota State Building Code and must be approved by the City Building Official and the owner, or his or her authorized agent, of the manufactured home park. This shall not prevent the use of an awning of aluminum, canvas, or fiberglass which may be enclosed by mesh screen and which shall not be larger than 120 square feet in floor area.

(5) There shall be provided within each manufactured home park, a recreation site, or sites, for the exclusive use of the park occupants. The recreation site shall have a minimum area of 10,000 square feet for each 50 units or fraction thereof. Where possible, the area shall be configured so it is no longer than 2 times its width. The recreational sites shall be provided with the appropriate equipment.

(H) *Commercial operations restricted.*

(1) No commercial operation shall be conducted within the manufactured home park other than those necessary for the operation thereof. A common laundering facility is an allowed use. Commercial sales lots for manufactured homes are prohibited.

(2) A conditional use permit shall be required for any home business, according to § 150.088.

(I) *Parking restrictions*. Except as may be authorized by general traffic and parking regulations or ordinances, no person shall park or occupy any recreational vehicle in a manufactured home park. The parking or storage of a recreational camping vehicle in an accessory private garage building or in a rear yard in any district shall be permitted provided no permanent living quarters shall be maintained or any business conducted in the vehicle while so parked and stored.

(J) *Conditional use permit required.*

(1) It shall be unlawful for any person to establish, maintain, or operate a manufactured home park or recreational camping area, or the facilities therein, unless the person shall first procure a conditional use permit from the City of Mantorville. The procedures for obtaining a conditional use permit in § 150.110 shall apply.

(2) An application for a conditional use permit for a manufactured home park shall include the following, in addition to items identified in § 150.110:

(a) Name and address of applicant;

(b) Location and legal description of the park; and

(c) A plan showing complete compliance with this chapter, the plan shall be certified by a registered engineer and shall contain the following information:

1. A plan of the park showing its relationship to the surrounding area. The plan shall show locations of entrances and exits and bufferyards and screening along all exterior boundary lot lines not bordering a street in accordance with § 150.110;

2. A site plan showing the unit parking spaces, roads, and open spaces and the location of all permanent buildings located within the manufactured home park;

3. Plans for the installation and location of all utilities to serve the occupants;

4. Topographic information to adequately show surface drainage patterns; and

5. The other information as may be requested by the city to enable the city to determine if the proposed park will comply with all legal requirements.

(3) Any enlargement or extension to any existing manufactured home park or transfer of an existing permit shall require a new application for a conditional use permit as if it were a new establishment.

(K) *Storm shelter facilities*. There shall be provided within each manufactured home park that has 10 or more, except a park for travel trailers, suitable storm shelter facilities constructed to withstand a free field of wind of 200 mph, a 1.2.PSJ drop in 4 seconds, or any type of missile projections. Storm shelter facilities shall comply with the most recent Minnesota State Building Code requirements and Minnesota State Health Department standards. The area of the shelter facilities shall be equal to 7.5 square feet per manufactured home lot.

(L) *Anchoring*. All manufactured homes located in manufactured home parks shall be anchored to withstand high winds.

(M) *Promulgation of additional regulations*. In addition to the foregoing, the city may impose the other conditions, requirements, or limitations concerning the design, development, and operation of the manufactured home park it may deem necessary for the protection of adjacent properties and the public interest.
(Ord. 153, § 4.5, passed 3-24-2003)

§ 150.090 ADULT USES.

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

ADULT BOOKSTORE. A building or portion of a building used for the barter, rental, or sale of items consisting of printed matter, pictures, slides, records, audiotape, videotape, or motion picture film if a substantial or significant portion of the items are distinguished or characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas or the barter, rental or sale of instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities. ***SUBSTANTIAL OR SIGNIFICANT PORTION OF ITEMS***, for purposes of this section, shall mean more than 15% of useable floor area.

ADULT CABARET. A building or portion of a building used for providing dancing or other live entertainment, if the building or potion of a building excludes minors by virtue of age, or if the dancing or other live entertainment is distinguished or characterized by an emphasis on the presentation, display, depiction, or description of specified sexual activities or specified anatomical areas.

ADULT CONVERSATION/RAP PARLOR. A conversation/rap parlor which excludes minors by reason by age, or which provides the service of engaging in or listening to conversation, talk or discussion, if the service is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

ADULT HEALTH/SPORTS CLUB. A health/sports club that excludes minors by reason of age, or if the club is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

ADULT MASSAGE PARLOR. A massage parlor which restricts minors by reason of age, or which provides the service of massage if the service is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

ADULT MINI-MOTION PICTURE THEATER. A building or portion of a building with a capacity for less than 50 persons used for presenting material if the building or portion of a building as a prevailing practice excludes minors by virtue of age, or if the material is distinguished or characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas for observation by patrons therein.

ADULT MOTION PICTURE THEATER. A building or portion of a building with a capacity of 50 or more persons used for presenting material if the building or portion of a building as a prevailing practice excludes minors by virtue of age, or if the material is distinguished or characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas for observation by patrons therein.

ADULT STEAM ROOM/BATHHOUSE FACILITY. A building or portion of a building used for providing a steam bath or heat bathing room used for the purpose of pleasure, bathing, relaxation, or reducing agent, if the building or portion of a building restricts minors by reason of age or if the service provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

ADULT USES. Adult bookstores, adult motion picture theaters, adult mini-motion picture theaters, adult massage parlors, adult steam room/bathhouse facilities, adult enterprises, businesses or places open to some or all members of the public at or in which there is an emphasis on the presentation, display, depiction or description of specified sexual activities or specified anatomical areas which are capable of being seen by members of the public.

SPECIFIED ANATOMICAL AREAS. Less than completely and opaquely covered:

(a) Human genitals;

(b) Pubic region;

(c) Buttocks; and

(d) Female breast below a point immediately above the top of the areola.

SPECIFIED SEXUAL ACTIVITIES.

(a) Human genitals in a state of sexual stimulation or arousal;

(b) Acts of human masturbation, sexual intercourse, or sodomy; and

(c) Fondling or other erotic touching of human genitals, pubic region, buttocks, or female breast.

(B) *Location requirements*.

(1) Adult uses shall only be permitted with a conditional use permit in the Commercial District provided that no adult use shall be located within 500 feet of:

(a) Any area zoned R-1 or R-2;

(b) Any land that has been or is approved for development for residential purposes, which shall include farm residences, rural residences, and non-farm residences;

(c) Any school, as defined in M.S. § 120A.05, as it may be amended from time to time;

(d) Any church or house of worship;

(e) Any child day care facility, as defined in this chapter, or any residential or non-residential program, as defined in M.S. § 245A.02, as it may be amended from time to time;

(f) Any hotel or motel; and/or

(g) Any public park.

(2) Adult uses shall not be established or maintained as a conditional or accessory use in any area other than those described in division (B)(1) above.
(Ord. 153, § 4.6, passed 3-24-2003) Penalty, see § 10.99

§ 150.091 PLANNED UNIT DEVELOPMENT (P.U.D.).

(A) *Purpose and intent*. The P.U.D. or Planned Unit Development District is intended to encourage a more efficient use of land and public services and greater amenity by allowing under certain circumstances, a more flexible means of land development or redevelopment than is otherwise afforded through the strict enforcement of the zoning requirements of other use districts by lot-by-lot development. Although P.U.D. developments may appear to deviate in certain aspects from a literal interpretation of the zoning and subdivision ordinances, the Planned Unit Development District and its accompanying guidelines are intended to allow freedom of design in order to promote developments which will be an asset to the city by equaling or surpassing the quality of developments resulting from the application of more conventional zoning regulations.

(B) *Conditional use permit required*. Each Planned Unit Development shall require a conditional use permit.

(C) *Land ownership*. The tract of land to be developed as a P.U.D. shall be under the control of:

(1) A single owner; or

(2) A group of landowners, acting through a corporation, where each owner agrees in advance to be bound by the conditions and regulations which will be effective within the district and to record the covenants, easements, and other provisions in the County Recorder's office.

(D) *General provisions*.

(1) The city may approve the Planned Unit Development only if it finds that the development satisfies all of the following standards in addition to meeting the requirements of conditional use permit provisions.

(a) The Planned Unit Development is consistent with the Comprehensive Plan of the city.

(b) The Planned Unit Development is an effective and unified treatment of the development plan and provides for the preservation of unique natural amenities such as streams, stream banks, wooded cover, rough terrain, and similar areas.

(c) The Planned Unit Development will be developed to harmonize with any existing or proposed development in the areas surrounding the project site.

(d) The proposed primary uses are listed as either permitted or conditional uses in the zoning district in which the proposed development is located.

(e) Financing is available to the applicant on conditions and in an amount, which is sufficient to assure completion of the Planned Unit Development.

(2) The primary uses in a P.U.D. shall conform to the permitted or conditional uses of the underlying zoning district or districts in which the land for the development is located and may be a combination of uses when by design, use, and restriction, the development will not result in undue adverse effects on surrounding areas and will be compatible with adjacent uses and consistent with the intent of this section and the proposed P.U.D.

(3) A primary function of the P.U.D. provision is to encourage development which will preserve and enhance the natural terrain characteristics and not force intense development to utilize all portions of a given site in order to arrive at the maximum density allowed. In evaluation each individual proposal, the recognition of this objective will be a basic consideration in approving or denying the application.

(4) Architectural style of buildings shall not solely be a basis for denial or approval of a plan. However, the overall appearance and compatibility of individual buildings to other site elements, or to surrounding developments, will be a primary consideration in the review stage by the Planning Commission and the City Council.

(E) *Types and restrictions*. The following restrictions shall apply.

(1) A P.U.D. in which more than 50% of the development is residential in nature shall be known as a P.U.D. Residential Development and shall be subject to the following in addition to other regulations of this chapter which apply:

(a) In open land areas or areas surrounded to a major extent by developed land, no P.U.D. Residential Development project area shall be less than the minimum lot size required in the zoning district in which the land is located; and

(b) A minimum of 30% of the P.U.D. Residential Development is recommended to be maintained as green space consisting of vegetative plantings such as grass, trees, shrubs, or flowers. No portion of sidewalks, boulevards, or paved areas should be considered in calculating the green space.

(2) A P.U.D. in which more than 50% of the development is commercial in nature shall be known as a P.U.D. Commercial Development and shall be subject to the following in addition to other regulations of this chapter shall apply:

(a) In open land areas or areas surrounded to a major extent by developed land, no P.U.D. Commercial Development shall be less than the minimum lot size required in the zoning district in which the land is located; and

(b) A minimum of 15% of the P.U.D. Commercial Development is recommended to be maintained as green space consisting of vegetative plantings such as grass, trees, shrubs, or flowers. No portion of sidewalks, boulevards, or paved areas shall be included in calculating the green space.

(F) *Bulk regulations*. The following minimum regulations shall be followed.

(1) The maximum residential density allowed in a P.U.D. shall conform to the general character of the neighborhood but in no case shall exceed the following:

Dwellings per Acre	***Original Zoning District***
10	R-1
18	R-2
18	Commercial
18	Transitional

(2) The amount of nonresidential floor area shall no exceed the following ratio to lot area:

Ratio	***Original Zoning District***
.15	R-1
.25	R-2
1.00	Commercial
Least restrictive adjoining district	Transitional

(3) The above bulk regulations, when met, do not automatically constitute approval of the submitted plan. The City Council reserves the right to approve or reject any plans submitted that are not in conformance with the City's Comprehensive Plan, are not properly related to adequate traffic arteries, are not compatible with surrounding land uses or are not otherwise in the best interest of the City of Mantorville.

(G) *Procedure*. The procedures and requirements to establish a P.U.D. district shall be as herein specified.

(1) *Pre-application meeting*. The applicant shall meet with the City Council to discuss the contemplated project relative to community development objectives for the area in question and learn the procedural steps for a conditional use permit. The applicant shall submit a sketch plan at this stage for informal review and discussion. The applicant is urged to avail himself or herself of the advice and assistance to facilitate the review of the sketch plan and development procedure.

(2) *Preliminary development plan.*

(a) Following the pre-application meeting, the applicant shall submit a preliminary plan, official application, and all required information to the city.

(b) The City Clerk-Treasurer shall review the application and within 10 business days after receiving the application shall notify the applicant in writing if the application is not complete and what additional information is required.

(c) The City Council shall take action to approve or deny the application within 60 days of receiving a completed application. If the city cannot take action to approve or deny the application within 60 days of receiving the completed application, the City Council may extend the timeline for taking action before the end of the initial 60-day period by providing written notice of the extension to the applicant. The notification shall state the reasons for the extension and its anticipated length, which may not exceed 60 days unless approved by the applicant in writing.

(d) The preliminary plan shall be reviewed by the City Council to address concerns and make recommendations, if necessary, to make the development more compatible or desirable.

(e) The preliminary plan submitted for review shall include:

1. A certified survey of the land to be included in the P.U.D.;

2. Existing zoning and land use;

3. Location of any existing structures, easements, streets, parking, public or private drives, and natural features;

4. Existing topography illustrating existing and proposed drainage;

5. Existing and proposed private and public ownership boundaries including proposed private lots for sale as well as common ownership areas;

6. Proposed land use as identified on the Comprehensive Plan;

7. A plan with locations of all structures including placement, size, and type with topography showing 2-foot contour intervals;

8. All common open spaces shall be labeled as such and their intent or design and functions;

9. Proposed street locations, names, and the location of other public or private drives and generalized parking areas;

10. Approximate density, number, types, location of structures, open spaces, and parking areas;

11. Proposed use of land and buildings;

12. Proposed design of buildings, locations of signs, and lighting;

13. Generalized landscaping; and

14. Form of organization proposed to own and maintain public or private open space.

(3) *Final development plan.*

(a) Following review and tentative approval of the plan, the applicant shall prepare and submit a final development plan to the City Council within 1 year of tentative approval. The final plan shall be reviewed by the City Council to either approve, approve with conditions, or deny the application. The City Council shall then take action on the application and inform the applicant in writing. If conditional approval is granted, the applicant shall be notified in writing of the conditions attached to the approval.

(b) The following information shall be submitted with the final development plan:

1. The final development plan shall conform to the preliminary development plan and include information required for a final plan and any required changes to the preliminary development plan;

2. Detailed grading and drainage plan at 2-foot contour intervals;

3. Landscape plan;

4. Deed restrictions, covenants, agreements, bylaws of proposed homeowner's association, and other documents controlling the use of property, type of construction, or development or the activities of future residents;

5. If land is being platted or required to be platted as a condition of the conditional use permit, a public hearing for the preliminary plat may be held in conjunction with the public hearing for the conditional use permit (at final development stage). Preliminary plat requirements shall be as identified in the City of Mantorville's Subdivision Ordinance. If the petitioner chooses to hold the hearings at the same time, the preliminary plat must be submitted to the city at least 15 days prior to the date of the public hearing; and

6. At the public hearing, the City Council shall take action to either approve, approve with conditions, or deny the petition.

(4) *Amendments*. To amend a final plan which was approved, the applicant shall submit to the city an application and plans showing all proposed changes. A public hearing shall be held following proper notice procedures for public hearings. At the public hearing, the City Council shall take action to either approve, approve with conditions, or deny the request to amend the final plan. Any changes approved by the City Council shall be by resolution as an amendment to the final plan.
(Ord. 153, § 4.7, passed 3-24-2003) Penalty, see § 10.99

ADMINISTRATION AND ENFORCEMENT

§ 150.105 ENFORCING AGENT.

The provisions of this chapter shall be administered and enforced by the City Council of Mantorville or its authorized representative.
(Ord. 153, § 5.1, passed 3-24-2003)

§ 150.106 COMPLIANCE REQUIRED.

It shall be the duty of all architects, contractors, sub-contractors, builders, and other persons having charge of the erecting, altering, changing, or remodeling of any building or structure, including tents and trailer coaches, before beginning or undertaking any such work to see that the work does not conflict with and is not in violation of the terms of this chapter; and any such architect, builder, contractor, or other person doing or performing any such work of erecting, repairing, altering, changing or remodeling in violation of, or in conflict with, the terms of this chapter shall be deemed guilty of a violation hereof in the manner and to the same extent as the owner of the premises or the person or persons for whom the buildings are erected, repaired, altered, changed, or remodeled in violation hereof, and shall be held accountable for the violation.
(Ord. 153, § 5.2, passed 3-24-2003) Penalty, see § 10.99

§ 150.107 VIOLATIONS.

Any building or structure being erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or sign hereafter erected or maintained, or land use made or permitted in violation of this chapter, is hereby declared unlawful. In the event of a violation, or threatened violation of this chapter, the City Council may institute appropriate actions or proceedings to prevent, restrain, correct, or abate the violation, or threatened violation.
(Ord. 153, § 5.3, passed 3-24-2003) Penalty, see § 10.99

§ 150.108 ANNUAL REVIEW.

The City Clerk-Treasurer shall at least once a year prepare and file with the City Council a report on the operations of the Zoning Ordinance as amended, including, when necessary, recommendations as to the enactment of amendments or supplements thereto.
(Ord. 153, § 5.4, passed 3-24-2003)

§ 150.109 AMENDMENTS.

(A) *Generally*. The Council may adopt amendments to this chapter and the Zoning Map in relation both to land uses within a particular district or to the location of a district line. The amendments shall not be issued indiscriminately, but shall only be used as a means to reflect changes in the goals and policies of the city as reflected in the Comprehensive Plan or changes in conditions in the city.

(B) *Kinds of amendments*.

(1) A change in a district's boundary (rezoning);

(2) A change in a district's regulations; and

(3) A change in any other provision of this chapter.

(C) *Initiation of proceedings*. Proceedings for amending this chapter shall be initiated by at least 1 of the following methods:

(1) By petition of an owner of owners of property which is proposed to be rezoned, or for which district regulation changes are proposed; and/or

(2) By action of the Council.

(D) *Required exhibits*. The following exhibits shall be required for rezoning or district regulation changes initiated by property owners:

(1) A completed application form;

(2) A preliminary building and site development plan, and if necessary, the Council may also require a boundary survey of the property;

(3) Evidence of ownership or enforceable option on the property; and

(4) Other items as may be required by the city.

(E) *Procedure*. The procedure for a property owner to initiate a rezoning district or district regulation change applying to this property is as follows.

(1) The property owner or his or her agent shall meet with the City Clerk-Treasurer to explain the situation, learn the procedures, and obtain an application form.

(2) The applicant shall file the completed form together with required exhibits with the City Clerk-Treasurer and shall pay a filing fee as established by the Council.

(3) The City Clerk-Treasurer shall review the application and within 10 business days after receiving the application shall notify the applicant in writing if the application is not complete and what additional information is required.

(4) When the City Clerk-Treasurer determines the application to be complete, the City Clerk-Treasurer shall set the date for a public hearing and shall have notices of the hearing published in the legal newspaper at least once, not less than 10 days and not more than 30 days prior to the hearing.

(5) The City Clerk-Treasurer shall notify all property owners within 350 feet of the outer boundaries of the property in question, however failure of any property owner to receive the notification shall not invalidate the proceedings. A copy of the notice and a list of the owners and addresses to which the notice was sent shall be attested to by the City Clerk-Treasurer and shall be made a part of the records of the proceedings.

(6) Within 30 days of the public hearing, the Council shall make a determination by either approving or denying the change.

(7) No application of a property owner for an amendment to the text of this chapter or the Zoning Map shall be considered by the Council within the 1-year period following a denial of the request, except the Council may permit a new application, if in their opinion, new evidence or a change of circumstances warrant it.

(Ord. 153, § 5.5, passed 3-24-2003)

§ 150.110 CONDITIONAL USE PERMIT.

(A) *Purpose*. The purpose of a conditional use permit is to permit a use that would not be appropriate generally but may be allowed with appropriate restrictions upon finding that:

(1) Certain conditions as detailed in this chapter exist;

(2) The use or development conforms to the Comprehensive Plan; and

(3) Is compatible with the existing area.

(B) *Standards for granting a conditional use permit*.

(1) In making the determination, whether or not the conditional use is to be allowed, the city shall consider:

(a) The effects of the proposed use on the Comprehensive Plan; and

(b) The effects of the proposed use upon the health, safety, and general welfare of occupants of surrounding lands.

(2) Among other things, the Council shall make the following findings where applicable.

(a) The use will not create an excessive burden on existing parks, schools, streets, and other public facilities which serve or are proposed to serve the area.

(b) The use will be sufficiently compatible or separated by distance or screening from adjacent residentially zoned or used land so that existing homes will not be depreciated in value and there will be no deterrence to development of vacant land.

(c) The structure and site shall have an appearance that will not have an adverse effect upon adjacent residential properties.

(d) The use, in the opinion of the city, is reasonably related to the overall needs of the city and to the existing land use.

(e) The use is consistent with the purpose of this chapter and the purposes of the Zoning District in which the applicant intends to locate the proposed use.

(f) The use is not in conflict with the Comprehensive Plan of the city.

(g) The use will not cause traffic hazards or congestion.

(h) The traffic generated by the proposed use can be safely accommodated on existing or planned street systems; and the existing public roads providing access to the site will not need to be upgraded or improved by the city in order to handle the additional traffic generated by the use.

(i) Adequate measures have been taken or are proposed to prevent or control offensive odor, fumes, dust, noise, vibration, or lighting which would otherwise disturb the use of neighboring property.

(j) Adequate utilities, parking, drainage, and other necessary facilities will be provided.

(k) The proposed use will not impede the normal and orderly development or improvements of the surrounding property.

(1) The proposed use will not be injurious to the use and enjoyment of other property in the neighborhood and will not significantly diminish or repair the values of the property.

(m) The use will not disrupt the character of the neighborhood.

(C) *Additional conditions*. In permitting a new conditional use or in the alternative of an existing conditional use, the city may impose, in addition to the standards and requirements expressly specified by this chapter, additional conditions which the city considers necessary to protect the best interest of the surrounding area or the community as a whole. These conditions may include, but are not limited to, the following:

(1) Increasing the required lot size or yard dimension;

(2) Limiting the height, size, or location of the buildings;

(3) Controlling the location and number of vehicle access points;

(4) Increasing the street width;

(5) Increasing the number of required off-street parking spaces;

(6) Limiting the number, size, location, or lighting of signs;

(7) Requiring diking, fencing, screening, berming, landscaping, or other facilities to protect adjacent or nearby property;

(8) Designating sites for open space; and

(9) Limit the hours of operation.

(D) *Required exhibits for conditional use permits*. The following items shall be required:

(1) A completed application form;

(2) An accurate boundary description of the property;

(3) Evidence of ownership or enforceable option on the property;

(4) A development plan of the property showing the existing or proposed buildings, streets, access roads, driveways, parking spaces, and/or signs;

(5) Landscaping and screening plans; and

(6) Any additional information deemed necessary by the city to determine the suitability of the particular site for the proposed use.

(E) *Procedure*. The procedure for obtaining a conditional use permit is as follows.

(1) The applicant shall file the completed application form together with required exhibits with the City Clerk-Treasurer and shall pay a filing fee, as established by the Council for processing the conditional use procedures.

(2) The City Clerk-Treasurer shall review the application and within 10 business days after receiving the application shall notify the applicant, in writing, if the application is not complete and what additional information is required.

(3) When the City Clerk-Treasurer determines the application to be complete, the City Clerk-Treasurer shall set the date for a public hearing to be held during a Council meeting and shall have notice of the hearing published at least once in the legal newspaper, not less than 10 days and not more than 30 days prior to the hearing.

(4) The City Clerk-Treasurer shall also notify each owner of affected property or property situated wholly or partly within 350 feet of the outer boundaries of the property in question of the date, time, and place of the public hearing; however failure of any property owner to receive the notification shall not invalidate the proceedings.

(5) After reviewing the submitted information and holding a public hearing, the Council may:

(a) Approve the conditional use permit;

(b) Approve the requested conditional use permit with conditions;

(c) Deny the requested conditional use permit, having found it not to be in conformity with the intent of the District and/or this chapter;

(d) The Council may extend the timeline for taking action before the end of a 60-day extension by providing written notice to the applicant. The notification shall state the reasons for the extension and its anticipated length, which my not exceed 60 days unless approved by the applicant in writing;

(e) In making its final determination, the Council shall make findings of fact which is the basis for its ultimate decision; and/or

(f) No application of a property owner for a conditional use permit shall be considered by the city within a 1 year period following a denial for the request unless, in the opinion of the Council, new evidence or a change in circumstances warrant it.

(F) *Record keeping*. The city shall maintain a record of all conditional use permits issued including information on the use, location, and conditions imposed by the city, time limits, review dates, and the other information as may be appropriate. A record of applications which were not approved shall also be maintained for record keeping purposes.

(G) *Revocation of conditional use permits*.

(1) The Council may call a public hearing to revoke a conditional use permit when it finds that at least 1 of the following circumstances exist:

(a) Where a conditional use permit has been issued and no work thereon has commenced within 9 months of the date of granting the conditional use permit;

(b) In the event that the applicant violates any of the conditions set forth in the conditional use permit; and/or

(c) Upon receipt of 3 written complaints from property owners within 350 feet of the property issued a conditional use permit.

(2) Proper notice shall be mailed to the party or individual to which the conditional use permit was issued and to property owners within 350 feet of the outer boundaries of the property in question, not less than 10 days and not more than 30 days prior to the hearing. Notice of the hearing shall also be published in the legal newspaper, not less than 10 days and not more than 30 days prior to the hearing.

(3) The City Council shall make their decision within 30 days after the public hearing. The City Clerk-Treasurer shall, in writing, inform the individual or party in question of the decision and shall then take action to enforce the decision.
(Ord. 153, § 5.6, passed 3-24-2003)

§ 150.111 VARIANCES.

(A) *Purpose*. Variances are intended to provide a means of departure from the literal requirements of the zoning ordinance where strict adherence would cause practical difficulties because of unique circumstances related to the property. Practical difficulties include, but are not limited to inadequate access to direct sunlight for solar energy systems. It is not the intent of this section to allow a variance for a use that is not permitted within a particular zoning district.

(B) *Application*. Any person having a legal or equitable interest in a property may file an application for a variance. An application for a variance shall be filed with the City Clerk-Treasurer on an approved form and shall be accompanied by a site plan with a certificate of survey at a scale large enough to show the following information clearly:

(1) Location and dimensions of the lot, buildings, driveways, and off-street parking spaces;

(2) The distance between the building and front, side, and rear lot lines, the principal building and accessory buildings, the principal building and principal buildings on adjacent lots;

(3) The location of signs, easements, underground utilities, and related facilities; and

(4) Any additional information deemed necessary by the city to facilitate review.

(C) *Hearing and action.* The City Council shall hold a public hearing on each valid and complete application. After the close of the hearing on a proposed variance the City Council shall make findings pursuant to this section. The City Council shall make the final decision regarding all applications for a variance. Approval shall require a majority vote of the City Council.

(D) *Required findings*. The City Council shall not vary the requirements of the zoning ordinance unless it makes each of the following findings based upon the evidence presented to it in each specific application:

(1) The variance is in harmony with the general purposes and intent of the city code;

(2) The variance is consistent with the comprehensive plan;

(3) The applicant proposes to use the property in a reasonable manner not permitted by the city code;

(4) Unique circumstances apply to the property that do not apply generally to other properties in the same zone or vicinity and result from lot size or shape, topography or other circumstances over which the owner of the property has not had control. The unique circumstances do not result from the actions of the applicant;

(5) The variance does not alter the essential character of the neighborhood;

(6) The variance requested is the minimum variance which would alleviate the practical difficulties; and

(7) Economic conditions alone do not constitute practical difficulties.

(E) *Conditions and guarantees*. The City Council may impose such conditions upon the premises benefitted by the variance as may be necessary to comply with the standards established by the city code, to reduce or minimize the effect of such variance upon other properties in the neighborhood, or to better carry out the intent of the variance. The condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

(F) *Expiration*. If substantial development or construction has not taken place within 1 year of the date of approval of a variance, such variance shall be considered void unless a petition for a time extension has been granted by the City Council. Such extension request shall be submitted in writing at least 30 days prior to expiration of the variance and shall state facts showing a good faith effort to complete work permitted under the original approval.
(Ord. 153, § 5.7, passed 3-24-2003; Am. Ord. --, passed 3-28-2016)

§ 150.112 WHEN DECISIONS ARE EFFECTIVE.

A decision of the Council shall not become effective until the expiration of 5 days from the date of the making of the decision, unless the Council makes a specific finding that its decision shall be immediately effective, and in cases where the Council at its discretion determines that it is necessary for the preservation of property or personal rights, the findings shall be certified by the Council on record.
(Ord. 153, § 5.8, passed 3-24-2003)

§ 150.113 APPEALS.

The City Council shall serve as a Board of Adjustment and Appeals to hear appeals where it is alleged that there is an error in any order, requirements, decision, or determination made in enforcement of the Zoning Ordinance. The Board of Adjustments and Appeals shall have the power to vary or adapt the strict application of any of the requirements of this chapter in exceptional cases where strict application would result in practical difficulty or unnecessary hardship depriving the owner of the reasonable use of his or her land or building involved, but in no other uses except as specifically described. The reason for the Board's decision shall be stated in writing. The decision of the Board of Adjustments shall not be final and any person having an interest affected by the decision shall have the right to appeal to the District Court for Dodge County.
(Ord. 153, § 5.9, passed 3-24-2003)

§ 150.114 VOTE REQUIRED FOR PASSAGE.

Amendments to this chapter shall be by passage upon a 2/3 majority vote of the City Council.
(Ord. 153, § 5.10, passed 3-24-2003)

§ 150.115 FEES.

(A) A fee established by resolution of the City Council, shall be paid with each petition presented for a change or amendment to the zoning ordinance, or for a variance or conditional use permit. The fee shall assist covering the costs associated with a change, amendment, or application which shall be paid to the city.

(B) If an Environmental Assessment Worksheet (EAW) is necessary for land use, the proposer of the project shall submit an application for environmental review along with the completed portions of the EAW. The applicant shall agree in writing, as part of the application, to reimburse the city prior to the issuance of any permits for all reasonable costs, including legal and consultants fees, incurred in preparation and review of the EAW.
(Ord. 153, § 5.11, passed 3-24-2003; Am. Ord. 2008-07, passed 7-14-2008)

§ 150.116 ADMINISTRATIVE STANDARDS AND PROCEDURES.

Consistent with the provisions of this section of the Zoning Ordinance, and other laws and regulations applicable, the Board of Adjustments and Appeals may adopt specific rules and regulations from time to time and place them on public record in the office of the City Clerk-Treasurer.
(Ord. 153, § 5.12, passed 3-24-2003)

CHAPTER 151: SUBDIVISION REGULATIONS

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GENERAL PROVISIONS

§ 151.001 TITLE.

These regulations shall hereafter be known, cited, and referred to as the Subdivision Regulations of the City of Mantorville, Minnesota, and may be referred to herein as the Subdivision Ordinance. (Ord. 100, passed 6-12-1979)

§ 151.002 POLICY.

(A) It is hereby declared to be the policy of the City of Mantorville to consider the subdivision of land and the subsequent development of the subdivided plat as subject to the control of the city pursuant to the official Comprehensive Plan of the city for the orderly, planned, efficient, and economical development of the City of Mantorville.

(B) Land to be subdivided shall be of the character that it can be used safely for building purposes without danger to health or peril from fire, flood, or other menace, and land shall not be subdivided until available public facilities and improvements exist and proper provision has been made for drainage, water, sewerage, and capital improvements such as schools, parks, recreation facilities, transportation facilities, and improvements.

(C) The existing and proposed public improvements shall conform to and be properly related to the proposals shown in the Comprehensive Plan, and the capital budget program of the city, and it is intended that these regulations shall supplement and facilitate the enforcement of the provisions and standards contained in the public improvement policies, the building codes, zoning ordinances, land use plan, and capital budget of the City of Mantorville.
(Ord. 100, passed 6-12-1979)

§ 151.003 PURPOSES.

(A) This Subdivision Ordinance sets forth the minimum requirements deemed necessary to ensure and protect the health, safety, and welfare of the public.

(B) More specifically, the provisions of this chapter are designed to:

(1) Assure that, to the minimum extent possible, all lands will be developed for the best possible use with adequate protection against deterioration and obsolescence;

(2) Assure that effective protection is given to the natural resources of the community, especially groundwater and surface waters;

(3) Encourage well planned subdivisions through the establishment of adequate design standards;

(4) Discourage inferior developments that might adversely affect the local tax base;

(5) Create neighborhoods that will be of lasting credit to the community;

(6) Facilitate adequate provisions for transportation and other public facilities;

(7) Secure the rights of the public with respect to public lands and waters;

(8) Improve land records by the establishment of standards for surveys and plats;

(9) Safeguard the interest of the public, the homeowner, the subdivider, and units of local government;

(10) Provide a common ground for understanding between developers and local units of government; and

(11) Prevent, where possible, excessive governmental operating and maintenance costs.
(Ord. 100, passed 6-12-1979)

§ 151.004 JURISDICTION.

(A) These subdivision regulations shall apply to all subdivisions of land, as defined herein, located within the corporate limits of the City of Mantorville or within 2 miles of the corporate limits of the city and not within a town which itself requires the approval of plats.

(B) No land shall be subdivided until:

(1) The subdivider or his or her agent shall submit a General Development Plan of the parcel;

(2) Obtain approval of the General Development Plan and preliminary and final approval of the plat itself by the City Council; and

(3) The approved plat is filed with the County Recorder, Dodge County, Minnesota.
(Ord. 100, passed 6-12-1979) Penalty, see § 10.99

§ 151.005 ENACTMENT.

This chapter is enacted pursuant to M.S. § 462.358, as it may be amended from time to time.
(Ord. 100, passed 6-12-1979)

§ 151.006 INTERPRETATION; CONFLICTS.

(A) *Interpretation*. In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare.

(B) *Conflict with public and private provisions*.

(1) *Public provisions*. These regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provisions of law. Where any provision of these regulations imposes a restriction different from those imposed by any other provision of these regulations or any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher standards shall control.

(2) *Private provisions*. These regulations are not intended to abrogate any easement, covenants, or any other private agreement or restrictions, provided that where the provisions of these regulations are more restrictive or impose higher standards or regulations than the easement, covenant, or other private agreement or restrictions, the requirements of these regulations shall govern. Where the provisions of the easement, covenant, or private agreement or restriction impose duties and obligations more restrictive, or higher standards than the requirements of these regulations, or the determinations of the City Council in approving a subdivision or in enforcing these regulations, and the private provisions are not inconsistent with these regulations or determinations thereunder, then the private provisions shall be operative and supplemental to these regulations and determinations made thereunder.
(Ord. 100, passed 6-12-1979)

§ 151.007 SAVING PROVISION.

These regulations shall not construed as abating any action now pending under, or by virtue of, prior existing subdivisions regulations or as discontinuing, abating, modifying, or altering any penalty accruing or about to accrue, or as affecting the liability of any person, firm, or corporation, or as waiving any right of the City of Mantorville under any section or provision existing at the time of adoption of these regulations, or as vacating or annulling any rights obtained by any person, firm, or corporation, by lawful action of the City of Mantorville except as shall be expressly provided for in these regulations.
(Ord. 100, passed 6-12-1979)

§ 151.008 AMENDMENTS.

The City Council may cause to be prepared amendments supplementing or changing regulations herein established. This action requires a public hearing with notice given in the official newspaper at least 10 days prior to the hearing. If no action is taken by the City Council within 60 days of the public hearing, another hearing shall be held with the same procedures.
(Ord. 100, passed 6-12-1979)

§ 151.009 CONDITIONS.

Regulation of the subdivision of land and the attachment of reasonable conditions to land subdivision is an exercise of valid police power delegated by the state to the City of Mantorville. The developer has the duty of compliance with reasonable conditions laid down by the City Council for design, dedication, improvement, and restrictive use of the land so as to conform to the physical and economical development of the city and to the safety and general welfare of the future plot owners in the subdivision and of the community at large.
(Ord. 100, passed 6-12-1979)

§ 151.010 RESUBDIVISION OF LAND; PROCEDURE.

For any change in a map of an approved or recorded subdivision plat, if the change affects any street layout shown on the map, or area reserved thereon for public use, or any lot line, or if it affects any map or plan legally reached prior to the adoption of any regulations controlling subdivisions, the parcel shall be approved by the City Council by the same procedure, rules, and regulations as for a subdivision.
(Ord. 100, passed 6-12-1979)

§ 151.011 VACATION OF PLATS.

(A) Any plat or any part of any plat may be vacated in accordance with the provisions of this Subdivision Ordinance and state statute in force at the time of the vacation.

(B) The vacation shall be approved by the City Council in like manner as plats of subdivisions. The City Council may reject any such instrument, which abridges or destroys any public rights in any of its public uses, improvements, streets, or alleys.

(C) The vacation shall be executed, acknowledged, or approved and recorded or filed in like manner as plats of subdivisions and, being duly recorded or filed, shall operate to destroy the force and effect of the recording of the plat so vacated and to divest all public rights in the streets, alleys, and public grounds and all dedications laid out or described in the plat.
(Ord. 100, passed 6-12-1979)

§ 151.012 VARIANCES.

(A) *Generally*. The City Council, upon request of the applicant, may grant a variance from strict compliance with the subdivision regulations contained in this chapter when it finds that each of the following conditions exists:

(1) That application of the subdivision regulations to the land will create an unusual and exceptional hardship not experienced by any other property of similar intended use and condition;

(2) That the variance is necessary for the preservation and enjoyment of substantial property rights;

(3) That the authoring of the variance will not be of substantial detriment to the community and will not materially impair the purposes of the subdivision regulations or the public interest; and

(4) That the intended use and conditions of the property forming the basis for granting a variance are not of so general or recurrent a nature as to cause the formulation and adoption of a general subdivision regulation for similar uses and conditions.

(B) *Conditions*. In approving variances, the City Council may require the conditions as will, it its judgement, secure substantially the objectives of the standards or requirements of these regulations.

(C) *Procedures*. A petition for any such variance shall be submitted in writing by the subdivider at the time when the preliminary plat is filed for the consideration of the City Council. The petition shall state fully the grounds for the application and all of the facts relied upon by the petitioner.
(Ord. 100, passed 6-12-1979)

§ 151.013 ENFORCEMENT AND VIOLATIONS.

(A) *Generally*.

(1) It shall be the duty of the City Council to enforce these regulations and to bring to the City Attorney any violations or lack of compliance herewith.

(2) No owner or agent of the owner or any parcel of land located in a proposed subdivision.

(B) *Violations*. Any person, firm, or corporation who fails to comply with, or violates, any of these regulations shall be subject to the provisions of M.S. § 462.358, as it may be amended from time to time, of the Municipal Planning Statutes of the State of Minnesota, as it may be amended from time to time.

(C) *Civil enforcement*. Appropriate actions and proceedings may be taken by law or in equity to prevent any violation of these regulations, to prevent unlawful construction, to recover damages, to restrain, correct, or abate a violation, to prevent illegal occupancy of a building structure or premises, and these remedies shall be in addition to the penalties described above.

(D) *Relief from person responsibility*. Any claim based upon an act or omission of an officer or employee exercising due care in the execution of any valid or invalid portions of this chapter and any claim based upon the performance or the failure to exercise or perform a discretionary function or duty, whether or not the discretion is abused, are hereby enumerated as exceptions to M.S. § 466.02, as it may be amended from time to time, and the section does not apply. The City of Mantorville shall defend, save harmless, and indemnify any of its officers or employees, whether elective or appointed, against any tort claim or demand, whether groundless or otherwise arising out of an alleged act or omission occurring in the performance of duty in the enforcement and administration of the subdivision ordinance, except as provided in M.S. § 466.07, as it may be amended from time to time.
(Ord. 100, passed 6-12-1979) Penalty, see § 10.99

§ 151.014 LANGUAGE USAGE.

(A) For the purpose of these regulations, certain numbers, abbreviations, terms, and words used herein shall be used, interpreted, and defined as set forth in this chapter.

(B) Unless the context clearly indicates to the contrary, words used in the present tense include the future tense; words used in the plural number include the singular; the word "herein" means "in these regulations"; the word "regulations" means "these regulations."
(Ord. 100, passed 6-12-1979)

§ 151.015 DEFINITIONS.

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

ALLEY. A public or private right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on some other street.

APPLICANT. The owner of land proposed to be subdivided or his or her representative. Consent shall be required from the legal owner of the premises.

BLOCK. Any combination of land ownership bounded by streets, roads, or highways or a combination thereof or by a combination of streets, roads, or highways and public parks, cemeteries, railroad rights-of-way, streams, lakes, or similar manmade or natural physical barriers.

BOND. Any form of security, including a cash deposit, surety bond, collateral, property, or instrument of credit in an amount and form satisfactory to the City Council. All bonds shall be approved by the City Council wherever a bond is required by these regulations.

BUILDABLE AREA. The part of the lot not included within the open areas required by the Zoning Ordinance, Official Map, or other official control.

BUILDING. Any structure built for the support, shelter, or enclosure of persons, animals, chattels, or movable property of any kind, including any structure.

CITY ATTORNEY. The licensed attorney designated by the City Council to furnish legal assistance for the administration of these regulations.

CITY ENGINEER. The licensed engineer designated by the City Council to furnish engineering assistance for the administration of these regulations.

COMPREHENSIVE DEVELOPMENT PLAN (MASTER PLAN). A compilation of policy statements, goals, standards, and maps for guiding the physical, social, and economic development, both private and public, of the municipality and its environs and may include, but is not limited to, the following: statements of policies, goals, standards, a land use plan, a community facilities plan, a transportation plan and recommendations for plan execution. A comprehensive plan represents the City Council's recommendations for the future development of the municipality.

CONSTRUCTION PLAN. The maps or drawings showing the specific location and design of improvements to be installed in the subdivision prepared in accordance with the requirements of the City Council.

CROSS WALKWAY. A right-of-way or easement dedicated to public use, which cuts across or into a block to facilitate pedestrian access to adjacent streets and properties.

CUL-DE-SAC (COURT). A short street having 1 end open to traffic and being permanently terminated by a circular turn-a-round for vehicles.

DEVELOPER. The owner of land proposed to be subdivided or his or her representative. Consent shall be required from the legal owner of the premises.

DEVELOPMENT AGREEMENT. Any contract or written understanding between the city and the proponent of any project, including but not limited to a manmade change to improved or unimproved real estate, such as buildings, or other structures, mining, drudging, filling, grading, paving, excavation or drilling.

EASEMENT. A grant by the property owner of the use of a designated portion of land by the public, individuals, groups, or corporations for specific purposes.

ESCROW. A deposit of cash with the local government in lieu of an amount required and still in force on a performance or maintenance bond. The escrow funds shall be deposited by the City Clerk-Treasurer in a separate account.

FINAL PLAT. The final plat shall mean all required maps, information, and documents as set forth in the subdivision regulations and as required by the City Council.

FRONTAGE. The side of a lot abutting on a street or way and ordinarily regarded as the front of the lot, but it shall not be considered as the ordinary side of a corner lot.

FRONTAGE STREET. Any street to be constructed by the developer or any existing street in which development shall take place on both sides.

GENERAL DEVELOPMENT PLAN. A sketch preparatory to the preparation of the preliminary plat to enable the subdivider to save time and expense in reaching general agreement with the City Council as to the form of the plat and the objectives of these regulations.

GOVERNING BODY. The body of the local government having the power to adopt ordinances.

GRADE. The slope of a road, street, or other public way, specified in percentage (%) terms.

IMPROVEMENTS. See ***LOT IMPROVEMENTS*** or ***PUBLIC IMPROVEMENTS***.

LOT. A portion of a subdivision or other parcel of land intended as a unit for transfer of ownership or for development.

LOT, CORNER. A lot situated at the intersection of 2 streets, the interior angle of the intersection not exceeding 135 degrees.

LOT IMPROVEMENT. Any building, structure, place, work of art or other object, or improvement of the land on which they are situated constituting a physical betterment of real property, or any part of the betterment. Certain lot improvements shall be properly bonded as provided in these regulations.

MONUMENT. Concrete and/or metal markers utilized to establish survey points and lot boundaries.

NONRESIDENTIAL SUBDIVISION. A subdivision whose intended use is other than residential, such as commercial or industrial. The subdivision shall comply with the applicable provisions of these regulations.

OFFICIAL MAP. A map of the municipality and/or any portion thereof lying within the incorporated limits, which shows the exact alignment, gradients, dimensions, and other pertinent data for highways and major streets and including specific controls for setbacks from the right-of-way of buildings or other physical structures or facilities.

ORDINANCE. Any legislative action, however denominated, of a local government, which has the force of law, including any amendment or repeal of any ordinance.

OWNER. Any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to or sufficient proprietary interest in the land sought to be subdivided under these regulations.

OPEN SPACE. An area of land preserved from building development and reserved for the use of the general public or a homeowner's association for the purpose of active and passive recreation and certain necessary community facilities.

PARK AND RECREATION IMPROVEMENT FUND. A special fund established by the City Council to retain monies contributed by developers in accordance with the money in lieu of land provisions of these regulations within reasonable proximity of the land to be subdivided so as to be of local use to the future residents of the subdivision.

PARKS. Area of public land developed and maintained primarily as pleasurable landscaped areas providing for both active and passive recreational pursuits, including tot-lots, playgrounds, neighborhood parks, play fields, and special purpose areas.

PLANNING COMMISSION. The Planning Commission is a governmental agency appointed by the City Council according to M.S. §§ 462.351 through 562.363, as they may be amended from time to time, or in the event a Planning Commission is nonexistent, the City Council shall assume all the responsibility assigned to the Planning Commission by this chapter.

PRELIMINARY PLAT. The preliminary plat shall mean all required maps, information, and documents as set forth in these regulations and as required by the Planning Commission for approval.

PUBLIC IMPROVEMENT. Any drainage ditch, roadway, parkway, sidewalk, pedestrianway, tree, lawn, off-street parking area, lot improvement, or other facility for which the local government may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which local government responsibility is established. All the improvements shall be properly bonded.

RESUBDIVISION. A change in a map of an approved or recorded subdivision plat if the change affects any street layout on the map or area reserved thereon for public use, or any lot line; or if it affects any map or plan legally recorded prior to the adoption of any regulations controlling subdivisions.

RIGHT-OF-WAY. A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees, or for another special use. The usage of the term ***RIGHT-OF-WAY*** for land platting purposes shall mean that every right-of-way hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining the right-of-way and not included within the dimensions or areas of the lots or parcels. ***RIGHT-OF-WAY*** intended for streets, crosswalks, water mains, sanitary sewers, storm drains, shade trees, or any other use involving maintenance by the maker of the plat on which the right-of-way is established.

RIGHT-OF-WAY WIDTH. The distance between property lines measured at right angles to the center line of the street.

STREETS.

(1) ***ARTERIAL.*** Four-lane streets which provide service for intra-urban trips at a somewhat lower level of travel mobility than the expressway. The at-grade intersections should be fully or partially regulated by traffic-control devices to ensure safe and efficient conditions for the arterial traffic. Direct private access onto the street will be permitted but regulated. Under certain circumstances, a frontage road may be needed. Additional right-of-way would be required for the frontage road.

(2) ***COLLECTOR.*** Streets that serve local traffic and provide for direct private access to abutting land uses. This system channels the local traffic to and from the arterial system and is capable of serving a minimum amount of through traffic.

(3) ***EXPRESSWAYS.*** Are divided roadways, which are designed for through traffic and also to serve intra-urban travel between major centers of activity in the metropolitan area. The at-grade intersections are usually spaced at infrequent intervals and are fully or partially regulated by traffic control devices. No direct private access onto the street should be permitted so as to minimize the number of vehicle-vehicle conflicts. If no alternative forms of access are available and frontage roads are warranted, additional right-of-way will be required.

(4) ***FREEWAYS.*** Are designed for the safe and efficient movement of high volumes of through traffic, at relatively high speeds. A standard design feature of a freeway is a divided roadway with full control of access by the use of ramps.

(5) ***FRONTAGE ROADS.*** Are adjacent to a major thoroughfare. Its primary function is to preserve the safety and capacity of the thoroughfare by controlling access to the major street while still providing direct private access to the adjoining properties. The roadway of the frontage road abuts the thoroughfare's right-of-way.

(6) ***LOCAL.*** Streets that offer the lowest level of mobility because service to through traffic is deliberately discouraged. Direct private access to abutting land uses is provided.

SUBDIVIDER. Any person who:

(1) Having an interest in land, causes it, directly or indirectly, to be divided into a subdivision;

(2) Directly, or indirectly, sells, leases, or develops, or offers to sell, lease or develop, or advertises for sale, lease, or development any interest, lot, parcel, site, unit, or plat in a subdivision;

(3) Engages directly or through an agent in the business of selling, leasing, developing, or offering for sale, lease, or development a subdivision or any interest, lot, parcel, site, unit or plat in a subdivision; or

(4) Is directly or indirectly controlled by, or under direct or indirect, common control with any of the foregoing.

SUBDIVISION. Any land, vacant or improved , which is divided or proposed to be divided into 2 or more lots, parcels, sites, units, plots, or interests for the purpose of offer, sale, lease, or development, either on the installment plan or upon any and all other plans, terms, and conditions, including resubdivision. ***SUBDIVISION*** includes the division or development of residential and non-residential zoned land, whether by deed, metes and bounds description, lease, map, plat, or other recorded instrument.

SUBDIVISION AGENT. Any person who represents, or acts for or on behalf of, a subdivider or developer, in selling, leasing, or developing or offering to sell, lease, or develop any interest, lot, parcel, unit, site, or plat in a subdivision, except an attorney at law whose representation of another person consists solely of rendering legal services.

SUBDIVISION BY METES AND BOUNDS. Any subdivision containing not more than 3 lots fronting on an existing street, not involving any new street or road, or the extension of municipal facilities, or the creation of any public improvements, and not adversely affecting the remainder of the parcel or adjoining property, and not in conflict with any provision or portion of the Comprehensive Plan, Official Map, Zoning Ordinance, or these regulations.

SUBDIVISION PLAT. The final map or drawing, described in these regulations, on which the subdivider's plan of subdivision is presented.

VARIANCE. Any departure from the requirements of these regulations that is granted by the governing body.

ZONING ADMINISTRATOR. The officer as appointed by the City Council to administer these regulations and to assist administratively other boards and commissions.
(Ord. 100, passed 6-12-1979)

§ 151.016 EFFECTIVE DATE.

This chapter becomes effective from and after its passage and publication.
(Ord. 100, passed 6-12-1979)

PROCEDURE FOR SUBMISSION OF PLATS

§ 151.030 PREPLAT INVESTIGATION.

Prior to the filing of an application for conditional approval of a preliminary plat, the applicant shall submit copies of a general development plan to the Zoning Administrator. The Zoning Administrator shall send copies of the proposal to the City Engineer and other appropriate reviewing agencies who shall make comments and re-comment actions to be prepared for a regular meeting of the Planning Commission. The Zoning Administrator shall inform the applicant in writing that the plan, as submitted or as modified, does or does not meet the objectives of this chapter and is approved or rejected on those grounds.
(Ord. 100, passed 6-12-1979)

§ 151.031 PRELIMINARY PLAT.

(A) Upon completing the preplat investigation, the subdivider may prepare a preliminary plat, which shall conform to the requirements of this chapter and the Zoning Ordinance of the city together with improvement plans and other supplemental material as may be specified by the Planning Commission and its reviewing agencies.

(B) An application shall be filed at least 10 days prior to the meeting of the Planning Commission, at which action is desired. The Zoning Administrator shall send copies of the preliminary plat to teach of the following agencies as required for their comments or recommendations.

(1) *County agencies*.

(a) Dodge County Highway Department;

(b) Dodge County Assessor;

(c) Dodge County Surveyor;

(d) Dodge County Planning Commission; and

(e) Dodge County Environmental Quality.

(2) *Other agencies*.

(a) City Engineer;

(b) KM School Board;

(c) Xcel Energy;

(d) KM Telecom;

(e) Mediacom Cable Company;

(f) MnDOT; and

(g) Minnesota Energy Resources.

(Ord. 100, passed 6-12-1979)

§ 151.032 PUBLIC HEARING ON PRELIMINARY PLATS.

The Planning Commission may hold a public hearing on the preliminary plat. Notice of the public hearing shall be given at least 10 days before the date of the hearing by publication in the official newspaper and by written notice mailed to the applicant and the owners of record listed in the office of the Zoning Administrator of all land within 350 feet of the outer boundary of the preliminary plat. The failure to give mailed notice to individual property owners or defects in the notice shall not affect the validity of the proceedings or of any action taken by the Planning Commission or the City Council.
(Ord. 100, passed 6-12-1979)

§ 151.033 PLANNING COMMISSION RECOMMENDATION.

After considering the comments and suggestions received at the public hearing, if held, the Planning Commission shall recommend in writing to the City Council stating its reason therefor either that the preliminary plat be granted approval subject to certain conditions, if any, or that the preliminary plat be disapproved. A copy of the recommendation shall be forwarded to the City Council and the applicant with notice to the applicant of the date when it will be considered by the City Council.
(Ord. 100, passed 6-12-1979)

§ 151.034 CITY COUNCIL ACTION; PRELIMINARY PLAT.

The City Council shall consider the preliminary plat at its next meeting following receipt of the Planning Commission recommendation. The City Council shall either approve the preliminary plat subject to certain conditions, if any, or disapprove the plat. The City Clerk-Treasurer shall notify the applicant in writing of the City Council's action, stating the conditions of approval or reasons for disapproval and shall endorse the date of the approval or disapproval on the preliminary plat. If approval is given, the City Clerk-Treasurer shall send the applicant 1 copy of the preliminary plat marked with any required revisions.
(Ord. 100, passed 6-12-1979)

§ 151.035 APPROVAL OF PRELIMINARY PLAT.

Approval of a preliminary plat shall not constitute approval of the final plat. Unless earlier rescinded by the City Council, approval of a preliminary plat is limited to a period of 1 year after which time the applicant is required to resubmit a preliminary plat. Upon application filed with the City Clerk-Treasurer, the City Council may continue the approval for an additional period of time. The application shall be filed at least 20 days prior to expiration of the approval of the preliminary plat.
(Ord. 100, passed 6-12-1979)

§ 151.036 FINAL PLAT.

Following approval of a preliminary plat, the applicant may prepare a final plat and shall file with the City Clerk-Treasurer an application for approval of the final plat. The application shall be filed at least 15 days prior to the meeting of the Planning Commission, at which action is desired. The City Clerk-Treasurer shall send copies of the application and final plat to each of the agencies which received a preliminary plat for their comments and recommendations. No final plat shall be considered unless it is filed with the City Clerk-Treasurer within the effective period of the approval of the preliminary plat. A final plat shall conform to the requirements of this chapter and all conditions set forth in the approval of the preliminary plat.
(Ord. 100, passed 6-12-1979)

§ 151.037 REVIEW OF FINAL PLAT.

The Planning Commission shall review the final plat and the comments and recommendations of the other agencies and shall submit its findings and recommendations in writing to the City Council and the applicant.
(Ord. 100, passed 6-12-1979)

§ 151.038 PUBLIC HEARING ON FINAL PLAT.

The City Council shall hold a public hearing on the final plat after receiving the Planning Commission's recommendation. The notification procedure as outlined in § 151.032.
(Ord. 100, passed 6-12-1979)

§ 151.039 CITY COUNCIL ACTION; FINAL PLAT.

The City Council shall, by resolution adopted within 60 days after the public hearing, approve or disapprove the final plat. The reasons for disapproval shall be recorded in the minutes of the City Council and reported to the applicant and Planning Commission by the City Clerk-Treasurer. No final plat shall be approved by the City Council unless satisfactory evidence is filed with the city that all past taxes have been paid in full, that the final plat is in a form acceptable for recording in the office of the County Recorder.
(Ord. 100, passed 6-12-1979)

§ 151.040 RECORDING FINAL PLAT.

Upon approval by the City Council, the developer shall record the final plat in the office of the County Recorder or Registrar of Titles as provided by law. The final plat shall be signed by the City Clerk-Treasurer and the Chairperson of the Planning Commission.
(Ord. 100, passed 6-12-1979)

SPECIFICATIONS FOR APPLICATIONS AND PLATS

§ 151.055 APPLICATION FOR GENERAL DEVELOPMENT PLAN FOR PREPLAT INVESTIGATION.

(A) A copy of the application on a form approved by the Planning Commission;

(B) Six copies of the Plan, which should include the following information:

(1) Scale and north point;

(2) Name and address of property owner;

(3) Name and address of subdivider;

(4) Zoning classification of land in the proposal and adjacent lands;

(5) Manes of existing streets;

(6) General street design; and

(7) General lot layout.

(Ord. 100, passed 6-12-1979)

§ 151.056 APPLICATION FOR PRELIMINARY PLAT.

An application for approval of a preliminary plat shall include the following:

(A) A copy of the application on a form approved by the Planning Commission;

(B) Six copies of the preliminary plat on black or blue line prints; and

(C) Two copies of existing or proposed private deed restrictions, if any.

(Ord. 100, passed 6-12-1979)

§ 151.057 APPLICATION FOR FINAL PLAT.

An application for approval of a final plat shall include the following:

(A) Two copies of the application on a form approved by the Planning Commission;

(B) Six copies of the final plat on black or blue line prints;

(C) Two copies of a title opinion prepared by an attorney and approved by the City Attorney identifying the owners and persons of record having an interest in the platted area; and

(D) Two copies of existing or proposed private deed restrictions, if any.
(Ord. 100, passed 6-12-1979)

§ 151.058 FORM OF PLATS.

Preliminary plats and final plats shall be prepared by a Minnesota Registered Engineer or Land Surveyor in accordance with the provisions of this chapter and the laws of the State of Minnesota and shall contain the following information:

Preliminary Plat	*Final Plat*
1. Identification: Date, scale north point, and north point, and proposed name of subdivision. The name shall not duplicate or closely approximate the name of any other subdivision in Dodge County.	1. Identification: Same.
2. Legal Description: Legal description of the land to be subdivided.	2. Legal Description: Same
3. Principals. Names of the owners of record and registered land surveyor.	3. Principals: Same
4. Boundaries. Length and bearings of the exterior boundaries of the land being divided.	4. Boundaries: Same.
5. Radii and Tangents: Approximate radii of all curves and lengths of all tangents.	5. Radii and Tangents: Same.

6. Lots and Blocks: Layout and approximate dimensions of lots and blocks. Lots shall be numbered progressively through each block, and blocks shall be numbered progressively through each plat.	6. Lots and Blocks: Same.
7. Monuments and Lot Corners: The approximate location of all permanent monuments and lot corners.	7. Monuments and Lot Corners: The exact location and material of all permanent lot corners and monuments.
8. Existing Streets and Public Uses: Layout, width and identification of existing public streets, easements, drainage ditches, parks, and other public property within and adjacent to the proposed subdivision.	8. Existing Streets and Public Uses: Same.
9. Existing Utilities: Location of existing sanitary and storm sewer lines, water mains, and culverts within and adjacent to the proposed subdivision with pipe sizes, cross-sectional areas, grades and capacities indicated.	9. Existing Utilities: Omit.
10. Other Existing Features: Location of existing buildings and structures, railroad right-of-way, municipal lines, township lines and lakes, rivers and streams and their known high and low water elevations. Water elevation references shall be the United States Geological Survey Datum. Flood hazard areas shall be clearly labeled.	10. Other Existing Features: Same, except buildings and structures shall be omitted.
11. Proposed Features: Layout, width and identification of proposed streets, easements, drain-age ditches, parks and other property to be dedicated to the public or reserved by covenants for the common use of property owners within the subdivision. Location of proposed sewer lines, water mains, culverts, and drainage facilities.	11. Proposed Features: Layout, width, and identification of proposed street rights-of-way, easements, drainage ditches, parks, and other property to be dedicated to the public or reserved by covenants for the common use of property owners within the subdivision.

12. Topographic Map of the Area Showing Contours as follows: Two-foot intervals where slope is 7% or less; 5-foot intervals where slope is from 7 to 15%; 20-foot intervals where slope is greater than 15%. All areas of the subdivision to be platted with a slope greater than 25% must be clearly indicated.	12. Topography: Omit.
13. Percolation test results, minimum of 2 per lot, together with soil borings, every acre to indicate depth to water table and rock formations. Omit if municipal sanitary sewer is available.	13. Percolation Tests: Omit.
14. Zoning: Identification of zoning classifications.	14. Zoning: Omit.
15. Restrictive Deed Covenants: Within identified flood plain areas, restrictive deed covenants requiring the flood plain areas to be left essentially in the state shown on the plat, establishing finished elevations of buildings, structures, and private streets and roads, and requiring that additions or modifications to the facilities shall comply with applicable ordinances and regulations governing the flood plain areas.	15. Restrictive Deed Covenants: Same.
16. Dedication: Omit.	16. Dedication: A statement of dedication signed, acknowledged, and witnessed as required by law for recording conveyances. The dedication shall read substantially as follows: "We, the undersigned, certify that we are the sole interested parties in the tract of land described in the foregoing Surveyor's Certificate, which is written on the plat on which this instrument is written, that we have caused the same to be surveyed and platted as . . . Subdivision as shown on the plat and that we do hereby grant and dedicate to the public for public use forever the streets, alleys, avenues, park sites, walks, easements, and limited accesses as shown thereon."

17. Certificates: Omit.	17. Certificates: i. Surveyor: A certificate of the surveyor that the plat was made in accordance with this chapter and the laws of Minnesota, that the plat is a correct representation of the survey, that all distances are correctly shown on the plat, that all monuments have been correctly placed in the ground as shown, and that the outside boundary lines are correctly designated on the plat. ii. Owner: A certificate of the owners is substantially the form as follows: "As owners, we hereby certify that we caused the land described on this plat to be surveyed, divided, mapped, dedicated as represented on the plat." This certificate shall be signed, acknowledged, and witnessed as required by law for recording conveyances. iii. Taxes: A certificate by the County Auditor that all prior taxes have been paid. iv. City Clerk-Treasurer: A certificate by the City Clerk-Treasurer that the plat has been approved by the City Council. v. Chairman, Planning and Zoning Commission: A certificate that the plat has been approved by the Planning and Zoning Commission.

(Ord. 100, passed 6-12-1979)

SUBDIVISION DESIGN STANDARDS

§ 151.070 GENERALLY.

(A) The design of each subdivision and resubdivision shall conform to the Comprehensive Plan, and shall comply with the design standards contained in this chapter. Plans for improvements must be approved by the City Council before any work is begun. Proposed improvements shall be extended to the boundary lines of the tract to be subdivided unless, in the opinion of the City Council, such an extension is not possible or desirable for the existing layout or future development on adjacent tracts.

(B) Public improvements of each subdivision, except street surfacing and curb and gutter, must be completed before the subdivision is accepted by the city and building permits issued. Street surfacing and curb and gutter installation will be completed in the construction season following the utility installation.

(C) All costs of required improvements, including engineering fees, shall be borne by the subdivider, either directly or by assessment, to the subdivision.
(Ord. 100, passed 6-12-1979; Am. Ord. 127, passed 1-27-1992) Penalty, see § 10.99

§ 151.071 STREET DESIGN.

(A) The street system of a proposed subdivision shall be designed to facilitate adequate traffic circulation within the subdivision and from the subdivision to adjacent.

(B) Street arrangement, character, width, grade, location, sight distance, and surface material shall be related to existing or planned streets, topography, convenience, safety, and their intended ultimate function.

(1) The arrangement of major streets in a subdivision shall provide for the continuation or projection of existing streets in adjacent areas or conform to a plan approved by the Planning Commission where topographic or other conditions make continuance or conformance to existing streets impracticable.

(2) Collector streets shall be properly related to major streets and designed in a manner so as to supplement the major street system but not to serve in lieu thereof.

(3) Local streets shall be designed to benefit from the topography, to discourage through traffic and to provide the minimum amount of streets necessary for safe access to adjacent properties. The reasonable and intelligent use of curvilinear and cul-de-sac streets is allowed where necessary.

(4) Where a subdivision abuts upon, or contains, an existing or proposed highway, major thoroughfare, or railroad right-of-way, the Planning Commission may require reverse frontage lots with appropriate screen plantings in the non-access reservation strip; or the provision of suitable access roads parallel to, and on either side of, the highway, major thoroughfare, or railroad right-of-way providing access to adjacent properties and affording separation of through and local traffic.

(5) Streets designed and laid out so as to have one end permanently closed shall not exceed 300 feet in length, except where the Planning Commission has approved additional length due to property limitations or large lot size.

(6) Turnarounds shall be provided at the permanently closed end of all streets and shall have a minimum turnaround radius of 60 feet. The Planning Commission may approve a "T" or "Y" type turnaround in lieu of the circular turnaround.
(Ord. 100, passed 6-12-1979) Penalty, see § 10.99

§ 151.072 INTERSECTIONS.

All streets shall intersect at right angles or as close thereto as possible. No street shall intersect another at an angle of less than 70 degrees. More than 2 streets intersecting at the same location shall be prohibited. Street jogs with centerline offsets of less than 150 feet shall be avoided.
(Ord. 100, passed 6-12-1979) Penalty, see § 10.99

§ 151.073 UTILITY EASEMENTS.

Easements for telephone service, electricity, gas lines, and other public utilities shall be provided and centered along the read and side lot lines where needed. The easements shall be 10 feet in width and shall be aligned from block to block.
(Ord. 100, passed 6-12-1979) Penalty, see § 10.99

§ 151.074 BLOCKS.

Block lengths shall not exceed 1,200 feet and shall not be less than 300 feet. A pedestrian crosswalk easement with a minimum width of 10 feet shall be provided near the center of any block longer than 800 feet. Block widths shall be sufficient to provide 2 tiers of lots of appropriate depth.
(Ord. 100, passed 6-12-1979) Penalty, see § 10.99

§ 151.075 LOTS.

(A) The size, shape, and orientation of lots shall be appropriate for the location of the proposed subdivision and the type of use contemplated. All lots shall comply with the minimum lot frontage and area requirements specified in the Zoning Ordinance.

(B) Every lot shall abut on a public street to assure access for fire protection, utilities, and other services.

(C) Lot remnants which are less than the minimum lot size shall be added to adjacent lots.

(D) Side lot lines shall be as near to right angles with streets having straight lines or radial to adjacent streets having curved lines as possible.

(E) (1) Except as otherwise provided herein, no individual wells or disposal systems may be constructed except in areas where the construction of municipal sewer and water is not feasible.

(2) In lands where municipal sewer and water is deemed by the City Council to be not feasible, development may take place if the following requirements are met.

(a) All land must be platted.

(b) All lots must have the capabilities of being served by city sewer and water in the future.

(c) Each home site shall consist of at least 3 city-sized lots.

(d) Each home site shall be constructed in such a position that 3 or more city-sized lots may be developed at such time city sewer and water becomes available.

(e) An individual well may serve up to 4 homes.

(f) Each home must have an individual disposal system.

(g) All wells and disposal systems must be built to all recommended state standards.

(h) In the event 1 home is to be built on 3 or more acres, the first 5 requirements shall not apply.

(3) In lands where municipal water is available and municipal sewer is deemed by the City Council to be not feasible, individual disposal systems may be constructed if the following requirements are met.

(a) All land must be platted.

(b) Each home site shall consist of at least 9,000 square feet.

(c) Each home must have an individual disposal system.

(d) All disposal systems must be built to all recommended state standards.

(Am. Ord. 107, passed 4-20-1982)
(Ord. 100, passed 6-12-1979) Penalty, see § 10.99

§ 151.076 PARKS, PLAYGROUNDS, AND RECREATION AREAS.

(A) *Recreation standards*. The Planning Commission shall require that land be reserved for parks and playgrounds or other recreation purposes in locations designated on the Comprehensive Plan or otherwise where such reservations would be appropriate. Each reservation shall be of suitable size, dimension, topography, and general character and shall have adequate road access for the particular purposes envisioned by the Planning Commission. The area shall be shown and marked on the plat, reserved for park and/or recreations purposes. When recreation areas are required, the Planning Commission shall determine the number of acres to be reserved from the following table, which has been prepared on the basis of providing 3 acres of recreation area for every 100 dwelling units. The Planning Commission may refer such proposed reservations to the local government official or department in charge of parks and recreation for recommendation. The developer shall dedicate all such recreation areas to the local government as a condition of final subdivision plat approval.

(1) *Table of recreation requirements*.

Single-Family Lots Size of Lot	***Percentage of Total Land in Subdivision to be Reserved for Recreation Purposes***
80,000 & greater sq. feet	1.5%
50,000 sq. feet	2.5%
40,000 sq. feet	3.0%
35,000 sq. feet	3.5%
25,000 sq. feet	5.0%
15,000 sq. feet	8.0%

(2) *Multi-family and high-density residential*. The Planning Commission shall determine the acreage for reservation based on the number of dwelling units per acre to occupy the site as permitted by the Zoning Ordinance.

(B) *Minimum size of park and playground reservations*. In general, land reserved for recreation purposes shall have an area of at least 4 acres. When the percentages from the table above would create less than 4 acres, the Commission may require that the recreation area be located at a suitable place on the edge of the subdivision so that additional land may be added at such time as the adjacent land is subdivided. In no case shall an area of less than 2 acres be reserved for recreation purposes if it will be impractical or impossible to secure additional lands in order to increase its area. Where recreation land in any subdivision is not reserved, or the land reserved is less than the percentage in § 151.076(A)(1), the provisions of § 151.076(D) shall be applicable.

(C) *Recreation sites*. Land reserved for recreation purposes shall be of a character and location suitable for use as a playground, playfield, or for other recreation purposes, and shall be relatively level and dry; and shall be improved by the developer to the standards required by the Planning Commission, which improvements shall be included in the performance bond. A recreation site shall have a total frontage of 1 or more streets of at least 200 feet, and no other dimension of the site shall be less than 200 feet in depth. The Planning Commission may refer any subdivision proposed to contain a dedicated park to the local government official or department in charge of parks and recreation for a recommendation. All land to be reserved for dedication to the local government for park purposes shall have prior approval of the governing body and shall be shown marked on the plat, reserved for park and/or recreation purposes.

(D) *Alternative procedure; money in lieu of land*. Where, with respect to a particular subdivision, the reservation of land required pursuant to this section does not equal the percentage of total land required to be reserved in § 151.076(A)(1), the Planning Commission shall require, prior to final approval of the subdivision plat that the applicant deposit with the governing body a cash payment in lieu of land reservation. The deposit shall be placed in a Park and Recreation Improvement Fund to be established by the City Council. The deposit shall be used by the local government for improvement of a neighborhood park, playground, or recreation area including the acquisition of property. The deposit must be used for facilities that will be actually available to and benefit the persons is the subdivision and be located in the general neighborhood of the subdivision. The Planning Commission shall determine the amount to be deposited, based on the following formula: $50 multiplied by the number of times the total area or the subdivision is divisible by the required minimum lot size of the zoning district in which it is located, less a credit for the amount of land actually reserved for recreation purposes, if any, as the land reserved bears in proportion to the land required for reservation in § 151.076(A)(1), but not including any lands reserved through density zoning.

(E) *Other recreation reservations*. The provisions of this section are minimum standards. None of the paragraphs above shall be construed as prohibiting a developer from reserving other land for recreation purposes in addition to the requirements of this section.
(Ord. 100, passed 6-12-1979) Penalty, see § 10.99

CONVEYANCE OF UNPLATTED LAND OR PORTION OF A PLATTED LOT

§ 151.090 CONVEYANCES PROHIBITED.

(A) *Generally*. No conveyance involving a portion of a platted lot, or involving unplatted land, the conveyance of which is prohibited by M.S. § 462.358, Subdivision 4, as it may be amended from time to time, shall be made unless approval is first obtained as follows.

(B) *Portion of platted lot*. On application of the owner, the Planning Commission may approve a conveyance of a portion of a platted lot under the following circumstances if, in each instance, the new and residual parcels of land which would result from the conveyance meet the frontage and area requirements of the Zoning Ordinance:

(1) When it is desired to detach a portion of a platted lot and add it to an adjoining platted lot; and

(2) When it is desired to divide 2 platted lots into not more than 3 parcels, and the dedication of public utility or street easements is not involved.

(C) *Unplatted land*. On application of the owner filed with the City Clerk-Treasurer, the City Council, by resolution, may approve a conveyance by metes and bounds if it is determined that the following conditions exist:

(1) That the restriction against such conveyance will create an unnecessary hardship;

(2) That such a conveyance will not interfere with the purposes of the subdivision regulations;

(3) That the dedication of public utility or street easements is not involved;

(4) That the conveyance involves the division of a parcel into not more than 3 separate parcels; and

(5) That the new and residual parcels of land which would result from the conveyance meet the frontage and area requirements of the Zoning Ordinance.

(D) *Applications*. All applications under this section shall be filed with the City Clerk-Treasurer and shall have attached thereto a surveyor's certificate, legal description, and map of the land to be surveyed.

(E) *Violations*. Any owner or agent of the owner of land who conveys a portion of a platted lot or unplatted land in violation of the provisions of this section shall be subject to the same violation provisions as set forth in § 151.013.
(Ord. 100, passed 6-12-1979) Penalty, see § 10.99

CHAPTER 152: FLOODPLAIN REGULATIONS

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STATUTORY AUTHORIZATION AND PURPOSE

§ 152.001 STATUTORY AUTHORIZATION.

This floodplain ordinance is adopted pursuant to the authorization and policies contained in M.S. Chapter 103F; Minnesota Rules, parts 6120.5000 - 6120.6200; the rules and regulations of the National Flood Insurance Program (NFIP) in 44 CFR §§ 59 to 78; and the planning and zoning enabling legislation in M.S. Chapter 462.
(Ord. 2024-03, passed 9-9-2024)

§ 152.002 PURPOSE.

(A) This chapter regulates development in the flood hazard areas of the city. These flood hazard areas are subject to periodic inundation, which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base. It is the purpose of this chapter to promote the public health, safety, and general welfare by minimizing these losses and disruptions.

(B) This chapter is adopted in the public interest to promote sound land use practices, and the development of floodplains as a land resource in a manner that will result in minimum loss of life and threat to health, and reduction of private and public economic loss caused by flooding.

(C) This chapter is adopted to maintain eligibility in the National Flood Insurance Program.

(D) This chapter is also intended to preserve the natural characteristics and functions of watercourses and floodplains in order to moderate flood and stormwater impacts, improve water quality, reduce soil erosion, protect aquatic and riparian habitat, provide recreational opportunities, provide aesthetic benefits and enhance community and economic development.
(Ord. 2024-03, passed 9-9-2024)

§ 152.003 ABROGATION AND GREATER RESTRICTIONS.

It is not intended by this chapter to repeal, abrogate, or impair any existing easements, covenants, or other private agreements. The standards in this chapter take precedence over any less restrictive, conflicting local laws, ordinances, or codes. All other ordinances inconsistent with this chapter are hereby repealed only to the extent of their inconsistency.
(Ord. 2024-03, passed 9-9-2024)

§ 152.004 WARNING AND DISCLAIMER OF LIABILITY.

This chapter does not imply that areas outside the floodplain districts or land uses permitted within such districts will be free from flooding or flood damages. Not all flood risk is mapped. Larger floods do occur and the flood height may be increased by man-made or natural causes, such as ice jams or bridge openings restricted by debris. This chapter does not create liability on the part of the city, or its officers or employees, for any flood damages that result from reliance on this chapter, or any administrative decision lawfully made hereunder.
(Ord. 2024-03, passed 9-9-2024)

DEFINITIONS

§ 152.015 DEFINITIONS.

Unless specifically defined below, words or phrases used in this chapter must be interpreted according to common usage and so as to give this chapter its most reasonable application.

ACCESSORY STRUCTURE. A structure, as defined in this chapter, that is on the same parcel of property as, and is incidental to, a principal structure or use; an ***ACCESSORY STRUCTURE*** specifically excludes structures used for human habitation.

BASE FLOOD. The flood having a 1% chance of being equaled or exceeded in any given year. ***BASE FLOOD*** is synonymous with the term "regional flood" used in Minnesota Rules, part 6120.5000.

BASE FLOOD ELEVATION (BFE). The elevation of the base flood, regional flood, or 1%-annual-chance flood. The term "base flood elevation" is used in the flood insurance study.

BASEMENT. Any area of a structure, including crawl spaces, having its floor subgrade (below ground level) on all sides, regardless of the depth of excavation below ground level.

BUILDING. See ***STRUCTURE***.

CHANNEL. A natural or artificial depression of perceptible extent, with a definite bed and banks to confine and conduct flowing water either continuously or periodically.

CONDITIONAL USE. A land use or development that would not be appropriate generally, but may be allowed with appropriate restrictions, upon a finding that certain conditions as detailed in the Zoning Ordinance exist, the use or development conforms to the comprehensive land use plan of the community, and the use is compatible with the existing neighborhood.

CRITICAL FACILITIES. Buildings and structures that contain essential facilities and services necessary for emergency response and recovery, or that pose a substantial risk to the public in the event of failure, disruption of function, or damage by flooding. Specifically, this includes facilities identified as Flood Design Class 4 in *ASCE 24-14, Flood Resistant Design and Construction*, as amended. Examples include health care facilities, facilities required for emergency response, power-generating stations, communications towers, or electrical substations.

DEVELOPMENT. Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

EQUAL DEGREE OF ENCROACHMENT. A method of determining the location of floodway boundaries so that floodplain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.

FARM FENCE. An open-type fence of posts and horizontally run wire, further specified in Minnesota Statutes, section M.S. § 344.02, Subdivision 1(a)-(d).

FEMA. The Federal Emergency Management Agency.

FLOOD. A temporary rise in the stream flow or water surface elevation from any source that results in the inundation of normally dry land areas.

FLOOD FRINGE. The portion of the 1%-annual-chance floodplain located outside of the floodway. This district shall be extended laterally to the 0.2-percent-annual-chance floodplain, where mapped.

FLOOD INSURANCE RATE MAP (FIRM). An official map on which the Federal Insurance Administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community. A ***FIRM*** that has been made available digitally is called a ***DIGITAL FLOOD INSURANCE RATE MAP (DFIRM)***.

FLOOD INSURANCE STUDY (FIS). The study referenced in § 152.031, which is an examination, evaluation and determination of flood hazards, and if appropriate, corresponding surface elevations, or an examination, evaluation, and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

FLOODPLAIN. The beds, channel and the areas adjoining a wetland, lake or watercourse, or other source that have been or hereafter may be inundated by the base flood.

FLOODPROOFING. A combination of structural and non-structural additions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.

FLOODWAY. The bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining floodplain that must be reserved to carry or store the base flood discharge without cumulatively increasing the water surface elevation more than 0.5 foot.

GENERAL FLOODPLAIN. Those floodplains designated on the flood insurance rate maps referenced in § 152.031, but that do not have a delineated floodway.

LIGHT DUTY TRUCK. Any motor vehicle that has all 3 of the following:

(1) A gross vehicle weight rating of 8,500 pounds or less;

(2) A vehicle curb weight of 6,000 pounds or less; and

(3) A basic vehicle frontal area of less than 45 square feet.

LOWEST FLOOR. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, used solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's ***LOWEST FLOOR***; provided, it is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR § 60.3 .

MANUFACTURED HOME. A structure, transportable in 1 or more sections, built on a permanent chassis and designed for use with or without a permanent foundation when attached to the required utilities. The term ***MANUFACTURED HOME*** does not include the term ***RECREATIONAL VEHICLE.***

NEW CONSTRUCTION. Structures for which the start of construction commenced on or after the effective date of an adopted floodplain management regulation, including any subsequent improvements to such structures.

PRINCIPAL STRUCTURE. The main building or other structure on a lot that is utilized for the property's principal use.

REACH. A hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a stream or river between 2 consecutive bridge crossings would most typically constitute a ***REACH***.

RECREATIONAL VEHICLE. A vehicle that is built on a single chassis, is 400 square feet or less, when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. Those vehicles not meeting this definition shall be considered a structure for the purposes of this chapter. For the purposes of this chapter, the term ***RECREATIONAL VEHICLE*** shall be synonymous with the term ***TRAVEL TRAILER/TRAVEL VEHICLE***.

REGULATORY FLOOD PROTECTION ELEVATION (RFPE). An elevation that is 1 foot above the elevation of the base flood plus any increases in the water surface elevation caused by encroachments on the floodplain that result from designation of a floodway. These increases in water surface elevations are typically identified in the floodway data tables found in the flood insurance study.

REPETITIVE LOSS. Flood-related damages sustained by a structure on 2 separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event on the average equals or exceeds 25% of the market value of the structure before the damage occurred.

STAGE INCREASE. Any increase in the water surface elevation during the 1%-annual-chance flood caused by encroachments on the floodplain.

START OF CONSTRUCTION. Includes substantial improvement, and means the date the permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The ***ACTUAL START*** means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. ***PERMANENT CONSTRUCTION*** does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds, not occupied as dwelling units or not part of the main structure. For a substantial improvement, the ***ACTUAL START OF CONSTRUCTION*** means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE. A roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. Recreational vehicles not considered travel-ready, as detailed in § 152.141(B)(2)(b), shall also be considered a structure for the purposes of this chapter.

SUBDIVISION. Land that has been divided for the purpose of sale, rent, or lease, including planned unit developments.

SUBSTANTIAL DAMAGE. Means damage of any origin sustained by a structure where the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT. Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. This term includes structures that have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

(1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official, and are the minimum 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. For the purpose of this chapter, historic structure is defined in 44 CFR § 59.1.

VARIANCE. As defined in 44 CFR § 59.1 and M.S. § 462.357, Subdivision 6(2).

WATERCOURSE. A channel in which a flow of water occurs either continuously or intermittently in a definitive direction. The term applies to either natural or artificially constructed channels.
(Ord. 2024-03, passed 9-9-2024)

JURISDICTION AND DISTRICTS

§ 152.030 LANDS TO WHICH THIS CHAPTER APPLIES.

This chapter applies to all lands within the jurisdiction of the city within the boundaries of the floodway, flood fringe and general floodplain districts.

(A) The floodway, flood fringe or general floodplain districts are overlay districts. The standards imposed in the overlay districts are in addition to any other requirements required by the Zoning Ordinance of the city. In case of a conflict, the more restrictive standards will apply.

(B) Where a conflict exists between the floodplain limits illustrated on the official floodplain maps and actual field conditions (as illustrated in Figure 1), the base flood elevation shall be the governing factor in locating the outer boundaries of the 1%-annual-chance floodplain.

Figure 1: The mapped floodplain may not always align with on-the-ground contour elevations.

(C) Persons contesting the location of the district boundaries will be given a reasonable opportunity to present their case to the city and to submit technical evidence.
(Ord. 2024-03, passed 9-9-2024)

§ 152.031 INCORPORATION OF MAPS BY REFERENCE.

The following maps, together with all attached material, are hereby adopted by reference and declared to be a part of the official zoning map, this chapter, and the Zoning Ordinance of the city. The attached material includes the Flood Insurance Study for Dodge County, Minnesota, and Incorporated Areas, dated September 26, 2024, and the Flood Insurance Rate Map panels 27039C0159C, 27039C0167C, 27039C0178C, and 27039C0186C, dated September 26, 2024, all prepared by the Federal Emergency Management Agency. These materials are on file at City Hall.
(Ord. 2024-03, passed 9-9-2024)

§ 152.032 DISTRICTS.

(A) *Floodway district*. Those areas within Zone AE delineated within floodway areas as shown on the flood insurance rate maps referenced in § 152.031.

(B) *Flood fringe district*. Those areas within Zone AE located outside of the delineated floodway, as shown on the flood insurance rate maps referenced in § 152.031.

(C) General floodplain district. Those areas within Zone A that do not have a floodway delineated, as shown on the flood insurance rate maps referenced in § 152.031.
(Ord. 2024-03, passed 9-9-2024)

§ 152.033 ANNEXATIONS.

The Flood Insurance Rate Map panels adopted by reference into § 152.031 may include floodplain areas that lie outside of the corporate boundaries of the city at the time of adoption of this chapter. If any of these floodplain land areas are annexed into the city after the date of adoption of this chapter, the newly annexed floodplain lands shall be subject to the provisions of this chapter immediately upon the date of annexation into the city. Annexations into panels not referenced in § 152.031 require ordinance amendment in accordance with §§ 152.185 *et seq*.
(Ord. 2024-03, passed 9-9-2024)

§ 152.034 MUNICIPAL BOUNDARY ADJUSTMENTS AND TOWNSHIPS.

The flood insurance rate map panels referenced in § 152.031 apply countywide. If at any point any lands come under the jurisdiction of another local government, the following shall apply:

(A) City adjustments of corporate boundaries, including, but not limited to, annexations and detachments, shall shift floodplain administrative authority of all affected lands immediately upon the date the boundary adjustment occurs. Cities retain jurisdiction for all incorporated lands, and the county retains jurisdiction under this chapter on all unincorporated lands, except as provided under division (B) below or through some form of administrative agreement.

(B) Townships wishing to adopt official controls under M.S. § 394.33 may only obtain zoning authority for floodplain controls when they have adopted an ordinance that is approved by the Department of Natural Resources, and have formally enrolled in the NFIP. Until this occurs, the county shall retain jurisdiction under this chapter on all unincorporated lands. In the event that a township returns zoning authority, the county shall resume that authority.
(Ord. 2024-03, passed 9-9-2024)

REQUIREMENTS FOR ALL FLOODPLAIN DISTRICTS

§ 152.050 PERMIT REQUIRED.

A permit must be obtained from the Zoning Administrator to verify compliance with all applicable standards outlined in this chapter prior to the following uses or activities:

(A) The erection, addition, modification, rehabilitation, repair, or alteration of any building, structure, or portion thereof. Normal maintenance requires a permit to determine if such work, either separately or in conjunction with other planned work, constitutes a substantial improvement, as specified in § 152.170(C);

(B) The construction of a fence, pool, deck, or placement of anything that may cause a potential obstruction;

(C) The change or expansion of a nonconforming use;

(D) The repair of a structure that has been damaged by flood, fire, tornado, or any other source;

(E) The placement of fill, excavation, utilities, on-site sewage treatment systems, or other service facilities;

(F) The storage of materials or equipment, in conformance with § 152.052(B).

(G) Relocation or alteration of a watercourse (including stabilization projects or the construction of new or replacement dams, culverts and bridges). A local permit is not required if a public waters work permit has been obtained from the Department of Natural Resources, unless a significant area above the ordinary high water level is also to be disturbed.

(H) Any other type of development as defined in § 152.015 of this chapter.
(Ord. 2024-03, passed 9-9-2024)

§ 152.051 NO PERMIT REQUIRED.

Certain uses or activities may be exempt from obtaining a permit, such as planting a garden, farming, or other obviously insignificant activities, such as putting up a mailbox or a flagpole. The continuation of existing uses, when the associated activities do not encroach further on the regulatory floodplain or trigger associated standards in this chapter, do not require a permit.
(Ord. 2024-03, passed 9-9-2024)

§ 152.052 MINIMUM DEVELOPMENT STANDARDS.

(A) All development must:

(1) Be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

(2) Be constructed with materials and equipment resistant to flood damage;

(3) Be constructed by methods and practices that minimize flood damage;

(4) Be constructed with heating, ventilation, duct work, and air conditioning equipment and other service facilities elevated at least up to the regulatory flood protection elevation (RFPE). Water, sewage, electrical, and other utility lines below the RFPE shall be constructed so as to prevent water from entering or accumulating within them during conditions of flooding;

(5) Be reasonably safe from flooding and consistent with the need to minimize flood damage;

(6) Be assured to provide adequate drainage to reduce exposure to flood hazards;

(7) Not be detrimental to uses in adjoining areas;

(8) Not adversely affect the efficiency or restrict the flood-carrying capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system; and

(9) Ensure that any fill or other materials are protected from erosion, discharge, and sediment entering surface waters by the use of vegetative cover or other methods as soon as possible.

(B) Materials that, in time of flooding, are buoyant, flammable, explosive, or could be injurious to human, animal, or plant life shall be stored at or above the regulatory flood protection elevation,

floodproofed, or protected by other measures as approved by the Zoning Administrator. Storage of materials likely to cause pollution of the waters, such as sewage; sand; rock; wrecked and discarded equipment; dredged spoil; municipal, agricultural or industrial waste; and other wastes as further defined in M.S. § 115.01, are prohibited unless adequate safeguards approved by the Minnesota Pollution Control Agency are provided. For projects not requiring approvals by the Minnesota Pollution Control Agency, adequate safeguards must be approved by the Zoning Administrator prior to issuance of a permit.

Table 1. Summary of Permitting Requirements for Structures

Structure Type	*Floodway*	*Flood Fringe*	*Standards**
Accessory structures - on fill	Only specific uses and types allowed - with CUP	Allowed with permit	§ 152.081(C)(4)(b)
Accessory structures - alternative elevation methods	Only specific uses and types allowed - with CUP	Allowed with permit	§ 152.081(C)(4)(c)
Accessory structures - wet floodproofing	Only specific uses and types allowed - with CUP	Allowed with permit	§ 152.081(C)(4)(a)
Accessory structures - dry (watertight) floodproofing	Only specific uses and types allowed - with CUP	Allowed with permit	§ 152.081(C)(4)(d)
Residential - on fill	Not allowed	Allowed with permit	§ 152.081(A)(1)
Residential - alternative elevation methods	Not allowed	Allowed with CUP	§ 152.083
Residential - dry (watertight) floodproofing and/or basement construction below RFPE	Not allowed	Not allowed	N/A
Nonresidential - on fill	Not allowed	Allowed with permit	§ 152.081(B)(1)
Nonresidential - alternative elevation methods	Not allowed	Allowed with permit	§ 152.081(B)2)
Nonresidential - dry (watertight) floodproofing and/or basement construction below RFPE	Not allowed	Allowed with permit	§ 152.081(B)(3)
*Note - many of these standards are cross-referenced			

(Ord. 2024-03, passed 9-9-2024)

FLOODWAY DISTRICT

§ 152.065 PERMITTED USES IN FLOODWAY.

Development allowed in the floodway district is limited to that which has low flood damage potential and will not obstruct flood flows, increase velocities, or increase the water surface elevations of the 1%-annual-chance flood. The following uses and activities may be allowed with a permit, subject to the standards in § 152.066:

(A) Agricultural uses, recreational uses, parking lots, loading areas, airport landing strips, water control structures, navigational facilities, as well as public open space uses;

(B) Roads, driveways, railroads, trails, bridges, and culverts;

(C) Public utility facilities and water-oriented industries that must be in or adjacent to watercourses;

(D) Grading, filling, land alterations, and shoreline stabilization projects;

(E) No structures, as defined in § 152.015, are allowed in the floodway district, except structures accessory to the uses detailed in §§ 152.065(A) and 152.067(A), which require a conditional use permit under § 152.067(B).
(Ord. 2024-03, passed 9-9-2024)

§ 152.066 STANDARDS FOR PERMITTED USES IN FLOODWAY.

In addition to the applicable standards detailed in §§ 152.050 *et seq.*, the following standards apply.

(A) The applicant must demonstrate that the development will not result in any of the following during the 1%-annual-chance flood: cause a stage increase of 0.00 feet or greater, obstruct flood flows, or increase velocities. This shall be demonstrated through hydrologic and hydraulic analysis performed by a professional engineer, or using other standard engineering practices (e.g., projects that restore the site to the previous cross-sectional area). This is commonly documented through a "no-rise certification."

(B) Any development that would result in a stage increases greater than 0.00 feet may only be allowed with a permit if the applicant has applied for and received approval for a conditional letter of map revision (CLOMR) in accordance with 44 CFR § 65.12. Map revisions must follow the procedures in §§ 152.155(E) and 152.185 *et seq*.

(C) Any development resulting in decreases to the water surface elevation of the base flood identified in the flood insurance study requires a letter of map revision (LOMR), following the procedures in §§ 152.155(E) and 152.185 *et seq*.

(D) Any development in the beds of public waters that will change the course, current or cross section is required to obtain a public waters work permit in accordance with M.S. § 103G.245, or a utility crossing license in accordance with M.S. § 84.415, from the Department of Natural Resources, or demonstrate that no permit is required, before applying for a local permit.

(E) Fill and other land alteration activities must offer minimal obstruction to the flow of flood waters.
(Ord. 2024-03, passed 9-9-2024)

§ 152.067 CONDITIONAL USES IN FLOODWAY.

The following uses and activities may be permitted as conditional uses, subject to the standards detailed in § 152.068:

(A) Commercial extractive uses, and storage and stockpiling yards;

(B) Structures accessory to uses detailed in §§ 152.065(A) and 152.067(A).
(Ord. 2024-03, passed 9-9-2024)

§ 152.068 STANDARDS FOR CONDITIONAL USES IN FLOODWAY.

In addition to the applicable standards detailed in §§ 150.050 *et seq.*, 152.066 and § 152.156, and the standards for all conditional uses identified in the Zoning Ordinance of the city, the following standards apply.

(A) Extractive uses and storage of materials require the completion of a site development and restoration plan, to be approved by the city.

(B) *Accessory structures*. Structures accessory to the uses detailed in §§ 152.065(A) and 152.067(A) must be constructed and placed so as to offer a minimal obstruction to the flow of flood waters, and are subject to the standards in § 152.081(C) of this chapter.
(Ord. 2024-03, passed 9-9-2024)

FLOOD FRINGE DISTRICT

§ 152.080 PERMITTED USES IN FLOOD FRINGE.

Any uses or activities allowed in any applicable underlying zoning districts may be allowed with a permit, subject to the standards set forth in § 152.081.
(Ord. 2024-03, passed 9-9-2024)

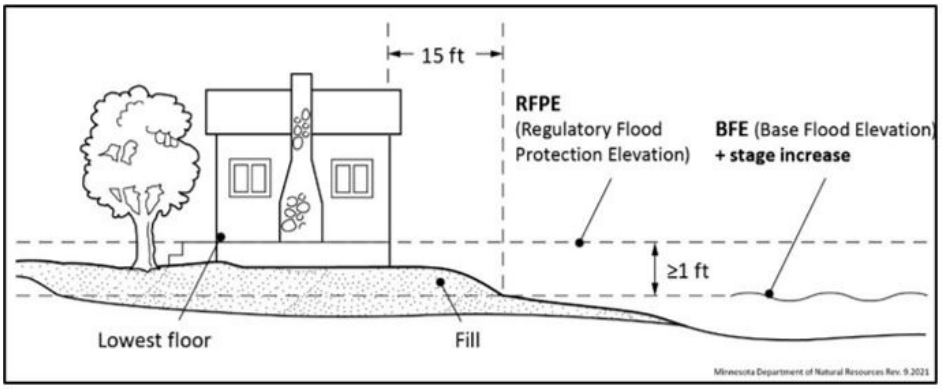
§ 152.081 STANDARDS FOR PERMITTED USES IN FLOOD FRINGE.

In addition to the applicable standards detailed in §§ 152.050 *et seq.,* the following standards apply.

(A) *Residential structures*.

(1) *Elevation on fill*. Structures erected, constructed, reconstructed, altered, or moved on fill within the flood fringe district shall be placed so that the lowest floor, as defined in § 152.015 of this chapter, is elevated at or above the regulatory flood protection elevation. The finished fill elevation shall be at or above the elevation associated with the base flood plus any stage increases that result from designation of a floodway. Fill must extend at the same elevation at least 15 feet beyond the outside limits of the structure. Elevations must be certified by a registered professional engineer, land surveyor or other qualified person designated by the Zoning Administrator. Elevation methods alternative to these fill standards are subject to a conditional use permit, as provided in § 152.082 of this chapter (Figure 2).

Figure 2: Overview of fill standards for residential structures.



(B) *Nonresidential principal structures*. Nonresidential principal structures must meet 1 of the following construction methods.

(1) *Elevation on fill*. Structures may be elevated on fill, meeting the standards in § 152.081(A)(1) of this chapter. Fill for nonresidential structures is not required to be extended 15 feet beyond the outside limits of the structure.

(2) *Alternative elevation methods*. Structures may be elevated using methods alternative to the fill standards in § 152.081(A)(1) of this chapter. Such methods include the use of blocks, pilings (Figure 3), filled stem walls (Figure 4), or internally-flooded enclosed areas (Figure 5) such as crawl spaces, attached garages, or tuck-under garages.

Figure 3: Blocks or pilings.

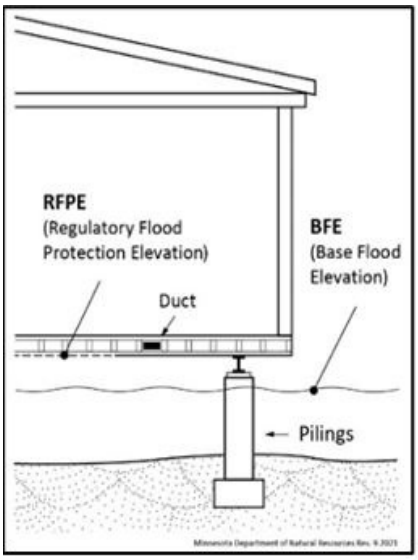


Figure 4: Filled stem walls.

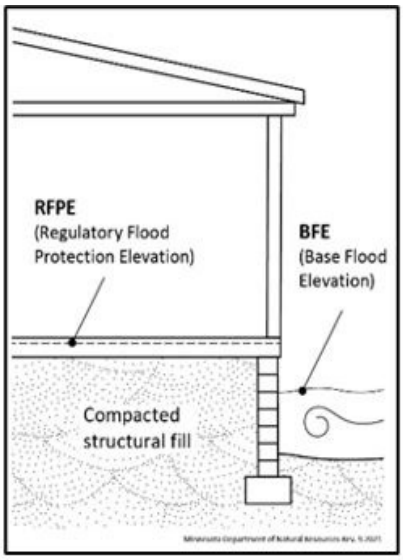
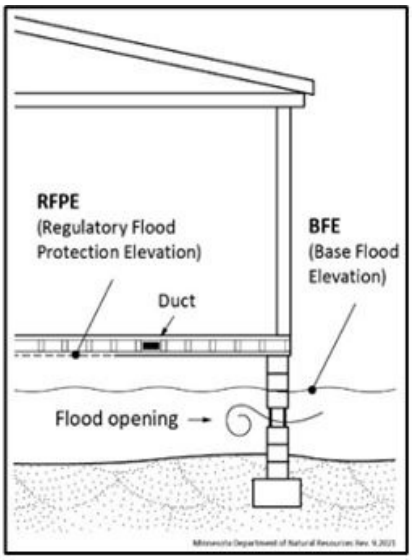


Figure 5: Internally flooded enclosed area.



Designs accommodating for internally-flooded enclosed areas must be certified by a registered professional engineer or architect, or meet or exceed the standards detailed in *FEMA Technical Bulletin 1*, as amended, as well as the following standards.

(a) The lowest floor, as defined in § 152.015 of this chapter, shall be elevated at or above the regulatory flood protection elevation.

(b) The floor of the enclosed area must be at or above the exterior grade on at least 1 side of the structure.

(c) To allow for the equalization of hydrostatic pressure, there shall be a minimum of 2 openings below the base flood elevation on at least 2 sides of the structure. The bottom of all openings shall be no higher than 1 foot above grade. The openings shall have a minimum net area of not less than 1 square inch for every square foot of enclosed area subject to flooding, and shall allow the automatic entry and exit of flood waters without human intervention.

(d) Internally flooded enclosed areas shall only be used for the parking of vehicles, building access, or storage. Bathrooms and toilet rooms shall not be allowed.

(3) *Dry floodproofing*. Structures having watertight enclosed basements or spaces below the regulatory flood protection elevation must meet the following standards:

(a) Walls must be substantially impermeable to the passage of water, with structural components having the capacity of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy, at least up to the regulatory flood protection elevation;

(b) Must meet the standards of *FEMA Technical Bulletin 3*, as amended; and

(c) A registered professional engineer or architect shall be required to certify that the design and methods of construction meet the standards detailed in this section.

(C) *Accessory structures*. All accessory structures must meet the following standards:

(1) Structures shall not be designed or used for human habitation;

(2) Structures will have a low flood damage potential;

(3) Structures with fewer than 2 rigid walls, such as carports, gazebos, and picnic pavilions, may be located at an elevation below the regulatory flood protection elevation.

(4) Structures with 2 or more rigid walls, must meet 1 of the following construction methods.

(a) *Wet floodproofing*. Structures may be floodproofed in a way to accommodate internal flooding. Such structures shall constitute a minimal investment not to exceed 576 square feet in size, 1 story in height, and shall only be used for parking and storage. To allow for the equalization of hydrostatic pressure, there shall be a minimum of 2 openings on at least 2 sides of the structure, and the bottom of all openings shall be no higher than 1 foot above grade. The openings shall have a minimum net area of not less than 1 square inch for every square foot of enclosed area subject to flooding, and shall allow automatic entry and exit of flood waters without human intervention.

(b) *Elevation on fill*. Structures may be elevated on fill, meeting the standards in § 152.081(A)(1) of this chapter. Fill is not required to be extended 15 feet beyond the outside limits of the structure.

(c) *Alternative elevation methods*. Structures may have their lowest floor elevated above the regulatory flood protection elevation through methods alternative to the fill standards in § 152.081(C)(4)(b), and must meet the standards in § 152.081(B)(2) of this chapter.

(d) *Dry floodproofing*. Structures may be dry floodproofed or watertight, meeting the standards in § 152.081(B)(3) of this chapter.

(D) Any facilities used by employees or the general public must be designed with a flood warning system acceptable to the city that provides adequate time for evacuation, or must be designed to ensure

that, within the area inundated during the base flood event, the depth (in feet) multiplied by the velocity (in feet per second) is less than 4.

(E) Manufactured homes and recreational vehicles must meet the standards of §§ 152.140 *et seq.* of this chapter.
(Ord. 2024-03, passed 9-9-2024)

§ 152.082 CONDITIONAL USES IN FLOOD FRINGE.

In addition to the applicable standards identified in Zoning Ordinance of the city, the following uses and activities may be permitted as conditional uses, subject to the standards in § 152.083.

Alternative elevation methods - residential structures. Residential structures with their lowest floor elevated above the regulatory flood protection elevation, using methods alternative to the fill requirements in § 152.081(A).
(Ord. 2024-03, passed 9-9-2024)

§ 152.083 STANDARDS FOR CONDITIONAL USES IN FLOOD FRINGE.

In addition to the applicable standards identified in Zoning Ordinance of the city and detailed in §§ 152.050 *et seq.*, 152.081 and 152.156, all residential structures with lowest floors elevated through alternative elevation methods must meet the standards in § 152.081(B)(2) of this chapter.
(Ord. 2024-03, passed 9-9-2024)

GENERAL FLOODPLAIN DISTRICT

§ 152.095 PERMITTED USES IN GENERAL FLOODPLAIN DISTRICT.

(A) Until the floodway is delineated, allowable uses will be restricted to those listed in the floodway district, §§ 152.065 *et seq.*

(B) In addition to the standards provided in §§ 152.096 and 152.097, all other uses are subject to a floodway/flood fringe determination as provided in § 152.098. Permitted uses shall be determined as follows:

(1) If the development is determined to be in the floodway district, §§ 152.065 *et seq.* applies;

(2) If the development is determined to be in the flood fringe district, §§ 152.080 *et seq*. applies.
(Ord. 2024-03, passed 9-9-2024)

§ 152.096 DETERMINING FLOOD ELEVATIONS.

(A) All development requires a determination of the base flood elevation. Exceptions to this requirement include projects that restore a site to the previous cross-sectional area, such as shore stabilization or culvert replacement projects. Base flood elevations may be found using best available data from any federal, state, or other source (including MNDNR's Lake & Flood Elevations Online (LFEO) Viewer).

(B) The regulatory flood protection elevation can be determined by assuming a 0.5-foot stage increase to accommodate for future cumulative impacts. A stage increase does not need to be assumed along lakes, wetlands, and other basins that are not affected by velocities.
(Ord. 2024-03, passed 9-9-2024)

§ 152.097 ENCROACHMENT ANALYSIS.

(A) Encroachments due to development may not allow stage increases of more than 0.5 foot at any point, unless through a map revision following the procedures in §§ 152.155(E) and 152.185 *et seq*. This evaluation must include the cumulative effects of previous encroachments, and must be documented with hydrologic and hydraulic analysis performed by a professional engineer, or using other standard engineering practices. A water surface elevation increase of less than 0.5 foot is required if, due to the water surface level increase, increased flood damages would potentially result.

(B) Alterations or changes that result in stage decreases are allowed and encouraged.
(Ord. 2024-03, passed 9-9-2024)

§ 152.098 STANDARDS FOR THE ANALYSIS OF FLOODWAY BOUNDARIES.

(A) *Requirements for detailed studies*. Any development, as requested by the Zoning Administrator, shall be subject to a detailed study to determine the regulatory flood protection elevation and the limits of the floodway district. This determination must be consistent with the minimum standards for hydrologic and hydraulic mapping standards and techniques, as detailed in Minnesota Rules, part 6120.5600, subpart 4, and *FEMA Guidelines and Standards for Flood Risk Analysis and Mapping*, as revised. Additional requirements include:

(1) A regulatory floodway necessary to carry the discharge of the 1%-annual-chance flood must be selected without increasing the water surface elevation more than 0.5 foot at any point. This

determination should include the cumulative effects of previous encroachments. A water surface elevation increase of less than 0.5 foot is required if, due to the water surface level increase, increased flood damages would potentially result; and

(2) An equal degree of encroachment on both sides of the stream within the reach must be assumed in computing floodway boundaries, unless topography, existing development patterns, and comprehensive land use plans justify a modified approach, as approved by the Department of Natural Resources.

(B) *Other acceptable methods*. For areas where a detailed study is not available or required, and development is prohibited in floodways (e.g., most buildings), a floodway/flood fringe determination is required to verify that the development is within the flood fringe. This determination must be done by a professional engineer or utilize other accepted engineering practices. The Department of Natural Resources may also provide technical assistance and must approve any alternative methods used to determine floodway boundaries.
(Ord. 2024-03, passed 9-9-2024)

SUBDIVISION STANDARDS

§ 152.110 SUBDIVISIONS.

All subdivided land must meet the following requirements. Manufactured home parks and recreational vehicle parks or campgrounds are considered subdivisions under this chapter.

(A) All lots within floodplain districts must be suitable for a building site outside of the floodway district.

(B) Subdivision of lands within floodplain districts may not be approved if the cost of providing governmental services would impose an unreasonable economic burden on the city.

(C) All subdivisions must have vehicular access both to the subdivision and to the individual building sites no lower than 2 feet below the regulatory flood protection elevation, unless a flood warning/emergency evacuation plan has been approved by the city.

(D) The floodway and flood fringe district boundaries, the regulatory flood protection elevation and the required elevation of all access roads must be clearly identified on all required subdivision drawings and platting documents.
(Ord. 2024-03, passed 9-9-2024)

PUBLIC AND PRIVATE UTILITIES, SERVICE FACILITIES, ROADS, BRIDGES AND RAILROADS

§ 152.125 PUBLIC TRANSPORTATION FACILITIES.

Railroad tracks, roads, and bridges must be elevated to the regulatory flood protection elevation, where such facilities are essential to the orderly functioning of the area, or where failure or interruption would result in danger to public health or safety. Minor or auxiliary roads or railroads may be constructed at a lower elevation, where failure or interruption of transportation services would not endanger the public health or safety. All public transportation facilities should be designed to minimize increases in flood elevation.
(Ord. 2024-03, passed 9-9-2024)

§ 152.126 PUBLIC UTILITIES.

All utilities, such as gas, electrical, sewer, and water supply systems, to be located in the floodplain must be elevated and/or floodproofed to the regulatory flood protection elevation, must be located and constructed to minimize or eliminate flood damage, and must be designed to eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters. All public utilities should be designed to minimize increases in flood elevation. New solid waste management facilities, as defined in Minnesota Rules, part 7035.0300, are prohibited in the 1%-annual-chance floodplain. Water supply systems are subject to the provisions in Minnesota Rules, part 4725.4350.
(Ord. 2024-03, passed 9-9-2024)

§ 152.127 PRIVATE ON-SITE WATER SUPPLY, INDIVIDUAL SEWAGE TREATMENT SYSTEMS, AND OTHER SERVICE FACILITIES.

Private facilities shall be subject to applicable provisions detailed in § 152.126. In addition, new or replacement on-site sewage treatment systems are to be located to avoid impairment to them or contamination from them during times of flooding, shall not be located in a designated floodway, and are subject to the provisions in Minnesota Rules, part 7080.2270.
(Ord. 2024-03, passed 9-9-2024)

MANUFACTURED HOMES AND RECREATIONAL VEHICLES

§ 152.140 MANUFACTURED HOMES.

Manufactured homes and manufactured home parks are subject to applicable standards for each floodplain district. In addition, they must meet the following requirements.

(A) New and replacement manufactured homes must be placed and elevated in compliance with §§ 152.080 *et seq.* of this chapter, and must be securely anchored to a system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

(B) New manufactured home parks and expansions to existing manufactured home parks must meet the appropriate standards for subdivisions in § 152.110 of this chapter.
(Ord. 2024-03, passed 9-9-2024)

§ 152.141 RECREATIONAL VEHICLES.

(A) New recreational vehicle parks or campgrounds and expansions to existing recreational vehicle parks or campgrounds are prohibited in any floodplain district.

(B) Recreational vehicles placed in existing recreational vehicle parks, campgrounds or lots of record in the floodplain must either:

(1) Meet the requirements for manufactured homes in § 152.140; or

(2) Be travel-ready, meeting the following criteria:

(a) The vehicle must be fully licensed;

(b) The vehicle must be ***READY FOR HIGHWAY USE***, meaning on wheels or an internal jacking system, and attached to the site only by quick, disconnect-type utilities;

(c) No permanent structural-type additions may be attached to the vehicle;

(d) Accessory structures may be permitted in the flood fringe district, provided they do not hinder the removal of the vehicle should flooding occur, and meet the standards outlined in §§ 152.050 *et seq.* and 152.081(C).
(Ord. 2024-03, passed 9-9-2024)

ADMINISTRATION

§ 152.155 ZONING ADMINISTRATOR.

Duties. The city's Zoning Administrator or their designee must administer and enforce this chapter.

(A) *Permit application requirements*. Permit applications must be submitted to the Zoning Administrator. The permit application must include the following, as applicable:

(1) A site plan showing all existing or proposed buildings, structures, service facilities, potential obstructions, and pertinent design features having an influence on the permit;

(2) Location and detail of grading, fill, or storage of materials;

(3) Copies of any required local, state or federal permits or approvals;

(4) Other relevant information requested by the Zoning Administrator as necessary to properly evaluate the permit application.

(B) *Recordkeeping*. The Zoning Administrator must maintain applicable records in perpetuity documenting:

(1) All certifications for dry floodproofing and alternative elevation methods, where applicable;

(2) Analysis of no-rise in the floodway district, as detailed in § 152.066(A), and encroachment analysis ensuring no more than 0.5 foot of rise in the general floodplain district, as detailed in §§ 152.096(B) and 156.097(A).

(3) Final elevations, as applicable, detailing the elevation to which structures and improvements to structures are constructed or floodproofed. Elevations shall be determined by an engineer, architect, surveyor or other qualified individual, as approved by the Zoning Administrator.

(4) Substantial damage and substantial improvement determinations, as detailed in § 152.170(C), including the cost of improvements, repairs, and market value.

(5) All variance actions, including justification for their issuance, and must report such variances as requested by the Federal Emergency Management Agency.

(C) *Certificate of zoning compliance for a new, altered, or nonconforming use*. No building, land or structure may be occupied or used in any manner until a certificate of zoning compliance has been issued by the Zoning Administrator, stating that the finished fill and building floor elevations or other flood protection measures are in compliance with the requirements of this chapter.

(D) *Notifications for watercourse alterations.* Before authorizing any alteration or relocation of a river or stream, the Zoning Administrator must notify adjacent communities. If the applicant has applied for a permit to work in public waters in accordance with M.S. § 103G.245, this will suffice as adequate notice. A copy of the notification must also be submitted to FEMA.

(E) *Notification to FEMA when physical changes increase or decrease base flood elevations.* Where physical changes affecting flooding conditions may increase or decrease the water surface elevation of the base flood, the city must notify FEMA of the changes in order to obtain a letter of map revision (LOMR), by submitting a copy of the relevant technical or scientific data as soon as practicable, but no later than 6 months after the date such supporting information becomes available. Within the general floodplain district, a map revision is only required if development results in stage increases greater than 0.5 feet.
(Ord. 2024-03, passed 9-9-2024)

§ 152.156 CONDITIONAL USES AND VARIANCES.

(A) *Process.*

(1) An application for a conditional use permit will be processed and reviewed in accordance with the provisions of this chapter and the Zoning Ordinance of the city.

(2) An application for a variance to the provisions of this chapter will be processed and reviewed in accordance with M.S. § 462.357, subdivision 6(2), this chapter, and the Zoning Ordinance of the city.

(B) *Additional variance criteria.* In addition to the criteria identified in the Zoning Ordinance of the city, the following additional variance criteria must be satisfied.

(1) Variances must not be issued within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

(2) Variances from the provisions of this chapter may only be issued by a community upon:

(a) A showing of good and sufficient cause;

(b) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

(c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(3) Variances from the provisions in this chapter may only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(4) Variances must be consistent with the general purpose of these standards and the intent of applicable provisions in state and federal law.

(5) Variances may be used to modify permissible methods of flood protection, but no variance shall permit a lesser degree of flood protection than the regulatory flood protection elevation.

(6) The Zoning Administrator must notify the applicant for a variance in writing that:

(a) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as $25 for $100 of insurance coverage; and

(b) Such construction below the base flood level increases risks to life and property. Notification must be maintained with a record of all variance actions.

(C) *Considerations for approval.* In granting variances and conditional use permits, the city must consider all relevant factors specified in other sections of this chapter and the Zoning Ordinance of the city.

(D) *Conditions of approval.* The city may attach such conditions to the granting of variances and conditional use permits as it deems necessary to fulfill the purposes of this chapter and the Zoning Ordinance of the city.
(Ord. 2024-03, passed 9-9-2024)

§ 152.157 NOTIFICATIONS TO THE DEPARTMENT OF NATURAL RESOURCES.

(A) All notices of public hearings to consider variances or conditional uses under this chapter must be sent via electronic mail to the Department of Natural Resources respective area hydrologist at least 10 days before the hearings. Notices of hearings to consider subdivisions/plats must include copies of the subdivision/plat.

(B) A copy of all decisions granting variances and conditional uses under this chapter must be sent via electronic mail to the Department of Natural Resources respective area hydrologist within 10 days of final action.
(Ord. 2024-03, passed 9-9-2024)

NONCONFORMITIES

§ 152.170 CONTINUANCE OF NONCONFORMITIES.

A use, structure, or occupancy of land that was lawful before the passage or amendment of this chapter, but that is not in conformity with its provisions, may be continued, subject to the following conditions.

(A) Within the floodway and general floodplain districts (when a site has been determined to be located in the floodway following the procedures in § 152.097, or when the floodway has not been delineated), any expansion or enlargement of uses or structures is prohibited.

(B) Within all districts, any addition, modification, rehabilitation, repair, or alteration shall be in conformance with the provisions of this chapter, shall not increase the flood damage potential or increase the degree of obstruction to flood flows, and where applicable, must be protected to the regulatory flood protection elevation.

(C) If any nonconforming structure is determined to be substantially damaged or substantially improved based on the procedures in § 152.171, it may not be reconstructed except in conformity with the provisions of this chapter.

(D) If any nonconforming use, or any use of a nonconforming structure, is discontinued for more than 1 year, any future use of the premises must conform to this chapter.
(Ord. 2024-03, passed 9-9-2024)

§ 152.171 SUBSTANTIAL IMPROVEMENT AND SUBSTANTIAL DAMAGE DETERMINATIONS.

Prior to issuing any permits for additions, modifications, rehabilitations, repairs, alterations, or maintenance to nonconforming structures, the Zoning Administrator is required to determine if such work constitutes substantial improvement or repair of a substantially damaged structure. A determination must be made in accordance with the following procedures.

(A) *Estimate the market value of the structure.* In the case of repairs, the ***MARKET VALUE OF THE STRUCTURE*** shall be the market value before the damage occurred and before any restoration or repairs are made.

(B) *Estimate the cost of the project.* The property owner shall accommodate for inspection, and furnish other documentation needed by the Zoning Administrator to evaluate costs.

(1) Improvement costs shall be comprised of the market rate of all materials and labor, as well as the costs of all ordinary maintenance and upkeep carried out over the past year.

(2) Costs to repair damages shall be comprised of the market rate of all materials and labor required to restore a building to its pre-damaged condition regardless of the work proposed, as well as associated improvement costs, if structure is being restored beyond its pre-damaged condition.

(C) Compare the cost of the improvement, repairs, or combination thereof, to the estimated market value of the structure, and determine whether the proposed work constitutes substantial improvement or repair of a substantially damaged structure, as defined in § 152.015 of this chapter.

(D) Based on this determination, the Zoning Administrator shall prepare a determination letter and notify the property owner accordingly. Structures determined to be substantially damaged or substantially improved may not be reconstructed except in conformity with the provisions of this chapter.
(Ord. 2024-03, passed 9-9-2024)

AMENDMENTS

§ 152.185 ORDINANCE AMENDMENTS.

Any revisions to the floodplain maps by the Federal Emergency Management Agency or annexations of new map panels require an ordinance amendment to update the maps referenced in § 152.031 of this chapter.
(Ord. 2024-03, passed 9-9-2024)

§ 152.186 REQUIRED APPROVAL.

To comply with state and federal rules and requirements, all amendments to this chapter must be submitted to the Department of Natural Resources for review and approval prior to adoption. The floodplain ordinance shall not be considered valid until approved.
(Ord. 2024-03, passed 9-9-2024)

§ 152.999 PENALTY.

(A) *Uses in violation of this chapter.* Every structure, fill, deposit, or other use placed or maintained in the floodplain in violation of this chapter shall be considered a public nuisance.

(B) *Civil remedies*. The creation of a public nuisance may be enjoined and the maintenance of a public nuisance under this chapter may be abated by an action brought by the city or the Department of Natural Resources.

(C) *Enforcement*. Violation of the provisions of this chapter constitutes a misdemeanor and is punishable as defined by law. The Zoning Administrator may utilize their full array of available enforcement actions, including, but not limited to, prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance. The city must act in good faith to enforce these official controls and to correct ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.
(Ord. 2024-03, passed 9-9-2024)

CHAPTER 153: GENERAL PROVISIONS

Section

Codes Adopted by Reference

153.01 Minnesota State Building Code

Assessment Policy for Local Improvement Projects

153.15 Petition for improvements
153.16 Classification of projects
153.17 Financing Class B and Class C improvements
153.18 Assessment regulations for Class B improvements
153.19 Assessment rules for Class C improvements
153.20 Special rules
153.21 Federal, state, and county aid use
153.22 Effective date

CODES ADOPTED BY REFERENCE

§ 153.01 MINNESOTA STATE BUILDING CODE.

(A) *Codes adopted by reference*. The Minnesota State Building Code, as adopted by the Commissioner of Administration pursuant to M.S. Chapters 16B.59 through 16B.75, as they may be amended from time to time, including all of the amendments, rules, and regulations established, adopted, and published from time to time by the Minnesota 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 section. The Minnesota State Building Code is hereby incorporated in this section as if fully set out herein.

(B) *Application, administration, and enforcement*.

(1) The application, administration, and enforcement of the code shall be in accordance with the Minnesota State Building Code. The code shall be enforced within the extraterritorial limits permitted by M.S. § 16B.62, Subdivision 1, as it may be amended from time to time, when so established by this section.

(2) This code shall be enforced by the Minnesota Certified Building Official designated by this municipality to administer the code (M.S. § 16B.65, Subdivision 1, as it may be amended from time to time).

(3) The code enforcement agency of this municipality is called the Building Official for the City of Mantorville. The Building Official shall be construction management services or the other building official as shall be appointed from time to time by the City Council.

(C) *Permits and fees*. The issuance of permits and the collection of fees shall be as authorized in M.S. § 16B.62, Subdivision 1, as it may be amended from time to time. Permit fees shall be assessed for work governed by this code. All fees shall be set by resolution of the City Council. In addition, a surcharge fee shall be collected on all permits issued for work governed by this code in accordance with M.S. § 16B.70, as it may be amended from time to time.

(D) *Violations*. A violation of the code is a misdemeanor (M.S. § 16B.69, as it may be amended from time to time).

(E) *Building Code optional chapters*. The Minnesota State Building Code, established pursuant to M.S. §§ 16B.59 through 16B.75, as they may be amended from time to time, allows the municipality to adopt by reference and enforce certain optional chapters of the most current edition of the Minnesota State Building Code. This municipality has elected not to adopt any such optional chapters.

(F) *Effective date*. This section becomes effective from and after its passage and publication. (Ord. 154, passed 5-6-2003) Penalty, see § 10.99

ASSESSMENT POLICY FOR LOCAL IMPROVEMENT PROJECTS

§ 153.15 PETITION FOR IMPROVEMENTS.

A project may be initiated by the City Council or by a petition of 35% of affected property owners. (Ord. 116, passed 5-14-1985)

§ 153.16 CLASSIFICATION OF PROJECTS.

(A) *Generally*. Public improvements are divided into 3 classes specified in the following subdivisions according to their respective benefit to the whole city and to property specially served by the improvement and taking into account past city practice.

(B) *Class A*. Class A improvements are those which are of general benefit to the city at large, including public buildings, except a building which is part of an improvement described in one of the following subdivisions; any public park, playground, or recreational facility; the installation and maintenance of street lighting systems; and any improvement not described in M.S. § 429.021, Subdivision 1, as it may be amended from time to time. Any such improvement shall be financed from general city funds and not from special assessments.

(C) *Class B*. Class B improvements are those which are of both general benefit and special benefit to abutting or nearby property. Class B improvements include:

(1) Trunk water mains larger than 6 inches;

(2) Trunk sanitary sewer mains larger than 8 inches;

(3) Curb and gutter grading and surfacing collector streets;

(4) Storm sewers; and

(5) The construction of off-street parking facilities.

(D) *Class C*. Class C improvements are those which are primarily if not exclusively of benefit to property abutting or in the area of the improvement, including:

(1) Sidewalks;

(2) Water mains no larger than 6 inches in diameter and services to property line;

(3) Sanitary sewer mains no larger than 8 inches in diameter and services to property line;

(4) Curb and gutter, grading and surfacing residential streets; and

(5) The abatement of nuisances and the draining of swamps, marshes, and ponds on public or private property and filling the same.
(Ord. 116, passed 5-14-1985)

§ 153.17 FINANCING CLASS B AND CLASS C IMPROVEMENTS.

It is the policy of the city to finance Class B and Class C improvements by the methods prescribed in §§ 153.18 through 153.20. The apportionment of the cost between benefitted property and the city at large and the method of levying assessments prescribed in those sections shall be followed in each case unless the Council, by resolution, finds that because of special circumstances stated in the resolution, a different policy is necessary or desirable in the particular case. Any local improvement described in

M.S. § 429.021, as it may be amended from time to time, and not placed in Class A, B, or C by § 153.16 shall be financed as the Council determines to be most feasible and equitable in each case. In each case, the Council shall examine the assessment roll before approval and adjust any assessment which exceeds the benefit received by the property assessed.
(Ord. 116, passed 5-14-1985)

§ 153.18 ASSESSMENT REGULATIONS FOR CLASS B IMPROVEMENTS.

(A) *Trunk water mains and sanitary sewers*. The cost of trunk sewer and water mains and lift stations shall be assessed on an area basis. When a trunk main is constructed and also serves as a lateral main for abutting property, the abutting property shall be directly assessed on a front foot basis for the cost of a 8-inch sewer or 6-inch water main plus its share of the trunk (oversizing) cost on an area basis. Other property benefitted by the trunk main but not having direct access to the trunk shall not be assessed for its share of the trunk cost until access to the main is provided.

(B) *Collector street*. The collector streets are designated on the map attached to Ordinance 116. When grading and surfacing is done on a collector street, the cost of construction based on a 32-foot, 7-ton roadway shall be assessed to the abutting property on a front foot basis. Any additional cost to construct the roadway to higher design standards shall be paid from general funds.

(C) *Storm sewers*. A percentage of the cost of constructing storm sewers shall be paid by the city from general funds. The remainder of the cost shall be assessed against the property in the area served by the sewer on the basis of the square footage of the property. The area to be assessed shall be determined on the basis of topographic maps and other pertinent data.
(Ord. 116, passed 5-14-1985)

§ 153.19 ASSESSMENT RULES FOR CLASS C IMPROVEMENTS.

(A) *Sidewalks*. The cost of the construction of sidewalks shall be assessed on the basis of frontage against property abutting the side of the street on which the sidewalk is located.

(B) *Water and sewer*. The cost of water mains not exceeding 6-inches in diameter and of sanitary sewer mains not exceeding 8-inches in diameter shall be assessed against abutting property on the basis of frontage. The cost of water mains to be assessed includes the service lines, if furnished, hydrants, and valves. The cost of sewer mains includes service lines, if furnished.

(C) *Streets*. The cost of construction of residential streets up to a 32-foot, 7-ton roadway including curb and gutter, grading, and surfacing shall be assessed on the basis of frontage. The rest of the cost shall be paid from general funds.

(D) *Nuisances*. The cost of abating nuisances and draining of swamps, marshes, and ponds on public or private property and filling the same shall be assessed in a manner determined by the Council in each case to measure most equitably the benefit received by property to be assessed. The assessment in any such case may be made against nonabutting property to the extent the property is benefitted by the improvement.
(Ord. 116, passed 5-14-1985)

§ 153.20 SPECIAL RULES.

(A) *Corner lots*. In any assessment made on the basis of frontage, except for water or sewer, corner lots shall be assessed for footage along the front of the lot plus 1/2 of the side footage; the other 1/2 of the side footage shall be spread among all other assessed properties. Corner lots that are large enough to be split into smaller buildable lots shall be assessed for front footage of those buildable lots on the basis of the split that would provide the most buildable lots.

(B) *Intersections*. The cost of improvements in street intersections shall be included as part of the total assessable cost.

(C) *Adjusted frontage*. When the amount of an assessment is determined by frontage, an equivalent front footage shall be determined according to the following rules when an irregular lot requires such an adjustment to maintain fairness in the assessment.

(1) Front footage shall be measured at setback on cul-de-sacs and sharply curved streets and irregularly shaped lots.

(2) Equivalent front footage shall be determined by dividing the square footage of the lot by the general lot depth of the subdivision for pie-shaped lots and irregular shaped lots where other rules do not apply.

(3) Where frontage curves so greatly as to give a general appearance of a corner, the lot shall be considered a corner lot and equivalent front footage, as well as side footage where required, determined on the basis of an irregularly shaped lot.

(4) Where a lot consists of a combination of the above, the equivalent front footage shall be determined in accordance with applicable rules.
(Ord. 116, passed 5-14-1985)

§ 153.21 FEDERAL, STATE, AND COUNTY AID USE.

If the city receives financial assistance from the federal government, the state, or the county to defray a portion of the cost of a street improvement project, the aid shall be used first to reduce the share of the project cost which would be met from general city funds according to the assessment formula

contained in this subchapter. If the aid is more than the amount of the improvement cost to be borne by the city, the remainder of the aid so received shall be used to reduce each individual assessment proportionately.
(Ord. 116, passed 5-14-1985)

§ 153.22 EFFECTIVE DATE.

This subchapter becomes effective from and after its passage and publication.
(Ord. 116, passed 5-14-1985)

TABLE OF SPECIAL ORDINANCES

Table

I. FRANCHISES

II. ANNEXATIONS

TABLE I: FRANCHISES

Ord. No.	*Date Passed*	*Description*
132	9-14-1992	Electric franchise; Northern States Power Company
147	6-25-2001	Natural gas franchise; Peoples Natural Gas
160	4-12-2004	Cable system franchise; KMTelecom

TABLE II: ANNEXATIONS

Ord. No.	*Date Passed*	*Description*
126	10-14-1991	Annexation of land
148	11-26-2001	Annexation of land
2022-02	4-25-2022	Annexation of about 26.69 acres of land to the city
2023-06	4-24-2023	Annexation of approximately 40 acres of land to the city

PARALLEL REFERENCES

References to Minnesota Statutes
References to Ordinances

REFERENCES TO MINNESOTA STATUTES

M.S. Section	*Code Section*
13D	31.37
14.57–14.69	110.051
14.57–14.70	91.19; 110.23; 110.99
16B.59–16B.75	153.01
16B.62, Subdivision 1	153.01
16B.65, Subdivision 1	153.01
16B.69	153.01
16B.70	153.01
65B.01–65B.12	70.02
65B.48, Subdivision 5	70.02
84.81	70.10
84.81-84.90	70.13; 70.16
84.92-84.929	70.13; 70.16
84.415	152.066
88	96.13
88.16, Subdivision 2(d)	96.12
97B.021	91.18
97B.045	91.18
103F	152.001
103G.245	152.066, 152.155
115.01	51.01, 152.052
115.07	51.01
120A.05	150.090
152.01–152.025	91.18
152.027, Subdivision 1	91.18
152.027, Subdivision 2	91.18
157.16	110.03
157.16, Subdivision 3d	110.03
168	70.46
168B.011, Subdivision 3	95.06
169	70.03, 70.04, 70.46
169.69	70.47
169.89, Subdivision 3	70.46
169.522	70.04

M.S. Section	*Code Section*
169.693	70.47
169A	70.46
171	70.46
173	150.085
211B.045	150.085
237.162	93.29
237.163	93.29
245A.02	150.090
300.06	93.23
326B.148	Ch. 32, App. A
329	112.03
340A	91.18; 110.01; 110.02; 110.09; 110.23; 110.99
340A.14, Subdivision 6	110.08
340A.101	110.03; 110.08
340A.301, Subdivision 6(d)	110.08
340A.301, Subdivision 7	110.08
340A.301, Subdivision 7(b)	110.08
340A.401, Subdivision 1	110.08
340A.404, Subdivision 4a	110.08
340A.404, Subdivision 4b	110.08
340A.404, Subdivision 5	110.08
340A.404, Subdivision 12	110.22
340A.404(b)	110.08
340A.408	110.09
340A.408 Subdivision 2b	110.08
340A.408, Subdivision 3	110.08
340A.408, Subdivision 5	110.09
340A.409	110.11
340A.413	110.06
340A.414	110.21
340A.504	110.19
340A.504, Subdivision 3	110.08
340A.504, Subdivision 3c	110.08
340A.509	110.02
340A.801	110.11
344.02, Subdivision 1(a)-(d)	152.015
347.51	90.10
347.515	90.10
347.54	90.10

M.S. Section	*Code Section*
349.11–349.23	111.01
366.011	33.01, 96.01
366.012	33.01, 96.01
394.33	152.034
415.01	33.01, 96.01
415.11	30.01
429.021	153.17
429.021, Subdivision 1	153.16
429.061	95.09
429.101	94.07; 95.09
435.193–435.195	32.01
444.075	50.04
462	152.001
462.351–562.363	151.015
462.354, Subdivision 1	31.35
462.354, Subdivision 2	150.007
462.357, Subdivision 3	31.38
462.357, Subdivision 6(2)	31.38, 152.015, 152.156
462.358	151.005; 151.013
462.358, Subdivision 4	151.090
462.3593	150.021
462.3593, Subdivision 9	150.021
466.02	150.005; 151.013
466.07	150.005; 151.013
609.66–609.67	91.18
609.72	91.18
609.75–609.76	91.18
609.221	91.18
609.223	91.18
609.2231	91.18
609.224	91.18
609.299	91.18
617.23–617.299	91.18
617.80–617.87	91.18
624.712–624.716	91.18
624.717	130.01
626.862	10.20

REFERENCES TO ORDINANCES

Ord. No.	*Date Passed*	*Code Section*
–	8-22-2005	51.03
76	8-15-1973	70.46
82	5-16-1974	30.02
85	3-26-1975	70.45
87	5-22-1975	90.30–90.35
89	12-17-1975	30.03
100	6-12-1979	151.001–151.016; 151.030–151.040; 151.055–151.058; 151.070–151.076; 151.090
107	4-20-1982	151.075
112	6-12-1984	111.01–111.04; 111.99
116	5-14-1985	153.15–153.22
119	3-8-1988	51.01–51.10; 51.99
126	10-14-1991	TSO II
127	1-27-1992	151.070
129	3-9-1992	70.20–70.32
130	4-27-1992	71.20–71.30
131	7-27-1992	52.01–52.07; Ch. 53, App. A
132	9-14-1992	TSO I
135	12-19-1996	71.01–71.08
137	10-26-1998	50.04
144	10-23-2000	50.03
145	10-23-2000	52.05
147	6-25-2001	TSO I
147	11-12-2001	94.01–94.07; 94.99
148	11-26-2001	TSO II
149	1-28-2002	31.20–31.22
153, § 1.1	3-24-2003	150.001
153, § 1.2	3-24-2003	150.002
153, § 1.3	3-24-2003	150.003
153, § 1.4	3-24-2003	150.020
153, § 1.5	3-24-2003	150.021
153, § 1.6	3-24-2003	150.022

Ord. No.	*Date Passed*	*Code Section*
153, § 1.7	3-24-2003	150.023
153, § 1.8	3-24-2003	150.024
153, § 1.9	3-24-2003	150.025
153, § 1.10	3-24-2003	150.026
153, § 1.11	3-24-2003	150.027
153, § 1.12	3-24-2003	150.028
153, § 1.13	3-24-2003	150.029
153, § 1.14	3-24-2003	150.030
153, § 1.15	3-24-2003	150.031
153, § 1.16	3-24-2003	150.032
153, § 1.17	3-24-2003	150.033
153, § 1.18	3-24-2003	150.034
153, § 1.19	3-24-2003	150.035
153, § 1.20	3-24-2003	150.036
153, § 1.21	3-24-2003	150.037
153, § 1.22	3-24-2003	150.038
153, § 1.23	3-24-2003	150.039
153, § 1.24	3-24-2003	150.040
153, § 1.25	3-24-2003	150.041
153, § 1.26	3-24-2003	150.042
153, § 1.27	3-24-2003	150.043
153, § 1.28	3-24-2003	150.044
153, § 1.29	3-24-2003	150.045
153, § 1.30	3-24-2003	150.046
153, § 1.31	3-24-2003	150.047
153, § 1.32	3-24-2003	150.048
153, § 1.33	3-24-2003	150.049
153, § 1.34	3-24-2003	150.050
153, § 1.35	3-24-2003	150.051
153, § 1.36	3-24-2003	150.052
153, § 1.37	3-24-2003	150.053
153, § 1.38	3-24-2003	150.054
153, § 1.40	3-24-2003	150.004
153, § 1.42	3-24-2003	150.005
153, § 2.1	3-24-2003	150.006
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