

**BLAINE, MN**

**(19960)**

# **COMPILED LEGAL REVIEW**

**Prepared by:  
Sandra S. Fox, Senior Code Attorney**



## **GENERAL COMMENTS AND GLOBAL RECOMMENDATIONS**

This and the following pages comprise the legal review of the city's code to which the following apply:

- Recommendations are indicated by strike-through (language is deleted) or underlining (language is added).
- If the reason for an instance of underline or strike-through is obvious or has been previously mentioned, no comment will be made. For all other strike-through or underlining instances, a comment will be included as a footnote.
- Definitions, severability provisions and penalty provisions throughout the code that duplicate of chapter 1, as well as effective dates and repealer provisions, should be removed as duplicative or simply unnecessary.
- Although the city uses a fee schedule, I have flagged a few fees that remain in the code. I recommend that all fees be removed and included the fee schedule.
- I question whether the fee schedule and all other appendices to this code are necessary. Could those be separately posted on the city's website or referred to as "on file" in an appropriate city office?
- This code contains numerous unnumbered subsections. I recommend that every subsection within sections of the code be numbered as appropriate to facilitate reference to the subsection and future amendments.
- Portions of this code are inconsistent with regard to numbering and general style format. If the city elects to recodify, I suggest that numbering and other style conventions be uniform throughout the code.
- There are numerous editorial state law references throughout the code, many of which serve little purpose with modern online search capability including state statutes. In addition, those general references require monitoring and update to conform to statute numbering and amendments. Consider removing some or all of such references.
- Many of the state law references described above are scattered throughout sections. I suggest that all state law references retained be combined at the end of each section so that no section has more than one separate state law reference sentence.
- Some sections of this code include source references within the section. I suggest that all source references (history notes) be combined into a single history note at the end of each section.



# **TABLE OF CHAPTERS AND APPENDICES**

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## SUMMARY OF FOOTNOTE COMMENTS AND RECOMMENDATIONS

### PART I. CHARTER

No changes to the city's charter are proposed; therefore, it is omitted from this compilation.

### PART II. CODE OF ORDINANCES

#### Chapter 1, General Provisions

**Generally.** Throughout the code, I suggest that charter and cross references and editorial notes regarding amendments be stricken. None of those tools is necessary now that the code is available electronically and has global search capability. Also, all citations should be updated to use the abbreviation M.S.A. instead of Minn. Stat.

**Sec. 1-2. Definitions and rules of construction.** Definitions throughout the code that duplicate those in this section should be stricken since this section applies to the code in its entirety.

**Sec. 1-7. General penalty; continuing violations.** Penalties throughout the code that merely duplicate this section, which applies to the code in its entirety, should be stricken.

**Sec. 1-8. Severability.** Provisions throughout the code that duplicate this section should be stricken since this section applies to the code in its entirety.

**Sec. 1-11. Certain ordinances not affected by Code.** The city should review this section to ensure that it encompasses all ordinances that are intended to remain active but omitted from codification.

## Chapter 2, Administration

**Sec. 2-1. Sale of lost or stolen articles.** I recommend creating a law enforcement chapter and moving this section and other police department related provisions into it.

**Sec. 2-31. Salaries of mayor and councilmembers.** This section is seven years old. If there has been a salary increase, it should be amended.

**Sec. 2-32. Workers' compensation coverage of councilmembers.** The cited statute does not exist. See suggested replacement cite.

**Sec. 2-71. Authority of community service officers to issue tags and citations.** This section, too, should be moved into a new law enforcement related chapter.

**Div. 2. Code of Ethics.** These provisions are quite old. Has the city adopted a revision of this code of ethics?

**Sec. 2-203. Penalties.** This section is duplicative of the general penalty provision in chapter 1.

**Sec. 2-241. Special board of review.** This section is amended per Ord. 21-2486 temporarily for purposes of legal review only. The ordinance still needs to be formally codified.

**Art. VIII. Criminal History Background Checks.** This article should be eliminated and the single section moved to the officers and employees article above.

## Chapter 6, Alcoholic Beverages.

**Generally.** I suggest additional articles as indicated.

**Sec. 6-33. Definitions.** The stricken definitions are included in M.S.A. § 340A.101 adopted above.

**Sec. 6-34. Nudity on the premises of licensed establishments prohibited.** This section should be grouped with organizational regulations below.

**Sec. 6-38. Kinds of liquor licenses.** Incorrect citation regarding wine licenses issued to bed and breakfast establishments should be corrected as shown.

**Sec. 6-52. License suspension or revocation, civil penalty, criminal penalty.** This section should be grouped with the license provisions above.

**Sec. 6-53. Further conditions for brewer taproom licenses; brew pub licenses.** This section should be grouped with license provisions above.

## Chapter 14, Animals

**Sec. 14-1. Definitions.** All definitions from throughout this chapter should be combined in this section. Also, regarding dangerous/potentially dangerous dogs:

- The highlighted regulatory provision regarding dangerous dogs is misplaced in the middle of a definition section and should be moved into a separate, topically appropriate section in the body of the chapter.
- The statutory acknowledgment in the definition of potentially dangerous dogs should be moved as shown for the same reason, i.e., it should not be incorporated in a subsection of a definition.
- The nondefinitional regulatory provisions regarding dangerous dogs should be moved into a separate article, along with other related provisions identified below.

**Sec. 14-2. Penalty for violation of chapter.** This section should be moved to the bottom of this article. Note that it covers the chapter in its entirety, so penalty provisions throughout the chapter that merely duplicate this section should be stricken.

**Sec. 14-4. Interference with animal control authority or police officer.** This section should be moved to article II, administration and enforcement.

**Sec. 14-43. Dangerous dog determination and appeal.** See prior footnote with regard to creating an article for dangerous dog related provisions.

**Sec. 14-44. Dangerous and potentially dangerous dog regulation.** See prior footnotes with regard to creating an article for dangerous dog related provisions.

**Sec. 14-45. Notification of death or transfer.** See prior footnotes with regard to creating an article for dangerous dog related provisions.

**Sec. 14-62. Redemption.** M.S.A. § 35.71 was repealed in 2012. See suggested correction.

**Sec. 14-101. Definitions.** These definitions conflict with the chapter definitions, are generally unnecessary, and should be stricken.

**Sec. 14-105. Rabies suspects generally; release.** The cited statute was renumbered in 1982 as shown.

**Sec. 14-173. Fees; illegal use of receipt or tag.** The fee in this section should be removed, as are other fees in the code, and included in the city's fee schedule.

**Sec. 14-221. Definitions.** This definition should be incorporated in the chapter definitions in article I and this section eliminated.

**Sec. 14-222. Penalty for violation of article.** This section is duplicative of the penalty provision in article I, applicable to the chapter in its entirety.

**Sec. 14-225. Prohibited animals.** As noted in other footnotes throughout the code, these constructions for "person" are unnecessary since "person" is broadly defined in chapter 1.

**Art. VI. Trapping of Animals.** The article should be collapsed into a single section and moved to article I.

**Sec. 14-261. Definitions.** The definitions should be added to the chapter definitions in article I.

**Sec. 14-262. Penalty for violation of article.** This is duplicative of the penalty provision in article I.

## **Chapter 18, Buildings and Building Regulations**

**Generally.** I suggest the chapter name change shown in the chapter.

**Art. I In General.** I would place all the sections in this article in article II in a division 1 (generally).

**Art. II. Building Code.** Statute renumbered in 2008.

**Sec. 18-41. State building code; adopted by reference.** Statute renumbered in 2008.

**Sec. 18-43. Permits and fees.** Statutes renumbered in 2008.

**Sec. 18-121. Required; exceptions.** M.S.A. § 324.40 was repealed in 1961. M.S.A. § 326.57 et seq. M.S.A. § 326.83 et seq., M.S.A. § 326.90, and M.S.A. § 326.242 were renumbered in 2008. Since this is an editorial reference, I suggest update and simplification as shown.

**Art. IV. Heating etc.** I would make this article a division in article II.

**Art. V, Plumbing.** I would make this article a division in article II.

**Sec. 18-192. Plumbing code adopted.** Statute renumbered in 2008. Correct as shown.

**Art. VI. Newspaper or Advertising Receptacles.** This article should be moved down in the chapter, below the construction related articles.

**Sec. 18-301. Definitions.** Definitions duplicative of chapter 1 should be stricken as shown.

**Art. IX, Swimming Pools.** I would make this article a division in article II.

**Art. X. Rental Dwellings.** This article should be moved down in the chapter, below the construction related articles.

**Sec. 18-511. Licensing and standards for sober living home.** This section seems misplaced here. The city may wish to consider establishing a “human relations and social services” chapter to house these types of provisions. Also in the section (and throughout the code), phrases such as “person, firm or corporation” should be changed to “person” since the term is defined in chapter 1 general definitions.

**Sec. 18-518. Reasonable accommodations.** This section, too, could be moved to a new human relations chapter as described above.

**Art. XI. Electrical.** This entire article could be made into a single section and placed in article II in a division 1 (generally).



## Chapter 22, Businesses

**Generally.** Mobile food trucks (Art. XII) and an amendment of peddlers, etc. (Art. VI) from Ord. No. 21-2485 are inserted in this draft temporarily for legal review purposes only. The ordinance still needs to be formally codified.

**Sec. 22-32. Severability.** This section is duplicative of chapter 1 general provisions and should be stricken.

**Sec. 22-56. Investigation fees.** The city uses a fee schedule. All fees throughout the code should be replaced with a reference to that schedule and the schedule updated to include all fees.

**Sec. 22-57. Fees.** See preceding footnote.

**Sec. 22-58. Granting.** For this and all city licenses that are issued only upon the approval of staff, the city should provide an avenue of appeal to the city council to avoid delegation of authority issues. The same applies to appeals of suspensions and revocations.

**Sec. 22-112. Application; fee; term; issuance or denial.** See preceding footnotes regarding providing an avenue of appeal to the city council.

**Sec. 22-203. Separability.** Section is duplicative of chapter 1 general provisions and should be stricken.

**Sec. 22-232. Application procedure.** This section (and article) does not indicate who determines whether the license will be issued, or suspended, or revoked. If it is a person or body other than the city council, an appeal avenue should also be established.

**Sec. 22-271. Purpose.** Throughout the code, all references to the “City of Blaine”, other than in chapter 1, should be changed to simply “city” since it is defined in chapter 1.

**Sec. 22-272. Definitions.** Definitions duplicative of chapter 1 definitions should be stricken.

**Sec. 22-273. Exceptions to definitions.** This section has been updated from Ord. No. 21-2485 in this draft temporarily for legal review purposes only. The ordinance still needs to be formally codified.

**Sec. 22-292. License ineligibility.** See Part III, Zoning. Since zoning is codified, it should be referred to as part of this code rather than a separate ordinance.

**Sec. 22-299. Severability.** Section is duplicative of chapter 1 general provisions and should be stricken.

**Art. IX, Therapeutic Massage.**

**Sec. 22-452. Severability.** Section is duplicative of chapter 1 general provisions and should be stricken.

## Chapter 26, Elections.

**Sec. 26-3. Political campaign signs.**

- Under recent federal case law and the case law of some states, including but not limited to *Reed v. Town of Gilbert*, 576 U.S. 155, 135 S.Ct 2218 (2015)(sign code differentiating between ideological, political, and temporary directional signs violated free speech guarantees), and sign regulations, such as this one, that turn on the content of the sign are constitutionally suspect.
- In addition, laws that burden political speech are “subject to strict scrutiny,” which requires the government to prove that the restriction “furthers a compelling interest and is narrowly tailored to achieve that interest.” *Federal Election Comm’n v. Wisconsin Right to Life, Inc.*, 551 U.S. 449 at 464, 127 S.Ct. 2652, 168 L.Ed.2d 329
- The city may wish to consider update of this sign regulation so that classes of signs are treated similarly, without regard to content. For instance, political signs could be grouped with other temporary signs and appropriate regulations, like those here, applied to the group as a whole without mention of the sign content.
- Note that in many jurisdictions, reasonable limitations on political and other temporary signs have been upheld (size, shape, number, duration of display, etc.)
- *But, see also, e.g.,* Café Erotica v. St. Johns County, 360 F.3d 1274 (11th Cir 2004)(ordinance limiting size of political messages to roughly 1/17 the size of

commercial ones violated First Amendment by discriminating against political speech in favor of commercial speech) and similar cases.

- Finally, this section should be moved and grouped with other sign regulations rather than placed in this elections chapter.

## Chapter 30, Emergency Management, etc.

**Generally.** This chapter is not styled and numbered consistently with the remainder of the code and should be corrected if the city elects to recodify.

**Sec. 30-32. Definitions.** Introductory text should be added as shown. Also, the definition of emergency management should be conformed to M.S.A. § 12.03 as shown.

**Sec. 30-34. Powers and duties of the director.** Unnecessary and dangling cite should be stricken.

**Sec. 30-35. Local emergencies.** Text is altered to make the provision local, rather than general.

**Sec. 30-39. Effective date.** Unnecessary and obsolete provision should be stricken as shown.

**Sec. 30-65. Alarm regulations.** Obsolete text should be stricken as shown.

## Chapter 34, Environment

**Generally.** Permits and licenses under this chapter that are issued or denied by city staff should be accompanied by an avenue of appeal of staff decisions to avoid delegation of authority issues.

**Art II, Public Nuisances.** The two sections in this article (this section and 34-32) should be combined and placed in article I, which will eliminate one article. Also, I suggest that the language of the statutes be inserted rather than adopted by reference, as shown.

**Art III, Blowing Sand etc.** This article, too, should be reduced to a single section placed in article I.

**Sec. 34-191. Definitions.** Citation should be completed as shown.

**Sec. 34-321. Definitions.** Statute was renumbered as shown in 2008.

**Sec. 34-566. Severability.** Section is duplicative of chapter 1 general provisions and should be stricken.

## **Chapter 38, Fire Prevention and Protection**

**Sec. 38-31. Adopted by reference.** Statute incorrectly cited should be corrected as shown.

**Sec. 38-83. Penalty.** Penalty duplicative of chapter 1 general penalties should be stricken as indicated.

**Sec. 38-84. Severability.** Provision duplicative of chapter 1 general provisions should be stricken as shown.

**Sec. 38-85. Effective date.** Unnecessary and obsolete section should be stricken as shown.

## **Chapter 42, Health and Sanitation**

**Sec. 42-32. Definitions and interpretations.** Text duplicative of chapter 1 rules of construction should be stricken as shown.

**Sec. 42-35. Severability and savings clause.** Section duplicative of chapter 1 general provisions should be stricken as shown.

## **Chapter 46, Manufactured Homes and Trailers**

**Sec. 46-122. Compliance by applicant with building code etc.** M.S.A. § 27.15 was repealed in 1996.

## Chapter 50, Offenses etc.

**Sec. 50-51. Definitions.** Definition of self-defining term should be stricken as shown.

**Sec. 50-52. Penalties for violation of division.** Duplicative penalty provisions should be stricken as shown.

**Div. 3. Residential picketing.** This division should be collapsed into a single section and moved to division 1.

**Section 50-72. Definitions.** The definition of targeted residential picketing in M.S.A. § 609.748 does not include the subdivision (3) included here.

**Div. 2. Weapons.** The definition of “weapons” includes “firearms” and the regulation of firearms, other than discharge, is preempted by M.S.A. § 471.633. The preemption does allow the city to adopt provisions identical to state law. The only provision of this section related to firearms prohibits concealed carry unless such carry is authorized by state law (M.S.A. § 624.714 carry prohibitions and exception for permit holders). That language may be sufficient to avoid statutory conflict. However, it may be clearer and therefore preferable to address firearms separately and track the exact statutory language that the city intends to apply within the city.

**Sec. 50-141. Defined.** Subsections (5) through (8) are not included in M.S.A. § 609.33, subd. 1, defining disorderly houses.

**Sec. 50-143. Evidence.** This section also does not conform to M.S.A. § 609.33, subd. 4.

**Sec. 50-181. Harassing telephone call.** I suggest this section be conformed to statute as indicated.

## Chapter 54, Parks and Recreation

**Sec. 54-1. Designation.** I recommend that these schedules be removed and replaced with language referring to them as “on file” in the appropriate office.

**Sec. 54-91. Definitions.** Definitions duplicative of chapter 1 general provisions should be stricken as shown.

**Sec. 54-96. Penalty.** This should be a reference to general penalties for code violation which also renders the section duplicative of those provisions since they apply to the code in its entirety. The section should be stricken as shown.

## **Chapter 58, Personnel.**

**Generally.** I recommend that personnel policy, which is not a matter of general public interest, be omitted from the code and collected in a personnel manual adopted by reference.

## **Chapter 66, Special Assessments**

**Generally.** This single section chapter should be eliminated and the section moved to the taxation chapter or the administration chapter finance article.

## **Chapter 70, Special Events etc.**

**Art. II, Special Events.** I suggest the article title be restored. The current title is too long to be useful as a title.

**Sec. 70-44. Exceptions.** Subsection (c) from Ord. No. 21-2485 is inserted in this draft temporarily for legal review purposes only. The ordinance still needs to be formally codified.

**Sec. 70-60. Findings, purpose, and intent.** Unnecessary text should be stricken as shown.

**Sec. 70-62. Definitions.** Definitions duplicative of chapter 1 definitions should be stricken as shown.

**Sec. 70-67. Registration information.** The cited statute was repealed effective August 1, 2006. See suggested correction.

**Sec. 70-88. Right-of-way vacation.** A single sentence section does not need a subcatchline.

**Sec. 70-95. Severability.** Section is duplicative of chapter 1 general provisions and should be stricken.

## **Chapter 74, Subdivisions**

**Sec. 74-1. Definitions.** Transposition error in citation should be corrected as shown.

**Sec. 74-43. Final plat.** Citation should be corrected as shown. M.S.A. § 505.02 was repealed in 2007.

## **Chapter 82, Traffic and Vehicles**

**Sec. 82-2. Violation of statutes adopted by reference.** This section and section 82-3 should be combined.

**Sec. 82-3. Adoption of state law by reference.** I do not understand the inclusion of Chapter 84 in this adoption section. It is topically unrelated and much of that chapter does not apply to the city.

**Sec. 82-6. Traffic commission—Establishment, membership, organization.** This section should be moved to article II (administration and enforcement) below.

**Art II. Administration etc.** This article should be reduced to contain two sections: 82-6 per preceding footnote and 82-61—82-62 combined into a single section.

**Sec. 82-61. Towing of illegally parked vehicles.** This section and section 82-62 should be combined into a single section.

**Art. II. Vehicle Operation.** This article should also be reduced to three sections with no divisions: 82-91, 82-111, and 82-112. Alternatively, and preferably, this article could be eliminated and the three sections moved to article I.

**Sec. 82-153. Truck parking in residential zones.** Statute was renumbered as shown in 2008.

**Sec. 82-154. Leaving vehicles on public park land at night.** Statute renumbered 169.11 in 2008, then repealed effective August 2014. See now 169.011.

**Sec. 82-192. Destruction of signs; illegally posting.** This section, applicable to the chapter, should be moved to article I.

**Art. VI. Traffic Visibility.** The two sections in this article should be combined and moved to article I, eliminating this article.

## **Chapter 86, Utilities**

**Art. I. In General.** This article has provisions that could be moved to a water and a sewer article, separately, rather than dropped into this catchall group. See highlighting for sections I would suggest grouping in other articles.

**Sec. 86-11. Definitions.** This section should be moved to the beginning of this article.

**Art. III. Connections to Systems.** I recommend establishing a separate water article and sewer article and sorting the provisions of this and other articles into those two articles as appropriate.

## **Chapter 90, Vegetation**

**Art. III, Shade Tree Management.** Statute cited was repealed in 2003. See suggested correction.

## **Chapter 99, Zoning**

### **Part III. Zoning.**

**Generally.** Zoning is a particularly technical topic of a necessarily local character, so there are few recommendations in this legal review for change to these provisions. With few exceptions, the recommendations in this chapter are editorial in nature. Note the following:

- Ord. No. 21-2489, waiting for codification, has not been inserted in this chapter since it did not impact legal review. I suggest the title of this part be changed as shown. The ordinance has been codified and should be referred to as such, rather than “ordinance”.



- The editor's note requires correction. See highlighted text.
- In the event the city elects to recodify its code in the future, I recommend that this part be renumbered consistently with the remainder of the code.
- In the meantime, this part could be styled so that it is consistent with the general code. (See, for example, the divergent number style, capitalization, and other conventions in the general code compared to this part 3.) They should be made consistent.
- I recommend dropping all source history notes to a single history note at the end of sections to make the sections more reader friendly while still maintaining complete source information.
- References to "the Blaine Code of Ordinances" should be changed to "this Code".

**22.01 Title.** Short titles are superfluous after codification.

**23.01 Purpose—Intent.** Here are throughout this chapter, "this ordinance" should be changed to "this chapter" or "this part."

**24.01 Rules.** Chapter 1 of this code applies to this part, so I recommend striking provisions that duplicate the chapter 1 provisions.

**25.01 Intent.** This section should be combined with section 25.02.

**25.02 Definitions.** Ord. No. 21-2489 is waiting to be codified in part in this section. It did not impact legal review so it is not inserted here. Also, I recommend that introductory text be added before these definitions (e.g., "The following words and phrases when used in this chapter shall have the meanings respectively ascribed to them in this section, except where the context otherwise requires." Finally, the definitions in this section that duplicate chapter 1 general code definitions should be stricken.

**25.02 Definitions—Senior assisted living facility.** Cited statute was repealed effective August 2021. See update. Also note that the term is now "assisted living facility" so this definition now needs to be moved into proper alphabetical place.

**26.03 Separability.** Duplicative of chapter 1 provisions and should be stricken.

**29.072 Permitted uses.** All statute citations throughout this chapter should be formatted for consistency and so that they will be flagged for and included in the table of state law citations that accompanies this code.

**32.01 Statutory authorization and purpose.** Superfluous language should be stricken as shown and statute citations conformed to a consistent style.

**32.02 General provisions.** Provisions duplicative of chapter 1 general provisions should be stricken as indicated.

**33.14 Overhead doors and loading spaces.** The term “right-of-ways” appears throughout this Code and should be corrected in all instances to “rights-of-way”.

**33.15 Soil erosion and sedimentation control.** Provisions duplicative of chapter 1 general provisions should be stricken.

## APPENDICES

**Appendix A, Local Acts.** See citation correction below, even though this is a legislative act. All state law citations throughout the code are included in the table of citations, thus correct citation is necessary.

**Section 8. Blaine housing and redevelopment authority.** Citation should be corrected as shown.

**Appendix B, Annexations and Detachments.** Is this appendix current? Is it necessary or could it be excluded from publication and kept on file in the appropriate city office?

**Appendix C, Franchises.** Since franchises are not of general interest to the public and are contracts rather than legislation, I recommend that they be excluded from codification to reduce the bulk of the code and the cost of its maintenance. The content of this appendix is omitted from this compilation and no changes are recommended.

**Appendix D, Fee Schedule.** The schedule from Ord. No. 21-2487 has been omitted from this compilation and does not impact legal review. It still needs to be formally codified. In the future, I recommend eliminating the code section column in that schedule as unnecessary which will reduce the need for update of the schedule as the code is amended from time to time.

## **<sup>1</sup>PART I CHARTER \***

**\*Editor's note**— Printed in this part is the city Charter, as adopted on November 3, 1964. Amendments are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original. Obvious misspellings have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines and citations to state statutes has been used. Additions for clarity are indicated by brackets.

**State Law reference**— Home rule charters, Minn. Stat. § 410.04 et seq.

CHAPTER 1. - NAME, BOUNDARIES, POWERS AND GENERAL PROVISIONS

CHAPTER 2. - FORM OF GOVERNMENT

CHAPTER 3. - PROCEDURE OF COUNCIL

CHAPTER 4. - NOMINATIONS AND ELECTIONS

CHAPTER 5. - INITIATIVE AND REFERENDUM

CHAPTER 6. - ADMINISTRATION OF CITY AFFAIRS

CHAPTER 7. - TAXATION AND FINANCE

CHAPTER 8. - PUBLIC IMPROVEMENTS AND SPECIAL ASSESSMENTS

CHAPTER 9. - EMINENT DOMAIN

CHAPTER 10. - FRANCHISES

CHAPTER 11. - PUBLIC OWNERSHIP AND OPERATION OF UTILITIES

CHAPTER 12. - MISCELLANEOUS AND TRANSITORY PROVISIONS

CHARTER COMPARATIVE TABLE

**[OMITTED FROM THIS COMPILATION]**

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<sup>1</sup> **Charter.** No changes to the city's charter are proposed; therefore, it is omitted from this compilation.

## <sup>2</sup>Chapter 1 GENERAL PROVISIONS

Sec. 1-1. Designation and citation of Code.

Sec. 1-2. Definitions and rules of construction.

Sec. 1-3. Catchlines of sections; history notes; references.

Sec. 1-4. Effect of repeal of ordinances.

Sec. 1-5. Amendments to Code; effect of new ordinances; amendatory language.

Sec. 1-6. Supplementation of Code.

Sec. 1-7. General penalty; continuing violations.

Sec. 1-8. Severability.

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

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

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

### Sec. 1-1. Designation and citation of Code.

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

(Code 1980, § 1-1)

~~Charter reference— Authority to codify, § 3.11.~~

**State Law reference—** Authority to codify, Minn. Stat. § 415.021.

### <sup>3</sup>Sec. 1-2. Definitions and rules of construction.

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

*Generally.* When provisions conflict, the specific shall prevail over the general. All provisions shall be liberally construed so that the intent of the city council may be effectuated. Words and phrases shall be construed according to the common and approved usage of the language, but technical words, technical phrases and words and phrases that have acquired peculiar and appropriate meanings in law shall be construed according to such meanings.

*Charter.* The terms "charter" and "city charter" means the charter of the City of Blaine, as amended.

*City.* The term "city" means the City of Blaine, Minnesota.

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<sup>2</sup> **Chapter 1, General Provisions: Global recommendations.** Throughout the code, I suggest that charter and cross references and editorial notes regarding amendments be stricken. None of those tools is necessary now that the code is available electronically and has global search capability. Also, all citations should be updated to use the abbreviation M.S.A. instead of Minn. Stat.

<sup>3</sup> **Sec. 1-2. Definitions and rules of construction.** Definitions throughout the code that duplicate those in this section should be stricken since this section applies to the code in its entirety.

*City council, council.* The terms "city council" and "council" means the council of the City of Blaine, Minnesota.

*Code.* The term "Code" means The Code of Ordinances, City of Blaine, Minnesota, as designated in section 1-1.

*Computation of time.* The provisions of Minn. Stat. §§ 645.13—645.151 apply to this Code, as mandated by such statutes.

*Conjunctions.* In a provision involving two or more items, conditions, provisions or events, which items, conditions, provisions or events are connected by the conjunctions "and," "or" or "either ... or," the conjunctions shall be interpreted as follows, except that when appropriate from the context, the terms "and" and "or" are interchangeable:

- (1) The term "and" indicates that all the connected terms, conditions, provisions or events apply.
- (2) The term "or" indicates that the connected terms, conditions, provisions or events apply singly or in any combination.
- (3) The term "either ... or" indicates that the connected terms, conditions, provisions or events apply singly but not in combination.

*County.* The term "county" means Anoka County, Minnesota.

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

*Following.* The term "following" means next after.

*Gender.* Terms of one gender include all other genders.

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

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

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

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

*Minn. Stat.* The abbreviation "Minn. Stat." means the Minnesota Statutes, as amended.

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

*Must.* The term "must" is to be construed as being mandatory.

*Number.* Terms in the singular include the plural. Terms in the plural include the singular.

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

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

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

*Person.* The term "person" means any human being, any governmental or political subdivision or public agency, any public or private corporation, any partnership, any firm, association or other

organization, any receiver, trustee, assignee, agent, or other legal representative of any of the foregoing or any other legal entity.

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

*Preceding.* The term "preceding" means next before.

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

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

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

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

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

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

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

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

*Tenant, occupant.* The terms "tenant" and "occupant," as applied to a building or land, include:

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

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

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

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

(Code 1980, § 1-2)

**State Law reference—** Interpretation of statutes generally, Minn. Stat. § 415.021.

**Sec. 1-3. Catchlines of sections; history notes; references.**

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

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

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

(Code 1980, §§ 1-4, 1-5)

**State Law reference**— Similar provisions, Minn. Stat. § 645.49.

#### **Sec. 1-4. Effect of repeal of ordinances.**

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

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

**State Law reference**— Similar provisions, Minn. Stat. §§ 645.35, 645.36.

#### **Sec. 1-5. Amendments to Code; effect of new ordinances; amendatory language.**

(a) All ordinances adopted subsequent to this Code that amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of the Code and printed for inclusion in the Code. Portions of this Code repealed by subsequent ordinances may be excluded from this Code by omission from reprinted pages affected thereby.

(b) Amendments to provisions of this Code may be made with the following language: "Section (chapter, article, division or subdivision, as appropriate) of The Code of Ordinances, City of Blaine, Minnesota is hereby amended to read as follows: ...."

(c) If a new section, subdivision, division, article or chapter is to be added to the Code, the following language may be used: "Section (chapter, article, division or subdivision, as appropriate) of The Code of Ordinances, City of Blaine, Minnesota is hereby created to read as follows: ...."

(d) All provisions desired to be repealed should be repealed specially by section, subdivision, division, article or chapter number, as appropriate, or by setting out the repealed provisions in full in the repealing ordinance.

~~**Charter reference**— Amendment and repeal of ordinances, § 3.10.~~

#### **Sec. 1-6. Supplementation of Code.**

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

- (b) In preparing a supplement to this Code, all portions of the Code that have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.
- (c) When preparing a supplement to this Code, the person authorized to prepare the supplement may make formal, nonsubstantive changes in ordinances and parts or ordinances included in the supplement, insofar as necessary to do so in order to embody them into a unified code. For example, the person may:
  - (1) Arrange the material into appropriate organizational units.
  - (2) Supply appropriate catchlines, headings and titles for chapters, articles, divisions, subdivisions and sections to be included in the Code and make changes in any such catchlines, headings and titles or in any such catchlines, headings and titles already in the Code.
  - (3) Assign appropriate numbers to chapters, articles, divisions, subdivisions and sections to be added to the Code.
  - (4) Where necessary to accommodate new material, change existing numbers assigned to chapters, articles, divisions, subdivisions or sections.
  - (5) Change the terms "this ordinance" or similar terms to "this chapter," "this article," "this division," "this subdivision," "this section" or "sections \_\_\_\_\_ to \_\_\_\_\_" (inserting section numbers to indicate the sections of the Code that embody the substantive sections of the ordinance incorporated in the Code).
  - (6) Make other nonsubstantive changes necessary to preserve the original meaning of the ordinances inserted in the Code.

(Code 1980, § 1-7)

**<sup>4</sup>Sec. 1-7. General penalty; continuing violations.**

- (a) In this section the term "violation of this Code" means any of the following:
  - (1) Doing an act that is prohibited or made or declared unlawful, an offense, a violation, petty misdemeanor or a misdemeanor by ordinance or by rule or regulation authorized by ordinance.
  - (2) Failure to perform an act that is required to be performed by ordinance or by rule or regulation authorized by ordinance.
  - (3) Failure to perform an act if the failure is prohibited or is made or declared unlawful, an offense, a violation, petty misdemeanor or a misdemeanor by ordinance or by rule or regulation authorized by ordinance.
  - (4) Counseling, aiding or abetting a violation of this Code as defined above.
- (b) In this section the term "violation of this Code" does not include the failure of a city officer or city employee to perform an official duty unless it is specifically provided that the failure to perform the duty is to be punished as provided in this section.
- (c) Except as otherwise provided by law or ordinance and unless declared by ordinance or state law to be a petty misdemeanor, a person convicted of a violation of this Code shall be punished by a fine of not more than \$1,000.00, imprisonment for a term not exceeding 90 days, or any combination thereof. Except as otherwise provided by law or ordinance, a violation of this Code that is a petty misdemeanor

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<sup>4</sup> **Sec. 1-7. General penalty; continuing violations.** Penalties throughout the code that merely duplicate this section, which applies to the code in its entirety, should be stricken.



shall be punished by a fine not exceeding \$300.00. In any case a person convicted of a violation of this Code shall pay the costs of prosecution. Except as otherwise provided by law or ordinance:

- (1) With respect to violations of this Code that are continuous with respect to time, each day that the violation continues is a separate offense.
- (2) With respect to violations of this Code that are not continuous with respect to time, each act is a separate offense.
- (d) The imposition of a penalty does not prevent suspension or revocation of a license, permit or franchise or other administrative sanctions.
- (e) Violations of this Code that are continuous with respect to time are a public nuisance and may be abated by injunctive or other equitable relief. The imposition of a penalty does not prevent injunctive relief.

(Code 1980, §§ 1-8, 1-9)

**State Law reference**— Authorized penalty for ordinance violations, Minn. Stat. §§ 410.33, 412.231, 609.0332, 609.034.

**<sup>5</sup>Sec. 1-8. Severability.**

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

(Code 1980, § 1-6)

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

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

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

- (a) Nothing in this Code or the ordinance adopting this Code affects any offense or act committed or done, any penalty or forfeiture incurred, or any contract or right established before the effective date of this Code.
- (b) The adoption of this Code does not authorize any use or the continuation of any use of a structure or premises in violation of any city ordinance on the effective date of this Code.

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<sup>5</sup> **Sec. 1-8. Severability.** Provisions throughout the code that duplicate this section should be stricken since this section applies to the code in its entirety.

**<sup>6</sup>Sec. 1-11. Certain ordinances not affected by Code.**

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

- (1) Amending the city charter.
- (2) Annexing property into the city.
- (3) Deannexing property or excluding property from the city.
- (4) Providing for salaries or other employee benefits not codified in this Code.
- (5) Promising or guaranteeing the payment of money or authorizing the issuance of bonds or other instruments of indebtedness.
- (6) Authorizing or approving any contract, deed, or agreement.
- (7) Making or approving any appropriation or budget.
- (8) Granting any right or franchise.
- (9) Vacating any easement or park land.
- (10) Adopting or amending the comprehensive plan.
- (11) Levying or imposing any special assessment.
- (12) Dedicating, establishing naming, locating, relocating, opening, paving, widening, repairing or vacating any street.
- (13) Establishing the grade or any street or sidewalk.
- (14) Dedicating, accepting or vacating any plat or subdivision.
- (15) Levying, imposing or otherwise relating to taxes not codified in this Code.
- (16) Establishing traffic regulations for specific locations not codified in this Code.
- (17) Relating to zoning including, but not limited to, ordinances rezoning property and the basic zoning ordinance and amendments thereto.
- (18) That is temporary, although general in effect.
- (19) That is special, although permanent in effect.
- (20) The purpose of which has been accomplished.

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<sup>6</sup> **Sec. 1-11. Certain ordinances not affected by Code.** The city should review this section to ensure that it encompasses all ordinances that are intended to remain active but omitted from codification.

## Chapter 2 ADMINISTRATION \*

~~\*Cross reference—Any ordinance authorizing or approving any contract, deed, or agreement saved from repeal, § 1-11(6); administration and enforcement of animals, § 14-41 et seq.; administration and enforcement of residential maintenance code, § 18-321 et seq.; elections, ch. 26; administration and enforcement of manufactured homes and trailers, § 46-41 et seq.; personnel, ch. 58; special assessments, ch. 66; traffic and vehicles, ch. 82; administration and enforcement of traffic and vehicles, § 82-41 et seq.; utilities, ch. 86; local acts, app. A; annexations and detachments, app. B.~~

**State Law reference—** Classification of cities and home rule charter, Minn. Stat. ch. 410.

ARTICLE I. - IN GENERAL

ARTICLE II. - CITY COUNCIL

ARTICLE III. - OFFICERS AND EMPLOYEES

ARTICLE IV. - FINANCE

ARTICLE V. - ORDINANCE VIOLATIONS

ARTICLE VI. - BOARDS AND COMMISSIONS

ARTICLE VII. - CRIMINAL HISTORY BACKGROUND CHECKS

### ARTICLE I. IN GENERAL

[Sec. 2-1. Sale of lost or stolen articles.](#)

[Secs. 2-2—2-30. Reserved.](#)

#### <sup>7</sup>Sec. 2-1. Sale of lost or stolen articles.

The police chief shall hold a public auction or sale of all lost, abandoned or unclaimed articles turned into the police department and stolen articles recovered by the police department which are not claimed or returned to their rightful owner. The sale shall consist of such property that has remained unclaimed for a period of at least 60 days. The proceeds from such sale shall be deposited with the director of finance of the city and become a part of the city's general revenue fund, provided that the former owner of the property shall be entitled to the payment of the sale price of the property, as determined by the police chief, within six months of the sale. Notice of such public auction or sale shall be given in a legal newspaper at least ten days prior to such sale. If the sale is by public auction, the notice shall describe the property found or recovered and to be sold, and shall specify the time and place of the sale. The method and date of the sale shall be determined by the police chief, and such sale may be by either public auction or sale. The property may be sold or auctioned as individual items or in bulk units.

(Code 1963, § 75.01; Code 1980, § 8-1; Ord. No. 161, 8-15-1968; Ord. No. 88-1109, 12-15-1988)

**State Law reference—** Authority to provide for disposal of unclaimed property and minimum requirements therefor, Minn. Stat. § 471.195.

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<sup>7</sup> **Sec. 2-1. Sale of lost or stolen articles.** I recommend creating a law enforcement chapter and moving this section and other police department related provisions into it.

**Secs. 2-2—2-30. Reserved.**

**ARTICLE II. CITY COUNCIL \***

\***Charter reference**— Council, § 2.03 et seq.

**Sec. 2-31. Salaries of mayor and councilmembers.**

**Sec. 2-32. Workers' compensation coverage of councilmembers.**

**Sec. 2-33. Rules of order and procedure.**

**Sec. 2-34. Hearing prior to bond issuance for recreational facilities.**

**Secs. 2-35—2-70. Reserved.**

**<sup>8</sup>Sec. 2-31. Salaries of mayor and councilmembers.**

Pursuant to the City Charter, section 2.07, and Minn. Stat. § 415.11, as amended, the salary of the mayor shall be increased to \$1,192.80 per month; and the salary of the councilmembers shall be increased to \$875.00 per month, effective January 2015.

(Code 1963, § 111.01; Code 1980, § 2-3; Ord. No. 342, 12-20-1973; Ord. No. 743, 10-29-1981; Ord. No. 83-811, 12-1-1983; Ord. No. 84-848, 12-20-1984; Ord. No. 85-911, 12-5-1985; Ord. No. 86-993, 11-20-1986; Ord. No. 87-1057, 12-17-1987; Ord. No. 89-1138, 4-20-1989; Ord. No. 90-1183, 1-18-1990; Ord. No. 91-1244, 1-17-1991; Ord. No. 92-1275, 2-6-1992; Ord. No. 92-1315, 1-7-1993; Ord. No. 93-1495, 1-6-1994; Ord. No. 94-1544, 1-5-1995; Ord. No. 95-1585, 12-21-1995; Ord. No. 96-1624, 1-2-1997; Ord. No. 97-1692, 1-8-1998; Ord. No. 98-1765, 1-7-1999; Ord. No. 99-1825, 12-16-1999; Ord. No. 01-1934, 1-3-2002; Ord. No. 04-2028, 10-21-2004; Ord. No. 06-2073, 2-2-2006; Ord. No. 14-2288, 9-18-2014)

**<sup>9</sup>Sec. 2-32. Workers' compensation coverage of councilmembers.**

Pursuant to ~~M.S.A. ch. 176 Minn. Stat. § 175.011, subd. 9(6)~~, the members of the council are hereby provided workers' compensation coverage while engaged in the course of their duties as elected officials of the city.

(Code 1963, § 111A.01; Code 1980, § 2-4; Ord. No. 395, 9-19-1974)

**Sec. 2-33. Rules of order and procedure.**

The following rules of order and procedure shall govern the deliberations and the meetings of the council and of committees thereof:

- (1) Regular meetings of the council shall be held on the first and third Mondays of each month at the hour of 7:30 p.m. Any regular meeting falling upon a legal holiday shall be held within seven days following the legal holiday at the same hour.

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<sup>8</sup> **Sec. 2-31. Salaries of mayor and councilmembers.** This section is seven years old. If there has been a salary increase, it should be amended.

<sup>9</sup> **Sec. 2-32. Workers' compensation coverage of councilmembers.** The cited statute does not exist. See suggested replacement cite.

- (2) The council may, by a majority vote of those present, adjourn from time to time to a certain special date and hour, and no notice is required to be served in the case of adjourned meetings.
- (3) The council shall determine the order in which business shall be conducted at council meetings. In the absence of a secretary, the mayor, or the president pro tem, in the absence of the mayor, shall appoint a secretary pro tem.
- (4) The proceedings of the meeting shall be conducted in accordance with the parliamentary rules contained in Robert's Rules of Order, Newly Revised, unless otherwise provided by statute or by these rules; except that failure to comply with such Robert's Rules of Order, Newly Revised, shall not invalidate any council action.

(Code 1963, § 110.01; Code 1980, § 2-1; Ord. No. 475, 10-16-1975; Ord. No. 481, 1-20-1975; Ord. No. 86-997, 12-18-1986; Ord. No. [ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=940155&datasource=ordbank" web="yes">18-2422 </ulink>](http://newords.municode.com/readordinance.aspx?ordinanceid=940155&datasource=ordbank), 2-7-2019)

~~Charter reference—Council procedure, ch. 3.~~

#### **Sec. 2-34. Hearing prior to bond issuance for recreational facilities.**

Prior to authorization by the city to issue bonds pursuant to Minn. Stat. §§ 471.15—471.191, the council shall hold a public hearing preceded by two publications in the legal newspaper of a notice stating the general nature of the proposal. The two publications shall be a week apart and the hearing shall be at least three days after the last publication.

(Code 1963, § 110.02; Code 1980, § 2-2; Ord. No. 564, 8-3-1978)

**State Law reference**— Public indebtedness, Minn. Stat. ch. 475; referendum required for certain bond issues, Minn. Stat. § 475.58; notice of bond referenda, Minn. Stat. §§ 475.59, 205.16.

**Secs. 2-35—2-70. Reserved.**

### **ARTICLE III. OFFICERS AND EMPLOYEES \***

~~\*Charter reference—City manager, § 6.01 et seq.~~

~~Cross reference—Any ordinance providing for salaries or other employee benefits not codified in this Code saved from repeal, § 1-11(4).~~

DIVISION 1. - GENERALLY  
DIVISION 2. - CODE OF ETHICS

#### ***DIVISION 1. GENERALLY***

[Sec. 2-71. Authority of community service officers to issue tags and citations.](#)

[Secs. 2-72—2-90. Reserved.](#)

**<sup>10</sup>Sec. 2-71. Authority of community service officers to issue tags and citations.**

In addition to all other authority vested in community service officers employed by the city pursuant to ordinance or statute, community service officers shall have the authority to issue citations or tags for violations of statutes or ordinances in lieu of arrest or continued detention.

(Code 1980, § 2-8; Ord. No. 88-1062, 2-4-1988)

**Secs. 2-72—2-90. Reserved.**

**<sup>11</sup>DIVISION 2. CODE OF ETHICS**

**Sec. 2-91. Penalty.**

**Sec. 2-92. Purpose of division.**

**Sec. 2-93. Scope of persons covered.**

**Sec. 2-94. Exemptions.**

**Sec. 2-95. Standards of conduct.**

**Sec. 2-96. Disclosures.**

**Sec. 2-97. Form.**

**Secs. 2-98—2-130. Reserved.**

**Sec. 2-91. Penalty.**

Any person who shall violate any of the provisions of this division shall be guilty of a misdemeanor.

(Code 1963, § 114A.07; Code 1980, § 2-36; Ord. No. 647, 8-2-1979)

**State Law reference**— Penalty for ordinance violations, Minn. Stat. §§ 410.33, 412.231, 609.0332, 609.034.

**Sec. 2-92. Purpose of division.**

The council confirms its determination that ethical standards among its members, as well as the members of the various commissions of the city, are essential to the public affairs of the city. The purpose of this division is to establish ethical standards of conduct for city officials by setting forth those acts or actions that are incompatible with the best interests of the city and by directing disclosure by such officials of private, financial or other interests in matters affecting the city. By eliminating conflicts of interest and providing a guide for conduct in city matters, the council hopes to promote the faith and confidence of the citizens of the city in their government. This division is hereby declared to be in the best interests of the city.

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<sup>10</sup> **Sec. 2-71. Authority of community service officers to issue tags and citations.** This section, too, should be moved into a new law enforcement related chapter.

<sup>11</sup> **Div. 2. Code of Ethics.** These provisions are quite old. Has the city adopted a revision of this code of ethics?

(Code 1963, § 114A.01; Code 1980, § 2-30; Ord. No. 647, 8-2-1979)

**Sec. 2-93. Scope of persons covered.**

The provisions of this division shall be applicable to all members of the council, charter commission, all advisory commission and committee members and top level city employees defined as the city manager, department managers, city attorney, and supervisory city employees, specifically directors, police chief, city clerk, and chief building official.

(Code 1963, § 114A.02; Code 1980, § 2-31; Ord. No. 647, 8-2-1979; Ord. No. 14-2277, 1-16-2014)

**Sec. 2-94. Exemptions.**

This division shall not be construed to require the filing of any information relating to any person's connection with, or interest in, any professional society or any charitable, religious, social, fraternal, educational, recreational, public service, civic or political organization, or any similar organization not conducted as a business enterprise or governmental agency, and which is not engaged in the ownership or conduct of such a business enterprise or governmental agency.

(Code 1963, § 114A.05; Code 1980, § 2-34; Ord. No. 647, 8-2-1979)

**Sec. 2-95. Standards of conduct.**

- (a) No councilmember or member of any board or commission or covered city employee shall use such position to secure special privileges, or exemptions for such person or others.
- (b) No councilmember or member of a board or commission or covered city employee in any matter before the council, board or commission which affects such member's or employee's financial interests or those of a business with which such member or employee is associated, unless the effect on such member or employee is no greater than on other members of such member's or employee's business classification, profession or occupation, shall fail to disclose for the common good for the record such interest prior to any discussion or vote.
- (c) No councilmember or member of a board or commission or covered city employee shall act as an agent or attorney for another in any matter before the council or any board or commission in which a conflict of interest exists or may exist.
- (d) No councilmember or commissioner or covered city employee shall directly or indirectly receive, or agree to receive, any compensation, gift or reward or gratuity in any matter or proceeding connected with, or related to, the duties of such member's or employee's office except as may be provided by law.
- (e) No councilmember or member of any board or commission or covered city employee shall enter into any contract with the city, except as specifically authorized in Minn. Stat. § 471.88. Any councilmember or member of a board or commission or covered city employee who has a proprietary interest in any agency doing business with the city shall make known that interest in writing to the council and the city clerk.

(Code 1963, § 114A.03; Code 1980, § 2-32; Ord. No. 647, 8-2-1979)

**State Law reference**— Prohibited interests in contracts, Minn. Stat. § 471.87 et seq.

**Sec. 2-96. Disclosures.**

No later than 30 days after qualification for or appointment to office, or 30 days after the acquisition or sale of any real property, or 30 days after a change in the statement as originally filed, each councilmember or member of a board or commission or covered city employee, shall file as a public record with the city clerk a list of all real property in the city, owned by such person, such person's spouse, or minor child, or in which such person, such person's spouse, or minor child has a legal or equitable title, disclosing each property owned and the owner of same. Each councilmember and member of a board or commission or covered city employee shall disclose all positions as officer, director, partner, proprietor or employee of any company, business enterprise or corporation, partnership, labor union or association doing business with the city, and indicate with respect to each such relationship whether services are gratuitous or for compensation.

(Code 1963, § 114A.04; Code 1980, § 2-33; Ord. No. 647, 8-2-1979)

**Sec. 2-97. Form.**

The disclosure information required in this division shall be set forth on the following form which shall be made available by the office of the city clerk, and upon completion thereof by a councilmember or member of a board or commission or covered city employee, shall be filed with the city clerk:

**"Real Property Owned in the City of Blaine**

List real property owned or being purchased by the councilmember or commissioner or covered city employee, spouse, or minor child, or in which such person has a legal or equitable title. The actual value of any property is not required.

Property		Location
	Assets	

Identify all ownership or interests in corporation or other business enterprises or agencies doing business with the City of Blaine.

Name of Organization	Affiliations
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Corporation, proprietorships, partnerships, labor unions or associations with organizations doing business with the City of Blaine with which the councilmember or commissioner or covered city employee has an affiliation as officer, director, proprietor, partner or employee (including such position held by spouse).

Name of Organization	Position Held	Compensation Involved? Yes or No"
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(Code 1963, § 114A.06; Code 1980, § 2-35; Ord. No. 647, 8-2-1979)

Secs. 2-98—2-130. Reserved.

#### ARTICLE IV. FINANCE \*

~~\*Charter reference—Taxation and finance, ch. 7.~~

~~Cross reference—Any ordinance promising or guaranteeing the payment of money or authorizing the issuance of bonds or other instruments of indebtedness saved from repeal, § 1-11(5); any ordinance making or approving any appropriation or budget saved from repeal, § 1-11(7); taxation, ch. 78.~~

State Law reference—Municipal finance and taxation, Minn. Stat. ch. 426; depositories, Minn. Stat. ch. 427.

#### DIVISION 1. - GENERALLY

#### DIVISION 2. - CAPITAL IMPROVEMENTS FUND

##### ***DIVISION 1. GENERALLY***

Secs. 2-131—2-150. Reserved.

Secs. 2-131—2-150. Reserved.

##### ***DIVISION 2. CAPITAL IMPROVEMENTS FUND \****

~~\*Charter reference—Taxation and finance, ch. 7; public improvements and special assessments, ch. 8; official bonds, § 12.04; sales of real property, § 12.05.~~

Sec. 2-151. Created.

Sec. 2-152. Expenditure limitations.

Sec. 2-153. Expenditure procedure.

Sec. 2-154. Amendments.

Secs. 2-155—2-180. Reserved.

Sec. 2-151. Created.

There is hereby created a separate fund to be designated as the "capital improvement fund" (CIF). The purpose of the fund is to create an endowment from which future interest earnings fund projects or programs pursuant to city council priorities. The fund shall be maintained in the official city records and administered by the city manager in accordance with the following provisions of this division:

The principal of the fund shall consist of all funds currently accounted for in the CIF. In addition, the fund principal shall be increased annually by an amount equal to ten percent of the investment earnings generated by the fund in the previous year. The remaining investment earnings shall be made available for funding council-approved projects or programs pursuant to section 2-152.

In addition to funds currently on hand in the CIF, the city council may at any time and at its discretion, direct that funds be deposited into the CIF. Once deposited into the CIF, the funds shall be considered endowed funds for the purpose of generating investment earnings.

(Code 1980, § 8-2; Ord. No. 95-1576, 10-5-1995; Ord. No. 13-2267, 7-11-2013)

#### **Sec. 2-152. Expenditure limitations.**

It is intended that the fund act as an endowment and that expenditures from the fund primarily be made from accumulated investment earnings. Expenditures from accumulated investment earning shall be made upon the adoption of a resolution approved by an affirmative vote of at least five councilmembers.

Expenditures may be made from fund principal by an affirmative vote of at least six members of the city council and may not exceed 50 percent of the fund's balance. At no time shall those funds considered to be principal funds of the CIF be allowed to fall below a balance of \$5,000,000.00. Principal expenditures may either be structured as an inter-fund loan to be repaid, or as an inter-fund grant, the repayment of which is not required. No further expenditures of any kind may be made from the fund until any required inter-fund loan payments or investment earnings have reestablished the fund's balance at an amount equal to that existing before the expenditures plus ten percent of the investment earnings that would have been earned per year if the principal had not been reduced.

(Code 1980, § 8-3; Ord. No. 95-1576, 10-5-1995; Ord. No. 98-1745, 10-1-1998; Ord. No. 00-1858, 11-7-2000; Ord. No. 13-2267, 7-11-2013)

#### **Sec. 2-153. Expenditure procedure.**

Expenditures may be made from fund principal only after careful deliberation of the city council and only after compliance with the following procedures:

- (1) The city council must conduct a public hearing to obtain public comment on the matter
- (2) A notice of the city's intention to use the fund and the date and time of the public hearing to obtain public comment on the matter must be published in the official newspaper of the city or in a manner as prescribed and allowed by state statutes and on the official website of the city at least 14 but not more than 28 days before the hearing, or in a manner as prescribed and allowed by state statutes.
- (3) The city may expend from the CIF only after obtaining the approval of a majority of the voters voting on the question if a petition requesting a vote on the issuance is signed by a number of voters equal to or greater than ten percent of the votes cast in the city in the last general election and is filed with the city clerk within 30 days after the public hearing.

The city council must identify that the project has sufficient community-wide benefit which is consistent with other city goals, programs, or policies and incorporate this into an authorizing resolution adopted by an affirmative vote of at least six councilmembers.

(Code 1980, § 8-4; Ord. No. 95-1576, 10-5-1995; Ord. No. 00-1858, 11-7-2000; Ord. No. 13-2267, 7-11-2013)

~~Editor's note — Ord. No. 13-2267, adopted July 11, 2013, amended the title of § 2-153 to read as set out herein. Previously § 2-153 was titled funding procedure.~~

**Sec. 2-154. Amendments.**

No amendments may be made to any section of this article except upon the affirmative vote of at least six members of the council.

(Code 1980, § 8-5; Ord. No. 95-1576, 10-5-1995; Ord. No. 13-2267, 7-11-2013)

**Secs. 2-155—2-180. Reserved.**

**ARTICLE V. ORDINANCE VIOLATIONS**

**DIVISION 1. - GENERALLY**

**DIVISION 2. - ADMINISTRATIVE ADJUDICATION OF ORDINANCE VIOLATIONS**

***DIVISION 1. GENERALLY***

[Secs. 2-181—2-200. Reserved.](#)

**Secs. 2-181—2-200. Reserved.**

***DIVISION 2. ADMINISTRATIVE ADJUDICATION OF ORDINANCE VIOLATIONS***

[Sec. 2-201. Purpose.](#)

[Sec. 2-202. Definitions and procedures.](#)

[Sec. 2-203. Penalties.](#)

[Sec. 2-204. Issuance of ordinance violation summons.](#)

[Sec. 2-205. Citizen complaints.](#)

[Secs. 2-206—2-240. Reserved.](#)

**Sec. 2-201. Purpose.**

Administrative offense procedures established pursuant to this article are intended to provide the public and the city with an informal, cost effective and expeditious alternative to traditional criminal charges for violations of certain ordinance provisions. The procedures are intended to be voluntary on the part of those who have been charged with administrative offenses. At any time prior to the payment of the administrative penalty as is provided for hereafter, the individual may withdraw from participation in the procedures in which event the city, in its discretion, may choose not to continue an administrative offense and may bring civil or criminal charges in the first instance. If a party participates in the administrative offense procedures but does not pay the monetary penalty which may be imposed, the city will seek to collect the costs of the administrative offense procedures as part of a subsequent criminal sentence if the party is charged and is found guilty of the criminal violation.

(Code 1980, § 2-41; Ord. No. 99-1804, 8-19-1999)

**Sec. 2-202. Definitions and procedures.**

- (a) *Administrative offense defined.* An administrative offense is a violation of a provision of the city Code of Ordinances and/or building and/or zoning codes and is subject to the administrative penalties set forth in the schedule of offenses and penalties referred to in subsection (h) of this section.
- (b) *Notice of administrative citation.* Any officer of the police department or any other person employed by the city, authorized in writing by the city manager, and having authority to enforce this code, shall, upon determining that there has been a violation, notify the violator, or in the case of a vehicular violation, attach to the vehicle a notice of the violation. Such notice shall set forth the nature, date and time of violation, the name of the official issuing the notice of administrative citation and the amount of the scheduled penalty.
- (c) *Payment.* Once such notice is given, the alleged violator may, within 14 calendar days of the time of issuance of the notice, pay the amount set forth on the schedule of penalties for the violation, or may request a hearing in writing, as is provided for hereafter. The penalty may be paid in person or by mail. Payment by mail must be received by the city no later than 14 calendar days from the date of notice. Payment shall be deemed to be an admission of the violation.
- (d) *Hearing.* Any person contesting an administrative offense pursuant to this section may, within 14 calendar days of the time of issuance of the notice, request a hearing by a hearing officer who shall forthwith conduct an informal hearing to determine if a violation has occurred. The hearing officer shall have authority to dismiss the violation or reduce or waive the penalty. If the violation is sustained by the hearing officer, the violator shall pay the penalty imposed at the time of the hearing or within seven calendar days of the hearing, or in accordance with the payment schedule established by the hearing officer.
- (e) *Hearing officer.* A city employee or other qualified person designated in writing by the city manager shall be the hearing officer. The hearing officer is hereby empowered to hear any contest brought forward under subsection (d) of this section.
- (f) *Failure to pay.* If a party charged with an administrative offense fails to pay the penalty, a misdemeanor or petty misdemeanor charge may be brought against the alleged violator in accordance with applicable statutes and/or the city Code of Ordinances. If the penalty is paid or if an individual is found not to have committed the administrative offense by the hearing officer, no such charge may be brought by the city for the same violation.
- (g) *Disposition of penalties.* All penalties collected pursuant to this section shall be paid to the city and will be deposited in the city's general fund.
- (h) *Offenses and penalties.* Offenses which may be charged as administrative offenses, and the penalties for such offenses will be established by the council. Copies of such offenses and penalties shall be maintained in the office of the city clerk.
- (i) *Subsequent offenses.* If a party is charged with a subsequent administrative offense within a 12-month period of paying an administrative penalty for the same or substantially similar offense, the subsequent penalty shall be increased by 25 percent above the previous administrative penalty.

(Code 1980, § 2-42; Ord. No. 99-1804, 8-19-1999; Ord. No. 00-1868, 8-17-2000)

~~Cross reference—Definitions generally, § 1-2.~~

**<sup>12</sup>Sec. 2-203. Penalties.**

Persons electing not to participate in the administrative municipal court offenses process may be subject to the following penalties:

- (1) *General offense.* Unless otherwise provided, any person violating any provision of this Code shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in section 1-7.
- (2) *Petty offense.* A petty offense is an offense which is prohibited by statute which does not constitute a crime and is classified as a petty misdemeanor for which a sentence of a fine of not more than \$300.00 or any different amounts adopted by statute may be imposed.

(Code 1980, § 2-43; Ord. No. 99-1804, 8-19-1999)

**State Law reference—** Penalty for ordinance violations, Minn. Stat. §§ 410.33, 412.231, 609.0332, 609.034.

**Sec. 2-204. Issuance of ordinance violation summons.**

The persons named in this section as employees or agents of the city shall have power to issue summons with complaints incorporated therein (citations) in the form adopted by rule by the administrative municipal court, but such issuance by those named shall relate only to offenses involving the city Code including, but not limited to: building construction, operation or maintenance; fire and fire prevention; public health and sanitation; and zoning. No such employee or agent authorized to issue such summons shall be authorized to arrest or otherwise take a violator into custody or to secure a promise to appear in court in lieu of arrest. Those authorized are as follows:

Chief building official/building officials

City engineer/assistant city engineer

Code compliance officers

Community service officers

Director of community development

Fire marshal/deputy fire marshal

Forester

Police officers

Other employees or agents of the city specifically designated, in writing, by the city manager shall also have such authority.

(Code 1980, § 2-44; Ord. No. 99-1804, 8-19-1999; Ord. No. 00-1868, 8-17-2000)

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<sup>12</sup> **Sec. 2-203. Penalties.** This section is duplicative of the general penalty provision in chapter 1.

**Sec. 2-205. Citizen complaints.**

Any city resident is hereby granted authority under this division to be the citing party for purposes of issuing notices of violation or citations. The resident signing the citation shall be responsible to appear before the hearing officer if a municipal court hearing is requested by the alleged violator.

(Code 1980, § 2-45; Ord. No. 00-1868, 8-17-2000)

**Secs. 2-206—2-240. Reserved.**

**ARTICLE VI. BOARDS AND COMMISSIONS \***

~~\*Charter reference—Boards and commissions, § 2-02.~~

~~Cross reference—License board; investigatory and license granting procedure for intoxicating liquor, § 6-68; board of health, § 42-1; park board, § 54-31 et seq.~~

**Sec. 2-241. Special board of review.**

**Secs. 2-242—2-250. Reserved.**

<sup>13</sup>**Sec. 2-241. Special board of review.**

Pursuant to section 7.04 of the city charter and Minn. Stat. § 274.01, subd. 3, the city transfers its local board powers and duties to the county board for at least the minimum period of three years as outlined by state law.

(Code 1980, § 2-9; Ord. No. 93-1333, 1-20-1994; Ord. No. 21-2486, 12-6-2021—Inserted here for purposes of legal review only)

**Secs. 2-242—2-250. Reserved.**

<sup>14</sup>**ARTICLE VII. CRIMINAL HISTORY BACKGROUND CHECKS \***

~~\*Editor's note—Ord. No. 10-2214, adopted Dec. 2, 2010, did not specifically amend the Code; hence, inclusion herein as Art. VII, § 2-251, was at the editor's discretion.~~

**Sec. 2-251. Policy.**

**Sec. 2-251. Policy.**

(a) *Criminal history background investigations.* The Blaine Police Department shall conduct criminal history background investigations on:

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<sup>13</sup> **Sec. 2-241. Special board of review.** This section is amended per Ord. 21-2486 temporarily for purposes of legal review only. The ordinance still needs to be formally codified.

<sup>14</sup> **Art. VIII. Criminal History Background Checks.** This article should be eliminated and the single section moved to the officers and employees article above.

- (1) Volunteers working with the city, including, but not limited to: Reserves; Explorers; Citizen Academy applicants; Blaine Public Safety Association members; ride-along applicants and Crime Watch Block Captains; any of whom may have certain access to police data.
  - (2) Applicants for city licenses, including, but not limited to: tobacco, peddler and transient merchant/circus licenses.
- (b) *Conducting criminal history background checks.* In conducting the criminal history background investigation the chief of police, or his or her designee, is authorized to access data maintained in the Minnesota Bureau of Criminal Apprehensions Computerized Criminal History information system in accordance with BCA policy. Any data that is accessed and acquired shall be maintained at the police department under the care and custody of the chief law enforcement official, or his or her designee. A summary of the results of the computerized criminal history data may be released by the police department to the human resources department, the licensing authority, the city council, the city clerk, or other city staff involved in the license or volunteer approval process.

(Ord. No. 10-2214, 12-2-2010)

## <sup>15</sup>Chapter 6 ALCOHOLIC BEVERAGES \*

~~\*Cross reference—Businesses, ch. 22; consuming intoxicating beverage in public, § 50-2; alcoholic beverages in public parks, § 54-73.~~

**State Law reference—**Alcoholic beverages generally, Minn. Stat. ch. 340A; local supplemental regulations on sale and possession of alcoholic beverages authorized, Minn. Stat. § 340A.509.

### ARTICLE I. - IN GENERAL

### ARTICLE II. - ~~LICENSES INTOXICATING LIQUOR AND 3.2 PERCENT MALT LIQUOR~~

### ARTICLE III. OPERATION REGULATIONS

#### ARTICLE I. IN GENERAL

~~Secs. 6-1—6-30. Reserved.~~

#### ~~ARTICLE II. INTOXICATING LIQUOR AND 3.2 PERCENT MALT LIQUOR \*~~

~~\*Editor's note—Ord. No. 07-2136, adopted July 19, 2007, set out provisions designated as a new ch. 6. For purposes of classification, and with the permission of the city, these provisions have been included as art. II of ch. 6 and the original chapter title has been retained. Former ch. 6 pertained to similar subject matter and consisted of §§ 6-31—6-36, 6-61—6-77, 6-111—6-115 and 6-141—6-153. The derivation of former ch. 6 can be found in the comparative tables at the back of this volume.~~

~~Sec. 6-31. Adoption of state law by reference.~~

~~Sec. 6-32. City may be more restrictive than state law.~~

~~Sec. 6-33. Definitions.~~

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<sup>15</sup> Chapter 6, Alcoholic Beverages. I suggest additional articles as indicated.

~~Sec. 6-34. Nudity on the premises of licensed establishments prohibited.~~

~~Sec. 6-35. Consumption in public places.~~

~~Sec. 6-36. License required; number of licenses.~~

~~Sec. 6-37. Term and expiration of licenses.~~

~~Sec. 6-38. Kinds of liquor licenses.~~

~~Sec. 6-39. License fees.~~

~~Sec. 6-40. Council discretion to suspend, revoke, grant, deny, renew or not renew license.~~

~~Sec. 6-41. Application for license.~~

~~Sec. 6-42. Description of premises.~~

~~Sec. 6-43. Application for renewal of license.~~

~~Sec. 6-44. Transfer of license.~~

~~Sec. 6-45. Investigation of applicant for license.~~

~~Sec. 6-46. Hearing and issuance of license.~~

~~Sec. 6-47. Restrictions on issuance of license.~~

~~Sec. 6-48. Conditions of license.~~

~~Sec. 6-49. Hours and days of sale.~~

~~Sec. 6-50. Minors on premises.~~

~~Sec. 6-51. Restrictions on purchase and consumption.~~

~~Sec. 6-52. License suspension or revocation, civil penalty, criminal penalty.~~

~~Sec. 6-53. Further conditions for brewer taproom licenses; brew pub licenses.~~

**Sec. 6-31. Adoption of state law by reference.**

The provisions of Minn. Stat. ch. 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 sale, hours of sale, and all other matters pertaining to the retail sale, distribution, and consumption of intoxicating liquor and 3.2 percent malt liquor are hereby adopted by reference and are made a part of this article as if set out in full. It is the intention of the city council that all future amendments to Minn. Stat. ch. 340A are hereby adopted by reference or referenced as if they had been in existence at the time this article is adopted.

(Ord. No. 07-2136, 7-19-2007)

**Sec. 6-32. City may be more restrictive than state law.**

The council is authorized by the provisions of Minn. Stat. § 340A.509, as it may be amended from time to time, to impose, and has imposed in this article, additional restrictions on the possession, sale and consumption of alcoholic beverages within its limits beyond those contained in Minn. Stat. Ch. 340A, as it may be amended from time to time.

(Ord. No. 07-2136, 7-19-2007)



**<sup>16</sup>Sec. 6-33. Definitions.**

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

~~*Brewer is a person or entity who manufactures malt liquor for sale.*~~

*Brewer taproom* means an area on the premises of a brewery or on the premises adjacent to a brewery owned by the brewer in which the brewer sells or otherwise provides exclusively malt liquor produced by the brewer for consumption within the brewer taproom.

~~*Brew pub is a brewer who also holds one or more retail on-sale licenses and who manufactures fewer than 3,500 barrels of malt liquor in a year, at any one licensed premises, the entire production of which is solely for consumption on tap on any licensed premises owned by the brewer, or for off-sale from those licensed premises as permitted in by state statute.*~~

*Liquor*, as used in this article, without modification by the words "intoxicating" or "3.2 percent malt," includes both intoxicating liquor and 3.2 percent malt liquor.

*Restaurant* means 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 term in this article, an establishment shall have a license from the state as required by Minn. Stat. § 157.16. With the exception of a brewer taproom license, all restaurants shall derive a significant portion of their gross sales revenue from food.

(Ord. No. 07-2136, 7-19-2007; Ord. No. 09-2192, 9-3-2009; <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=748337&datasource=ordbank" web="yes">Ord. No. 15-2335, 12-17-2015 </ulink>)

**<sup>17</sup>Sec. 6-34. Nudity on the premises of licensed establishments prohibited.**

- (a) The city council finds that it is in the best interest of the public health, safety and general welfare of the people of the city that nudity is prohibited on the premises of any establishment licensed under this article as provided in this section. 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 article, as set forth in this section, reflects the prevailing community standards of the city.
- (b) It is unlawful for any licensee, responsible party or other person 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 nontransparent material. It is unlawful for any person to be on the licensed premises when the person does not have his or her buttocks, anus, breast and genitals covered with a nontransparent material.

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<sup>16</sup> **Sec. 6-33. Definitions.** The stricken definitions are included in M.S.A. § 340A.101 adopted above.

<sup>17</sup> **Sec. 6-34. Nudity on the premises of licensed establishments prohibited.** This section should be grouped with organizational regulations below.

- (c) A violation of this section is a misdemeanor punishable as provided by law, and is justification for revocation, suspension or nonrenewal of any liquor, wine or 3.2 percent malt liquor license or the imposition of a civil penalty under the provisions of subsection 6-53(b) of this article.

(Ord. No. 07-2136, 7-19-2007)

**Sec. 6-35. Consumption in public places.**

No person shall consume intoxicating liquor or 3.2 percent malt liquor in a public park, on any public street, sidewalk, parking lot or alley, or in any public place other than on the premises of an establishment licensed under this article.

(Ord. No. 07-2136, 7-19-2007)

**ARTICLE II. LICENSES**

**Sec. 6-36. License required; number of licenses.**

- (a) No person or entity shall directly or indirectly deal in, sell or keep for sale any liquor without first having received a license to do so pursuant to this article.
- (b) The city council shall issue off-sale liquor licenses in such a manner that no license shall be issued to a property which is located within one mile of the location of an existing off-sale license. The number of off-sale licenses issued shall not exceed a ratio of one license for every 7,000 population. The council is not required to issue the full number of off-sale licenses that it has available.
- (c) Off-sale liquor licenses issued in conjunction with brewer taprooms or brew pubs are exempt from subsection (b).

(Ord. No. 07-2136, 7-19-2007; <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=748337&datasource=ordbank" web="yes">Ord. No. 15-2335, 12-17-2015 </ulink>)

**Sec. 6-37. Term and expiration of licenses.**

Each license shall be issued for a maximum period of one year. All licenses, except temporary licenses, shall expire on June 30 of each year unless another date is provided by article. All licenses shall expire on the same date. Temporary licenses expire according to their terms.

(Ord. No. 07-2136, 7-19-2007; <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=748337&datasource=ordbank" web="yes">Ord. No. 15-2335, 12-17-2015 </ulink>)

**Sec. 6-38. Kinds of liquor licenses.**

The city council is authorized to issue the following licenses and permits, up to the number specified in section 6-36. All provisions of this chapter that apply to a retail liquor license shall apply to a license issued under this subdivision unless the provision is explicitly inconsistent with this subdivision.

- (1) 3.2 percent malt liquor on-sale licenses, which may be issued only to restaurants, hotels, clubs, bowling centers with the incidental sale of tobacco and soft drinks.
- (2) 3.2 percent malt liquor off-sale license.

- (3) Temporary on-sale intoxicating, wine and 3.2 percent malt liquor licenses, which may be issued only to a club, charitable, religious or nonprofit organization, or a licensed brewer who meets state statute definition of a brewer in connection with a social event sponsored by the licensee. Any temporary license issued under this section shall be for a period not to exceed four consecutive days and the city council shall issue no more than 12 days' worth of temporary licenses to any one organization in one calendar year, or that which is allowed by state statute as amended from time to time.
- a. A temporary on-sale intoxicating, wine or 3.2 percent malt liquor license may authorize on-sales on premises other than the premises the organization owns or permanently occupies.
  - b. The license will be issued for a specific date, time, and place.
  - c. No license issued under this subdivision will be valid unless first approved by the commissioner of public safety and the chief of police or their designee.
- (4) Off-sale intoxicating liquor licenses, which may be issued only to exclusive liquor stores, brewer taprooms or brew pubs. The fee for an off-sale intoxicating liquor license shall not exceed the maximum amount provided by Minn. Stat. § 340A.408, subd. 3, as it may be amended from time to time.
- (5) On-sale intoxicating liquor licenses, which may be issued only to restaurants as defined in section 6-33 and to clubs and hotels as defined by Minn. Stat. § 340A.101, as it may be amended from time to time. Club licenses may be issued only with the approval of the commissioner of public safety. The fee for club licenses shall not exceed the maximum amount provided by Minn. Stat. § 340A.408, subd. 2(b), as it may be amended from time to time.
- (6) Sunday on-sale intoxicating liquor licenses, only after authorization to do so by voter approval at a general or special election as provided by Minn. Stat. § 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 or brewer taproom, as defined in section 6-33, or a club or hotel, which holds an on-sale intoxicating liquor license, and which serves liquor only in conjunction with the service of food. The fee for this license shall not exceed the maximum amount provided by Minn. Stat. § 340A.504, subd 3(c), as it may be amended from time to time.
- <sup>18</sup>(7) 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 Minn. Stat. § 340A.404, subd. 5, as it may be amended from time to time, and which meet the definition of restaurants in section 6-33; and to licensed bed and breakfast facilities which meet the criteria in M.S.A. § 340A.404, subd. 5(c) ~~Minn. Stat. § 340A.041, subd. 1~~ as it may be amended from time to time. The fee for an on-sale wine license shall not exceed one-half of the license fee charged for an on-sale intoxicating liquor license. The holder of an on-sale wine license who also holds an on sale 3.2 percent malt liquor license is authorized to sell malt liquor with a content over 3.2 percent (strong beer) without an additional license.
- (8) Culinary limited on-sale intoxicating liquor licenses, may be issued pursuant to Minn. Stat. § 340A.4041. The fee for such a license shall be set by city council resolution and shall be in compliance with Minn. Stat. § 340A.4041, subd. 2, as it may be amended from time to time.
- (9) Brewer taproom license may be issued to the holder of a brewer's license issued by the commissioner of public safety. A brewer taproom license authorizes on-sale of malt liquor

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<sup>18</sup> **Sec. 6-38. Kinds of liquor licenses.** Incorrect citation regarding wine licenses issued to bed and breakfast establishments should be corrected as shown.

produced by the brewer for consumption on the premises of or adjacent to one brewery location owned by the brewer. The fee for such a license shall be set by city council and shall be in compliance with state statute.

- (10) Small brewer off-sale license may be issued, with the approval of the commissioner of public safety, to a licensee that holds a small brewer license to sell growlers or 750 milliliter bottles of the malt liquor produced on the licensed premises, subject to the conditions outlined in section 6-53. The fee for such a license shall be set by city council and shall be in compliance with state statute.
- (11) On-sale brew pub license may be issued only to restaurants operated in the place of a manufacturer and shall permit the sale of malt liquor produced on the licensed premises. The fee for such a license shall be set by city council and shall be in compliance with state statute.
- (12) Off-sale brew pub license may be issued, with the approval of the commissioner of public safety, to a licensee that holds an on-sale brew pub license to sell growlers or 750 milliliter bottles of the malt liquor produced on the licensed premises, subject to the conditions outlined in section 6-53. The fee for such a license shall be set by city council and shall be in compliance with state statute.
- (13) Special 2:00 a.m. licenses.
  - a. State permit required. No licensee may sell intoxicating or 3.2 malt liquor "on-sale" between the hours of 1:00 a.m. and 2:00 a.m. unless the licensee has obtained a permit from the commissioner of the state department of public safety, liquor control division, pursuant to Minnesota Statutes.

(Ord. No. 07-2136, 7-19-2007; <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=748337&datasource=ordbank" web="yes">Ord. No. 15-2335, 12-17-2015 </ulink>; <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=764960&datasource=ordbank" web="yes">Ord. No. 16-2348, 4-7-2016 </ulink>; <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=834473&datasource=ordbank" web="yes">Ord. No. 17-2373 </ulink>c, 6-15-2017)

#### **Sec. 6-39. License fees.**

- (a) No license or other fee established by the city for a liquor license shall exceed any limit established by Minn. Stat. ch. 340A, as it may be amended from time to time.
- (b) The council may establish from time to time by ordinance or resolution 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 article. No liquor license fee shall be increased without providing mailed notice of a hearing on the proposed increase to all affected licenses at least 30 days before the hearing.
- (c) All license fees shall be paid in full at the time of the original application or at the time the application for renewal is filed with the city. If the application is denied, the license fee shall be returned to the applicant.
- (d) A refund of a pro rata share of an annual license fee may occur only if authorized by Minn. Stat. § 340A.408, subd. 5, as it may be amended from time to time.
- (e) Off sale intoxicating liquor licensees may request a reduction in their annual license fee by the amount specified in Minn. Stat. § 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 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;
- (4) Failure to abide by the provisions of this subsection 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 section 6-52.

(Ord. No. 07-2136, 7-19-2007; <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=748337&datasource=ordbank" web="yes">Ord. No. 15-2335, 12-17-2015 </ulink>; <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=762418&datasource=ordbank" web="yes">Ord. No. 16-2344, 3-17-2016 </ulink>)

**Sec. 6-40. Council discretion to suspend, revoke, grant, deny, renew or not renew license.**

- (a) The city council in its sound discretion may either grant or deny the application for any license or grant or deny a request for the transfer, modification or renewal of any license. No applicant has a right to a license under this article.
- (b) The city council may take into consideration any nuisance call or calls relating to the premises when considering the operation of the premises, application, transfer, modification or renewal of any license. For the purposes of this section, "nuisance call" shall be defined as follows. Any activity, conduct, or condition occurring on or related to the licensed premises, which results in a call or report to the Blaine Police Department or other law enforcement agency, including, but not limited to, calls and reports related to the following:
  - (1) Any conduct, activity or condition alleged to constitute disorderly conduct, pursuant to Minn. Stat. § 609.72.
  - (2) Any conduct, activity or condition alleged to constitute a public nuisance, pursuant to Minn. Stat. § 609.74.
  - (3) Any conduct, activity or condition alleged to constitute an assault pursuant to Minn. Stat. § 609.224.
  - (4) Any conduct, activity or condition alleged to constitute a violation of Minnesota Statutes relating to prostitution, controlled substances, use of firearms, criminal sexual conduct, and gambling.
  - (5) Any conduct, activity or condition alleged to constitute disorderly house, pursuant to sections 50-141 through 50-145 of the Blaine Code.
  - (6) Any conduct, activity or condition alleged to constitute a violation of this article.
  - (7) A failure to meet the minimum criteria for a restaurant or license holder.
- (c) Any violation of any provision of this article, or any nuisance call, regardless whether or not a criminal charge has been brought or a criminal conviction has been obtained, may be used by the council, at its discretion, when considering the granting, denying, suspension, revocation, transfer, modification, or renewal of any license.

(Ord. No. 07-2136, 7-19-2007; Ord. No. 09-2192, 9-3-2009)

**Sec. 6-41. Application for license.**

- (a) *Form.* Every application for a license issued under this article shall be on a form provided by the city. Such application form shall be completed to the satisfaction of the city. If the application form is not completed to the satisfaction of the city, the form and the application shall be returned by the city to the applicant. Every application shall state the name of the applicant, the applicant's age, representations as to the applicant's character, with references as the city 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, who will manage the business, how long the applicant has been in that business at that place, and other information as the city 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) *Responsible party.* Such application must identify a responsible party relative to each license. If the responsible party for a licensee will change, an application for the change shall be provided to the city clerk at least 30 days prior to such change and shall be treated the same as an application for a new license. In the event that a 30-day prior notice is not feasible, a written explanation will be submitted to the city clerk within one week of the known change documenting the reason(s) for the deviation; this is subject to approval by the police chief or his/her designee. Failure to file a timely application or explanation for a change in responsible party shall be grounds for revocation, suspension or non-renewal of any license.
- (c) *Financial responsibility.* Prior to the issuance of any license under this article, the applicant shall demonstrate proof of financial responsibility as defined in Minn. Stat. § 340A.409, as it may be amended from time to time, with regard to liability under Minn. Stat. § 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 Minn. Stat. § 340A.409, as it may be amended from time to time. Operation of a business which is required to be licensed by this article without having on file with the city at all times effective proof of financial responsibility is a cause for revocation, suspension or non-renewal of the license. The licensee shall name the city as an additional insured on the insurance policy or bond. The city clerk shall submit evidence to the commissioner of liquor liability insurance for each license issued by the city.

(Ord. No. 07-2136, 7-19-2007; Ord. No. 09-2180, 4-16-2009)

**Sec. 6-42. 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. An application for the proposed enlargement, alteration or extension of any premises previously licensed shall be provided to the city clerk at least 30 days prior to such proposed enlargement, alteration or extension and shall be treated the same as an application for a new license. Failure to file an application for such enlargement, alteration or extension shall be grounds for revocation, suspension or non-renewal of any license. All premises licensed under this article shall be in compliance with all federal, state, municipal, building, zoning, and fire regulations. Failure to comply with any such federal, state,

municipal, building, zoning and fire regulations shall be grounds for revocation, suspension or non-renewal of any license.

(Ord. No. 07-2136, 7-19-2007)

**Sec. 6-43. Application for renewal of license.**

At least 90 days before a license issued under this article 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 city council. No licensee has a right to have a license renewed.

(Ord. No. 07-2136, 7-19-2007)

**Sec. 6-44. Transfer of license.**

No license issued under this article may be transferred without the prior approval of the city 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 city council approval is grounds for revocation, suspension or nonrenewal of the license. An application to transfer a license shall be provided to the city clerk at least 30 days prior to such proposed transfer and shall be treated the same as an application for a new license. Failure to file an application for such transfer shall be grounds for revocation, suspension or non-renewal of any license.

(Ord. No. 07-2136, 7-19-2007)

**Sec. 6-45. Investigation of applicant for license.**

- (a) *Preliminary background and financial investigation.* On an initial application for a license, on an application for transfer or modification of a license, and, in the discretion of the city, 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 as established by the city council which shall be in addition to any license fee.
- (b) *Comprehensive background and financial investigation.* If in the discretion of the city, the results of a preliminary investigation warrant, a comprehensive background and financial investigation may occur. The city may either conduct the investigation itself or contract with the commissioner of public safety for the investigation. If a comprehensive background and financial investigation is conducted, and if any part of the investigation occurs outside of the state, the fee for such comprehensive background and financial investigation shall not exceed \$10,000.00, less any amount paid for the initial investigation. 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.
- (c) *Background investigations for brewer/brew pub applications.* The city, in its sole discretion, may waive a background and/or financial investigation pursuant to subsection (a) and/or (b) if the applicant, as a state-licensed wholesaler/manufacturer of intoxicating liquor, provides all background investigation materials from the department of public safety alcohol and gambling enforcement division of the state to the police chief or designee. If the city, in its sole discretion, requires any level of background and/or financial investigation, the applicant shall pay the investigation fee(s) outlined in subsection (a) or (b).

- (d) Applicant(s) must cooperate with any required investigation(s) otherwise the license(s) may be denied or revoked. Any false statement or material omission made by the applicant(s) during the course of any investigation(s) will be grounds for denying or revoking the license.

(Ord. No. 07-2136, 7-19-2007; <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=748337&datasource=ordbank" web="yes">Ord. No. 15-2335, 12-17-2015 </ulink>; <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=775450&datasource=ordbank" web="yes">Ord. No. 16-2352, 6-16-2016 </ulink>)

**Sec. 6-46. Hearing and issuance of license.**

The city shall investigate all facts set out in the application and not investigated in the preliminary or comprehensive background and financial investigations, if required. Opportunity shall be given to any person to be heard for or against the granting of the license. After any required 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. No. 07-2136, 7-19-2007; <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=775450&datasource=ordbank" web="yes">Ord. No. 16-2352, 6-16-2016 </ulink>)

**Sec. 6-47. Restrictions on issuance of license.**

- (a) Each license shall be issued only to the applicant for the premises described in the application.
- (b) Not more than one off-sale intoxicating liquor license shall be directly or indirectly issued within the city to any one person.
- (c) No license shall be granted, modified or renewed for operation on any premises on which taxes, assessments, utility charges, licensing fees, service charges or other financial claims of the city are delinquent and unpaid.
- (d) No license shall be issued to any person, or for any place or any business, which is ineligible for a license under state law.
- (e) No license shall be granted if the applicant, responsible party, owner, manager, or any other person involved with the licensee:
- (1) Has been convicted, within five years prior to the application of such license, of any violation of any law of the United States, this state, or any other state or territory, or of any local ordinance regarding the manufacture, sale, or distribution of intoxicating liquor, or whose liquor license has been revoked for any violation of any law or ordinance.
  - (2) Is a manufacturer or wholesaler of intoxicating liquor, and no manufacturer or wholesaler shall either directly or indirectly own or control or have any financial interest in any retail business selling intoxicating liquor.
  - (3) Is the spouse of a person ineligible for a license pursuant to this article or state law, or a person who, in the judgment of the council, is not the real party in interest or beneficial owner of the business operated, or to be operated, under the license.
- (f) No license, other than a temporary intoxicating or 3.2 percent malt liquor license or brewer taproom, shall be granted to a premises located within 500 feet of any school unless located within a regional



mall. The distance is to be measured from the closest side of the school to the closest side of the structure on the premises within which liquor is to be sold.

- (g) No brewer taproom or brew pub license shall be granted to a premises located within 250 feet of any school or church. The distance is to be measured from the closest side of the school or church to the closest side of the structure on the premises within which liquor is to be sold.
- (h) No license shall be issued for a premises owned, operated or managed by a person or by the spouse of a person, who is the holder of an adult use license pursuant to chapter 22, article II.

(Ord. No. 07-2136, 7-19-2007; Ord. No. 13-2270, 8-1-2013; <http://newords.municode.com/readordinance.aspx?ordinanceid=748337&datasource=ordbank> web="yes">Ord. No. 15-2335, 12-17-2015 <http://newords.municode.com/readordinance.aspx?ordinanceid=764960&datasource=ordbank> web="yes">Ord. No. 16-2348, 4-7-2016 <http://newords.municode.com/readordinance.aspx?ordinanceid=972212&datasource=ordbank> web="yes">19-2431 <http://newords.municode.com/readordinance.aspx?ordinanceid=972212&datasource=ordbank> web="yes">8-5-2019)

#### **Sec. 6-48. Conditions of license.**

Any violation of any condition of a license, including, but not limited to, the conditions set forth below, may be used by the council, at its discretion, when considering the granting, denying, suspension, revocation, transfer, modification or renewal, of any license, regardless of whether or not a criminal charge has been brought or a criminal conviction has been obtained.

- (1) Every licensee and the responsible party named in the license application shall be 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 and the responsible party, and the licensee and the responsible party shall be liable for all penalties provided by this article and the law equally with the employee.
- (2) Every licensee and the responsible party shall allow any peace officer, health officer, city employee, or any other person designated by the city to conduct at least two compliance checks per year 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. The city, or its representative(s), right to inspect the premises shall also include the right to examine books, papers and records of a manufacturer, wholesaler, importer, or retailer for the purpose of determining whether the provisions of this article are being met.
- (3) No on-sale establishment shall display liquor to the public during hours when the sale of liquor is prohibited.
- (4) Compliance with financial responsibility requirements of state law and of this article is a continuing condition of any license.
- (5) Within 60 days after employment, every person selling or serving liquor in an establishment shall receive training regarding the selling or serving of liquor to customers. The cost of such training shall be the responsibility of the employee or the licensee. Such training shall be provided and conducted in a manner by an organization approved by the city. A certificate indicating proof of such training for all employees is required and such certificate shall be maintained on the premises of the licensed establishment and a copy shall be provided to the city. Responsible parties and managers are required to complete approved training relating to selling or serving liquor within the City of Blaine.

- (6) Prior to approval of a temporary intoxicating or temporary 3.2 percent malt liquor license, proof of alcohol server training must be submitted. The cost of such training shall be the responsibility of the licensee. Such training shall be provided and conducted in a manner by an organization approved by the city. A certificate indicating proof of such training for all servers is required and such certificate shall be maintained on the premises of the licensed premise and a copy shall be provided to the city.
- (7) Any restaurant holding an on sale liquor license must provide food service to its customers everywhere on the premises where alcohol is present or served. For the purpose of this section "food service" means a licensed restaurant shall provide sandwiches, pizza, hamburgers, hot dogs, chicken wings or other principal food items, as approved by the city. Food items such as popcorn, peanuts, chips, pretzels, and other snack foods would not be considered food items.

(Ord. No. 07-2136, 7-19-2007; Ord. No. 09-2180, 4-16-2009; Ord. No. 09-2192, 9-3-2009; <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=764960&datasource=ordbank" web="yes">Ord. No. 16-2348, 4-7-2016 </ulink>)

### ARTICLE III. OPERATION REGULATIONS

#### Sec. 6-49. Hours and days of sale.

- (a) The hours of operation and days of sale shall be those set by Minn. Stat. § 340A.504, as it may be amended from time to time. All Sunday growler and 750 milliliter bottle sales must be made between the hours of 8:00 a.m. and 10:00 p.m.
- (b) No person shall consume nor shall any on-sale licensee permit any consumption of intoxicating liquor or 3.2 percent malt liquor in an on-sale licensed premises more than 30 minutes after the time when a sale can legally occur.
- (c) No on-sale licensee shall permit any glass, bottle or other container containing intoxicating liquor or 3.2 percent malt liquor to remain upon any table, bar, stool or other place where customers are served, more than 30 minutes after the time when a sale can legally occur.
- (d) No person, other than the licensee and any employee, shall remain on the on-sale licensed premises more than 30 minutes after the time when a sale can legally occur.
- (e) Any violation of any condition of this section shall be grounds for revocation, suspension or non-renewal of the license.

(Ord. No. 07-2136, 7-19-2007; <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=748337&datasource=ordbank" web="yes">Ord. No. 15-2335, 12-17-2015 </ulink>)

#### Sec. 6-50. Minors on premises.

- (a) No person under the age of 18 years shall be employed in any rooms constituting the place in which intoxicating liquors or 3.2 percent malt liquor are sold at retail on sale, except that persons under the age of 18 may be employed as musicians or to perform the duties of a bus person or dishwashing services in places defined as a restaurant, hotel or other multipurpose building serving food in rooms in which intoxicating liquors or 3.2 percent malt liquor are sold at retail on sale.

- (b) No person under the age of 21 years may enter a licensed establishment except to work, consume meals on the premises that qualifies as a restaurant, or attend social functions that are held in a portion of the premises where liquor is not sold or consumed.

(Ord. No. 07-2136, 7-19-2007)

**Sec. 6-51. Restrictions on purchase and consumption.**

No person shall mix or prepare liquor for consumption in any public place or business unless it has a license to sell on-sale, and no person shall consume liquor in any such place.

(Ord. No. 07-2136, 7-19-2007)

**<sup>19</sup>Sec. 6-52. License suspension or revocation, civil penalty, criminal penalty.**

- (a) The council shall either suspend for a period not to exceed 60 days or revoke any liquor license, or impose a civil penalty, upon finding that the licensee has failed to comply with any provision of this article or other applicable statute or regulation relating to liquor, as provided in subsection (b) below. Neither the charging of a criminal violation nor a criminal conviction is required in order for the council to suspend or revoke a license or impose a civil penalty. The council shall impose a civil penalty of up to \$2,000.00 for each violation of this article and of Minn. Stat. ch. 340A as provided by the minimum schedule of presumptive civil penalties set forth below. The civil penalties shall be in addition to any criminal penalties imposed herein, or any suspension or revocation imposed herein. Except in cases of lapse of proof of financial responsibility, no suspension or revocation or imposition of a civil penalty shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to the Administrative Procedures Act, Minn. Stat. §§ 14.57 to 14.70, as it may be amended from time to time. The council may act as the hearing body under the act, or it may contract with the office of hearing examiners for a hearing officer. Nonpayment of the penalty is grounds for revocation, suspension or non-renewal of the license.
- (b) The following are the minimum periods of suspension or revocation and minimum presumptive civil penalties, in addition to any suspension or revocation which must be imposed herein, which shall be imposed by the council for violations of the provisions of this article or Minn. Stat. ch. 340A, as it may be amended from time to time, or any rules promulgated under that chapter as they may be amended from time to time:
  - (1) For commission of a felony related to the licensed activity, sale of alcoholic beverages while the license is under suspension, sale of intoxicating liquor where the only license is for 3.2 percent malt liquor, the license shall be revoked.
  - (2) The license shall be suspended or a fine imposed by the council for at least the minimum periods and amounts set forth below after a finding that the licensee has failed to comply with any provision of this article or other applicable statute or regulation as set forth below:
  - (3) For a first violation within any two-year period, a fine of \$500.00 and a two-consecutive-day suspension, or a fine of \$1,000.00, at the option of the licensee.
  - (4) For a second violation within any two-year period, a fine of \$1,000.00 and a five-consecutive-day suspension, or a fine of \$2,000.00, at the option of the licensee.

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<sup>19</sup> **Sec. 6-52. License suspension or revocation, civil penalty, criminal penalty.** This section should be grouped with the license provisions above.

(5) For a third violation within any two-year period, a mandatory ten-consecutive-day suspension.

(6) For a fourth violation within any two-year period, the license shall be subject to revocation at the council's discretion.

The city 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 article 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 city clerk, a hearing before the council shall be granted within ten days. Any suspension under this paragraph shall continue until the council determines that the financial responsibility requirements of state law and this article have again been met.
- (d) The provisions of this article pertaining to penalties may be imposed in addition to any suspension or revocation under this article.
- (e) Any licensee, responsible party or other person violating any provision of this article or Minn. Stat. ch. 340A, as it may be amended from time to time, or any rules promulgated under that chapter, is guilty of a misdemeanor and upon conviction shall be punished criminally as provided by law.
- (f) The term "violation" as used in this section includes any and all violations of any provision of this article, or of Minn. Stat. ch. 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. Neither the charging of a crime nor a criminal conviction is required for the council to take the action set forth in this section.

(Ord. No. 07-2136, 7-19-2007; Ord. No. 09-2193, 9-3-2009)

<sup>20</sup>**Sec. 6-53. Further conditions for brewer taproom licenses; brew pub licenses.**

(a) Brewer taproom license.

- (1) A brewer may only have one taproom license under this chapter and may not have an ownership interest in a brew pub licensed under this chapter.
- (2) A brewer taproom license cannot be issued to a brewer if the brewer seeking the license, or any person having an economic interest in the brewer seeking the license or exercising control over the brewer seeking the license, is a brewer that brews more than 250,000 barrels of malt liquor annually or a winery that produces more than 250,000 gallons of wine annually.
- (3) A licensing fee shall be imposed on a brewer holding a brewer taproom license under this chapter, subject to limitations applicable to license fees under Minn. Stat. § 340A.408, subd. 2, paragraph (a).
- (4) The city shall, within ten days of the issuance of a license under this subdivision, inform the commissioner of the licensee's name and address and trade name, and the effective date and expiration date of the license. The municipality shall also inform the commissioner of a license transfer, cancellation, suspension, or revocation during the license period.
- (5) Brewer taproom licenses may be issued to brewers licensed pursuant to Minn. Stat. § 340A.301 for the on-sale of malt liquor produced by the brewer on a licensed premises for consumption on the

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<sup>20</sup> **Sec. 6-53. Further conditions for brewer taproom licenses; brew pub licenses.** This section should be grouped with license provisions above.

premises of or adjacent to one brewery location owned by the brewer, subject to the following conditions:

- a. The on-sale of malt liquor may only be made during the days and hours that on-sale of liquor may be made, as prescribed by state law or within section 6-49.
  - b. The only alcoholic beverage that may be sold or consumed on the premises of a licensed brewer taproom will be the malt liquor produced by the brewer upon the brewer taproom premises.
  - c. A brewer may only hold one brewer taproom license as prescribed by state law.
  - d. Brewer taproom licenses shall only be issued in conjunction with an approved conditional use permit by the city council.
- (b) On-sale brew pub licensee cannot sell more than 3,500 barrels of the malt liquor produced on the licensed premises per year. A licensee may hold both an on-sale license and an on-sale brew pub license.
- (c) Off-sale brew pub licensee that holds an on-sale brew pub license or a brewer taproom that holds an off-sale license to sell growlers or 750 milliliter bottles of the malt liquor produced on the licensed premises, subject to the following conditions. A licensee may hold both an on-sale license and an on-sale brew pub or brewer taproom license:
- (1) The container must be packaged in a 64 ounce container commonly known as a growler or in 750 milliliter bottles.
  - (2) The growler or 750 milliliter bottle must be properly sealed with a twist type closure, cork, stopper or plug.
  - (3) At time of sale, the growler or 750 milliliter bottle must also bear a plastic or paper adhesive band, strip or sleeve that extends over the top of the container forming a seal that must be broken upon opening the growler.
  - (4) The seal and the growler or 750 milliliter bottle must bear the name and address of the brew pub and will be considered intoxicating liquor.
  - (5) Off-sale brew pub hours and days of sale shall be as provided in section 6-49.
  - (6) The maximum number of barrels of a brewer taproom or brew pub's annual production sold at off-sale shall be set by Minn. Stat. § 340A.24 subd. 3 and 340A.28 subd. 1, as amended from time to time.

( <ulink class="ordbank" print="yes"  
url="http://newords.municode.com/readordinance.aspx?ordinanceid=748337&datasource=ordbank"  
web="yes">Ord. No. 15-2335, 12-17-2015 </ulink>; <ulink class="ordbank" print="yes"  
url="http://newords.municode.com/readordinance.aspx?ordinanceid=845613&datasource=ordbank"  
web="yes">Ord. No. 17-2380 </ulink>, 8-17-2017)

## Chapter 10 AMUSEMENTS AND ENTERTAINMENTS \*

~~\*Cross reference—Businesses, ch. 22.~~

## ARTICLE I. - IN GENERAL

## ARTICLE II. - AMUSEMENTS CENTERS AND AMUSEMENT DEVICES

### ARTICLE III. - CIRCUSES AND CARNIVALS

## ARTICLE I. IN GENERAL

Secs. 10-1—10-30. Reserved.

**Secs. 10-1—10-30. Reserved.**

## ARTICLE II. AMUSEMENTS CENTERS AND AMUSEMENT DEVICES

## DIVISION 1. - GENERALLY

## DIVISION 2. - LICENSE

***DIVISION 1. GENERALLY***

Sec. 10-31. Definitions.

## Sec. 10-32. Exemptions.

Secs. 10-33—10-50. Reserved.

### Sec. 10-31. Definitions.

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

*Amusement center* means any room, place or space available for public patronage, operated as a business, which utilizes more than 20 percent of the gross area in its operation of equipment and games including, but not limited to, pool tables, billiard tables, table tennis tables, foosball tables, pinball machines, or any mechanical or electronic amusement device, and which derives its principal source of revenue from the use and operation of such equipment and games. An amusement center as defined in this article shall not include bowling alleys.

*Amusement device* means an electronic or mechanical game of skill or chance, requiring the payment of money to play or operate. An "amusement device" is not a "gambling device" as defined by state statutes.

*Operate* means to conduct, manage, supervise, maintain or keep.

(Code 1963, § 70.01; Code 1980, § 4-40; Ord. No. 487, 3-4-1976; Ord. No. 755, 7-1-1982; Ord. No. [19-2431](http://newords.municode.com/readordinance.aspx?ordinanceid=972212&datasource=ordbank), 8-5-2019)

~~Cross reference—Definitions generally, § 1-2.~~

**Sec. 10-32. Exemptions.**

Those establishments licensed to serve intoxicating liquor under chapter 6 and those establishments licensed to serve intoxicating liquor under the club on-sale retail license are not amusement centers as regulated by this article with regard to alcohol service, sales and regulations. All other licensing requirements shall pertain.

(Code 1980, § 4-48; Ord. No. 755, 7-1-1982; Ord. No. [19-2431](http://newords.municode.com/readordinance.aspx?ordinanceid=972212&datasource=ordbank), 8-5-2019)

**Secs. 10-33—10-50. Reserved.**

***DIVISION 2. LICENSE***

[Sec. 10-51. Required for operation of an amusement center and amusement device.](#)

[Sec. 10-52. Application.](#)

[Sec. 10-53. Issuance; facilities; expiration.](#)

[Sec. 10-54. Fee.](#)

[Sec. 10-55. Conditions.](#)

[Sec. 10-56. Revocation.](#)

[Secs. 10-57—10-90. Reserved.](#)

**Sec. 10-51. Required for operation of an amusement center and amusement device.**

- (a) No person shall operate an amusement center within the limits of the city without an amusement center license and a conditional use permit of the zoning code.
- (b) Operation of amusement devices in a business establishment which utilizes more than 20 percent of the gross area for amusement is prohibited, unless the premises is licensed as an amusement center.

(Code 1963, § 70.02; Code 1980, § 4-41; Ord. No. 487, 3-4-1976; Ord. No. 755, 7-1-1982; Ord. No. 98-1749, 11-5-1998; Ord. No. [19-2431](http://newords.municode.com/readordinance.aspx?ordinanceid=972212&datasource=ordbank), 8-5-2019)

**Sec. 10-52. Application.**

Applications for an amusement center shall be made in writing to the city clerk and shall be verified by the applicant and accompanied by the license fee required in section 10-54. The application shall contain such information as may be required including, but not limited to, the following:

- (1) The names and addresses of the property owner, the business owner, the lessee, the manager and the operator and the names and addresses of the owner and lessee of the amusement devices. If any of the above are acting on behalf of a corporation, the names and addresses of the shareholders, officers and board of directors shall be filed with the application.
- (2) The address and location of the place where the amusement center will be operated.
- (3) The number and types of devices to be used.
- (4) The hours of operation.

- (5) In addition to the above, the applicant shall submit at the time of the application a site plan of the premises showing location of amusement devices, sanitary facilities and parking provisions for vehicles and bicycles.
- (6) The applicant for an amusement center license shall provide the city with a certificate of insurance evidencing liability coverage in the amount of \$100,000.00/\$300,000.00 with a provision that the city be held harmless.
- (7) Such other information as the council may require.

(Code 1963, § 70.03; Code 1980, § 4-42; Ord. No. 487, 3-4-1976; Ord. No. 755, 7-1-1982; Ord. No. [19-2431](http://newwords.municode.com/readordinance.aspx?ordinanceid=972212&datasource=ordbank) [8-5-2019](http://newwords.municode.com/readordinance.aspx?ordinanceid=972212&datasource=ordbank))

**Sec. 10-53. Issuance; facilities; expiration.**

- (a) No amusement center license shall be issued by the council unless the applicant has demonstrated that the place to be licensed is in compliance with the state building codes, and that the place to be licensed will not become a public nuisance or detrimental to public safety, morals or welfare. The location of an amusement device shall not create a public nuisance or a condition detrimental to public safety, morals or welfare.
- (b) All licenses shall expire on December 31 following their issuance.

(Code 1963, § 70.04; Code 1980, § 4-44; Ord. No. 487, 3-4-1976; Ord. No. 755, 7-1-1982; Ord. No. [19-2431](http://newwords.municode.com/readordinance.aspx?ordinanceid=972212&datasource=ordbank) [8-5-2019](http://newwords.municode.com/readordinance.aspx?ordinanceid=972212&datasource=ordbank))

**Sec. 10-54. Fee.**

- (a) The amusement center license fee shall be established by action of the council for each license year. If the application for an amusement center license is denied, the license fee shall be returned to the applicant.
- (b) The annual amusement center license fee shall be established by action of the council.

(Code 1963, § 70.05; Code 1980, § 4-43; Ord. No. 487, 3-4-1976; Ord. No. 755, 7-1-1982; Ord. No. 771, 10-21-1982; Ord. No. 98-1695, § 2, 2-5-1998; Ord. No. [19-2431](http://newwords.municode.com/readordinance.aspx?ordinanceid=972212&datasource=ordbank) [8-5-2019](http://newwords.municode.com/readordinance.aspx?ordinanceid=972212&datasource=ordbank))

**Sec. 10-55. Conditions.**

- (a) No amusement center shall be located within 1,500 feet of any public or private school unless located within a regional mall.
- (b) No amusement center shall be located within 500 feet of any residential zoning district.
- (c) An adult manager, at least 21 years of age, shall be on the premises of an amusement center during all hours of operation. The manager's primary duties shall be the supervision of the use and operation of amusement devices.



- (d) No amusement center shall be operated between the hours of 12:00 midnight and 7:00 a.m. except on the premises licensed to serve intoxicating liquor.
- (e) The licensee and his employees and agents shall adhere to the provisions of this Code relating to minors. No licensee, nor his employees or agents, shall knowingly permit a minor to be present on the premises in violation of curfew laws, nor knowingly permit a person under the age of 17 years to be present on the premises when school is in session unless on a valid excused absence.
- (f) An amusement center shall be deemed a public place, as regulated by chapter 50, article VI, division 2 of this Code.
- (g) The licensee of an amusement center shall not permit intoxicated persons to remain on the premises.
- (h) The amusement center and the premises in which amusement devices are located shall conform to all building and fire prevention codes of the city. The building official or fire inspector may enter such premises at any time during normal business hours, for the purpose of inspecting such premises for fire hazards. All law enforcement personnel of the city shall have the right to enter such premises at any time during normal business hours, for the purpose of enforcement of the terms of this article.
- (i) The council may impose conditions upon the license pertaining to the hours of operation and other conditions which will enable the licensee to control the conduct of the occupants of the amusement center and the persons operating the amusement devices.

(Code 1963, § 70.06; Code 1980, § 4-45; Ord. No. 478, 3-4-1976; Ord. No. 755, 7-1-1982; Ord. No. [19-2431](http://newords.municode.com/readordinance.aspx?ordinanceid=972212&datasource=ordbank) [8-5-2019](http://newords.municode.com/readordinance.aspx?ordinanceid=972212&datasource=ordbank))

#### **Sec. 10-56. Revocation.**

The council may, after notice and hearing, revoke any license issued under this article if the licensee is convicted of any violation of an ordinance, state law, or federal law relating to the use, sale or possession of alcoholic beverages or the use or possession of gambling devices, or of any violation of Minn. Stat. ch. 617, or of any violation of chapter 50 of this Code. The conviction of a person, while an occupant of the licensed premises, of a violation of any of the above described ordinances, state laws or federal laws shall also be grounds for revocation of the license. The violation of any condition of the license shall also be grounds for revocation of the license.

(Code 1963, § 70.07; Code 1980, § 4-46; Ord. No. 487, 3-4-1976; Ord. No. 755, 7-1-1982; Ord. No. [19-2431](http://newords.municode.com/readordinance.aspx?ordinanceid=972212&datasource=ordbank) [8-5-2019](http://newords.municode.com/readordinance.aspx?ordinanceid=972212&datasource=ordbank))

#### **Secs. 10-57—10-90. Reserved.**

### **ARTICLE III. CIRCUSES AND CARNIVALS**

#### **DIVISION 1. - GENERALLY**

#### **DIVISION 2. - LICENSE**

#### ***DIVISION 1. GENERALLY***

[Secs. 10-91—10-110. Reserved.](#)

**Secs. 10-91—10-110. Reserved.**

***DIVISION 2. LICENSE***

[Sec. 10-111. Required.](#)

[Sec. 10-112. Application and issuance; conditions.](#)

[Sec. 10-113. Fees.](#)

[Sec. 10-114. Insurance.](#)

[Sec. 10-115. Indemnification.](#)

[Sec. 10-116. Operation.](#)

**Sec. 10-111. Required.**

No person shall operate, maintain, or conduct any circus, caravan, carnival, or provide amusement or entertainment by the use of roller coasters, merry-go-rounds, ferris wheels, or other similar vehicles or mechanical devices within the city without first procuring a license as provided in this division.

(Code 1963, § 22.01; Code 1980, § 4-70; Ord. No. 651, 9-6-1979)

**Sec. 10-112. Application and issuance; conditions.**

- (a) *Application.* An application for such license shall be made in writing to the city clerk and shall state the full name and address of the applicant, the location where the circus or carnival is to be conducted, the owner of the premises, the days on which the circus or carnival is to be conducted, and such other information as shall be required by the city.
- (b) *Review and approval.* The city clerk shall verify the information in the application and conduct such investigation as required by the city. The applicant shall provide evidence of written permission for the operation of the circus or carnival from the owner of the location of the premises. The city manager shall require review and recommendation from the fire chief and police chief and upon satisfactory recommendation the city manager may issue such license. The city manager may require a public hearing on the application and such hearing shall be held at such time and upon such notice as the council may determine.
- (c) *Conditions.* The council may impose any conditions or restrictions it deems necessary or advisable to protect the public health, safety, and welfare including, but not limited to, conditions relating to the hours of operations, the lighting of the premises, and the parking facilities. The council may impose any conditions or restrictions at any time after the issuance of a license under this article. A bond may be required in such form and amount as specified by the council to guarantee compliance with any conditions that shall be herein imposed. The licensee shall permit operation of the circus or carnival only on the days specified in the application.

(Code 1963, § 22.02; Code 1980, § 4-71; Ord. No. 651, 9-6-1979)

**Sec. 10-113. Fees.**

The fee for the license shall be established by action of the council for the first day and an additional amount established by action of the council for each day thereafter that the activities are to be conducted. The fee shall be paid at the time the application is submitted to the city clerk. If the council denies an application for the license, the amount paid shall be refunded, after deducting \$25.00 for the costs of processing the application.

(Code 1963, § 22.03; Code 1980, § 4-72; Ord. No. 651, 9-6-1979; Ord. No. 84-853, 2-7-1985; Ord. No. 98-1695, § 2, 2-5-1998)

**Sec. 10-114. Insurance.**

- (a) The licensee shall obtain and keep in full force and effect proper liability insurance coverage to protect the city and such licensee against any claims or liability for personal injury or property damage sustained by any persons as a result of the operation of such circus or carnival. The liability insurance coverage shall name the city as an additional insured, and such insurance coverage shall have minimum limits of liability with respect to bodily injury of \$100,000.00 for each person and \$300,000.00 for each occurrence and \$50,000.00 with respect to property damage.
- (b) Such licensee shall obtain and keep in full force and effect proper insurance coverage against any liability for injury sustained by any persons operating such licensed activities, as required under the provisions of the workers' compensation act of the state.
- (c) Such licensee shall submit to the city clerk satisfactory certificates of insurance for the coverage required in this section.

(Code 1963, § 22.04; Code 1980, § 4-73; Ord. No. 651, 9-6-1979)

**Sec. 10-115. Indemnification.**

The licensee shall indemnify, defend, and hold harmless the city from any claims and any liability in whatsoever manner arising, which may be brought against the municipality, as the result of the operation of the circus or carnival.

(Code 1963, § 22.05; Code 1980, § 4-74; Ord. No. 651, 9-6-1979)

**Sec. 10-116. Operation.**

- (a) The operator or owner of the circus or carnival regulated hereunder shall conduct such operations and premises in conformance with all laws and regulations of the city and the state. No intoxicating liquor shall be permitted on the premises of operation.
- (b) The operator or owner shall control traffic entering and leaving such premises so that there is no interference with the orderly flow of traffic on the public streets adjacent thereto.
- (c) The city manager shall establish such conditions as is deemed appropriate to provide for the cleaning of the premises and all other properties relating to the operation, within a reasonable period after the event and may require a deposit fee in the amount of \$150.00 to guarantee such cleaning; such deposit to be refunded upon satisfactory cleanup.

(Code 1963, § 22.06; Code 1980, § 4-75; Ord. No. 651, 9-6-1979)

## **Chapter 14 ANIMALS \***

~~\*Cross reference—Environment, ch. 34; health and sanitation, ch. 42.~~

**State Law reference—** Animal health, Minn. Stat. ch. 35; dogs and cats, Minn. Stat. ch. 347; cruelty to animals, Minn. Stat. § 343.20 et seq.; Pet and Companion Animal Welfare Act, Minn. Stat. § 346.35 et seq.

ARTICLE I. - IN GENERAL

ARTICLE II. - ADMINISTRATION AND ENFORCEMENT

ARTICLE III. - RABIES CONTROL

ARTICLE IV. - DOGS

ARTICLE V. - NONDOMESTICATED ANIMALS

ARTICLE VI. - TRAPPING OF ANIMALS

### **ARTICLE I. IN GENERAL**

Sec. 14-1. Definitions.

Sec. 14-2. Penalty for violation of chapter.

Sec. 14-3. Exemptions.

Sec. 14-4. Interference with animal control authority or police officer.

Sec. 14-5. Confinement of certain dogs and cats.

Secs. 14-6—14-40. Reserved.

#### **Sec. 14-1. Definitions.**

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

*Animal control authority* means any person employed or designated by the city or contracted by the city as enforcement officer of this chapter.

*Animal shelter* means any premises designated by action of the city for the purposes of impounding and caring for animals found in violation of this chapter.

*At large* means not under restraint as defined in this section.

*Barking dog* means any dog that barks, bays, cries, howls, or makes any other noise continuously and/or incessantly for a period of ten minutes or barks intermittently for 30 minutes or more at any time either day or night.

*Cat* means any domesticated feline animal, male or female, whole or neutered.

*Dangerous dog* means any dog that has:

- (1) Without provocation, inflicted substantial bodily harm on a human being on public or private property;
- (2) Killed a domestic animal without provocation while off the owner's property; or

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

<sup>21</sup> Adoption of state law by reference.

The provisions of Minn. Stat. chs. 347.50—347.57, as they may be amended from time to time, with reference to the definition of terms, conditions, restrictions, and requirements of dangerous dogs. It is the intention of the city council that all future amendments to Minn. Stat. chs. 347.50—347.57 are hereby adopted by reference or referenced as if they had been in existence at the time this article is adopted.

*Dog* means any canine animal, male or female, whole or neutered.

*Kennel, commercial*, means any structure or premises on which four or more animals, domestic pets, of one type, over four months of age are kept, owned, boarded, groomed, sheltered, protected, bred, or offered for sale or any other merchandising. Every kennel shall be enclosed or fenced in such manner as to prevent the running at large or escape of dogs confined therein.

*Kennel; private*, means any structure or premises on which four or more animals, domestic pets, of one type, over four months of age are kept for private enjoyment and not for monetary gain. Every kennel shall be enclosed or fenced in such manner as to prevent the running at large or escape of dogs confined therein.

**State Law reference**— Definition of dog kennel, Minn. Stat. § 347.31.

*Own* means, unless otherwise specified, to keep, harbor, or have control, charge, or custody of an animal for a period of three days or longer. This term shall not apply to animals owned by others which are temporarily maintained on the premises of a veterinarian or licensed kennel operator.

*Owner* means any person owning, or having charge or control of any animal, or permitting any dog or cat to habitually be or remain on or be lodged or fed within such person's house, yard, or premises for a period of three days or longer. This term shall not apply to veterinarians or licensed kennel operators temporarily maintaining on their premises animals owned by others.

*Potentially dangerous dog, as provided in M.S.A. § 347.50* means any dog that:

- (1) When unprovoked, inflicts bites on a human or domestic animal on public or private property;
- (2) When unprovoked, chases or approaches a person, including a person on a bicycle, upon the streets, sidewalks, or any public or private property, other than the dog owner's property, in an apparent attitude of attack; or
- (3) Has a known propensity, tendency, or disposition to attack unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals. ~~This definition is pursuant to Minn. Stat. § 347.50.~~

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<sup>21</sup> **Sec. 14-1. Definitions.** All definitions from throughout this chapter should be combined in this section. Also, regarding dangerous/potentially dangerous dogs:

- The highlighted regulatory provision regarding dangerous dogs is misplaced in the middle of a definition section and should be moved into a separate, topically appropriate section in the body of the chapter.
- The statutory acknowledgment in the definition of potentially dangerous dogs should be moved as shown for the same reason, i.e., it should not be incorporated in a subsection of a definition.
- The nondefinitional regulatory provisions regarding dangerous dogs should be moved into a separate article, along with other related provisions identified below.

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

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

*Restraint* means under control and on a leash. An unattended dog or other domestic animal on the property of another, without the consent of such property owner, is "at large" and not "under restraint," even though it is on a leash.

*Stray* means any unlicensed dog, or any other domestic animal, the owner of which is unknown, and which is at large within the city.

*Tether* means a rope, chain, leash or other strong cord by which an animal is fastened so that it can roam within a set radius.

(Code 1963, §§ 7.01, 7.11(B), 8.02; Code 1980, § 5-1; Ord. No. 230, 5-21-1970; Ord. No. 519, 10-7-1976; Ord. No. 84-843, 9-20-1984; Ord. No. 89-1165, 11-2-1989; Ord. No. 98-1733, 7-23-1998; [url="http://newwords.municode.com/readordinance.aspx?ordinanceid=746380&datasource=ordbank" web="yes">Ord. No. 15-2328, 12-3-2015 </ulink>; Ord. No. \[url="http://newwords.municode.com/readordinance.aspx?ordinanceid=947806&datasource=ordbank" web="yes">19-2424 </ulink>, 3-7-2019\\)\]\(http://newwords.municode.com/readordinance.aspx?ordinanceid=947806&datasource=ordbank\)](http://newwords.municode.com/readordinance.aspx?ordinanceid=746380&datasource=ordbank)

~~Cross reference—Definitions generally, § 1-2.~~

#### **<sup>22</sup>Sec. 14-2. Penalty for violation of chapter.**

Any person in violation of any of the provisions in this chapter shall be guilty of a misdemeanor. Each day on which such violation continues shall constitute a separate offense.

(Code 1980, § 5-19; Ord. No. 84-843, 9-20-1984; Ord. No. 98-1733, 7-23-1998)

#### **Sec. 14-3. Exemptions.**

- (a) Dogs engaged in work for police, fire or rescue service shall be exempt from all provisions of this chapter.
- (b) Hospitals, clinics, and other premises operated by licensed veterinarians for the care and treatment of animals are exempt from the provisions of this chapter, except where such duties are expressly stated.
- (c) The licensing requirements of this chapter, except as otherwise expressly stated, shall not apply to any dog or cat belonging to a nonresident of the city and kept within the city for not longer than 30 days, provided that all such dogs and cats shall at all times while in the city be kept within a building, enclosure or vehicle, or be under restraint by the owner.

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<sup>22</sup> **Sec. 14-2. Penalty for violation of chapter.** This section should be moved to the bottom of this article. Note that it covers the chapter in its entirety, so penalty provisions throughout the chapter that merely duplicate this section should be stricken.

- (d) Dogs confined to a veterinarian clinic, animal hospital or licensed commercial kennel need not be licensed.

(Code 1963, §§ 7.04(G), 7.13; Code 1980, § 5-5; Ord. No. 230, 5-21-1970; Ord. No. 519, 10-7-1976; Ord. No. 98-1733, 7-23-1998; [url="http://newords.municode.com/readordinance.aspx?ordinanceid=746380&datasource=ordbank" web="yes">Ord. No. 15-2328, 12-3-2015](http://newords.municode.com/readordinance.aspx?ordinanceid=746380&datasource=ordbank) </ulink>)

**<sup>23</sup>Sec. 14-4. Interference with animal control authority or police officer.**

No person shall interfere with, hinder or molest any animal control authority or police officer in the performance of any duty, or seek to release any animal in the custody of the animal control authority or police officer except as provided in this chapter.

(Code 1963, § 7.15; Code 1980, § 5-4; Ord. No. 230, 5-21-1970; Ord. No. 519, 10-7-1976; [url="http://newords.municode.com/readordinance.aspx?ordinanceid=746380&datasource=ordbank" web="yes">Ord. No. 15-2328, 12-3-2015](http://newords.municode.com/readordinance.aspx?ordinanceid=746380&datasource=ordbank) </ulink>)

~~**Editor's note**—[url="http://newords.municode.com/readordinance.aspx?ordinanceid=746380&datasource=ordbank" web="yes">Ord. No. 15-2328, adopted December 3, 2015,](http://newords.municode.com/readordinance.aspx?ordinanceid=746380&datasource=ordbank) </ulink> amended § 14-4 to read as set out herein. Previously § 14-4 was titled "Interference with animal control officer or police officer."~~

**Sec. 14-5. Confinement of certain dogs and cats.**

- (a) The owner shall confine within a building or a secure enclosure every fierce, dangerous, potentially dangerous or vicious dog, and shall not take such dog out of such building, or secure enclosure, unless such dog is securely muzzled.
- (b) Every female dog or cat in heat will be kept confined to the owner's property or any veterinary hospital or boarding kennel, in such manner that such female dog or cat cannot come into contact with another animal, except for intentional breeding purposes.

(Code 1963, § 7.09 (A), (B); Code 1980, § 5-10; Ord. No. 230, 5-21-1970; Ord. No. 519, 10-7-1976; Ord. No. 98-1733, 7-23-1998; Ord. No. [url="http://newords.municode.com/readordinance.aspx?ordinanceid=947806&datasource=ordbank" web="yes">19-2424](http://newords.municode.com/readordinance.aspx?ordinanceid=947806&datasource=ordbank) </ulink>, 3-7-2019)

**State Law reference**— Confinement of dangerous dogs, Minn. Stat. § 347.52(a).

**Secs. 14-6—14-40. Reserved.**

**ARTICLE II. ADMINISTRATION AND ENFORCEMENT \***

**\*Cross reference**— Administration, ch. 2.

**DIVISION 1. - GENERALLY**

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<sup>23</sup> **Sec. 14-4. Interference with animal control authority or police officer.** This section should be moved to article II, administration and enforcement.

## DIVISION 2. - IMPOUNDMENT

### ***DIVISION 1. GENERALLY***

Sec. 14-41. Enforcement generally.

Sec. 14-42. Right of entry by authorized officers.

Sec. 14-43. Dangerous dog determination and appeal.

Sec. 14-44. Dangerous and potentially dangerous dog regulation.

Sec. 14-45. Notification of death or transfer.

Secs. 14-46—14-60. Reserved.

#### **Sec. 14-41. Enforcement generally.**

The provisions of this chapter will be enforced throughout the city by the animal control authority and city police officers, including all manufactured home parks or recreational camping areas, pursuant to Minn. Stat. § 327.26, subd. 2.

(Code 1963, § 7.02; Code 1980, § 5-2; Ord. No. 230, 5-21-1970; Ord. No. 519, 10-7-1976; Ord. No. 86-950, 6-26-1986; Ord. No. 98-1733, 7-23-1998; <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=746380&datasource=ordbank" web="yes">Ord. No. 15-2328, 12-3-2015 </ulink>)

#### **Sec. 14-42. Right of entry by authorized officers.**

For the purpose of discharging the duties imposed by this chapter and to enforce its provisions, any animal control authority or any police officer is empowered to enter upon any premises upon which a dog, cat or other animal is kept and to demand the exhibition of such animal by the owner of such animal and the license and rabies certificate for such animal. Any animal control authority or police officer may enter the premises where any animal is kept in a reportedly cruel or inhumane manner and demand to examine such animal and to take possession of such animal when, in such officer's opinion, it requires humane treatment.

(Code 1963, § 7.14; Code 1980, § 5-3; Ord. No. 230, 5-21-1970; Ord. No. 519, 10-7-1976; <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=746380&datasource=ordbank" web="yes">Ord. No. 15-2328, 12-3-2015 </ulink>)

#### **<sup>24</sup>Sec. 14-43. Dangerous dog determination and appeal.**

(a) *Initial determination.* The city designated animal control authority shall be responsible for initially determining (initial determination) whether a dog is a potentially dangerous or dangerous dog. The animal control authority may retain custody of a dog which has been initially determined to be a dangerous dog pending the hearing as hereinafter provided. The initial determination shall be conclusive unless the owner appeals the initial determination as hereinafter provided.

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<sup>24</sup> **Sec. 14-43. Dangerous dog determination and appeal.** See prior footnote with regard to creating an article for dangerous dog related provisions.



- (b) *Notice of initial determination.* The notice of initial determination shall be made in writing and delivered by mail or by posting at the residence of the dog's owner. The notice of initial determination shall describe the dog deemed to be potentially dangerous or dangerous, shall identify the officer making the initial determination and shall inform the owner of the owner's right to appeal the initial determination.
- (c) *Request for hearing and appeal.* An owner may appeal the initial determination by filing a request for hearing with the city clerk within 14 days of the initial determination. The owner shall submit a deposit to the city clerk in accordance with the existing fee schedule. The city clerk shall assign a hearing officer, who shall not be the person who made the initial determination. At the hearing, the hearing officer shall consider the reports and comments of the animal control authority, the testimony of any witnesses, witness statements and the comments of the owner of the dog. After considering all of the evidence submitted, the hearing officer shall make written findings and shall determine whether the dog is a potentially dangerous or dangerous dog (final determination). The findings shall be made in writing within five days of the date of the hearing by delivering, by mail or by posting at the residence of such owner. If the hearing officer finds in favor of the owner the deposit shall be returned to the dog's owner.

( <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=746380&datasource=ordbank" web="yes">Ord. No. 15-2328, 12-3-2015 </ulink>; Ord. No. <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=947806&datasource=ordbank" web="yes">19-2424 </ulink>, 3-7-2019)

**<sup>25</sup>Sec. 14-44. Dangerous and potentially dangerous dog regulation.**

Registration required. No person may keep a potentially dangerous or dangerous dog in the city unless the dog is registered with the city animal control authority. The city animal control authority may impose certain requirements prior to registration, including but not limited to:

- (1) Photograph of the dog;
- (2) Proof of current rabies vaccination;
- (3) Proof that a microchip has been implanted;
- (4) Copy of written notice to property owner if the dog is residing at a rental property;
- (5) Photograph of a proper enclosure;
- (6) Proof of obedience training;
- (7) A current City of Blaine dog license.

The city animal control authority shall issue a certificate of registration to the owner of a potentially dangerous or dangerous dog once the requirements have been met.

( <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=746380&datasource=ordbank" web="yes">Ord. No. 15-2328, 12-3-2015 </ulink>; Ord. No. <ulink class="ordbank" print="yes"

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<sup>25</sup> **Sec. 14-44. Dangerous and potentially dangerous dog regulation.** See prior footnotes with regard to creating an article for dangerous dog related provisions.

url="http://newords.municode.com/readordinance.aspx?ordinanceid=947806&datasource=ordbank" web="yes">19-2424 </ulink>, 3-7-2019)

~~Editor's note—Ord. No. 19-2424, adopted March 7, 2019, changed the title of § 14-44 from dangerous dog regulations to read as herein set out.~~

<sup>26</sup>**Sec. 14-45. Notification of death or transfer.**

- (a) No owner of a potentially dangerous or dangerous dog shall transfer ownership or residence of the dangerous dog without notifying the city animal control authority within 30 days.
- (b) Upon changing the residence of a potentially dangerous or dangerous dog the owner must notify the animal control authority of the jurisdiction in which the dog will reside.
- (c) The city animal control authority shall be notified in writing upon the death of a potentially dangerous or dangerous dog. An affidavit may be required of the owner if proof of death cannot be obtained by a licensed veterinarian.
- (d) The owner of a potentially dangerous or dangerous dog shall notify the new owner of the dog that the dog has been declared potentially dangerous or dangerous dog and that it must be registered in the jurisdiction in which the dog will reside.

( <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=746380&datasource=ordbank" web="yes">Ord. No. 15-2328, 12-3-2015 </ulink>; Ord. No. <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=947806&datasource=ordbank" web="yes">19-2424 </ulink>, 3-7-2019)

**Secs. 14-46—14-60. Reserved.**

***DIVISION 2. IMPOUNDMENT***

[Sec. 14-61. Animals at large; procedure.](#)

[Sec. 14-62. Redemption.](#)

[Sec. 14-63. Impoundment fees.](#)

[Secs. 14-64—14-100. Reserved.](#)

**Sec. 14-61. Animals at large; procedure.**

- (a) Animals found running at large may be seized by any animal control officer or police officer and may be returned to the owner in accordance with police department policies or be impounded in a shelter designated as the animal shelter, and there confined in a humane manner for a period or not less than five days, and may thereafter be disposed of in a humane manner if not claimed by their owners. Animals not claimed before the expiration of the five days by their owners may be disposed of in accordance with state law, except as provided in this division.

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<sup>26</sup> **Sec. 14-45. Notification of death or transfer.** See prior footnotes with regard to creating an article for dangerous dog related provisions.

- (b) The police department designee may transfer title of all animals seized and held at the animal shelter to the impound facility after the legal detention period has expired and the animals have not been claimed by their owners.
- (c) When animals are found running at large, and their ownership is known to the animal control officer, such animals will be returned to their owner or impounded in accordance with the police department policies. Complaints for dogs at large will be issued in accordance with police department policies.

(Code 1963, § 7.06; Code 1980, § 5-15; Ord. No. 230, 5-21-1970; Ord. No. 519, 10-7-1976; Ord. No. 98-1733, 7-23-1998)

**State Law reference**— Seizure of unlicensed dogs required, Minn. Stat. § 347.14.

#### **Sec. 14-62. Redemption.**

- (a) The owner shall be entitled to possession of any impounded dog, except as provided in this division, upon compliance with the license and vaccination provisions of this chapter and the payment of impoundment fees set forth in this division.
- (b) Any other animal impounded under the provisions of this chapter may be reclaimed by the owner upon the payment of impoundment fees, compliance with the vaccination requirements, if any, set forth in this chapter.
- (c) When in the judgment of police department personnel, an animal should be destroyed for humane reasons, such animal may not be redeemed.
- (d) Any animal impounded under the provisions of this article and not reclaimed by its owner within five days, may be placed in the custody of some person deemed to be a responsible and suitable owner, who will agree to comply with the provisions of this chapter and such other regulations as shall be fixed by the city.

(Code 1963, §§ 7.07, 7.09(C); Code 1980, § 5-16; Ord. No. 230, 5-21-1970; Ord. No. 519, 10-7-1976; Ord. No. 98-1733, 7-23-1998)

<sup>27</sup>**State Law reference**— Disposition of ~~impounded-seized~~ animals, M.S.A. § 343.235 ~~Minn. Stat. § 35.71~~.

#### **Sec. 14-63. Impoundment fees.**

Any animal impounded may be reclaimed as provided in this chapter upon payment to the impound facility by the owner. Such payment shall include all costs and charges associated with the impoundment as specified in the city's contract with the impound facility.

(Code 1963, § 7.08; Code 1980, § 5-17; Ord. No. 230, 5-21-1970; Ord. No. 510, 10-7-1976; Ord. No. 678, 1-3-1980; Ord. No. 98-1733, 7-23-1998)

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<sup>27</sup> **Sec. 14-62. Redemption.** M.S.A. § 35.71 was repealed in 2012. See suggested correction.

**Secs. 14-64—14-100. Reserved.**

**ARTICLE III. RABIES CONTROL \***

\*Cross reference— Environment, ch. 34.

Sec. 14-101. Definitions.

Sec. 14-102. Vaccination required.

Sec. 14-103. Vaccination tag; payment of cost.

Sec. 14-104. Untagged dogs and cats.

Sec. 14-105. Rabies suspects generally; release.

Sec. 14-106. Handling of dogs and cats bitten by rabid animals.

Sec. 14-107. Reports.

Secs. 14-108—14-140. Reserved.

**~~28~~Sec. 14-101. Definitions.**

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

~~Cat means any domesticated feline animal, male or female, whole or neutered, over 12 months of age.~~

~~Dog means any canine animal, male or female, whole or neutered, over three months of age.~~

~~Vaccination means the inoculation of a dog or cat with a rabies vaccine. Such vaccination must be performed by a veterinarian duly licensed to practice veterinary medicine.~~

~~(Code 1963, § 7.12(A); Code 1980, § 5-30; Ord. No. 230, 5-21-1970; Ord. No. 519, 10-7-1976; <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=746380&datasource=ordbank" web="yes">Ord. No. 15-2328, 12-3-2015 </ulink>)~~

~~Cross reference— Definitions generally, § 1-2.~~

**Sec. 14-102. Vaccination required.**

(a) Every dog and cat shall be vaccinated against rabies and at such intervals as set forth by the state board of animal health.

(b) Unvaccinated dogs and cats acquired or moved into the city must be vaccinated within 30 days of acquisition or arrival, respectively.

(Code 1963, § 7.12(B)(1), (2), (3); Code 1980, § 5-31; Ord. No. 230, 5-21-1970; Ord. No. 519, 10-7-1976; Ord. No. 98-1733, 7-23-1998; <ulink class="ordbank" print="yes"

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<sup>28</sup> **Sec. 14-101. Definitions.** These definitions conflict with the chapter definitions, are generally unnecessary, and should be stricken.

url="http://newords.municode.com/readordinance.aspx?ordinanceid=746380&datasource=ordbank" web="yes">Ord. No. 15-2328, 12-3-2015 </ulink>)

~~Editor's note —<ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=746380&datasource=ordbank" web="yes">Ord. No. 15-2328, adopted December 3, 2015, </ulink> amended § 14-102 to read as set out herein. Previously § 14-102 was titled "Vaccination required; periods."~~

**Sec. 14-103. Vaccination tag; payment of cost.**

- (a) *Vaccination tag.* A metal or durable plastic tag, serially numbered, issued by the rabies control authority, shall be securely attached to the collar or harness of the dog. Whenever the dog is out-of-doors, whether on or off the owner's premises, the collar or harness with the vaccination tag must be worn.
- (b) *Vaccination cost.* The cost of rabies vaccination shall be borne by the owner of the dog or cat.

(Code 1963, § 7.12, (C), (D); Code 1980, § 5-32; Ord. No. 230, 5-21-1970; Ord. No. 519, 10-7-1976; Ord. No. 98-1733, 7-23-1998)

**Sec. 14-104. Untagged dogs and cats.**

- (a) Any dog found off the owner's premises and not wearing a valid rabies vaccination tag may be impounded. All impounded dogs shall be given proper care and maintenance. Each impounded dog shall be kept and maintained at the pound for a minimum of five days as required under this chapter, unless reclaimed earlier by the owner.
- (b) Impoundment and notice of impoundment shall be in accordance with police department policies. Any unvaccinated dog may be conditionally reclaimed by its owner during the period of impoundment by payment of prescribed fees and complying with rabies vaccination requirements of this chapter within 72 hours of release. Any vaccinated dog impounded because of lack of a rabies vaccination tag may be reclaimed at any time by its owner by furnishing proof of rabies vaccination, paying all impoundment fees prior to release, and by obtaining a rabies vaccination tag.
- (c) If the dog is unclaimed at the end of five days, the authority may dispose of the dog in accordance with this chapter.

(Code 1963, § 7.12 (G); Code 1980, § 5-33; Ord. No. 230, 5-21-1970; Ord. No. 519, 10-7-1976; Ord. No. 98-1733, 7-23-1998)

**Sec. 14-105. Rabies suspects generally; release.**

- (a) Any dog or cat that has bitten any person and caused an abrasion of the skin of any person shall be seized and quarantined in accordance with police department policies. The dog or cat shall be quarantined at either the designated impound facility or the owner's veterinarian facility for a period of not less than ten days. If the veterinarian examination confirms no clinical signs of rabies, it may be released from quarantine. The owner of the dog or cat shall have five working days in which to have the dog or cat vaccinated and provide the proper certification to the police department. Failure to provide rabies vaccination certification may result in owner citation as provided in this chapter. The owner of the animal is responsible for all costs associated with the quarantine impoundment. In the case of a stray, it shall be disposed of in accordance with applicable laws.
- (b) Any other animal, which has bitten any person or caused an abrasion of the skin of such person shall be seized and impounded at an appropriate facility for a period of time not less than ten days. If after an

examination, the animal appears healthy, it may be released to the owner, or in the case of a stray, it shall be disposed of in accordance with applicable laws. If it is deemed necessary, the animal may be euthanized and examined for rabies by the state department of health.

(Code 1963, § 7.12(E)(1), (3); Code 1980, § 5-34; Ord. No. 230, 5-21-1970; Ord. No. 519, 10-7-1976; Ord. No. 98-1733, 7-23-1998)

<sup>29</sup>**State Law reference**— Allowing animal with infectious disease to run at large, M.S.A. § 343.28 Minn. Stat. § 346.28.

#### **Sec. 14-106. Handling of dogs and cats bitten by rabid animals.**

In the case of dogs or cats that have been bitten by a verified rabid animal, the following rules shall apply:

- (1) Any skunk, civet cat, raccoon or fox that bites a dog or cat shall be deemed to be a rabid animal for the purposes of this section.
- (2) Unvaccinated dog or cat bitten by a rabid animal:
  - a. In the case of a dog or cat which has not been vaccinated in accordance with this article and which has been bitten by a known rabid animal, such bitten dog or cat should be immediately destroyed.
  - b. If the owner is unwilling to destroy the bitten dog or cat, such animal shall be placed in strict isolation for six months, at the city's impound facility or at a veterinary clinic of the owner's choice. The dog or cat shall be vaccinated one month prior to being released. All impound costs are the responsibility of the owner.
- (3) Vaccinated bitten dog or cat: In the case of a bitten dog or cat vaccinated at least 30 days prior to the bite and in accordance with the provisions of this article, the dog or cat shall be handled as follows:
  - a. The dog or cat must be revaccinated immediately. The dog or cat may then be quarantined as stated in the police department policy for a period of 45 days.
  - b. If the dog or cat is not immediately revaccinated, it shall be seized. It will be recommended that the dog or cat be destroyed immediately. If the owner chooses not to destroy the dog or cat, it will be quarantined at the city's impound facility or the owner's veterinarian's facility for a period of six months at the owner's expense.
  - c. The dog or cat shall be destroyed if the owner does not comply with subsections (3)a or (3)b of this section.

(Code 1963, § 7.12(F); Code 1980, § 5-35; Ord. No. 230, 5-21-1970; Ord. No. 519, 10-7-1976; Ord. No. 98-1733, 7-23-1998)

#### **Sec. 14-107. Reports.**

- (a) *Bite cases.* It shall be the duty of every physician or any other person to report to the police department the names and addresses of persons treated for bites inflicted by animals within the city, together with

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<sup>29</sup> **Sec. 14-105. Rabies suspects generally; release.** The cited statute was renumbered in 1982 as shown.

such other information as will be helpful in rabies control, and the police department shall immediately inform the health officer of such report.

- (b) *Rabies suspect diagnosis*: It shall be the duty of every licensed veterinarian to report to the police department such veterinarian's diagnosis of any animal within the city observed by such veterinarian as a rabies suspect, and the police department shall immediately inform the health officer of such report.

(Code 1963, § 7.12(H), (I); Code 1980, § 5-36; Ord. No. 230, 5-21-1970; Ord. No. 519, 10-7-1976; Ord. No. 98-1733, 7-23-1998)

**Secs. 14-108—14-140. Reserved.**

#### **ARTICLE IV. DOGS \***

*\*State Law reference— Dogs, Minn. Stat. ch. 347.*

DIVISION 1. - GENERALLY

DIVISION 2. - LICENSE

DIVISION 3. - KENNELS

##### ***DIVISION 1. GENERALLY***

[Sec. 14-141. Dogs to be under restraint.](#)

[Sec. 14-142. Guard dog warning signs.](#)

[Sec. 14-143. Dog enclosures.](#)

[Sec. 14-144. Barking dogs.](#)

[Sec. 14-145. Dog defecation.](#)

[Secs. 14-146—14-170. Reserved.](#)

##### **Sec. 14-141. Dogs to be under restraint.**

All dogs will be kept under restraint by their owners at all times.

(Code 1963, § 7.03; Code 1980, § 5-9; Ord. No. 230, 5-21-1970; Ord. No. 519, 10-7-1976; Ord. No. 98-1733, 7-23-1998)

##### **Sec. 14-142. Guard dog warning signs.**

Businesses and residences located within the city limits and maintaining a guard dog for security purposes shall post notice at the entrance to the premises, warning of the presence of the dog.

(Code 1963, § 7.10; Code 1980, § 5-11; Ord. No. 230, 5-21-1970; Ord. No. 519, 10-7-1976; Ord. No. 98-1733, 7-23-1998)

**Sec. 14-143. Dog enclosures.**

- (a) *Purpose.* It is the purpose of this section to abate existing nuisances and to prevent nuisances created by site, odor, noise and sanitation due to construction and placement of dog enclosures on private property.
- (b) *Screening.* Dog enclosures must be screened from view of adjacent property.
- (c) *Placement.* A dog enclosure shall not be placed closer than 30 feet to a side lot line, or ten feet to a rear lot line, except no dog enclosure shall be placed in a front yard.
- (d) *Sanitation requirements.* No person shall permit feces, urine, or food scraps to remain in an enclosure for a period that is longer than reasonable and consistent with health and sanitation and the prevention of odors.
- (e) *Applicability of section provisions.* This section shall be applicable to all dog enclosures constructed after the effective date of the ordinance from which this section is derived. Any preexisting dog enclosure which is a nuisance or source of filth may be required to comply with this section by notice of compliance being given by the city manager. Failure to comply with such a notice within 30 days of issuance shall be a violation of this Code.

(Code 1963, § 7.11(A), (C)—(F); Code 1980, § 5-12; Ord. No. 230, 5-21-1970; Ord. No. 519, 10-7-1976; Ord. No. 90-1196, 3-15-1990; Ord. No. 98-1733, 7-23-1998)

**State Law reference—** Dog houses, Minn. Stat. § 343.40.

**Sec. 14-144. Barking dogs.**

It shall be unlawful for any person to own, keep, or harbor any dog which is considered a barking dog. A dog shall not be deemed a barking dog if, at the time the dog is barking or making any other noise, a person is trespassing or threatening to trespass upon the private property upon which the dog is situated or when the dog is teased or provoked.

(Code 1980, § 5-18; Ord. No. 84-843, 9-20-1984; Ord. No. 98-1733, 7-23-1998)

**Sec. 14-145. Dog defecation.**

- (a) *Removal, collection and disposal of feces.* Any person being the owner of or having charge or control of any dog not confined to that person's property shall immediately remove any feces deposited on public or private property. Any such person shall have in their possession a means to collect and dispose of all fecal matter in a proper manner. A violation of this subsection is a petty misdemeanor.
- (b) *Accumulation of feces.* A person being the owner of or having charge of any animal shall keep their premises free from an unreasonable accumulation of fecal matter.

(Code 1980, § 5-20; Ord. No. 97-1648, 4-3-1997; Ord. No. 98-1733, 7-23-1998; Ord. No. 01-1912, 8-16-2001)

**Secs. 14-146—14-170. Reserved.**

***DIVISION 2. LICENSE \****

**\*State law reference—** County dog license, Minn. Stat. § 347.08.



Sec. 14-171. Required; application; procedure.

Sec. 14-172. Tag.

Sec. 14-173. Fees; illegal use of receipt or tag.

Secs. 14-174—14-190. Reserved.

**Sec. 14-171. Required; application; procedure.**

- (a) No person shall own any dog within the city limits unless such dog is licensed as provided in this division. Written application for such license shall be made to the city clerk or designee and shall state the name and address of the owner and the breed, color, age and sex of the dog. A license fee shall be paid at the time of making application, a numbered receipt given to the applicant, and a numbered metallic tag shall be issued to the owner. As a condition for the issuance of such license, the owner shall submit a current certificate of rabies vaccination for the dog.
- (b) Any dog owner upon first becoming a resident of the city will be allowed 30 days in which to obtain the dog license. The owner of any dog which may be impounded for not being properly licensed within such 30-day period will not be charged with having an unlicensed dog in the city.
- (c) All dog licenses shall be issued for two years beginning with May 1. Application for licenses may be made prior to June 1 without penalty. All applications made after June 1 or more than 30 days after the dog reaches six months of age, or more than 30 days after the dog owner moved into the city, or more than 30 days after the applicant acquires the dog, whichever is the later date, shall be assessed a penalty of \$1.00, which amount will be added to and collected with the regular license fee. Any person who acquires a dog after the start of the license period will be allowed 30 days after acquiring such dog to secure a license.

(Code 1963, § 7.04(A), (C); Code 1980, § 5-6; Ord. No. 230, 5-21-1970; Ord. No. 519, 10-7-1976; Ord. No. 98-1733, 7-23-1998)

**Sec. 14-172. Tag.**

- (a) Upon complying with the provisions of sections 14-171 and 14-173, the owner will be issued a numbered metallic tag, stamped with the years for which the license is issued. The shape or design of such tag will be changed each license period.
- (b) Every owner is required to see that the tag is securely fastened to the dog's chain, collar, or harness, which must be worn by the dog at all times.

(Code 1963, § 7.05; Code 1980, § 5-7; Ord. No. 230, 5-21-1970; Ord. No. 519, 10-7-1976; Ord. No. 98-1733, 7-23-1998)

<sup>30</sup>**Sec. 14-173. Fees; illegal use of receipt or tag.**

- (a) The dog license fee will be established by action of the council.
- (b) If the metallic license tag issued for a dog shall be lost, the owner may obtain a duplicate tag, upon the payment of \$1.00.

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<sup>30</sup> **Sec. 14-173. Fees; illegal use of receipt or tag.** The fee in this section should be removed, as are other fees in the code, and included in the city's fee schedule.

- (c) If there is a change in ownership of a dog during the license year, the new owner may have the current license transferred to the new owner's name upon the payment of a transfer fee established by action of the council.
- (d) No person shall use for any dog a license receipt or license tag issued for another dog.
- (e) No refund shall be made of any dog license fee because of leaving the city or death of the dog before the expiration of the license.

(Code 1963, § 7.04(B), (D), (E), (F); Code 1980, § 5-8; Ord. No. 230, 5-21-1970; Ord. No. 519, 10-7-1976; Ord. No. 98-1695, § 3, 2-5-1998; Ord. No. 98-1733, 7-23-1998)

**Secs. 14-174—14-190. Reserved.**

### ***DIVISION 3. KENNELS***

[Sec. 14-191. License required; fee; term; penalty.](#)

[Sec. 14-192. Sanitation.](#)

[Secs. 14-193—14-220. Reserved.](#)

#### **Sec. 14-191. License required; fee; term; penalty.**

- (a) It shall be unlawful for any person to own or operate any dog kennel unless a license and conditional use permit as per the city zoning ordinance is secured therefor. All kennels are subject to annual review and inspection. The annual license fee shall be established by action of the city council. All licenses expire on April 30 next following issuance of the license, except that licenses may be renewed prior to June 1 without penalty.
- (b) Any person in violation of any of the provisions in this division shall be guilty of a misdemeanor. Each day on which such violation continues shall constitute a separate offense.

(Code 1963, §§ 7.04(C), 8.01; Code 1980, § 5-13; Ord. No. 230, 5-21-1970; Ord. No. 519, 10-7-1976; Ord. No. 89-1165, 11-2-1989; Ord. No. 98-1695, § 3, 2-5-1998; Ord. No. 98-1733, 7-23-1998)

**State Law reference**— State animal dealer license, Minn. Stat. § 347.34 et seq.

#### **Sec. 14-192. Sanitation.**

Every kennel shall be operated in a clean, healthful, sanitary, safe condition and humane manner, and so as not to create a public nuisance, and failure to do so shall constitute grounds for a revocation of the license of such kennel. The determination by the council as to the manner of operation of any kennel in relation to any of such matters shall be presumptive proof thereof.

(Code 1963, § 8.03; Code 1980, § 5-14; Ord. No. 98-1733, 7-23-1998)

**Secs. 14-193—14-220. Reserved.**

### **ARTICLE V. NONDOMESTICATED ANIMALS**

[Sec. 14-221. Definitions.](#)

[Sec. 14-222. Penalty for violation of article.](#)

Sec. 14-223. Purpose of article.

Sec. 14-224. Impounding.

Sec. 14-225. Prohibited animals.

Sec. 14-226. Exceptions.

Sec. 14-227. Selling.

Sec. 14-228. Intentional feeding of wild animals.

Secs. 14-229—14-260. Reserved.

<sup>31</sup>**Sec. 14-221. Definitions.**

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

*Nondomesticated animal* means any wild animal, reptile, or fowl which is not naturally tame or gentle, but is of a wild nature or disposition, and which, because of its size, vicious nature, or other characteristics would constitute a danger to human life or property.

(Code 1980, § 5-51; Ord. No. 89-1166, 11-2-1989)

**Cross reference**—Definitions generally, § 1-2.

~~<sup>32</sup>**Sec. 14-222. Penalty for violation of article.**~~

~~Violation of any provision of this article shall be a misdemeanor.~~

~~(Code 1980, § 5-56; Ord. No. 89-1166, 11-2-1989; Ord. No. 98-1733, 7-23-1998)~~

**Sec. 14-223. Purpose of article.**

The purpose of this article is to protect the public health from disease transmission, animal bites, animal attacks and other serious injury, and public nuisances arising from the keeping or escape of nondomesticated animals.

(Code 1980, § 5-50; Ord. No. 89-1166, 11-2-1989)

**Sec. 14-224. Impounding.**

Any nondomesticated animal kept in violation of this article may be impounded by the city, and after being so impounded for five days or more without being reclaimed by the owner, may be sold or destroyed. Any person reclaiming such impounded animal shall pay the costs of impounding and keeping the same, and shall provide documentation of the animals relocation outside of the city.

(Code 1980, § 5-55; Ord. No. 89-1166, 11-2-1989)

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<sup>31</sup> **Sec. 14-221. Definitions.** This definition should be incorporated in the chapter definitions in article I and this section eliminated.

<sup>32</sup> **Sec. 14-222. Penalty for violation of article.** This section is duplicative of the penalty provision in article I, applicable to the chapter in its entirety.

<sup>33</sup>**Sec. 14-225. Prohibited animals.**

No person, ~~firm, corporation or other business~~ shall keep, maintain or harbor within the city, any of the following animals:

- (1) Any animal or species prohibited by federal or state law.
- (2) Any nondomesticated animal or species including, but not limited to, the following:
  - a. Any skunk, whether captured in the wild, domestically raised, descended or not descended, vaccinated against rabies or not vaccinated against rabies.
  - b. Any large cat of the family Felidae such as lions, tigers, jaguars, leopards, cougars, and ocelots, except commonly accepted domesticated house cats.
  - c. Any member of the family Canidae, such as wolves, foxes, coyotes, dingoes and jackals, except domesticated dogs.
  - d. Any poisonous snake or pit viper such as a rattlesnake, coral snake, water moccasin, or cobra.
  - e. Any raccoon.
  - f. Any other animal which is not listed explicitly in this section, but which can reasonably be defined by the terms in this section, including bears and badgers.

(Code 1980, § 5-52; Ord. No. 89-1160, 11-2-1989)

**Sec. 14-226. Exceptions.**

The following nondomesticated animals shall be exempt from the provisions of this article, and may be kept within the city:

- (1) Nondomesticated animals brought into the city for entertainment, exhibition, show, promotional or educational purposes, provided that such animals are kept within an enclosure or other secure method of storage.
- (2) Nondomesticated animals for sale or display in commercial pet stores, provided that prior to a sale of any such nondomesticated animal to a person who intends to keep such animal in the city, the pet store shall be required to give the buyer a photocopy of this article.
- (3) Nondomesticated animals kept in a public zoo or other public or nonprofit institution engaged in the permanent display of nondomesticated animals.
- (4) Nonpoisonous snakes, birds kept indoors, hamsters, mice, rabbits, gerbils, white rats, guinea pigs, chinchillas or lizards, and similar small animals, provided such animals are maintained continuously in cages within the city.
- (5) Nondomesticated animals kept temporarily for a public zoo by volunteers under a designated volunteer program, provided that prior to the storage in the city such volunteer informs the city animal control officer of its presence.
- (6) All nondomesticated animals kept by veterinary clinics or other research institutions which are affiliated with a college or other institute of higher education, provided that adequate measures are taken to prevent such animals from escaping or injuring the general public.

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<sup>33</sup> **Sec. 14-225. Prohibited animals.** As noted in other footnotes throughout the code, these constructions for “person” are unnecessary since “person” is broadly defined in chapter 1.

(Code 1980, § 5-54; Ord. No. 89-1166, 11-2-1989)

**Sec. 14-227. Selling.**

No person, ~~firm, corporation or other business~~ shall sell, offer for sale or in any way transfer ownership or possession of any animal prohibited in section 14-225 except as provided for in section 14-226(1).

(Code 1980, § 5-53; Ord. No. 89-1166, 11-2-1989)

**Sec. 14-228. Intentional feeding of wild animals.**

- (a) *Feeding prohibited.* No person shall feed or allow the feeding of wild or feral animals or of small mammals within the city. Feeding shall mean the provision of any grain, fruit, vegetables, nuts, salt licks, or any other food that could attract wild animals. Living food sources such as trees and other live vegetation shall not be considered food for wild animals.
- (b) *Feeding wild birds.* Bird feed may be placed in bird feeding devices and structures solely for the purpose of attracting and feeding wild birds. Bird feeding devices and structures should be placed at a sufficient height or designed to prevent access by wild animals.
- (c) *Exception.* This provision shall not apply to employees or agents of the city, county, state, and the federal government or veterinarians who are acting in the course of their official duties or have wild animals in their custody or under their management.

([ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=820421&datasource=ordbank" web="yes">Ord. No. 17-2374 </ulink>](http://newords.municode.com/readordinance.aspx?ordinanceid=820421&datasource=ordbank), 3-16-2017)

**Secs. 14-229—14-260. Reserved.**

<sup>34</sup>**ARTICLE VI. TRAPPING OF ANIMALS**

[Sec. 14-261. Definitions.](#)

[Sec. 14-262. Penalty for violation of article.](#)

[Sec. 14-263. Purpose of article.](#)

[Sec. 14-264. Exceptions.](#)

[Sec. 14-265. Trapping prohibited generally.](#)

<sup>35</sup>**Sec. 14-261. Definitions.**

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

**Trap** means any mechanical device, snare, net, birdline, or any such contrivance intended to capture animals or birds.

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<sup>34</sup> **Art. VI. Trapping of Animals.** The article should be collapsed into a single section and moved to article I.

<sup>35</sup> **Sec. 14-261. Definitions.** The definitions should be added to the chapter definitions in article I.

**Trapping** means the setting or laying or otherwise using of a trap to capture or otherwise restrain free movement of animals or birds.

(Code 1980, § 5-59; Ord. No. 95-1587, 1-4-1996)

~~Cross-reference—Definitions generally, § 1-2.~~

~~<sup>36</sup>Sec. 14-262. Penalty for violation of article.~~

~~Violation of the provisions of this article shall be a misdemeanor.~~

~~(Code 1980, § 5-62; Ord. No. 95-1587, 1-4-1996)~~

**Sec. 14-263. Purpose of article.**

It is the purpose of this article to protect the public health and safety from unrestricted trapping and to preserve a balance of wildlife and birds and prevent the unselective catching, maiming, and destruction of wild animals, birds, and domestic animals that come in contact with traps.

(Code 1980, § 5-58; Ord. No. 95-1587, 1-4-1996)

**Sec. 14-264. Exceptions.**

- (a) The trapping prohibition shall not apply to wildlife conservation or animal control officers, or other designated representatives of the city, county, state or federal government who may in the course of their duties be required to use a trap to catch, snare, kill, or otherwise restrain the free movement of any animal, wildlife or birds for humane or otherwise authorized purposes.
- (b) The trapping prohibition shall not apply to persons who may employ a trap on their private property to prevent an unsafe or unhealthy condition, a nuisance, or destruction of their property when such persons have complied with the provisions of the laws, rules and regulations of the state, provided that the traps do not pose a threat to public health or domesticated animals.

(Code 1980, § 5-61; Ord. No. 95-1587, 1-4-1996; Ord. No. 96-1621, 10-3-1996)

**Sec. 14-265. Trapping prohibited generally.**

Except as provided in this article, trapping anywhere in the city is prohibited.

(Code 1980, § 5-60; Ord. No. 95-1587, 1-4-1996)

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<sup>36</sup> **Sec. 14-262. Penalty for violation of article.** This is duplicative of the penalty provision in article I.

<sup>37</sup>**Chapter 18 BUILDINGS AND CONSTRUCTION BUILDING REGULATIONS \***

~~\*Cross reference—Environment, ch. 34; fire prevention and protection, ch. 38; health and sanitation, ch. 42; manufactured homes and trailers, ch. 46; solid waste, ch. 62; streets, sidewalks and other public places, ch. 70; subdivisions, ch. 74; building permits for subdivisions, § 74-5; utilities, ch. 86; vegetation, ch. 90.~~

ARTICLE I. - IN GENERAL

ARTICLE II. - BUILDING CODE

ARTICLE III. - CONTRACTORS

ARTICLE IV. - HEATING, VENTILATING, AIR CONDITIONING

ARTICLE V. - PLUMBING

ARTICLE VI. - NEWSPAPER OR ADVERTISING RECEPTACLES

ARTICLE VII. - RESIDENTIAL EXTERIOR STORAGE

ARTICLE VIII. - RESIDENTIAL MAINTENANCE CODE

ARTICLE IX. - SWIMMING POOLS

ARTICLE X. - LICENSES FOR RENTAL DWELLINGS

ARTICLE XI. - ELECTRICAL

<sup>38</sup>**ARTICLE I. IN GENERAL**

Sec. 18-1. Corner lots.

Sec. 18-2. Side yards; setbacks.

Sec. 18-3. Fences.

Sec. 18-4. Access.

Sec. 18-5. Grade.

Sec. 18-6. Lot size requirement in undeveloped platted area requiring sewer facilities.

Sec. 18-7. Water and sewer connection agreement.

Sec. 18-8. Drainage.

Secs. 18-9—18-40. Reserved.

**Sec. 18-1. Corner lots.**

Corner lots shall be considered as fronting the street upon which their narrow width is actually fronting. The property line lying between the intersecting street and the corner lot along the depth of the lot shall be considered as a side line. All of the regulations relative to front yards and setbacks shall apply to each corner on this basis regardless of which street is actually faced by the building constructed thereon.

(Code 1963, § 37.78; Code 1980, § 6-16)

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<sup>37</sup> **Chapter 18, Buildings etc.** I suggest the chapter name change shown.

<sup>38</sup> **Art. I In General.** I would place all the sections in this article in article II in a division 1 (generally).

**Sec. 18-2. Side yards; setbacks.**

The space between any part of a dwelling or apartment and the property line shall be deemed a side yard or a setback as the term might apply. The term "any part of a dwelling, or apartment house" shall include vestibules of any other construction which is a part of or attached to the building except chimneys and fireplaces. The measurements for side yard space or setback shall be made between the side lot line or the front lot line and the part of the building nearest to it and shall be made on a line perpendicular to the side or front lot line. The measurements shall be made at the grade level, at the building, and the cornice or eave projection shall not affect the case unless this projection is over two feet from the face of the building. If the cornice or eave projection is over two feet, an amount shall be added to the required space equal to the difference between the cornice or eave projection and two feet.

(Code 1963, § 37.79; Code 1980, § 6-17)

**Sec. 18-3. Fences.**

Fences when constructed to enclose any lot or tract of land shall be located in such a way that the entire fence shall be on the property of the builder thereof. Posts and framework shall be placed within the property lines of the owner and the actual fencing material such as wire, lumber, pickets, etc., shall be placed on the side of the fence which faces the street or the adjacent property.

(Code 1963, § 37.81; Code 1980, § 6-18)

**Sec. 18-4. Access.**

All applications for building permits must be on property with proper frontage on a publicly dedicated street as set forth in the zoning ordinance and have direct access to a publicly dedicated street which must be continuous to other publicly dedicated streets and not interrupted by private road easements.

(Code 1963, § 37.63; Code 1980, § 6-19; Ord. No. 89-1173, 12-21-1989)

**Sec. 18-5. Grade.**

Prior to the placing of any surfacing material of a permanent or semipermanent nature on that portion of any driveway lying between the edge of the traveled road or street and the property line of the property being served by such driveway, the owner or builder shall obtain from the city a special permit which shall establish the grade and elevation which can be used in the construction of the proposed driveway.

(Code 1963, § 37.83; Code 1980, § 6-21)

**Sec. 18-6. Lot size requirement in undeveloped platted area requiring sewer facilities.**

No building permit shall be issued for the construction of any dwelling or other building requiring sanitary sewer facilities in any undeveloped recorded plat, the lots of which are of smaller dimensions than those required by the city's zoning regulations.

(Code 1963, § 37.821; Code 1980, § 6-22)

**Sec. 18-7. Water and sewer connection agreement.**

When new buildings are constructed on property which can be served by either a sanitary sewer or public water supply, or both, the applicant for such building permit shall be required to agree to connect



such building to these utilities. In these cases, no permit for a well or private disposal system shall be issued.

(Ord. No. 55, 2-17-1961; Code 1963, § 37.88; Code 1980, § 6-23)

~~Cross-reference—Utilities, ch. 86.~~

**Sec. 18-8. Drainage.**

- (a) *Obstruction of natural waterway.* No permit shall be issued for the construction of any building which construction or necessary grading incidental shall obstruct any natural drainage waterway.
- (b) *Conflicting grades.* No permit shall be issued in any case where the relative elevations of the proposed building grade and the established road grade shall conflict in such a manner as to cause damage through drainage conditions.
- (c) *Inadequate drainage.* No permit shall be issued for the construction of a building upon ground which cannot be properly drained.
- (d) *Protection of waterways.* Where application is made for a building permit and subsequent investigation shows that the property to be occupied by such building is adjacent to a portion of a public road or street containing a drainage culvert, catchbasin, sewer special ditch or any other artificial drainage structure used for the purpose of draining such property or neighboring property, the applicant shall specifically agree in writing to protect these waterways in such a way that they shall not be affected by the proposed building construction or grading work incidental thereto.

(Code 1963, §§ 37.65—37.68; Code 1980, § 6-24)

**Secs. 18-9—18-40. Reserved.**

**<sup>39</sup>ARTICLE II. BUILDING CODE \***

\*State Law reference— State building code, M.S.A. § 326B.101 et seq. ~~Minn. Stat. § 16B.59 et seq.~~

DIVISION 1. - GENERALLY

DIVISION 2. - CERTIFICATE OF OCCUPANCY

***DIVISION 1. GENERALLY***

Sec. 18-41. State building code; adopted by reference.

Sec. 18-42. Application, administration and enforcement of code.

Sec. 18-43. Permits and fees.

Sec. 18-44. Escrow inspection fee.

Secs. 18-45—18-70. Reserved.

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<sup>39</sup> **Art. II. Building Code.** Statute renumbered in 2008.

<sup>40</sup>**Sec. 18-41. State building code; adopted by reference.**

The most current edition of the state building code, as adopted by the department of labor and industry pursuant to M.S.A. § 326B.101 et seq. ~~Minn. Stat. §§ 16B.59—16B.75~~, including all of the amendments, rules and regulations established, adopted and published from time to time by the department of labor and industry, through the construction codes and licensing division, is hereby adopted by reference including chapter 1306 with options 1306.0020, subpart 2, and 1306.0030 E, option 1. The state building code is hereby incorporated in this article as if fully set out in this section.

(Code 1963, § 37.01; Code 1980, § 6-1; Ord. No. 410, 12-5-1974; Ord. No. 88-1107, 12-1-1988; Ord. No. 95-1568, 7-20-1995; Ord. No. 98-1744, 10-1-1998; Ord. No. 03-1973, 4-17-2003; Ord. No. 07-2137, 7-19-2007)

**State Law reference**— Adoption by reference, Minn. Stat. § 471.62.

**Sec. 18-42. Application, administration and enforcement of code.**

- (a) The application, administration, and enforcement of the code shall be in accordance with state building code. This code shall be enforced by the state certified building official designated by city to administer the code.
- (b) Any person which shall violate any provisions of this chapter and/or the state building code shall be guilty of a misdemeanor.
- (c) Each day any such violation shall continue shall constitute a separate offense, unless otherwise specifically provided.

(Code 1963, § 37.02; Code 1980, § 6-2; Ord. No. 410, 12-5-1974; Ord. No. 03-1973, 4-17-2003)

<sup>41</sup>**Sec. 18-43. Permits and fees.**

The issuance of permits and the collection of fees shall be as authorized in M.S.A. § 326B.107 and 326B.153 ~~Minn. Stat. § 16B.62, subd. 1.~~ Permit fees shall be assessed for work governed by this code in accordance with the fee schedule adopted by the action of the council. In addition, a surcharge fee shall be collected on all permits issued for work governed by this code in accordance with M.S.A. § 326B.148 ~~Minn. Stat. § 16B.70.~~ For work commencing before permit issuance an investigative fee, equal to the amount of the required permit fee, shall be collected. The investigative fee shall be in addition to the required permit fee.

(Code 1963, § 37.58; Code 1980, § 6-3; Ord. No. 88-1107, 12-1-1988; Ord. No. 03-1973, 4-17-2003; Ord. No. 07-2137, 7-19-2007)

**State Law reference**— Permit fees, M.S.A. § 326B.153 ~~Minn. Stat. §§ 16B.665, 16B.71.~~

**Sec. 18-44. Escrow inspection fee.**

An inspection fee shall be charged for each visit to inspect progress or completion of nonstructural work associated with any building permit. Where a financial escrow is posted to guarantee completion of

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<sup>40</sup> **Sec. 18-41. State building code; adopted by reference.** Statute renumbered in 2008.

<sup>41</sup> **Sec. 18-43. Permits and fees.** Statutes renumbered in 2008.

such work, the return of any such escrow may be reduced by the amount of any accumulated unpaid inspection fees. The inspection fee shall be an amount as established by action of the city council.

(Code 1980, § 6-28; Ord. No. 94-1541, 11-17-1994)

**Secs. 18-45—18-70. Reserved.**

***DIVISION 2. CERTIFICATE OF OCCUPANCY***

**Sec. 18-71. Required.**

**Sec. 18-72. Time of application and issuance.**

**Sec. 18-73. Temporary.**

**Sec. 18-74. Fee.**

**Sec. 18-75. Recordkeeping.**

**Secs. 18-76—18-100. Reserved.**

**Sec. 18-71. Required.**

A certificate of occupancy shall be required whenever:

- (1) Any structure is erected or moved;
- (2) Any portion of any existing industrial or commercial structure is structurally altered or remodeled;  
or
- (3) Any existing industrial or commercial structure changes occupancy classification or is occupied by a new tenant or owner.

No structure or portion of a structure shall be occupied prior to obtaining a certificate of occupancy.

(Ord. No. 55, 2-17-1961; Code 1963, §§ 37.89, 38.896; Code 1980, § 6-4; Ord. No. 96-1610, 6-20-1996)

**Sec. 18-72. Time of application and issuance.**

All certificates of occupancy shall be applied for prior to occupying the building or structure. Such certificates shall be issued within five days after the erection, moving or alteration shall have been finally approved.

(Code 1963, §§ 37.892, 37.894; Code 1980, § 6-5; Ord. No. 96-1610, 6-20-1996)

**Sec. 18-73. Temporary.**

Under such rules and regulations as may be established by the council, a temporary certificate of occupancy for not more than 60 days for a part of a building may be issued.

(Code 1963, § 37.895; Code 1980, § 6-7; Ord. No. 03-1973, 4-17-2003)

**Sec. 18-74. Fee.**

For a certificate of occupancy, there shall be a fee established by action of the council.

(Ord. No. 55, 2-17-1961; Code 1963, § 37.62; Code 1980, § 6-8; Ord. No. 666, 10-18-1979; Ord. No. 777, 11-4-1982; Ord. No. 98-1695, § 4, 2-5-1998)

**Sec. 18-75. Recordkeeping.**

The city manager shall maintain a record of all certificates, and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the building affected.

(Code 1963, § 37.893; Code 1980, § 6-9)

**Secs. 18-76—18-100. Reserved.**

**ARTICLE III. CONTRACTORS**

DIVISION 1. - GENERALLY

DIVISION 2. - LICENSE

***DIVISION 1. GENERALLY***

*Secs. 18-101—18-120. Reserved.*

**Secs. 18-101—18-120. Reserved.**

***DIVISION 2. LICENSE***

*Sec. 18-121. Required; exceptions.*

*Sec. 18-122. Scope of general contractor's license; compliance by subcontractors.*

*Sec. 18-123. Filing of state license.*

*Sec. 18-124. Liability insurance; indemnification and hold harmless.*

*Sec. 18-125. Fee.*

*Sec. 18-126. Expiration; renewal.*

*Sec. 18-127. Competency.*

*Sec. 18-128. Suspension or revocation.*

*Secs. 18-129—18-160. Reserved.*

**<sup>42</sup>Sec. 18-121. Required; exceptions.**

(a) Except as otherwise provided by law, before any person shall engage in the business of doing or performing any of the various types of work listed in this section, such person shall first obtain a license to do so as provided in this section:

- (1) Cement work, cement block work, cement block laying or brick work.
- (2) General construction including erection, alteration, or repair of a building.
- (3) The moving or wrecking of buildings.

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<sup>42</sup> **Sec. 18-121. Required; exceptions.** M.S.A. § 324.40 was repealed in 1961. M.S.A. § 326.57 et seq. M.S.A. § 326.83 et seq., M.S.A. § 326.90, and M.S.A. § 326.242 were renumbered in 2008. Since this is an editorial reference, I suggest update and simplification as shown.

- (4) Plastering, outside stucco work, or lathing.
  - (5) Blacktopping (parking lots, driveways, etc.)
  - (6) Roofing.
  - (7) Sign and billboard erecting.
  - (8) Excavators (for basements, foundations, grading of lots, etc.)
  - (9) Heating, ventilating or air conditioning.
  - (10) Automatic sprinkler system design and installation contractor.
- (b) No person shall perform electrical, plumbing or well water contracting work for another within the city without first having provided a copy of their state-issued license. Every person holding a license from the state board of electricity or the state commissioner of health and doing electrical, plumbing or well water contracting work for another within the city shall have on file with the building official a copy of the current license issued by the respective agency or such other evidence of such license as may be provided by the respective agency.

(Code 1963, § 37.04; Code 1980, § 6-40; Ord. No. 329, 11-15-1973; Ord. No. 89-1129, 4-6-1989)

**State Law reference—**~~Licensing of construction contractors, M.S.A. § 326B.091 et seq. Municipal regulation of residential contractors, Minn. Stat. § 326.90; electrical licenses, Minn. Stat. § 326.242; plumber licenses, Minn. Stat. § 324.40; water well contractors, Minn. Stat. § 1031.501 et seq.; residential contractors, Minn. Stat. § 326.83 et seq.; water conditioning contractors and installers, Minn. Stat. § 326.57 et seq.~~

**Sec. 18-122. Scope of general contractor's license; compliance by subcontractors.**

A license granted to a general contractor shall include the right to perform all the work included in such contractor's general contract. Such licenses shall include all of the persons performing the work which is classified and listed in section 18-121, provided that each person performing such work is in the regular employ of such general contractor and qualified under state law and the provisions of the building code to perform such work. In these cases, the general contractor shall be responsible for all of the work so performed. Subcontractors on any work shall be required to comply with the sections of this chapter pertaining to license, bond, qualifications, etc., for this particular type of work.

(Code 1963, § 37.044; Code 1980, § 6-41)

**Sec. 18-123. Filing of state license.**

No state license granted under the terms stated in this division shall become effective until the licenses shall have been filed with the building official.

(Code 1963, § 37.049; Code 1980, § 6-47)

**Sec. 18-124. Liability insurance; indemnification and hold harmless.**

- (a) No license shall be issued until the applicant shall furnish an umbrella or all perils policy providing coverage of at least \$500,000.00.
- (b) In addition, no license will be issued until the contractor agrees to hold the city harmless from all damages and claims of damages which may arise by reason of any negligence of the contractor or the

contractor's agents or employees while engaged in the performance of this contract, and will indemnify the city for the amount of all claims, liens, expenses and claims for liens for work, tools, machinery, materials or insurance premiums and for the amount of all loss by reason of the failure of the contractor to fully perform its obligations under this contract including, but not limited to, attorney fees and costs incurred relative to such claims and losses.

(Code 1963, § 37.041; Code 1980, § 6-42; Ord. No. 94, 5-15-1964; Ord. No. 88-1107, 12-1-1988)

**Sec. 18-125. Fee.**

All licenses shall be obtained from the city manager. Application for licenses shall be filed with the building official on the forms furnished by the municipality. The fee for each license shall be established by action of the council.

(Code 1963, § 37.041; Code 1980, § 6-43; Ord. No. 94, 5-15-1964; Ord. No. 88-1107, 12-1-1988; Ord. No. 98-1695, § 4, 2-5-1998)

**Sec. 18-126. Expiration; renewal.**

- (a) All licenses shall expire on July 1 following the date of issuance unless sooner revoked or forfeited. If a license granted under this article is not renewed previous to its expiration, then all rights granted by such license shall cease and any work performed after the expiration of the license shall be in violation of this chapter.
- (b) Persons renewing their license after the expiration date shall be charged the full annual license fee. No prorated license fee shall be allowed for renewals.

(Code 1963, §§ 37.041, 37.043; Code 1980, § 6-44; Ord. No. 80, 3-1-1963; Ord. No. 152, 3-7-1968)

**Sec. 18-127. Competency.**

Each applicant for a license shall satisfy the city manager that such applicant is competent by reason of education, special training, and experience, and that such applicant is equipped to perform the work for which a license is requested in accordance with all state laws and city ordinances and the building code.

(Code 1963, § 37.045; Code 1980, § 6-45)

**Sec. 18-128. Suspension or revocation.**

- (a) The council shall have the power to suspend or revoke the license if any person licensed under the regulations of this article, whose work is found to be improper or defective or so unsafe as to jeopardize life or property, providing the person holding such license is given 20 days' notice granting the opportunity to be heard before such action is taken. If and when such notice is sent to the legal address of the licensee and such licensee fails or refuses to appear at the hearing, the license will be automatically suspended or revoked five days after date of hearing.
- (b) When a license is suspended the period of suspension shall be not less than 30 days nor more than one year, such period being determined by the council.
- (c) When any person holding a license as provided in this division has been convicted for the second time by a court of competent jurisdiction for violation of any of the provisions of this chapter, the council shall revoke the license of the person so convicted. Such person may not make application for a new license for a period of one year.

(Code 1963, §§ 37.046, 37.047, 37.048; Code 1980, § 6-46)

**Secs. 18-129—18-160. Reserved.**

<sup>43</sup>**ARTICLE IV. HEATING, VENTILATING, AIR CONDITIONING \***

~~\*Cross reference—Underground storage tanks for heating fuel oil, § 34-1.~~

[Sec. 18-161. Conditions to issuance of a contractor's permit.](#)

[Secs. 18-162—18-190. Reserved.](#)

**Sec. 18-161. Conditions to issuance of a contractor's permit.**

No permit for the erection, construction, alteration of heating, ventilating, air conditioning or refrigeration shall be issued to any person unless such person is licensed to carry on the business of a contractor, except that such permit may be granted to a bona fide owner of residential property, who intends to conduct such work on such owner's property and who occupies or intends to occupy such property, and further who demonstrates to the satisfaction of the building official that such owner has sufficient knowledge to perform the required work.

(Code 1963, § 39.05; Code 1980, § 6-51)

**Secs. 18-162—18-190. Reserved.**

<sup>44</sup>**ARTICLE V. PLUMBING**

[Sec. 18-191. Administration; enforcement; setting fees.](#)

[Sec. 18-192. Plumbing code adopted.](#)

[Secs. 18-193—18-220. Reserved.](#)

**Sec. 18-191. Administration; enforcement; setting fees.**

- (a) The chief building official shall be responsible for the administration of this article.
- (b) The city manager may designate inspectors for the enforcement of this article.
- (c) The council shall by its action adopt fees for service rendered under this article.

(Code 1963, § 41.18; Code 1980, § 6-60; Ord. No. 221, 5-19-1970; Ord. No. 531, 2-17-1977)

**Sec. 18-192. Plumbing code adopted.**

The current state plumbing code adopted by the state board of health, and all its appendices, and all amendments thereafter adopted, is hereby adopted and shall be in full force and effect in the city insofar as applicable to plumbing, gas, piping and building construction therein. All such work done in the city shall be done in accordance with the provisions thereof. The city clerk shall have on file one copy of the

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<sup>43</sup> **Art. IV. Heating etc.** I would make this article a division in article II.

<sup>44</sup> **Art. V, Plumbing.** I would make this article a division in article II.

state plumbing code which shall be available for the inspection and use of the public. It shall be marked as the official copy of the city.

(Code 1963, §§ 41.01, 41.02; Code 1980, § 6-61; Ord. No. 221, 5-19-1970; Ord. No. 531, 2-17-1977; Ord. No. 88-1107, 12-1-1988)

<sup>45</sup>**State Law reference**— State building code, M.S.A. § 326B.101 et seq. ~~Minn. Stat. § 16B.59 et seq.~~; adoption by reference, Minn. Stat. § 471.62.

**Secs. 18-193—18-220. Reserved.**

#### <sup>46</sup>**ARTICLE VI. NEWSPAPER OR ADVERTISING RECEPTACLES**

**Sec. 18-221. Definitions.**

**Sec. 18-222. Penalty for violation of article.**

**Sec. 18-223. Intent of article.**

**Sec. 18-224. Requirements for the use.**

**Sec. 18-225. Maintenance.**

**Sec. 18-226. Regulation.**

**Secs. 18-227—18-260. Reserved.**

#### **Sec. 18-221. Definitions.**

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

*Newspaper/advertising receptacles* means any outside container which may be attached to the sides of buildings, free standing posts, mailbox posts or other outside structures used to hold newspapers, advertising flyers, or similar printed material which may be delivered by a carrier.

(Code 1980, § 6-162; Ord. No. 85-864, 3-7-1985)

~~**Cross reference**—Definitions generally, § 1-2.~~

#### **Sec. 18-222. Penalty for violation of article.**

Any person or corporation in violation of any provision of this article shall be guilty of a misdemeanor. Every newspaper/advertising receptacle in violation shall be considered a separate offense.

(Code 1980, § 6-167; Ord. No. 85-864, 3-7-1985)

#### **Sec. 18-223. Intent of article.**

The purpose of the regulation of newspaper/advertising tubes is to ensure that the public right-of-way remains visually unobstructed, accessible for work on utilities, and to ensure safe, unhampered snow

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<sup>45</sup> **Sec. 18-192. Plumbing code adopted.** Statute renumbered in 2008. Correct as shown.

<sup>46</sup> **Art. VI. Newspaper or Advertising Receptacles.** This article should be moved down in the chapter, below the construction related articles.



removal. This section will also preserve residential neighborhood appearance, thus protecting property values. This article is also designed to assist city citizens in the removal of unwanted newspaper/advertising receptacles.

(Code 1980, § 6-161; Ord. No. 85-864, 3-7-1985)

**Sec. 18-224. Requirements for the use.**

- (a) Newspaper/advertising receptacles shall be placed symmetrically on the mailbox post whenever possible, at a height not to exceed 45 inches. If the newspaper/advertising receptacle is not placed on the mailbox post, the supporting post shall be placed so that the front edge of the newspaper/advertising receptacle does not extend beyond the back of the curb and does not exceed a height of 45 inches. The supporting post shall be placed within 18 inches of the mailbox and shall be designed and mounted in a secure manner to ensure the post remains in a vertical position.
- (b) Newspaper/advertising receptacles shall be limited to two per household or business.
- (c) Newspaper/advertising receptacle colors and identifying mark shall be limited to brown, black, or other neutral color as approved by the director of community development.
- (d) Newspaper/advertising receptacles shall not display any advertising message, but may display an identifying mark for the person or corporation using such receptacles not to exceed two inches by two inches in size.
- (e) It shall be the responsibility of the applicant to remove the accumulated advertising on a weekly basis.
- (f) All subscribers with newspaper/advertising receptacles currently installed and all new subscribers shall be provided with a self-addressed postcard printed in such a manner so as to allow the subscribers to instruct applicant placing the newspaper/advertising receptacle to remove it. The applicant is required to send this postcard semiannually to all subscribers with newspaper/advertising receptacles.

(Code 1980, § 6-165; Ord. No. 85-864, 3-7-1985)

**Sec. 18-225. Maintenance.**

Maintenance of all newspaper/advertising receptacles as set forth in this article shall be the responsibility of the applicant.

(Code 1980, § 6-166; Ord. No. 85-864, 3-7-1985)

**Sec. 18-226. Regulation.**

Placement or attachment of all newspaper/advertising receptacles by any person or corporation shall be prohibited unless in compliance with all provisions of this article.

(Code 1980, § 6-163; Ord. No. 85-864, 3-7-1985)

**Secs. 18-227—18-260. Reserved.**

**ARTICLE VII. RESIDENTIAL EXTERIOR STORAGE**

**Sec. 18-261. Definitions.**

**Sec. 18-262. Penalties for violation of article.**

Sec. 18-263. Purpose of article.

Sec. 18-264. Residential exterior storage limited.

Secs. 18-265—18-300. Reserved.

**Sec. 18-261. Definitions.**

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

*Ornamental yard enhancements* means landscaping, light poles, trellises, benches designed and intended for exterior use, and other permanent improvements designed to enhance the appearance of the yard.

*Residential storage* means storage of personal property, exceeding 72 hours, at a residence including, but not limited to, lawn furniture, yard maintenance equipment, toys, and recreational equipment, exclusive of vehicles and ornamental yard enhancements.

(Code 1980, § 11-121; Ord. No. 01-1929, 12-6-2001)

~~Cross reference—Definitions generally, § 1-2.~~

**Sec. 18-262. Penalties for violation of article.**

Any person violating any provision of this article shall be guilty of a misdemeanor and may be subject to criminal and administrative municipal court action.

(Code 1980, § 11-123; Ord. No. 01-1929, 12-6-2001)

**Sec. 18-263. Purpose of article.**

The purpose of this article is to preserve property values, eliminate blighted properties, and protect the character and appearance of residential neighborhoods through the regulation of exterior storage.

(Code 1980, § 11-120; Ord. No. 01-1929, 12-6-2001)

**Sec. 18-264. Residential exterior storage limited.**

Exterior residential storage is prohibited.

(Code 1980, § 11-122; Ord. No. 01-1929, 12-6-2001)

Secs. 18-265—18-300. Reserved.

**ARTICLE VIII. RESIDENTIAL MAINTENANCE CODE \***

~~\*Cross reference—Property maintenance, § 34-281 et seq.~~

DIVISION 1. - GENERALLY

DIVISION 2. - ADMINISTRATION AND ENFORCEMENT

DIVISION 3. - MINIMUM STANDARDS

**DIVISION 1. GENERALLY**

Sec. 18-301. Definitions.

Sec. 18-302. Findings.

Sec. 18-303. Purpose of article.

Sec. 18-304. Scope of article.

Sec. 18-305. Temporary family health care dwellings.

Secs. 18-306—18-320. Reserved.

**Sec. 18-301. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Whenever the terms "dwelling," "dwelling unit," "premises" or "structure" are used in this article, they shall be construed as though they were followed by the words "or any part thereof."

*Accessory building or use* means a subordinate building or use which is located on the same premises on which the main building or use is situated and which is reasonably necessary and incidental to the conduct of the primary use of such building or principal use.

*Accessory structure* means a structure subordinate to the main or principal dwelling, which is not used or authorized to be used for living or sleeping by human occupants, and which is located on or partially on the premises of the principal dwelling.

*Approved* means approved as to construction, installation, and maintenance in accordance with applicable statutes of the state, and the provisions of this Code of Ordinances.

*Basement* means that portion of a building between floor and ceiling, which is partly below grade, but so located that the vertical distance from grade to floor below is less than the vertical distance from grade to ceiling.

*Boardinghouse* means a building other than a hotel where, for compensation and by prearrangement for definite periods, meals, and/or lodging are provided for persons, not members of the principal family, not to exceed ten persons.

*Building* means any structure erected for the support, shelter, or enclosure of persons, animals, chattels, or moveable property of any kind.

*City inspector* means the city manager or the city manager's authorized representative.

*Clean* means the absence of rubbish, garbage, vermin, and other unsightly, offensive, or extraneous matter.

*Dwelling* means a structure or portion thereof, designated or used predominantly for residential occupancy of a continued nature, but not including hotels and motels.

*Dwelling unit* means a single unit providing complete independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation.

*Easily cleanable* means readily accessible and of such material and finish, and so fabricated and placed that residue which may accumulate can be completely removed by normal cleaning methods.

*Electrical system* means any and all methods of transmitting electricity for use to any dwelling, dwelling unit, or manufactured home.

*Exit* means a continuous and unobstructed means of egress to a public or private way and shall include intervening doors, doorways, corridors, ramps, stairways, smokeproof enclosures, horizontal exits, exit passageways, exit courts and yards.

*Extermination* means the control and destruction of insects, rodents, vermin or other pests.

*Family* means an individual or a group of two or more persons each related by blood, marriage, adoption, or foster care arrangement living together as a single housekeeping unit, or a group of not more than four persons not so related, maintaining a common household, and using common cooking and kitchen facilities, exclusive of usual servants.

*Floor area, gross*, means the sum of the gross horizontal area of the several floors of such structure or structures measured from the exterior faces and exterior walls or from the centerline of common walls separating dwelling units. Basements devoted to storage and/or off-street parking shall not be included.

*Functioning* means in such physical condition as to safely perform the service or services for which an item is designed or intended.

*Garbage* means every accumulation of animal, vegetable or other matter that attends the preparation, consumption, display, dealing or storage of meat, fish, fowl, birds, fruit, or vegetables, including the cans, containers or wrappers wasted along with such materials.

*Habitable room* means a room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes; excluding bathrooms, water closet compartments, laundries, furnace rooms, unfinished basements, pantries, utility rooms, foyers, communicating corridors, stairways, closets, storage spaces and attics.

*Habitable structure* means any structure or part thereof that meets minimum standards for use as a home or place of abode by one or more persons.

*Heating, ventilating and air conditioning system* means any and all units, equipment, material, and miscellaneous devices used in the process of heating, ventilating, and air conditioning of any dwelling, dwelling unit or manufactured home.

*Infestation* means the presence within or around a dwelling of any insect, rodent, or other pests.

*Kitchen* means a habitable room intended to be used for the cooking of food or the preparation of meals.

*Living room* means a habitable room within a dwelling unit, which is intended to be used primarily for general living purposes.

*Lot* means a parcel of land of at least sufficient size to meet zoning and platting requirements for use, coverage, and area, and to provide such yards and other open spaces as are required by the city zoning and platting codes.

*Maintenance* means to keep in a good state of repair; to preserve from deterioration.

*Manufactured home* means any site, lot, parcel, or tract of land designed, maintained or intended for the purpose of supplying a location or accommodation for any manufactured home and upon which any manufactured home is parked and shall include all buildings used or intended for the use as part of the equipment thereof whether a charge is made for the use of a manufactured home park and its facilities or not.

*Multiple-family dwelling* means a building or portion thereof containing three or more dwelling units.

*Multiple occupancy* means the occupancy of a building that supports, shelters, or encloses more than one distinct use.

*Noncombustible* means any material or a combination of materials which will not ignite or support combustion during a five minute exposure (refer to UBC).

*Occupancy* means the purpose for which a building, or part thereof, is used or intended to be used.

*Occupant* means any person residing in a dwelling unit or rooming unit.

*Occupied areas* means, for dwelling units, those areas designated and utilized as habitable space, as well as nonhabitable space, which are easily accessible and normally utilized by the occupant.

*Operator* means the owners or their agents, who have charge, care, control, or management of a building or part thereof.

*Owner* means any person who, alone, jointly, or severally with others, shall be in actual possession of, or have charge, care or control of, any building or a portion thereof within the city as owner, employee or agent of the owner, or as trustee or guardian of the estate or person of the title holder. Any such person representing the actual owner shall be bound to comply with the provisions of this article to the same extent as the owner.

~~<sup>47</sup> *Person* means as defined in section 1-2, including a natural person, that person's heirs, executors, administrators or assigns, and also including a firm, partnership or corporation, its or their successors or assigns or the agent of any of the aforesaid.~~

*Plumbing system* means all potable water supplies and distribution pipes, all plumbing fixtures and traps, all drainage and vent pipes, and all building drains, including their respective joints and connections, devices and appurtenances within the property lines of the premises and shall include potable water treatment or using equipment.

*Premises* means a platted lot or part thereof or unplatted parcel of land, either occupied or unoccupied or any dwelling or nondwelling structure, including such building, accessory structure, or other structure thereof.

*Proper connection to an approved sewer system* means a functioning sewer connection free from defects, leaks, or obstructions with sufficient capacity to drain all fixtures or appliances which feed into it. The sewer system (be it municipal or private) must be capable of disposing of sewage in a safe, sanitary, and adequate manner.

*Proper connection to an approved water system* means a functioning plumbing connection free from defects, leaks or obstructions providing an uncontaminated, controllable flow of cold or heated water.

*Public areas* means those areas which are normally occupied or open to the general public.

*Public hall* means a hall, court or passageway for providing ingress to or egress from a dwelling unit which is not within the exclusive control of one family.

*Reasonable care* means the treatment of all facilities, fixtures, equipment, and structural elements such that depreciation of these objects and materials is due to their age and normal wear rather than due to neglect.

*Refuse* means all putrescible and nonputrescible waste solids including garbage and rubbish.

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<sup>47</sup> **Sec. 18-301. Definitions.** Definitions duplicative of chapter 1 should be stricken as shown.

*Rental dwelling* means any structure or portion thereof which is designated or used for residential occupancy by one or more persons who are not the owner or a member of the owner's family. Rental dwelling includes commercial living facilities, not governed by state licensing requirements.

*Repair* means to restore to a sound and acceptable state of operation, serviceability, or appearance in the determination of the city inspector.

*Rodent harborage* means any place where rodents live, nest, or seek shelter.

*Rubbish* means wood, leaves, trimmings from shrubs, dead trees or branches thereof, shavings, sawdust, excelsior, wooden ware, printed matter, paper, paper board, paste board, grass, rags, straw, boots, shoes, hats and all other combustibles not included under the term "garbage."

*Safety* means the condition of being free from danger and hazards which may cause accidents or disease.

*Sober living home* means a dwelling unit occupied by more than four unrelated individuals with all individuals residing in recovery from chemical dependency and considered disabled under the Federal Fair Housing Act Amendments of 1988. This definition does not include group facilities that are licensed by other governmental agencies or otherwise considered permitted uses as defined by Minnesota Statute.

*Structure* means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

*Substandard dwelling* means any dwelling which does not conform to the minimum standards established by this Code of Ordinances.

*Supplied* means paid for, furnished by, provided by or under the control of the owner, operator or agent thereof, of a building or portion thereof.

*Unsafe* means, as applied to a structure, a condition or combination of conditions which is dangerous or hazardous to persons or property.

*Unsanitary* means, as applied to a structure, conditions which are dangerous or hazardous to the health of persons.

*Use* means the purpose or activity for which the land or building is designed or intended, or for which it is occupied, utilized or maintained, and shall include the performance of such activity as defined by the performance standards of this article.

*Water closet* means a toilet, with a bowl and trap made in one piece, which is connected to the city water and sewer system or other approved water supply and sewer system.

(Code 1963, § 45.05; Code 1980, § 6-144; Ord. No. 645, 8-2-1979; Ord. No. 12-2244, 3-15-2012; Ord. No. [ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=979093&datasource=ordbank" web="yes">19-2435 </ulink>](http://newords.municode.com/readordinance.aspx?ordinanceid=979093&datasource=ordbank), 9-16-2019)

~~Cross reference — Definitions generally, § 1-2.~~

#### **Sec. 18-302. Findings.**

It is hereby found and declared that impaired structures contain conditions dangerous to the public health, safety, and general welfare of the citizens of the city. It is found that impaired structures exist within the city because of faulty design or construction, failure to keep them in a proper state of repair, lack of adequate lighting or ventilation, inability to properly heat, improper management, or any

combination of these factors. It is declared that the improvement of impaired structures and the prevention of existence of impaired structures in the future is in the best interest of the citizens of the city.

(Code 1963, § 45.02; Code 1980, § 6-141; Ord. No. 645, 8-2-1979)

**Sec. 18-303. Purpose of article.**

The purpose of this article is to maintain the city's sanitation, public health and attractiveness, protect the safety of the people, and to promote the general welfare by legislation which shall be systematically enforced upon all residential rental property and act as a public service to residents who are homeowners. These general objectives include, among others, the following:

- (1) To protect the character and stability of residential areas within the city.
- (2) To correct and prevent conditions that adversely affect or are likely to adversely affect the safety, general welfare, and health of persons owning or renting residential facilities within the city.
- (3) To provide for sound maintenance of cooking, heating, sanitary, electrical, light and ventilation systems necessary for health and safety.
- (4) To provide basic standards for the maintenance of existing residential structures and to prevent deterioration and blight.
- (5) To preserve the value of land and structures throughout the city.

(Code 1963, § 45.04; Code 1980, § 6-143; Ord. No. 645, 8-2-1979)

**Sec. 18-304. Scope of article.**

The provisions of this article shall apply uniformly to the maintenance, repair, equipment, use and occupancy of all existing residential structures, within the city. Section 18-343 is the only section of this article which the city is empowered to enforce against owner-occupied homes. This article shall apply to building codes in effect at the time of the issuance of the building permit.

(Code 1963, § 45.03; Code 1980, § 6-142; Ord. No. 645, 8-2-1979; Ord. No. 01-1930, 12-6-2001)

**Sec. 18-305. Temporary family health care dwellings.**

Opt-out of Minn. Stat. § 462.3593: Pursuant to authority granted by Minn. Stat. § 462.3593, subdiv. 9, the City of Blaine opts-out of the requirements of Minn. Stat. § 462.3593, which defines and regulates temporary family health care dwellings.

(<http://newords.municode.com/readordinance.aspx?ordinanceid=783319&datasource=ordbank>)  
web="yes">Ord. No. 16-2359</a>, 8-4-2016)

**Secs. 18-306—18-320. Reserved.**

***DIVISION 2. ADMINISTRATION AND ENFORCEMENT \****

~~\*Cross reference—Administration, ch. 2.~~

**Sec. 18-321. Administration.**

[Sec. 18-322. Rental dwelling license required.](#)

[Sec. 18-323. Compliance and enforcement.](#)

[Secs. 18-324—18-340. Reserved.](#)

**Sec. 18-321. Administration.**

- (a) *Generally.* The city inspector or the city inspector's designated agents shall administer and enforce the provisions of this article and they are hereby authorized to cause inspections on a scheduled basis or when reason exists to believe that a violation of this article has been or is being committed.
- (b) *Authority.* When a city inspector determines a violation, the inspector's written evaluation of deficiencies shall be considered prima facie evidence in any subsequent litigation of a violation under this article.
- (c) *Inspection access.* If any owner, occupant, or other person in charge of a dwelling, dwelling unit or manufactured home, fails or refuses to permit free access and entry to the structure or premises under that person's control for an inspection pursuant to this article, the city inspector may seek a court order authorizing such inspection.

(Code 1963, § 45.12; Code 1980, § 6-145; Ord. No. 645, 8-2-1979)

**Sec. 18-322. Rental dwelling license required.**

All rental dwellings shall be licensed as required by [the] Blaine Code of Ordinances, Chapter 18, Article X, Licenses for Rental Dwellings.

(Ord. No. 12-2244, 3-15-2012)

**Sec. 18-323. Compliance and enforcement.**

- (a) *Compliance order.* Whenever the city inspector determines that any rental dwelling or unit fails to meet the provisions of this article, or if any owner-occupied dwelling fails to meet the provisions of section 18-343, the city may issue a compliance order setting forth the violations of the article and ordering the owner or agent to correct such violations. This compliance order shall:
  - (1) Be in writing;
  - (2) Describe the location and nature of the violations of this article;
  - (3) Establish a reasonable time for the correction of such violations; and
  - (4) Be served upon the owner or agent. Such notice shall be deemed to be properly served upon such owner or agent, if a copy thereof is:
    - a. Served upon such person;
    - b. Sent by registered mail to the last known address; or
    - c. Upon failure to effect notice through subsections (a)(4)a or (a)(4)b, as set out in this section, posted at a conspicuous place in or about the dwelling which is affected by the notice.
- (b) *Penalty for violation of article.* Failure to meet the requirements of the compliance order is a violation of this article and a misdemeanor and is subject to all penalties provided for such violation under the provisions of this Code of Ordinances. Each day the violation continues in existence shall be deemed a separate violation.



- (c) *Emergency cases.* When a violation of section 18-343 constitutes an imminent peril to life, health, or property, the city inspector may require immediate compliance and if necessary, take appropriate action to protect that life, health or property.
- (d) *Unfit for human habitation.*
- (1) *Declaration.* Any dwelling, dwelling unit, or rooming unit or manufactured home, which is damaged, decayed, dilapidated, unsanitary, unsafe, vermin or rodent infested, or which lacks provision for illumination, ventilation, or sanitary facilities to the extent that the defects create a hazard to the health, safety, or welfare of the occupants or of the public may be declared unfit for human habitation. Whenever any dwelling, dwelling unit, rooming unit or manufactured home, has been declared unfit for human habitation, the city inspector shall order same vacated within a reasonable time and shall post a placard on same indicating that it is unfit for human habitation and any operating license previously issued for such dwelling shall be revoked.
  - (2) *Vacated building.* It shall be unlawful for a vacant dwelling, dwelling unit, rooming unit or manufactured home which has been declared unfit for human habitation as provided in subsection (d)(1) of this section, to be used for human habitation until the defective conditions have been corrected and written approval has been issued by the city inspector. It shall be unlawful for any person to deface or remove the declaration placard from any such dwelling, dwelling unit, rooming unit or manufactured home.
  - (3) *Secure unfit and vacated dwellings.* The owner of any dwelling, dwelling unit, rooming unit or manufactured home which has been declared unfit for human habitation, or which is otherwise vacant for a period of 60 days or more, shall make same safe and secure so that it is not hazardous to the health, safety and welfare of the public and does not constitute a public nuisance. Any vacant dwelling open at doors or windows, if unguarded, shall be deemed to be a hazard to the health, safety, and welfare of the public and a public nuisance within the meaning of this article.
  - (4) *Hazardous building declaration.* If a dwelling has been declared unfit for human habitation and the owner has not remedied the defects within a prescribed reasonable time, the dwelling may be declared a hazardous building and treated consistent with the provisions of Minn. Stat. §§ 463.15—463.26.
- (e) *Execution of compliance orders by public authority.* Upon failure to comply with a compliance order within the time set and no appeal having been taken, the council may, by resolution cause the cited deficiency to be remedied as set forth in the compliance order. The cost of such remedy shall be placed against the subject property and may be levied and collected as a special assessment in the manner provided by Minn. Stat. ch. 429.
- (f) *Right of appeal.* When it is alleged by any person to whom a compliance order is directed that such compliance order is based upon erroneous interpretation of this article, such person may appeal the compliance order to the council as a board of appeals. The filing of an appeal shall stay all proceedings, unless such a stay would cause imminent peril to life, health or property.
- (g) *Liability of ownership transferee.* Anyone securing an interest in the dwelling, dwelling unit or manufactured home which has received a violation tag or compliance order shall be bound by same without further service of notice upon such person and shall be subject to all penalties and procedures prescribed by this article.

(Code 1963, § 45.13; Code 1980, § 6-152; Ord. No. 645, 8-2-1979)

**State Law reference—** Hazardous and substandard buildings, Minn. Stat. § 463.15 et seq.

**Secs. 18-324—18-340. Reserved.**

***DIVISION 3. MINIMUM STANDARDS***

[Sec. 18-341. Basic requirements pertaining to the maintenance of properties.](#)

[Sec. 18-342. Basic safety requirements for interior and exterior maintenance.](#)

[Sec. 18-343. Immediate health, welfare and safety hazards.](#)

[Sec. 18-344. Provisions and maintenance of basic services and utilities in manufactured home parks.](#)

[Secs. 18-345—18-380. Reserved.](#)

**Sec. 18-341. Basic requirements pertaining to the maintenance of properties.**

- (a) *Responsibility of owners.* The owner of a dwelling shall be responsible for the maintenance of that structure and for meeting the provisions of this article. Those responsibilities may not be abrogated by a private agreement.
- (b) *Removal of basic equipment or facilities.* No owner, operator, or occupant shall cause any facility or equipment which is required under this article to be removed from or shut off from any occupied building or dwelling unit except for such temporary interruptions as may be necessary while actual repairs or alterations are in progress, or during temporary emergencies.
- (c) *Heating facilities.* Every heating facility shall be maintained in a safe and good working condition, and shall comply with all of the following requirements:
  - (1) No fuel burning heater shall be of a portable type.
  - (2) Every fuel burning heater shall be properly vented to a chimney or duct leading to outdoor space.
  - (3) Every fuel burning heater shall have a fire resistant panel beneath it.
  - (4) Every heater located within three feet of a wall shall be equipped with insulation sufficient to prevent overheating of the wall during periods of maximum operation.
  - (5) Every heater smoke pipe shall be equipped with guards properly constructed of nonflammable material at the point where the pipe goes through a wall, ceiling, or partition.
- (d) *Public health requirements for services and utilities.*
  - (1) *Minimum plumbing standards.* All plumbing in every dwelling unit shall be properly installed and maintained in a sanitary, safe, and functioning condition, and shall be connected to an approved utility system.
  - (2) *Minimum heating standards.* All structures shall have heating facilities which are properly installed, and which are maintained in safe and good working condition, and which are capable of safely maintaining a minimum indoor temperature of 68 degrees Fahrenheit at an outside temperature of 20 degrees below zero Fahrenheit at 36 inches above the floor in all habitable rooms, bathrooms, and water closet compartments in every dwelling unit located therein. Gas or electric appliances designed primarily for cooking or water heating purposes shall not be considered as heating facilities within the meaning of this section. Portable heating equipment employing flame and the use of liquid fuel does not meet the requirements of this section and is prohibited. No owner or occupant shall install, operate or use a heater employing a flame that is not vented outside the structure in an approved manner.

- (3) *Minimum water heating standards.* Every dwelling shall have water heating facilities which are installed in an approved manner, are maintained and operated in safe and good working condition, are properly connected with the hot water lines, and are capable of allowing heated water to be drawn at every required fixture at a minimum temperature of 120 degrees Fahrenheit.
- (4) *Units at or below grade.*
  - a. All windows located at or near ground level used or intended to be used for ventilation, all other openings located at or near ground level, and all exterior doorways which might provide an entry for rodents, shall be supplied with adequate screens or such other devices as will prevent the entrance of rodents into the structure.
  - b. All sewers, pipes, drains or conduits and openings around such pipes and conduits shall be constructed to prevent the ingress and egress of rodents to or from a building.
  - c. Interior floors or basements, and other areas in contact with the soil shall be rodent proofed to prevent the entrance of rodents into the structure.
- (5) *Facilities for storage and disposal of rubbish and garbage.* Every owner of a multiple-family dwelling shall be responsible for providing and maintaining facilities for the storage and disposal of rubbish and garbage, and for arranging for the collection of this material. In the case of single-family or two-family dwellings, these responsibilities shall be those of the occupants.
- (6) *Rodent harborages in occupied areas.* It shall be the responsibility of the owner of a dwelling unit to prevent the formation of rodent harborages in or about the premises. It shall further be the responsibility of such owner to prevent the placement or accumulation of materials that may serve as food for rodents in a site accessible to rodents in these areas.
- (7) *Pest or vermin extermination.* The owner of a dwelling or dwelling units shall be responsible for the extermination of pest or vermin infestations on the premises.

(Code 1963, § 45.06; Code 1980, § 6-146; Ord. No. 645, 8-2-1979)

**Sec. 18-342. Basic safety requirements for interior and exterior maintenance.**

- (a) *Kitchen facilities.* Kitchen facilities in every dwelling unit shall be maintained in the following manner:
  - (1) A kitchen sink shall be in good working condition and properly connected to an approved water supply system which provides at all times heated and unheated running water under pressure, and which is connected to an approved sewer system.
  - (2) Cabinets and/or shelves and counter or table shall be of sound construction furnished with surfaces that are easily cleanable and that will not impart any toxic or deleterious effect on food.
  - (3) A stove or similar device for cooking food, and a refrigerator or similar device for the safe storage of food, shall be properly maintained with all necessary connections for safe, sanitary, and efficient operation.
- (b) *Windows, doors, and screens.* Every window, exterior door, and hatchway shall be substantially tight and shall be kept in sound condition and repair. Every window, other than a fixed window or storm window, shall be capable of being easily opened.
- (c) *Lighting.* All electrical light fixtures shall be kept in a good state of repair.
- (d) *Minimum electrical standards.* Every dwelling unit and all public and common areas supplied with electric service, functioning overcurrent protection devices, electric outlets, and electric fixtures shall

be maintained in good and safe working condition, and shall be connected to a source of electric power in a manner prescribed by the ordinances, rules and regulations of the city and by the laws of the state.

- (e) *Floors, interior walls, and ceilings.* Every floor, interior wall, and ceiling shall be kept in sound condition and good repair. Every floor shall be free of loose, warped, protruding or rotted flooring materials. Every interior wall and ceiling shall be free of holes and large cracks and loose plaster and shall be maintained in a tight, weatherproof condition.
- (f) *Stairways, porches, and balconies.* Every stairway, inside or outside of a dwelling and every porch or balcony, shall be kept in a safe condition and sound repair.
- (g) *Doors, locks and security.* No owner shall occupy nor let to another for occupancy any dwelling or dwelling unit unless all exterior doors of the dwelling and dwelling unit are equipped with safe, functioning locking devices.
- (h) *Protective treatment.* All exterior surfaces including, but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. All siding and masonry joints as well as those between the building envelope and the perimeter of windows, doors, and skylights shall be maintained weather resistant and water-tight. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion and all surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

(Code 1963, § 45.07; Code 1980, § 6-147; Ord. No. 645, 8-2-1979; Ord. No. 01-1930, 12-6-2001)

#### **Sec. 18-343. Immediate health, welfare and safety hazards.**

The following are considered immediate hazards to the health, safety and welfare of the residents of the city:

- (1) Heating systems that are unsafe due to: burned out or rusted out heat exchanges (firebox); burned out or plugged flues; not being vented; being connected with unsafe gas supplies; failing to meet the minimum heating standards set forth in section 18-341(d).
- (2) Water heaters that are unsafe due to: burned out or rusted out heat exchanges (firebox); burned out, rusted out or plugged flues; not being vented; being connected with unsafe gas supplies; or lack of temperature and pressure relief valves.
- (3) Electrical systems that are unsafe due to: dangerous overloading; damaged or deteriorated equipment; improperly taped or spliced wiring; exposed uninsulated wires; distribution systems of extension cords or other temporary methods; ungrounded systems, ungrounded appliances in contact with earth.
- (4) Plumbing systems that are unsanitary due to: leaking waste systems fixtures and traps; lack of a water closet; lack of washing and bathing facilities; or cross connection of pure water supply with fixtures of sewage lines.
- (5) Structural systems, walls, chimneys, ceilings, roofs, foundations, and floor systems, that will not safely carry imposed loads.
- (6) Refuse, garbage, human waste, decaying vermin or dead animals, animal waste, other materials rendering it unsanitary for human occupancy.

- (7) Interior storage including, but not limited to, accumulations of wood products, paper and paper products, refuse, food waste, clothing, bedding, towels, linens, tablecloths, drapes, area rugs, maintenance supplies, or flammable materials which constitutes a fire or health hazard because of:
  - a. The increased fuel load and the limited ability to access walls, ceilings, windows, doors, and heating appliances and other fixtures,
  - b. Blocked or obstructed exits,
  - c. Infestation by rodents or arthropods or other pests.
- (8) Infestation of rodents, insects, vermin and other pests.
- (9) The following exterior building components which lack maintenance or are experiencing long-term deterioration including, but not limited to:
  - a. Exterior surfaces including siding, fascia, or roof surfaces which are missing, rotting, lacking paint, or have peeling paint over 20 percent of any one side or ten percent of all sides combined,
  - b. Missing exterior doors or broken windows.
  - c. Decks or exterior stairs which have any structural defects which create an immediate hazard or have over 20 percent rotting or missing structural components.
  - d. Structural deterioration creating a danger of collapse.

(Code 1963, § 45.08; Code 1980, § 6-148; Ord. No. 645, 8-2-1979; Ord. No. 01-1930, 12-6-2001)

~~Cross reference—Health and sanitation, ch. 42.~~

**Sec. 18-344. Provisions and maintenance of basic services and utilities in manufactured home parks.**

- (a) *Plumbing, heating and electrical service.* Every owner of a manufactured home park shall be responsible for the provision and maintenance of plumbing, heating, and electrical service to each manufactured home. All utilities shall be constructed, installed and maintained in accordance with the laws of the state, the recommendations of the state health department, and the ordinances and requirements of the city.
- (b) *Illumination.* Every public hall and stairway in every mobile park community building shall be adequately lighted by natural or electric light at all times so as to provide effective illumination in all parts thereof.

(Code 1963, § 45.10; Code 1980, § 6-150; Ord. No. 645, 8-2-1979)

~~Cross reference—Manufactured homes and trailers, ch. 46; utilities, ch. 86.~~

**Secs. 18-345—18-380. Reserved.**

**<sup>48</sup>ARTICLE IX. SWIMMING POOLS**

DIVISION 1. - GENERALLY

DIVISION 2. - BUILDING PERMIT

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***DIVISION 1. GENERALLY***

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**Sec. 18-381. Definitions.**

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

*Health authority* means the Anoka County Health Department.

*Private residential pool* means a pool connected with a single-family residence or owner-occupied duplex, located on private property under the control of the homeowner, the use of which is limited to family members or the family's invited guests. A private residential pool is not a pool used as part of a business.

*Public swimming pool* includes any pool, other than a private residential pool operated by any person whether the person is an owner, lessee, operator, or concessionaire.

*Swimming pool* means any structure, chamber, or tank containing an artificial body of water for swimming, diving, relaxation, or recreational use including special purpose pools and wading pools.

(Code 1963, § 48.01; Code 1980, § 6-110; <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=758237&datasource=ordbank" web="yes">Ord. No. 16-2341, 2-18-2016 </ulink>)

~~**Cross-reference—Definitions generally, § 1-2.**~~

**Sec. 18-382. Variances.**

Any proposed deviations from these standards and requirements shall require a variance from the council in accordance with city ordinances.

(Code 1963, § 48.04; Code 1980, § 6-114; Ord. No. 85-865, 3-7-1985)

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<sup>48</sup> **Art. IX, Swimming Pools.** I would make this article a division in article II.

**Sec. 18-383. Inspections; water sanitation.**

- (a) The building official is authorized to conduct such inspection as it deems necessary to ensure compliance with all provisions of this article, and shall have the right of entry at any reasonable hour to a swimming pool for this purpose. Water in a pool shall be maintained in a suitable manner to avoid health hazards of any type and shall be subject to periodic inspection by the health authority.
- (b) All wiring, installation of heating units, grading, installation of pipes and all other installations and construction shall be subject to inspection.

(Code 1963, § 48.04(H), (I); Code 1980, § 6-113; Ord. No. 85-865, 3-7-1985)

**Sec. 18-384. Supervision.**

Every swimming pool shall be under the supervision of a capable individual who shall assume the responsibility for compliance with all parts of this article relating to pool operation and maintenance and safety of the occupants of the pool.

(Code 1963, § 48.04(M); Code 1980, § 6-123)

**Secs. 18-385—18-400. Reserved.**

***DIVISION 2. BUILDING PERMIT***

**Sec. 18-401. Required; application.**

**Sec. 18-402. Fees.**

**Secs. 18-403—18-420. Reserved.**

**Sec. 18-401. Required; application.**

- (a) A building permit is required for the installation of any swimming pool except private residential prefabricated pools entirely above ground which do not exceed both 5,000 gallons in capacity and a 24-inch depth.
- (b) An application for a building permit shall show, among other items, the following:
  - (1) Type and size of pool.
  - (2) A site plan indicating the following: location of pool; location of house, garage, barrier/fencing, and other improvements on the lot; location of filter unit, pump, and wiring, indicating the type of such unit; location of back-flush and drainage outlet; grading plan, finished elevations, and final treatment (decking, landscaping, etc.) around the pool; location of existing overhead or underground wiring, utility easements, trees, and similar features; location of any water heating unit.

(Code 1963, § 48.02; Code 1980, § 6-111; [ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=758237&datasource=ordbank" web="yes">Ord. No. 16-2341, 2-18-2016 </ulink>](http://newords.municode.com/readordinance.aspx?ordinanceid=758237&datasource=ordbank))

**Sec. 18-402. Fees.**

After plan review and possible site inspections of any proposed swimming pool, a permit fee shall be paid prior to issuance of the building permit. The council shall act to create a fee schedule for this section, as provided in section 18-43.

(Code 1963, § 48.03; Code 1980, § 6-112; Ord. No. 85-865, 3-7-1985; Ord. No. 88-1107, 12-1-1988;  
<ulink class="ordbank" print="yes"  
url="http://newords.municode.com/readordinance.aspx?ordinanceid=758237&datasource=ordbank"  
web="yes">Ord. No. 16-2341, 2-18-2016 </ulink>)

**Secs. 18-403—18-420. Reserved.**

### ***DIVISION 3. DESIGN AND CONSTRUCTION STANDARDS***

**Sec. 18-421. Location.**

**Sec. 18-422. Protection of other property and occupants thereof.**

**Sec. 18-423. Interference with rights of others; noise.**

**Sec. 18-424. Standards.**

**Sec. 18-425. Reserved.**

**Secs. 18-426—18-450. Reserved.**

**Sec. 18-421. Location.**

*(a) Proximity to utility lines; location in easements.*

- (1) The location of all pools in relation to all electrical wiring shall comply with the most current state/national electrical code.
- (2) Pools shall not be located within any private or public utility, walkway, drainage, or other easement.

*(b) Restrictions in all districts in which pools and fences are permitted.*

- (1) Pools shall not be located within ten feet of any side or any rear lot line, nor within six feet of any principal structure or frost footing, unless part of the principal structure. Pools shall not be located within the required front yard but are permitted in the corner side yard provided the corner side yard house setback is met.
- (2) All pool deck surrounds, adjacent patios/aprons, or other similar areas used in conjunction with the swimming pool, shall be located not closer than ten feet to any adjacent property owner's lot line.
- (3) The filter unit, pump, heating unit, and other noise-making mechanical equipment shall be located no closer than ten feet to any lot line, and located in the rear yard.

(Code 1963, § 48.04(B), (C), (Q)(1), (2); Code 1980, §§ 6-115—6-117; <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=758237&datasource=ordbank" web="yes">Ord. No. 16-2341, 2-18-2016 </ulink>; <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=897278&datasource=ordbank" web="yes">Ord. No. 18-2408 </ulink>, 6-21-2018)

**Sec. 18-422. Protection of other property and occupants thereof.**

*(a) In the case of underground pools, due precautions shall be taken during the construction period to:*

- (1) Avoid damage, hazards, or inconvenience to adjacent or nearby property.
- (2) Ensure that proper care shall be taken in stockpiling excavated material to avoid erosion, dust, or other infringement on adjacent property.



- (b) All access for construction shall be via the owner's land and due care shall be taken to avoid damage to public streets and adjacent private or public property.
- (c) Back-flush water or water from pool drainage shall be on the owner's property or into public drainageways with the approval of the council. Water shall not drain onto adjacent or nearby private land.
- (d) Lighting for the pool shall be directed into or onto the pool and not onto adjacent property and shall measure no more than one footcandle power at any point on the boundary line of any adjacent property owner.
- (e) Nuisances such as undue noise, lighting onto adjacent property, health and safety hazards, damage to nearby vegetation and the like, shall not be permitted.

(Code 1963, § 48.04(A), (D)—(G), (J), (K); Code 1980, § 6-118; Ord. No. 85-865, 3-7-1985)

**Sec. 18-423. Interference with rights of others; noise.**

No swimming pools shall be so located, designed, operated or maintained as to interfere unduly with the property rights of others. It shall be unlawful for any person to make, continue to cause to be made or continued in any swimming pool, any loud or unusual noise or any noise which annoys, disturbs, injures, or endangers the comfort, repose, peace or safety of others. The use or permitting the use of or operation of radio receiving sets, musical instruments, phonographs or other machine or device for the producing or reproducing of sound in such volume as to disturb the peace, quiet, comfort, or repose of adjacent property owners shall not be permitted.

(Code 1963, § 48.04(R); Code 1980, § 6-119)

**Sec. 18-424. Standards.**

- (a) All private residential outdoor swimming pools and pool barriers, existing (subject to any variance heretofore granted by the council), modified, and hereafter constructed, shall meet the requirements of these standards. Exceptions: Existing pools and equipment that complied with the city requirements at the time they were constructed, permitted or approved by the city.
- (b) Barrier/fencing and post materials shall be of substantial construction, decay or corrosion resistant, and capable of resisting a 200-pound lateral load applied in any direction at any point along the top. All fence posts shall be set in concrete bases or other suitable protection. Alternative barrier construction materials, climbing protection, and design must be approved by the building official.
- (c) All private residential outdoor swimming pools shall be made inaccessible when not in use by a non-climbable barrier. It must also be positioned far enough away from permanent structures so that they do not provide climbing assistance. Exceptions: Spas and hot tubs with a lockable safety cover that complies with ASTM F 1346.
- (d) Installed pool barriers should be at least 48 inches high from finished ground level, as measured along the outside of the barrier, and should have no more than a two-inch gap from the bottom of the barrier to the ground. Such height shall exist around the entire perimeter for a distance of three feet where measured horizontally from the required barrier. Openings in the barrier shall not allow passage of a four-inch diameter sphere.
- (e) Pedestrian access gates must be self-closing and must have a self-latching device and shall be equipped to accommodate a locking device. Utility/service gates that are not meant for pedestrian use must have a self-latching device and shall be equipped to accommodate a locking device. Double or multiple

gates shall have at least one leaf secured in place and the adjacent leaf shall be secured with a self-latching device and shall be equipped to accommodate a locking device. Where the release mechanism of the self-latching device is located less than 54 inches from the bottom of the gate, the release mechanism shall be located on the poolside of the gate at least three inches below the top of the gate, and the gate and barrier shall not have openings greater than one-half-inch within 18 inches of the release mechanism.

- (f) Solid barriers that do not have openings shall not contain indentations or protrusions that form handholds and footholds, except for normal tolerances and tooled masonry joints.
- (g) Chain link dimensions. The maximum opening formed by a chain link fence shall be not more than two inches.
- (h) When fences are comprised of diagonal members, the maximum opening formed by the diagonal members shall not be more than one and three quarters inches. The angle of the diagonal members shall not be greater than 45 degrees from the vertical.
- (i) Where the barrier is constructed of diagonal members, the maximum opening shall not be more than one and three quarters inches. The angle of diagonal members shall not be greater than 45 degrees from vertical.
- (j) The pool side of the barrier shall not be less than 20 inches from the water's edge.
- (k) Structures can serve as a barrier as approved by the building official.
- (l) A pool structure wall, itself, can serve as a barrier if the wall is at least four feet above grade. If a barrier is mounted to the top of the pool structure, the barrier must be installed in accordance with the manufacturer's instructions. The ladder or steps shall be surrounded by a barrier.
- (m) Reserved.
- (n) No person owning or operating an outdoor swimming pool permitted under section 18-401 shall use, operate, or allow the use of such swimming pool unless such pool complies with the provisions of this section. The required safety fencing shall be completely installed with installation of the pool.

(Code 1963, § 48.04(P); Code 1980, § 6-121; Ord. No. 85-865, 3-7-1985; Ord. No. 02-1952, 8-1-2002;  
<ulink class="ordbank" print="yes"  
url="http://newords.municode.com/readordinance.aspx?ordinanceid=758237&datasource=ordbank"  
web="yes">Ord. No. 16-2341, 2-18-2016 </ulink>; <ulink class="ordbank" print="yes"  
url="http://newords.municode.com/readordinance.aspx?ordinanceid=897278&datasource=ordbank"  
web="yes">Ord. No. 18-2408 </ulink>, 6-21-2018)

**~~Sec. 18-425. Reserved.~~**

**~~Editor's note~~** <ulink class="ordbank" print="yes"  
url="http://newords.municode.com/readordinance.aspx?ordinanceid=758237&datasource=ordbank"  
web="yes">Ord. No. 16-2341, adopted February 18, 2016 </ulink>, repealed § 18-425, in its entirety.  
Former § 18-425 pertained to "Swimmer safety," and was derived from Code 1963, § 48.04(N); Code  
1980, § 6-122 and Ord. No. 85-865, adopted March 7, 1985.

**Secs. 18-426—18-450. Reserved.**

***DIVISION 4. PUBLIC SWIMMING POOLS***

[Sec. 18-451. Permit required.](#)

[Sec. 18-452. Plans.](#)

[Sec. 18-453. Construction; facilities; adoption of state rules.](#)

[Secs. 18-454, 18-455. Reserved.](#)

[Secs. 18-456—18-500. Reserved.](#)

**Sec. 18-451. Permit required.**

- (a) No person shall operate or maintain a public swimming pool until such person has obtained a permit to operate such pool from the building official. No such permits shall be issued to operate a public swimming pool unless the pool conforms to the regulations in this division.
- (b) No person shall begin construction of a public swimming pool or shall substantially alter or reconstruct any public swimming pool without first having submitted plans and specifications to the city for review and approval. All plans and specifications, including site plan, shall be submitted in duplicate. The zoning administrator shall arrange for the review and approval of the plans and specifications by other appropriate departments concerned with such matters as zoning, electrical, structural and plumbing requirements. No permits to construct, alter, or renovate shall be issued until approval is granted by the other departments involved.
- (c) The application for permit to construct or remodel a public swimming pool shall be on such forms as may be prescribed by the building official, together with any supporting data as may be required for the proper review of the plans.

(Code 1963, § 48.05(A), (B), (C); Code 1980, § 6-130; Ord. No. 85-865, 3-7-1985; [class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=758237&datasource=ordbank" web="yes">Ord. No. 16-2341, 2-18-2016 </ulink>](http://newords.municode.com/readordinance.aspx?ordinanceid=758237&datasource=ordbank))

**Sec. 18-452. Plans.**

The plans shall be drawn to scale and accompanied by proper specifications so as to permit a comprehensive engineering review of the plans, including the piping and hydraulic details, and shall include:

- (1) Plans and sectional views with all necessary dimensions and details of the pool barrier and surrounding areas.
- (2) A piping diagram showing all appurtenances including treatment facilities in sufficient detail, as well as pertinent elevation data, to permit a hydraulic analysis of the system.
- (3) The specifications shall contain details on all treatment equipment, including catalog identification of pumps, chlorinators, and related equipment.

(Code 1963, § 48.05(F); Code 1980, § 6-131; [class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=758237&datasource=ordbank" web="yes">Ord. No. 16-2341, 2-18-2016 </ulink>](http://newords.municode.com/readordinance.aspx?ordinanceid=758237&datasource=ordbank))

**Sec. 18-453. Construction; facilities; adoption of state rules.**

- (a) The pool and facilities shall be built in accordance with the plans as approved unless approval of changes has been given in writing. The owner or the owner's agent shall notify the city at specific predetermined stages of construction and at the time of completion of the pool to permit adequate inspection of the pool and related equipment during and after construction. The pool shall not be placed in operation until such inspections show compliance with the requirements of this article.
- (b) The criteria to be followed in the review and approval of plans shall be as set forth in rules and regulations of the state commissioner of health, relating to public swimming pools, being Minnesota Rules ch. 4717. The same are hereby adopted by reference, and all terms of such regulations are made a part of this division as if fully set forth in this section.

(Code 1963, § 48.05(D), (E); Code 1980, § 6-132)

**Secs. 18-454, 18-455. Reserved.**

~~Editor's note — <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=758237&datasource=ordbank" web="yes">Ord. No. 16-2341, adopted February 18, 2016 </ulink>, repealed §§ 18-454, 18-455, in their entirety. Former §§ 18-454, 18-455 pertained to "Health and safety," and "Operation," respectively, and were derived from Code 1963, § 48.05(G), (H); Code 1980, §§ 6-133, 6-134 and Ord. No. 85-865, adopted March 7, 1985.~~

**Secs. 18-456—18-500. Reserved.**

<sup>49</sup>**ARTICLE X. ~~LICENSES FOR~~ RENTAL DWELLINGS**

Sec. 18-501. License required; definitions.

Sec. 18-502. Application.

Sec. 18-503. License issuance.

Sec. 18-504. Term of license.

Sec. 18-505. License fees.

Sec. 18-506. Posting of license.

Sec. 18-507. Transfer of license.

Sec. 18-508. Conduct on licensed premises.

Sec. 18-509. Suspension, revocation, denial, nonrenewal.

Sec. 18-510. No retaliation.

Sec. 18-511. Licensing and standards for sober living home.

Sec. 18-512. Inspections of dwellings.

Sec. 18-513. Length and terms of license.

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<sup>49</sup> **Art. X. Rental Dwellings.** This article should be moved down in the chapter, below the construction related articles.

Sec. 18-514. License suspension, revocation, denial and non-renewal.

Sec. 18-515. Display of license.

Sec. 18-516. Fees.

Sec. 18-517. Violations and penalties.

Sec. 18-518. Reasonable accommodations.

Sec. 18-519. Conduct on licensed premises.

Secs. 18-520—18-529. Reserved.

**Sec. 18-501. License required; definitions.**

(a) *License*. No person shall allow to be occupied or let to another for occupancy a unit or units in a rental dwelling for which a license has not been granted by the city.

(b) *Definitions*. Unless otherwise expressly stated, the following terms shall, for the purposes of this article, have the following meanings:

*Rental dwelling* means any structure or portion thereof which is designated or used for residential occupancy by one or more persons who are not the owner or a member of the owner's family. Rental dwelling includes commercial living facilities, not governed by state licensing requirements.

*Sober living home* means a dwelling unit occupied by more than four unrelated individuals with all individuals residing in recovery from chemical dependency and considered disabled under the Federal Fair Housing Act Amendments of 1988. This definition does not include group facilities that are licensed by other governmental agencies or otherwise considered permitted uses as defined by Minnesota Statute.

(Ord. No. 07-2122, 3-8-2007; Ord. No. 12-2245, 3-15-2012; Ord. No. [19-2435](http://newords.municode.com/readordinance.aspx?ordinanceid=979093&datasource=ordbank), 9-16-2019)

**Sec. 18-502. Application.**

(a) Before any license shall be issued or renewed, the owner of the rental dwelling shall complete an application. The following persons shall be authorized to sign and submit the application:

- (1) If the owner is a natural person, by the owner thereof.
- (2) If the owner is a corporation, by an officer thereof.
- (3) If the owner is a partnership, by a partner thereof.

(b) The application shall be made on a form prescribed by the city and shall include:

- (1) The name and address of the owner of the rental dwelling.
- (2) The name and address of any operator or agent actively managing the rental dwelling.
- (3) If the operator or agent is a business entity, the application shall include the names, telephone numbers and addresses of individuals who will be involved in such management, together with a description of the scope of services and manner of delivering these services by the manager.
- (4) If the applicant is a corporation, the name and address of all officers.
- (5) If the applicant is a partnership, the name and address of all partners.

- (6) If the rental dwelling is being sold on a contract for deed, the name and address of the vendees.
- (7) The legal address of the rental dwelling.
- (8) Owner, agent or manager that notices of violation should be directed to pursuant to this article.

(Ord. No. 07-2122, 3-8-2007)

**Sec. 18-503. License issuance.**

- (a) The city may issue a license in its discretion if the building and the application are found to be in compliance with the provisions of this article and with the Residential Maintenance Code set forth in Chapter 18, Article VIII, of this Code, provided that all real estate taxes and municipal utility bills for the premises have been paid. Real estate taxes will not be considered to be unpaid for purposes of this section while a proper and timely appeal of such taxes is pending.
- (b) No license shall be issued or renewed for a nonresident owner of a rental dwelling (one who does not reside in any of the following Minnesota counties: Hennepin, Ramsey, Anoka, Carver, Dakota, Scott, Washington, Sherburne, Isanti, or Chisago and some locations immediately into the State of Wisconsin), unless such owner designates in writing to the city inspector the name of such owner's resident agent, (who also needs to reside in the above-noted locations) who is responsible for maintenance and upkeep and who is legally constituted and empowered to receive service of notice of violation of the provisions of the city ordinances, to receive orders and to institute remedial action to effect such orders and to accept all service or process pursuant to law. The city inspector shall be notified in writing of any change of resident agent. This requirement may be waived if, in the city inspector's determination, the owner not living in one of the above specified counties is nonetheless sufficiently accessible for the purposes of this article.

(Ord. No. 07-2122, 3-8-2007; Ord. No. 12-2245, 3-15-2012)

**Sec. 18-504. Term of license.**

Licenses will be issued for a one-year period and the license term shall commence on January 1.

(Ord. No. 07-2122, 3-8-2007; <http://newords.municode.com/readordinance.aspx?ordinanceid=887676&datasource=ordbank> web="yes">Ord. No. 18-2403 </ulink>, 4-19-2018)

**Sec. 18-505. License fees.**

- (a) The license fees shall be established by resolution. The license fee shall be collected for each building and unit in a rental dwelling.
- (b) If an application for a license is made after its due date January 1st late fee as established by resolution, will be added to the initial license fee. For each subsequent 30-day period an additional late fee will be imposed.

(Ord. No. 07-2122, 3-8-2007; <http://newords.municode.com/readordinance.aspx?ordinanceid=887676&datasource=ordbank> web="yes">Ord. No. 18-2403 </ulink>, 4-19-2018)

**Sec. 18-506. Posting of license.**

The licensee shall post a copy of the license in a conspicuous public corridor or hallway or lobby of the licensed rental dwelling.

(Ord. No. 07-2122, 3-8-2007)

**Sec. 18-507. Transfer of license.**

A license is transferable for a fee to any person who has actually acquired legal ownership of the rental dwelling. The transfer shall be effective for the unexpired portion of the license period, provided that a transfer application is filed with the city prior to the actual change of legal ownership and that the transferee is not disqualified from holding the license. A license shall terminate upon an owner's failure to apply for a transfer prior to change of legal ownership. The fee for the license transfer shall be established by resolution.

(Ord. No. 07-2122, 3-8-2007)

**Sec. 18-508. Conduct on licensed premises.**

(a) *Disorderly premises.* The licensee shall be responsible for ensuring that persons occupying or present at the rental dwelling conduct themselves in such a manner as not to cause the premises to be disorderly. For purposes of this section, a premises is disorderly if any of the following occur:

- (1) Violation of section 50-141 (Disorderly house) of the City Code or Minn. Stat. § 609.72.
- (2) Violation of laws relating to the possession of controlled substances as defined in Minn. Stat. § 152.01, subd. 4.
- (3) The unlawful possession or sale of intoxicating liquor or 3.2 percent malt liquor.
- (4) Violation of laws relating to gambling.
- (5) Violation of laws relating to prostitution as defined in Minn. Stat. § 609.321, subd. 9, or acts relating to prostitution.
- (6) Unlawful use or possession of a firearm or weapon in violation of chapter 50, article III, division 2, of the City Code or Minn. Stat. § 609.66, subd. 1a, 609.67 or 624.713.
- (7) Violation of Minn. Stat. § 609.705 (Unlawful Assembly).
- (8) Violation of Minn. Stat. § 609.71 (Riot).
- (9) Violation of Minn. Stat. § 609.713 (Terrorist Threat).
- (10) Violation of Minn. Stat. § 609.715 (Presence at Unlawful Assembly).
- (11) Any other conduct deemed disorderly by the city manager or designee.

(b) *Enforcement authority.* The city manager or designee shall be responsible for enforcement and administration of this article. Authority to take any action authorized by this article may be delegated to the city manager's authorized designee.

(c) *Notice of violation.* Upon determination by the city that a rental dwelling was deemed to be a disorderly premises, notice of the violation shall be given to the licensee or designee. The notice shall include a directive for the licensee to take steps to prevent further violations. All notices given by the city under this section shall be served on the licensee or designee, sent by mail to the licensee's last known address, or, by posting the notice in a conspicuous place at the rental dwelling.

- (d) *Second instance.* If a second instance of a disorderly premises occurs within the annual license term the city shall notify the licensee or designee of the violation and shall also require the licensee to submit a written report of the actions taken and proposed to be taken by the licensee to prevent further disorderly use of the premises. This written report shall be submitted to the city within five days of receipt of the notice of disorderly premises and shall detail all actions taken by the licensee in response to all notices of disorderly premises within the license term.
- (e) *Third instance.* If a third instance of a disorderly premises occurs within the annual license term the rental dwelling license for the premises may be denied, revoked, suspended, or not renewed in accordance with section 18-509.
- (f) *Instances defined.* For purposes of this section, second and third instances of disorderly premises shall be those which:
  - (1) Occur at the same rental dwelling unit; or
  - (2) Involve tenants at the same rental dwelling unit; or
  - (3) Involve guests or invitees at the same rental dwelling unit; or
  - (4) Involve guests or invitees of the same tenant; or
  - (5) Involve the same tenant.
- (g) *Eviction proceedings.* No adverse license action shall be imposed where the instance of disorderly premises occurred during the pendency of eviction proceedings (unlawful detainer) or within 30 days of notice given by the licensee to a tenant to vacate the premises, where the disorderly use was related to conduct by that tenant or by other occupants or guests of the tenant's unit. Eviction proceedings shall not be a bar to license action, however, unless they are being diligently pursued by the licensee.
- (h) *Evidence of disorderly premises.* A determination of disorderly premises shall be made upon substantial evidence. It shall not be necessary that criminal charges be brought in order to support a determination of disorderly premises. Moreover, a dismissal or acquittal of any such criminal charge will not operate as a bar to license action under this article.
- (i) *Council action not exclusive.* Enforcement actions provided in this article shall not be exclusive. The city council may take any action with respect to a licensee, a tenant, or the licensed premises as is authorized by the City Code or state law.

(Ord. No. 07-2122, 3-8-2007)

**Sec. 18-509. Suspension, revocation, denial, nonrenewal.**

- (a) *Hearing.* An action to deny, revoke, suspend, or not renew a license under this article shall be initiated by the city by giving written notice to the licensee of a hearing by a hearing officer, on behalf of the city council to consider such denial, revocation, suspension or nonrenewal. The written notice shall specify all violations and shall state the date, time, place and purpose of the hearing. The hearing shall be held no less than ten days and no more than 30 days after giving the notice. In such hearing the hearing officer shall give due regard to the frequency and seriousness of violations, the ease with which such violations could have been cured or avoided and good faith efforts to comply with city requirements. Following the hearing, the hearing officer, in its sole discretion may deny, revoke, suspend, or decline to renew the license for all or any part or parts of the rental dwelling, or may grant a license upon such terms and conditions as it deems necessary to accomplish the purposes of this article. Further, an action to deny, revoke, suspend, or not renew a license based upon violations of this article may be postponed or discontinued at any time if it appears that the licensee has taken



appropriate measures which will prevent further instances of disorderly use. The hearing officer shall issue its decision upon written findings.

- (b) *Reason for action.* The hearing officer may revoke, suspend, deny or decline to renew any license issued under this article upon any grounds it deems appropriate including, but not limited to, the following:
- (1) False statements on any application or other information or report required by this article to be given by the applicant or licensee.
  - (2) Failure to pay any application fee, penalty, re-inspection, or reinstatement fee required by this article and resolutions.
  - (3) Failure to correct deficiencies noted in notices of violation in the time specified in the notice.
  - (4) Any other violation of this article.
- (c) *Reinstatement of license.* Upon a decision to revoke, deny, or not renew a license, no new application for the same rental dwelling will be accepted for a period of time specified in the written decision of the hearing officer, not exceeding one year. Any such new application must be accompanied by a reinstatement fee, as specified by resolution, in addition to all other fees required by this article.
- (d) *No new rentals.* A written decision to revoke, suspend, deny, or not renew a license shall specify the part or parts of the rental dwelling to which it applies. Thereafter, and until a license is reissued or reinstated, no rental units becoming vacant in such part or parts of the rental dwelling may be re-let or occupied. Revocation, suspension or nonrenewal of a license shall not excuse the owner of a rental dwelling from compliance with the terms of this article for any other unit or units in the rental dwelling which remain occupied.
- (e) *Failure to comply.* Failure to comply with any term of this article during a period of revocation, suspension, or nonrenewal is a misdemeanor and is also grounds for extension of the term of such revocation or suspension or continuation of nonrenewal, or for a decision not to reinstate the license, notwithstanding any limitations on the period of suspension, revocation or nonrenewal specified in the hearing officer's written decision.

(Ord. No. 07-2122, 3-8-2007; Ord. No. [19-2435](http://newords.municode.com/readordinance.aspx?ordinanceid=979093&datasource=ordbank), 9-16-2019)

#### **Sec. 18-510. No retaliation.**

No licensee shall evict, threaten to evict, or take any other punitive action against any tenant by reason of good faith calls made by such tenant to law enforcement agencies relating to criminal activity, suspected criminal activity, suspicious occurrences, or public safety concerns. This section shall not prohibit the eviction of tenants from a dwelling unit for unlawful conduct of a tenant or invitee or violation of any rules, regulations or lease terms other than a prohibition against contacting law enforcement agencies.

(Ord. No. 07-2122, 3-8-2007)

<sup>50</sup>**Sec. 18-511. Licensing and standards for sober living home.**

(a) *Purpose and intent.* The purpose of this section is to establish process and standards to assure that sober living housing is habitable, safe and is operated and maintained as to not detract from the neighborhood or to become an influence that fosters blight, deterioration or disincentive to reinvestment in the community. It is the intent to establish standards that are applicable to all sober living dwellings in the city. Any inconsistencies between various sections contained elsewhere in article X and this section shall be resolved in favor of section 18-511.

The provisions of this article are in addition to those requirements set forth in article VIII, residential maintenance code and article X, licenses for rental dwellings.

(b) ~~Defined. Definitions.~~

*Sober living home* means a dwelling unit occupied by more than four unrelated individuals with all individuals residing in recovery from chemical dependency and considered disabled under the Federal Fair Housing Act Amendments of 1988. This definition does not include group facilities that are licensed by other governmental agencies or otherwise considered permitted uses as defined by Minnesota Statute.

(c) *License required.*

- (1) No **person, firm or corporation** shall operate a sober living home until a sober living home license has been applied for and issued by the city.
  - (2) The city may issue a license in its discretion if the building and the application are found to be in compliance with the provisions of this article and with the Residential Maintenance Code set forth in chapter 18, article VIII, of this Code, provided that all real estate taxes and municipal utility bills for the premises have been paid. Real estate taxes will not be considered to be unpaid for purposes of this section while a proper and timely appeal of such taxes is pending.
- (d) *Application for license.* The application process shall follow the requirements of section 18-502 with the following additional requirements:
- (1) Description, number and size of available bedrooms.
  - (2) Basic floor plan of dwelling (including all living levels).
  - (3) Scaled site plan of property showing house, driveways and garage.
  - (4) A description and the number of off-street parking stalls available.
  - (5) A property management plan including tenant selection process as well as maintenance of the facility.
  - (6) A crime free/drug free lease addendum signed by and applicable to all occupants of the sober living home.
  - (7) Proof of membership with the Minnesota Association of Sober Homes, Inc. (MASH) that outline additional living standards and criteria related to safety, health, and house management.
- (e) *[Public hearing.]* Applications for a sober living home license require a public hearing before the city council. The city will provide written notice to all property owners within 350 feet of the applicant's property not less than ten days before any scheduled public hearing.

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<sup>50</sup> **Sec. 18-511. Licensing and standards for sober living home.** This section seems misplaced here. The city may wish to consider establishing a “human relations and social services” chapter to house these types of provisions. Also in the section (and throughout the code), phrases such as “person, firm or corporation” should be changed to “person” since the term is defined in chapter 1 general definitions.

(Ord. No. [19-2435](http://newwords.municode.com/readordinance.aspx?ordinanceid=979093&datasource=ordbank), 9-16-2019)

**Sec. 18-512. Inspections of dwellings.**

Upon receipt of a properly executed application for licensing and receipt of the appropriate fee, the city shall complete an initial inspection of the premises to determine whether the property is in compliance with this chapter. Any sober living home dwelling may be reinspected after a renewal application or transfer of license is filed to determine compliance. The city shall further have the right to reinspect the premises at any time it is deemed necessary to assure compliance with this chapter.

- (1) The city shall be authorized to make or cause to be made inspections to determine the condition of dwellings, multiple dwellings, dwelling units, rooming houses, rooming units, and premises in order to safeguard the health, safety, morals, and welfare of the public. The city shall be authorized to enter any dwelling, multiple dwelling, dwelling unit, rooming house, rooming unit, or premises at any reasonable time for the purpose of performing inspections under this article. The owner, operator, or occupant of the sober living home shall give the city access to such dwelling, multiple dwelling, dwelling unit, rooming house, rooming unit and premises on which it is located at all reasonable times for the purpose of such inspection.
- (2) If the owner, operator, person in charge, or occupant shall refuse to consent to the inspection, a search warrant may be obtained. If the city finds it necessary to obtain an administrative search warrant to enter the property for inspection due to the owner, operator, person in charge or occupant's lack of cooperation, said person or persons may also be charged with all costs of obtaining the warrant including court costs and attorney's fees.
- (3) No warrant is needed where an emergency condition exists which endangers persons or property and insufficient time is available to obtain a warrant and protect such endangered persons or property.
- (4) Entry under this section is subject to Minn. Stat. § 504B.211 (Residential tenant's right to privacy) as amended.

(Ord. No. [19-2435](http://newwords.municode.com/readordinance.aspx?ordinanceid=979093&datasource=ordbank), 9-16-2019)

**Sec. 18-513. Length and terms of license.**

- (a) The license period shall commence upon issuance of the license. A sober living home license shall be issued for a period of one year.
- (b) A sober living home license is transferable to any person who has actually acquired legal ownership of a licensed building for the unexpired portion of the term for which it was issued or reissued; provided, that the application to transfer such registration is filed with the city within 30 days of closing and the transferee is not disqualified from holding a license due to prior revocation, suspension, or denial of a sober living home license. The sober living home license shall terminate upon failure to apply for its transfer within 30 days of closing.

(Ord. No. [19-2435](http://newwords.municode.com/readordinance.aspx?ordinanceid=979093&datasource=ordbank), 9-16-2019)

**Sec. 18-514. License suspension, revocation, denial and non-renewal.**

- (a) The city council may revoke, suspend, deny or decline to renew any sober living home license issued under this article upon any of the following grounds:
- (1) False statements on any application or other information or report required by this article to be given by the applicant or licensee.
  - (2) Failure to pay any license or reinstatement fee required by this article.
  - (3) Failure to correct deficiencies noted in notices of violation in the time specified in the notice.
  - (4) Any other violation of the property maintenance, zoning, environmental, and utility chapters of city Code.
- (b) No action will be taken by the city council to revoke, suspend, deny, or decline renewal of a sober living home license without a hearing and written notice of that hearing is sent to the property owner, agent, and affected tenants a minimum of ten days prior to the hearing.
- (c) The city council shall give due regard to the frequency and seriousness of the violations, the ease with which such violations could have been cured or avoided, and good faith efforts to comply and shall issue a decision to revoke, suspend, deny, or decline renewal of a license only upon written findings.
- (d) Upon a decision to revoke, suspend, deny or decline renewal of a license, no new application for the same facility will be accepted for a period of time as specified in the city council's written decision, which time shall not exceed one year. All new applications shall be accompanied by a reinstatement fee as required by this article.
- (e) A written decision to revoke, suspend, deny or decline renewal of a license or application shall specify the part or parts of the facility to which it applies. Thereafter, and until a license is reissued or reinstated, no units becoming vacant in such part or parts of the facility may be re-let or occupied. Revocation, suspension, denial or non-renewal of a license shall not excuse the owner from compliance with all terms of this article for as long as any units in the facility are occupied. Failure to comply with all terms of this article during the term of revocation, suspension, denial or non-renewal is a misdemeanor and grounds for an extension of the term of such revocation, suspension, or non-renewal, or for a decision not to reinstate the license, notwithstanding any limitations on the period of suspension, revocation, denial or non-renewal specified in the city council's written decision or in paragraph (e) of this section.
- (f) Notice and hearing. Any license revocation or suspension process by a hearing officer, on behalf of the city council, shall be preceded by written notice to the licensee and a hearing. The notice shall give at least ten days' notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The notice shall be mailed by regular mail to the licensee at the most recent address listed on the license application.

(Ord. No. [19-2435](http://newwords.municode.com/readordinance.aspx?ordinanceid=979093&datasource=ordbank), 9-16-2019)

**Sec. 18-515. Display of license.**

Licenses issued under this article must be displayed on the premises of sober living home dwellings. All property owners must produce a copy of the sober living home license upon demand of a prospective tenant or city official.

(Ord. No. [19-2435](http://newords.municode.com/readordinance.aspx?ordinanceid=979093&datasource=ordbank), 9-16-2019)

**Sec. 18-516. Fees.**

Sober living home license fees and reinstatement fees are to be determined annually by the city council.

(Ord. No. [19-2435](http://newords.municode.com/readordinance.aspx?ordinanceid=979093&datasource=ordbank), 9-16-2019)

**Sec. 18-517. Violations and penalties.**

Any person violating any provision of this article is guilty of a misdemeanor and upon conviction shall be subject to the penalties set forth in Minnesota Statutes.

(Ord. No. [19-2435](http://newords.municode.com/readordinance.aspx?ordinanceid=979093&datasource=ordbank), 9-16-2019)

**<sup>51</sup>Sec. 18-518. Reasonable accommodations.**

It is the policy of the city, pursuant to the Federal Fair Housing Amendments Act of 1988, to provide reasonable accommodations in the application of its zoning regulations for persons with disabilities seeking fair and equal access to housing. Reasonable accommodation means providing an individual with a disability or developers of housing for an individual with a disability flexibility in the application of land use and zoning regulations or policies, including the modification or waiver of certain requirements, when it is necessary to eliminate barriers to housing opportunities. The purpose of this subdivision is to establish a process for making and acting upon requests to reasonable accommodation.

- (1) Any person who requests reasonable accommodation in the form of modification in the application of a zoning regulation which may act as a barrier to fair housing opportunities due to the disability of existing or proposed residents may do so on an application form provided by the city. "Person" includes any individual with a disability, his or her representative or a developer or provider of housing for an individual, with a disability. The application shall include a detailed explanation of why the modification is reasonably necessary to make the specific housing available to the person(s), including information establishing that the applicant is disabled under applicable laws, as well as other information required by the city to make the determination. If the project for which the request is being made also requires an additional land use review or approval, the applicant shall file the request concurrently with the land use review.
- (2) City staff shall review the request and make a formal recommendation to the city council. The request shall be evaluated under the following factors:
  - a. Whether there is a qualifying disability;

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<sup>51</sup> **Sec. 18-518. Reasonable accommodations.** This section, too, could be moved to a new human relations chapter as described above.

- b. Whether the request if needed to allow a disabled person equal opportunity to use and enjoy a dwelling or to live in a particular neighborhood as a person without disabilities;
  - c. Whether the request is reasonable, considering the potential impact on surrounding uses, the extent to which the accommodation meets the stated need, and other alternative that may meet that need;
  - d. Whether the request would constitute a fundamental alternation of the city's regulations, policies, or procedures;
  - e. Whether the request would impose an undue financial or administrative burden on the city;
  - f. The number, nature and extent of the requested accommodation in relation to the physical limitations of the building and site; and
  - g. Any other factor that may have a bearing on request, as determined by the city.
- (3) The city council shall consider the request following receipt of the recommendation of the city staff.
- (4) An approved sober living home license is granted only to an individual or operating entity and does not run with the land.
- (5) No sober living home license shall be located within 1,320 feet of another sober living home that has been granted a sober living home license as measured from the property lines closest to one another.

(Ord. No. [19-2435](http://newords.municode.com/readordinance.aspx?ordinanceid=979093&datasource=ordbank), 9-16-2019)

**Sec. 18-519. Conduct on licensed premises.**

- (a) *Disorderly premises.* The licensee shall be responsible for ensuring that persons occupying or present at the rental dwelling conduct themselves in such a manner as not to cause the premises to be disorderly. For purposes of this section, a premises is disorderly if any of the following occur:
- (1) Violation of section 50-141 (Disorderly house) of the city Code or Minn. Stat. § 609.72.
  - (2) Violation of laws relating to the possession of controlled substances as defined in Minn. Stat. § 152.01, subd. 4.
  - (3) The unlawful possession or sale of intoxicating liquor or 3.2 percent malt liquor.
  - (4) Violation of laws relating to gambling.
  - (5) Violation of laws relating to prostitution as defined in Minn. Stat. § 609.321, subd. 9, or acts relating to prostitution.
  - (6) Unlawful use or possession of a firearm or weapon in violation of chapter 50, article III, division 2, of the city Code or Minn. Stat. § 609.66, subd. 1a, 609.67 or 624.713.
  - (7) Violation of Minn. Stat. § 609.705 (Unlawful assembly).
  - (8) Violation of Minn. Stat. § 609.71 (Riot).
  - (9) Violation of Minn. Stat. § 609.713 (Terrorist threat).
  - (10) Violation of Minn. Stat. § 609.715 (Presence at unlawful assembly).

- (11) Any other conduct deemed disorderly by the city manager or designee.
- (b) *Enforcement authority.* The city manager or designee shall be responsible for enforcement and administration of this article. Authority to take any action authorized by this article may be delegated to the city manager's authorized designee.
- (c) *Notice of violation.* Upon determination by the city that a rental dwelling was deemed to be a disorderly premises, notice of the violation shall be given to the licensee or designee. The notice shall include a directive for the licensee to take steps to prevent further violations. All notices given by the city under this section shall be served on the licensee or designee, sent by mail to the licensee's last known address, or, by posting the notice in a conspicuous place at the rental dwelling.
- (d) *Second instance.* If a second instance of a disorderly premises occurs within the annual license term the city shall notify the licensee or designee of the violation and shall also require the licensee to submit a written report of the actions taken and proposed to be taken by the licensee to prevent further disorderly use of the premises. This written report shall be submitted to the city within five days of receipt of the notice of disorderly premises and shall detail all actions taken by the licensee in response to all notices of disorderly premises within the license term.
- (e) *Third instance.* If a third instance of a disorderly premises occurs within the annual license term the rental dwelling license for the premises may be denied, revoked, suspended, or not renewed in accordance with section 18-509.
- (f) *Instances defined.* For purposes of this section, second and third instances of disorderly premises shall be those which:
- (1) Occur at the same rental dwelling unit; or
  - (2) Involve tenants at the same rental dwelling unit; or
  - (3) Involve guests or invitees at the same rental dwelling unit; or
  - (4) Involve guests or invitees of the same tenant; or
  - (5) Involve the same tenant.
- (g) *Eviction proceedings.* No adverse license action shall be imposed where the instance of disorderly premises occurred during the pendency of eviction proceedings (unlawful detainer) or within 30 days of notice given by the licensee to a tenant to vacate the premises, where the disorderly use was related to conduct by that tenant or by other occupants or guests of the tenant's unit. Eviction proceedings shall not be a bar to license action, however, unless they are being diligently pursued by the licensee.
- (h) *Evidence of disorderly premises.* A determination of disorderly premises shall be made upon substantial evidence. It shall not be necessary that criminal charges be brought in order to support a determination of disorderly premises. Moreover, a dismissal or acquittal of any such criminal charge will not operate as a bar to license action under this article.
- (i) *Council action not exclusive.* Enforcement actions provided in this article shall not be exclusive. The city council may take any action with respect to a licensee, a tenant, or the licensed premises as is authorized by the city code or state law.

(Ord. No. [19-2435](http://newwords.municode.com/readordinance.aspx?ordinanceid=979093&datasource=ordbank), 9-16-2019)

**Secs. 18-520—18-529. Reserved.**

<sup>52</sup>**ARTICLE XI. ELECTRICAL**

[Sec. 18-530. Inspections.](#)

[Sec. 18-531. Enforcement; administration of article.](#)

[Sec. 18-532. City electrical code.](#)

[Sec. 18-533. Code compliance.](#)

[Sec. 18-534. Permits; fees.](#)

[Sec. 18-535. Conformance with state statutes.](#)

[Sec. 18-536. Violations.](#)

**Sec. 18-530. Inspections.**

The City of Blaine hereby provides for the inspection of all electrical installations, pursuant to Minn. Stat. § 326B.36, subd. 6.

(Ord. No. 11-2230, § 1, 8-4-2011)

**Sec. 18-531. Enforcement; administration of article.**

The city manager may contract with or designate inspectors for the enforcement of this article. The chief building official shall be responsible for the administration of this article.

(Ord. No. 11-2230, § 1, 8-4-2011)

**Sec. 18-532. City electrical code.**

The Minnesota Electrical Act, as adopted by the Commissioner of Labor and Industry pursuant to Minn. Stat. ch. 326B, §§ 326B.31 to 326B.399 is hereby incorporated into this ordinance as if fully set out herein. The Minnesota State Building Code incorporates by reference the National Electrical Code pursuant to Minn. R. 1315.0020. All such codes incorporated herein by reference constitute the electrical code of the City of Blaine.

(Ord. No. 11-2230, § 1, 8-4-2011)

**Sec. 18-533. Code compliance.**

All electrical installations shall comply with the requirements of the electrical code of the City of Blaine and this article.

(Ord. No. 11-2230, § 1, 8-4-2011)

**Sec. 18-534. Permits; fees.**

The issuance of permits and the collection of fees shall be as authorized in Minn. Stat. § 326B.37. Any inspection or handling fees will be payable to the City of Blaine. In addition, a state surcharge fee, as

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<sup>52</sup> **Art. XI. Electrical.** This entire article could be made into a single section and placed in article II in a division 1 (generally).



determined by the State of Minnesota shall be collected on all permits issued for work governed by this article in accordance Minn. Stat. § 326B.148.

(Ord. No. 11-2230, § 1, 8-4-2011)

**Sec. 18-535. Conformance with state statutes.**

All notices of violations and orders issued under this article shall be in conformance with Minn. Stat. § 326B.36, subd. 4.

(Ord. No. 11-2230, § 1, 8-4-2011)

**Sec. 18-536. Violations.**

A violation of the Minnesota Electrical Act is a misdemeanor. (Minn. Stat. § 326B.082, subd. 16.)

(Ord. No. 11-2230, § 1, 8-4-2011)

## **Chapter 22 BUSINESSES \***

~~\*Cross reference—Alcoholic beverages, ch. 6; amusements and entertainments, ch. 10; emergency management and emergency services, ch. 30; taxation, ch. 78; utilities, ch. 86; franchises, app. C.~~

ARTICLE I. - IN GENERAL

ARTICLE II. - ADULT USES

ARTICLE III. - CHRISTMAS TREE LOTS

ARTICLE IV. - RESERVED

ARTICLE V. - PAWNBROKERS

ARTICLE VI. - PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS

ARTICLE VII. - RIFLE OR PISTOL RANGES (GUN CLUBS)

ARTICLE VIII. - LEGALIZED GAMBLING

ARTICLE IX. - LICENSING AND REGULATION OF THERAPEUTIC MASSAGE

ARTICLE X. - TEMPORARY NURSERY SALES

ARTICLE XI. - VENDING TRUCKS

<sup>53</sup>ARTICLE XII. – MOBILE FOOD TRUCKS

### **ARTICLE I. IN GENERAL**

[Secs. 22-1—22-30. Reserved.](#)

**Secs. 22-1—22-30. Reserved.**

### **ARTICLE II. ADULT USES**

DIVISION 1. - GENERALLY

DIVISION 2. - LICENSE

#### ***DIVISION 1. GENERALLY***

[Sec. 22-31. Definitions.](#)

[Sec. 22-32. Severability.](#)

[Secs. 22-33—22-50. Reserved.](#)

#### **Sec. 22-31. Definitions.**

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

*Adult uses* means adult bookstores, adult motion picture theaters, adult minimotion picture theaters, adult massage parlors, adult steam room/bathhouse/sauna facilities, adult companionship establishments, adult rap/conversation parlors, adult health/sport clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotels/motels, adult body painting studios, and other premises, enterprises, establishments, 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

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<sup>53</sup> **Chapter 22, Businesses.** Mobile food trucks (Art. XII) and an amendment of peddlers, etc. (Art. VI) from Ord. No. 21-2485 are inserted in this draft temporarily for legal review purposes only. The ordinance still needs to be formally codified.

activities" or "specified anatomical areas" which are capable of being seen by members of the public. Activities classified as obscene as defined by Minn. Stat. § 617.241 are not included.

*Adult use, accessory*, means the offering of goods and/or services which are classified as adult uses on a limited scale and which are incidental to the primary activity and goods and/or services offered by the establishment. The term "adult use, accessory," does not include any "adult uses, principal," as that term is defined by this section, nor the rental or sale of adult magazines, adult books or adult movies, provided the display of such items complies with Minn. Stat. § 617.293, is limited to no more than 20 percent of the floor area of the establishment, and is not internally or externally advertised.

*Adult uses, principal*, means the offering of goods and/or services which are classified as adult uses as a primary or sole activity of a business or establishment and include, but are not limited to, the following:

- (1) *Body painting studio*. An establishment or business which provides the service of applying paint or other substance, whether transparent or nontransparent, to or on the body of a patron when such body is wholly or partially nude in terms of "specified anatomical areas."
- (2) *Bookstore*. A building or portion of a building, comprising more than 20 percent of the floor area of the establishment used for the barter, rental or sale of items consisting of printed matter, pictures, slides, records, audio tape, videotape, or motion picture film if such building or portion of a building is not open to the public generally but only to one or more classes of the public excluding any minor by reason of age or if a substantial or significant portion of such items are distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas."
- (3) *Cabaret*. A building or portion of a building used for providing dancing or other live entertainment, if such building or portion of a building excludes minors by virtue of age or if such 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."
- (4) *Companionship establishment*. A companionship establishment which excludes minors by reason of age, or which provides the service of engaging in or listening to conversation, talk or discussion between an employee of the establishment and a customer, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."
- (5) *Conversation/rap parlor*. A conversation/rap parlor which excludes minors by reason of age, or which provides the service of engaging in or listening to conversation, talk, or discussion, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."
- (6) *Health/sport club*. A health/sport club which excludes minors by reason of age, or if such club is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."
- (7) *Hotel or motel*. Adult hotel or motel means a hotel or motel from which minors are specifically excluded from patronage and wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."
- (8) *Massage parlor, health club*. A massage parlor or health club which restricts minors by reason or age, and which provides the services of massage, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."

- (9) *Minimotion picture theater*. A building or portion of a building with a capacity for less than 50 persons used for presenting material if such building or portion of a building as a prevailing practice excludes minors by virtue of age, or if such material is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.
- (10) *Modeling studio*. An establishment whose major business is the provision, to customers, of figure models who are so provided with the intent of providing sexual stimulation or sexual gratification to such customers and who engage in "specified sexual activities" or display "specified anatomical areas" while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted by such customers.
- (11) *Motion picture arcade*. Any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrically or mechanically controlled or operated still or motion picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing "specified sexual activities" or "specified anatomical areas."
- (12) *Motion picture theater*. A building or portion of a building with a capacity of 50 or more persons used for presenting material if such building or portion of a building as a prevailing practice excludes minors by virtue of age or if such material is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.
- (13) *Novelty business*. A business which has as a principal activity the sale of devices which stimulate human genitals or devices which are designed for sexual stimulation.
- (14) *Sauna*. A sauna which excludes a minor by reason of age, or which provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by the sauna is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."
- (15) *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, utilizing steam or hot air as a cleaning, relaxing or reducing agent if such 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."

*Specified anatomical areas* means:

- (1) Less than completely and opaquely covered human genitals, pubic region, buttock, anus, or female breasts below a point immediately above the top of the areola; and
- (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

*Specified sexual activities* means:

- (1) Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following sexually-oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerasty;

- (2) Clearly depicted human genitals in the state of sexual stimulation, arousal or tumescence;
- (3) Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation;
- (4) Fondling or touching of nude human genitals, pubic region, buttocks, or female breast;
- (5) Situations involving a person or persons, any of whom are nude, clad in undergarments or in sexually revealing costumes, and who are engaged in activities involving the flagellation, torture, fettering, binding or other physical restraint of any such person;
- (6) Erotic or lewd touching, fondling or other sexually-oriented contact with an animal by a human being; or
- (7) Human excretion, urination, menstruation, vaginal or anal irrigation.

(Code 1980, § 15-200; Ord. No. 92-1287, § 2, 3-19-1992; Ord. No. 92-1308, §§ 1, 2, 8-20-1992)

~~Cross reference—Definitions generally, § 1-2.~~

~~<sup>54</sup>Sec. 22-32. Severability.~~

~~Every section, provision, or part of this article or any permit issued to this article is declared severable from every other section, provision, or part thereof to the extent that if any section, provision, or part of this article or any permit issued pursuant to this article shall be held invalid by a court of competent jurisdiction it shall not invalidate any other section, provision, or part thereof.~~

~~(Code 1980, § 15-214; Ord. No. 92-1287, § 2, 3-19-1992)~~

**Secs. 22-33—22-50. Reserved.**

***DIVISION 2. LICENSE***

Sec. 22-51. Required.

Sec. 22-52. Applications.

Sec. 22-53. Individuals ineligible.

Sec. 22-54. Places ineligible for a license.

Sec. 22-55. Conditions.

Sec. 22-56. Investigation fees.

Sec. 22-57. Fees.

Sec. 22-58. Granting.

Sec. 22-59. Expiration.

Sec. 22-60. Transfer.

Sec. 22-61. Suspension.

Sec. 22-62. Revocation.

Secs. 22-63—22-90. Reserved.

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<sup>54</sup> **Sec. 22-32. Severability.** This section is duplicative of chapter 1 general provisions and should be stricken.

**Sec. 22-51. Required.**

No person shall operate an adult use, either principal or accessory, without having first secured a license as provided in this division. Licenses shall be one of two types:

- (1) Adult use, accessory.
- (2) Adult use, principal.

(Code 1980, § 15-201; Ord. No. 92-1287, § 2, 3-19-1992)

**Sec. 22-52. Applications.**

An application for a license must be made on a form provided by the city. In addition to such information as the city manager may require in his sole discretion, the application shall also include:

- (1) The name, residence, phone number and birthdate of the applicant, if an individual; and if a corporation, the names, residences, phone numbers and birthdates of those owners holding more than five percent of the outstanding stock of the corporation;
- (2) The name, address, phone number and birthdate of the manager of such operation, if different from the owners;
- (3) The premises wherein the adult use is to be located;
- (4) A building plan of the premises detailing all internal operations and activities, including a statement of total floor space occupied by the business. This sketch or diagram need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches;
- (5) Confirmation of compliance with health, fire and building regulations certified by duly authorized representatives of the health department, fire department and building officials;
- (6) The activities and types of businesses to be conducted;
- (7) The hours of operation;
- (8) The provisions made to restrict access by minors;
- (9) A statement detailing each gross misdemeanor or felony relating to a sex offense, obscenity offense and/or the operation of adult uses and related activities of which the applicant or, in the case of a corporation, the owners of more than five percent of the outstanding stock of the corporation, have been convicted, and whether or not the applicant has ever applied for or held a license to operate a similar type of business in other communities.

(Code 1980, § 15-202; Ord. No. 92-1287, § 2, 3-19-1992)

**Sec. 22-53. Individuals ineligible.**

No license shall be granted to or held by any person:

- (1) Under 18 years of age;
- (2) Who is overdue or whose spouse is overdue in his payment to the city, county or state of taxes, fees, fines or penalties assessed against them or imposed upon them in relation to an adult use, accessory, or adult use, principal;

- (3) Who has been convicted or whose spouse has been convicted of a felony or of violating any law of this state or local ordinances relating to sex offenses, obscenity offenses and/or adult uses;
- (4) Who is not the proprietor of the establishment for which the license is issued;
- (5) Who is residing with a person who has been denied a license by the city or any other Minnesota municipal corporation to operate an adult use, principal, or adult use, accessory, business within the preceding 12 months, or residing with a person whose license to operate an adult use, accessory, or adult use, principal, business has been revoked within the preceding 12 months;
- (6) Who is an on-sale liquor, on-sale wine or 3.2 percent malt beverage license holder in the city; or any license holder under chapter 6 of this Code.
- (7) Who has not paid the license fee required by section 22-57.

(Code 1980, § 15-203; Ord. No. 92-1287, § 2, 3-19-1992; Ord. No. 01-1920, 10-4-2001)

**Sec. 22-54. Places ineligible for a license.**

- (a) No license shall be granted for adult uses on any premises which has not been approved by the health department, fire department and the building official as being in compliance with applicable laws and ordinances. All necessary inspections shall be completed within 30 days from the date the application was submitted, provided that the application contains all of the information required by this article. If the application is deficient, the necessary inspection shall be completed within 30 days from the date the deficiency is corrected.
- (b) The floor area to be occupied by the proposed adult use, principal, shall be at least 750 feet from the nearest property line of any land in any residential zone, or any school, day care, library, park playground, or other public recreational facility in any zone, and at least 750 feet from the nearest property line of any religious institution.
- (c) An adult use, principal, business shall not be located within 750 feet of another adult use, principal, business.
- (d) No license shall be granted for adult uses on any premises where a licensee has been convicted of a violation of this section, or where any license hereunder has been revoked for cause, or until one year has elapsed after such conviction or revocation.
- (e) No license shall be issued to any premises which has on-sale liquor, on-sale wine or 3.2 percent malt beverage license, or any license holder under chapter 6 of this Code.
- (f) Except for uses lawfully existing at the time of this article's adoption, no license shall be granted for any adult use which is not in compliance with the city's zoning regulations.

(Code 1980, § 15-204; Ord. No. 92-1287, § 2, 3-19-1992; Ord. No. 92-1308, § 3, 8-20-1992; Ord. No. 01-1920, 10-4-2001)

**Sec. 22-55. Conditions.**

**(a) Adult use, principal.**

- (1) No adult use business shall be open to the public from the hours of 11:00 p.m. to 8:00 a.m.
- (2) All entrances and exits to businesses, with the exception of emergency fire exits which are not usable by patrons to enter the business, shall be visible from a public right-of-way. If such

businesses are located within an enclosed commercial complex, all patron entrances shall open onto the common concourse.

- (3) The adult use business shall not be constructed, used, designed or operated for the purpose of facilitating or permitting persons to engage in specified sexual activities. Any booths, stalls or partitioned portions of a room or individual rooms, used for the viewing of motion pictures or other forms of entertainment shall:
    - a. Be visible from a well-illuminated continuous main aisle;
    - b. Not be obscured by any curtains, door or other enclave;
    - c. Be without holes or openings in all side or rear walls or holes or openings in any other walls which are designed to allow persons to engage in specified sexual activities as specified in this article;
    - d. Not be occupied by more than one person at a time;
    - e. Be illuminated by a light bulb of no less than 25 watts.
  - (4) The operators of the adult use business shall not permit specified sexual activities on the premises and shall have an affirmative duty to supervise the establishment and prevent any such activity.
  - (5) All building openings, entries and windows shall be located, covered or screened in such a manner as to prevent a view into the interior from any public or semipublic area in conformance with architectural requirements of the zoning district.
  - (6) Signs visible to the public for adult use, principal, businesses shall comply with the city's sign ordinance and shall not contain graphic descriptions or representations of the adult use, principal, of the operation.
  - (7) No minor shall be permitted on the licensed premises of an adult use, principal, business unless accompanied by his parent or legal guardian.
  - (8) Any designated inspection officer or law enforcement officer shall have the unqualified right to enter, inspect, and search the premises of the licensee during business hours without a search and seizure warrant.
  - (9) All license premises shall have the license posted in a conspicuous place at all times.
  - (10) Every licensee shall be responsible for the conduct of his place of business and shall maintain conditions of order.
  - (11) Every license shall be granted subject to such conditions and all other provisions of this article, and of any applicable sections of this Code or state law.
- (b) *Adult use, accessory.*
- (1) All licensed premises shall have the license posted in a conspicuous place at all times.
  - (2) Any designated inspection officer or law enforcement officer of the city shall have the unqualified right to enter, inspect, and search the premises of a licensee during business hours without a search and seizure warrant.
  - (3) Every licensee shall be responsible for the conduct of his or her place of business and shall maintain conditions of order.
  - (4) The adult use, accessory, shall comprise no more than 20 percent of the floor area of the establishment in which it is located.



- (5) The display and display areas for adult use, accessory, shall comply with Minn. Stat. § 617.293 and any amendments thereto, and shall comply with all state and federal laws regarding the display an dissemination of harmful materials to minors.
- (6) Adult use, accessory, shall be prohibited from both internal and external advertising and signing of adult materials and products.

(Code 1980, §§ 15-205, 15-206; Ord. No. 92-1287, § 2, 3-19-1992; Ord. No. 92-1308, § 4, 8-20-1992)

<sup>55</sup>**Sec. 22-56. Investigation fees.**

- (a) At the time of each original application for a license, the applicant shall pay a minimum investigating fee. This minimum fee shall be \$500.00 per person on the application, and additional direct costs associated with the investigation will be billed to the applicants. The minimum investigating fee shall not be subject to refund. If the expenses of the investigation relating to any application exceed the minimum investigation fee, the city shall notify the applicants of this fact and shall require the applicants to pay an additional investigating fee which the city manager deems necessary to complete its investigation of the applicants. The applicants shall pay such an additional investigating fee within five days of being so notified. If such additional investigating fee is not paid within such five-day period, the city shall discontinue consideration of the application.
- (b) Each application shall contain a provision on the application in bold print indicating that any withholding of information or the providing of false or misleading information will be grounds for denial or revocation of a license. Any changes in the information provided on the application or provided during the investigation shall be brought to the attention of the city council by the applicant or licensee. If such changes take place during the investigation, such data shall be provided to the police chief or the city clerk in writing and they shall report the changes to the city council. Failure to report such changes by the applicants or the licensee may result in a denial or revocation of a license.

(Code 1980, § 15-207; Ord. No. 92-1287, § 2, 3-19-1992)

<sup>56</sup>**Sec. 22-57. Fees.**

- (a) The annual fee for an adult use, accessory, license shall be \$500.00. The annual fee for an adult use, principal, license shall be \$500.00.
- (b) Each application for a license shall be accompanied by a receipt from the city treasurer for payment in full of the required fee for the license. All fees shall be paid into the general fund of the municipality. Upon rejection of any applications for a license, the treasurer shall refund the amount paid.
- (c) All licenses shall expire on June 30 in each year. Each license shall be issued for a period of one year, except that if a portion of the license year has elapsed when the application is made, a license may be issued for the remainder of the year for a prorated fee. In computing such fee, any unexpired fraction of a month shall be counted as one month.
- (d) No part of the fee paid by any license issued under this article shall be refunded except in the following instances upon application to the city administrator within 30 days from the happening of the event. There shall be refunded a pro rata portion of the fee for the unexpired period of the license, computed

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<sup>55</sup> **Sec. 22-56. Investigation fees.** The city uses a fee schedule. All fees throughout the code should be replaced with a reference to that schedule and the schedule updated to include all fees.

<sup>56</sup> **Sec. 22-57. Fees.** See preceding footnote.

on a monthly basis, when operation of the licensed business ceases not less than one month before expiration of the license because of:

- (1) Destruction or damage of the licensed premises by fire or other catastrophe.
- (2) The licensee's illness.
- (3) The licensee's death.
- (4) A change in the legal status making it unlawful for the licensed business to continue.

(Code 1980, § 15-208; Ord. No. 92-1287, § 2, 3-19-1992)

<sup>57</sup>**Sec. 22-58. Granting.**

- (a) The city manager and police chief shall investigate all facts set out in the application. Opportunity shall be given to any person to be heard for or against the granting of the license. After such investigation and administrative hearing, the city manager shall grant or refuse the application.
- (b) Each license shall be issued to the applicant only and shall not be transferable to another holder. Each license shall be issued only for the premises described in the application. No license may be transferred to another place without the approval of the city manager.
- (c) Existing licensees compliance. All existing adult use, principal, and adult use, accessory, businesses shall be required to conform with this provision on or before May 15, 1992. Failure to comply will result in the license being revoked effective 12:00 midnight May 16, 1992. No adult use, principal, or adult use, accessory, which is not yet open to the public as of the date of passage of this article may operate until the license required by this section is granted.

(Code 1980, § 15-209; Ord. No. 92-1287, § 2, 3-19-1992)

**Sec. 22-59. Expiration.**

- (a) Each license shall expire one year from the date of issuance and may be renewed only by making application as provided in section 22-57. Application for renewal should be made at least 60 days before the expiration date, and when made less than 60 days before the expiration date, the expiration of the license will not be affected.
- (b) If the city denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial. If, subsequent to denial, the city finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date denial became final.

(Code 1980, § 15-210; Ord. No. 92-1287, § 2, 3-19-1992)

**Sec. 22-60. Transfer.**

A licensee shall not transfer this license to another, nor shall a licensee operate an adult use business under the authority of a license at any place other than the address designated in the application.

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<sup>57</sup> **Sec. 22-58. Granting.** For this and all city licenses that are issued only upon the approval of staff, the city should provide an avenue of appeal to the city council to avoid delegation of authority issues. The same applies to appeals of suspensions and revocations.

(Code 1980, § 15-213; Ord. No. 92-1287, § 2, 3-19-1992)

**Sec. 22-61. Suspension.**

- (a) The city may suspend a license for a period not to exceed 30 days if it determines that a licensee or an employee of a licensee has:
- (1) Violated or is not in compliance with any provisions of this article.
  - (2) Engaged in excessive use of alcoholic beverages while on the adult use, principal, premises.
  - (3) Refused to allow an inspection of the adult use, principal, premises as authorized by this Code.
  - (4) Knowingly permitted gambling by any person on the adult use, principal premises.
  - (5) Demonstrated inability to operate or manage an adult use, principal, in a peaceful and law-abiding manner, thus necessitating action by law enforcement officers.
- (b) A suspension by the city shall be preceded by written notice to the licensee and a public hearing. The notice shall give at least ten days' notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The notice may be served upon the licensee personally, or by leaving the same at the licensed business premises with the person in charge thereof.

(Code 1980, § 15-211; Ord. No. 92-1287, § 2, 3-19-1992)

**Sec. 22-62. Revocation.**

- (a) The city may revoke a license if it determines that:
- (1) The cause of suspension as set forth in section 22-61 occurs and the license has been suspended within the preceding months.
  - (2) The licensee gave false or misleading information in the material submitted to the city during the application process.
  - (3) A licensee or an employee has knowingly allowed possession, use, or sale of controlled substances on the premises.
  - (4) A licensee or an employee has knowingly allowed prostitution on the premises.
  - (5) A licensee violated any of the provisions of Minn. Stat. §§ 617.241—617.299 relating to the illegal distribution, possession or sale of obscene materials.
  - (6) A licensee or an employee knowingly operated the adult use business during a period of time when the licensee's license was suspended.
  - (7) A licensee has been convicted of an offense listed in section 22-53 for which the time period required has not elapsed.
  - (8) On two or more occasions within a 12-month period, persons committed an offense occurring in or on the licensed premises of a crime listed in section 22-53 for which a conviction has been obtained, and the persons were employees of the adult use business at the time the offenses were committed.
  - (9) A licensee or an employee has knowingly allowed specified sexual activities to occur in or on the licensed premises.
  - (10) A licensee is delinquent in payment to the county or state for hotel occupancy taxes, ad valorem taxes, or sales taxes related to the adult use business.

- (b) The fact that a conviction is being appealed shall have no effect on the revocation of the license.
- (c) Subsection (a)(8) of this section does apply to adult motels as a ground for revoking the license unless the licensee or employee knowingly allowed the act of sexual intercourse, sodomy, oral copulation, masturbation, or sexual contact to occur in a public place or within public view.
- (d) When the city revokes a license, the revocation shall continue for two years and the licensee shall not be issued an adult use business license for two years from the date revocation became effective. If, subsequent to revocation, the city finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date the revocation became effective.
- (e) A revocation by the city shall be preceded by written notice to the licensee and a public hearing. The notice shall give at least ten days notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The notice may be served upon the licensee personally, or by leaving the same at the licensed premises with the person in charge thereof.

(Code 1980, § 15-212; Ord. No. 92-1287, § 2, 3-19-1992)

**Secs. 22-63—22-90. Reserved.**

### **ARTICLE III. CHRISTMAS TREE LOTS**

#### **DIVISION 1. - GENERALLY**

#### **DIVISION 2. - LICENSE AND BOND**

##### ***DIVISION 1. GENERALLY***

[Secs. 22-91—22-110. Reserved.](#)

**Secs. 22-91—22-110. Reserved.**

##### ***DIVISION 2. LICENSE AND BOND***

[Sec. 22-111. Required.](#)

[Sec. 22-112. Application; fee; term; issuance or denial.](#)

[Sec. 22-113. Cash cleanup bond; cleanup.](#)

[Secs. 22-114—22-140. Reserved.](#)

##### **Sec. 22-111. Required.**

It shall be unlawful for any person to maintain and operate a Christmas tree lot without having first secured a license from the city manager and posting a cash bond therefor.

(Code 1963, § 66.01; Code 1980, § 15-1; Ord. No. 172, 3-6-1969)

##### <sup>58</sup>**Sec. 22-112. Application; fee; term; issuance or denial.**

Any person desiring to operate a Christmas tree lot may make application to the city manager for a license therefor. Such application shall give the name and address of the applicant, a description of the

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<sup>58</sup> **Sec. 22-112. Application; fee; term; issuance or denial.** See preceding footnotes regarding providing an avenue of appeal to the city council.

land to be used, and either evidence of ownership in the applicant or written permission to so use the land. The council may establish the license fee by action. All such licenses shall be issued by the city clerk and shall expire on February 1 following the year of its issuance.

(Code 1963, § 66.02; Code 1980, § 15-2; Ord. No. 172, 3-6-1969; Ord. No. 341, 11-15-1973)

**Sec. 22-113. Cash cleanup bond; cleanup.**

- (a) Before issuing a license to any person, firm, association or corporation, such person, firm, association or corporation shall deposit with the city clerk a cash bond in the amount to be established, by action of the council, and the posting of such bond shall be a condition precedent to the issuance of a license by the city clerk.
- (b) Such cash bond shall be held until such lot or parcel of land has been cleared and cleaned of all Christmas trees, Christmas tree debris, and all other Christmas paraphernalia.
- (c) If prior to February 1 following the Christmas season that a license was applied for, the applicant has cleared and cleaned such lot or parcel of ground and the city manager has so certified this fact to the city clerk, then the applicant's cash bond shall be returned.
- (d) If the city manager has not certified to the city clerk that such lot has been cleared or cleaned of all Christmas trees, Christmas tree debris, and other Christmas paraphernalia, the applicant shall forfeit such cash bond and the city, at its discretion with or without permission of the applicant and/or lot owner, may clear and clean such lot of all Christmas trees, Christmas tree debris and Christmas paraphernalia.

(Code 1963, § 66.02; Code 1980, § 15-3; Ord. No. 172, 3-6-1969; Ord. No. 341, 11-15-1973)

**Secs. 22-114—22-140. Reserved.**

**~~ARTICLE IV. RESERVED \*~~**

~~\*Editor's note—Ord. No. <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=966106&datasource=ordbank" web="yes">19-2430</ulink>, adopted July 8, 2019, repealed Art. IV, §§ 22-141—22-143, and 22-161—22-170, which pertained to fire, going out of business, and other sales and derived from 1963 Code, §§ 68.01, 68.02(8), 68.02(A), 68.03—68.07, 68.09—68.13, 1980 Code, §§ 15-50—15-62, and Ord. No. 320, adopted Sept. 6, 1973.~~

**ARTICLE V. PAWNBROKERS \***

~~\*Editor's note—Ord. No. 08-2171, adopted Dec. 4, 2008, amended Art. V, §§ 22-201—22-213, and 22-231—22-236, to read as herein set out. Former Art. V pertained to similar subject matter. See also the Code Comparative Table.~~

State Law reference—Pawnbrokers, Minn. Stat. ch. 325J; local regulation of pawnbrokers, Minn. Stat. §§ 325J.02(a), 325J.13.

DIVISION 1. - GENERALLY

DIVISION 2. - LICENSE

***DIVISION 1. GENERALLY***

Sec. 22-201. Definitions.

Sec. 22-202. Penalty for violation of article.

Sec. 22-203. Separability.

Sec. 22-204. Inspection.

Sec. 22-205. Adoption of Pawnbroker Regulation Act.

Sec. 22-206. Records required.

Sec. 22-207. Holding of property.

Sec. 22-208. Report of stolen or lost goods.

Sec. 22-209. Redemption period.

Sec. 22-210. Prohibited transactions.

Sec. 22-211. Storage of firearms.

Sec. 22-212. Method of payment.

Secs. 22-213—22-230. Reserved.

**Sec. 22-201. Definitions.**

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

*Pawnbroker* means a person or entity engaged in whole or in part in the business of lending money on the security of pledged goods left in pawn, or in the business of purchasing tangible personal property to be left in pawn on the condition that it may be redeemed or repurchased by the seller for a fixed price within a fixed period of time.

*Manager* means a person who is primarily responsible for the operations of the pawn shop.

*Reportable transaction* means every transaction conducted by a pawnbroker, in which merchandise is received through a pawn, purchase, consignment or trade, is reportable except:

- (a) The bulk purchase or consignment of new or used merchandise from a merchant, manufacturer or wholesaler having an established permanent place of business, and the retail sale of said merchandise, provided the pawnbroker must maintain a record of such purchase or consignment which describes each item, and must mark each item in a manner which relates it to that transaction record.
- (b) Retail and wholesale sales of merchandise originally received by pawn or purchase, and for which all applicable hold and/or redemption periods have expired.
- (c) Pawn renewals, extensions and redemptions.

*Non-compliant transaction* means those transactions which are not properly documented in the format as prescribed by the police chief, or his/her designee.

(Code 1980, § 15-110; Ord. No. 92-1286, § 1, 4-16-1992; Ord. No. 03-1985, § 15-110, 7-17-2003; Ord. No. 08-2171, 12-4-2008)

~~Cross-reference—Definitions generally, § 1-2.~~

**Sec. 22-202. Penalty for violation of article.**

Any person violating any provision of this article shall be guilty of a misdemeanor.

(Code 1980, § 15-126; Ord. No. 92-1286, § 1, 4-16-1992; Ord. No. 08-2171, 12-4-2008)

**State Law reference**— Penalty for ordinance violations, Minn. Stat. §§ 410.33, 412.231, 609.0332, 609.034.

~~<sup>59</sup>**Sec. 22-203. Separability.**~~

~~Should any section, subdivision, clause or other provision of this article be declared by a court of competent jurisdiction to be invalid such decision shall not affect the validity of the article as a whole or any part other than the part so declared to be invalid.~~

~~(Code 1980, § 15-125; Ord. No. 92-1286, § 1, 4-16-1992; Ord. No. 08-2171, 12-4-2008)~~

**Sec. 22-204. Inspection.**

Any person licensed under the provisions of sections 22-231 and 22-232 shall, at all times during the terms of such license, allow the police officers of the city to enter the premises where the licensee is carrying on such business or at any property or buildings used for storage of items related to the business, for the purpose of inspecting such premises and inspecting the goods, wares and merchandise therein for the purpose of locating goods suspected or alleged to have been stolen or otherwise improperly disposed of.

(Code 1980, § 15-114; Ord. No. 92-1286, § 1, 4-16-1992; Ord. No. 08-2171, 12-4-2008)

**Sec. 22-205. Adoption of Pawnbroker Regulation Act.**

To the extent the requirements of this article are less restrictive than the provisions of the Pawnbroker Regulation Act, the regulatory provisions of such act, codified as Minn. Stat. ch. 325J, are hereby adopted and incorporated in this section and made a part of this article as completely as if set out in full.

(Code 1980, § 15-127; Ord. No. 96-1617, 10-17-1996; Ord. No. 08-2171, 12-4-2008)

**State Law reference**— Adoption by reference, Minn. Stat. § 471.62.

**Sec. 22-206. Records required.**

- (a) Every pawnbroker purchasing or receiving on deposit for a loan any article or personal property shall give to the person selling or depositing such article a plain written or printed ticket or receipt for the article sold or deposited, showing the terms of such sale or loan. The following shall be printed on all pawn tickets:
  - (1) The statement that: "Any personal property pledged or sold to a pawnbroker within this state is subject to sale or disposal when there has been no payment made on the account for a period of not less than 90 days past the date of the pawn transaction, renewal, or extension; no further notice is necessary. There is no obligation for the pledgor to redeem pledged goods."

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<sup>59</sup> **Sec. 22-203. Separability.** Section is duplicative of chapter 1 general provisions and should be stricken.

- (2) The statement that: "The pledgor of this item attests that it is not stolen, the pledgor attests the property belongs to him/her, it has no liens or encumbrances against it, and the pledgor has the right to sell or pawn the item;"
  - (3) The statement that: "This item is redeemable only by the pledgor to whom the receipt was issued, or any person identified in a written and notarized authorization to redeem the property identified in the receipt, or a person identified in writing by the pledgor at the time of the initial transaction and signed by the pledgor. Written authorization for the release of property to persons other than the original pledgor must be maintained along with the original transaction record;" and
  - (4) A blank line for the pledgor's signature.
- (b) Each licensee shall keep a record of each transaction made in the course of business. Such records shall be in a form prescribed by the police chief, or his/her designee, at his or her discretion, and shall, in all instances, be legibly made in ink and be in the English language; or in the case of computerized records, data shall be accurately entered. The pawnbroker shall maintain such records on the premises for all pawn transactions for at least three years from the date of each transaction. These records shall be a correct copy of the entries made of the pawn transactions. A pawnbroker shall upon request provide to the appropriate law enforcement agency a complete and accurate record of pawn transactions. If the pawnbroker provides the records in a computerized format, they must be provided in the interchange file specification format. For purposes of this paragraph, "interchange file specification format" means transactional data must be uploaded to the current system used by the Blaine Police Department at the time of upload.

The records so kept shall include the following information about each transaction:

- (1) The full name, residence address, residence telephone number, and date of birth of the pledgor or seller.
- (2) The time and date of the transaction.
- (3) A complete description of the item pledged or sold, including all identifying numbers and identifying marks.
- (4) A physical description of the person pawning or selling the item, including:
  - a. Sex;
  - b. Height;
  - c. Weight;
  - d. Race;
  - e. Color of eyes;
  - f. Color of hair.
- (5) The amount of money paid or loaned for the item, including the following:
  - a. The maturity date of the pawn transaction and the amount due; and
  - b. The monthly and annual interest rates, including all pawn fees and charges.
- (6) The signature of the person pledging or selling the item.
- (7) A legible copy of any of the following forms of identification of the seller:
  - a. A valid state picture driver's license;
  - b. A current valid state picture identification card;



- c. A current valid photo identification card issued by another state or a province of Canada; or
  - d. A valid U.S. military identification card.
- (8) In addition to the requirements of [sub)section (7), above:
- a. A color photograph or video of the pledgor or seller, at the time of the transaction, that clearly and accurately depicts the pledgor or seller;
  - b. All identification methods used to identify the pledgor or seller must be able to be electronically transmitted to the police department;
  - c. All identification methods used to identify the pledgor or seller must be readily matched and correlated to the item being pawned.
- (9) If the property is stored at a place other than the permanent place of business designated in the license, the location of the property or buildings used for the storage of the item must be identified in the application for the pawnbroker license as set forth in section 22-231.
- (10) Any other information the police chief, or his/her designee, shall require. Every pawnbroker shall make available to the police chief or his/her designee, every day, before the hour of 12:00 noon, a complete, legible and correct copy of the records required by this section for all transactions which occurred on the previous day. The records required in this section shall be kept at the licensee's place of business for three years, and shall be available for police inspection at any reasonable time.
- (c) For any item received or sold, regardless of resale price, a pawnbroker must make out, on forms or in an electronic format approved by the appropriate law enforcement agency, and send daily by mail or electronically, to the appropriate law enforcement agency, a legible description of the goods received during the preceding day, together with the time received and a description of the person from whom the goods were received. Any item received or sold that does not have a unique serial number or identification number (which is permanently engraved or affixed) must be photographed.
- (d) Evidence related to any transaction shall be made immediately available to law enforcement.
- (e) Licensees must attach a label to every item at the time it is pawned, purchased or received in inventory from any reportable transaction. Permanently recorded on this label must be the number or name that identifies the transaction in the pawn shop's records, the transaction date, the name of the item and the description or the model and serial number of the item as reported to the police department, whichever is applicable, and the date the item is out of pawn or can be sold, if applicable. Labels shall not be reused.

(Code 1980, § 15-113; Ord. No. 92-1286, § 1, 4-16-1992; Ord. No. 96-1617, 10-17-1996; Ord. No. 08-2171, 12-4-2008; Ord. No. 11-2220, 2-3-2011; Ord. No. [19-2440](http://newords.municode.com/readordinance.aspx?ordinanceid=997229&datasource=ordbank), 12-2-2019)

#### **Sec. 22-207. Holding of property.**

- (a) When the police chief or his/her designee, or any member of the police department designated by the police chief, or any other law enforcement officer notifies any pawnbroker not to sell any property received on deposit or purchased by the pawnbroker, or not to permit the same to be redeemed, the pawnbroker shall not sell nor permit such property to be redeemed until such property is released in writing by the police chief, or his or her designee.

- (b) No personal property deposited with or purchased by any licensee under this article shall be sold from the place of business of the licensee until 30 days after the copy of the records required by section 22-207 have been made available to the police chief, except upon written permission of the police chief or his/her designee.
- (c) No personal property deposited with or purchased by any licensee under this article shall be permitted to be redeemed from the place of business of licensee until three working days after the copy of the records required by section 22-207 have been made available to the police chief or his/her designee, except upon written permission of the police chief or his/her designee.
- (d) In addition to the other requirements of this section, a pawnbroker who holds a title to a motor vehicle as part of a pawn transaction shall:
  - (1) Be licensed as a used motor vehicle dealer under Minn. Stat. § 168.27, and post such license on the pawnshop premises;
  - (2) Verify that there are no liens or encumbrances against the motor vehicle with the department of public safety; and
  - (3) Verify that the pledgor has automobile insurance on the motor vehicle as required by law.

A pawnbroker may not sell a motor vehicle covered by a pawn transaction in a timeframe other than as specified by subsection (b) of this section.

- (e) Any new license granted by the city to a licensee not licensed by the city by October 17, 1996, will require all property be stored at the permanent place of business. There will be no off-site storage allowed.

(Code 1980, § 15-115; Ord. No. 92-1286, § 1, 4-16-1992; Ord. No. 96-1617, 10-17-1996; Ord. No. 03-1985, § 15-115, 7-17-2003; Ord. No. 08-2171, 12-4-2008; Ord. No. 11-2220, 2-3-2011)

#### **Sec. 22-208. Report of stolen or lost goods.**

If any goods, articles or things shall be advertised in any public newspaper of the city as having been lost or stolen, and such goods, articles or things shall then be, or shall thereafter come into the possession of any licensee under the terms hereof such licensee shall, upon actual notice hereof, immediately thereafter, as a supplement to such licensee's daily report for that day to the police chief or his/her designee, give information in writing that certain goods, articles or things advertised are in such licensee's possession, and shall not thereafter dispose of the same except upon written authority so to do from the city police chief or his/her designee.

(Code 1980, § 15-116; Ord. No. 92-1286, § 1, 4-16-1982; Ord. No. 08-2171, 12-4-2008)

#### **Sec. 22-209. Redemption period.**

Any person who pawns an item shall have at least 90 days to redeem the item before it may be sold.

(Code 1980, § 15-117; Ord. No. 92-1286, § 1, 4-16-1982; Ord. No. 96-1617, 10-17-1996; Ord. No. 08-2171, 12-4-2008; Ord. No. 11-2220, 2-3-2011)

#### **Sec. 22-210. Prohibited transactions.**

- (a) No pawnbroker shall purchase or receive on deposit or pledge anything of value as security for a loan of money from any person, under age 18, nor knowingly from an intoxicated person or one of unsound mind.

- (b) A pawnbroker may not receive goods unless the seller presents identification in the form specified in section 22-207.
- (c) No person may pawn, pledge, sell, leave, or deposit any article of property not their own; nor shall any person pawn, pledge, sell, leave, or deposit the property of another, whether with permission or without; nor shall any person pawn, pledge, sell, leave, or deposit any article of property in which another has a security interest; with any licensee.
- (d) No person seeking to pawn, pledge, sell, leave, or deposit any article of property with any licensee shall give a false or fictitious name; nor give a false date of birth, nor give a false or out of date address of residence or telephone number; nor present a false driver's license or identification card to any licensee.
- (e) All licensees shall by adequate signage and separate written notice inform persons seeking to pawn, pledge, sell, leave, or deposit articles of property with the licensee of the foregoing requirements.
  - (1) For the purpose of this section, the term "adequate signage" shall be deemed to mean at least one sign, of not less than four square feet in surface area, comprised of lettering of not less than three-quarters of an inch in height, posted in a conspicuous place on the licensed premises and stating substantially the following:

TO PAWN OR SELL PROPERTY:  
YOU MUST BE AT LEAST 18 YEARS OF AGE  
YOU CANNOT PAWN ANY PROPERTY FOR ANOTHER PERSON  
YOU MUST BE THE TRUE OWNER OF THE PROPERTY  
THE PROPERTY MUST BE FREE OF ALL CLAIMS AND LIENS  
YOU MUST PRESENT VALID PHOTO IDENTIFICATION  
VIOLATION OF ANY OF THESE REQUIREMENTS IS A CRIME!
  - (2) For the purposes of this section the term "separate written notice" shall be deemed to mean either the receipts required in section 22-207(a), or a printed form, incorporating a statement to the effect that the person pawning, pledging, selling, leaving, or depositing the article is at least 18 years of age; is the true owner of the article; is not pawning the property for another person; and that the article is free of all claims and liens; which is acknowledged by way of signature of the person pawning, pledging, selling, leaving, or depositing the article.
- (f) Permitted charges are as follows:
  - (1) Notwithstanding any other statute, ordinance, rule, regulation, or Minn. Stat. § 325J.13, a pawnbroker may contract for and receive a pawnshop charge not to exceed three percent per month of the principal amount advanced in the pawn transaction plus a reasonable fee for storage and services. A fee for storage and services may not exceed \$20.00 if the property is not in the possession of the pawnbroker.
  - (2) The pawnshop charge allowed under subsection (f)(1) of this section shall be deemed earned, due, and owing as of the date of the pawn transaction and a like sum shall be deemed earned, due, and owing on the same day of the succeeding month. However, if full payment is made more than two weeks before the next succeeding date the pawnbroker shall remit one-half of the pawnshop charge for that month to the pledgor.
  - (3) Interest shall not be deducted in advance, nor shall any loan be divided or split so as to yield greater interest or fees than would be permitted upon a single, consolidated loan or for otherwise evading any provisions of this section.
  - (4) Any interest, charge or fees contracted for or received, directly or indirectly, in excess of the amount permitted under this section, shall be uncollectible and the pawn transaction shall be void.

- (5) A schedule of charges permitted by this section shall be posted on the pawnshop premises in a place clearly visible to the general public.

(Code 1980, § 15-118; Ord. No. 92-1286, § 1, 4-16-1992; Ord. No. 96-1617, 10-17-1996; Ord. No. 08-2171, 12-4-2008)

**Sec. 22-211. Storage of firearms.**

A pawnbroker holding for sale a firearm or other dangerous weapon shall store the firearm or dangerous weapon in a locked compartment, not accessible by the general public, except when being viewed by a customer following a request to view the firearm or dangerous weapon.

(Code 1980, § 15-119; Ord. No. 92-1286, § 1, 4-16-1992; Ord. No. 08-2171, 12-4-2008)

**Sec. 22-212. Method of payment.**

When a pawnbroker accepts an item for purchase or as security for a loan, payment shall be made by check only, made payable to the actual intended seller or borrower.

(Code 1980, § 15-122; Ord. No. 92-1286, § 1, 4-16-1992; Ord. No. 08-2171, 12-4-2008)

**Secs. 22-213—22-230. Reserved.**

***DIVISION 2. LICENSE***

***Sec. 22-231. Required.***

***Sec. 22-232. Application procedure.***

***Sec. 22-233. Persons ineligible.***

***Sec. 22-234. Places ineligible.***

***Sec. 22-235. Denial, non-renewal, suspension or revocation.***

***Sec. 22-236. Renewal.***

***Secs. 22-237—22-270. Reserved.***

**Sec. 22-231. Required.**

- (a) No person, partnership, company, or corporation shall engage in or carry on the business of pawnbroker, without a license issued by the city for each and every separate office or place of business operated by such licensee in the city. The fee for such license will be established by the city council in a separate fee schedule.
- (b) A license issued under this division shall expire on December 31 of the year of issuance. The annual license fee shall be paid in full before the application for a license is accepted. The fee for a pawnbroker license granted after the commencement of the license year shall be prorated on a monthly basis, or any part thereof exceeding 15 days. For the purposes of establishing the prorated license fee, the month of the application is excluded.
- (c) The actual license fee shall be based upon the date of council approval of the license and if the licensee paid a fee in excess of the required fee at the time of application, any excess payment shall be refunded. Upon rejection of a license application or upon withdrawal of the application for a license before approval of the issuance by the council, the license fee shall be refunded.

- (d) A license under this section shall authorize the licensee to carry on its business only at the permanent place of business designated in the license. No license may be transferred to a different location or to a different licensee. Any change, directly or beneficially, in the ownership of any licensed pawnshop shall require the application for a new license, and the new owner must satisfy all current eligibility requirements. Any and all property or buildings used for storage of items related to the pawn shop must be identified in the application for such license. The conduct of agents or employees of a licensee, while engaged in performance of their duties for their principal or employer under such license, shall be deemed the conduct of the licensee.
- (e) A pawnbroker may not operate or engage in the business of secondhand goods dealer without having obtained a secondhand goods dealer license in addition to a pawnbroker's license. A secondhand goods dealer may not conduct, operate or engage in the business of pawnbroker without having first obtained a pawnbroker's license in addition to a secondhand goods dealer license.
- (f) No pawnbroker license approved by the city grants to licensee a property right or entitlement to the license. The city may refuse to issue or renew or may revoke the license for any reason and will not incur liability for any damages including, but not limited to, direct, consequential, or incidental damages, deprivation of property, loss of income, loss of profits, or loss of livelihood.

(Code 1980, § 15-111; Ord. No. 92-1294, § 1, 5-21-1992; Ord. No. 96-1617, 10-17-1996; Ord. No. 08-2171, 12-4-2008)

**<sup>60</sup>Sec. 22-232. Application procedure.**

- (a) Every applicant for a license to maintain, operate, or conduct a pawnbroker business shall file a completed application under oath with the city upon a form provided by the office of the city clerk and pay a nonrefundable application fee. In addition to the application fee, applicants will be responsible for all costs involved in the required background investigation that exceed the application fee. A good faith estimate of such costs will be provided to the applicant prior to the start of the background investigation. The application, once accepted, shall be referred to the city police department for investigation. Copies of this application shall be forwarded to such other city departments as shall be necessary for verification and the investigation of the facts set forth in the application.
- (b) The police chief or his/her designee, and such other department heads shall make a written recommendation as to the issuance or non-issuance of the license within 60 days of receipt of the completed application. The completed application form shall be on a form prescribed by the city and shall contain all information requested, including, but not limited to:
  - (1) Full name, place, date of birth, and street residence of the applicant.
  - (2) The business address and the name and address of the owner of the premises.
  - (3) Whether applicant has ever been convicted of a felony, gross misdemeanor or misdemeanor, excluding traffic violations; and, if so, the date and place of conviction and the nature of the offense.
  - (4) Whether the applicant is a natural person, corporation, limited liability corporation or partnership, and:

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<sup>60</sup> **Sec. 22-232. Application procedure.** This section (and article) does not indicate who determines whether the license will be issued, or suspended, or revoked. If it is a person or body other than the city council, an appeal avenue should also be established.

- a. If the applicant is a corporation, the state of the incorporation and the names and addresses of all officers and directors.
  - b. If the applicant is a partnership, the names and addresses of all partners.
  - c. If the applicant is a limited liability corporation, the names of its members.
- (5) The name of the owner and manager of the business.
- (6) Each application shall be accompanied by a bond in the amount of \$5,000.00 executed by a corporation authorized to do business in this state and conditioned that in conducting such business the licensee will observe all laws in relation to pawnbrokers and will conduct business in conformity thereto, and that the licensee will account for and deliver to any person legally entitled any goods which have come into the licensee's possession through the licensee's business as a pawnbroker, or in lieu thereof, will pay the reasonable value in money to the person.
- Such bond shall be maintained so long as the pawnbroker does business, and shall be for the benefit of the city or any person who shall suffer any damage through the act of such pawnbroker and shall not be terminable without the bond company giving written notice 30 days in advance of termination to the city clerk.
- (c) If the applicant is a natural person, the application shall be signed and sworn to by the person; if a corporation, by an agent authorized to sign; if a limited liability corporation, by a member; if a partnership, by a general partner.
- (d) No person shall make any material false statement in the application. In addition to other penalties, the licensee's license may be revoked or not renewed by the city council for giving false information on the application.
- (e) All licenses shall expire one year after issuance unless earlier renewed. A new application fee shall be required whenever there is any change in the facts presented by the application other than date, applicant's home address or building owner's address.
- (f) All applicants requesting a license pursuant to this chapter will be required to submit to a comprehensive background investigation, including a criminal history check. Fees for the background investigation will be established by the city council in a separate fee schedule.
- (g) The maximum number of pawnbroker licenses within the city shall be one. Priority may be given to qualified applicants for renewal of an existing license. The nonrenewal of an existing license shall not be subject to any procedural requirements, if any, which may apply to the suspension or revocation of a license.
- (h) When a licensee places a manager in charge of a business, or if the named manager(s) in charge of a licensed business changes, the licensee must complete and submit the appropriate application within 14 days of the changing of the manager.

(Code 1980, § 15-112; Ord. No. 92-1294, § 2, 5-21-1992; Ord. No. 96-1617, 10-17-1996; Ord. No. 08-2171, 12-4-2008)

**Sec. 22-233. Persons ineligible.**

A pawnbroker license will not be issued to:

- (1) A person not a citizen of the United States or a resident alien;
- (2) A person under 18 years of age;

- (3) A person who within five years of the license application date had a pawnbroker or secondhand goods dealer license revoked or denied;
- (4) A person who has been convicted of any crime directly related to the occupation licensed as prescribed by Minn. Stat. § 364.03, subd. 2, unless the person has shown competent evidence of sufficient rehabilitation and present fitness to perform the duties of a licensee under this section as prescribed by Minn. Stat. § 364.03, subd. 3;
- (5) A person whom the city council determines not to be of sufficient good moral character and repute; or
- (6) When the city council determines, after investigation and public hearing, that issuance or renewal of the license would adversely affect the public health, safety, or welfare.

(Code 1980, § 15-120; Ord. No. 92-1286, § 1, 4-16-1992; Ord. No. 96-1617, 10-17-1996; Ord. No. 08-2171, 12-4-2008)

**Sec. 22-234. Places ineligible.**

A license will not be issued or renewed under this section for any place or for any business:

- (1) If taxes, assessments or other financial claims of the city or the State of Minnesota on the licensee's business premises are delinquent and unpaid;
- (2) If the premises is located within 300 feet of a school or church;
- (3) Where operation of a licensed premises would violate zoning ordinances; or
- (4) If the premises is located within ten driving miles of any gambling casino.

(Code 1980, § 15-121; Ord. No. 92-1286, § 1, 4-16-1992; Ord. No. 96-1617, 10-17-1996; Ord. No. 08-2171, 12-4-2008)

**Sec. 22-235. Denial, non-renewal, suspension or revocation.**

- (a) Violations of this article by any licensee, will be referred by the police chief, or his designee, or to the office of the city clerk, for any action as the city clerk deems necessary or appropriate.
- (b) Any license under this article may be denied, suspended, not renewed or revoked for any of the following reasons:
  - (1) Any conflict with the city zoning code;
  - (2) Any conflict with any health, building, building maintenance or provisions of this Code or state law;
  - (3) Failure by the applicant to comply with one or more provisions of this article;
  - (4) Fraud, misrepresentation, or bribery in securing a license;
  - (5) Fraud, misrepresentation, or false statements in the course of the applicant's business;
- (c) The appropriate local law enforcement agency shall be notified by the municipality of any licensee whose license has expired or been surrendered, suspended, or revoked.

(Code 1980, § 15-123; Ord. No. 92-1286, § 1, 4-16-1992; Ord. No. 96-1617, 10-17-1996; Ord. No. 08-2171, 12-4-2008)

**Sec. 22-236. Renewal.**

- (a) Applications for the renewal of an existing pawnbroker license shall be made at least 60 days prior to the date of expiration of the license.
- (b) The annual fee for a pawnbroker license shall be paid before the application for renewal of the license is accepted.

(Code 1980, § 15-128; Ord. No. 98-1764, 12-17-1998; Ord. No. 08-2171, 12-4-2008)

**Secs. 22-237—22-270. Reserved.**

**ARTICLE VI. PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS \***

~~\*Cross reference—Streets, sidewalks and other public places, ch. 70.~~

**State Law reference—** Peddlers and transient merchants, Minn. Stat. ch. 329; Municipalities may regulate, Minn. Stat. §§ 329.15, 437.02; Consumer protection; solicitation of sales, Minn. Stat. ch. 325G.

~~**Editor's note—** Ord. No. 19-2437, adopted Nov. 4, 2019, amended article VI in its entirety to read as herein set out. Former article VI, §§ 22-271—22-300, pertained to similar subject matter, and derived from 1963 Code, §§ 67.01—67.06, 67.08, 67.10; 1980 Code, §§ 15-20—15-25, 15-27, 15-28; Ord. No. 206, adopted Nov. 6, 1969; Ord. No. 652, adopted Sept. 6, 1979; Ord. No. 85-867, adopted Mar. 7, 1985; Ord. No. 90-1191, adopted Mar. 1, 1990; Ord. No. 98-1698, § 7, adopted Feb. 5, 1998; Ord. No. 07-2123, adopted Mar. 8, 2007; Ord. No. 15-2321, adopted Aug. 6, 2015; and Ord. No. 17-2394, adopted Dec. 21, 2017.~~

**DIVISION 1. - GENERALLY**

**DIVISION 2. - LICENSE**

***DIVISION 1. GENERALLY***

[Sec. 22-271. Purpose.](#)

[Sec. 22-272. Definitions.](#)

[Sec. 22-273. Exceptions to definitions.](#)

[Secs. 22-274—22-290. Reserved.](#)

<sup>61</sup>**Sec. 22-271. Purpose.**

The city council of the **City of Blaine** recognizes that transient and itinerant merchants, vendors, peddlers, solicitors, and canvassers, by the very nature of their operation whether from a fixed location or traveling door to door, may intrude upon the rights and privacy of other citizens and have a deleterious effect upon the public health, safety and welfare. The intent of this article is to establish a uniform set of rules and regulations that are fair and equitable, and to develop a system for accommodating these businesses that will enhance the overall appearance and environment along public streets, pedestrian ways and other public properties. The regulations contained in this article are not intended to prohibit or hamper speech that is protected by the First Amendment of the United States Constitution, but merely to regulate specific activities that are commercial in nature.

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<sup>61</sup> **Sec. 22-271. Purpose.** Throughout the code, all references to the “City of Blaine”, other than in chapter 1, should be changed to simply “city” since it is defined in chapter 1.



(Ord. No. [19-2437](http://newords.municode.com/readordinance.aspx?ordinanceid=991897&datasource=ordbank), 11-4-2019)

**<sup>62</sup>Sec. 22-272. Definitions.**

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

*Noncommercial door-to-door advocate* means a person who goes door-to-door for the primary purpose of disseminating religious, political, social, or other ideological beliefs. For purpose of this article, the term door-to-door advocate shall fall under the term solicitor and include door-to-door canvassing and pamphleteering intended for noncommercial purposes.

*Peddler* means 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 movement, for the purpose of offering for sale, displaying for exposing for sale, selling or attempting to sell, and delivering immediately upon sale, the goods, wares, products, merchandise, or other personal property that the person is carrying or otherwise transporting. For purpose of this article, the term peddler shall have the same common meaning as the term hawker.

~~*Person* means any natural individual, group, organization, corporation, partnership, or similar association.~~

*Regular business day* means 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 considered regular business days.

*Solicitor* means 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 movement, 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. For purposes of this article, the term solicitor shall have the same meaning as the term canvasser.

*Transient merchant* means 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 in any one location for more than 14 consecutive days.

(Ord. No. [19-2437](http://newords.municode.com/readordinance.aspx?ordinanceid=991897&datasource=ordbank), 11-4-2019)

**<sup>63</sup>Sec. 22-273. Exceptions to definitions.**

For the purpose of this article, the terms peddler, solicitor, and transient merchant shall not apply to:

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<sup>62</sup> **Sec. 22-272. Definitions.** Definitions duplicative of chapter 1 definitions should be stricken.

<sup>63</sup> **Sec. 22-273. Exceptions to definitions.** This section has been updated from Ord. No. 21-2485 in this draft temporarily for legal review purposes only. The ordinance still needs to be formally codified.

- (a) Noncommercial door-to-door advocates. Nothing within this article shall be interpreted to prohibit or restrict non-commercial door-to-door advocates. Person engaging in noncommercial door-to-door advocacy shall not be required to register as a solicitor under sec. 22-296.
- (b) Any person selling or attempting to sell at wholesale any goods, wares, products, merchandise, or other personal property to a retail seller of the items being sold by the wholesaler.
- (c) 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 or milk.
- (d) Any person making deliveries of perishable food and dairy products to the customers on his or her established delivery route.
- (e) Any person making deliveries of newspapers, newsletters, or other similar publications on an established customer delivery route, when attempting to establish a regular delivery route, or when publications are delivered to the community at large.
- (f) Any person conducting the type of sale commonly known as garage sales, rummage sales, or estate sales.
- (g) Any person participating in an organized multi-person bazaar or flea market.
- (h) Any person conducting an auction as a properly licensed auctioneer.
- (i) Any officer of the court conducting a court-ordered sale.
- (j) Mobile Food Trucks as defined in Chapter 22, Article XII.

Exemption from these definitions shall not, for the scope of this article, excuse any person from complying with any other applicable statutory provision or requirement provided by another city ordinance.

(Ord. No. [19-2437](http://newords.municode.com/readordinance.aspx?ordinanceid=991897&datasource=ordbank), 11-4-2019; Ord. No. 21-2485, 11-15-2021—Inserted here temporarily for purposes of legal review only)

**Secs. 22-274—22-290. Reserved.**

## ***DIVISION 2. LICENSE***

[Sec. 22-291. Licensing; exemptions.](#)

[Sec. 22-292. License ineligibility.](#)

[Sec. 22-293. License suspension and revocation.](#)

[Sec. 22-294. License transferability.](#)

[Sec. 22-295. Registration.](#)

[Sec. 22-296. Prohibited activities.](#)

[Sec. 22-297. Exclusion by placard.](#)

[Sec. 22-298. Penalty.](#)

Sec. 22-299. Severability.

Sec. 22-300. Effective date.

Secs. 22-301—22-330. Reserved.

**Sec. 22-291. 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 may be required by Minn. Stat. ch. 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 article, no person, including their employee or contractor, shall conduct business within this jurisdiction as a peddler or a transient merchant without first obtaining a city license. Solicitors need not be licensed but are required to register with the city pursuant to section 22-295.
- (c) *Application.* An 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 a business operation within the city. Application for a license shall be made on a form approved by the city council and available from the office of the city clerk. All applications shall be signed by the applicant. All applications shall include the following information:
  - (1) The applicant's full legal name.
  - (2) Any and all other names under which the applicant has or does conduct business, or to which the applicant will officially answer to.
  - (3) A physical description of the applicant (hair color, eye color, height, weight, any distinguishing marks or 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 an agent.
  - (7) Full address of applicant's regular place of business, if any exists.
  - (8) Any and all business-related telephone numbers of the applicant, including cellular phones and facsimile (fax) machines.
  - (9) The type of business for which the applicant is applying for a license.
  - (10) Whether the applicant is applying for an annual or six-month license.
  - (11) The dates during which the applicant intends to conduct business.
  - (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 his or her business.
  - (13) A statement as to whether or not the applicant has been convicted with the last five years of any felony, gross misdemeanor or misdemeanor for violating any state or federal statute or any local ordinance, other than minor traffic offenses.

- (14) A list of the three most recent locations where the applicant has conducted business as a peddler or transient merchant.
  - (15) Proof of any required county license.
  - (16) Written permission of the property owner or the property owner's agent for any location to be used by a transient merchant.
  - (17) A general description of the items to be sold or services to be provided.
  - (18) Any and all additional information as may be deemed necessary by the city council.
  - (19) The applicant's driver's license number or other acceptable form of identification.
  - (20) The license plate number, registration information, vehicle identification number (VIN) and physical description for any vehicle to be used in conjunction with the licensed business operation.
- (d) *Fee.* All applications for a license under this article shall be accompanied by the fee established in the city licensing fee schedule as it may be amended from time to time.
- (e) *Procedure.* Upon receipt of the application and payment of the license fee, the city clerk will, within two regular business days, determine if the application is complete. An application will be considered complete if all required information is provided. If the city clerk determines that the application is incomplete, the city clerk must inform the applicant of the required, necessary information that is missing. If the application is complete, the city clerk must order any investigation, including background checks, necessary to verify the information provided with the application. Within ten regular business days of receiving a complete application the city clerk must issue the license unless grounds exist for denying the license application under section 22-292, in which case the clerk must deny the request for a city peddler or transient merchant license. If the city clerk denies the license application, the applicant must be notified in writing of the decision, the reason for denial and the applicant's right to appeal the denial by requesting, within 20 days of receiving notice of rejection, a hearing before a hearing officer, on behalf of the city council. The hearing officer council shall hear the appeal with 20 days of the date of the request for a hearing. The decision of the hearing officer following the hearing can be appealed by petitioning the Minnesota Court of Appeals for a writ of certiorari.
- (f) *Duration.* Each license shall be valid only for the period specified and no license may extend beyond December 31 of the year in which it is granted.
- (g) *Display of licenses.* At all times while peddling, soliciting or operating as a transient merchant, every peddler, solicitor, or transient merchant shall wear a city-issued photo identification license visible to all persons with whom the licensee comes in contact. The license shall set forth the licensee's name, the name and address of the business or organization and license expiration date and shall exhibit the license to any police officer, other city officer, or any other person to whom such licensee is or would peddle or solicit when so requested.
- (h) *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 for any person going from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place movement for the primary purpose of exercising that person's state or federal constitutional rights such as the freedom of speech, freedom of the press, freedom of religion, and the like. This exemption will not apply if the

person's exercise of constitutional rights is merely incidental to what would properly be considered a commercial activity.

(Ord. No. [19-2437](http://newords.municode.com/readordinance.aspx?ordinanceid=991897&datasource=ordbank), 11-4-2019)

**Sec. 22-292. License ineligibility.**

The following shall be grounds for denying a peddler or transient merchant license:

- (a) The failure of an applicant to obtain and demonstrate proof of having obtained any required county license.
- (b) The failure of an applicant to truthfully provide any information requested by the city as part of the application process.
- (c) The failure of an applicant to sign the license application.
- (d) The failure of an applicant to pay the required fee at the time of application.
- (e) A conviction with the past five years of the date of application for any violation of any federal or state statute or regulation, or of any local ordinance, which adversely reflects upon the person's ability to conduct the business for which the license is being sought in a professional, honest and legal manner. Such violations shall include, but are not limited to, burglary, theft, larceny, swindling, fraud, unlawful business practices, and any form of actual or threatened physical harm against another person.
- (f) The revocation with the past five years of any license issued to an applicant for the purpose of conducting business as a peddler, solicitor, or transient merchant.
- (g) When an applicant has a bad business reputation. Evidence of a bad business reputation shall include, but is not limited to, the existence of more than three complaints against an applicant with the Better Business Bureau, the Office of the Minnesota Attorney General or other state attorney general's office, or other similar business or consumer rights office or agency, with the preceding 12 months, or three complaints filed with the city against an applicant within the preceding five years.
- <sup>64</sup> (h) If the location for a transient merchant is proposed for an area not zoned heavy industrial (I-2A or I-2) as provided for in [city zoning regulations](#) ~~the Blaine Zoning Ordinance~~.

(Ord. No. [19-2437](http://newords.municode.com/readordinance.aspx?ordinanceid=991897&datasource=ordbank), 11-4-2019)

**Sec. 22-293. License suspension and revocation.**

- (a) *Generally.* Any license issued under this division may be suspended or revoked at the discretion of a hearing officer on behalf of the city council for violation of any of the following:

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<sup>64</sup> **Sec. 22-292. License ineligibility.** See Part III, Zoning. Since zoning is codified, it should be referred to as part of this code rather than a separate ordinance.

- (1) Subsequent knowledge by the city of fraud, misrepresentation or incorrect statements provided by an applicant on the application form.
  - (2) Fraud, misrepresentation or false statements made during the course of the licensed activity.
  - (3) Subsequent conviction of any offense to which the granting of the license could have been denied under section 22-292.
  - (4) Engaging in any prohibited activity as provided under section 22-296 of this article.
  - (5) Violation of any other provision of this article.
- (b) *Multiple persons under one license.* The suspension or revocation of any license issued for the purpose of authorizing multiple persons to conduct business as peddlers or transient merchants on behalf of the licensee shall serve as a suspension or revocation of each authorized person's authority to conduct business as a peddler or transient merchant on behalf of the licensee whose license is suspended or revoked.
- (c) *Notice.* Prior to revoking or suspending any license issued under this chapter, the city shall provide a 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, of if no residential address is listed, to the business address provided on the license application.
- (d) *Hearing.* Upon receiving the notice provided in part (c) of this section, the licensee shall have the right to request a hearing. If no request for a hearing is received by the city clerk within ten days following the service of the notice, the city may proceed with the suspension or revocation. For the purpose of a mailed notice, service shall be considered complete as of the date the notice is placed in the mail. If a hearing is requested within the stated time frame, a hearing shall be scheduled with a hearing officer on behalf of the city council within 20 days from the date of the request for the hearing. Within three regular business days of the hearing, the hearing office, on behalf of the city council, shall notify the licensee of its decision.
- (e) *Emergency.* If, in the discretion of the city manager or their designee, 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 manager or their designee, on behalf of the city council, may immediately suspend the person's license and provide notice of the right to hold a subsequent hearing as prescribed in part (c) of this section.
- (f) *Appeal.* Any person whose license is suspended or revoked under this section shall have the right to appeal that decision in court.

(Ord. No. [19-2437](http://newwords.municode.com/readordinance.aspx?ordinanceid=991897&datasource=ordbank), 11-4-2019)

#### **Sec. 22-294. License transferability.**

No license issued under this article shall be transferred to any person other than the person to whom the license was issued.

(Ord. No. [19-2437](http://newwords.municode.com/readordinance.aspx?ordinanceid=991897&datasource=ordbank), 11-4-2019)

**Sec. 22-295. Registration.**

- (a) All solicitors and any person exempt from the licensing requirements of this article under section 22-291 shall be required to register with the city prior to engaging in those activities. 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 shall issue to the registrant a certificate of registration as proof of the registration. Registrations shall be non-transferrable.
- (b) Individuals that will be engaging in noncommercial door-to-door advocacy shall not be required to register.

(Ord. No. [19-2437](http://newords.municode.com/readordinance.aspx?ordinanceid=991897&datasource=ordbank), 11-4-2019)

**Sec. 22-296. Prohibited activities.**

No peddler, solicitor, transient merchant, non-commercial door-to-door advocate, or other person engaged in other similar activities shall conduct business in any of the following manner:

- (a) Calling attention to his or her business or the 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 traffic, either vehicular or pedestrian, on any street, sidewalk, alleyway, 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 specific individual or the general public.
- (d) Conducting business before 8:00 a.m. or after 9:00 p.m.
- (e) Failing to provide proof of license, or registration, and identification when requested.
- (f) Using the license or registration of another person.
- (g) Alleging false or misleading statements about the products or services 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.
- (h) Remaining on the property of another when requested to leave.
- (i) Otherwise operating their business in any manner that a reasonable person would find obscene, threatening, intimidating or abusive.

(Ord. No. [19-2437](http://newords.municode.com/readordinance.aspx?ordinanceid=991897&datasource=ordbank), 11-4-2019)

**Sec. 22-297. Exclusion by placard.**

Unless specifically invited by the property owner or tenant, no peddler, solicitor, transient merchant, noncommercial door-to-door advocate, or other person engaged in other similar activities shall enter onto the property of another for the purpose of conducting business as a peddler, solicitor, transient merchant, noncommercial door-to-door advocate, or similar activity when the property is marked with a sign or

placard that is reasonably sized to be seen and states "No Peddlers, Solicitors or Transient Merchants," 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.

(Ord. No. [19-2437](http://newords.municode.com/readordinance.aspx?ordinanceid=991897&datasource=ordbank), 11-4-2019)

#### **Sec. 22-298. Penalty.**

Any individual found in violation of any provision of this article, shall be a guilty of a misdemeanor.

(Ord. No. [19-2437](http://newords.municode.com/readordinance.aspx?ordinanceid=991897&datasource=ordbank), 11-4-2019)

#### **~~Sec. 22-299. Severability.~~**

~~If any provision of this article is found to be invalid for any reason by a court of competent jurisdiction, the validity of the remaining provisions shall not be affected.~~

~~(Ord. No. [19-2437](http://newords.municode.com/readordinance.aspx?ordinanceid=991897&datasource=ordbank), 11-4-2019)~~

#### **Sec. 22-300. Effective date.**

This article becomes effective on the date of its publication, or upon the publication of a summary of the ordinance as provided by Minn. Stat. § 412.191, subd. 4, as it may be amended from time to time, which meets the requirements of Minn. Stat. § 331A.01, subd. 10, as it may be amended from time to time.

(Ord. No. [19-2437](http://newords.municode.com/readordinance.aspx?ordinanceid=991897&datasource=ordbank), 11-4-2019)

#### **Secs. 22-301—22-330. Reserved.**

### **ARTICLE VII. RIFLE OR PISTOL RANGES (GUN CLUBS) \***

~~\*Cross reference—Weapons, § 50-111 et seq.~~

DIVISION 1. - GENERALLY  
DIVISION 2. - LICENSE

#### ***DIVISION 1. GENERALLY***

[Sec. 22-331. Firing ranges.](#)

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<sup>65</sup> **Sec. 22-299. Severability.** Section is duplicative of chapter 1 general provisions and should be stricken.



[Sec. 22-332. Hours of use of weapon.](#)

[Secs. 22-333—22-350. Reserved.](#)

**Sec. 22-331. Firing ranges.**

This article shall not prohibit the use of firearms by a legally appointed police officer or by a member of a duly licensed gun club as provided in this article when firing or discharging such firearms on the authorized firing range of such club and within the prescribed hours for shooting.

(Code 1963, § 63.02; Code 1980, § 4-6; Ord. No. 326, 8-1-1974)

**Sec. 22-332. Hours of use of weapon.**

It shall be unlawful to fire or discharge high powered rifles, side arms or shotguns on the premises of the gun club on Saturdays, Sundays and holidays except between the hours of 10:00 a.m. and 7:30 p.m. on Saturdays and 12:00 noon and 7:30 p.m. on Sundays and holidays, except that the hour limitation shall not be applicable to any Saturdays, Sundays or holidays occurring within 15 days prior to a legally designated deer season, during which deer may be taken by firearms, pursuant to applicable state law. The hour limitation shall not apply to the discharge of shotguns on the premises of the gun club during any legally designated hunting season.

(Code 1963, § 63.05; Code 1980, § 4-5; Ord. No. 326, 8-1-1974)

**Secs. 22-333—22-350. Reserved.**

***DIVISION 2. LICENSE***

[Sec. 22-351. Gun clubs.](#)

[Secs. 22-352—22-380. Reserved.](#)

**Sec. 22-351. Gun clubs.**

- (a) *License authorized.* The council may issue a license to an organization to operate a gun club within the city, subject to the provisions of the zoning ordinances.
- (b) *Application, hearing, issuance or denial.* Application shall be directed to the city clerk and contain the name of the organization, the description of the property to be used, and the names of all residents within 1,000 feet of the proposed gun range. The council shall set a hearing on such license application with one week's published notice of such hearing. The council may, in its discretion, grant or deny such license.

(Code 1963, §§ 63.03, 63.04; Code 1980, §§ 4-3, 4-4; Ord. No. 326, 8-1-1974)

**Secs. 22-352—22-380. Reserved.**

**ARTICLE VIII. LEGALIZED GAMBLING \***

\**State Law reference*— Lawful gambling and gambling devices, Minn. Stat. ch. 349; local regulation of gambling, Minn. Stat. § 349.213.

[Sec. 22-381. Definitions.](#)

Sec. 22-382. Violations.

Sec. 22-383. Lawful gambling.

Sec. 22-384. Additional regulations.

Sec. 22-385. Adoption of state law by reference.

Sec. 22-386. Investigation fee.

Secs. 22-387—22-420. Reserved.

**Sec. 22-381. Definitions.**

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

*Gambling* means any activity or device prohibited by Minn. Stat. §§ 609.75, 609.755 and 609.76, and shall further include any activity, event, or contrivance that simulates any such activity or device when in or on any commercial establishment or property, except as otherwise allowed pursuant to city ordinances or state statutes, or rules adopted pursuant to authority contained therein. Prohibited gambling and gambling simulations include, but are not limited to, sports bookmaking, poker, blackjack, slot machines, and other similar activities, events and contrivances normally associated with gambling and gambling locations.

The terms used in this article which are defined in Minn. Stat. §§ 349.11—349.60, inclusive, and are defined in rules adopted pursuant to the authority contained in such statutes shall have the meanings set forth in such statutes and rules.

(Code 1980, § 4-90; Ord. No. 88-1108, 1-5-1989; Ord. No. 04-2004, 2-5-2004)

~~Cross reference—Definitions generally, § 1-2.~~

**State Law reference**— Applicable definitions, Minn. Stat. §§ 349.12, 349.30.

**Sec. 22-382. Violations.**

Any person who has violated a provision of this article or the statutes or rules adopted by reference in this article shall be guilty of a misdemeanor.

(Code 1980, § 4-95; Ord. No. 88-1108, 1-5-1989; Ord. No. 04-2002, 2-5-2004)

**Sec. 22-383. Lawful gambling.**

There shall be no gambling in the City of Blaine except bingo, raffle games, and pull-tabs, duly licensed or otherwise allowed pursuant to the provision of this article, Minn. Stat. §§ 349.11—349.60, inclusive, and rules adopted pursuant to the authority contained in said statutes, and the state lottery authorized pursuant to Minn. Stat. §§ 349A.01—349A.15 inclusive.

- (1) No permit shall be required for the conduct of gambling exempt from licensing under Minn. Stat. § 349.166.
- (2) Nothing in article VII of chapter 22 of the Blaine Code shall be deemed to be an automatic approval of a premises permit or bingo license applied for with the gambling control board. A licensed organization may not conduct lawful gambling in the City of Blaine unless a premises permit or

bingo license is approved by city council resolution. A premises permit shall be valid for a period of two years, unless revoked pursuant to this article or state statute.

(Code 1980, § 4-91; Ord. No. 88-1108, 1-5-1989; Ord. No. 91-1262, 9-5-1991; Ord. No. 04-2004, 2-5-2004)

**Sec. 22-384. Additional regulations.**

In addition to the requirements of Minn. Stat. §§ 349.11—349.60, inclusive, and rules adopted pursuant to the authority contained in the said statutes, lawful gambling shall be subject to the regulations set forth in the following paragraphs:

- (1) It is unlawful to make side bets or other wagers in connection with the conduct of lawful gambling.
- (2) A duly licensed pull-tab distribution, bingo or raffle game must be under the supervision of a gambling manager licensed under Minn. Stat. § 349.167. In order to qualify as a gambling manager, an individual must have been a member of the organization for at least two years.
- (3) No person who is under the age of 21 years shall operate or assist in operating a pull-tab distribution or bingo or raffle game in Blaine.
- (4) No organization may maintain more than four lawful gambling locations in the City at one time, except that an organization operating lawful gambling activities at more than four locations as of January 1, 2004, may continue to operate at those same locations pursuant to the following conditions:
  - a. The organization complies with all other state and local lawful gambling laws and ordinances.
  - b. Each location continues to qualify as a lawful gambling premises.
  - c. No lawful gambling activity is moved to a new location unless the organization is in conformance with the four-location limitation.
  - d. When a premises permit has lapsed or been revoked at a location for any reason, the organization may not commence operations at that location unless the organization is in conformance with the four-location limitation.
- (5) No premises permit or bingo hall license will be approved for:
  - a. Any organization to conduct lawful gambling on any premises other than a church, the premises of a fraternal, veterans or other nonprofit organization, or the premises of an on-sale intoxicating liquor licensee licensed pursuant to the applicable sections of the Blaine Code.
  - b. Any organization or local subdivision thereof unless all of the following requirements are met:
    1. The activities of the organization or its local subdivision directly or primarily benefit citizens of Blaine.
    2. The organization or the local subdivision must have had a principal business or operations location in the City of Blaine for a continuous period of at least two years immediately preceding the permit request and maintain such a location as long as the organization operates lawful gambling activities in the city. The organization must have been in continuous existence holding meetings for at least two years prior to the approval of the license.
    3. The organization or the local subdivision may be granted a waiver of operational requirement if the city council determines the organization has significant community

involvement and such a waiver would have to be granted per location up to the four-location limit.

- c. The simultaneous conducting of lawful gambling by more than one organization on authorized premises.
- (6) It is unlawful to sell, give or otherwise transfer in the City of Blaine, any raffle ticket, paddle ticket or any other opportunity to participate in any gambling event not approved by the City of Blaine pursuant to the provisions of the Minnesota Statutes and rules adopted by reference herein.
- (7) Copies of the reports, which must be filed with the gambling control board, as required by Minn. Stat. § 349.19, shall be filed simultaneously with the city clerk.
- (8) A licensed organization conducting lawful gambling within the city shall expend all of its expenditures for lawful purposes on lawful purposes conducted or located within the city's trade area. The city's "trade area" is defined as and is specially limited to the Cities of Blaine, Circle Pines, Coon Rapids, Ham Lake, Lexington, Lino Lakes, Mounds View, Shoreview and Spring Lake Park.
- (9) ~~Effective July 1, 1993~~ A licensed organization conducting lawful gambling within the city shall contribute ten percent of its net profits derived from lawful gambling to a fund administered and regulated by the city without cost to the fund, for disbursement by the city of the receipts for lawful purposes as defined in Minn. Stat. § 349.12. For the purposes of this requirement, "net profits" are defined as gross profit less sums actually expended for allowable expenses as reported to the Minnesota Department of Revenue. Such contributions shall be made to the city within 15 days of the end of each calendar quarter.
- (10) A premises permit or bingo hall license approved by the city may be suspended or revoked for violations of this chapter, or Minn. Stat. ch. 349, or for failure to meet the qualifications set out in this chapter, or Minn. Stat. ch. 349, or for the failure to comply, for any reason, with any provision, guaranty or claim made in the applicant's original license application to either the city or the State of Minnesota.
- (11) No license or permit approved by the city, including any bingo hall license, grants the licensee a property right or entitlement to a license or permit. The city may refuse to issue, renew or may revoke the license or permit for any reason and will not incur liability for any damages including, but not limited to, direct, consequential or incidental damages, deprivation of property, loss of income, loss of profits, or loss of livelihood.

(Code 1980, § 4-92; Ord. No. 88-1108, 1-5-1989; Ord. No. 91-1262, 9-5-1991; Ord. No. 93-1388, 6-3-1993; Ord. No. 04-2004, 2-5-2004)

**Sec. 22-385. Adoption of state law by reference.**

Minn. Stat. §§ 391.11—349.60, inclusive, and rules adopted pursuant to the authority contained therein are hereby adopted by reference and are incorporated in this article as completely as if set forth in full.

(Code 1980, § 4-93; Ord. No. 88-1108, 1-5-1989; Ord. No. 04-2000, 2-5-2004)

**State Law reference—** Adoption by reference, Minn. Stat. § 471.62.

**Sec. 22-386. Investigation fee.**

Organizations applying for or renewing a license to conduct charitable gambling in the City of Blaine shall pay an investigation fee established by council. Said fee shall be paid along with the submission of its application to the city clerk. The investigation fee shall reimburse the city for its costs incident to a background investigation of the organization.

(Code 1980, § 4-94; Ord. No. 88-1108, 1-5-1989; Ord. No. 98-1695, § 2, 2-5-1998; Ord. No. 04-2004, 2-5-2004)

**Secs. 22-387—22-420. Reserved.**

**<sup>66</sup>ARTICLE IX. ~~LICENSING AND REGULATION OF THERAPEUTIC MASSAGE~~ \***

~~\*Editor's note—Ord. No. 12-2243, adopted April 19, 2012, repealed the former Art. IX, §§ 22-421—22-428, 22-451—22-461, and enacted a new Art. IX as set out herein. The former Art. IX pertained to saunas and massage parlors and derived from Code 1980; Ord. No. 89-1117, 2-16-1989; Ord. No. 89-1176, 12-21-1989; Ord. No. 98-1696, 2-5-1998.~~

DIVISION 1. - GENERALLY  
DIVISION 2. - LICENSES

***DIVISION 1. GENERALLY***

[Sec. 22-421. Purpose.](#)

[Sec. 22-422. Findings of the city council.](#)

[Sec. 22-423. Definitions.](#)

[Sec. 22-424. License required; number of licenses.](#)

[Sec. 22-425. Exceptions.](#)

**Sec. 22-421. Purpose.**

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

(Ord. No. 12-2243, 4-19-2012)

**Sec. 22-422. Findings of the city council.**

The City Council of the City of Blaine makes the following findings regarding the need to license therapeutic massage enterprises and therapists and to prohibit all other types of massage businesses and services to the public:

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<sup>66</sup> **Art. IX, Therapeutic Massage.**

- (1) Persons who have bona fide and standardized training in therapeutic massage, health, and hygiene can provide a legitimate and necessary service to the general public.
- (2) Health and sanitation regulations governing therapeutic massage enterprises and therapists can minimize the risk of the spread of communicable diseases and can promote overall health and sanitation.
- (3) Limiting the number of therapeutic massage enterprise licenses and license qualifications for the restrictions on therapeutic massage enterprises and therapists can minimize the risk that such businesses and persons will facilitate prostitution and other criminal activity in the community.
- (4) Massage services provided by persons with no specialized and standardized training in massage can endanger citizens by facilitating the spread of communicable diseases, by exposing citizens to unhealthy and unsanitary conditions, and by increasing the risk of personal injury.
- (5) Massage businesses which employ persons with no specialized and standardized training can tax city law enforcement services because such businesses are more likely to be operated as fronts for prostitution and other criminal activity than operations established by persons with standardized training.
- (6) The training of professional massage therapists at accredited institutions is an important means of ensuring the fullest measure of protecting the public health, safety, and welfare.

(Ord. No. 12-2243, 4-19-2012; <ulink class="ordbank" print="yes" url="http://newwords.municode.com/readordinance.aspx?ordinanceid=719100&datasource=ordbank" web="yes">Ord. No. 15-2312, 6-18-2015 </ulink>)

#### **Sec. 22-423. Definitions.**

The following words and terms when used in this section shall have the following meanings unless the context clearly indicates otherwise:

*Accredited institution* means an educational institution holding accredited status approved by the United States Department of Education or Minnesota Office of Higher Education.

*Accredited program* means a professional massage program or educational institution accredited by the Commission on Massage Therapy Accreditation (COMTA).

*Clean* means the absence of dirt, grease, rubbish, garbage, and other offensive, unsightly, or extraneous matter.

*Good repair* means free of corrosion, breaks, cracks, chips, pitting, excessive wear and tear, leaks, obstructions, and similar defects so as to constitute a good and sound condition.

*Issuing authority* means the city clerk or designee.

*Massage* means any method of pressure on, or friction against, or the rubbing, stroking, kneading, tapping, pounding, vibrating, stimulating, or rolling of the external parts of the human body with the hands or with the aid of any mechanical or electrical apparatus, or other appliances or devices, with or without such supplementary aids as rubbing alcohol, liniment, antiseptic, oil, powder, cream, lotion, ointment, or other similar preparations.

*Massage therapist* means an individual who practices or administers massage to the public who can demonstrate to the issuing authority that he or she:

- (1) Has current insurance coverage of \$1,000,000.00 for professional liability in the practice of massage;
- (2) Is affiliated with, employed by, or owns a therapeutic massage enterprise licensed by the city; and
- (3) Has completed 500 hours of certified therapeutic massage training with content that includes the subjects of anatomy, physiology, hygiene, ethics, massage theory and research, and massage practice from an accredited program, accredited institution, or a program or institution licensed or verified by a state licensing board or agency that has been approved by the issuing authority. These training hours must be authenticated by a single provider through a certified copy of the transcript of academic record from the school issuing the training, degree or diploma. In the event the accredited program or accredited institution is no longer in existence, in the sole discretion of the city, a certified copy of the transcript of academic record may be accepted directly from the applicant with an affidavit stating said transcript of academic record is authentic. The transcript of academic record must be from a program or institution that was once accredited and approved by the issuing authority. The certified copy of the transcript of academic record must contain the applicant's name, last address of the accredited institution at the time of closing, and reflect the 500 hours of certified therapeutic massage training with content that includes the subjects of anatomy, physiology, hygiene, ethics, massage theory and research, and massage practice as required.

*Operate* means to own, manage, or conduct, or to have control, charge, or custody over.

*Person* means any individual, firm, association, partnership, corporation, joint venture, or combination of individuals.

*Therapeutic massage enterprise* means an entity which operates a business which hires only licensed therapeutic massage therapists to provide therapeutic massage to the public. The owner/operator of a therapeutic massage enterprise need not be licensed as a therapeutic massage therapist if he or she does not at any time practice or administer massage to the public. A therapeutic massage enterprise may employ other individuals such as cosmetologists and estheticians, and these individuals are not required to have a massage therapist license as long as they are not providing therapeutic massage to the public.

*Within the city* means includes physical presence as well as telephone referrals such as phone-a-massage operations in which the business premises, although not physically located within the city, serves as a point of assignment of employees who respond to requests for services from within the city.

(Ord. No. 12-2243, 4-19-2012; <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=719100&datasource=ordbank" web="yes">Ord. No. 15-2312, 6-18-2015 </ulink>; <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=908270&datasource=ordbank" web="yes">Ord. No. 18-2411 </ulink>, 8-16-2018)

~~Cross-reference—Definitions generally, § 1-2.~~

#### **Sec. 22-424. License required; number of licenses.**

- (a) *Therapeutic massage enterprise license.* It shall be unlawful for any person or entity to own, operate, engage in, or carry on, within the city, any type of massage services to the public for consideration without first having obtained a therapeutic massage enterprise license from the city pursuant to this section. The city council shall issue therapeutic massage enterprise licenses in such a manner that the number of therapeutic massage enterprise licenses shall not exceed ten. Existing licenses shall remain

in effect until through attrition the maximum number of licenses is met. The city council is not required to issue the full number of therapeutic massage enterprise licenses that it has available.

- (b) *Massage therapist license.* It shall be unlawful for any individual to practice, administer, or provide massage services to the public for consideration within the city without first having obtained a massage therapist license from the city pursuant to this section.

(Ord. No. 12-2243, 4-19-2012; [ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=719100&datasource=ordbank" web="yes">Ord. No. 15-2312, 6-18-2015](http://newords.municode.com/readordinance.aspx?ordinanceid=719100&datasource=ordbank); [ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=908270&datasource=ordbank" web="yes">Ord. No. 18-2411](http://newords.municode.com/readordinance.aspx?ordinanceid=908270&datasource=ordbank), 8-16-2018)

~~Editor's note — [ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=719100&datasource=ordbank" web="yes">Ord. No. 15-2312, adopted June 18, 2015](http://newords.municode.com/readordinance.aspx?ordinanceid=719100&datasource=ordbank), amended the title of § 22-424 to read as set out herein. Previously § 22-424 was titled license required.~~

#### Sec. 22-425. Exceptions.

A therapeutic massage enterprise or therapist license is not required for the following persons and places:

- (1) Persons duly licensed by this state to practice medicine, surgery, osteopathy, chiropractic, physical therapy, or podiatry, or professional practices licensed or registered by this state and regulated by a governmental body with a board where concerns and complaints could be directed, provided the massage is administered in the regular course of the medical business and not provided as part of a separate and distinct massage business.
- (2) Persons duly licensed by this state as beauty culturists or barbers, provided such persons do not hold themselves out as giving massage treatments and provided the massage by beauty culturists is limited to the head, hand, neck, and feet and the massage by barbers is limited to the head and neck.
- (3) Persons working solely under the direction and control of a person duly licensed by this state to practice medicine, surgery, osteopathy, chiropractic, physical therapy, or podiatry or professional practices licensed or registered by this state and regulated by a governmental body with a board where concerns and complaints could be directed.
- (4) Places duly licensed or operating as a hospital, nursing home, hospice, sanitarium, or group home established for the hospitalization or care of human beings.
- (5) Students of an accredited institution who are performing massage services in the course of a clinical component of an accredited program of study, provided that the students are performing the massage services at the location of the accredited institution or provided the students are limited to performing massage therapy only on owners or staff of licensed massage enterprises and not on members of the public.
- (6) Individuals licensed in another municipality performing massage services as part of a wellness event/expo where such event will not be more than three days in length. Written notice must be provided to the city and must include dates, times, and location(s) of such event.



(Ord. No. 12-2243, 4-19-2012; <http://newords.municode.com/readordinance.aspx?ordinanceid=719100&datasource=ordbank> web="yes">Ord. No. 15-2312, 6-18-2015 <http://newords.municode.com/readordinance.aspx?ordinanceid=908270&datasource=ordbank> web="yes">Ord. No. 18-2411 [http://newords.municode.com/readordinance.aspx?ordinanceid=908270&datasource=ordbank](#), 8-16-2018)

## ***DIVISION 2. LICENSES***

Sec. 22-426. License application.

Sec. 22-427. License fees.

Sec. 22-428. License application verification and consideration.

Sec. 22-429. Persons ineligible for license.

Sec. 22-430. Locations ineligible for therapeutic massage enterprise license.

Sec. 22-431. License restrictions.

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Sec. 22-433. Term, renewal of license.

Sec. 22-434. Sanctions for license violations.

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Sec. 22-451. Violations and penalties.

Sec. 22-452. Severability.

Secs. 22-453—22-560. Reserved.

### **Sec. 22-426. License application.**

(a) *Therapeutic massage enterprise license application.* An application for a therapeutic massage enterprise license shall be made on a form supplied by the city clerk and shall request the following information:

(1) *All applicants.* For all applicants:

- a. Whether the applicant is an individual, corporation, partnership, or other form of organization.
- b. The legal description of the premises to be licensed together with a plan of the area showing dimensions, location of buildings, street access, and parking facilities.
- c. The floor number, street number, suite number(s) and rooms where the massage services are to be conducted.
- d. Whether all real estate and personal property taxes that are due and payable for the premises to be licensed have been paid, and if not paid, the years and amounts that are unpaid.
- e. Whenever the application is for premises either planned or under construction or undergoing substantial alteration, the application shall be accompanied by a set of preliminary plans showing the design of the proposed premises to be licensed. If the plans for design are on file with the city's building and inspection department, no plans need be submitted to the issuing authority.

- f. The name, street address, and suite number(s) of the business if it is to be conducted under a designation, name, or style other than the name of the applicant, and a certified copy of the certificate as required by Minn. Stat. § 333.02.
  - g. The amount of the investment that the applicant has in the business, buildings, premises, fixtures, furniture, and equipment, and proof of the source of such investment. The identity of all other persons investing in the business, building, premises, fixture, furniture and equipment, the amount of their investment and proof of the source of such investment.
  - h. All applications for licenses, whether enterprise or individual applications, shall be signed and sworn to. If the application is that of a natural person, it shall be signed and sworn to by such person; if by a corporation, by an officer thereof; if by an incorporated association, by the manager or officer thereof; if by a limited liability company (LLC), by a member thereof. Any falsification of information on the license application shall result in the denial of the license and the applicant may be subject to prosecution for forgery as defined by Minnesota State Statute.
  - i. Whether the applicant has had an interest in, as an individual or as part of a corporation, partnership, association, enterprise, business or firm, a massage license that was denied, revoked or suspended within the last ten years of the date the license application is submitted to the issuing authority.
  - j. Such application must identify a responsible party relative to each license who shall be responsible for the conduct of the business. If the responsible party for a licensee will change, an application for the change shall be provided to the city clerk at least 30 days prior to such change and shall be treated the same as an application for a new license. In the event that a 30-day prior notice is not feasible, a written explanation will be submitted to the city clerk within one week of the known change documenting the reason(s) for the deviation; this is subject to approval by the police chief or his/her designee. Failure to file a timely application or explanation for a change in responsible party shall be grounds for revocation, suspension or non-renewal of any license.
  - k. Whether the applicant has ever been engaged in the operation of massage services. If so, applicant shall furnish information as to the name, place, dates and length of time of the involvement of any and all such establishments.
  - l. Federal and state income tax returns, business and personal, for the previous three years.
  - m. Such other information as the city council or issuing authority shall require.
  - n. Applicant is responsible for reading and understanding the city ordinance regarding therapeutic massage and for communicating and providing interpretation when necessary to all massage therapists licensed at the enterprise to ensure compliance.
- (2) *Individuals.* For applicants who are individuals:
- a. The name, place and date of birth, and street residence address of the applicant.
  - b. Whether the applicant has ever used or been known by a name other than the applicant's name, and if so, the name or names and information concerning dates and places where used.
  - c. Whether the applicant is a citizen of the United States or a resident alien or has the legal authority to work in the United States.
  - d. Street addresses and dates at which the applicant has lived during the preceding ten years.

- e. The type, name, location, and dates of every business or occupation the applicant has been engaged in during the preceding ten years.
  - f. Whether the applicant is currently licensed in other communities to perform massage therapy, and if so, where.
  - g. Names, addresses, contact information and dates of the applicant's employers for the preceding ten years.
  - h. Whether the applicant has ever been arrested, charged or convicted of any felony, crime, or violation of any ordinance other than a minor traffic offense. If so, the applicant shall furnish information as to the date, time, place and offense for which arrests, charges or convictions were had.
  - i. Whether the applicant has had an interest in, as an individual or as part of a corporation, partnership, association, enterprise, business or firm, a massage license that was revoked or suspended within the last ten years of the date the license application is submitted to the issuing authority.
  - j. Whether the applicant has ever been engaged in the operation of massage services. If so, applicant shall furnish information as to the name, dates, place and length of time of the involvement in such an establishment.
  - k. Such other information as the city council or issuing authority shall require.
- (3) *Partnerships.* For the applicants that are partnerships: the names and addresses of all general and limited partners and all information concerning each general partner as is required in paragraph (2) of this section of this Code. The managing partners shall be designated and the interest of each general and limited partner in the business shall be disclosed. A true copy of the partnership agreement shall be submitted with the application, and if the partnership is required to file a certificate as to a trade name under Minn. Stat. § 333.02, a certified copy of such certificate shall be submitted. The license shall be issued in the name of the partnership.
- (4) *Corporations and other organizations.* For applicants that are corporations or other types of organizations:
- a. The name of the organization, and if incorporated, the state of incorporation.
  - b. A true copy of the certificate of incorporation, and, if a foreign corporation, a certificate of authority as described in Minn. Stat. § 303.02.
  - c. The name of the general manager, corporate officers, proprietor, and other person in charge of the premises to be licensed, and all the information about said persons as is required in paragraph (2) of this section of this Code.
  - d. A list of all persons who own or control an interest in the corporation or organization or who are officers of said corporation or organization, together with their addresses and all the information regarding such persons as is required in paragraph (2) of this section of this Code.
- (b) *Massage therapist license application.* An application for a massage therapist license shall be made on a form supplied by the city clerk and shall request the following information:
- (1) The applicant's name and current address.
  - (2) The applicant's current employer.

- (3) The applicant's employers for the previous ten years, including the employer's name, address and dates of employment.
- (4) The applicant's addresses and dates for the previous ten years.
- (5) The applicant's date of birth, home telephone number, weight, height, color of eyes, and color of hair. A color photocopy of the applicant's ~~Minnesota MN~~ driver's license or ~~Minnesota MN identification I.D.~~ front and back, or any other government-issued ~~identification I.D.~~ If the photocopy is not acceptable to the police chief, the police department may take photographs for the file.
- (6) Whether the applicant has ever been arrested, charged or convicted of any felony, crime, or violation of any ordinance other than a minor traffic offense and, if so, the time, place, date(s) and offense for which arrests, charges or convictions were had.
- (7) Whether the applicant has had an interest in, as an individual or as part of a corporation, partnership, association, enterprise, business or firm, a massage license that was denied, revoked or suspended within the last ten years of the date the license application is submitted to the issuing authority.
- (8) The names, resident and business addresses and contact information of those residents of the metropolitan area, of good moral character, not related to the applicant or financially interested in the premises of the business, who may be referred to as the applicant's character.
- (9) Whether the applicant is a U.S. citizen or resident alien or has the legal authority to work in the United States.
- (10) Whether the applicant has ever used or been known by a name other than the applicant's name, and if so, the name or names and information concerning dates and places where used.
- (11) Whether the applicant has met the definition of a massage therapist in section 22-423 of this Code.
- (12) Whether the applicant has ever been the subject of an investigation, public or private, criminal or non-criminal, regarding massage therapy.
- (13) Such other information as the city council or issuing authority shall require.

(Ord. No. 12-2243, 4-19-2012; <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=719100&datasource=ordbank" web="yes">Ord. No. 15-2312, 6-18-2015 </ulink>; <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=908270&datasource=ordbank" web="yes">Ord. No. 18-2411 </ulink>, 8-16-2018)

#### **Sec. 22-427. License fees.**

The fees for a therapeutic massage enterprise and therapist licenses shall be as set forth in Appendix D of this Code. An investigation fee shall be charged for therapeutic massage enterprise licenses and an individual therapeutic massage license. Each application for a license shall be accompanied by payment in full of the required license and investigation fees. No investigation fee shall be refunded.

(Ord. No. 12-2243, 4-19-2012; <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=719100&datasource=ordbank" web="yes">Ord. No. 15-2312, 6-18-2015 </ulink>)

**Sec. 22-428. License application verification and consideration.**

**(a) Therapeutic massage enterprise license.**

- (1) All applications shall be referred to the chief of police, or his or her designee, and such other city departments as the city manager shall deem necessary for verification and investigation of the facts set forth in the application. The chief of police, or his or her designee, is empowered to conduct any and all investigations to verify the information on the application, including ordering a computerized criminal history inquiry and/or a driver's license history inquiry on the applicant. The chief of police, or his or her designee, is authorized to access data maintained in the Minnesota Bureau of Criminal Apprehensions Computerized Criminal History information system in accordance with BCA policy. The chief of police, or his or her designee, and other consultants shall make a written recommendation to the city council as to the issuance or non-issuance of the license. The city council or chief of police or his or her designee may order and conduct such additional investigation as it deems necessary, including but not limited to contacting other state agencies. In addition, all applications must include results of a comprehensive national criminal background check from a background investigative provider approved by the city. The national criminal background check is to be obtained and paid for by the therapeutic massage enterprise licensee upon signed release from employee. Upon completion of its investigation, the council shall grant or deny the license.

**(b) Massage therapist license.**

- (1) *Verification and consideration.* Within a reasonable period after receipt of a complete application and applicable fees for a massage therapist license, the issuing authority shall make recommendation to grant or deny the application. The issuing authority is empowered to conduct any and all investigations to verify the information on the application, including ordering a computerized criminal history inquiry, background check, and/or a driver's license history inquiry on the applicant. The city council or chief of police or his or her designee may order and conduct such additional investigation as it deems necessary, including but not limited to contacting other state agencies. In addition, all applications must include results of a comprehensive national criminal background check from a background investigative provider approved by the city. The national criminal background check is to be obtained and paid for by the therapeutic massage enterprise licensee upon signed release from employee. Notice shall be sent by the city clerk by regular mail to the applicant upon a denial informing the applicant of the right to appeal to the city council within 20 days. If an appeal is properly made, the matter shall be scheduled before a hearing officer, on behalf of the city council, for consideration and conclusion.
- (2) *Photo I.D. cards.* Photo identification cards shall be issued to individuals receiving a therapeutic massage therapist license and each person licensed as a massage therapist shall have the photo identification card issued by the issuing authority readily available.

(Ord. No. 12-2243, 4-19-2012; [ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=908270&datasource=ordbank"](http://newords.municode.com/readordinance.aspx?ordinanceid=908270&datasource=ordbank) web="yes">Ord. No. 18-2411 [</ulink>](#), 8-16-2018)

**Sec. 22-429. Persons ineligible for license.**

**(a) Therapeutic massage enterprise license.** No therapeutic massage enterprise license shall be issued to an individual or entity which:

- (1) Is not 18 years of age or older at the time the application is submitted to the issuing authority;

- (2) Has been arrested, charged or convicted of any crime directly related to the occupation licensed as prescribed by Minn. Stat. § 364.03, subd. 2, and who has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties and responsibilities of a licensee as prescribed by Minn. Stat. § 364.03, subd. 3;
  - (3) Has had an interest in, as an individual or as part of a corporation, partnership, association, enterprise, business or firm, a massage license that was denied, revoked or suspended within the last ten years of the date the license application is submitted to the issuing authority;
  - (4) Is not a citizen of the United States or a resident alien, or is legally prohibited from working in the United States;
  - (5) Is not of good moral character or repute;
  - (6) Is not the real party in interest of the enterprise;
  - (7) Has knowingly misrepresented or falsified information on a license application at any time in the preceding ten years;
  - (8) Cannot meet the definition of therapeutic massage enterprise in section 22-423 of this Code;
  - (9) Owes taxes or assessments to the state, county, school district, or city that are due and delinquent;  
or
  - (10) Is the spouse of a person whose massage-related license has been denied, suspended or revoked in the past ten years.
  - (11) Allowed a license to expire or surrendered a license, unless, at the sole discretion of the city, a license application is submitted for consideration. The application shall be treated the same as an application for a new license, subject to all ordinance regulations and review.
- (b) *Massage therapist license.* No massage therapist license shall be issued to a person who:
- (1) Is not 18 years of age or older at the time the application is submitted to the issuing authority;
  - (2) Has been arrested, charged or convicted of any crime directly related to the occupation licensed as prescribed by Minn. Stat. § 364.03, subd. 2, and who has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties and responsibilities of a licensee as prescribed by Minn. Stat. § 364.03, subd. 3;
  - (3) Whether the applicant has had an interest in, individually or as part of a corporation, partnership, association, enterprise, business or firm, a massage license that was denied, revoked or suspended within the last ten years of the date the license application is submitted to the issuing authority;
  - (4) Is not a citizen of the United States or a resident alien, or is legally prohibited from working in the United States;
  - (5) Is not of good moral character or repute;
  - (6) Has knowingly misrepresented or falsified information on a license application at any time in the preceding ten years;
  - (7) Is not affiliated with, employed by, or does not own a therapeutic massage enterprise licensed by the city; or
  - (8) Cannot meet the definition of massage therapist in section 22-423 of this Code.

- (9) Allowed a license to expire or surrendered a license, unless, at the sole discretion of the city, a license application is submitted for consideration. The application shall be treated the same as an application for a new license, subject to all ordinance regulations and review.

(Ord. No. 12-2243, 4-19-2012; <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=908270&datasource=ordbank" web="yes">Ord. No. 18-2411 </ulink>, 8-16-2018)

**Sec. 22-430. Locations ineligible for therapeutic massage enterprise license.**

- (a) *Delinquent taxes.* No therapeutic massage enterprise shall be licensed if such enterprise is located on property on which taxes, assessments, or other financial claims to the state, county, school district, or city are due and delinquent. In the event a suit has been commenced under Minn. Stat. § 278.01—278.13, questioning the amount or validity of taxes, the city council may on application waive strict compliance with this provision; no waiver may be granted, however, for taxes or any portion thereof, which remain unpaid for a period exceeding one year after becoming due.
- (b) *Improper zoning.* No therapeutic massage enterprise shall be licensed if the location of such enterprise is not in conformance with the city's zoning code.
- (c) *Building, fire, and code compliance violations.* No therapeutic massage enterprise shall be licensed if the location of such enterprise is not in compliance with State Building and Fire Codes in addition to this Code.
- (d) *Distinct entrance.* No therapeutic massage enterprise, unless a home-based enterprise, shall be licensed if the location of such enterprise does not have a distinct, front-facing, public entrance. A distinct, front-facing public entrance for an entire building is required for enterprise locations with multiple suites.
- (e) *Previous license infractions.* No therapeutic massage enterprise license shall be issued or renewed if the massage therapy enterprise has employed two or more massage therapists whose licenses have been suspended and/or revoked within any 12-month period during period of employment.

(Ord. No. 12-2243, 4-19-2012; <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=719100&datasource=ordbank" web="yes">Ord. No. 15-2312, 6-18-2015 </ulink>; <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=908270&datasource=ordbank" web="yes">Ord. No. 18-2411 </ulink>, 8-16-2018)

**Sec. 22-431. License restrictions.**

- (a) *Posting of license.* A therapeutic massage enterprise license issued must be posted in a conspicuous place on the premises for which it is used. A person licensed as a massage therapist shall also post their massage therapist license, with color photo, in a conspicuous place on the premises at which the therapist is associated. A person licensed as a massage therapist shall have readily available at all times that therapeutic massage services are rendered, the photo identification card issued by the issuing authority. The photo identification card issued by the issuing authority must be presented to each client when providing massage off-site.
- (b) *Licensed premises.* A therapeutic massage enterprise license is only effective for the compact and contiguous space specified in the approved license application. If the licensed premises is enlarged, altered, or extended, the licensee shall inform the city clerk within ten business days. A massage therapist license shall entitle the licensed therapist to perform on-site massage at the therapeutic

massage enterprise they are licensed for, the place of residence of the licensed massage therapist or client, or at an office, business, park or institution excluding hotel and motel guest rooms. It shall be the continuing duty of each licensee to properly notify the city clerk, within ten business days, of any change in the information or facts required to be furnished on the application for license and failure to comply with this section shall constitute cause for revocation or suspension of such license. All therapeutic massage must be performed within a building with a valid certificate of occupancy and not in or upon any vacant lot, lot, motor vehicle, trailer, tent or railroad car, including but not limited to structures not meant for human habitation.

- (c) *Transfer of license prohibited.* The license issued is for the person or the premises named on the approved license application. No transfer of a license shall be permitted from place to place or from person to person without complying with the requirements of an original application. Transfer of ownership of a current licensed therapeutic massage enterprise in good standing may be applied for but does not ensure approval of a new therapeutic massage enterprise. The council is not required to issue the full number of therapeutic massage enterprise licenses that it has available.
- (d) *Affiliation with enterprise required.* A massage therapist shall be employed by, affiliated with, or own a massage enterprise business licensed by the city, unless a person or place is specifically exempted from obtaining a therapeutic massage enterprise license in section 22-425 of this Code.
- (e) *Employment of unlicensed massage therapists prohibited.* No therapeutic massage enterprise shall employ or use any person to perform massage who is not licensed as a therapeutic massage therapist under this section, unless the person is specifically exempted from obtaining a therapist license in section 22-425 of this Code.
- (f) *Coverage of genitals/breasts during massage.* The licensee shall require that the person who is receiving the massage shall completely cover at all times genitals and breasts with non-transparent material or clothing.
- (g) *Therapist dress/uniform requirements.* Any therapist performing massage shall at all times be dressed professionally, including short sleeved shirts, skirts no shorter than three inches above the knees, no cleavage showing, nails trimmed and neat, hair pulled back and closed-toed shoes.
- (h) *Effect of license suspension or revocation.* No licensee shall solicit business or offer to perform massage services while under license suspension or revocation by the city.
- (i) *Massage of certain body parts prohibited.* At no time shall the massage therapist intentionally massage or offer to massage the penis, scrotum, mons veneris, vulva, vaginal area or breasts of a person, unless massage of pectoral muscles is requested by customer or patron.
- (j) *Restrictions regarding hours of operation.* No therapeutic massage enterprise shall be open for business, nor will any therapeutic massage therapist offer massage services, before 7:00 a.m. or after 10:00 p.m. any day of the week. No customers or patrons shall be allowed to remain upon the licensed premises after 10:30 p.m. and before 7:00 a.m. daily. Therapeutic massage enterprises located within Northtown Mall, 398 Northtown Drive, Blaine, shall coincide with mall hours of operations. Support activities such as cleaning, maintenance and bookkeeping are allowed outside of business hours.
- (k) *Proof of local residency required.* In the case of a therapeutic massage enterprise, the licensee, managing partner, or manager of the licensed premise must show proof of residency in one of the following counties: Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Ramsey, Scott, Sherburne, Washington and Wright in Minnesota, and St. Croix, Pierce, or Polk in Wisconsin or proof of residency within 150 miles of the city. In the case of therapeutic massage therapists, the licensee must show proof of residing in one of the following counties: Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Ramsey, Scott,



Sherburne, Washington and Wright in Minnesota, and St. Croix, Pierce, or Polk in Wisconsin or proof of residing within 150 miles of the city.

- (l) *Inspections.* In light of the high risk of involvement with illegal conduct an establishment providing massage therapy poses to the general public, the issuing authority, environmental health department or designee, and/or the city police department shall have the right to enter, inspect, and search the licensed premises during the hours in which the licensed premises is open for business to ensure compliance with all provisions of this section. Any search of the licensed premises are subject to reasonableness standards as recognized by the courts; search warrants will be secured when applicable. Any entry into a private residence will require either consent, exigent circumstances, or a search warrant. With reasonable notice, the business records of the licensee, including income tax returns, shall be available for inspection during the hours in which the licensed premises is open for business. The licensee is subject to a \$250.00 fee for a third inspection, if orders to correct are issued to the licensee and those orders are not corrected upon re-inspection. Licenses shall be granted only to establishments which can meet the safety and sanitary requirements of the city and of the building code regulations of the city and state.
- (m) *Posting of rates.* All massage enterprise businesses must post their rates for service in a prominent place in the entrance or lobby of the business.
- (n) *Illegal activities.* In addition to the license restrictions set forth in this section, any advertising by a licensee or representative of licensee of any potential unlawful, misleading, sexually explicit, obscene or erotic conduct at the licensed establishment shall be prohibited. A licensee under this chapter shall be strictly responsible for the conduct of the business being operated in compliance with all applicable laws and ordinances, including the actions of any employee or agent of the licensee on the licensed premises. No audio or visual recording is allowed at anytime.
- (o) *Restrictions involving minors.* No person under the age of 18 shall be permitted at any time to be in or on the licensed premises as a customer, guest, or employee, unless accompanied by his/her parent or guardian.
- (p) *Food preparation.* Food preparation on site shall only occur in locations specifically designed for that purpose and with proper building permits having been obtained. Food preparation is limited to use for employees during breaks during the regular shift.
- (q) *Habitation.* Massage enterprises shall not contain nor allow the use by any person of sleeping quarters or living spaces of any kind intended for habitation, including but not limited to beds, cots, or mattresses. Home-based enterprises shall not contain nor allow the use by any person of sleeping quarters or living spaces of any kind intended for habitation, including but not limited to beds, cots, or mattresses in any area where massage is performed.
- (r) *Intoxicating alcoholic beverages.* Per Minn. Stat. § 340A.401, no person may directly or indirectly, on any pretense or by any device, sell, barter, keep for sale, charge for possession or otherwise dispose of intoxicating alcoholic beverages onsite. Intoxicating alcoholic beverages does not include alcohol used in direct conjunction with massage therapy such as in cleaning.
- (s) *Sign permit required.* In the event of transfer or new ownership of any existing massage enterprise, a sign permit application must be submitted within 30 days of approval of enterprise license that matches the approved license.

(Ord. No. 12-2243, 4-19-2012; <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=719100&datasource=ordbank" web="yes">Ord. No. 15-2312, 6-18-2015 </ulink>; <ulink class="ordbank" print="yes"

url="http://newords.municode.com/readordinance.aspx?ordinanceid=755252&datasource=ordbank" web="yes">Ord. No. 16-2338, 2-4-2016 </ulink>; <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=908270&datasource=ordbank" web="yes">Ord. No. 18-2411 </ulink>, 8-16-2018)

**Sec. 22-432. Restrictions regarding sanitation, health and safety.**

- (a) *Toilet room requirements.* A licensed therapeutic massage enterprise shall be equipped with adequate and conveniently located toilet rooms for the accommodation of its employees and patrons. The toilet room shall be well ventilated by natural or mechanical methods and be enclosed with a door. The toilet room shall be kept clean and in good repair and shall be adequately lighted.
- (b) *Paper/linen requirements.* A licensed therapeutic massage enterprise shall provide single-service disposal paper or clean linens to cover the massage therapy table or, chair, on which the patron receives the massage; or in the alternative, if the massage therapy table or, chair, on which the patron receives the massage is made of material impervious to moisture, such massage therapy table or, chair shall be properly sanitized after each massage.
- (c) *Washing of hands required.* The massage therapist shall wash his or her hands and arms with water and soap, anti-bacterial scrubs, alcohol, or other disinfectants prior to and following each massage service performed.
- (d) *Door latches and locks.* Doors on massage therapy rooms shall not be locked or capable of being locked. Locks, latches or other devices intended to secure a door so as to prevent it from being opened by any person from either side of the door with or without a key cannot be present on any doors of rooms intended for massage therapy.
- (e) *Equipment.* All modalities shall be performed on a raised massage therapy table or chair; no bed, mattress or other similar type equipment shall be allowed onsite except for a mat similar to those used in yoga. No modality may be performed that requires a massage therapist to stand on the massage therapy table or chair unless necessary due to size ratio of massage therapist/client.
- (f) *Prohibited modalities.* Modalities involving work performed on the floor or requiring a massage therapist to stand on a massage therapy table, including but not limited to Shiatsu are strictly prohibited unless completely clothed and massage therapist is certified in Shiatsu or other modality by an accredited institution or program.

(Ord. No. 12-2243, 4-19-2012; <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=908270&datasource=ordbank" web="yes">Ord. No. 18-2411 </ulink>, 8-16-2018)

**Sec. 22-433. Term, renewal of license.**

- (a) The term of a massage therapist license and a therapeutic massage enterprise license is one year. If an individual or enterprise submits an application any time during a calendar year, the term shall expire December 31 of the year of issuance. The license fee for a partial calendar year may be pro-rated to one-half of the annual fee if an application is filed with the issuing authority after June 30.
- (b) Licenses must be renewed annually. A massage therapist license issued under this section shall expire on December 31 of the year of issuance of the license. A therapeutic massage enterprise license issued under this section shall expire on December 31 of the year of issuance. An application for the renewal of an existing license shall be made at least 75 days prior to the expiration date of the license and shall be made in such form as the issuing authority requires.

- (c) An application for a renewal of an enterprise or individual license shall be made in the same manner as the original application. The license and investigation fees for a renewal shall be the same as those contained in section 22-427. If the license holder is a corporation, licenses must also be renewed within 30 days whenever more than ten percent of the corporation's stock is transferred. If the license holder is a partnership, the license must also be renewed within 30 days whenever a new partner is added to the partnership. If the license holder is an LLC, the license must be renewed within 30 days whenever a change in membership or chief manager occurs.
- (d) After the completion of the renewal license verification process, the issuing authority shall present the enterprise license application to the city council in accordance with this section. If the application is denied, the city clerk shall notify the applicant of the determination in writing and by regular mail to the address provided on the application form. The notice shall inform the applicant of the right, within 20 days after receipt of the notice by the applicant, to request an appeal of the denial. If an appeal is timely received by the city clerk, the hearing before a hearing officer, on behalf of the city council, shall take place within a reasonable period of receipt of the appeal by the issuing authority.
- (e) After the completion of the renewal license verification process, the issuing authority shall issue the massage therapist license in accordance with this section. If the application is denied, the city clerk shall notify the applicant of the determination in writing and by regular mail to the address provided on the application form. The notice shall inform the applicant of the right, within 20 days after receipt of the notice by the applicant, to request an appeal of the denial. If an appeal is timely received by the city clerk, the hearing before a hearing officer, on behalf of the city council, shall take place within a reasonable period of receipt of the appeal by the issuing authority.
- (f) The council is not required to issue the full number of therapeutic massage enterprise licenses that it has available.

(Ord. No. 12-2243, 4-19-2012; <http://newords.municode.com/readordinance.aspx?ordinanceid=719100&datasource=ordbank> web="yes">Ord. No. 15-2312, 6-18-2015 <http://newords.municode.com/readordinance.aspx?ordinanceid=908270&datasource=ordbank> web="yes">Ord. No. 18-2411, 8-16-2018)

#### **Sec. 22-434. Sanctions for license violations.**

- (a) *Suspension or revocation.* A hearing officer, on behalf of the city council may impose an administrative penalty, suspend or revoke a license issued pursuant to this section, at its discretion, for:
  - (1) A violation related to fraud, misrepresentation, or false statement contained in a license application or a renewal application.
  - (2) A violation related to fraud, misrepresentation, or false statement made in the course of carrying on the licensed occupation or business.
  - (3) Any violation of this section or state law.
  - (4) A violation by any licensee or individual that is directly related to the occupation or business licensed as defined by Minn. Stat. § 364.03, subd. 2.
  - (5) Conducting the licensed business or occupation in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the community.

- (6) If the owner, manager, lessee or any of the employees are found to be in control or possession of an alcoholic beverage, a narcotic drug or controlled substance on the premises, other than drugs which may be purchased over the counter without a prescription or those for which the individual has a prescription.
  - (7) If the holder of an enterprise license fails to maintain with the issuing authority a current list of all employees of such licensed premises. The list shall include all massage therapists licensed under this section.
  - (8) A material variance in the actual plan and design of the premises from the plans submitted.
  - (9) Neither the charging of a criminal violation nor a criminal conviction is required in order for the hearing officer on behalf of the council or issuing authority to impose an administrative penalty or suspend, deny or revoke a license.
  - (10) In the event of multiple massage enterprise locations, any license suspension/revocation shall apply to any and all massage enterprise locations within the City of Blaine.
- (b) *Notice and hearing.* A revocation or suspension by the hearing officer, on behalf of the city council, shall be preceded by written notice to the licensee and a hearing. The notice shall give at least ten days' notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The notice shall be mailed by regular mail to the licensee at the most recent address listed on the license application.
- (c) *Ability to reapply after revocation.* The holder of a massage enterprise license or massage therapist license may not reapply for a new license for a period of five years if their license is revoked under this section.
- (d) *Ability to reapply after denial.* The applicant for a massage enterprise license or massage therapist license may not reapply for a license for a period of five years if the applicant's license has previously been denied due to fraud, misrepresentation, or false statement contained in a previous license or renewal application.
- (e) *Previous license infractions.* In the event there is a license infraction or a pending citation involving a licensed establishment and/or a licensed massage therapist, the city may, at its option, choose to not to take action on any license or renewal application until such infraction or pending citation has been resolved. The applicant for a massage enterprise license or massage therapist license may not be eligible to reapply for a license for a period of five years if the licensee is arrested, charged or convicted of any violation of the ordinance.

(Ord. No. 12-2243, 4-19-2012; <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=719100&datasource=ordbank" web="yes">Ord. No. 15-2312, 6-18-2015 </ulink>; <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=908270&datasource=ordbank" web="yes">Ord. No. 18-2411 </ulink>, 8-16-2018)

#### **Sec. 22-435. Suspension of license for violations.**

The chief of police or his or her designee may immediately suspend a license, pending a hearing, if the licensee, or any person working on behalf of the licensee, is determined to be conducting business in an unlawful manner, any manner that constitutes a breach of the peace or a menace to the health, safety, or general welfare of the public, or after repeated complaints received regarding conduct of business practices or method of solicitation.

(<http://newords.municode.com/readordinance.aspx?ordinanceid=908270&datasource=ordbank>)  
web="yes">Ord. No. 18-2411 </a>, 8-16-2018)

**Secs. 22-436—22-450. Reserved.**

**Sec. 22-451. Violations and penalties.**

Any person or entity violating the provisions of this section is guilty of a misdemeanor under Minnesota law and shall be punished by a fine or by imprisonment, or both, together with the costs of prosecution. Each violation of this section shall constitute a separate offense. Arrests, charges, or conviction of a violation of this section, while not required, may be grounds for the nonrenewal, suspension, denial or revocation of any license issued under this section.

(Ord. No. 12-2243, 4-19-2012; <http://newords.municode.com/readordinance.aspx?ordinanceid=908270&datasource=ordbank>)  
web="yes">Ord. No. 18-2411 </a>, 8-16-2018)

~~**<sup>67</sup>Sec. 22-452. Severability.**~~

~~If any section, subsection, sentence, clause, or phrase of this section is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this section. The city council hereby declares that it would have adopted the section in each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.~~

~~(Ord. No. 12-2243, 4-19-2012)~~

**Secs. 22-453—22-560. Reserved.**

**ARTICLE X. TEMPORARY NURSERY SALES**

DIVISION 1. - GENERALLY

DIVISION 2. - LICENSE

***DIVISION 1. GENERALLY***

[Sec. 22-561. Definitions.](#)

[Sec. 22-562. Penalty for violation of article.](#)

[Sec. 22-563. Requirements.](#)

[Secs. 22-564—22-580. Reserved.](#)

**Sec. 22-561. Definitions.**

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

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<sup>67</sup> **Sec. 22-452. Severability.** Section is duplicative of chapter 1 general provisions and should be stricken.

*Temporary nursery sales* means temporary sales associated with a primary use erected on a commercially zoned lot for the purpose of displaying or selling seasonal plant and landscape materials not inside a permanent structure.

(Code 1980, § 15-300; Ord. No. 98-1719, 5-21-1998)

~~Cross-reference—Definitions generally, § 1-2.~~

**Sec. 22-562. Penalty for violation of article.**

Violation of any provision of this article shall be a misdemeanor. Each day on which the violation continues shall constitute a separate offense.

(Code 1980, § 15-306; Ord. No. 98-1719, 5-21-1998)

**Sec. 22-563. Requirements.**

- (a) Temporary nursery sales must be related to a permitted use of the site.
- (b) Sales and setup must be limited to a maximum of 75 days per calendar year.
- (c) Temporary nursery sales site must provide for adequate parking, sanitation, and lighting as approved by the zoning administrator.
- (d) All temporary nursery sales operations shall be operated free of any nuisance, litter, fire, or safety violations.
- (e) Temporary nursery sales must comply with the approved site plan. All temporary nursery sales shall be established on a hard surface.
- (f) Additional requirements may be imposed to ensure public health, safety, and welfare.

(Code 1980, § 15-304; Ord. No. 98-1719, 5-21-1998)

**Secs. 22-564—22-580. Reserved.**

***DIVISION 2. LICENSE***

**Sec. 22-581. Required.**

**Sec. 22-582. Application; insurance, issuance.**

**Sec. 22-583. Fee; expiration; nontransferable.**

**Sec. 22-584. Revocation.**

**Secs. 22-585—22-620. Reserved.**

**Sec. 22-581. Required.**

- (a) No person shall operate a temporary nursery sales within the limits of the city on property without legal nonconforming status as an open sales lot approved by a conditional use permit prior to August 20, 2020.
- (b) No person shall operate temporary nursery sales within the city without a temporary nursery sales license.

(c) For the purposes of this license, the applicant shall be the operator of the temporary nursery sales.

(Code 1980, § 15-301; Ord. No. 98-1719, 5-21-1998; Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

**Sec. 22-582. Application; insurance, issuance.**

- (a) Application for such license shall be made to the city clerk on a form supplied by the city. The application shall contain the full name and address of the applicant, the location of the temporary nursery sales, the kind of business conducted at such location, and other information as required by the application form.
- (b) The applicant shall submit proof of liability insurance for the temporary premises to be licensed, with the city named as an additional insured. The applicant shall comply with provisions of Minn. Stat. § 176.182 regarding workers' compensation by providing evidence of workers' compensation insurance.
- (c) The city clerk shall forward the completed application to the city council for its consideration, and if granted by the council, a license shall be issued by the city clerk provided the conditional use permit is approved by the city council.

(Code 1980, § 15-302; Ord. No. 98-1719, 5-21-1998)

**Sec. 22-583. Fee; expiration; nontransferable.**

- (a) The license fee for temporary nursery sales shall be set by council action.
- (b) The license will be issued to the applicant only and is nontransferable.
- (c) Only one license shall be issued per lot of record per calendar year.

(Code 1980, § 15-303; Ord. No. 98-1719, 5-21-1998)

**Sec. 22-584. Revocation.**

A license may be revoked by the city council for a violation of any provision of this article, except when an immediate safety, health hazard or nuisance situation exists the city manager may revoke a permit immediately. The city council reserves the right to deny a license for a temporary nursery sales with a previous zoning violation and/or conditional use permit violation.

(Code 1980, § 15-305; Ord. No. 98-1719, 5-21-1998)

**Secs. 22-585—22-620. Reserved.**

**ARTICLE XI. VENDING TRUCKS**

[Sec. 22-621. License.](#)

[Sec. 22-622. Hours of operation and use of bells.](#)

[Sec. 22-623. Liability insurance.](#)

[Sec. 22-624. Violations.](#)

**Sec. 22-621. License.**

**(a) Required; definition; exceptions.**

- (1) No owner or operator of any vehicle which is used for the purpose of dispensing or vending confections or other goods directly from such vehicle shall carry on such dispensing or vending unless licensed as provided in this article.
- (2) This article shall not apply to persons using vehicles for the delivery of goods or services directly to homes or establishments where the goods are taken by the operator of the vehicle onto private property for delivery, nor shall it apply to the operations of any political subdivision or unit of government.
- (3) The term "vehicle," for purposes of this article shall mean any mobile unit being used on the public streets for the purpose of vending or dispensing.

- (b) *Application; fee; term.* Application for a license shall be made to the city clerk and shall describe the vehicles from which such vending operations will be carried on and shall give the names of the persons interested in such business. It shall describe the types of confections or other goods which will be sold from such vehicles. The applicant shall also set forth the names of the insurers providing liability coverage on the vehicles and the amount of coverage carried. The application shall be accompanied by the annual fee. Licenses shall run from May 1 to April 30 of the following year. The council may, by action, establish fees for the purposes of this article. If an application for a license is denied, the fee shall be refunded to the applicant.

(Code 1963, §§ 5.01, 5.02; Code 1980, §§ 15-29, 15-30)

**Sec. 22-622. Hours of operation and use of bells.**

No person licensed under this article shall carry on the vending operations between the hours of 4:00 p.m. and 6:30 p.m. No bells or other audible signals shall be used after the hour of 8:00 p.m.

(Code 1963, § 5.03; Code 1980, § 15-31)

**Sec. 22-623. Liability insurance.**

Every licensee shall maintain liability insurance in the amount established by council action.

(Code 1963, § 5.04; Code 1980, § 15-32)

**Sec. 22-624. Violations.**

Any person violating any provision of this article or who drives or operates such vehicle in a careless and negligent fashion may, in addition to the penalties provided in section 1-7, have such person's license revoked after a hearing before the council upon reasonable notice.

(Code 1963, § 5.05; Code 1980, § 15-33)

**ARTICLE XII. - MOBILE FOOD TRUCKS**

**DIVISION 1. – GENERALLY**

**Sec. 22-721. - Definitions.**

Except as may otherwise be provided or clearly implied by context, all terms shall be



given their commonly accepted definitions. For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Mobile Food Truck means a food or beverage service establishment that is a vehicle mounted unit, either motorized or trailer, and readily movable, without disassembling, for transport to another location.

Sec. 22-722. - Exceptions to definitions.

For the purpose of this article, the term Mobile Food Truck shall not apply to:

(a) Vending trucks as defined in Chapter 22, Article IX.

(b) Transient merchants as defined in Chapter 22, Article VI.

Exemption from these definitions shall not, for the scope of this article, excuse any person from complying with any other applicable statutory provision or requirement provided by another city ordinance.

Secs. 22-723-22-730. - Reserved.

DIVISION 2. - LICENSING AND REGISTRATION

Sec. 22-731. - Licensing and Registering.

(a) County license required. No person shall operate a Mobile Food Truck within the city limits without first having obtained the appropriate license from the county as it may be amended from time to time, if the county issues a license for the activity.

(b) State license required. When a state license is required, no person shall operate a Mobile Food Truck within the city limits without first having obtained the appropriate license from the State of Minnesota.

(c) City Registration required. Prior to operating a Mobile Food Truck within city limits, the operator shall register with the City Clerk's office. Registration shall be completed on a form provided by the City Clerk's office including the following information.

(1) The applicant's information.

(2) Proof of any required county or state license.

(3) Signature affidavit acknowledging receipt of applicable city regulations for Mobile Food

Trucks.

(d) Fee. No fee is required for City Registration.

(e) Duration. Each City Registration shall be valid through December 31 of the year in which registration is provided. Registered Mobile Food Truck operators are only required to register prior to their first event and registration is valid for any subsequent events.

Sec. 22-732. - Revocation.

(a) Generally. Any registration issued under this division may be suspended or revoked at the discretion of a hearing officer on behalf of the city council for violation of any of the following:

(1) Subsequent knowledge by the city of fraud, misrepresentation or incorrect statements provided by an applicant on the application form.

(2) Fraud, misrepresentation or false statements made during the course of the registered activity.

- (3) Engaging in any prohibited activity as provided under section 22-743 of this article.
- (4) Violation of any other provision of this article.
- (b) Multiple persons under one registration. The suspension or revocation of any registration issued for the purpose of authorizing multiple persons to conduct business as Mobile Food Truck operators on behalf of the registered Mobile Food Truck operator shall serve as a suspension or revocation of each authorized person's authority to conduct business as a Mobile Food Truck operator on behalf of the registered Mobile Food Truck operator whose registration is suspended or revoked.
- (c) Notice. Prior to revoking or suspending any registration issued under this chapter, the city shall provide a registration holder with written notice of the alleged violations and inform the registered Mobile Food Truck operator 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 registration application, or if no residential address is listed, to the business address provided on the registration application.
- (d) Hearing. Upon receiving the notice provided in part (c) of this section, the registered Mobile Food Truck operator shall have the right to request a hearing. If no request for a hearing is received by the city clerk within ten days following the service of the notice, the city may proceed with the suspension or revocation. For the purpose of a mailed notice, service shall be considered complete as of the date the notice is placed in the mail. If a hearing is requested within the stated time frame, a hearing shall be scheduled with a hearing officer on behalf of the city council within 20 days from the date of the request for the hearing. Within three regular business days of the hearing, the hearing office, on behalf of the city council, shall notify the licensee of its decision.
- (e) Emergency. If, in the discretion of the city manager or their designee, imminent harm to the health or safety of the public may occur because of the actions of Mobile Food Truck operation registered under this chapter, the city manager or their designee, on behalf of the city council, may immediately suspend the person's license and provide notice of the right to hold a subsequent hearing as prescribed in part (c) of this section.
- (f) Appeal. Any person whose registration is suspended or revoked under this section shall have the right to appeal that decision in court.

Sec. 22-733. - Registration transferability.

No registration issued under this article shall be transferred to any person other than the person to whom the registration was issued.

Secs. 22-734-22-740. - Reserved

DIVISION 3. - REGULATIONS

Sec. 22-741.- Allowed activities.

Mobile Food Trucks are allowed under the following circumstances:

- (a) In conjunction with a private party or event located at a city park, provided the renter of the park initiates the request for a food truck.
- (b) In conjunction with a city sponsored event located at a city park or other city owned

property.

- (c) In conjunction with a school sponsored event located on school district owned property.
- (d) In conjunction with a private event, on private property, such as a customer appreciation or employee event, grand opening, birthday party, graduation, etc. Consent of the private property owner shall be obtained.
- (e) At the National Sports Center in conjunction with an event hosted at the National Sports Center.
- (f) At Northtown Mall, as part of a food truck-oriented event.
- (g) In conjunction with a Special Event as defined under Chapter 70.

Sec. 22-742. - Prohibited activities.

No Mobile Food Truck operator shall conduct business in any of the following manner:

- (a) Calling attention to his or her business or the 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 traffic, either vehicular or pedestrian, on any street, sidewalk, alleyway, or other public right-of-way. Parking of Mobile Food Trucks shall not occur on any public right-of-way, except for events permitted under Section 22-741(c) located in a residential zoning district or events identified in Section 22-741(b).
- (c) Conducting business in a way as to create a threat to the health, safety, and welfare of any specific individual or the general public.
- (d) Conducting business before 7:00 a.m. or after 10:00 p.m.
- (e) Failing to provide proof of license, or registration, and identification when requested.
- (f) Using the registration of another person.
- (g) Alleging false or misleading statements about the products or services being sold, including untrue statements of endorsement. No Mobile Food Truck operator shall claim to have the endorsement of the city solely based on the city having issued a registration to that person.
- (h) Remaining on the property of another when requested to leave.
- (i) Otherwise operating their business in any manner that a reasonable person would find obscene, threatening, intimidating or abusive.

Sec. 22-743. - Penalty.

Any individual found in violation of any provision of this article, shall be a guilty of a misdemeanor.

(Ord. No. 21-2485, 11-15-2021—Inserted here temporarily for purposes of legal review only)

## **Chapter 26 ELECTIONS \***

~~\*Charter reference—Nominations and elections, ch. 4; initiative and referendum, ch. 5.~~

~~Cross reference—Administration, ch. 2.~~

State Law reference— Elections, Minn. Stat. chs. 200—212; municipal elections, Minn. Stat. ch. 205.

Sec. 26-1. Councilmember election wards.

Sec. 26-2. Voter registration.

Sec. 26-3. Political campaign signs.

### **Sec. 26-1. Councilmember election wards.**

Pursuant to section 2.03(a) of the city Charter, the city is divided into three wards for the election of councilmembers, pursuant to section 2.03 of the city Charter. The wards established in this section shall exist as of August 14, 2012, and candidates for the office of councilmember shall seek election at the regular city election of 2012.

*Ward No. 1:* Ward No. 1 is that part of the City of Blaine lying within its corporate limits and lying south of the following described line:

Beginning on the west corporate limits at the intersection of C.S.A.H. 51 (University Avenue) and 102nd Lane; thence east along 102nd Lane to President Drive; thence south along President Drive to Pleasure Creek Parkway West; thence southeasterly along Pleasure Creek Parkway West to Clover Leaf Parkway; thence south along Clover Leaf Parkway to 99th Avenue; thence east along 99th Avenue to T.H. 65; thence north along T.H. 65 to County Road 87 (105th Avenue); thence east along County Road 87 (105th Avenue) to C.S.A.H. 52 (Radisson Road); thence north along C.S.A.H. 52 (Radisson Road) to C.S.A.H. 12 (109th Avenue); thence east along C.S.A.H. 12 (109th Avenue) to the east corporate limits of the city, County Road 53 (Sunset Avenue); there terminating. Except: the cities of Circle Pines and Lexington.

*Ward No. 2:* Ward No. 2 is that part of the City of Blaine within its corporate limits bounded on the west by C.S.A.H. 51 (University Avenue), and within the following described line:

Beginning on the west corporate limits at the intersection of C.S.A.H. 51 (University Avenue) and 102nd Lane; thence east along 102nd Lane to President Drive; thence south along President Drive to Pleasure Creek Parkway West; thence southeasterly along Pleasure Creek Parkway West to Clover Leaf Parkway; thence south along Clover Leaf Parkway to 99th Avenue; thence east along 99th Avenue to T.H. 65; thence north along T.H. 65 to County Road 87 (105th Avenue); thence east along County Road 87 (105th Avenue) to C.S.A.H. 52 (Radisson Road); thence north along C.S.A.H. 52 (Radisson Road) to C.S.A.H. 12 (109th Avenue); thence east along C.S.A.H. 12 (109th Avenue) to C.S.A.H. 17 (Lexington Avenue); thence north along C.S.A.H. 17 (Lexington Avenue) to C.S.A.H. 14 (125th Avenue); thence west along C.S.A.H. 14 (125th Avenue) to North Lake Boulevard; thence south along North Lake Boulevard to Lakes Parkway; thence southwesterly along Lakes Parkway to C.S.A.H. 52 (Radisson Road); thence northwesterly along C.S.A.H. 52 (Radisson Road) to Cloud Drive; thence west along Cloud Drive to Radisson Road; then northwesterly along Radisson Road to 122nd Lane; thence west along 122nd Lane to Hastings Street; thence south along Hastings Street to 121st Avenue; thence west along 121st Avenue to T.H. 65; thence south along T.H. 65 to 113th Avenue; thence west along 113th Avenue to 7th Street; thence south along 7th Street to President Drive; thence south along President Drive to 111th Avenue; then west along 111th Avenue to

C.S.A.H. 51 (University Avenue); thence south along C.S.A.H. 51 (University Avenue) to Point of Beginning; and there terminating.

*Ward No. 3:* Ward No. 3 is that part of the City of Blaine lying within its corporate limits and lying north and east of the following described line:

Beginning on the west corporate limits at the intersection of C.S.A.H. 51 (University Avenue) and 111th Avenue; thence east along 111th Avenue to President Drive; thence north along President Drive to 7th Street; thence north along 7th Street to 113th Avenue; thence east along 113th Avenue to T.H. 65; thence north along T.H. 65 to 121st Avenue; thence east along 121st Avenue to Hastings Street; thence north along Hastings Street to 122nd Lane; thence east along 122nd Lane to Radisson Road; thence southeasterly along Radisson Road to Cloud Drive; thence east along Cloud Drive to C.S.A.H. 52 (Radisson Road); thence southeasterly along C.S.A.H. 52 (Radisson Road) to Lakes Parkway; thence northeasterly along Lakes Parkway to North Lake Boulevard; thence north along North Lake Boulevard to C.S.A.H. 14 (125th Avenue); thence east along C.S.A.H. 14 (125th Avenue) to C.S.A.H. 17 (Lexington Avenue); thence south along C.S.A.H. 17 (Lexington Avenue) to C.S.A.H. 12 (109th Avenue); thence east along C.S.A.H. 12 (109th Avenue) to the east corporate limits of the city, County Road 53 (Sunset Avenue); thence north along east corporate limits of the city to the north corporate limits of the city; thence west along north corporate limits of the city to the west corporate limits of the city; thence south along the west corporate limits of the city to Point of Beginning, and there terminating.

(Code 1980, § 2-7; Ord. No. 528, 4-7-1971; Ord. No. 728, 6-4-1981; Ord. No. 757, 6-14-1982; Ord. No. 86-991, 11-20-1986; Ord. No. 92-1283, § 2, 3-19-1992; Ord. No. 02-1946, 4-18-2002; Ord. No. 12-2246, 3-15-2012)

#### **Sec. 26-2. Voter registration.**

(a) *Adoption of system.* The system for the permanent registration of voters provided for by Minn. Stat. ch. 201 is hereby adopted for the city.

**State Law reference**— Voter registration system established, Minn. Stat. §§ 201.021, 201.022; state election laws to apply to municipalities, Minn. Stat. § 205.02.

(b) *Prerequisite to voting.* No person shall be permitted to vote at any election held in the city unless such person shall have registered as provided in Minn. Stat. ch. 201.

(Ord. No. 72, 3-2-1962; Code 1963, §§ 113.01, 113.02; Code 1980, §§ 2-5, 2-6)

<sup>68</sup>**Sec. 26-3. Political campaign signs.**

Political campaign signs designating candidates seeking public political office and other data pertinent thereto shall be subject to the following restrictions:

- (1) Signs shall be permitted only on private property provided that the property owner's permission has been obtained by the candidate. Signs are prohibited on public property.
- (2) At a corner of an intersection, signs are prohibited within a triangle formed by measuring 30 feet along the curbs from the point where the curbs intersect and drawing an imaginary line from curb to curb to define the triangle.
- (3) Along the street edge, away from an intersection, signs shall be placed not less than ten feet from the nearest edge of the pavement.
- (4) Where a sidewalk is installed parallel to a public street, 12 inches from the sidewalk edge farthest from the street shall be the minimum setback from the street for sign placement.
- (5) All signs are presumed to be the property and responsibility of the candidate. Each candidate shall provide to the city clerk the names and means of contacting two persons that may receive notices of violation on the candidate's behalf.

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- <sup>68</sup> **Sec. 26-3. Political campaign signs.** Under recent federal case law and the case law of some states, including but not limited to *Reed v. Town of Gilbert*, 576 U.S. 155, 135 S.Ct 2218 (2015)(sign code differentiating between ideological, political, and temporary directional signs violated free speech guarantees), and sign regulations, such as this one, that turn on the content of the sign are constitutionally suspect.
  - In addition, laws that burden political speech are “subject to strict scrutiny,” which requires the government to prove that the restriction “furthers a compelling interest and is narrowly tailored to achieve that interest.” *Federal Election Comm'n v. Wisconsin Right to Life, Inc.*, [551 U.S. 449 at 464, 127 S.Ct. 2652, 168 L.Ed.2d 329](#)
  - The city may wish to consider update of this sign regulation so that classes of signs are treated similarly, without regard to content. For instance, political signs could be grouped with other temporary signs and appropriate regulations, like those here, applied to the group as a whole without mention of the sign content.
  - Note that in many jurisdictions, reasonable limitations on political and other temporary signs have been upheld (size, shape, number, duration of display, etc.)
  - *But, see also, e.g.*, *Café Erotica v. St. Johns County*, 360 F.3d 1274 (11th Cir 2004)(ordinance limiting size of political messages to roughly 1/17 the size of commercial ones violated First Amendment by discriminating against political speech in favor of commercial speech) and similar cases.
  - Finally, this section should be moved and grouped with other sign regulations rather than placed in this elections chapter.

(6) Any candidate who fails to remove a sign placed in violation of this subsection within 48 hours after receiving notice from the city shall be guilty of a petty misdemeanor and shall be subject to the penalty contained in section 1-7 of this Code.

(7) Nothing in this section shall preclude the immediate removal of signs deemed by the city manager to be a safety hazard.

Signs placed in violation of this section are also subject to immediate removal by the city.

(Code 1980, § 2-10; Ord. No. 97-1657, 5-1-1997; Ord. No. 01-1906, 6-21-2001)

**State Law reference**— Display of noncommercial signs in a state general election year, Minn. Stat. § 211B.045.

**<sup>69</sup>Chapter 30 EMERGENCY MANAGEMENT AND EMERGENCY SERVICES \***

~~\*Cross reference—Businesses, ch. 22; fire prevention and protection, ch. 38.~~

ARTICLE I. - IN GENERAL

ARTICLE II. - EMERGENCY MANAGEMENT

ARTICLE III. - ALARM SYSTEMS

**ARTICLE I. IN GENERAL**

Secs. 30-1—30-30. Reserved.

Secs. 30-1—30-30. Reserved.

**ARTICLE II. EMERGENCY MANAGEMENT \***

~~\*Editor's note—Ord. No. 08-2165, adopted Sept. 18, 2008, amended Art. II, §§ 30-31—30-39, to read as herein set out. Former Art. II pertained to similar subject matter. See also the Code Comparative Table.~~

State Law reference— Emergency management, Minn. Stat. ch. 212; local emergencies, Minn. Stat. § 12.29.

Sec. 30-31. Policy and purpose.

Sec. 30-32. Definitions.

Sec. 30-33. Establishment of an emergency management organization.

Sec. 30-34. Powers and duties of the director.

Sec. 30-35. Local emergencies.

Sec. 30-36. Emergency regulations.

Sec. 30-37. Emergency management a governmental function.

Sec. 30-38. Participation in labor dispute or politics.

Sec. 30-39. Effective date.

Secs. 30-40—30-60. Reserved.

**Sec. 30-31. Policy and purpose.**

~~Subd. 1.~~ Because of the existing possibility of the occurrence of disasters of unprecedented size and destruction resulting from fire, flood, tornado, blizzard, destructive winds or other natural causes, or from sabotage, hostile action, or from hazardous material mishaps of catastrophic measure; and in order to insure that preparations of this city will be adequate to deal with such disasters, and generally, to provide for the common defense and to protect the public peace, health, and safety, and to preserve the lives and property of the people of this city, it is hereby found and declared to be necessary:

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

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<sup>69</sup> **Chapter 30, Emergency Management, etc.** This chapter is not styled and numbered consistently with the remainder of the code and should be corrected if the city elects to recodify.



- (b) To provide for the exercise of necessary powers during emergencies and disasters.
- (c) To provide for the rendering of mutual aid between this city and other political subdivisions of this state and of other states with respect to the carrying out of emergency preparedness functions.
- (d) To comply with the provisions of Minn. Stat., ch. 12, § 12.25, which requires that each political subdivision of Minnesota shall establish a local organization for emergency management.

(Code 1980, § 7-1; Ord. No. 08-2165, 9-18-2008)

<sup>70</sup>**Sec. 30-32. Definitions.**

The following words and phrases when used in this article shall have the meanings respectively ascribed to them in this section, except where the context otherwise requires.

**Subd. 1.** "Emergency management" means the preparation for and the carrying out of all emergency functions, other than functions for which military forces are primarily responsible, to prevent, minimize and repair injury and damage resulting from disasters, from acute shortages of energy, or from incidents occurring at nuclear power plants that pose radiological or other health hazards. These functions include, without limitation, firefighting services, police services, medical and health services, rescue, engineering, warning services, communications, radiological, chemical and other special weapons defense, evacuation of persons from stricken areas, emergency human services, emergency transportation, existing or properly assigned functions of plant protection, temporary restoration of public utility services, implementation of energy supply emergency conservation and allocation measures, and other functions related to civilian protection, together with all other activities necessary or incidental to preparing for and carrying out these functions. caused by fire, flood, tornado and other acts of nature, or from sabotage, hostile action, or from industrial hazardous material mishaps. These functions include, without limitation, fire-fighting services, police services, emergency medical services, engineering, warning services, communications, radiological, and chemical, evacuation, congregate care, emergency transportation, existing or properly assigned functions of plant protection, temporary restoration of public utility services and other functions related to civil protection, together with all other activities necessary or incidental for carrying out of the foregoing functions. Emergency management includes those activities sometimes referred to as "civil defense" functions.

**Subd. 2.** "Disaster" means a situation, which creates an immediate and serious impairment to the health and safety of any person, or a situation, which has resulted in or is likely to result in catastrophic loss to property and for which traditional sources of relief and assistance within the affected area are unable to repair or prevent the injury or loss.

**Subd. 3.** "Emergency" means an unforeseen combination of circumstances, which calls for immediate action to prevent from developing or occurring.

**Subd. 4.** "Emergency management forces" means the total personnel resources engaged in city-level emergency management functions in accordance with the provisions of this resolution or any rule or order there under. This includes personnel from city departments, authorized volunteers, and private organizations and agencies.

**Subd. 5.** "Emergency management organization" means the staff element responsible for coordinating city-level planning and preparation for disaster response. This organization provides city

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<sup>70</sup> **Sec. 30-32. Definitions.** Introductory text should be added as shown. Also, the definition of emergency management should be conformed to M.S.A. § 12.03 as shown.

liaison and coordination with federal, state, and local jurisdictions relative to disaster preparedness activities and assures implementation of federal and state program requirements.

(Code 1980, § 7-2; Ord. No. 08-2165, 9-18-2008)

**Sec. 30-33. Establishment of an emergency management organization.**

~~Subd. 1.~~ There is hereby created within the city government an emergency management organization, which shall be under the supervision and control of the city emergency management director, hereinafter called the "director". The director shall be appointed by the city manager for an indefinite term and may be removed by him at any time. The director serves at a salary determined by the city manager and shall be paid his/her necessary expenses. The director shall have direct responsibility for the organization, administration, and operation of the emergency preparedness organization, subject to the direction and control of the city manager.

(Ord. No. 08-2165, 9-18-2008)

<sup>71</sup>**Sec. 30-34. Powers and duties of the director.**

**Subd. 1.** The director, with the consent of the city manager, shall represent the city on any regional or state conference for emergency management. The director shall develop proposed mutual aid agreements with other political subdivisions of the state for reciprocal emergency management aid and assistance in an emergency too great to be dealt with unassisted and shall present such agreements to the city council for its action. Such arrangements shall be consistent with the state emergency plan.

**Subd. 2.** The director shall make studies and surveys of the manpower, industries, resources and facilities of the city as deemed necessary to determine their adequacy for emergency management and to plan for their most efficient use in time of an emergency or disaster. The director of emergency management shall establish the economic stabilization systems and measures, service staffs, boards and sub-boards required, in accordance with state and federal plans and directions subject to approval of the city manager.

**Subd. 3.** The director shall prepare a comprehensive emergency plan for the emergency preparedness of the city and shall present such plan to the city council for its approval. When the city council has approved the plan by resolution, it shall be the duty of the city manager, all city agencies and all emergency preparedness forces of the city to perform the duties and functions assigned by the plan as approved. The plan may be modified in like manner from time to time. The director shall coordinate the emergency management activities of the city to the end that they shall be consistent and fully integrated with the emergency plan of the federal government and the state and correlated with emergency plans of other political subdivisions within the state.

**Subd. 4.** In accordance with the state and Anoka County Emergency Plan, the director shall institute such training programs, public information programs and conduct practice warning alerts and emergency exercises as may be necessary to assure prompt and effective operation of the city emergency plan when a disaster occurs.

**Subd. 5.** The director shall utilize the personnel, services, equipment, supplies, and facilities of existing departments and agencies of the city to the maximum extent practicable. The officers and personnel of all such departments and agencies shall, to the maximum extent practicable, cooperate with and extend such services and facilities to the city emergency management organization and to the

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<sup>71</sup> **Sec. 30-34. Powers and duties of the director.** Unnecessary and dangling cite should be stricken.

governor upon request. The head of each department or agency, in cooperation with the director, shall be responsible for the planning and programming of such emergency activities as will involve the utilization of the facilities of the department or agency.

*Subd. 6.* The director shall, in cooperation with existing city departments and agencies affected, assist in the organizing, recruiting and training of such emergency management personnel that may be required on a volunteer basis to carry out the emergency plans of the city and state. To the extent that such emergency personnel recruited to augment a regular city department or agency for emergencies shall be assigned to such departments or agencies and shall be under the administration and control of said department or agency.

*Subd. 7.* Consistent with the state emergency services law, the director shall coordinate the activity of municipal emergency management organizations within the city and assist in establishing and conducting training programs as required to assure emergency operational capability in the several services (~~Minn. Stat., ch. 12, § 12.25~~).

*Subd. 8.* The director shall carry out all orders, rules and regulations issued by the governor with reference to emergency management.

*Subd. 9.* The director shall act as principal aide and advisor to the city official responsible for direction and control of all city emergency operations during an emergency. The director's main responsibility is to assure coordination among the operating departments, non-governmental groups, and with higher and adjacent governments.

*Subd. 10.* The director shall prepare and submit such reports on emergency preparedness activities as may be requested by the city council and city manager.

(Ord. No. 08-2165, 9-18-2008)

<sup>72</sup>**Sec. 30-35. Local emergencies.**

*Subd. 1.* Only the mayor ~~of a municipality~~ or ~~his~~ their legal successors may declare a local emergency. It shall not be continued for a period in excess of three days except by or with the consent of the ~~city council governing board of the political subdivision~~. Any order or proclamation declaring, continuing, or terminating a local emergency shall be given prompt and general publicity and shall be filed promptly by the chief of the local records-keeping agency of the subdivision.

*Subd. 2.* A declaration of a local emergency shall invoke necessary portions of the response and recovery aspects of applicable local or inter-jurisdictional disaster plans and may authorize aid and assistance thereunder.

*Subd. 3.* No jurisdictional agency or official may declare a local emergency unless expressly authorized by the agreement under which the agency functions. However, an inter-jurisdictional disaster agency shall provide aid and services in accordance with the agreement under which it functions.

(Ord. No. 08-2165, 9-18-2008)

**Sec. 30-36. Emergency regulations.**

***Subd. 1.*** Whenever necessary to meet a declared emergency or to prepare for such an emergency for which adequate regulations have not been adopted by the governor or the city council, the city council may, by resolution, promulgate regulations, consistent with applicable federal or state law or regulation,

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<sup>72</sup> **Sec. 30-35. Local emergencies.** Text is altered to make the provision local, rather than general.

respecting: the conduct of persons and the use of property during emergencies; the repair, maintenance, and safeguarding of essential public services, emergency health, fire, and safety regulation, drills, or practice periods required for preliminary training, and all other matters which are required to protect public safety, health, and welfare in declared emergencies.

*Subd. 2.* Every resolution of emergency regulations shall be in writing; shall be dated; shall refer to the particular emergency to which it pertains, if so limited, and shall be filed in the office of the city manager, which copy shall be kept posted and available for public inspection during business hours. Notice of the existence of such regulation and its availability for inspection at the manager's office shall be conspicuously posted at the front of the city hall or other headquarters of the city or at such other places in the affected area as the city council shall designate in the resolution. By like resolution, the city council may modify or rescind any such regulation.

*Subd. 3.* The city council may rescind any such regulation by resolution at any time. If not sooner rescinded, every such regulation shall expire at the end of 30 days after its effective date or at the end of the emergency to which it relates, whichever comes first. Any resolution, rule, or regulation inconsistent with an emergency regulation promulgated by the city council shall be suspended during the period of time and to the extent such conflict exists.

*#.* During a mayor declared emergency, the city manager is, notwithstanding any statutory or charter provision to the contrary, empowered, through its governing body, acting within or without the corporate limits of city, to enter into contracts and incur obligations necessary to combat such disaster by protecting the health and safety of persons and property and providing emergency assistance to the victims of such disaster.

*#.* The city may exercise such powers in the light of the exigencies of the disaster without compliance with the time consuming procedures and formalities prescribed by law pertaining to the performance of public work, entering rental equipment agreements, purchase of supplies and materials, limitations upon tax levies, and the appropriation and expenditure of public funds including, but not limited to, publication of resolutions, publication of call for bids, provisions of personnel laws and rules, provisions relating to low bids, and requirement for budgets.

(Ord. No. 08-2165, 9-18-2008)

#### **Sec. 30-37. Emergency management a governmental function.**

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

(Ord. No. 08-2165, 9-18-2008)

#### **Sec. 30-38. Participation in labor dispute or politics.**

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

(Ord. No. 08-2165, 9-18-2008)

~~<sup>73</sup>Sec. 30-39. Effective date.  
This ordinance shall take effect 30 days after publication.~~

~~(Ord. No. 08-2165, 9-18-2008)~~

**Secs. 30-40—30-60. Reserved.**

### **ARTICLE III. ALARM SYSTEMS**

Sec. 30-61. Statement of purpose.

Sec. 30-62. Definitions.

Sec. 30-63. Duties of alarm user.

Sec. 30-64. Duties of alarm company.

Sec. 30-65. Alarm regulations.

Sec. 30-66. New alarm and alarm system installations.

Sec. 30-67. Certain entities exempt.

Sec. 30-68. Suspension of police response.

Sec. 30-69. Penalties for false alarms.

Sec. 30-70. Liability to the city.

Sec. 30-71. Violations declared misdemeanor.

#### **Sec. 30-61. Statement of purpose.**

Purpose and findings. The purpose of this article is to encourage alarm users and alarm companies to maintain the operational effectiveness and reliability of alarm systems and to foster the proper use of these systems in order to reduce or eliminate unnecessary responses by the Blaine Police and Fire Departments to false alarms. Nothing herein stated should be construed as imposing or implying any duty upon the Blaine Police or Fire Departments to respond to alarm dispatch requests, as limiting the discretion of the police chief or fire chief in establishing response policies, or as waiving otherwise applicable governmental immunities. The number of false alarms to which the Blaine Police and Fire Departments now respond had reached a level which places a significant burden upon the time and resources of the city. The City Council of the City of Blaine makes the following findings regarding the need to regulate alarm systems operating within the city:

- (1) False alarm responses, by unduly diverting safety services personnel, wasting limited resources and potentially threatening the safety of police officers, fire fighters, and the public;
- (2) To promote the general safety and welfare of the citizens of Blaine;
- (3) To minimize the hazards associated with emergency response to city and fire department employees and other persons using the roadways in Blaine during the time an alarm is activated;
- (4) To control the loss of time and financial resources resulting from the response of emergency personnel to false alarms;

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<sup>73</sup> **Sec. 30-39. Effective date.** Unnecessary and obsolete provision should be stricken as shown.

- (5) To promote the installation and use of alarms and alarm systems in Blaine which are of such quality and workmanship that false alarm signals, due to inferior product design, installation and/or maintenance, are eliminated;
- (6) To promote training by alarm owners of their employees and subcontractors in the proper use of and care for their alarms so that false alarms, due to human error, are eliminated; and
- (7) To establish penalties for negligent installation of, use of, or maintenance of alarms and alarm systems.

(Ord. No. 04-2015, 5-20-2004)

**Sec. 30-62. Definitions.**

For the purposes of this article, the following terms are defined as indicated:

*Act of nature* means an alarm or alarm system activated by a utility line mishap, tornado, severe wind or electrical storm or other climatic condition shall not, for the purpose of this article, be considered a false alarm.

*Alarm or alarm system* means a single device or assembly of devices operating mechanically, electrically or by means of radio frequency method such as cellular or private radio signal indicating a need for a response by emergency personnel or services. Such signals emitted may be audible or may be transmitted to some receiving site for the purpose of notification of the need for an emergency response.

*Alarm administrator* means a person or persons designated by the safety services manager to administer and review the city's false alarm tracking and reduction efforts.

*Alarm company* means the business of any individual, partnership, corporation, or other entity involving the selling, leasing, maintaining, servicing, repairing, altering, replacing, moving, monitoring or installing any alarm system at an alarm site located within the city or causing to be sold, leased, maintained, serviced, repaired, altered, replaced, moved or installed, any alarm system in or on any building structure, facility or other alarm site located within the city. Specifically included in this definition and the provisions of this division are individuals, partnerships, corporations, or other entities performing alarm system monitoring services.

*Alarm site* means a single premise, building, structure facility or location served by an alarm system. Each tenant's space within a multi-tenant building or complex, if served by a separate system, shall be considered a separate alarm site.

*Alarm user* means the person, firm, partnership, association, corporation, company or organization of any kind, which uses or is in control of an alarm system site, regardless of whether it owns or leases the system.

*Alarm user permit* means a permit issued by the city to any owner or other person in control of a residential dwelling, building structure, property or any part thereof, located in the city who has leased, purchased or otherwise possesses an alarm system for use on any premises.

*Alarm verification process* means an independent method by which an alarm company makes a reasonable attempt to verify the legitimacy of an alarm with the alarm user or responsible party that a signal from an alarm system requires an immediate dispatch of police or fire-fighting personnel.

*Automotive alarms* means alarms or alarm systems installed in motor vehicles, including boats, snowmobiles, and similar conveyance devices are exempt from the provisions of this article.

*Calendar year* means January 1 through December 31 of each year.

*False alarm* means an alarm signal eliciting notification to and a response by police or fire personnel where the responding personnel, is unable to find any evidence that a fire, burglary or attempted burglar has occurred. Alarm or alarm system malfunction due to improper installation or maintenance, mechanical, electrical or radio frequency failure, or human error on the part of an alarm user, or an employee or agent or subcontractor of the alarm user, shall be considered a false alarm.

*Hold-up alarm* means a silent alarm signal generated by the manual activation of a device intended to signal a robbery in progress to law enforcement personnel.

*Panic alarm* means an audible or silent alarm system signal generated by the manual activation of a device intended to signal a life threatening or emergency situation requiring the dispatch of law enforcement personnel, including, but not limited to means duress and ambush alarms.

(Ord. No. 04-2015, 5-20-2004)

**Sec. 30-63. Duties of alarm user.**

**#.** Alarm users whose alarm site is located within the city shall:

- (1) Maintain the premises and alarm systems in a manner that will minimize or eliminate false alarms, including but not limited to having their security alarm system inspected by a properly licensed alarm company technician at least once every two years. Fire alarm systems shall be inspected and tested at least once every year by qualified technicians;
- (2) Maintain a current key holder list with their alarm company, monitoring station and safety services division. Failure to notify the safety services division/alarm administrator of any key holder information will be considered a violation of this ordinance;
- (3) Key holders shall respond to alarm calls;
- (4) Notify the alarm company of a false alarm activation as soon as the user is aware of the false alarm;
- (5) Not manually activate an alarm except when in need to immediately dispatch law enforcement or fire personnel to an emergency situation;
- (6) Remove any nonrequired components from the alarm system which have created ongoing false alarms;
- (7) Take immediate steps to repair equipment creating false alarms; and
- (8) Every alarm user shall be required to register each alarm system on the alarm user's premises on a form provided by the city. The form shall contain all information the city deems necessary to administer this system. In commercial or multihousing situations, it shall also include key holder information.
- (9) The registration fee for existing residential alarm systems owners shall be waived until such system produces a false alarm, at which time the resident shall pay the alarm system registration fee;
- (10) The registration fee for existing commercial alarm system owners, shall be waived for one year from the effective date of this article provided registration occurs within this year period;
- (11) New commercial and residential alarm owners shall pay the registration fee at the time of installation;
- (12) Registration fee shall be established by council resolution;
- (13) Alarm user registrations are not transferable from one person to another or from one location to another.



**Exemptions:** #. The provisions of this section are not applicable to audible alarms affixed to automobiles.

(Ord. No. 04-2015, 5-20-2004)

**Sec. 30-64. Duties of alarm company.**

Alarm companies shall:

- (1) Not install any burglary control panel, after the effective date of this article, which fails to meet Security Industry Association Standards with false alarm prevention features programmed to the factory default;
- (2) Not install an alarm system, after the effective date of this article, which does not meet the requirements of this article, applicable NFPA standards, manufactures specifications and other nationally recognized standards;
- (3) Complete an alarm verification process, as defined in section 30-62, for all single-family residential alarm signals prior to requesting a response by emergency personnel;
- (4) Complete an alarm verification process, as defined in section 30-62, for all multifamily and commercial burglary alarm signals prior to requesting a response by the emergency personnel;
- (5) Maintain a current record, available for review by the alarm administrator upon request on an individual case by case basis during regular business hours, of alarm users and sites serviced by the company that includes the names of the alarm user serviced by the company, the address of the protected properties, the type of alarm system, the original installation date and the subsequent modifications, if any for each protected property, a record of the date and the time of alarm dispatch requests to each protected property, record if the false alarms at each property with evidence of the company's attempt to verify the alarm and it's explanation of the cause of the false alarm;
- (6) Provide each of its alarm users with written operating instructions for their alarm system, including an explanation of the company's alarm verification process; a telephone number to call for assistance in operating the system; and a summary of the provision of this article relating to penalties for false alarms;
- (7) Work cooperatively with the alarm system user and the alarm administrator to determine the cause of any false alarm recurrences;
- (8) Establish a training period during the first seven days following the installation of any alarm system during which the alarm user will be trained on the proper use of the system; and
- (9) Every alarm company performing work within the City of Blaine shall be required to register with the city annually on a form provided by the city. The form shall contain all information the city deems necessary to administer this article. The alarm registration must be accompanied by a copy of the Board of Electricity Technology Systems Contractors license, bond and insurance certificate.

(Ord. No. 04-2015, 5-20-2004)

**Sec. 30-65. Alarm regulations.**

Alarm system installations within the City of Blaine shall comply with the following requirements:



- (1) Annunciator panels. When installed, burglary and fire alarm annunciator panels in other than single-family residences, shall be located at the main entrance unless otherwise approved by the authority having jurisdiction.
- (2) Audible security alarms. Audible security alarms shall emit a sound distinguishable from that of a police, fire or ambulance siren. No audible security alarm shall emit an alarm sound for a continuous period of time in excess of 15 minutes. However, once having signaled an alarm, an audible alarm or audible alarm system may, by means of a reset device, once again be armed to signal an alarm upon subsequent good cause.
- (3) When multiple calls are received at the same location within a 48-hour period and a key holder does not respond or resolve the cause of the false alarms, the police and fire departments may stop further response to the site until the false alarm problem is resolved.
- (4) Alarm equipment specifications. Except as otherwise provided herein, no alarm equipment shall be installed which is not listed in the appropriate Underwriters Laboratories, Inc., (UL) directory. All equipment shall be installed according to UL and NFPA standards or other nationally recognized standards.
- (5) No alarm or alarm system user shall use or cause to be used any device which automatically telephones directly to a public safety agency for the purpose of summoning a response from emergency personnel.
- (6) No person shall willfully and intentionally creates a false alarm, by any means.
- <sup>74</sup>(7) No device shall be installed that activates a hold-up alarm by the depression of a single-action nonrecessed button at alarm sites within the city ~~and all existing nonrecessed button alarms shall be removed on or before January 1, 2005;~~
- (8) No panic or hold-up alarm system shall be installed in residential sites that activates a silent alarm signal by alteration of the last digit of the normal arm/disarm code at alarm sites within the city ~~and shall deactivate such systems currently in existence on or before January 1, 2005;~~
- (9) No silent burglary alarm system shall be installed at alarm sites within the city ~~and shall convert existing systems into an interior audible system on or before January 1, 2005.~~

(Ord. No. 04-2015, 5-20-2004)

#### **Sec. 30-66. New alarm and alarm system installations.**

Upon the installation of a new alarm or alarm system, the alarm user may be granted a grace period of 30 days for the purpose of training necessary persons in the use of the system, and to eliminate any deficiencies or malfunctions from the system, provided the responsible party is taking immediate steps to remedy the deficiencies.

(Ord. No. 04-2015, 5-20-2004)

#### **Sec. 30-67. Certain entities exempt.**

The United States government, the State of Minnesota, the County of Anoka, and the City of Blaine are hereby exempted from the penalty provisions of this article, as set forth in section 30-69. Alarm systems to monitor temperature, carbon dioxide, humidity, medical emergencies or any other condition

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<sup>74</sup> **Sec. 30-65. Alarm regulations.** Obsolete text should be stricken as shown.

not related to the detection of fire, a criminal intrusion into an alarm site or an attempted robbery at an alarm site are specifically excluded from the provisions of this article. Alarm systems on a person are also excluded.

(Ord. No. 04-2015, 5-20-2004)

**Sec. 30-68. Suspension of police response.**

(a) *Notice of suspension of police response.* Upon the occurrence of the fourth false burglary alarm from a residential alarm site or the sixth false burglary alarm from a commercial alarm site within a calendar year, or where the alarm user is more than 120 days overdue in their payment of alarm fines, the city's alarm administrator shall serve, in person or by U.S. certified mail, the alarm user's designated contact person with written notification that effective 14 days from the date of the notice, the police department will not be responding to burglary alarm dispatch requests from that site for the remainder of the calendar year unless there is an in person call for assistance from someone at or near the premises or other independent information that verifies the need for an immediate police response.

(b) *Written appeal of suspension notice.*

(1) Within seven days from the date of the suspension notice the alarm user may file with the city's alarm administrator a written appeal of the proposed suspension of police response explaining the steps taken to correct the problem, any facts pertaining to the overdue payment of fines, the facts and circumstances of the false alarms from this alarm site and any other information relevant to the alarm administrator's proposed suspension of police response.

(2) Within five days of the alarm administrator's receipt of the written appeal and after reviewing the city's files for the alarm site, alarm user and alarm company and all of the submissions of the alarm user, the alarm administrator shall issue a decision to confirm, suspend or rescind the suspension notice and serve a written copy thereof on the alarm user's contact person by mail.

(c) *Suspension of police response.* Where an alarm user has failed to properly file a timely appeal of a notice to suspend or where the alarm administrator has issued a decision confirming a notice to suspend, the police department in determining whether to make an immediate police dispatch in response to notification of a signal from that alarm user's alarm system, may disregard that burglary alarm dispatch request when the alarm signal is the only basis for making the dispatch request. Where there is, in addition to the alarm dispatch request, an in-person call, verification from a person at or near the premises or other independent evidence shows a need for police dispatch to the alarm site, police may consider the suspension of police response as an additional factor in the decision to order an immediate response.

(Ord. No. 04-2015, 5-20-2004)

**Sec. 30-69. Penalties for false alarms.**

The following are established for repeat false alarms:

(1) Fire alarms:

a. For the fourth false alarm in a calendar year, the penalty shall be established by council resolution.

b. For each successive false fire alarm in addition to four in a calendar year, the penalty shall be established by council resolution for each successive fire alarm.

(2) Other alarms:

- a. For the fourth, fifth, and sixth false alarm in a calendar year requiring police, the penalty shall be established by council resolution.
- b. For the seventh false alarm and each succeeding false alarm thereafter in a calendar year, the penalty shall be an additional amount established by council resolution per false alarm.
- c. For the second and subsequent false panic or hold up alarms the penalty shall be established by the city council.

- (3) False alarm penalties will be billed to the alarm user on a 30-day billing schedule, and payment must be made to the city finance department within 30 days of the billing date. Penalties not paid to the city within 30 days of the billing date will be considered delinquent, and subject to a ten-percent late payment fee. Penalties and late fees not paid to the city finance department within 90 days of the billing date may be certified to the city clerk of Anoka County for collection in the same manner that audible alarm taxes are collected relating to the subject property.

(Ord. No. 04-2015, 5-20-2004)

**Sec. 30-70. Liability to the city.**

The regulation of alarms and alarm systems, along with the attendant response to alarm signals emitted shall not constitute acceptance by the city of liability to maintain equipment, to answer alarms, or to respond to alarms in any particular manner.

(Ord. No. 04-2015, 5-20-2004)

**Sec. 30-71. Violations declared misdemeanor.**

Any violation of any provision of this article shall be a misdemeanor.

(Ord. No. 04-2015, 5-20-2004)

<sup>75</sup>**Chapter 34 ENVIRONMENT \***

~~\*Cross reference—Animals, ch. 14; rabies control, § 14-101 et seq.; buildings and building regulations, ch. 18; health and sanitation, ch. 42; manufactured homes and trailers, ch. 46; parks and recreation, ch. 54; solid waste, ch. 62; streets, sidewalks and other public places, ch. 70; subdivisions, ch. 74; utilities, ch. 86; vegetation, ch. 90.~~

ARTICLE I. - IN GENERAL

ARTICLE II. - PUBLIC NUISANCES

ARTICLE III. - BLOWING SAND, DUST AND TOPSOIL

ARTICLE IV. - COMPOSTING

ARTICLE V. - EARTH REMOVAL AND LAND RECLAMATION

ARTICLE VI. - HAZARDOUS WASTE TREATMENT FACILITIES

ARTICLE VII. - INDIVIDUAL SUBSURFACE SEWAGE TREATMENT SYSTEMS

ARTICLE VIII. - PROPERTY MAINTENANCE

ARTICLE IX. - JUNK AND MOTOR VEHICLE SALVAGE FACILITIES AND/OR JUNKYARDS

ARTICLE X. - WOOD STORAGE

ARTICLE XI. - STORMWATER MANAGEMENT

**ARTICLE I. IN GENERAL**

Sec. 34-1. Underground storage tanks for heating fuel oil.

Secs. 34-2—34-30. Reserved.

**Sec. 34-1. Underground storage tanks for heating fuel oil.**

- (a) Underground storage tanks utilized for the storage of heating fuel oil must meet all applicable regulations of the Minnesota Uniform Fire Code and the state pollution control agency, as well as the requirements of this section.
- (b) Soil samples and tests for pollution shall be required for all heating fuel oil tank removals as visual inspection indicates.

(Code 1980, § 6-56; Ord. No. 90-1234, 11-1-1990)

~~Cross reference—Heating, ventilating, air conditioning, § 18-161 et seq.~~

Secs. 34-2—34-30. Reserved.

**ARTICLE II. PUBLIC NUISANCES**

Sec. 34-31. Adoption of statutes.

Sec. 34-32. Abatement.

Secs. 34-33—34-60. Reserved.

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<sup>75</sup> **Chapter 34, Environment.** Permits and licenses under this chapter that are issued or denied by city staff should be accompanied by an avenue of appeal of staff decisions to avoid delegation of authority issues.

<sup>76</sup>**Sec. 34-31. Public nuisances generally** ~~Adoption of statutes.~~

(a) Whoever by an 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:

- (1) 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; or
- (2) interferes with, obstructs, or renders dangerous for passage, any public highway or right-of-way, or waters used by the public; or
- (3) is guilty of any other act or omission declared by law to be a public nuisance and for which no sentence is specifically provided.

(b) Whoever having control of real property permits it to be used to maintain a public nuisance or lets the same knowing it will be so used is guilty of a misdemeanor.

(c) Except as otherwise provided in this Code, nuisances shall be abated and costs collected as provided in the state statutes.

~~For the purpose of defining and prohibiting public nuisances, there are hereby adopted Minn. Stat. §§ 609.74 and 609.745; and the same are incorporated by reference as fully as if set out at length in this section. The city clerk shall have on file one copy for the use of the public.~~

(Code 1980, § 11-2)

**State Law reference**—~~Adoption by reference, Minn. Stat. § 471.62.~~

**Sec. 34-32. Abatement.**

~~Except as otherwise provided in this Code, nuisances shall be abated and costs collected as provided in the state statutes.~~

~~(Code 1980, § 11-3)~~

**Secs. 34-33—34-60. Reserved.**

<sup>77</sup>**ARTICLE III. BLOWING SAND, DUST AND TOPSOIL**

Sec. 34-61. Declared nuisance.

Sec. 34-62. Notice to abate.

Sec. 34-63. Failure to comply constitutes misdemeanor.

Secs. 34-64—34-90. Reserved.

**Sec. 34-61. Declared nuisance.**

It is hereby determined that the blowing of sand, dust or topsoil upon residential properties is a public nuisance.

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<sup>76</sup> **Art II, Public Nuisances.** The two sections in this article (this section and 34-32) should be combined and placed in article I, which will eliminate one article. Also, I suggest that the language of the statutes be inserted rather than adopted by reference, as shown.

<sup>77</sup> **Art III, Blowing Sand etc.** This article, too, should be reduced to a single section placed in article I.

(Code 1963, § 86A.01; Code 1980, § 6-25; Ord. No. 287, 7-9-1972)

**Sec. 34-62. Notice to abate.**

The building official is empowered to notify the owner, lessee, or agent of any land in the city from which sand, topsoil or dust is blowing upon adjacent residential property so as to seriously affect the enjoyment of the residence of the adjacent property owner, that such premises be seeded, harrowed, or any method be employed reasonably necessary to abate the blowing of the sand, dust or topsoil. The notice to the property owner shall be served personally upon the owner, lessee or agent. The notice shall state the requirements which the city manager deems reasonably necessary to abate the blowing of sand, dust or topsoil. The owner, lessee or agent shall comply with such requirements stated in the notice within ten days of receipt of such notice.

(Code 1963, § 86A.02; Code 1980, § 6-26; Ord. No. 287, 7-9-1972)

**Sec. 34-63. Failure to comply constitutes misdemeanor.**

Any owner, lessee or agent who fails to comply with the requirements after due notice as provided in section 34-62 shall be guilty of a misdemeanor.

(Code 1963, § 86A.03; Code 1980, § 6-27; Ord. No. 287, 7-9-1972)

**Secs. 34-64—34-90. Reserved.**

**ARTICLE IV. COMPOSTING**

**Sec. 34-91. Definitions.**

**Sec. 34-92. Intent of article.**

**Sec. 34-93. Penalty for violation of article.**

**Sec. 34-94. Declaration of nuisance.**

**Sec. 34-95. Regulation.**

**Secs. 34-96—34-130. Reserved.**

**Sec. 34-91. Definitions.**

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

*Compost* means a mixture of decayed organic matter.

*Composting* means any aboveground microbial process that converts organic matter to a soil amendment or mulch by decomposition of material through an aerobic process furnished adequate oxygen and moisture.

*Yard waste* means compostable, organic material consisting of grass clippings and leaves but excluding hedge trimmings and tree limbs.

(Code 1980, § 11-61; Ord. No. 92-1301, 7-16-1992)

~~Cross-reference—Definitions generally, § 1-2.~~

**Sec. 34-92. Intent of article.**

The intent of this article is to promote the health, safety and welfare of the community by regulating the home composting of food and yard waste. Food and yard waste that is not properly composted may create a nuisance to the community through odor and appearance, and be detrimental to nearby property or property values, and may constitute a public health and safety issue by attracting vermin.

(Code 1980, § 11-60; Ord. No. 92-1301, 7-16-1992)

**Sec. 34-93. Penalty for violation of article.**

Any person in violation of any of the provisions in this article shall be guilty of a misdemeanor. Each day on which such violation continues shall constitute a separate offense.

(Code 1980, § 11-64; Ord. No. 92-1301, 7-16-1992)

**Sec. 34-94. Declaration of nuisance.**

Compost material stored or processed in violation of this article is declared to be public nuisance and shall be removed in accordance with the provisions of the applicable ordinances and state law.

(Code 1980, § 11-63; Ord. No. 92-1301, 7-16-1992)

**Sec. 34-95. Regulation.**

Composting is permitted only in residential properties up to four dwelling units, provided that all of the following conditions are met:

- (1) *Permitted composting materials.* Only yard waste, small shrub trimmings or twigs (one-quarter inch diameter maximum), straw, fruit and vegetable scraps, coffee grounds, egg shells generated from the site on which the composting is located. In addition, commercially available composting ingredients can be placed in a composting container.
- (2) *Prohibited materials.* The following materials shall not be placed in the composting container: meat, bones, fat oils, whole eggs, dairy products, unshredded branches or logs, plastics, synthetic fibers, human or pet wastes, diseased plants, and any other garbage or refuse except for those permitted above in subsection (1) of this section.
- (3) *Composting structure.* All composting materials must be contained in a bin which may be constructed of wood, wire mesh, a combination of wood and wire or commercially fabricated compost bins designed to contain composting materials.
- (4) *Composting container size.* Composting shall be conducted within an enclosed container not to exceed a total of 100 cubic feet (for example, five feet × five feet × four feet in volume for those lots less than 10,000 square feet. For those lots greater than 10,000 square feet, a total of 150 cubic feet in volume will be allowed. The maximum height of the composting container shall be five feet.
- (5) *Composting container location.* Composting containers shall be located at least five feet from the property line and shall be entirely contained within the rear yard.
- (6) *Maintenance.* All composting operations shall be maintained in such a manner not to create a nuisance to the community. This shall include appropriately frequent watering and turning of the compost pile.

(Code 1980, § 11-62; Ord. No. 92-1301, 7-16-1992)

**Secs. 34-96—34-130. Reserved.**

## **ARTICLE V. EARTH REMOVAL AND LAND RECLAMATION**

DIVISION 1. - GENERALLY

DIVISION 2. - PERMIT

### ***DIVISION 1. GENERALLY***

[Sec. 34-131. Violations.](#)

[Sec. 34-132. Exclusions.](#)

[Secs. 34-133—34-150. Reserved.](#)

#### **Sec. 34-131. Violations.**

Any person who shall refuse, neglect or fail to comply with any provision or requirement of this article as promptly as the same can be reasonably done, shall be guilty of a misdemeanor. Violations of this article shall be considered grounds for revocation of the earth removal or land reclamation permit. The failure to comply with permit requirements, after notice, and/or the continuing excavation, removal, storage, or filling of rock, sand, dirt, gravel, clay or other like materials on the premises shall be considered a public nuisance and may be abated as provided by state statutes.

(Code 1980, § 6-105; Ord. No. 90-1190, 4-19-1990)

#### **Sec. 34-132. Exclusions.**

This article shall not apply to:

- (1) The excavation, removal, storage, or placement of rock, sand, dirt, gravel, clay, or other like material for any construction for which a building permit has been issued or a development contract signed.
- (2) Such excavation, removal, storage, or placement of rock, sand, dirt, gravel, clay, or other like material as may be required by the state, county, or city authorities within their acquired rights-of-way in connection with the construction or maintenance of roads and highways. The term "rights-of-way" as used in this article shall not include isolated parcels used exclusively for borrow pits.

(Code 1980, § 6-100; Ord. No. 90-1190, 4-19-1990)

**Secs. 34-133—34-150. Reserved.**

### ***DIVISION 2. PERMIT***

[Sec. 34-151. Required.](#)

[Sec. 34-152. Application; fee.](#)

[Sec. 34-153. Conditions for issuance.](#)

[Sec. 34-154. To contain conditions.](#)

[Sec. 34-155. Conditions which may be required.](#)



[Secs. 34-156—34-190. Reserved.](#)

**Sec. 34-151. Required.**

- (a) Earth removal, land reclamation, material storage or filling, shall be permitted in all zoning districts, on any lot or parcel except that it shall be unlawful for any person to remove, store, excavate, or place as fill any rock, sand, dirt, gravel, clay, or other like material within the city, in excess of 100 cubic yards without first having applied for and having obtained a permit from the city. When 5,000 or more cubic yards of material is to be removed or deposited on any lot or parcel, a conditional use permit shall be required.
- (b) The inclusion of an earth removal and land reclamation permit process in the city ordinance does not automatically imply an applicant's entitlement to issuance of a permit. The city may refuse to issue a permit if in the opinion of the city the application is not in the best interests of the city.

(Code 1980, § 6-101; Ord. No. 90-1190, 4-19-1990)

**Sec. 34-152. Application; fee.**

- (a) The application for the permit shall be made in writing to the city manager in such form as the city manager may designate, and shall include such information as may be required by the city manager and shall contain among other things a map or plat of the proposed pit, excavation, or fill area showing the confines or limits thereof together with the proposed finished elevations based on sea level readings. The plan shall also include erosion control measures, final restoration improvements and other features as required by the city.
- (b) Each application shall be filed with the city manager.
- (c) Each application for permit shall be accompanied by a fee.

(Code 1980, § 6-102; Ord. No. 90-1190, 4-19-1990)

**Sec. 34-153. Conditions for issuance.**

Permits required by the provisions of this article shall be issued upon a showing of compliance with all applicable state statutes, state rules and city ordinances and upon a further showing that public health and public safety will not be endangered thereby.

**Sec. 34-154. To contain conditions.**

The permit to be issued shall designate all of the conditions permitted and required under section 34-152.

(Code 1980, § 6-103; Ord. No. 90-1190, 4-19-1990)

**Sec. 34-155. Conditions which may be required.**

The city manager or city council, as a prerequisite to the granting of a permit, may require the applicant or the owner of the premises to incorporate and attach any conditions or restrictions that it deems necessary for the preservation of health, welfare, and safety of the citizens including, but not limited to, the following:

- (1) Properly fence any pit or excavation, and barricade entrances to prevent the general public from depositing garbage or refuse.

- (2) Slope the banks, and otherwise guard and keep any pit or excavation in such condition as not to be dangerous because of sliding or caving banks.
- (3) Properly drain, fill, or level off any pit or excavation so as to make the same safe and healthful as the permitting authority may determine.
- (4) Limit the depth of such excavation to an elevation no lower than the minimum floor elevation for building construction as established by the city engineer, so as not to diminish development potential of the parcel.
- (5) Limit any fill material to clean fill, defined as rock, sand, gravel, clay, or other like and similar nondecomposable material. Concrete, asphalt, metal, wood, and other debris shall be prohibited.
- (6) Require that all decomposable material, or other unsuitable foundation material, be removed from an area before deposition of fill begins.
- (7) Prepare site plan showing existing and proposed grade elevations and effect of stormwater drainage on adjacent areas.
- (8) Specify a time when the excavation or land reclamation project shall be completed.
- (9) Place a minimum of four inches of topsoil over the completed project and establish appropriate ground cover within 14 days of completion.
- (10) Reimburse the city for the cost of periodic inspections by the city for the purpose of determining that the terms under which the permit has been issued are being complied with.
- (11) In addition to a conditional use permit, permits in excess of 25,000 cubic yards may require the applicant to conduct a neighborhood meeting and to notify affected property owners within one quarter of a mile.
- (12) Post a surety bond, in such form and sum as the permitting authority may require, running to the city, conditioned to pay the city the cost and expense of repairing or cleaning any highways, streets, or other public ways within the city made necessary by the special burden resulting from transporting thereon by the applicant material to or from the site, the amount of such cost to be determined by the council; and conditioned further to comply with all the requirements of this article and the particular permit, and to save the city free and harmless from all suits or claims for damages resulting from the negligent excavation, removal, storage, or filling of rock, sand, dirt, gravel, clay or other like material within the city.
- (13) Other conditions deemed appropriate to the application by the permitting authority.

(Code 1980, § 6-104; Ord. No. 90-1190, 4-19-1990; Ord. No. 10-2205, 5-20-2010)

**Secs. 34-156—34-190. Reserved.**

## **ARTICLE VI. HAZARDOUS WASTE TREATMENT FACILITIES**

[Sec. 34-191. Definitions.](#)

[Sec. 34-192. Intent of article.](#)

[Sec. 34-193. Purpose of article.](#)

[Sec. 34-194. Conditional use permit requirements and approval criteria.](#)

[Sec. 34-195. Conditional use permit application procedures.](#)

Sec. 34-196. Changes in plans.

Sec. 34-197. Time limitations.

Sec. 34-198. Standards.

Sec. 34-199. Recordkeeping.

Sec. 34-200. Preliminary plans required.

Sec. 34-201. Final plans required.

Sec. 34-202. Inspections.

Sec. 34-203. Requirements of compliance orders.

Sec. 34-204. Monitoring analysis and testing.

Sec. 34-205. Notice of spills, leaks, explosions, fires or accidents.

Sec. 34-206. General findings.

Secs. 34-207—34-240. Reserved.

#### **Sec. 34-191. Definitions.**

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

*Disposal* means the discharge, deposit, injection, dumping, spilling, leaking or placing of any waste into or on any land or water so that the waste or any constituent thereof may enter the environment or be emitted into the air, or discharged into any waters, including groundwaters.

*Hazardous waste* means any hazardous waste as defined in Minn. Stat. § 116.06, subd. 11, and any substance identified as a hazardous waste pursuant to rules adopted by the state pollution control agency under Minn. Stat. § 116.07; and any hazardous waste as defined in the Resource Conservation and Recovery Act, under 42 USC 6903, which is listed or has the characteristics identified under 42 USC 6921, not including any hazardous waste the regulation of which has been suspended by act of Congress.

*Hazardous waste generation* means the act or process of producing hazardous waste.

*Hazardous waste management* means the systematic control of the collection, source separation, storage, transportation, processing, treatment and disposal of hazardous waste.

*Manifest* means the form used for identifying the quantity, composition and origin, routing and destination of hazardous waste during its transportation from the point of generation to the point of disposal, treatment or storage.

*Sludge* means any solid, semisolid or liquid waste generated from a municipal, commercial or industrial waste water treatment plant, water supply treatment plant, or air pollution control facility or any other such waste having similar characteristics and effects.

<sup>78</sup>*Solid waste* means garbage, refuse, sludge from a water supply treatment plant or air contaminant treatment facility, and other discarded waste materials resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include hazardous waste; animal waste used as fertilizer; earthen fill, boulders, rock; sewage sludge; solid or dissolved material in domestic sewage or other common pollutants in water resources, such as silt, dissolved or suspended

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<sup>78</sup> **Sec. 34-191. Definitions.** Citation should be completed as shown.

solids in industrial waste water effluents or discharges which are point sources subject to permits under section 402 of the Federal Water Pollution Control Act, as amended, dissolved materials in irrigation return flows; or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, [42 USC § 2011 et seq.](#), as amended.

*Storage* means, when used in connection with hazardous waste, the containment within a building of hazardous waste, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of such hazardous waste.

*Treatment* means, when used in connection with hazardous waste, any method, technique or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize such waste or so as to render such waste nonhazardous, safer for transport, amenable for recovery, amenable for storage, or reduced in volume. Such term includes any activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it nonhazardous.

(Code 1980, § 10-72; Ord. No. 765, 10-21-1982; Ord. No. 91-1273, 1-9-1992)

~~Cross-reference—Definitions generally, § 1-2.~~

#### **Sec. 34-192. Intent of article.**

Millions of gallons and thousands of cubic feet of hazardous waste are handled in the metropolitan area each year. In order to protect the environment and quality of life, these materials must be disposed of in a safe and proper manner. If the city is selected as a site for a hazardous waste facility, it is incumbent upon the city to ensure proper management of these materials. Therefore, the purposes of this article are to ensure that:

- (1) Hazardous waste facilities are sited in a manner consistent with the public health, safety and welfare;
- (2) The risks to adjoining properties and the community, in general, are minimized to the greatest extent reasonably possible; and
- (3) The decisions with regards to the siting of hazardous waste facilities are made in an objective fashion.

(Code 1980, § 10-70; Ord. No. 765, 10-21-1982)

#### **Sec. 34-193. Purpose of article.**

For the purposes of this article, a hazardous waste facility shall be a building, structure or use of land devoted, or intended to be devoted, primarily for changing by any method, technique or process, including neutralization, the physical, chemical or biological character of any waste material, so as to neutralize such material or render it nonhazardous, safer for transport, amenable for recovery, storage or reduced in bulk. Any facility must be an intermediate phase in the treatment of hazardous waste, and after the waste has been treated, it shall be transported from this site. However, under no circumstances are the following allowed:

- (1) A facility which manufactures hazardous materials from components of nonhazardous materials;
- (2) A disposal facility, as defined in Minn. Stat. § 115A.03;
- (3) No outside storage of hazardous waste at any time; and

- (4) A facility for the treatment of hazardous waste which is clearly subordinate, incidental and related to the principal structure, building or use of land, and is located on the same lot as the principal structure, building or use.

(Code 1980, § 10-71; Ord. No. 765, 10-21-1982)

**Sec. 34-194. Conditional use permit requirements and approval criteria.**

Hazardous waste facilities may be permitted only as a conditional use within the heavy industrial zoning district, and shall be subject to all appropriate provisions of this article and approved only if consistent with all of the following objectives:

- (1) The proposed hazardous waste facility is developed and operated in accordance with all applicable local, state and federal laws, rules and regulations.
- (2) The hazardous waste facility is developed and operated in such a manner so as to minimize the possibility of groundwater pollution to the greatest extent possible in order to maintain the chemical, physical and biological integrity of the nation's waters, in order to achieve and maintain a level of water quality which provides for the protection and propagation of fish, shellfish, wildlife, plant life and for recreation in and on the water.
- (3) The proposed hazardous waste facility is developed and operated in such a manner so as to minimize air pollution to the greatest extent possible.
- (4) The proposed hazardous waste facility is located no closer than 1,500 feet of any HUD floodplain, shoreland, wetland, body of water, or groundwater recharge area or aquifer, in order to protect potential drinking water sources.
- (5) Sufficient safeguards against spills, fires, and explosions are established to protect the public health, safety and welfare to the greatest extent possible.
- (6) The proposed site for hazardous waste facilities is developed in such a way so as to provide for opaque screening and landscaping to minimize the negative visual impacts from such a facility on any adjacent property.
- (7) The proposal is consistent with all applicable codes and regulations of this Code and the zoning ordinance.
- (8) The proposal is consistent with the comprehensive plan.

(Code 1980 § 10-73; Ord. No. 765, 10-21-1982; Ord. No. 91-1273, 1-9-1992)

**Sec. 34-195. Conditional use permit application procedures.**

- (a) Prior to the submittal of a conditional use permit application, the developers or owners of the proposed facility shall meet with the zoning administrator to review all applicable ordinances, regulations and future plans for the area adjacent to the property being developed.
- (b) The developers or owners of the proposed facility shall prepare preliminary drawings in accordance with the regulations of section 34-200 and submit the same to the zoning administrator, 60 days prior to the public hearing.
- (c) Upon staff approval of the application for hazardous waste facilities, the application will be scheduled for review by the administrative review committee.

- (d) The application for the conditional use permit will then be scheduled for a public hearing before the planning commission.
- (e) The notice for public hearing shall be published in the official newspaper at least ten days, but not more than 20 days, prior to the public hearing, at which time the item will be heard. Notices will also be sent during this time period to property owners within 1,000 feet of the subject property.
- (f) The planning commission shall hold a public hearing on the proposed conditional use permit. Following the public hearing, the planning commission shall, within 90 days, submit in writing, to the city council, its report, its findings, and its recommendation as to the appropriateness of the proposed development, and shall recommend approval, modifications, postponement or disapproval, based upon the criteria set forth in sections 34-194 and 34-206.
- (g) The application for the conditional use permit shall be scheduled for a city council meeting.
- (h) The city council shall consider the application pursuant to sections 34-194 and 34-206 and shall approve, disapprove, postpone or modify the proposal.
- (i) After city council approval of the application for a conditional use permit and the approval of the preliminary plans, the owners or developers shall file final plans with the planning and economic development department. The final plans shall be processed in the same manner as the conditional use permit and preliminary plans. A certified copy of the conditional use permit shall be recorded in the office of the county recorder or registrar of titles, pursuant to Minn. Stat. § 462.3595, subd. 4.
- (j) Should the city council disapprove the application for a special use permit and preliminary plans, the owners or developers may prepare another preliminary plan and resubmit to the zoning administrator.

(Code 1980, § 10-74; Ord. No. 765, 10-21-1982; Ord. No. 91-1273, 1-9-1992)

**Sec. 34-196. Changes in plans.**

- (a) *Major changes.* If the applicant proposes major changes in the final site plan that are inconsistent with the preliminary site plan, these changes can only be made by resubmission of a new preliminary site plan and new conditional use permit application to the zoning administrator and rescheduling of a new public hearing before the planning commission, and reviewal again by the city council. The following constitute major changes:
  - (1) Increase in the size of the proposed structure or development;
  - (2) Change in architectural design or style;
  - (3) Increase in the height of the building;
  - (4) A major modification to the landscape plan;
  - (5) A significant reduction in proposed open space and buffering;
  - (6) A change in the development schedule;
  - (7) Change in road location or standards; and
  - (8) Other changes as determined to be major by the city council.
- (b) *Minor changes.* The city council may, in its discretion, permit minor deviations from the preliminary site plan, which do not change the concept or intent of the proposed development as previously approved.

(Code 1980, § 10-75; Ord. No. 765, 10-21-1982; Ord. No. 91-1273, 1-9-1992)

**Sec. 34-197. Time limitations.**

If final approval is not granted within a six-month period from the time of the approval of the conditional use permit application and preliminary plans, the proposal shall be declared null and void and the applicant will have to refile a preliminary plan and conditional use permit application with the zoning administrator.

(Code 1980, § 10-76; Ord. No. 765, 10-21-1982; Ord. No. 91-1273, 1-9-1992)

**Sec. 34-198. Standards.**

- (a) *Zoning.* The property must be zoned I-2, heavy industrial district.
- (b) *Setbacks.* Minimum setbacks from property line, major roads, and other buildings, shall be 200 feet. Minimum setbacks from any residential structure shall be one-half mile.
- (c) *Lot size; lot coverage; building height.* Minimum lot size shall be ten acres; maximum lot coverage shall be 25 percent; maximum area for parking shall be 25 percent; maximum building height shall be 40 feet; building materials shall be concrete, wood, or brick; and no metal buildings shall be allowed.
- (d) *Landscape area.* Minimum landscape area shall be 50 percent.
- (e) *Screening.* The entire site shall be opaquely screened so that the building or parking or storage areas cannot be seen from a public street.
- (f) *Minimum plant sizes.* Shade trees shall be 3½-inch caliber; small trees shall be three-inch caliber; flowering trees shall be three-inch caliber; shrubs shall be three feet in height; and coniferous trees shall be 12 to 15 feet in height.
- (g) *Water migration; ponding.* No migration of water overland shall be permitted beyond the property lines. All ponding of water shall be contained on the site and provisions made to contain all water runoff outside or inside of the facility, and shall not be discharged into the municipal sanitary sewer system or any stormwater system or ditch.
- (h) *Parking areas.* Concrete curb shall be required along all parking areas. All parking areas shall be concrete surfaces.
- (i) *Storage.* No outdoor storage shall be permitted.

(Code 1980, § 10-77; Ord. No. 765, 10-21-1982)

**Sec. 34-199. Recordkeeping.**

The operators of the hazardous waste facility shall maintain records of all hazardous waste identified or listed which is treated, disposed or stored, and the manner in which such waste are to be treated, stored or disposed of. The operators of the facility shall submit a quarterly report to the city council, identifying the treatment, storage or disposal of all such waste received by the facility.

(Code 1980, § 10-78; Ord. No. 765, 10-21-1982)

**Sec. 34-200. Preliminary plans required.**

- (a) *Maps.* The applicant shall submit maps of the area within one-half mile of the exterior property lines of the proposed site, and including the proposed site, which show:
- (1) All dwelling units, other principal buildings and structures and streets;
  - (2) All significant topographical features;
  - (3) All surface water;
  - (4) Wetlands;
  - (5) All sanitary sewer systems;
  - (6) All stormwater management systems; and
  - (7) All wells.
- (b) *Engineering certification.* The applicant shall submit an engineering certification for the proposed site and the area within one-half mile of the proposed site concerning the following factors:
- (1) Depth to seasonally high water table;
  - (2) Soil drainage, composition, thickness in permeability;
  - (3) Flooding, groundwater recharge areas, aquifers and floodplains;
  - (4) Depth to bedrock; and
  - (5) Prevailing wind conditions.
- (c) *State and county certification.* The applicant shall submit certification from the state pollution control agency, county health board, Metropolitan Council, state environmental quality board, state waste management board, and the Environmental Protection Agency that the use for the proposed site is in compliance with the appropriate local, state and federal laws, rules and regulations governing air quality standards, water quality standards, and wastewater standards.
- (d) *Narrative.* The applicant shall submit a narrative explaining the estimated composition, quantities and concentrations of any hazardous waste identified or listed by this article, or combinations of any such hazardous waste and any other solid waste, proposed to be disposed of, treated, transported, and the time, frequency or rate of which such waste is proposed to be disposed of, treated, transported or stored.
- (e) *Preliminary site plan.* The preliminary site plan shall be drawn at a scale of one inch equals 50 feet. The submission may be composed of one or more sheets and drawings and shall include:
- (1) Location of all proposed buildings and their proposed uses;
  - (2) Location of driveway and parking areas;
  - (3) Front, rear and side yard setbacks;
  - (4) Square footage and dimensions of all proposed buildings; and
  - (5) Location of all easements width and purpose.
- (f) *Landscape plan.* The landscape plan shall be drawn at a scale of one inch equals 50 feet and shall contain the following information:
- (1) Areas for berming, sodding and screening;



- (2) Location of proposed plantings, identifying materials as shade tree, flowering tree, coniferous tree or shrubs;
  - (3) Location of any existing vegetation; and
  - (4) Location of any trees to be removed.
- (g) *Grading and drainage plan.* A grading and drainage plan shall be drawn at a scale of one inch equals 100 feet and shall contain the following information:
- (1) Existing and proposed grades with a minimum of two-foot contour intervals to a known sea level datum;
  - (2) Spot elevations on all proposed hard surface areas;
  - (3) Estimated runoff of the area based upon ten-year and 100-year storms;
  - (4) Location of proposed ponding areas indicating the size and depth of the pond, and amount of acre feet of water to be stored; and
  - (5) Finish floor elevations of all buildings.
- (h) *Floor plans and elevations.* All floor plans and elevations shall be drawn to a legible scale and include the following information:
- (1) Floor plans indicating square footage and dimension of all proposed rooms and areas within the structure, identifying the proposed uses for each room; and
  - (2) Elevations of the proposed building, identifying exterior treatment such as materials to be used and the color of the paint.

(Code 1980, § 10-79; Ord. No. 765, 10-21-1982; Ord. No. 91-1273, 1-9-1992)

**Sec. 34-201. Final plans required.**

- (a) *Final site plan.* A final site plan shall be prepared at a scale of one inch equals 50 feet and shall contain the following information:
- (1) Location of proposed buildings;
  - (2) Location of proposed driveways and parking areas;
  - (3) Front, rear, and side yard setbacks; and
  - (4) Square footage of all proposed buildings.
- (b) *Final landscape plan.* A final landscape plan shall be drawn at a scale of one inch equals 50 feet and shall contain the following:
- (1) Plant types (botanical and common names), number, location, size, and method of installation;
  - (2) Areas to be sodded;
  - (3) Location of existing vegetation;
  - (4) Location of trees to be removed.
- (c) *Final grading and drainage plan.* A final grading and drainage plan shall be drawn at a scale of one inch equals 100 feet and shall contain the following information:

- (1) Existing and proposed grades with a minimum of two-foot contour intervals to a known sea level datum;
  - (2) Sufficient spot elevations on all proposed hard surface areas;
  - (3) Estimated runoff of the area based upon ten-year and 100-year storms;
  - (4) Location of any proposed ponding areas, indicating the size and depth of the pond and amount of acre feet of water to be stored;
  - (5) Finish floor elevations of all buildings; and
  - (6) Identify soils by type and location, including identification of the water table, and suitability of soil for the proposed development.
- (d) *Final floor plans.* Final floor plans, construction drawings and elevations shall be drawn to a legible scale and shall include the following information:
- (1) Plans indicating square footage, dimension, and uses of all proposed areas within the building; and
  - (2) Elevations of the proposed building, identifying exterior treatment, such as materials to be used and the color of the paint.

(Code 1980, § 10-80; Ord. No. 765, 10-21-1982)

**Sec. 34-202. Inspections.**

For the purpose of enforcing the provisions of this article, any person who generates, stores, treats, transports, disposes of, or otherwise handles or has handled hazardous waste, shall furnish information relating to such waste upon request of the following persons: city building official; zoning administrator; police chief; city manager; or the fire chief. Such persons at all reasonable times shall have access to and the right to copy all records relating to such waste.

- (1) Any duly authorized city personnel shall be allowed at any reasonable time to enter any establishment or other place where hazardous wastes are or have been stored, treated, or transported from.
- (2) Any duly authorized city personnel shall be allowed to inspect and obtain samples from any person of any such waste and samples of any containers or labeling for such containers.
- (3) Any duly authorized city personnel can at any time, without prior consent, inspect the site for the possibility of any leakage, spills or violations of any local, state or federal law, rules or regulations.
- (4) Any records, reports, or information obtained by the city shall be made available to the public.
- (5) The existence of any violation of local, state or federal laws, rules or regulations shall require the closing of such facility until it has been determined by public hearing the reasons for such violations and the identification and implementation of additional safeguards to prevent future violations.

(Code 1980, § 10-81; Ord. No. 765, 10-21-1982; Ord. No. 91-1273, 1-9-1992)

**Sec. 34-203. Requirements of compliance orders.**

Any order issued pursuant to this article may include a suspension or revocation of the conditional use permit issued under this article, and shall state with reasonable specificity the nature of the violation and specify a time for compliance. Any violation of this article shall be considered a misdemeanor.

(Code 1980, § 10-82; Ord. No. 765, 10-21-1982)

**Sec. 34-204. Monitoring analysis and testing.**

- (a) If the administrator, as designated by the city manager, determines that the presence of any unauthorized hazardous wastes are being stored, treated, or disposed of, the administrator may demand that the facility be closed within eight hours upon written notice.
- (b) If the administrator determines that the release of any materials from a hazardous waste facility or site may present a substantial hazard to human health or the environment, the administrator may issue an order requiring the owner or operator of the facility to conduct such monitoring, testing, analysis and reporting with respect to such facility or site as the administrator deems reasonable to ascertain the nature and extent of such hazard, including spills, leaks, explosions and fire.
- (c) If the administrator determines that the owner or operator, is unable to conduct monitoring, testing and analysis, or reporting satisfactory to the administrator, and if the administrator deems any such action carried out by the owner or operator to be unsatisfactory, or if the administrator cannot initially determine that there is an owner or operator who is able to conduct such monitoring, testing or reporting, he may:
  - (1) Conduct monitoring, testing or analysis, which he deems reasonable to ascertain the nature and extent of the hazard associated with the site concerned; or
  - (2) Authorize the state or a local authority or other person to carry out any such action; and
  - (3) Require the owner or operator to pay for the cost of monitoring, testing or analysis done by outside agencies, or individuals.

(Code 1980, § 10-83; Ord. No. 765, 10-21-1982)

**Sec. 34-205. Notice of spills, leaks, explosions, fires or accidents.**

In the event of any spill, leak, explosion, fire or accident, the owner or operator of the facility is required, within a one-hour time period, to notify the following individuals: city manager, fire chief, police chief, Metropolitan Council, state waste management board, county health department, and state pollution control agency. Failure to report such incidents within the one-hour period shall constitute a misdemeanor.

(Code 1980, § 10-84; Ord. No. 765, 10-21-1982)

**Sec. 34-206. General findings.**

As a prerequisite to the approval of the application for the conditional use permit, the city council shall find that the evidence presented established that:

- (1) Safe and adequate access to the facility for general, service, and emergency purposes will be provided from nonresidential major thoroughfares, and will not require the use of any residential collector or residential local streets.

- (2) The operation of the facility will not produce fumes, odors, noise, dust, smoke or gases which will adversely affect nearby properties.
- (3) The types of soil under and within one quarter of a mile of all portions of the proposed site to be used for storage, treatment, loading and handling of hazardous materials, as well as under all paved surface or roads leading to the facilities, shall not have a natural percolation rate in excess of 0.75 gallons per day per square foot.
- (4) All surface water, groundwater, sanitary sewer systems, and stormwater systems will be protected so as to minimize to the greatest extent the probability of contamination by hazardous waste.
- (5) The use of the proposed site for hazardous waste treatment will not endanger the public health or safety, or substantially reduce the value of adjoining or nearby property.

(Code 1980, § 10-85; Ord. No. 765, 10-21-1982)

**Secs. 34-207—34-240. Reserved.**

#### **ARTICLE VII. INDIVIDUAL SUBSURFACE SEWAGE TREATMENT SYSTEMS \***

~~\*Editor's note—<ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=694077&datasource=ordbank" web="yes">Ord. No. 14 2299, adopted December 4, 2014 </ulink>, repealed and replaced art. VII, §§ 34-231—34-246, in its entirety. Former art. VII pertained to individual sewage treatment systems, and was derived from Code 1963, §§ 41.13—41.15; Code 1980, §§ 6-68—6-74; Ord. No. 221, adopted May 19, 1970; Ord. No. 531, adopted February 17, 1977; Ord. No. 97-1682, adopted November 20, 1997 and Ord. No. 99-1774, adopted March 4, 1999.~~

~~Cross reference—Utilities, ch. 86.~~

Sec. 34-241. Purpose, applicability and authority.

Sec. 34-242. General provisions.

Sec. 34-243. Standards adopted.

Sec. 34-244. Permits.

Sec. 34-245. Violations and penalties.

Sec. 34-246. Periodically saturated soil disagreements.

Sec. 34-247. Permit prerequisite to issuance of building permit.

Sec. 34-248. Property access.

Sec. 34-249. Abatement of imminent health threat and nuisance by city.

Sec. 34-250. Property access.

Secs. 34-251—34-280. Reserved.

#### **Sec. 34-241. Purpose, applicability and authority.**

- (a) *Purpose.* It is the purpose of this article to establish standards for the proper design, installation, location, construction, operation, use, and maintenance of subsurface sewage treatment systems (SSTS) and

individual subsurface sewage treatment systems (ISTS) in order to protect the public health, safety, and general welfare.

- (b) *Applicability.* This article shall apply to those sites or facilities that are licensed, permitted, or otherwise regulated by the city. The sewer provisions of this article shall also apply to any premises in the city that are not served by a sewage treatment system permitted by the Minnesota Pollution Control Agency.
- (c) *Authority.* This article is adopted pursuant to the authorization and requirements contained in Minn. Stat. §§ 145A.05, 115.55, and Minnesota Administrative Rules Chapter 7082.

( <ulink class="ordbank" print="yes"  
url="http://newords.municode.com/readordinance.aspx?ordinanceid=694077&datasource=ordbank"  
web="yes">Ord. No. 14-2299, 12-4-2014 </ulink>)

#### **Sec. 34-242. General provisions.**

- (a) *Treatment required.* All sewage generated in unsewered areas shall be treated and disbursed by an approved SSTS or a system permitted by the Minnesota Pollution Control Agency.
- (b) *Administration.* This article shall be administered by the city building department. The term "department," where used in this article, shall mean the city building department.
- (c) *Compliance.* No person shall cause or permit the location, construction, alteration, extension, conversion, operation, or maintenance of a subsurface sewage treatment system, except in full compliance with the provisions of this article.
- (d) *Conditions.* Violation of any condition imposed by the city on a license, permit, or variance issued under this article shall be deemed a violation of this article and subject to the penalty provisions set forth herein.
- (e) *Site evaluation, system design, construction, inspection, and servicing.* Site evaluation, system design, construction, inspection, and system servicing shall be performed by Minnesota Pollution Control Agency listed SSTS businesses or qualified employees of local governments or persons exempt from licensing in Minnesota Administrative Rule 7083.0700. For lots platted after January 23, 1996, a design shall evaluate and locate space for a minimum of two soil treatment areas.
- (f) *Inspection.* No part of an individual sewage treatment system shall be covered until it has been inspected and approved by the department. If any part of the system is covered before being inspected and approved as provided herein, it shall be uncovered upon the direction of the department. The department shall cause such inspections as are necessary to determine compliance with this article. It shall be the responsibility of the permittee to notify the department that the system is ready for inspection. If the integrity of the system is threatened by adverse weather if left open and the department is unable to conduct an inspection, the permittee may, after receiving written permission from the department, document compliance with this article by photographic means that show said compliance and submit that evidence to the department prior to final approval being sought.
- (g) *Compliance inspection and certificate of compliance required.* An SSTS compliance inspection and a certificate of compliance are required:
  - (1) For a new or replacement SSTS prior to the issuance of a building permit.
  - (2) When altering an existing structure to add a bedroom, prior to the issuance of a building permit.

- (3) When a parcel having an existing system undergoes development, subdivision, or split, prior to the issuance of a building permit.
- (4) For all parcels serviced by a subsurface sewage treatment system prior to property sale or transfer of ownership.

Exception: Systems less than five years old from date of septic permit.

(h) *Imminent public health and safety threat; failing system; and surface discharge.*

- (1) The owner of an SSTS that poses an imminent threat to public health and safety shall immediately abate the threat according to instructions by the department and be brought into compliance with this article in accordance with a schedule established by the department, which schedule shall not exceed ten months.
- (2) A failing system, including a SSTS that is not protective of groundwater, shall be brought into compliance with 24 months after receiving notice from the department.
- (3) An SSTS discharging raw or partially treated wastewater to ground surface or surface water is prohibited unless permitted under the National Pollution Discharge Elimination System.
- (i) *Non-complying systems.* Existing systems that are non-complying but are not an imminent health or safety threat, failing, or discharging to surface may continue in use so long as the use is not changed or expanded. If the use changes or is expanded, the non-complying elements of the existing system must be brought into compliance.
- (j) *Non-complying work.* New individual sewage treatment system construction that is non-compliant, or other work on a system that is non-complying, must be brought into compliance with this article in accordance with a schedule established by the department, which schedule shall not exceed seven days unless the department finds extenuating circumstances.
- (k) *Change in use.* A certificate of compliance may be voided if, subsequent to the issuance of the certificate, the use of the premises or condition of the system has changed or been altered.
- (l) *Variances—Setback reduction.* Where conditions prevent the construction, alteration, and/or repair of an individual sewage treatment system on an existing developed parcel of real property, the department may reduce property line and building setbacks and system sizing requirements provided said reduction does not endanger or unreasonable infringe on adjacent properties.
- (m) *Floodplain.* An SSTS shall not be located in a floodway or floodplain. Location within the flood fringe is permitted provided that the design complies with this article and all of the rules and statutes incorporated herein by reference.
- (n) *Class V injection wells.* All owners of new or replacement SSTS that are considered to be class V injection wells, as defined in the Code of Federal Regulations, title 40, part 144, are required by Federal law to submit SSTS inventory information to the Environmental Protection Agency.

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url="http://newords.municode.com/readordinance.aspx?ordinanceid=694077&datasource=ordbank"  
web="yes">Ord. No. 14-2299, 12-4-2014 </ulink>)

**Sec. 34-243. Standards adopted.**

- (a) *Minnesota rules adopted.* Minnesota Administrative Rules Chapters 7080 and 7081, that are in effect on the date of passage of the ordinance from which this article is derived, relating to subsurface sewage

treatment systems, are hereby adopted by reference and made a part of this article as if fully set forth herein.

(b) *Rules amended.* The rules, adopted in this section, are amended as follows:

- (1) *Compliance Inspection — 15 Percent Vertical Separation Reduction.* Minnesota Administrative Rule 7080.1500, subp. 4D is amended to allow 15 percent reduction of vertical separation (separation distance no less than 30.6 inches) may be determined to be compliant for existing systems to account for settling and variable interpretation of soil characteristics.
- (2) *Preliminary Evaluations — Amending 7080.1710(L).* On all lots created after January 23, 1996, a minimum of one additional soil treatment area shall be identified which can be shown by appropriate soil evaluations and percolation tests, to support a standard soil treatment system.
- (3) *Other technical requirements for all system.* Amending 7080.2150, Subpart 3, Item E. The system's absorption [absorption] area and mound absorption [absorption] ratio must be sized according to Table IX and IXa.

(c) *Holding tanks.* Holding tanks may be allowed for the following applications:

- (1) As replacement to a failing system;
- (2) As replacement for an SSTS that poses an imminent threat to public health and safety; or
- (3) For an existing lot in which an SSTS cannot feasibly be installed and the department finds extenuating circumstances.

(d) *System abandonment.* An SSTS or any component thereof that is no longer intended to be used must be abandoned in accordance with the adopted standards of this article.

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url="http://newords.municode.com/readordinance.aspx?ordinanceid=694077&datasource=ordbank"  
web="yes">Ord. No. 14-2299, 12-4-2014 </ulink>)

#### **Sec. 34-244. Permits.**

(a) *Permit required.* No person shall cause or allow the location, construction, alteration, extension, conversion, modification of any SSTS without first obtaining a permit for such work from the department. No person shall construct, alter, extend, convert, or modify any structure that is or will utilize a SSTS without first obtaining a permit.

- (1) All work performed on an SSTS shall be done by an appropriately licensed business, qualified employees or persons exempt from licensing. Permit applications shall be submitted by the person doing the individual SSTS construction on forms provided by the department and accompanied by required site and design data, and permit fees.
- (2) Permits shall only be issued to the person doing the individual sewage treatment system construction.
- (3) Permit applications for new and replacement SSTS shall include a management plan for the owner that includes a schedule for septic tank maintenance.
- (4) A permit is not required for minor repairs or replacement of damaged or deteriorated components that do not alter the original function, change the treatment capacity, change the location of system components, or otherwise change the original system's design, layout, or function.

- (5) Any request for a permit for installation of any subsurface sewage treatment system shall include a site plan drawn to scale of one-inch equals 40 feet or larger showing the following:
- a. The topography;
  - b. The boundary lines of the lot;
  - c. Setbacks;
  - d. Location of existing and proposed roads;
  - e. Parking areas;
  - f. Driveways;
  - g. Easements;
  - h. Bodies of water as well as wetlands;
  - i. All dwelling units and accessory buildings, together with location of swimming pools and sport courts; and
  - j. Well.
- (b) *Operating permit.* An operating permit shall be required of all owners of new holding tanks, type IV and V systems, MSTs, and other SSTs that the department has determined require operational oversight.
- (1) *Application.* Application for an operating permit shall be made on a form provided by the department.
- (2) *Holding tanks.* The owner of holding tanks installed after the effective date of the ordinance from which this article is derived shall provide the department with a copy of a contract with a licensed sewage maintenance business for monitoring and removal of holding tank contents.

( <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=694077&datasource=ordbank" web="yes">Ord. No. 14-2299, 12-4-2014 </ulink>)

**Sec. 34-245. Violations and penalties.**

- (a) *Misdemeanor.* Any person who fails to comply with the provisions of this article shall be guilty of a misdemeanor. A separate offense shall be deemed committed upon each day during on which a violation occurs or continues.
- (b) *Civil action/injunctive relief.* In the event of a violation or a threat of violation of this article, the department may institute appropriate civil or administration actions or proceedings, include actions seeking damages, declaratory relief, or injunctive relief to prevent, restrain, correct, or abate such violations or threatened violations, and the city attorney is authorized to institute such action.

( <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=694077&datasource=ordbank" web="yes">Ord. No. 14-2299, 12-4-2014 </ulink>)



**Sec. 34-246. Periodically saturated soil disagreements.**

- (a) If a documented discrepancy arises on the depth of the periodically saturated soil between licensed businesses for SSTS design or compliance purposes, all the disputing parties must follow the procedure outlined in this subpart.
  - (1) The disputing parties must meet at the disputed site in an attempt to resolve differences.
  - (2) If the provision in subitem (1) does not resolve the differences, then one or more of the methods in units (a) to (c) must be employed.
    - a. Obtain an opinion from a qualified employee of the local permitting authority with jurisdiction, if the local permitting authority is willing to provide an opinion.
    - b. Obtain an opinion from an SSTS technical evaluation committee, if a committee has been developed for this purpose and is available and willing to render an opinion. The committee must be created in cooperation with the commissioner.
    - c. Obtain an opinion from a Minnesota licensed professional soil scientist who is a certified SSTS designer or inspector and who is independent of, and agreed upon by, both parties.
    - d. If options under unit (a) or (b) are not viable, an opinion must be rendered under unit (c).
  - (3) If opinions rendered in subitem (2) or (3) do not resolve the dispute, all initial and follow-up documents and information generated must be submitted to the local unit of government. The local unit of government shall take into consideration all information and opinions rendered and make a final judgment. The local unit of government shall render findings of fact, conclusions of law, and finding setting forth the reasons for any final decisions it renders.
- (b) If a documented discrepancy arises on the depth of the periodically saturated soil between an SSTS licensed business and a local unit of government for SSTS design or compliance purposes, all disputing parties shall follow the procedure outlined in this item.
  - (1) The local unit of government and the licensed business must meet at the disputed site in an attempt to resolve differences.
  - (2) If the provision in subitem (1) does not resolve differences, then one or more of the methods in item A, subitem (3), unit (b) or (c), are allowed to be employed.
  - (3) If opinions in subitem (2) are not sought or do not resolve the dispute, the local unit of government shall take into consideration all information and opinions rendered and make a final judgment. The local unit of government shall render findings of fact, conclusions of law, and findings set forth the reasons for any final decisions they render.
- (c) Upon resolution of a dispute, amendments to initial disputed documents containing the resolution shall be made and submitted to the local unit of government and all other parties involved.
  - (1) If opinions in subitem (2) are not sought or do not resolve the dispute, the local unit of government shall take into consideration all information and opinions rendered and make a final judgment. The local unit of government shall render findings of fact, conclusions of law, and findings set forth the reasons for any final decisions they render.
- (d) Upon resolution of a dispute, amendments to initial disputed documents containing the resolution shall be made and submitted to the local unit of government and all other parties involved.

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url="http://newords.municode.com/readordinance.aspx?ordinanceid=694077&datasource=ordbank"  
web="yes">Ord. No. 14-2299, 12-4-2014 </ulink>)

**Sec. 34-247. Permit prerequisite to issuance of building permit.**

No building permit for any building requiring an on-site sewage treatment system shall be issued until the permit as required by sections 34-243 and 34-244 has been obtained.

( <ulink class="ordbank" print="yes"  
url="http://newords.municode.com/readordinance.aspx?ordinanceid=694077&datasource=ordbank"  
web="yes">Ord. No. 14-2299, 12-4-2014 </ulink>)

**Sec. 34-248. Property access.**

The department inspector and the department's agents and contractors shall have the right of free access to the property at reasonable times for the purpose of inspecting subsurface sewage treatment systems and abating imminent health threats and nuisances.

( <ulink class="ordbank" print="yes"  
url="http://newords.municode.com/readordinance.aspx?ordinanceid=694077&datasource=ordbank"  
web="yes">Ord. No. 14-2299, 12-4-2014 </ulink>)

**Sec. 34-249. Abatement of imminent health threat and nuisance by city.**

- (a) If a lot owner fails to abate an imminent health threat and nuisance declared pursuant to section 34-242(h) within the time prescribed in section 34-242(h), the city may immediately abate the imminent health threat and nuisance and shall bill the owner of the lot (and the owner shall pay within 30 days of billing) for the costs incurred for the abatement together with an administrative fee of \$250.00 or the other amount as may be set by the city council from time to time.
- (b) On or before September 1 of each year, the city clerk shall list the total unpaid charges for each abatement against each separate lot or parcel to which they are attributable under this subchapter. The city council may then charge all or any portion of the charges together with an additional administrative fee of \$50.00 against the property involved as a special assessment under applicable Minnesota Statutes for certification to the county auditor with collection in the following year with that year's taxes.

( <ulink class="ordbank" print="yes"  
url="http://newords.municode.com/readordinance.aspx?ordinanceid=694077&datasource=ordbank"  
web="yes">Ord. No. 14-2299, 12-4-2014 </ulink>)

**Sec. 34-250. Property access.**

If the property owner fails to pump or maintain the subsurface sewage treatment system in accordance with Minnesota Administrative Rule Chapters 7080.2450, after notification by the department, the city may order the required pumping and/or maintenance and the owner will be responsible for the costs plus a \$100.00 administration fee.

( <ulink class="ordbank" print="yes"  
url="http://newords.municode.com/readordinance.aspx?ordinanceid=694077&datasource=ordbank"  
web="yes">Ord. No. 14-2299, 12-4-2014 </ulink>)

**Secs. 34-251—34-280. Reserved.**

**ARTICLE VIII. PROPERTY MAINTENANCE \***

~~\*Cross reference—Residential maintenance code, § 18-301 et seq.~~

Sec. 34-281. Sanitation.

Sec. 34-282. Declaration of nuisance; to be abated.

Sec. 34-283. Elimination of public nuisance.

Sec. 34-284. Emergency cases.

Sec. 34-285. Notice; abatement by city.

Sec. 34-286. Assessment of abatement cost.

Sec. 34-287. Penalty for violation of article.

**Secs. 34-288—34-320. Reserved.**

**Sec. 34-281. Sanitation.**

All exterior property and premises shall be maintained in a clean, safe and sanitary condition so that they do not pose a threat to the public health, safety or welfare.

(Code 1980, § 11-30; Ord. No. 01-1929, 12-6-2001)

**Sec. 34-282. Declaration of nuisance; to be abated.**

For the purposes of this article the following are declared a public nuisance and shall be abated, removed or exterminated in accordance with the provisions of this article:

- (1) Refuse, garbage, accumulations of animal, fruit, or vegetable matter, human waste, decaying vermin, dead animals, animal waste, junk or junk vehicles or any other materials rendering the property unsanitary.
- (2) Infestation of rodents, insects, vermin, and other pests.
- (3) Excess interior storage posing a threat to occupants or fire firefighters.
- (4) Damaged, decayed, or dilapidated structures which are in danger of collapse.
- (5) Motor vehicle salvage yards not in compliance with division 2, article IX of this chapter.
- (6) Swimming pools not in compliance with the fencing provision of section 18-424.
- (7) Refrigerators and accessible containers. Refrigerators or other containers, sufficiently large to retain a child and with doors which fasten automatically when closed, exposed and accessible to children.
- (8) Vacant unsecured buildings.
- (9) Polluted properties.

(Code 1980, § 11-32; Ord. No. 01-1929, 12-6-2001)

**Sec. 34-283. Elimination of public nuisance.**

It shall be unlawful for the owner, lessee or occupant of any property within the city to allow any items declared public nuisance to exist on any property within the city.

(Code 1980, § 11-33; Ord. No. 01-1929, 12-6-2001)

**Sec. 34-284. Emergency cases.**

When the city manager determines that a nuisance constitutes an imminent peril to life, health and property the city inspector may take immediate action to abate the nuisance and assess costs as outlined in section 34-286.

(Code 1980, § 11-34; Ord. No. 01-1929, 12-6-2001)

**Sec. 34-285. Notice; abatement by city.**

When any premises are found to have a public nuisance, the owner, lessee or occupant, if other than the owner, shall, upon written notice given by the authorized representative, take appropriate action to eliminate the nuisance. Notice shall be served by posting on the property or delivered by regular or certified mail. Should the owner, lessee, or occupant, if other than the owner, of any premises fail to comply with the notice, the authorized representative, may take all action necessary to abate the public nuisance.

(Code 1980, § 11-35; Ord. No. 01-1929, 12-6-2001)

**Sec. 34-286. Assessment of abatement cost.**

All costs and expenses incurred in abating the public nuisances described above shall be paid by the owner of the affected property, after notice in writing of the costs and expenses incurred has been served on the owner of the property. If the costs are not paid by the owner within 30 days after service, the total costs and expenses incurred, plus a penalty of eight percent, shall be assessed against the affected property in accordance with section 90-35.

(Code 1980, § 11-36; Ord. No. 01-1929, 12-6-2001)

**Sec. 34-287. Penalty for violation of article.**

Any person who allows a nuisance to exist or fails to abate a nuisance as set forth in this article, or who shall fail to comply with the provisions of any notice provided herein, or who shall resist or obstruct the health inspector, or authorized representative, in the abatement of the nuisance, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be subject to punishment as provided in section 1-7. Each day on which such violation continues shall constitute a separate offense.

(Code 1980, § 11-37; Ord. No. 01-1929, 12-6-2001)

**Secs. 34-288—34-320. Reserved.**

**ARTICLE IX. JUNK AND MOTOR VEHICLE SALVAGE FACILITIES AND/OR JUNKYARDS**

\*

~~\*Cross reference—Traffic and vehicles, ch. 82.~~

DIVISION 1. - GENERALLY

DIVISION 2. - MOTOR VEHICLE SALVAGE FACILITIES AND/OR JUNKYARDS

***DIVISION 1. GENERALLY***

*Sec. 34-321. Definitions.*

*Sec. 34-322. Storage of junk and junk vehicles.*

*Sec. 34-323. Repair of vehicles.*

*Secs. 34-324—34-340. Reserved.*

***Sec. 34-321. Definitions.***

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

*Hazardous waste* means as prescribed by Minn. Stat. § 116.06, subd. 11.

*Junk* shall include, but not be limited to old or scrap copper, brass, rope, rags, batteries, paper, synthetic or organic, trash, tires, rubber debris, solid or liquid waste, junk vehicles, dismantled vehicles, parts from vehicles, machinery, machinery parts, iron, steel and other old or scrap ferrous or nonferrous material.

*Junk vehicle* means any vehicle, motor vehicle, trailer or semitrailer, as defined by <sup>79</sup>~~M.S.A. § 169.011 Minn. Stat. § 169.01~~, which is not in an operable condition. An abandoned vehicle, as defined by Minn. Stat. § 168B.011, shall be considered a junk vehicle. All vehicles, motor vehicles, trailers or semitrailers which are not properly licensed for operation on public highways within the state are also considered junk vehicles.

*Motor vehicle salvage facilities and/or junkyards* means the storing or keeping of two or more junk vehicles, or ten or more pieces of junk.

*Person* means any person, firm or corporation, or group, however organized, and the singular includes the plural.

*Racing car* means any motor vehicle designed or intended for operation on a speedway, racetrack, or other facility used or designed for high speed contests between two or more vehicles or for timing of speed.

*Stock car* means any motor vehicle of standard design and construction which is modified, adapted or altered in any manner to increase its speed or safety, and designed or intended for operation on a speedway, racetrack, or other facility used or designed for high speed contests between two or more vehicles or for timing of speed.

(Code 1963, §§ 4.02, 62.01, 124.01; Code 1980, § 10-50; Ord. No. 116, 5-5-1966; Ord. No. 117, 5-5-1966; Ord. No. 147, 8-3-1967; Ord. No. 712, 12-18-1980; Ord. No. 84-842, 9-20-1984; Ord. No. 91-1273, 1-9-1992; Ord. No. 96-1634, 1-16-1997)

~~Cross-reference—Definitions generally, § 1-2.~~

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<sup>79</sup> **Sec. 34-321. Definitions.** Statute was renumbered as shown in 2008.

**Sec. 34-322. Storage of junk and junk vehicles.**

No person or corporation shall park, keep, place or store, or permit the parking or storage of a stock car, racing car, junk vehicle, or junk, refuse, yard waste or recyclable materials, on public lands, streets or alleys, or on any private lands or premises unless it shall be within an enclosed garage or storage building on such private premises except as provided in this article.

(Code 1963, § 124.01; Code 1980, § 10-51; Ord. No. 117, 5-5-1966; Ord. No. 84-842, 9-20-1984; Ord. No. 91-1273, 1-9-1992)

**Sec. 34-323. Repair of vehicles.**

No person or corporation shall service, repair, replace parts or do maintenance work on a stock car, racing car, or junk vehicle on public lands or streets, or on any private lands or premises unless it shall be within an enclosed garage or storage building on such private premises.

(Code 1963, § 124.03; Code 1980, § 10-52; Ord. No. 117, 5-5-1966; Ord. No. 84-842, 9-20-1984)

**Secs. 34-324—34-340. Reserved.**

***DIVISION 2. MOTOR VEHICLE SALVAGE FACILITIES AND/OR JUNKYARDS \****

*\*State Law reference— Junkyards adjacent to highways, Minn. Stat. § 161.242.*

[Subdivision I.] - In General

[Subdivision II.] - License

*Subdivision I. In General*

[Sec. 34-341. Purpose and intent of division.](#)

[Sec. 34-342. Violations.](#)

[Sec. 34-343. Closure.](#)

[Sec. 34-344. Site management plan.](#)

[Sec. 34-345. Inspections and monitoring.](#)

[Sec. 34-346. General operating practices.](#)

[Sec. 34-347. Site requirements.](#)

[Secs. 34-348—34-370. Reserved.](#)

**Sec. 34-341. Purpose and intent of division.**

Motor vehicle salvage facilities and/or junkyards process materials and debris contaminated by petroleum and chemical products, generate waste tires, batteries, and other materials requiring special disposal methods, and store accumulations of materials and debris with the potential of contamination of soil, groundwater and surface waters. It is in the best interests of the public's health, safety and welfare to regulate their operations for the protection of the environment, to preserve the public's health, and guard against the danger of fire.

(Code 1963, § 4.01; Code 1980, § 10-60; Ord. No. 116, 5-5-1966; Ord. No. 84-842, 9-20-1984; Ord. No. 96-1634, 1-16-1997)

**Sec. 34-342. Violations.**

Any person who violates any provisions of this division shall be guilty of a misdemeanor as defined by state law and subject to the penalties thereof.

(Code 1980, § 10-69; Ord. No. 84-842, 9-20-1984; Ord. No. 96-1634, 1-16-1997)

**Sec. 34-343. Closure.**

Prior to discontinuing the motor vehicle salvage facility and/or junkyard operation a plan must be submitted documenting a plan to remove all outside storage of materials and vehicles, structures, fencing, hazardous wastes and documenting the owners'/operators' responsibilities for full site and pollution cleanup.

(Code 1963, § 62.06; Code 1980, § 10-68; Ord. No. 147, 8-3-1967; Ord. No. 84-842, 9-20-1984; Ord. No. 96-1634, 1-16-1997)

**Sec. 34-344. Site management plan.**

Each person holding a motor vehicle salvage facility and/or junkyard license issued by the city shall maintain a current site management plan on file with the city clerk. The plan must be updated annually to accurately reflect the site conditions. At a minimum, the site management plan shall include the following:

- (1) A site sketch showing the general location and dimensions of all fire lanes, buildings, storage areas of hazardous, explosive or flammable materials, waste piles of ten or more tires, location of all fire extinguishers, and site entrance and exit points.
- (2) A fluid management plan describing in detail the processing of hazardous or flammable fluids, to include fluid drainage, storage, proof of proper disposal, and spill containment and cleanup.
- (3) A plan for the storage, processing, and disposal of batteries, tires, and parts containing hazardous materials. Proof of proper disposal will be required.
- (4) The location and depth of all wells registered with the county public health department, located within 1,000 feet of the property lines of the motor vehicle salvage facility and/or junkyard.

(Code 1963, § 62.02; Code 1980, § 10-63; Ord. No. 147, 8-3-1967; Ord. No. 338, 11-15-1973; Ord. No. 774, 10-21-1982; Ord. No. 84-842, 9-20-1984; Ord. No. 84-846, 10-18-1984; Ord. No. 96-1634, 1-16-1997)

**Sec. 34-345. Inspections and monitoring.**

- (a) *Inspections by officials.* In order to ensure compliance with the license granted in this division, and as a condition for the issuance of the license granted under this division, the applicant shall allow inspections at reasonable and appropriate times by officials of the city or such consultants as the city deems appropriate to retain.
- (b) *Monitoring wells.* The council may require that any licensee construct and maintain, at the licensee's expense, groundwater monitoring wells on the premises of his motor vehicle salvage facility and/or junkyard and conduct tests to determine the impact the facility is having on the city's groundwater.

Where appropriate, soil sampling may be required in place of or in addition to groundwater monitoring. In determining whether to require monitoring wells, the council shall:

- (1) Evaluate the condition of site, hazardous waste storage and disposal practices, evidence of spills or vehicle fluid drainage problems;
- (2) Consider the specific geographic, topographical and other features of the operation as they pertain to the facilities' potential to contaminating the city's groundwater;
- (3) Consider the professional recommendation of the city engineer, or other qualified individual or firm as to the necessity or desirability of constructing monitoring wells and the frequency of required tests at the facility.

(c) *Reporting spills or discharges; cleanup.* It is the duty of every person to notify the state pollution control agency of any spill or discharge of a substance in accordance with Minn. Stat. § 115.061. Any person holding a motor vehicle salvage facility and/or junkyard license from the city shall also report to the city, in writing, the time, date, location, cause, and method of cleanup of any hazardous material spill reported to the state pollution control agency.

(Code 1963, § 62.04; Code 1980, § 10-66; Ord. No. 147, 8-3-1967; Ord. No. 84-842, 9-20-1984; Ord. No. 96-1634, 1-16-1997)

#### **Sec. 34-346. General operating practices.**

Any motor vehicle salvage facility and/or junkyard located in the city must operate in conformance with the following provisions:

- (1) No motor vehicle salvage facility and/or junkyard shall be allowed to become a nuisance or shall be operated in such a manner so as to become injurious to the health, safety, or welfare of the community or any residents.
- (2) The facility operation shall be in compliance with the Motor Vehicle Salvage Facility Environmental Compliance Manual and other applicable state pollution control agency rules.
- (3) Vehicle crushing shall be conducted on an impermeable surface with adequate spill control equipment. Waste fluids shall be properly managed according to state pollution control agency guidelines.
- (4) Disassembly of any vehicle, or component thereof, which allow for the leakage of fluids, will be completed within a covered structure with an impermeable floor.
- (5) Draining of vehicle fluids will be completed within a covered structure with an impermeable floor; with spill-control equipment, and absorbent material immediately available to contain any spill which may occur.
- (6) Parts cleaning operations shall be conducted in accordance with current state pollution control agency parts-cleaning methods and wastewater management guidelines.
- (7) Drained vehicle parts and cores will be stored in closed bins or in a covered area to minimize exposure to precipitation. Vehicle parts which pose a risk to the environment including, but not limited to, lead parts, mercury switches, catalytic converters, and airbags, shall be removed and stored in accordance with the current state pollution control agency guidelines and recycled through an approved recycling facility.



- (8) All batteries must be stored on a nonreactive, curbed and impermeable surface without a floor drain and protected from accumulations of rain, snow and drain water, or stored within a covered, nonreactive, impermeable container.
- (9) Waste tire storage shall be kept in one location and shall not exceed 500 tires or the volume permitted in one semitrailer.
- (10) Uncrushed junk and junk vehicles shall be stored in piles not exceeding one vehicle in height and shall be so arranged to permit emergency access (see section 34-347(b)).
- (11) Flammable and hazardous materials shall be stored in compliance with the Minnesota Uniform Fire Code in covered and appropriately marked containers suitable to the contents in storage. Adequate aisle space shall be provided for access by emergency personnel and for spill containment and cleanup equipment (see section 34-347(b)).
- (12) Antifreeze shall be collected and recycled, or disposed of through other state pollution control agency approved methods. Antifreeze shall not be discharged to land, water, any septic system, or public sewer system.
- (13) Refrigerants (CFCs) shall be recovered and recycled or reclaimed by methods approved by state pollution control agency.
- (14) Used oil filters shall be recycled, disposed of as hazardous waste, or after being drained and tested by a professional testing laboratory, disposed of as solid waste. Oil filters may remain attached to engines or motors when sold to a second party or transported as scrap, so long as the receiving person will accept the filter.
- (15) Lead battery cable ends and heater cores shall be removed from vehicles prior to crushing and shall be recycled separately, unless accepted as a vehicle component by a second person.
- (16) Other recyclables designated by the state pollution control agency shall be disposed of as required by current state pollution control agency guidelines.
- (17) On-site disposal of any material is prohibited, except under proper license or permit.
- (18) Spills of oil, lubricants, or other hazardous material shall be promptly contained, cleaned, and disposed of in accordance with current state pollution control agency guidelines.
- (19) Used oil, including engine oil, transmission fluid, hydraulic oil, and similar petroleum products, shall be recycled or disposed of through state pollution control agency approved methods.

(Code 1963, § 62.07; Code 1980, § 10-64; Ord. No. 147, 8-3-1967; Ord. No. 84-842, 9-20-1984; Ord. No. 96-1634, 1-16-1997)

**Sec. 34-347. Site requirements.**

- (a) *Fencing.* Fencing shall be installed in accordance with city specifications on the perimeter of all motor vehicle salvage facilities and/or junkyards at least eight feet high and not to exceed 20 feet in height. Such enclosure shall be maintained in good condition at all times and constructed so that no dust or other material may pass through. Any such fence shall not have more than one opening upon any public street and each opening shall not be more than 25 feet wide and shall be equipped with a substantial, solid tight gate or door of the same height as such fence or wall, and the same shall be kept securely closed at all times when such establishment is not open for business. No junk or storage of any description shall be kept, displayed or exhibited on the outside or protrude above such fence.

- (b) *Emergency access.* Adequate access shall be provided on the site to ensure fire protection throughout site. A minimum of a 20-foot wide access road shall be provided to within 150 feet of all vehicle or vehicle parts storage areas. The road shall be capable of supporting 35-ton emergency vehicles.
- (c) *Site access.* Sites shall provide a driveway with a surface equal to the street surface to extend from the street to the required screen fence.
- (d) *Parking stalls.* A minimum of one parking stall per employee, one parking stall per acre of outside storage, and one parking stall per 2,000 square feet of indoor storage shall be provided.

(Code 1963, § 62.03; Code 1980, § 10-65; Ord. No. 147, 8-3-1967; Ord. 84-842, 9-20-1984; Ord. No. 96-1634, 1-16-1997)

**Secs. 34-348—34-370. Reserved.**

*Subdivision II. License*

[Sec. 34-371. Required.](#)

[Sec. 34-372. Information to be shown on application.](#)

[Sec. 34-373. Issuance; display.](#)

[Sec. 34-374. Fee.](#)

[Sec. 34-375. Hearing on granting, denial, renewal, or revocation.](#)

[Secs. 34-376—34-410. Reserved.](#)

**Sec. 34-371. Required.**

- (a) It shall be unlawful for any person to operate and/or maintain a motor vehicle salvage facility and/or junkyard within the city without a valid junkyard or auto dismantling facility license. Licenses shall not be assignable or transferable by the applicant.
- (b) An application for a motor vehicle salvage facility and/or junkyard shall be made to the city clerk on a form supplied by the city. The application fee, as specified in section 34-374, shall accompany the application. The clerk shall present the application to the city council for consideration, and if approved and granted by the city council a license shall be issued by the clerk.

(Code 1963, § 4.04; Code 1980, § 10-61; Ord. No. 116, 5-5-1966; Ord. No. 84-842, 9-20-1984; Ord. No. 96-1634, 1-16-1997)

**Sec. 34-372. Information to be shown on application.**

Each application for a motor vehicle salvage facility and/or junkyard license shall include the following information:

- (1) The name, date of birth, social security number and street address of the applicant and the full name of the business which the facility will operate under.
- (2) The street address and legal description of the premises upon which the motor vehicle salvage facility and/or junkyard is to be operated.
- (3) The applicant must present evidence of ownership of the property or the name, street address, and written consent of the owner of the premises, to use the premises for the purposes detailed on the application.

- (4) The date of issuance and status of the conditional use permit, if applicable, for use of the premises for the purposes detailed on the application.
- (5) A copy of a current industrial stormwater permit from the state pollution control agency for the site.
- (6) A copy of the appropriate watershed approval, if applicable.
- (7) A copy of a current county hazardous waste generator's license for the site, if necessary.
- (8) A site management plan.
- (9) Proof of general liability insurance in an amount not less than \$300,000.00.
- (10) A copy of any licenses from the state department of public safety for selling used parts or vehicles.
- (11) Federal and state sales tax identification numbers.
- (12) In addition, no license will be issued until the applicant agrees in writing to hold the city harmless from all damages and claims of damages which may arise by reason of any negligence of the applicant or the applicant's agents or employees while engaged in the performance of the license and will indemnify the city for the amount of all claims.

(Code 1963, § 62.01; Code 1980, § 10-62; Ord. No. 147, 8-3-1967; Ord. No. 84-842, 9-20-1984; Ord. No. 96-1634, 1-16-1997)

**Sec. 34-373. Issuance; display.**

- (a) Licenses shall be issued under this division for a period not to exceed one year.
- (b) Every license shall be kept conspicuously posted about the place for which it is issued, along with the telephone numbers of the state pollution control agency spill unit and the Spring Lake Park-Blaine-Mounds View Fire Department. Licenses shall be exhibited to any person upon request.

(Code 1963, § 62.06; Code 1980, § 10-67(a), (b); Ord. No. 147, 8-3-1967; Ord. No. 84-842, 9-20-1984; Ord. No. 96-1634, 1-16-1997; Ord. No. 98-1695, § 5, 2-5-1998)

**Sec. 34-374. Fee.**

The fee for every motor vehicle salvage facility and/or junkyard license shall be an amount established by council action per year. Such fees do not include costs to be paid by the licensee in the design, supervision, and construction of any groundwater monitoring wells required as part of this license.

(Code 1963, § 62.06; Code 1980, § 10-67(c); Ord. No. 147, 8-3-1967; Ord. No. 84-842, 9-20-1984; Ord. No. 96-1634, 1-16-1997; Ord. No. 98-1695, § 5, 2-5-1998)

**Sec. 34-375. Hearing on granting, denial, renewal, or revocation.**

Every license may be revoked by the council for violation of any provision of this division, after the licensee has been given reasonable notice and the opportunity to be heard, or upon any change in zoning or conditional use permit status of the premises whereby motor vehicle salvage facilities and/or junkyards are prohibited. There shall be no refund of any license fee, or any portion thereof upon revocation.

(Code 1963, § 62.06; Code 1980, § 10-67(d); Ord. No. 147, 8-3-1967; Ord. No. 84-842, 9-20-1984; Ord. No. 96-1634, 1-16-1997; Ord. No. 98-1695, § 5, 2-5-1998)

**Secs. 34-376—34-410. Reserved.**

**ARTICLE X. WOOD STORAGE**

[Sec. 34-411. Penalty for violation of article.](#)

[Sec. 34-412. Intent of article.](#)

[Sec. 34-413. Exemptions.](#)

[Sec. 34-414. Declaration of nuisance.](#)

[Sec. 34-415. Regulation.](#)

[Sec. 34-416. Requirements.](#)

[Secs. 34-417—34-460. Reserved.](#)

**Sec. 34-411. Penalty for violation of article.**

Any person in violation of any of the provisions in this article shall be guilty of a misdemeanor. Each day on which such violation continues shall constitute a separate offense.

(Code 1980, § 11-53; Ord. No. 84-859, 1-3-1985)

**Sec. 34-412. Intent of article.**

The intent of this article is to promote the health, safety, and appearance of the community by regulating the storage of wood. Wood stored improperly may be detrimental to nearby property or property values and may constitute a fire hazard if proper fire and safety measures are not observed.

(Code 1980, § 11-47; Ord. No. 84-859, 1-3-1985)

**Sec. 34-413. Exemptions.**

The provisions of this article shall not apply to:

- (1) Persons having property on which new construction is taking place and the wood on such property is being used for such construction, unless the wood has remained on the property for more than 30 days and is not a permanent part of the new construction at the end of that time.
- (2) Persons storing or keeping wood on property when such wood is stored within an enclosed structure which otherwise conforms to the zoning requirements of the district.
- (3) Temporary storage of logs for up to 14 days outside of the required areas of setback from property lines and street is allowed for the purpose of cutting and splitting logs to a size usable in the residence's wood burning device.
- (4) Lumber companies or approved woodlots.

(Code 1980, § 11-50; Ord. No. 84-859, 1-3-1985)

**Sec. 34-414. Declaration of nuisance.**

Wood stored in violation of this article is declared to be a public nuisance and shall be removed in accordance with the provisions of the applicable ordinances and state law.

(Code 1980, § 11-52; Ord. No. 84-859, 1-3-1985)

**Sec. 34-415. Regulation.**

In any R-1, R-2, R-3, R-3A, R-3B, R-3C and R-4 zoning districts, no person shall keep, store, or allow wood to remain outside on property which such person owns, occupies, or controls, unless such wood is kept or stored in compliance with the provisions of this article.

(Code 1980, § 11-48; Ord. No. 84-859, 1-3-1985)

**Sec. 34-416. Requirements.**

- (a) Wood shall be kept or stored in neat and secure stacks (maximum of four stacks), each of which shall be no higher than five feet; with the combined wood stacks not exceeding a volume equal to five feet high by ten feet wide by 25 feet long.
- (b) Unless screened by a solid fence or wall, stacks shall not be closer than five feet from the property line.
- (c) The wood stacks shall not be infested or inhabited with rats, rodents, vermin, or insects noxious or dangerous to persons or property. Elevating stacks eight to 11 inches is recommended to reduce these problems.
- (d) Wood shall be stored only in the side or rear yards.
- (e) Firewood may be stored upon a residential premises solely for use upon the premises and not for resale.

(Code 1980, § 11-49; Ord. No. 84-859, 1-3-1985)

**Secs. 34-417—34-460. Reserved.**

**ARTICLE XI. STORMWATER MANAGEMENT**

DIVISION 1. - GENERALLY

DIVISION 2. - STORMWATER MANAGEMENT PLAN

DIVISION 3. - SPECIFIC USE OF STORMWATER PONDS

DIVISION 4. - RAIN GARDENS

DIVISION 5. - ILLICIT DISCHARGE DETECTION AND ELIMINATION

***DIVISION 1. GENERALLY***

[Sec. 34-461. Findings.](#)

[Sec. 34-462. Definitions.](#)

[Sec. 34-463. Purpose.](#)

[Secs. 34-464—34-480. Reserved.](#)

**Sec. 34-461. Findings.**

It is hereby determined that:

- (1) Land development projects and associated increases in impervious cover alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, and sediment transport and deposition; and
- (2) This stormwater runoff contributes to increased quantities of water-borne pollutants; and

- (3) Stormwater runoff, soil erosion and non-point source pollution can be controlled and minimized through the regulation of stormwater runoff from development sites.

Therefore, the City of Blaine establishes this set of water quality and quantity policies applicable to all surface waters to provide reasonable guidance for the regulation of stormwater runoff for the purpose of protecting local water resources from degradation. It is determined that the regulation of stormwater runoff discharges from land development projects and other construction activities in order to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, and non-point source pollution associated with stormwater runoff is in the public interest and will prevent threats to public health and safety.

(Ord. No. 10-2205, 5-20-2010)

**Sec. 34-462. Definitions.**

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

*Bench* is a relatively level step excavated into earth material on which fill is to be placed.

*Best management practices (BMP)* are erosion control, sediment control and water quality management practices that are most effective and practicable for means of controlling, preventing and reducing the degradation of surface water as published by state or designated area-wide planning agencies.

*Buffer* means land that is used to protect adjacent lands and waters from development and more intensive land uses. The land is kept in a natural state of trees, shrubs, and low ground cover and understory of plants and functions to filter runoff, control sediment and nutrient movement, and protect fish and wildlife habitat. In areas of agricultural use, the land may be used for less intensive agricultural purposes provided its function as a buffer remains intact.

*Channel* means a natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

*Common plan of development or sale* is a contiguous area where multiple separate and distinct land disturbing activities may be taking place at different times, or on different schedules, but under one proposed plan. This item is broadly defined to include design, permit application, advertisement or physical demarcation indicating that land-disturbing activities may occur.

*Detention facility* is a temporary or permanent natural or man made structure that provides for the temporary storage of stormwater runoff.

*Discharge* is the release, conveyance, channeling, runoff or drainage of stormwater, including snowmelt, from a construction or development site.

*Filter strip* is a vegetated section of land designed to treat runoff as overland sheet flow. It may be designed in any natural vegetated form from a grassy meadow to a small forest. The dense vegetated cover facilitates pollutant removal, reduces erosion and promotes infiltration.

*Floodplain* means the channel or beds proper and the areas adjoining a wetland, lake or watercourse that have been or hereafter may be covered by the regional flood.

*High water level* is the expected elevation the water in a stormwater pond will rise to a 100-year rain event as calculated by the pond design.

*Hydric soils* are soils that are saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper soil horizon.

*Hydrologic soil group (HSG)* means a Natural Resource Conservation Service classification system in which soils are categorized into four runoff potential groups. The groups range from A soils, with high permeability and little runoff production, to D soils, which have low permeability rates and produce much more runoff.

*Impaired waters* are water bodies that do not meet water quality standards and designated uses because of pollutant(s), pollution, or unknown causes of impairment.

*Impervious surface* is a constructed hard surface that either prevents or retards the entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than existed prior to development. Examples include rooftops, sidewalks, patios, driveways, parking lots, storage areas, and concrete, asphalt, or gravel roads. Class 5 gravel surfaces are considered to be impervious surfaces.

*Land disturbance activity* is any land change that may result in soil erosion from water or wind and the movement of sediments into or upon waters or lands within this government's jurisdiction, including but not limited to construction, clearing and grubbing, grading, excavating, transporting and filling of land. Within the context of this division, land disturbance activity does not mean:

- (1) Minor land disturbance activities including, but not limited to, underground utility repairs, home gardens, home landscaping, minor repairs and maintenance work which do not disturb more than 2,000 square feet of land or exceed 100 cubic yards of earthwork provided work does not obstruct or modify a watercourse or storm sewer system and is not located in a floodplain;
- (2) Installation and maintenance of fences, signs, posts, poles, electric, telephone, cable television, utility lines or individual service connections to these utilities; or
- (3) General farming practices; or
- (4) Emergency work to protect life, limb, or property and emergency repairs, unless the land disturbing activity would have otherwise required an approved erosion and sediment control plan, except for the emergency. If such a plan would have been required, then the disturbed land area shall be shaped and stabilized in accordance with the city's requirements as soon as possible.

*Native vegetation* is the pre-settlement (already existing in Minnesota at the time of statehood in 1858) group of plant species native to the local region, that were not introduced as a result of European settlement or subsequent human introduction.

*Normal water level* refers to the permanent pool of water retained in a stormwater pond. By design, this is the water level below the invert elevation of the pond outlet with a depth not to exceed eight feet.

*Ordinary high water level* means the boundary of water basins, watercourses, public waters, and public waters wetlands, and:

- (1) The ordinary high water level is an elevation delineating the highest water level that has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly the point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial;
- (2) For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel; and
- (3) For reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.

*Outfall* is the point of discharge to any watercourse from a public or private stormwater drainage system.

*Permanent cover* means "final stabilization." Examples include grass, gravel, asphalt and concrete. See also the definition of "final stabilization."

*Pretreatment* means directing stormwater runoff through a BMP or series of BMPs for the purpose of removing sediment and/or other pollutants prior to discharge into a receiving basin.

*Project* is a planned undertaking resulting in changes to the condition of a property.

*Public waters* are waters of the state as defined in Minn. Stat. § 103G.005, Subdiv. 15.

*Retention facility* is a temporary or permanent natural or manmade structure that provides for the storage of stormwater runoff by means of a permanent pool of water.

*Runoff* is rainfall, snowmelt, dewatering discharge, irrigation or any man-made sources of water flowing over the ground surface.

*Sediment* is the product of an erosion process; solid material both mineral and organic, which is in suspension, is being transported, or has been moved by water, wind, or ice and has come to rest on the earth's surface either above or below water level.

*Slope* is the incline of a ground surface expressed as a ratio of horizontal distance to vertical distance.

*Special water* means a surface water or receiving water that is of a high quality or is deemed worthy to receive extra protection.

*Stormwater*. Under Minnesota Rule 7077.0105, Subpart 41b), stormwater, "means precipitation runoff, stormwater runoff, snow melt runoff and any other surface runoff and drainage." According to the Code of Federal Regulations (CFR), under 40 CFR 122.26 [b][13], "Stormwater means stormwater runoff, snow melt runoff and surface and drainage." Stormwater does not include construction site dewatering.

*Storm sewer system*, includes but is not limited to, the combination of roadway gutters, roadway section ditches, culverts, storm sewer piping, overflow channels, infiltration trenches, detention and retention water quality treatment basins and other methods or devices used for capturing, conveying, controlling and treating stormwater and snow melt runoff.

*Stormwater pollution prevention plan* is joint stormwater, erosion prevention and sediment control plan that is a document containing the requirements of Section I. When implemented, the plan will define the methods to be used to reduce soil erosion on a parcel of land and off-site non-point pollution. The plan involves both temporary and permanent controls.

*Stormwater pond* (also referred to as wet sedimentation basin, wet retention basin, or simply wet pond) is a man-made or modified natural basin constructed to capture and retain stormwater runoff for the purpose of removing pollutants and mitigating downstream water quantity impacts.

*Surface waters* means all streams, ponds, lakes, marshes, wetlands, reservoirs, springs, rivers, drainage systems, waterways, watercourses, and irrigation systems, whether natural or artificial, public or private.

*Vegetated (grassy) swale* is a vegetated earthen channel that conveys stormwater while treating the stormwater by biofiltration. Such swales aid in the removal of pollutants by both filtration and infiltration.

*Waters of the state* as defined in Minn. Stat. § 115.01, Subd. 22, the term, "...waters of the state means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers,



irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof." *Commentary: According to Minnesota Rules 7050.0130, Subpart A, disposal systems or treatment works operated under either a Minnesota Pollution Control Agency (MPCA) permit or an agency certificate of compliance are not considered "waters of the state." Under Minnesota Rules 7050.0130, Subpart F, constructed wetlands designed for wastewater treatment are not "waters of the state." Also see the definition of "Wetlands."*

*Watercourse* is a ditch, stream, creek, or other defined channel intended for the conveyance of water, runoff, groundwater discharge or similar hydraulic or hydrologic purpose.

*Wetlands* means lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this definition, wetlands must have the following three attributes:

- (1) Have a predominance of hydric soils;
- (2) Are inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and
- (3) Under normal circumstances support a prevalence of such vegetation. ~~(Minn. Stat. § 103.G.005)~~

(Ord. No. 10-2205, 5-20-2010)

#### **Sec. 34-463. Purpose.**

The city has a strong interest in protecting and managing its valuable water and natural resources, recognizing the relationships between resource protection, land use management, development, redevelopment and fiscal responsibility. Federal and state regulations have placed restrictions and requirements on the management and discharge of stormwater with which the city must comply. The City of Blaine Local Surface Water Management Plan (LSWMP) established goals and policies to meet those regulations. The Blaine City Code of Ordinances provides requirements for stormwater management on development and redevelopment projects to ensure the city's goals and policies are met and that there is compliance with federal, state, and local rules.

(Ord. No. 10-2205, 5-20-2010)

#### **Secs. 34-464—34-480. Reserved.**

### ***DIVISION 2. STORMWATER MANAGEMENT PLAN***

[Sec. 34-481. General criteria.](#)

[Sec. 34-482. Design standards.](#)

[Sec. 34-483. Drainage.](#)

[Sec. 34-484. Calculations.](#)

[Sec. 34-485. Volume control and pollutant management.](#)

[Sec. 34-486. Impaired waters and total maximum daily loads.](#)

[Sec. 34-487. Industrial sites.](#)

[Sec. 34-488. Wetlands.](#)

[Sec. 34-489. Maintenance of stormwater BMPs.](#)

[Secs. 34-490—34-520. Reserved.](#)

**Sec. 34-481. General criteria.**

A stormwater management plan shall be required of all new development, redevelopment and land disturbance projects greater than one acre in parcel size or part of a greater plan of development. This plan shall be designed to reduce and/or minimize the impervious area of the site, control the peak flow rate, and minimize the volume of stormwater runoff from the same as required in the LSWMP and these ordinances. Plans must be submitted to the city for review and approval prior to the start of construction. Each project will construct, implement and maintain all best management practices (BMP) that are deemed necessary to achieve the goals of this division, including post-construction stormwater management BMPs. Prior to the start of construction, all projects shall be in possession of any and all permits required for the project including, but not limited to:

- (1) Watershed districts;
- (2) City of Blaine;
- (3) U.S. Army Corps of Engineers;
- (4) National Pollutant Discharge Elimination System (NPDES); and
- (5) Wetland restoration or mitigation plan approval.

Projects smaller than one acre in size are encouraged to implement BMPs that will promote infiltration and contribute to improved water quality.

(Ord. No. 10-2205, 5-20-2010; [ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=714921&datasource=ordbank" web="yes">Ord. No. 15-2306, 4-16-2015 </ulink>](http://newords.municode.com/readordinance.aspx?ordinanceid=714921&datasource=ordbank))

**Sec. 34-482. Design standards.**

Minimal Impact Design Standards (MIDS) (see Minnesota Stormwater Manual) shall be followed to achieve the best stormwater management. The BMPs used should seek to mimic the natural hydrology, utilize pervious areas for stormwater treatment and to infiltrate stormwater runoff from driveways, sidewalks, rooftops, parking lots, and landscaped areas to the maximum extent practical to provide treatment for both water quality and quantity. The Minnesota Stormwater Manual (MN Pollution Control Agency), the Minnesota Urban Small Sites BMP Manual (Metropolitan Council), Local Road Research Board BMP Maintenance Guide, and Protecting Water Quality in Urban Areas (MPCA) are resources that provide guidance in achieving these goals.

- (1) *Implementation.* Low impact development, better site design, or green infrastructure design techniques are the preferred methods of achieving stormwater management. Mimicking the natural topography and land cover as they exist in the pre-developed condition to meet the standards and requirements of the city and other regulatory agencies shall be the first consideration.
- (2) *Recommended practices.* Practices and methods used to achieve the intent of the above paragraph shall include, but not be limited to, the following:
  - a. Rain gardens;
  - b. Green roofs;

- c. Bio-retention practices;
  - d. Pervious pavements or pavers;
  - e. Plots of native vegetation and/or buffers in place of sod;
  - f. Reforestation and revegetation;
  - g. Trees and tree box filters;
  - h. Reduction of impervious area;
  - i. Rain water harvesting.
- (3) *Other practices.* Other traditional stormwater BMPs may be approved on a site by site basis to achieve the goals of water quality and quantity, and rate control. These practices shall conform to the standards outlined in the resources referenced above.
- (4) *Pre-treatment of runoff.* All stormwater runoff shall be pre-treated prior to discharge to any surface water.
- (5) *Maintenance plan.* A plan shall be established to maintain all temporary and permanent BMPs in a working and efficient condition. This may include removal of invasive species, sediment, debris, or any other foreign or obstructive object or condition that prevents the BMPs from performing as designed.
- (6) *Exemption.* The mill and overlay or rehabilitation of a public roadway that does not create additional impervious surfaces; and sidewalk or trail projects are exempt from these stormwater requirements. These projects may be subject to other regulations.

(Ord. No. 10-2205, 5-20-2010; [ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=714921&datasource=ordbank" web="yes">Ord. No. 15-2306, 4-16-2015 </ulink>](http://newords.municode.com/readordinance.aspx?ordinanceid=714921&datasource=ordbank))

#### **Sec. 34-483. Drainage.**

Site alteration, grading, placement and installation of BMPs and other related activities shall be implemented in such a way that drainage from the site shall not exceed the pre-developed rates and will not adversely affect neighboring properties. Sections 33.16 and 33.17 of the Blaine City Zoning Ordinance shall also apply.

(Ord. No. 10-2205, 5-20-2010)

#### **Sec. 34-484. Calculations.**

Hydrologic and hydraulic design calculations must be submitted for the pre-development and post-development conditions for the two-, ten-, and 100-year events as well as the ten-day snow melt event. Such calculations shall include:

- (1) Description of the design storm frequency, intensity and duration;
- (2) Time of concentration;
- (3) Soil curve numbers or runoff coefficients;
- (4) Peak runoff rates and total runoff volumes for each watershed area;
- (5) Infiltration rates, where applicable;

- (6) Culvert capacities;
- (7) Flow velocities;
- (8) Data on the increase in rate and volume of runoff for the design storms used; and
- (9) Documentation of sources for all computation methods and field test results.

(Ord. No. 10-2205, 5-20-2010)

**Sec. 34-485. Volume control and pollutant management.**

Stormwater volume management practices shall be the equivalent of infiltrating or retaining the first one and one-tenth inches of precipitation over the impervious surface of the site. These practices should seek to utilize pervious areas for stormwater treatment and to infiltrate stormwater runoff from driveways, sidewalks, rooftops, parking lots and landscaped areas to the maximum extent practical to provide treatment for both water quantity and quality.

New development projects shall achieve no net increase from pre-project conditions (on an annual average basis) of stormwater discharge volume; discharges of total suspended solids (TSS); and discharge of total phosphorus (TP).

Redevelopment projects shall achieve a net reduction from pre-project conditions (on an annual average basis) of stormwater discharge volume; discharges of total suspended solids (TSS); and discharge of total phosphorus (TP).

No pre- or post-construction testing will be required by the city to determine the "no net increase" or "net reduction" requirements stated above.

Using best management practices will be accepted as compliance.

The above requirements may be altered and alternative treatment BMPs approved under the following limitations:

- (1) Infiltration techniques shall be prohibited when the infiltration structural BMP will receive discharges from or be constructed in areas:
  - a. Where industrial facilities are not authorized to infiltrate industrial stormwater under an NPDES/SDS permit;
  - b. Where vehicle fueling and maintenance occur;
  - c. With less than three feet of separation from the bottom of the infiltration system to the elevation of the seasonally saturated soils or top of bedrock;
  - d. Where high levels of contaminants in soil or groundwater will be mobilized by the infiltration of stormwater.
- (2) Infiltration techniques will be restricted when the infiltration device will be constructed in areas:
  - a. With predominately hydrologic soil group D soils;
  - b. Within 1,000 feet up-gradient or 100 feet down-gradient of active karst features;
  - c. Within a drinking water source management area (DWSMA) as defined in the city's wellhead protection plan;
  - d. Where soil infiltration rates are more than eight and three-tenths inches per hour.

If volume and pollutant management controls cannot be constructed on-site, off-site locations where the controls can be met must be identified.

Guidance for best management practices and standards for these mitigation processes should follow the minimal impact design standards (MIDS) design sequence flowchart for flexible treatment options contained in the MN Stormwater Manual.

(Ord. No. 10-2205, 5-20-2010; <http://newords.municode.com/readordinance.aspx?ordinanceid=714921&datasource=ordbank> web="yes">Ord. No. 15-2306, 4-16-2015 </a>)

~~Editor's note — <http://newords.municode.com/readordinance.aspx?ordinanceid=714921&datasource=ordbank> web="yes">Ord. No. 15-2306, adopted April 16, 2015 </a>, amended the title of § 34-485 to read as set out herein. Previously § 34-485 was titled volume control.~~

#### **Sec. 34-486. Impaired waters and total maximum daily loads.**

If a site drains to a surface water that has been listed as impaired pursuant to section 303(d) of the federal Clean Water Act more stringent water quality measures will be required. If a total maximum daily load (TMDL) has been written for the impaired water then all best management practices deemed necessary to comply with the requirements of the TMDL must be implemented.

(Ord. No. 10-2205, 5-20-2010)

#### **Sec. 34-487. Industrial sites.**

Certain industrial sites are required to prepare and implement a stormwater pollution prevention plan, and shall file a notice of intent (NOI) under the provisions of the National Pollutant Discharge Elimination System (NPDES) general permit. The stormwater pollution prevention plan requirement applies to both existing and new industrial sites.

(Ord. No. 10-2205, 5-20-2010)

#### **Sec. 34-488. Wetlands.**

Runoff shall not be routed directly to wetlands without first passing through an appropriate settling or approved pre-treatment basin. Said basins must meet engineering standards for volume and flow directed to the basin.

- (1) A protective buffer strip of natural vegetation at least 15 feet (25 feet is preferred) in width shall surround all wetlands.
- (2) Wetlands must not be drained, filled, or altered, wholly or partially, unless in compliance with and permitted under the most current rules adopted by the Minnesota Board of Water and Soil Resources in the Wetland Conservation Act (WCA). Wetland replacement must be guided by the following principles in descending order:
  - a. Avoidance.
  - b. Minimization.
  - c. Mitigation.

- (3) Permits to work in wetlands must be obtained from the local water management organizations, acting as local governmental units (LGU), with respective jurisdiction within the City of Blaine to administer the WCA.
- (4) Permanent boundary markers, in the form of signage approved by the City of Blaine, should be installed prior to final approval of the required clearing and grading plan.

(Ord. No. 10-2205, 5-20-2010)

**Sec. 34-489. Maintenance of stormwater BMPs.**

The design and planning of all stormwater management facilities shall include detailed maintenance and repair procedures to ensure their continued function. These plans will identify the parts or components of a stormwater management facility that need to be maintained and the equipment and skills or training necessary. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan.

All private stormwater BMPs shall be maintained by the owner(s) such that the BMP performs the intended treatment function. Public stormwater BMPs shall be the responsibility of the City of Blaine in that the city will ensure that the capacity of retention/detention ponds is adequate and will repair or replace storm sewer system components as needed.

The applicant must ensure access to all stormwater treatment practices at the site for the purpose of inspection and repair by securing all the maintenance easements needed on a permanent basis. These easements will be recorded with the plan and will remain in effect even with transfer of title to the property.

The applicant must execute an easement and an inspection and maintenance agreement binding on all subsequent owners of land served by any on-site stormwater management measure in accordance with the specifications of this division.

(Ord. No. 10-2205, 5-20-2010)

**Secs. 34-490—34-520. Reserved.**

***DIVISION 3. SPECIFIC USE OF STORMWATER PONDS***

[Sec. 34-521. Alterations to and use of public and private stormwater ponds.](#)

[Sec. 34-522. Appropriations from stormwater ponds.](#)

[Sec. 34-523. Stormwater pond aeration permit.](#)

[Secs. 34-524—34-540. Reserved.](#)

**Sec. 34-521. Alterations to and use of public and private stormwater ponds.**

No alterations to shorelines or vegetation around stormwater ponds shall be allowed unless authorized by the city.

Fountains or other circulating devices will not be allowed in stormwater ponds unless authorized by the city.

Chemical treatment of stormwater ponds will not be allowed unless authorized by the city.

Structures will not be allowed within the stormwater pond or protective buffer zone. These will include but not be limited to retaining walls, docks, piers, diving platforms, bridges, etc.

Recreational activities, including but not limited to boating, swimming, fishing and skating are discouraged on all stormwater ponds.

Dumping of yard waste materials in, on or around any stormwater pond is prohibited. Cattails growing in and around stormwater ponds may be cut with the permission and direction of the city.

(Ord. No. 10-2205, 5-20-2010; <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=873061&datasource=ordbank" web="yes">Ord. No. 18-2395 </ulink>, 1-18-2018)

**Sec. 34-522. Appropriations from stormwater ponds.**

Appropriation of water from stormwater ponds for the purpose of private irrigation may be allowed based upon criteria established by the city. City approval must be granted before use begins.

(Ord. No. 10-2205, 5-20-2010)

**Sec. 34-523. Stormwater pond aeration permit.**

(a) *Purpose.* The purpose of this section of the City Code is to authorize the issuance of permits for stormwater pond aeration in the city in order to protect the health, safety, and welfare of the general public.

(b) *Definitions.*

*Aeration equipment* means electrical or mechanical equipment used to place oxygen into contact with water by mixing water with atmospheric oxygen. Also refers to floating fountains.

*Floating fountain* means a free-floating structure that is tethered, anchored, or otherwise secured to prevent movement from which an artificially produced jet of water arises.

*Private/institutional property* means private property refers to property owned by a person or group and kept for their exclusive use. Institutional property, for the purposes of this section, shall be defined as a property owned by a governmental unit that is developed and used for active governmental purposes.

*Private stormwater pond* means a body of standing water wholly located within a single private/institutional property or multiple adjoining properties that provide water quality protection and/or flood protection, either natural or manmade that is part of the infrastructure for land use management.

*Public stormwater pond* means a body of standing water that provides water quality protection and/or flood protection, either natural or manmade, is a part of the infrastructure for land use management, is wholly or partially located on property which is dedicated to the use of the public, and is not considered private property by the definition of private property as defined in this section.

*Qualified professional* means a person whose training and experience qualifies him/her to make water quality recommendations. Qualified professionals include, but are not limited to: registered engineers, hydrologists, scientists, vendors, or technically trained individuals functioning under the direct supervision of a qualified professional.

*Representative* means an agent, deputy, or substitute who is acting or speaking in the place or on behalf of another or others.

*Stormwater pond* (also referred to as wet sedimentation basin, wet retention basin, or simply wet pond) is a manmade or modified natural basin constructed to capture and retain stormwater runoff for the purpose of removing pollutants and mitigating downstream water quantity impacts.

*(b) Stormwater pond aeration permit required.*

(1) *Required.* A stormwater pond aeration permit is required to install, alter or relocate stormwater pond aeration equipment on public stormwater ponds as defined in this section. Only removable aeration equipment may be installed. Aeration equipment is permitted from April 1 through October 15. Permanently installed aeration equipment and winter aeration are prohibited. Aeration equipment shall be located and operated in a manner where it does not cause a nuisance to other abutting property owners. The city engineer may limit any lighting and the height and width of spray on fountain type aeration equipment. Only one permit shall be issued for a stormwater pond. Stormwater ponds operating aeration systems other than what is listed on the approved permit shall be prohibited and any existing stormwater pond aeration permits may be revoked.

*(2) Application.*

- a. Application for a permit under this section shall be made in writing to the engineering division and shall be on a form provided by the engineering division. All stormwater pond aeration permits shall be issued by the city engineer or the city engineer's designee.
- b. The application shall be accompanied with the following:
  1. Completed application form, including signatures from 75 percent of the abutting property owners and signed agreement included with the application form.
  2. Aeration system specifications, including sizing criteria, type and details of the equipment and power supply details provided by a qualified professional.
  3. Documentation indicating the installer is a qualified professional and will properly install all equipment.
  4. Removal and maintenance documentation.
  5. Payment of permit fee (as established by City of Blaine Schedule of Fees).

*(3) Special conditions.*

- a. Aeration equipment will not be allowed in ponds with a design permanent pool elevation of less than five feet of depth. The depth of influence of the equipment cannot extend below the design sediment storage elevation of the pond.
- b. Aeration equipment may be no more than one horsepower and draw water from a horizontal direction only.
- c. If the pond water level drops to less than five feet of depth the equipment must be turned off until the water level rises to the design normal water elevation, but not above the high water elevation.
- d. Where the surface area of the pond is no more than what is required to meet stormwater regulations, when a storm event causes the water level to rise, the equipment must be turned off until the pond depth returns to the design permanent pool elevation and sediment has settled out of the water column.
- e. A staff gauge, for determining the water level elevation, must be installed in the pond and surveyed annually for accuracy.



f. The equipment may only be operated between the hours of 7:00 a.m. and 10:00 p.m. to comply with city nuisance regulations.

(4) *Expiration.* If installation, alteration or relocation of the aeration equipment for which a stormwater pond aeration permit was issued has not commenced within 180 days from the date of its issuance, or if work authorized by the stormwater pond aeration permit is suspended or abandoned for a period over 180 days, the permit shall expire by operation of law and shall no longer be of any force or effect and a new permit shall be obtained. The city engineer may, for good cause shown in writing, extend the validity of any such permit for an additional period which is reasonable under the circumstances, but in no event shall the continuance exceed a period of 60 days.

(5) *Renewal.* The stormwater pond aeration permit requires an annual renewal. If 75 percent of the property owners adjacent to the stormwater pond oppose aeration at any time, the permit will not be renewed and the stormwater aeration equipment must be removed.

(6) *Exemptions.* The following are exemptions to the requirements of this section:

- a. Stormwater pond locations where a DNR permit already exists for aeration year round do not require a city stormwater pond aeration permit and are allowed to aerate year round, per the DNR permit.
- b. Public agencies with a pond or lake management plan or other master plan, such as a park or natural resource master plan, which places controls on the use of aeration equipment in ponds are not required to obtain a city stormwater pond aeration permit for stormwater pond aeration on public property.
- c. Private stormwater ponds, as defined in this section, are not required to obtain a city stormwater pond aeration permit for stormwater pond aeration provided they do not discharge to the public storm sewer system or any downstream water body.

(d) *Other permits required.*

(1) Electrical permit. An electrical permit pursuant to this Code shall be required and the electrical work shall be done by a licensed electrician.

(2) It is the responsibility of the applicant to determine if any other permits are required and to obtain those permits before a city permit will be issued and prior to installation, alteration, or relocation of the aeration equipment.

(e) *Right of entry.* The city shall be permitted to enter and inspect facilities subject to regulation under this division as often as may be necessary to determine compliance with this division.

(f) *Penalty.* Should a person(s) be found in violation of this division they will receive a notice of violation and have 30 days to achieve compliance. If compliance is not met after the 30-day notice of violation, violator will be issued an administrative citation. Failure to respond to said administrative citation or to pay any administrative fine shall result in the issuance of a misdemeanor citation. Remedies not exclusive.

The remedies listed in this division are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the city to seek cumulative remedies. The city may recover all attorneys' fees, court costs and other expenses associated with enforcement of this division, including sampling and monitoring expenses.

(g) *Severability.* If any division, section, subsection, sentence, clause, or phrase of this section is for any reason held to be invalid, such decision does not affect the validity of the remaining portion of this section. The city council hereby declares that it would have adopted the article in each division, section,

subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more divisions, sections, subsections, sentences, clauses, or phrases be declared invalid.

- (h) *Ultimate responsibility.* The standards set forth herein and promulgated pursuant to this division are minimum standards; therefore this division does not intend or imply that compliance by any person will ensure that there will be no contamination, pollution, unauthorized discharge of pollutants, or reduction or elimination of any substance or organism.

( <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=783318&datasource=ordbank" web="yes">Ord. No. 16-2354 </ulink>, 8-4-2016)

**Secs. 34-524—34-540. Reserved.**

#### ***DIVISION 4. RAIN GARDENS***

[Sec. 34-541. Rain gardens in road right-of-way.](#)

[Secs. 34-542—34-560. Reserved.](#)

#### **Sec. 34-541. Rain gardens in road right-of-way.**

In order to obtain a right-of-way permit, rain gardens constructed in the right-of-way will be required to capture street runoff. The property owner must agree to this condition and accept responsibility for maintenance of the rain garden and associated features.

- (1) If the homeowner is not agreeable to allowing street runoff into the rain garden they must agree to install features that would direct all driveway runoff to the rain garden and capture 75 percent of front yard and roof runoff. Maintenance of the rain garden and associated features will be the responsibility of the homeowner.
- (2) Rain gardens proposed for construction in the right-of-way must have plans approved by the city engineering department. These plans will include illustration of area draining to the rain garden; design details to prove proper sizing/capacity to handle the area of drainage; illustrate property boundaries, location of street features, driveway, house and other structures in relation to the rain garden; and include proof of infiltration potential and ability to drawdown within a 48-hour period.
- (3) Rain gardens capturing street runoff would require a curb cut to direct flow into the rain garden. Curb cuts for rain gardens approved in the right-of-way will be constructed and paid for by the city. All other construction and maintenance associated with the rain garden is the sole responsibility of the homeowner.
- (4) City staff or designee has right of entry to all rain gardens in the right-of-way to ensure proper function of the feature.
- (5) Rain gardens in the right-of-way will be mapped as part of the city stormwater management system. These features will be counted toward meeting compliance of the city's MS4 permit with the state of Minnesota or other regulatory requirements imposed on the city through state, federal or other government agencies.
- (6) The City of Blaine shall have no liability for the rain garden or its associated features.

(Ord. No. 10-2205, 5-20-2010)

**Secs. 34-542—34-560. Reserved.**

***DIVISION 5. ILLICIT DISCHARGE DETECTION AND ELIMINATION***

[Sec. 34-561. Purpose of division.](#)

[Sec. 34-562. Definitions.](#)

[Sec. 34-563. Applicability.](#)

[Sec. 34-564. Responsibility for administration.](#)

[Sec. 34-565. Compatibility with other regulations.](#)

[Sec. 34-566. Severability.](#)

[Sec. 34-567. Ultimate responsibility.](#)

[Sec. 34-568. Discharge prohibitions.](#)

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[Sec. 34-570. Right of entry.](#)

[Sec. 34-571. Requirement to prevent, control, and reduce stormwater pollutants by the use of best management practices.](#)

[Sec. 34-572. Violations and penalties.](#)

[Sec. 34-573. Remedies not exclusive.](#)

**Sec. 34-561. Purpose of division.**

The purpose of this division is to provide for the health, safety, and general welfare of the citizens of the City of Blaine through the regulation of non-stormwater discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This division establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the MS4 permit issued to the City of Blaine by the Minnesota Pollution Control Agency (MPCA) under the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this division are:

- (1) To regulate the contribution of pollutants to the MS4 by stormwater discharges by any user.
- (2) To prohibit illicit connections and discharges to the MS4.
- (3) To establish legal authority to carry out all inspection, surveillance, monitoring, and enforcement procedures necessary to ensure compliance with this division.

(Ord. No. 10-2205, 5-20-2010)

**Sec. 34-562. Definitions.**

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

*Hazardous materials* means any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

*Illegal discharge* means any direct or indirect non-stormwater discharge to the storm drain system, except as exempted in section 34-568 of this article.

*Illicit connections* is defined as either of the following:

- (1) Any drain or conveyance, whether on the surface or subsurface that allows an illegal discharge to enter the storm drain system including but not limited to sewage, process wastewater, wash water and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or
- (2) Any drain or conveyance connected from a commercial or industrial land use to the storm drain system that has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

*Industrial activity* means activities subject to NPDES Industrial Stormwater Permits as defined in 40 CFR, Section 122.26 (b)(14).

*Municipal separate storm sewer system (MS4)* means the system of conveyances (including sidewalks, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) owned and operated by the City of Blaine and designed or used for collecting or conveying stormwater, and that is not used for collecting or conveying sewage.

*National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit* means a permit issued by Minnesota Pollution Control Agency that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

*Non-stormwater discharge* means any discharge to the storm drain system that is not composed entirely of stormwater.

*Person* means any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

*Pollutant* means anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

*Premises* means any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

*Storm drainage system* means publicly-owned facilities by which stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

*Stormwater* means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

*Stormwater management plan* means a document which describes the best management practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

*Wastewater* means any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

*Watercourse* means a ditch, stream, creek, or other defined channel intended for the conveyance of water, runoff, groundwater discharge or similar hydraulic or hydrologic purpose.

(Ord. No. 10-2205, 5-20-2010)

**Sec. 34-563. Applicability.**

This division shall apply to all water entering the storm drainage system generated on any developed and undeveloped lands unless explicitly exempted by the City of Blaine.

(Ord. No. 10-2205, 5-20-2010)

**Sec. 34-564. Responsibility for administration.**

The City of Blaine shall administer, implement, and enforce the provisions of this division. Any powers granted or duties imposed upon the City of Blaine may be delegated in writing by the city manager to persons or entities acting in the beneficial interest of or in the employ of the city.

(Ord. No. 10-2205, 5-20-2010)

**Sec. 34-565. Compatibility with other regulations.**

This division is not intended to modify or repeal any other ordinance, rule, regulation, or other provision of law. The requirements of this division are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this division imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.

(Ord. No. 10-2205, 5-20-2010)

~~**<sup>80</sup>Sec. 34-566. Severability.**~~

~~The provisions of this division are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this division or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this division.~~

~~(Ord. No. 10-2205, 5-20-2010)~~

**Sec. 34-567. Ultimate responsibility.**

The standards set forth herein and promulgated pursuant to this division are minimum standards; therefore this division does not intend or imply that compliance by any person will ensure that there will be no contamination, pollution, or unauthorized discharge of pollutants.

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<sup>80</sup> **Sec. 34-566. Severability.** Section is duplicative of chapter 1 general provisions and should be stricken.

(Ord. No. 10-2205, 5-20-2010)

**Sec. 34-568. Discharge prohibitions.**

(a) *Prohibition of illegal discharges.* No person shall throw, drain, or otherwise discharge, cause, or allow others under its control to throw, drain, or otherwise discharge into the MS4 any pollutants or waters containing any pollutants, other than stormwater. The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

- (1) The following discharges are exempt from discharge prohibitions established by this division: water line flushing, landscape irrigation, diverted stream flows, rising groundwater, uncontaminated groundwater infiltration, uncontaminated pumped groundwater, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, and street wash water.
  - a. Discharge of swimming pools, crawl spaces, sump pumps, footing drains, and other sources that may be determined to contain sediment or other forms of pollutants may NOT be discharged directly to a gutter or storm sewer. This discharge must be allowed to flow over a vegetated area to allow filtering of pollutants, evaporation of chemicals, and infiltration of water consistent with the stormwater requirements of the City of Blaine.
- (2) Discharges or flow from firefighting, and other discharges specified in writing by the City of Blaine as being necessary to protect public health and safety.
- (3) Discharges associated with dye testing, however this activity requires a verbal notification to the City of Blaine prior to the time of the test.
- (4) The prohibition shall not apply to any non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Minnesota Pollution Control Agency (MPCA), provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

(b) *Prohibition of illicit connections.*

- (1) The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.
- (2) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- (3) A person is considered to be in violation of this division if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.
- (4) Improper connections in violation of this division must be disconnected and redirected, if necessary, to an approved onsite wastewater management system or the sanitary sewer system upon approval of the City of Blaine.
- (5) Any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to the storm sewer system, shall be located by the owner or occupant of that property upon receipt of written notice of violation from the City of Blaine requiring that such locating be completed. Such notice will specify a reasonable time period within which the location of the drain or conveyance is to be determined, that the drain or conveyance be identified as storm

sewer, sanitary sewer or other, and that the outfall location or point of connection to the storm sewer system, sanitary sewer system or other discharge point be identified. Results of these investigations are to be documented and provided to the City of Blaine.

(Ord. No. 10-2205, 5-20-2010)

**Sec. 34-569. Watercourse protection.**

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, yard waste, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

(Ord. No. 10-2205, 5-20-2010)

**Sec. 34-570. Right of entry.**

The City of Blaine shall be permitted to enter and inspect facilities subject to regulation under this division as often as may be necessary to determine compliance with this division.

(Ord. No. 10-2205, 5-20-2010)

**Sec. 34-571. Requirement to prevent, control, and reduce stormwater pollutants by the use of best management practices.**

The City of Blaine will adopt requirements identifying best management practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of stormwater, the storm drain system, or waters of the United States. The owner or operator of such activity, operation, or facility shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and non-structural BMPs.

Further, any person responsible for a property or premise that is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the MS4. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a stormwater management plan (SWMP) as necessary for compliance with requirements of the NPDES permit.

(Ord. No. 10-2205, 5-20-2010)

**Sec. 34-572. Violations and penalties.**

Any person violating any provision of this article is guilty of a misdemeanor.

- (1) *Emergency cease and desist orders.* When the City of Blaine finds that any person has violated, or continues to violate, any provision of this division, or any order issued hereunder, or that the person's past violations are likely to recur, and that the person's violation(s) has (have) caused or contributed to an actual or threatened discharge to the MS4 or waters of the state which reasonably

appears to present an imminent or substantial endangerment to the health or welfare of persons or to the environment, the City of Blaine may issue an order to the violator directing it immediately to cease and desist all such violations

- (2) *Suspension due to the detection of illicit discharge.* Any person discharging to the MS4 in violation of this division may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. Such suspension may also be imposed if it is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger.
- (c) *Violations deemed a public nuisance.* In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this division is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense; and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

(Ord. No. 10-2205, 5-20-2010)

**Sec. 34-573. Remedies not exclusive.**

The remedies listed in this division are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the City of Blaine to seek cumulative remedies. The City of Blaine may recover all attorney's fees, court costs and other expenses associated with enforcement of this division, including sampling and monitoring expenses.

(Ord. No. 10-2205, 5-20-2010)



**Chapter 38 FIRE PREVENTION AND PROTECTION \***

~~\*Cross reference—Buildings and building regulations, ch. 18; emergency management and emergency services, ch. 30; fire hydrants in manufactured home parks, § 46-99; fire services, § 86-71 et seq.~~

State Law reference— Fire prevention and protection, Minn. Stat. chs. 299F—299N.

ARTICLE I. - IN GENERAL

ARTICLE II. - MINNESOTA STATE FIRE CODE

ARTICLE III. - IGNITION DEVICES

ARTICLE IV. - OPEN BURNING

ARTICLE V. - FIRE PROTECTION WATER SUPPLIES

**ARTICLE I. IN GENERAL**

Secs. 38-1—38-30. Reserved.

Secs. 38-1—38-30. Reserved.

**ARTICLE II. MINNESOTA STATE FIRE CODE**

Sec. 38-31. Adopted by reference.

Sec. 38-32. Amendments.

Sec. 38-33. Fire department permit fees.

Sec. 38-34. Penalties.

Secs. 38-35—38-60. Reserved.

<sup>81</sup>Sec. 38-31. Adopted by reference.

The most current edition of the "Minnesota State Fire Code," as adopted by the commissioner of public safety pursuant to ~~M.S.A. § 299F.011 Minn. Stat. § 299-F.011~~, including all of the amendments, rules and regulations established, adopted and published from time to time by the state commissioner of public safety, through the state fire marshal division is hereby adopted by reference. The Minnesota State Fire Code is hereby incorporated in this article as if fully set out in this section.

(Code 1980, § 9-1; Ord. No. 93-1331, 5-6-1993; Ord. No. 03-1972, 4-17-2003)

State Law reference— Adoption by reference, Minn. Stat. § 471.62.

**Sec. 38-32. Amendments.**

The following sections are hereby revised:

- (1) *101.1*. These regulations shall be known as the Minnesota State Fire Code of the City of Blaine.
- (2) *109.3*. Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or do work in violation of the approved construction documents or directive of the code official, or of a permit or certificate used under provisions of this code, shall be guilty of a misdemeanor.

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<sup>81</sup> **Sec. 38-31. Adopted by reference.** Statute incorrectly cited should be corrected as shown.

- (3) *111.4. Failure to comply.* Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be guilty of a misdemeanor.
- (4) The limits referred to in certain sections of the Minnesota State Fire Code are hereby established as follows:
  - a. *Section 3204.3.1.1.* Storage of flammable cryogenic fluids in stationary containers outside of buildings is prohibited except in industrial zoning districts.
  - b. *Section 3404.2.9.5.1.* The storage of class I and II liquids in aboveground tanks outside of buildings is prohibited except in commercial and industrial zoning districts.
  - c. *Section 3406.2.4.4.* The storage of class I and II liquids in aboveground tanks shall not be prohibited as outlined in section 3406.

(Code 1980, § 9-2; Ord. No. 93-1331, 5-6-1993; Ord. No. 03-1972, 4-17-2003)

**Sec. 38-33. Fire department permit fees.**

All fire department permit fees shall be set in accordance with a fee schedule adopted by action of the city council.

(Code 1980, § 9-3; Ord. No. 93-1331, 5-6-1993; Ord. No. 03-1972, 4-17-2003)

**Sec. 38-34. Penalties.**

- (a) Any person who shall violate any provisions of this article and/or the Minnesota Uniform Fire Code shall be guilty of a misdemeanor.
- (b) The application of the penalty in subsection (a) of this section shall not be held to prevent the enforced removal of prohibited conditions.
- (c) Each day any such violation shall continue shall constitute a separate offense.

(Code 1980, § 9-4; Ord. No. 93-1331, 5-6-1993; Ord. No. 03-1972, 4-17-2003)

**Secs. 38-35—38-60. Reserved.**

**ARTICLE III. IGNITION DEVICES**

**Sec. 38-61. Definitions.**

**Sec. 38-62. Penalties for violation of article.**

**Sec. 38-63. Confiscation.**

**Sec. 38-64. Prohibited acts.**

**Secs. 38-65—38-69. Reserved.**

**Sec. 38-61. Definitions.**

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

*Ignition device* means:

- (1) Matches.
- (2) Lighters.
- (3) Any other materials when used for purposes of ignition.

(Code 1980, § 9-15; Ord. No. 00-1856, 6-1-2000; <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=848275&datasource=ordbank" web="yes">Ord. No. 17-2382 </ulink>, 9-7-2017)

~~Cross reference—Definitions generally, § 1-2.~~

**Sec. 38-62. Penalties for violation of article.**

- (a) Any minor who violates any of the provisions of this article shall be guilty of a misdemeanor.
- (b) In addition to any other penalties provided for in this Code, any minor found guilty of violating the article may be required to participate in an educational program when appropriate, and include as part of the penalty therein that such minor pay the cost of such educational program.

(Code 1980, § 9-18; Ord. No. 00-1856, 6-1-2000; <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=848275&datasource=ordbank" web="yes">Ord. No. 17-2382 </ulink>, 9-7-2017)

**Sec. 38-63. Confiscation.**

Any ignition device possessed by a minor may be confiscated by any peace officer, fire chief or authorized designee of the fire chief. Once confiscated, the ignition device shall become property of the confiscating authority and shall be processed accordingly as evidence in the commission of a crime or made inoperable and disposed of properly.

(Code 1980, § 9-17; Ord. No. 00-1856, 6-1-2000)

**Sec. 38-64. Prohibited acts.**

No minor may possess any ignition device, unless under the direct supervision of, or with the direct permission of, a parent or legal guardian.

(Code 1980, § 9-16; Ord. No. 00-1856, 6-1-2000; <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=848275&datasource=ordbank" web="yes">Ord. No. 17-2382 </ulink>, 9-7-2017)

**Secs. 38-65—38-69. Reserved.**

**ARTICLE IV. OPEN BURNING**

[Sec. 38-70. Adoption of state law by reference.](#)

[Sec. 38-71. City may be more restrictive than state law.](#)

[Sec. 38-72. Purpose.](#)

[Sec. 38-73. Definitions.](#)

[Sec. 38-74. Prohibited materials.](#)

Sec. 38-75. Open burning prohibited except by permit.

Sec. 38-76. Permitted open burning; special circumstances.

Sec. 38-77. Permit application and fees.

Sec. 38-78. Permit process.

Sec. 38-79. Denial of permit.

Sec. 38-80. Permit holder responsibility.

Sec. 38-81. Revocation of permit.

Sec. 38-82. Burning ban or air quality alert.

Sec. 38-83. Penalty.

Sec. 38-84. Severability.

Sec. 38-85. Effective date.

Secs. 38-86—38-94. Reserved.

**Sec. 38-70. Adoption of state law by reference.**

The provisions of Minn. Stat. ch. 88, as they may be amended from time to time, with reference to the definition of terms, conditions of operation, permits, and all other matters pertaining to open burning are hereby adopted by reference and are made a part of this article as if set out in full. It is the intention of the city council that all future amendments of Minn. Stat. ch. 88, are hereby adopted by reference or referenced as if they had been in existence at the time this article was adopted.

(Ord. No. 10-2215, 12-16-2010)

**Sec. 38-71. City may be more restrictive than state law.**

The council is authorized to impose, and has imposed in this article, additional restrictions on open burning within its limits beyond those contained in Minn. Stat. ch. 88, as it may be amended from time to time.

(Ord. No. 10-2215, 12-16-2010)

**Sec. 38-72. Purpose.**

The purpose of this article is to regulate open burning within the City of Blaine, to protect the public health, safety and welfare. Through passage of this article, the designated fire official is hereby authorized to adopt and impose burning restrictions to aid in the prevention of wildfire and to consult with the department of natural resources (DNR), division of forestry to develop any restrictions or other criteria.

(Ord. No. 10-2215, 12-16-2010)

**Sec. 38-73. Definitions.**

For purposes of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

*Designated fire official* means the fire chief, fire marshal, city fire warden, or other designee who provides fire protection or public safety services to the city.

*Open burning* means 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.

*Recreational/camp fire* means a fire set in accordance with the Spring Lake Park/Blaine/Mounds View Fire Department Regulation 3-95 and is no more than three feet in diameter contained within a recreational fire site: using dry, clean wood, producing little detectable smoke, odor or soot beyond the property line; conducted with an adult tending the fire at all times; for recreational, ceremonial, or social food preparation; extinguished completely before quitting the occasion; and respecting weather conditions, neighbors, burning bans, and air quality requirements so that nuisance, health or safety hazards will not be created. No more than one recreational fire is allowed on any property at one time.

*Recreational/camp fire site* means an area of no more than a three-foot diameter circle (as measured from the inside of the fire ring or border); completely surrounded by non-combustible and non-smoke or odor producing material, either natural rock, cement, brick, tile, blocks or ferrous metal. Burning barrels are not a recreational fire site as defined herein. Recreational fire sites shall not be located closer than 25 feet to any structure or combustible material.

*Running fire* means an attended fire allowed to spread through surface vegetative matter under controlled conditions for the purpose of vegetative management, forest management, game habitat management, or agricultural improvement.

*Starter fuels* means dry, untreated, unpainted, kindling, branches or charcoal fire starter. Paraffin candles are permitted as a starter fuel and an aid to ignition only. Propane gas torches or other clean gas burning devices causing minimal pollution may be used to start an open burn.

*Vegetative materials* means dry leaves, dry grass clippings, twigs, branches, tree limbs, and other similar materials. Paper and cardboard are not considered vegetative materials.

*Wood* means dry, clean fuels, such twigs, branches, limbs, manufactured fireplace logs, charcoal, or cord wood. "Wood" does not include wood that is green with leaves or needles, rotten, wet, oil soaked, or treated with paint, glue or preservatives.

(Ord. No. 10-2215, 12-16-2010)

**Sec. 38-74. Prohibited materials.**

- (a) No person shall conduct, cause or permit the open burning of dimensional lumber, 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; or paint and paint filters.
- (b) No person shall conduct, cause or permit the open burning of: hazardous waste or materials from salvage operations; solid waste generated from an industrial or manufactured process; materials from a service or commercial establishment; or building materials generated from construction and/or demolition of commercial or institutional structures.
- (c) No person shall conduct, cause or permit the open 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 open burning of any leaves or grass clippings.

- (e) No person shall conduct, cause or permit the open burning of any wood or other vegetative materials through the use of a burner, as described in Minn. Stat. § 88.16, within the city's jurisdiction.
- (f) No person shall conduct, cause or permit the open burning of any materials that have been hauled onto the site.
- (g) No person shall conduct, cause or permit the open burning on any commercial property within the City of Blaine.

(Ord. No. 10-2215, 12-16-2010)

**Sec. 38-75. Open burning prohibited except by permit.**

No person shall start or allow any open burning on any property in the city without first having obtained an open burning permit. A permit is not required for any fire which is a recreational/camp fire as defined in section 38-73.

(Ord. No. 10-2215, 12-16-2010)

**Sec. 38-76. Permitted open burning; special circumstances.**

- (a) Under special or extraordinary circumstances, open burning permits may be issued by the city or by a DNR forestry official for:
  - (1) Elimination of health hazard that cannot be abated by other practical means, as determined by the commissioner of health or the local health authority.
  - (2) Ground thawing for utility repair and construction.
  - (3) Running fires (prairie restoration).
  - (4) Disposal of diseased trees generated on-site, diseased or infected nursery stock, or diseased bee hives.
- (b) Fire training permits may only be issued by the Minnesota Department of Natural Resources (DNR).
- (c) Permits for the operation of a permanent tree and brush burning sites may only be issued by the Minnesota Department of Natural Resources (DNR).

(Ord. No. 10-2215, 12-16-2010)

**Sec. 38-77. Permit application and fees.**

- (a) Open burning permits shall be obtained by making application on a form prescribed by the DNR and adopted by the fire department. The permit application shall be presented to the designated fire official for review.
- (b) An open burning permit shall require the payment of a fee. Permit fees shall be in an amount established by the council.

(Ord. No. 10-2215, 12-16-2010)

**Sec. 38-78. Permit process.**

- (a) The applicant shall demonstrate to the designated fire official the ability to comply with the applicable state statutes, this article, or any additional guidelines as may be adopted.

- (b) Upon receipt of the completed open burning permit application and fee, the designated fire official may, if he or she believes necessary, require a preliminary site inspection to locate the proposed burn site, note special conditions, and set dates and times of permitted burn and review fire safety considerations, including the preparation of a detailed burn event safety plan with the designated fire official, when conditions require.

(Ord. No. 10-2215, 12-16-2010)

**Sec. 38-79. Denial of permit.**

- (a) If the established criteria for the issuance of an open burning permit are not met, the application will be denied.
- (b) Even if the established criteria for the issuance of an open burning permit are met, if it is determined that a practical alternative method for disposal exists, a pollution or nuisance condition would result, or if a burn event safety plan cannot be drafted to the satisfaction of the designated fire official, the application may be denied.

(Ord. No. 10-2215, 12-16-2010)

**Sec. 38-80. Permit holder responsibility.**

- (a) Prior to starting an open burn, the permit holder shall have had the required pre-burn inspection completed and approved, be responsible for confirming that no burning ban or air quality alert is in effect and that the winds do not exceed ten mph.
- (b) The open burning site shall:
  - (1) Be on a lot with a minimum size of five acres.
  - (2) Have a snow cover of at least four inches.
  - (3) Have a maximum pile dimension not to exceed ten feet in diameter.
  - (4) Have a minimum separation from structures, utilities and aboveground hazardous materials tanks in accordance with the following table:

Fire Size— Diameter	Separation Requirement
10 ft.	400 feet
8 ft.	300 feet
6 ft.	200 feet
> 3 ft. to < 6 ft.	100 feet

- (5) Have a minimum separation of 100 feet from property lines.
- (6) Have an approved means of communication to notify emergency response personnel.
- (7) Have approved fire suppression equipment on site.

- (c) The open burn shall be attended to at all times by the property owner or an approved representative as indicated on the permit application. No fire may ever be allowed to smolder. The fire shall be completely extinguished before the permit holder or his or her representative leaves the site. It is the responsibility of the permit holder to have a valid permit, as required by this article, available for inspection on site by law enforcement, the fire department, a Minnesota Pollution Control Agency (MPCA) representative or DNR officer.
- (d) The permit holder is responsible for compliance and implementation of all general conditions, special conditions, and guidelines as established in the permit issued. The permit holder shall be responsible for all costs incurred as a result of the burn, including but not limited to fire suppression and administrative fees.

(Ord. No. 10-2215, 12-16-2010)

**Sec. 38-81. Revocation of permit.**

An open burning permit is subject to revocation at the discretion of a DNR officer or the designated fire official. Reasons for revocation include but are not limited to: a fire hazard existing or developing during the course of the burn; any permit conditions being violated during the course of the burn; pollution or nuisance conditions developing during the course of the burn; or a fire smoldering with no flame, or attendant, present.

(Ord. No. 10-2215, 12-16-2010)

**Sec. 38-82. Burning ban or air quality alert.**

- (a) The designated fire official is authorized to determine when conditions make open burning potentially hazardous and declare a burning ban within the city.
- (b) No recreational fire or open burn will be permitted when the city or the DNR has officially declared a burning ban due to potential hazardous fire conditions or when the MPCA has declared an air quality alert.

(Ord. No. 10-2215, 12-16-2010)

~~<sup>82</sup>**Sec. 38-83. Penalty.**~~

~~Any person convicted of violating any provision of this article is guilty of a misdemeanor and shall be punished by a fine not to exceed \$1,000.00 or imprisonment for not more than 90 days, or both, plus the costs of prosecution in either case.~~

~~(Ord. No. 10-2215, 12-16-2010)~~

~~<sup>83</sup>**Sec. 38-84. Severability.**~~

~~If any provision of this article is found to be invalid for any reason by a court of competent jurisdiction, the validity of the remaining provisions shall not be affected.~~

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<sup>82</sup> **Sec. 38-83. Penalty.** Penalty duplicative of chapter 1 general penalties should be stricken as indicated.

<sup>83</sup> **Sec. 38-84. Severability.** Provision duplicative of chapter 1 general provisions should be stricken as shown.



~~(Ord. No. 10-2215, 12-16-2010)~~

~~<sup>84</sup>Sec. 38-85. Effective date.~~

~~This article becomes effective on the date of its publication, or upon the publication of a summary of the article as provided by Minn. Stat. § 412.191, subd. 4, as it may be amended from time to time, which meets the requirements of Minn. Stat. § 331A.01, subd. 10, as it may be amended from time to time.~~

~~(Ord. No. 10-2215, 12-16-2010)~~

**Secs. 38-86—38-94. Reserved.**

**ARTICLE V. FIRE PROTECTION WATER SUPPLIES**

Sec. 38-95. Authority.

Sec. 38-96. Purpose.

Sec. 38-97. Privately owned hydrants.

Sec. 38-98. Emergency repairs.

Sec. 38-99. Hydrant access.

**Sec. 38-95. Authority.**

Section 507 of the Minnesota State Fire Code requires inspection, testing and maintenance of fire protection water supplies which include water lines and fire hydrant systems. Fire hydrant systems shall be subject to periodic tests, maintained in an operative condition at all times and shall be repaired where defective. Additions, repairs, alterations and servicing shall comply with approved standards. Section 101 of the Minnesota State Fire Code authorizes the city to adopt rules to implement the fire code.

(Ord. No. [20-2451](http://newords.municode.com/readordinance.aspx?ordinanceid=1030756&datasource=ordbank), 7-20-2020)

**Sec. 38-96. Purpose.**

The City of Blaine, Minnesota finds that it is in the best interest of the city to outline the policy and procedures for the maintenance and use of public and private fire hydrants. It is in the public interest that both public and private hydrants are inspected and tested by qualified personnel and repaired and maintained in good working order to protect life and property.

(Ord. No. [20-2451](http://newords.municode.com/readordinance.aspx?ordinanceid=1030756&datasource=ordbank), 7-20-2020)

**Sec. 38-97. Privately owned hydrants.**

- (a) The city considers the private hydrants part of the municipal waterworks system. It is in the public interest that private hydrants be inspected and tested by qualified personnel and repaired and maintained in good working order to protect life and property.

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<sup>84</sup> **Sec. 38-85. Effective date.** Unnecessary and obsolete section should be stricken as shown.

- (b) Fire protection inspections shall be conducted annually on all private hydrants directly or indirectly connected to the municipal water system. This inspection shall include testing of the operation, flow of the hydrants and ensuring a good condition marking flag is properly installed. The city utility staff shall work with SBM Fire Department to complete all inspection, including those on private property as private infrastructure.
- (c) In the event the inspection indicates that repairs are required, the city shall notify the owner of the hydrant or water line, with a copy to the fire department, setting forth the repairs required. If repairs are not made within the time period, set forth by the public works department in the notification, the necessary repairs shall be made by the city and the cost billed to the owner.
- (d) The property owner may sign a waiver and petition the city for the repairs. The city will contract for the repairs and bill the property owner. Unpaid invoices shall be assessed to the property in accordance with the city's assessment policy.
- (e) Private hydrants shall be painted in the color red.

(Ord. No. [20-2451](http://newwords.municode.com/readordinance.aspx?ordinanceid=1030756&datasource=ordbank), 7-20-2020)

#### **Sec. 38-98. Emergency repairs.**

Should emergency repairs become visibly evident (broken water main, hydrant won't shut off, etc.), during the inspection/testing process, the Public Works Department will be notified immediately by the inspector. The public works department shall take actions necessary to stabilize the water supply from further loss.

(Ord. No. [20-2451](http://newwords.municode.com/readordinance.aspx?ordinanceid=1030756&datasource=ordbank), 7-20-2020)

#### **Sec. 38-99. Hydrant access.**

- (a) There shall be no less than 36 inches of horizontal clearance on all sides of the hydrant.
- (b) All hydrants are to be free of obstacles so that the hydrant may be seen by approaching fire apparatus at a minimum distance of 200 feet.
- (c) Posts, fences, vehicles, brush, trash, and other items shall not be placed or kept near fire hydrants.

The fire department shall not be deterred or hindered from gaining immediate access to a hydrant.

(Ord. No. [20-2451](http://newwords.municode.com/readordinance.aspx?ordinanceid=1030756&datasource=ordbank), 7-20-2020)

## **Chapter 42 HEALTH AND SANITATION \***

~~\*Cross reference—Animals, ch. 14; buildings and building regulations, ch. 18; immediate health, welfare and safety hazards for residential maintenance code, § 18-343; health and safety at public swimming pools, § 18-454; environment, ch. 34; manufactured homes and trailers, ch. 46; solid waste, ch. 62; utilities, ch. 86.~~

State Law reference— Health, Minn. Stat. chs. 144—159.

ARTICLE I. - IN GENERAL

ARTICLE II. - TOBACCO

ARTICLE III. - CLANDESTINE DRUG LAB SITES AND CHEMICAL DUMP SITES

### **ARTICLE I. IN GENERAL**

Sec. 42-1. Board of health.

Secs. 42-2—42-30. Reserved.

#### **Sec. 42-1. Board of health.**

Pursuant to Minn. Stat. ch. 145A, a board of health is hereby established in and for the city, with the powers, rights, duties and functions as provided in such statutes.

(Code 1963, § 11-1; Code 1980, § 11-1)

~~Cross reference—Boards and commissions, § 2-241 et seq.~~

State Law reference— Local board of health authorized, Minn. Stat. § 145A.03, subd. 1; minimum number of members of local board of health, Minn. Stat. § 145A.03, subd. 4.

Secs. 42-2—42-30. Reserved.

### **ARTICLE II. TOBACCO**

DIVISION 1. - GENERALLY

DIVISION 2. - LICENSE

#### ***DIVISION 1. GENERALLY***

Sec. 42-31. Purpose of article.

Sec. 42-32. Definitions and interpretations.

Sec. 42-33. Criminal violations.

Sec. 42-34. Administrative penalties.

Sec. 42-35. Severability and savings clause.

Sec. 42-36. Exceptions.

Sec. 42-37. Prohibited sales.

Sec. 42-38. Vending machines.

Sec. 42-39. Self-service sales.

Sec. 42-40. Responsibility.

Sec. 42-41. Compliance checks and inspections.

Sec. 42-42. Other illegal acts.

Secs. 42-43—42-60. Reserved.

**Sec. 42-31. Purpose of article.**

This article shall be intended to regulate the sale, possession, and use of tobacco, tobacco products, and tobacco-related devices for the purpose of enforcing and further existing laws, to protect minors against the serious effects associated with the illegal use of tobacco, tobacco products, and tobacco-related devices, and to further the official public policy of the state in regard to preventing young people from starting to smoke as stated in Minn. Stat. § 144.391.

(Code 1980, § 15-100; Ord. No. 97-1683, 12-4-1997)

**State Law reference**— Minnesota Clean Indoor Air Act, Minn. Stat. § 144.411 et seq.; cigarette licenses, Minn. Stat. § 461.12 et seq.; sale of tobacco to underage persons, Minn. Stat. § 609.685; local regulation of tobacco sales, Minn. Stat. §§ 462.12, subd. 1, 461.19, 609.685, subd. 4.

<sup>85</sup>**Sec. 42-32. Definitions and interpretations.**

Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. ~~The singular shall include the plural and the plural shall include the singular. The masculine shall include the feminine and neuter, and vice versa. The term "shall" means mandatory and the term "may" means permissive.~~ The following terms shall have the definitions given to them:

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

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

*Loosies* means the common term used to refer to a single or individually packaged cigarette.

*Minor* means any natural person who has not yet reached the age of 18 years.

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<sup>85</sup> **Sec. 42-32. Definitions and interpretations.** Text duplicative of chapter 1 rules of construction should be stricken as shown.

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

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

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

*Self-service merchandising* means open displays of tobacco, tobacco products, or tobacco-related devices in any manner where any person shall have access to the tobacco, tobacco products, or tobacco-related devices, without the assistance or intervention of the licensee or the licensee's employee. The assistance or intervention shall entail the actual physical exchange of the tobacco, tobacco product, or tobacco-related device between the customer and the licensee or employee. Self-service merchandising shall not include vending machines.

*Tobacco and tobacco related products* means cigarettes; cigars; little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; snuff flour; Cavendish; plug and twist tobacco; fine cut and other chewing tobacco; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or other tobacco-related devices, and any products containing, made, or derived from tobacco that is intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, or any component, part, or accessory of a tobacco product.

*Tobacco-related devices* means cigarette papers, pipes or other devices which are or could be used for smoking or inhaling tobacco or tobacco related products.

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

(Code 1980, § 15-101; Ord. No. 97-1683, 12-4-1997; Ord. No. 13-2273, 11-7-2013)

~~Cross-reference—Definitions generally, § 1-2.~~

#### **Sec. 42-33. Criminal violations.**

~~(a) Generally.~~ Violations of this article shall be misdemeanors. ~~(b) Continued violation.~~ Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense.

(Code 1980, § 15-109.2; Ord. No. 97-1683, 12-4-1997; Ord. No. 98-1702, 3-5-1998)

#### **Sec. 42-34. Administrative penalties.**

The administrative procedures set forth by state law are hereby incorporated in this article.

- (1) *Licensees.* Any licensee found to have violated this article, or whose employee shall have violated this article shall be charged an administrative fine of \$75.00 for a first violation of this article; \$200.00 for a second offense at the same licensed premises within a 24-month period; and \$250.00 for a third or subsequent offense at the same location within a 24-month period. In addition, after the third offense, the license shall be suspended for not less than seven days.

(2) *Other individuals.* Other individuals, other than minors found to be in violation of this article shall be charged an administrative fee of \$50.00.

(3) *Minors.* Provisions of Minn. Stat. § 461.12, subd. 4, are hereby incorporated in this article.

(Code 1980, § 15-109.3; Ord. No. 97-1683, 12-4-1997; Ord. No. 98-1702, 3-5-1998)

**State Law reference**— Administrative penalties, Minn. Stat. § 461.12, subds. 2, 3.

~~**<sup>86</sup>Sec. 42-35. Severability and savings clause.**~~

~~If any section or portion of this article shall be found unconstitutional or otherwise invalid or unenforceable by a court of competent jurisdiction, that finding shall not serve as an invalidation or effect the validity and enforceability of any other section or provision of this article.~~

~~(Code 1980, § 15-109.5; Ord. No. 97-1683, 12-4-1997; Ord. No. 98-1702, 3-5-1998)~~

**Sec. 42-36. Exceptions.**

(a) Notwithstanding other provisions in this article, an Indian may furnish tobacco to an Indian under the age of 18 years if the tobacco is furnished as part of a traditional Indian spiritual or cultural ceremony. For purposes of this subsection, an Indian is a person who is a member of an Indian tribe as defined in Minn. Stat. § 260.755, subd. 12.

(b) The penalties in this article do not apply to a person under the age of 18 years who purchases or attempts to purchase tobacco or tobacco-related devices while under the direct supervision of a responsible adult for training, education, research, or enforcement purposes.

(Code 1980, § 15-109.4; Ord. No. 97-1683, 12-4-1997; Ord. No. 98-1702, 3-5-1998)

**State Law reference**— Similar provisions, Minn. Stat. § 609.685, subd. 5.

**Sec. 42-37. Prohibited sales.**

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

(1) To any person under the age of 18 years.

**State Law reference**— Sales to underage persons, Minn. Stat. § 609.685, subds. 1a, 2.

(2) By means of any type of vending machine, except as may otherwise be provided in this article.

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

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<sup>86</sup> **Sec. 42-35. Severability and savings clause.** Section duplicative of chapter 1 general provisions should be stricken as shown.

(4) By means of looses.

(5) Containing opium, morphine, jimson weed, belladonna, strychnos, cocaine, marijuana, or other deleterious hallucinogenic, toxic, or controlled substances except nicotine and other substances found naturally in tobacco or added as part of an otherwise lawful manufacturing process.

**State Law reference—** Controlled substances, Minn. Stat. ch. 152.

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

(Code 1980, § 15-105; Ord. No. 97-1683, 12-4-1997)

**Sec. 42-38. Vending machines.**

It shall be unlawful for any person licensed under this article to allow the sale of tobacco, tobacco products, or tobacco-related devices by the means of a vending machine unless minors are at all times prohibited from entering the licensed establishment.

(Code 1980, § 15-106; Ord. No. 97-1683, 12-4-1997)

**Sec. 42-39. Self-service sales.**

It shall be unlawful for a licensee to allow the sale of tobacco, tobacco products, or tobacco-related devices by any means whereby the customer may have access to such items without having to request the item from the licensee or the licensee's employee and whereby there is not a physical exchange of the tobacco, tobacco product, or the tobacco-related device between the licensee or his clerk and the customer. All tobacco, tobacco products, and tobacco-related devices shall either be stored behind a counter or other area not freely accessible to customers, or in a case or other storage unit not left open and accessible to the general public. Any retailer selling tobacco, tobacco products, or tobacco-related devices at the time this article is adopted shall comply with this section within 60 days.

(Code 1980, § 15-107; Ord. No. 97-1683, 12-4-1997)

**Sec. 42-40. Responsibility.**

All licensees under this article shall be responsible for the actions of their employees in regard to the sale of tobacco, tobacco products, or tobacco-related devices on the license premises, and the sale of such an item by an employee shall be considered a sale by the license holder. Nothing in this section shall be construed as prohibiting the city from also subjecting the clerk to whatever penalties are appropriate under this article, state or federal law, or other applicable law or regulation.

(Code 1980, § 15-108; Ord. No. 97-1683, 12-4-1997)

**Sec. 42-41. Compliance checks and inspections.**

All licensed premises shall be open to inspection by the police department or other authorized city official during regular business hours. From time to time, but at least once per year, the city shall conduct compliance checks by engaging, with the written consent of their parents or guardians, minors over the age of 15 years but less than 18 years, to enter the licensed premises to attempt to purchase tobacco, tobacco products, or tobacco-related devices. Minors used for the purpose of compliance checks shall be

supervised by the police chief or other designated city personnel. Minors used for compliance checks shall not be guilty of unlawful possession of tobacco, tobacco products, or tobacco-related devices when such items are obtained as a part of the compliance check. No minor used in compliance checks shall attempt to use a false identification misrepresenting the minor's age, and all minors lawfully engaged in a compliance check shall answer all questions about the minor's age asked by the licensee or his employee and shall produce any identification, if any exists, for which he is asked. Nothing in this section shall prohibit compliance checks authorized by state or federal laws for educational, research, or training purposes, or required for the enforcement of a particular state or federal law.

(Code 1980, § 15-109; Ord. No. 97-1683, 12-4-1997)

**Sec. 42-42. Other illegal acts.**

Unless otherwise provided and in accordance with state statutes, the following acts shall be a violation of this article:

- (1) *Illegal sales.* It shall be a violation for any person to sell or otherwise provide any tobacco, tobacco product, or tobacco-related device to a minor.

**State Law reference**— Similar provisions, Minn. Stat. § 609.685, subds. 1a, 2.

- (2) *Illegal possession or use.* Except as otherwise provided, whoever possesses, smokes, chews, or otherwise ingests, purchases, or attempts to purchase, tobacco or tobacco-related devices and is under the age of 18 years is guilty of a petty misdemeanor.

**State Law reference**— Similar provisions, Minn. Stat. § 609.685, subd. 3.

- (3) *Illegal procurement.* It shall be a violation for any minor to purchase or attempt to purchase or otherwise obtain any tobacco, tobacco product, or tobacco-related device, and it shall be a violation of this article for any person to purchase or otherwise obtain such items on behalf of a minor. It shall further be a violation for any person to coerce or attempt to coerce a minor to illegally purchase or otherwise obtain or use any tobacco, tobacco product, or tobacco-related device. This subsection shall not apply to minors lawfully involved in a compliance check.
- (4) *Use of false identification.* It shall be a violation for any minor to attempt to disguise his true age by the use of a false form of identification, whether the identification is that of another person or one on which the age of the person has been modified or tampered with to represent an age older than the actual age of the person.

(Code 1980, § 15-109.1; Ord. No. 97-1683, 12-4-1997; Ord. No. 98-1702, 3-5-1998)

**Secs. 42-43—42-60. Reserved.**

***DIVISION 2. LICENSE***

[Sec. 42-61. Generally.](#)

[Sec. 42-62. Basis for denial.](#)

[Sec. 42-63. Fees.](#)



**Sec. 42-61. Generally.**

- (a) *Required.* No person shall sell or offer to sell any tobacco, tobacco products, or tobacco-related device without first having obtained a license to do so from the city.
- (b) *Application.* An application for a license to sell tobacco, tobacco products, or tobacco-related devices shall be made on a form provided by the city. The application shall contain the full name of the applicant, the applicant's residential and business addresses and telephone numbers, the name of the business for which the license is sought, and any additional information the city deems necessary. The city clerk shall forward the completed application to the council for action at its next regularly scheduled council meeting.
- (c) *Action.* The council may either approve or deny the license, or it may delay action for such reasonable period of time as necessary to complete any investigation of the application or the applicant it deems necessary. If the council approves the license, the clerk shall issue the license to the applicant. If the council denies the license, notice of the denial shall be given to the applicant along with notice of the applicant's right to appeal the council's decision.
- (d) *Expiration.* All licenses issued shall be valid for one calendar year and shall expire on December 31 of each year.
- (e) *Revocation or suspension.* Any license issued under this article may be revoked or suspended as provided in sections 42-33 and 42-34.
- (f) *Transfers.* All licenses issued under this article shall be valid only on the premises for which the license was issued and only for the person to whom the license was issued. No transfer of any license to another location or person shall be valid without the prior approval of council.
- (g) *Moveable place of business.* No license shall be issued to a moveable place of business. Only fixed location businesses shall be eligible to be licensed under this article.
- (h) *Display.* All licenses shall be posted and displayed in plain view of the general public on the licensed premises.
- (i) *Renewals.* The renewal of a license issued under this section shall be handled in the same manner as the original application. The request for a renewal shall be made at least 30 days but no more than 60 days before the expiration of the current license.

(Code 1980, § 15-102; Ord. No. 97-1683, 12-4-1997)

**Sec. 42-62. Basis for denial.**

The following shall be grounds for denying the issuance or renewal of a license:

- (1) The applicant is under the age of 18 years.
- (2) The applicant has been convicted within the past five years of any violation of federal, state or local law, ordinance provision, or other regulation relating to tobacco or tobacco products, or tobacco-related devices.
- (3) The applicant has had a license to sell tobacco, tobacco products, or tobacco-related devices revoked within the preceding 12 months of the date of application.
- (4) The applicant fails to provide any information required on the application, or provides false or misleading information.

- (5) The applicant is prohibited by federal, state or local law, ordinance or other regulation, from holding such a license.

(Code 1980, § 15-104; Ord. No. 97-1683, 12-4-1997)

**Sec. 42-63. Fees.**

No license shall be issued until the license fee is paid in full.

(Code 1980, § 15-103; Ord. No. 97-1683, 12-4-1997; Ord. No. 14-2276, 1-16-2014)

**ARTICLE III. CLANDESTINE DRUG LAB SITES AND CHEMICAL DUMP SITES**

[Sec. 42-91. General provisions.](#)

[Sec. 42-92. Administration.](#)

[Sec. 42-93. Violations and penalties.](#)

**Sec. 42-91. General provisions.**

(a) *Purpose and intent.* The purpose of this article is to reduce public exposure to health risks where law enforcement officers have determined that hazardous chemicals from a suspected clandestine drug lab site or associated dumpsite may exist. The city council finds that such sites may contain suspected chemicals and residues that place people, particularly children or adults of child bearing age, at risk when exposed through inhabiting or visiting the site, now and in the future.

(b) *Definitions.* For the purposes of this article, the following terms or words shall be interpreted as follows:

*Chemical dumpsite* means any place or area where chemicals or other waste materials used in a clandestine drug lab have been located.

*Child* means any person less than 18 years of age.

*Clandestine drug lab* means the unlawful manufacture or attempt to manufacture controlled substances.

*Clandestine drug lab site* means any place or area where law enforcement has determined that conditions associated with the operation of an unlawful clandestine drug lab exist. A clandestine drug lab site any include dwellings, accessory structures, a chemical dumpsite or any land.

*Controlled substance* means a drug, substance or immediate precursor in Schedules I through V or M.S §152.02. the term shall not include distilled spirits, wine, malt beverages, intoxicating liquors or tobacco.

*Household hazardous wastes* means waste generated from a clandestine drug lab. Such wastes shall be treated, stored, transported or disposed of in a manner, consistent with Minnesota Department of Health, Minnesota Pollution Control, and Anoka County Health Department rules and regulations.

*Manufacture*, in places other than a pharmacy, means and include the production, cultivation, qualify control, and standardization, by mechanical, physical, chemical or pharmaceutical means, packing, repacking, tableting, encapsulating, labeling, relabeling, filling, or by other process, or drugs.

*Owner* means any person, firm or corporation who owns, in whole or in part, the land, buildings, or structures associated with a clandestine drug lab site or chemical dumpsite.

*Public health nuisance* means all dwellings, accessory structures and buildings or adjacent property associated with a clandestine drug lab site are potentially unsafe due to health hazards and are considered a public health nuisance.

(Ord. No. 04-2014, 5-20-2004)

**Sec. 42-92. Administration.**

- (a) *Law enforcement notice to other authorities.* Law enforcement authorities that identify conditions associated with a clandestine drug lab site or chemical dump site that places neighbors, visiting public or present and future occupants of the dwelling at risk for exposure to harmful contaminants and other associated conditions must promptly notify the appropriate municipal, child protection, and public health authorities of the property location, property location, property owner if known, and conditions found.
- (b) *Declaration of property as a public health nuisance.* If law enforcement determines the existence of a clandestine drug lab site or chemical dumpsite, the property shall be declared a public health nuisance.
- (c) *Notice of public health nuisance to concerned parties.* Upon notification by law enforcement authorities, the city shall promptly issue a declaration of public health notice for the affected property and post a copy of the declaration at the probable entrance to the dwelling or property. The city shall also notify the owner of the property by mail and notify the following parties:
  - (1) Occupants of the property;
  - (2) Neighbors at probable risk; and
  - (3) Other state and local authorities, such as MPCA and MDH, which are known to have public and environmental protection responsibilities that are applicable to the situation.
- (d) *Issuance of order.* The city shall also issue an order to abate the public health nuisance, including the following:
  - (1) A description of the sites and all portions that are determined contaminated.
  - (2) That all portions of the site that are determined to be contaminated be vacated.
  - (3) That the owner commence and complete all testing and clean up procedures and other remedial action by dates specified in the order or such other dates agreed to by the city.
  - (4) That the site may not be reoccupied or used in any manner until it has been completely cleaned in accordance with the guidelines established by the Minnesota Department of Health.
  - (5) That if the owner does not commence testing and complete the clean up of procedures by the dates established in the order, the city will enter the property and provide the testing and clean up services at the owner's expense.
  - (6) That the owner is responsible for all associated costs and if not paid will be assessed against the property.
- (e) *Responsibilities of owner.*
  - (1) Upon receipt of the notice and order the owner will be responsible for the following:
    - a. Insure that the site and all surrounding areas determined to be at risk are properly vacated.
    - b. Engage an appropriate environmental testing firm to assess the extent of the contamination, monitor the cleanup process, provide follow up testing after the completion of the clean up

process, and certify that the risks of contamination have been sufficiently reduced to allow safe occupancy of the site.

- c. Engage an appropriate contractor to properly clean the site in accordance with guidelines of the Minnesota Department of Health.
- d. Provide the city with copies of all testing results and clean up plan.
- e. Keep the city regularly advised through the process of the testing and clean up.
- f. Upon completion of the clean up process, provide the city with a copy of the final certification from the testing firm that the site is fit for human habitation, and a written, signed statement that the clean up met all Minnesota Department of Health guidelines.

(2) If the owner, after due diligence, cannot be located or has not commenced appropriate action toward the clean up of the site on or before the date established by the order, the city, is hereby authorized to enter the property for the purpose of abating the public nuisance through vacating, testing and cleaning the site. When appropriate, the abatement process may include the demolition and removal of a hazardous building or structure.

(f) *Property owner's responsibility for costs.* The property owner shall be responsible for all costs of vacation or clean up of the site, including contractor's fees and public costs for services that were performed in association with a clandestine drug lab site or chemical dump site clean up. Public costs may include, but are not limited to:

- (1) Emergency response;
- (2) Posting on the site;
- (3) Notification of affected parties;
- (4) Expenses related to the recovery of costs, including the assessment process;
- (5) Laboratory fees;
- (6) Clean-up services;
- (7) Administrative fees; and
- (8) Other associated costs.

(g) *Recovery of public costs.*

- (1) Within 30 days after receipt of an invoice from the city, the owner will submit payment in full for all costs associated with the clean up project.
- (2) If the city is unable to locate the owner or if the owner fails to submit payment, the city shall be entitled to recover all costs plus an additional 25 percent of the costs for administration. The city may recover costs by civil action against the person or persons who own the property or by assessing such costs as a special tax against the property in the manner as taxes and special assessments are certified and collected in accordance with applicable law.

(Ord. No. 04-2014, 5-20-2004)

#### **Sec. 42-93. Violations and penalties.**

Any person violating any provision of this article is guilty of a misdemeanor.

(Ord. No. 04-2014, 5-20-2004)



## **Chapter 46 MANUFACTURED HOMES AND TRAILERS \***

~~\*Cross reference—Buildings and building regulations, ch. 18; provisions and maintenance of basic services and utilities in manufactured home parks, § 18-344; environment, ch. 34; health and sanitation, ch. 42; solid waste, ch. 62; streets, sidewalks and other public places, ch. 70; subdivisions, ch. 74; utilities, ch. 86; vegetation, ch. 90.~~

**State Law reference—**Manufactured homes and recreational camping areas, Minn. Stat. § 327.15 et seq.; manufactured home sales, Minn. Stat. ch. 327B; manufactured home park rentals, Minn. Stat. ch. 327C.

ARTICLE I. - IN GENERAL

ARTICLE II. - ADMINISTRATION AND ENFORCEMENT

ARTICLE III. - MANUFACTURED HOME PARKS AND RECREATIONAL CAMPING AREAS

ARTICLE IV. - TRAFFIC IN MANUFACTURED HOME PARKS

### **ARTICLE I. IN GENERAL**

Sec. 46-1. Definitions.

Sec. 46-2. Intent of chapter.

Sec. 46-3. Temporary parking on street.

Sec. 46-4. Parking outside of parks.

Sec. 46-5. Recreational camping area permit.

Sec. 46-6. Manufactured home sales lots.

Secs. 46-7—46-40. Reserved.

#### **Sec. 46-1. Definitions.**

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

*Camping trailer* means a folding structure, mounted on wheels and designed for travel, recreation and vacation use.

*Lot* means a parcel of ground in a manufactured home park of not less than 4,500 square feet of unoccupied space in an area designated as the location for one manufactured home, off-street parking space for two automobiles, and other uses considered pertinent to the establishment and use of a manufactured home.

*Manufactured home* means a structure, transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein; except that the term "manufactured home" includes any structure which meets all the requirements and with respect to which the manufacturer voluntarily files a certification required by the secretary of the United States Department of Housing and Urban Development or the head of any successor agency with responsibility for

enforcement of federal laws relating to manufactured homes and complies with the standards established under Minn. Stat. ch. 327.

**State Law reference**— Similar provisions, Minn. Stat. § 327.31, subd. 6.

*Manufactured home park* means any site, lot, field or tract of land upon which two or more occupied manufactured homes are located, either free of charge or for compensation, and includes any building, structure, tent, vehicle or enclosure used or intended for use as part of the equipment of the manufactured home park.

**State Law reference**— Similar provisions, Minn. Stat. § 327.14, subd. 3.

*Motor-home* means a portable, temporary dwelling to be used for travel, recreation, and vacation, constructed as an integral part of a self-propelled vehicle.

*Recreational camping area* means any area, whether privately or publicly owned, used on a daily, nightly, weekly, or longer basis for the accommodation of one or more units, consisting of tents, travel trailers, pickup coaches, motor-homes, or camping trailers, and whether use of such accommodation is granted free of charge or for compensation.

*Recreational camping vehicle* means any of the following:

- (1) *Generally*. Any tent or vehicle named in the definition of the term "recreational camping area."
- (2) *Travel trailer*. A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational, and vacation uses, permanently identified "travel trailer" by the manufacturer of the trailer.
- (3) *Pickup coach*. A structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation, and vacation.

(Code 1963, § 57.01; Code 1980, § 12-1; Ord. No. 413, 2-6-1975)

~~**Cross-reference**—Definitions generally, § 1-2.~~

#### **Sec. 46-2. Intent of chapter.**

The intent of this chapter is to promote health, safety, order, convenience, and general welfare by enforcing minimum standards for manufactured homes, manufactured home parks, recreational camping vehicles, recreational camping areas, the location and use, and arrangements of manufactured homes and recreational camping vehicles on manufactured home lots or in recreational camping areas, and by authorizing the inspection of manufactured homes and manufactured home parks and recreational camping areas and fixing penalties for violations.

(Code 1963, § 57.01; Code 1980, § 12-2; Ord. No. 413, 2-6-1975)

#### **Sec. 46-3. Temporary parking on street.**

Emergency or temporary stopping or parking of manufactured homes or recreational camping vehicles is permitted on any street, alley, or highway for not longer than three hours, subject to any other and further prohibitions, regulations, or limitations imposed by the traffic and parking regulations or ordinances for that street, alley, or highway.



(Code 1963, §§ 37.75, 57.02(B); Code 1980, § 12-6; Ord. No. 413, 2-6-1975)

**Sec. 46-4. Parking outside of parks.**

(a) *Manufactured homes.* No person shall park or occupy any manufactured home on the premises of any occupied dwelling or any lot which is not part of the premises of any occupied dwelling, either of which is situated outside of an approved manufactured home park; except, the parking of only one manufactured home unoccupied in an accessory private garage building is permitted, provided that no living quarters shall be maintained or any businesses practiced in such manufactured home while such manufactured home is so parked or stored.

**State Law reference—** Sanitary and water facilities required if parked outside of manufactured home park, Minn. Stat. § 327.28.

(b) *Recreational camping vehicles.* No person shall occupy any recreational camping vehicle on the premises of any lot which is not part of an approved manufactured home park or recreational camping area, except as provided in subsection (d) of this section. However, the parking of an unoccupied recreational camping vehicle is permitted on any occupied lot which has a permanent structure.

(c) *Permit for temporary use of manufactured home.* Temporary permits may be issued by the council for the temporary use of a manufactured home as a dwelling or an office when such manufactured home is located outside of an authorized manufactured home park. Such temporary permits shall be limited to periods of not more than 90 days and must be renewed at the end of each period. A fee established by action of the council must accompany each application for a temporary permit. Each temporary permit shall be displayed in a conspicuous location on the outside of the manufactured home.

(d) *Administrative permit.* An administrative permit may be issued by the city manager:

- (1) To park a manufactured home on any lot in the city, if the principal structure has been damaged by fire, winds, flood, or in the case of a declared disaster. Such permit shall have a duration of not more than 90 days. The fee for such permit shall be established by action of the council. The council shall be informed of the issuance of the permit at the first regular council meeting thereafter.
- (2) To occupy a recreational camping vehicle on any occupied residential lot for a period of not more than seven days, provided that adequate sanitary facilities are available in the principal structure on such lot.

(Code 1963, §§ 37.75, 37.76, 57.02(C), (D), (E), (F); Code 1980, §§ 12-7, 12-8, 12-9, 12-10; Ord. No. 413, 2-6-1975; Ord. No. 98-1695, § 6, 2-5-1998)

**Sec. 46-5. Recreational camping area permit.**

The permit fee for the establishment of a recreational camping area shall be an amount established by action of the council per site. This permit fee is to be paid before any work of any kind is started on the proposed recreational camping vehicle area.

(Code 1963, § 57.02(H); Code 1980, § 12-11; Ord. No. 413, 2-6-1975; Ord. No. 98-1695, § 6, 2-5-1998; Ord. No. 98-1738, 8-20-1998)

**Sec. 46-6. Manufactured home sales lots.**

- (a) An application for a special use permit to operate a manufactured home sales lot under the provisions of this chapter shall be made to the city.
- (b) The application for a manufactured home sales lot in a manufactured home park shall show its location in relation to manufactured homes used as dwellings.
- (c) On all manufactured home sales lot sites, a permanent building with at least 1,200 square feet of floor space shall be constructed.
- (d) Manufactured home sales lots shall be properly screened from any residential use with trees, shrubs, or walls, and there shall be maintained a 100-foot landscaped green area around the perimeter of such sales lot. If a sales lot abuts a public street, a 30-foot setback shall be required.

(Code 1963, §§ 57.03(A), (B)(14), (15), 57.05(EE), (FF); Code 1980, § 12-12; Ord. No. 413, 2-6-1975; Ord. No. 98-1738, 8-20-1998)

**Secs. 46-7—46-40. Reserved.**

**ARTICLE II. ADMINISTRATION AND ENFORCEMENT \***

\*Cross reference— Administration, ch. 2.

**Sec. 46-41. Officer designated.**

**Sec. 46-42. Correction of violations.**

**Sec. 46-43. Variances.**

**Sec. 46-44. Inspection fee.**

**Secs. 46-45—46-70. Reserved.**

**Sec. 46-41. Officer designated.**

This chapter shall be administered and enforced by the building official, who is hereby designated as enforcing officer. The building official may institute, under the name of the city, any appropriate actions or proceedings against a violator as provided by law.

(Code 1963, § 57.06(A); Code 1980, § 12-3; Ord. No. 413, 2-6-1975)

**Sec. 46-42. Correction of violations.**

- (a) Whenever the enforcing officer determines that there are reasonable grounds to believe that there has been a violation of any provision of this chapter, such officer shall give notice of such alleged violation to the owner of the manufactured home park or recreational camping area, or the owner's agent, as provided in this article. Such notice shall be in writing; shall include a statement of the reasons for its issuance; shall allow 30 days for the performance of any act it requires, and shall be served upon the owner or the owner's agent as the case may require, provided that such notice shall be deemed to have been properly served upon such owner or agent when a copy has been sent by certified or registered mail to such person's last known address, or when the owner has been served by any other method authorized by the laws of the state. If work cannot be completed within the 30-day period, extensions may be granted if reasons for hardship do prevail and can be verified.

- (b) This procedure shall not relieve the offender from liability to punishment as for any other violation of this Code.

(Code 1963, §§ 57.06(B), 57.06(C); Code 1980, § 12-4; Ord. No. 413, 2-6-1975)

**Sec. 46-43. Variances.**

The council shall have the right to vary or modify the strict application of any of the regulations or provisions contained in this chapter in cases in which there are practical difficulties or unnecessary hardships in the way of strict application.

(Code 1963, § 57.07; Code 1980, § 12-5; Ord. No. 413, 2-6-1975)

**Sec. 46-44. Inspection fee.**

The building official shall inspect the installation of all manufactured homes. The inspection fee shall be established by action of the council for each manufactured home.

(Code 1963, § 57.02(I); Code 1980, § 12-13; Ord. No. 615, 3-1-1979; Ord. No. 98-1695, § 6, 2-5-1998; Ord. No. 98-1738, 8-20-1998)

**Secs. 46-45—46-70. Reserved.**

**ARTICLE III. MANUFACTURED HOME PARKS AND RECREATIONAL CAMPING AREAS**

**DIVISION 1. - GENERALLY**

**DIVISION 2. - DESIGN, LAYOUT AND BASIC FACILITIES**

**DIVISION 3. - PERMIT**

***DIVISION 1. GENERALLY***

[Sec. 46-71. Manufactured homes building code; anchorage; manufactured home standards code.](#)

[Sec. 46-72. Storage of boats and other related equipment.](#)

[Sec. 46-73. Speed limit.](#)

[Secs. 46-74—46-90. Reserved.](#)

**Sec. 46-71. Manufactured homes building code; anchorage; manufactured home standards code.**

- (a) All manufactured homes occupied or stored in a manufactured home park shall comply with the requirements of the manufactured homes building code, Minn. Stat. §§ 327.31—327.36, as amended.
- (b) Any manufactured home placed in a manufactured home park after September 1, 1974, shall have a support system and a ground anchoring system which comply with the rules and regulations promulgated by the state commissioner of administration.
- (c) All manufactured homes placed in a manufactured home park, which have been manufactured after July 1, 1972, shall bear a seal from the commissioner of administration, pursuant to state law.

(Code 1963, § 57.05(Y); Code 1980, § 12-35; Ord. No. 413, 2-6-1975)

**State Law reference—** Support system and ground anchoring, Minn. Stat. § 327.32, subd. 6.

**Sec. 46-72. Storage of boats and other related equipment.**

- (a) All boats, boat trailers, hauling trailers, and all other equipment not stored within the manufactured home or stored within the utility enclosure that may have been provided, shall be stored in a separate area provided by the park, and shall not be stored upon the lot occupied by manufactured homes, nor upon the streets within the manufactured home park.
- (b) The storage area provided by the park must be secured for the storage of boats, campers, and hauling trailers and must be fenced with a minimum of six-foot high fencing. The storage area shall include at least 200 square feet of area for each ten manufactured home lots.

(Code 1963, § 57.05(W), (X); Code 1980, § 12-30; Ord. No. 413, 2-6-1975)

**Sec. 46-73. Speed limit.**

No person shall drive, operate or be in physical control of a motor vehicle at a speed in excess of ten miles per hour within the limits of a manufactured home park or a recreational camping area. Such speed limits shall be clearly posted by the owners of a manufactured home park or recreational camping area. The signs shall be posted throughout a manufactured home park or recreational camping area as directed by the city manager or his designee.

(Ord. No. 691, 5-15-1980; Code 1980, § 12-36; Ord. No. 85-899, 8-15-1985)

**State Law reference**— Ten miles per hour speed limit in manufactured home park and recreational camping area, Minn. Stat. § 327.27, subd. 2.

**Secs. 46-74—46-90. Reserved.**

***DIVISION 2. DESIGN, LAYOUT AND BASIC FACILITIES***

[Sec. 46-91. Drainage, area, setback and density requirements.](#)

[Sec. 46-92. Patios; shade trees; grass.](#)

[Sec. 46-93. Streets, curbs and sidewalks.](#)

[Sec. 46-94. Street lighting.](#)

[Sec. 46-95. Stop signs and crosswalks.](#)

[Sec. 46-96. Off-street parking.](#)

[Sec. 46-97. Water and sewer facilities; burial of utility lines.](#)

[Sec. 46-98. Water system flushing.](#)

[Sec. 46-99. Fire hydrants.](#)

[Sec. 46-100. Park and recreation area.](#)

[Sec. 46-101. Office and community building; clothes drying.](#)

[Sec. 46-102. Storm shelters.](#)

[Sec. 46-103. Civil defense siren.](#)

[Secs. 46-104—46-120. Reserved.](#)

**Sec. 46-91. Drainage, area, setback and density requirements.**

- (a) Every manufactured home park or recreational camping area shall be located on a well-drained area and the premises shall be properly graded so as not to permit the accumulation of stormwater or other waters, subject to the approval of the city manager. Such approval shall be given upon a showing that the accumulation of water will not violate other laws, rules or ordinances and will not endanger public health or public safety.
- (b) The minimum acreage of a manufactured home park shall be not less than 20 acres, and each lot shall have a gross area of not less than 4,500 square feet.
- (c) Each manufactured home park lot shall have a minimum width of 50 feet measured at right angles to its side lines.
- (d) Front setbacks of manufactured homes shall be no less than ten feet from the curb and no less than five feet from the sidewalk.
- (e) Where an alley is provided adjacent to the back line of the lot, there shall be a minimum setback of five feet from such back line. Where there is no alley, the setback from the back line of the lot shall be not less than ten feet.
- (f) There shall be not less than five feet between a manufactured home and any side line of a lot.
- (g) There shall be not less than 20 feet between manufactured homes in all directions.
- (h) There shall be an unused area not less than 30 feet in depth along each public street or way and this area shall be sodded and planted.
- (i) Where a manufactured home park abuts a residential zoning district, there shall be a setback of at least 100 feet and this area shall be landscaped and maintained.
- (j) The parking of more than one manufactured home on any single lot shall not be permitted.
- (k) No manufactured home may be inhabited by a greater number of occupants than that for which it was designed.

(Code 1963, § 57.05(A)—(G), (N)—(Q); Code 1980, § 12-23; Ord. No. 413, 2-6-1975)

**State Law reference—** Drainage, spacing, setbacks, etc., Minn. Stat. § 327.20, subd. 1(2), (3).

**Sec. 46-92. Patios; shade trees; grass.**

- (a) A patio shall be constructed on the ground beside each manufactured home parking space. This patio shall not be less than 200 square feet in area constructed of concrete with four-inch minimum thickness or its approved equivalent.
- (b) At least one shade tree shall be placed and maintained on each lot.
- (c) Except for the areas used for the manufactured home, patios, sidewalks, and off-street parking space, the entire lot shall be sodded and maintained with grass.

(Code 1963, § 57.05(H)—(J); Code 1980, § 12-24; Ord. No. 413, 2-6-1975)

**Sec. 46-93. Streets, curbs and sidewalks.**

- (a) Each manufactured home park lot shall abut on and have an access to a street. This street shall be constructed of a minimum of two inches of bituminous surface material on a suitable base of at least four-inch thickness.
- (b) A concrete curb shall be constructed on each side of the street. The face of this curb shall be at least 15 feet from the centerline of such street. The curb design shall be of a type approved by the city engineer.
- (c) A concrete sidewalk, not less than 36 inches wide, shall be constructed.

(Code 1963, § 57.05(K)—(M); Code 1980, § 12-25; Ord. No. 413, 2-6-1975)

~~Cross reference—Streets, sidewalks and other public places, ch. 70.~~

**State Law reference—** Streets required, Minn. Stat. § 327.20, subd. 3.

**Sec. 46-94. Street lighting.**

- (a) Street lighting shall be installed and maintained by the owner of the manufactured home park; and shall be constructed in accordance with all applicable laws and ordinances.
- (b) A streetlight standard that extends 25 feet above the ground level shall be provided at each entrance to a manufactured home park and at each intersection therein. Similar standards shall be provided at 150 feet intervals on all streets. Such standards shall be equipped with 175 watt light and provided with photo control and a 15 amp fuse connector kit.

(Code 1963, § 57.05(R), (BB); Code 1980, § 12-27; Ord. No. 413, 2-6-1975)

~~Cross reference—Streets, sidewalks and other public places, ch. 70.~~

**Sec. 46-95. Stop signs and crosswalks.**

To promote the public health, safety and general welfare of persons within manufactured home parks, the owners of manufactured home parks are hereby required to establish and maintain appropriate stop signs and crosswalks on streets within the manufactured home park. The city manager, or his authorized representative, shall determine and approve the location of the stop signs and crosswalks.

(Code 1980, § 12-38; Ord. No. 85-900, 8-15-1985)

**Sec. 46-96. Off-street parking.**

- (a) An off-street parking area of at least 440 square feet shall be provided for each manufactured home lot. The parking area surface shall be equal to street construction.
- (b) A parking area equal to one space for each ten manufactured home lots shall be provided adjacent to the community building.

(Code 1963, § 57.05(T), (AA); Code 1980, § 12-29; Ord. No. 413, 2-6-1975)

~~Cross reference—Stopping, standing and parking, § 82-151 et seq.~~

**Sec. 46-97. Water and sewer facilities; burial of utility lines.**

(a) Water facilities and sewage disposal shall be installed and maintained by the owner of the manufactured home park and shall be constructed in accordance with the laws of the state, the recommendations of the state health department, and the ordinances and requirements of the city.

(b) All utility lines within the manufactured home park shall be buried.

(Code 1963, § 57.05(R), (U); Code 1980, § 12-26; Ord. No. 413, 2-6-1975)

~~Cross reference—Utilities, ch. 86.~~

**Sec. 46-98. Water system flushing.**

To promote the public health, safety and general welfare of persons within manufactured home parks, all water systems within manufactured home parks shall be flushed twice each year. The annual period shall commence on January 1, 1980. The owner of each manufactured home park, or its representative, shall contact the public utilities department to schedule the times such park will be flushing the water system.

(Code 1980, § 12-37; Ord. No. 692, 5-15-1980)

**Sec. 46-99. Fire hydrants.**

Fire hydrants shall be placed throughout the area in such a way as to satisfy the state division of fire marshal that adequate fire protection is achieved.

(Code 1963, § 57.05(S); Code 1980, § 12-28; Ord. No. 413, 2-6-1975)

~~Cross reference—Fire prevention and protection, ch. 38.~~

**State Law reference—** State division of fire marshal, Minn. Stat. § 299F.01; fire extinguishers required in manufactured homes, Minn. Stat. § 327.27, subd. 1.

**Sec. 46-100. Park and recreation area.**

A minimum of ten percent of the total manufactured home park area shall be devoted to park and recreation and shall be furnished with playground type equipment.

(Code 1963, § 57.05(V); Code 1980, § 12-31; Ord. No. 413, 2-6-1975)

~~Cross reference—Parks and recreation, ch. 54.~~

**Sec. 46-101. Office and community building; clothes drying.**

In a manufactured home park an adequate office and community building shall be provided adjacent to an area to be used for exterior clothes drying. Such community building shall have a minimum square footage of 3,000 square feet. No exterior clothes drying shall be permitted with the lot or any other area of the manufactured home park except the area designated for exterior clothes drying.

(Code 1963, § 57.05(Z); Code 1980, § 12-32; Ord. No. 413, 2-6-1975)

**State Law reference**— Attendant in charge required in manufactured home park and recreational camping area, Minn. Stat. § 327.20, subd. 1(1).

**Sec. 46-102. Storm shelters.**

Storm shelters shall be provided in each manufactured home park. Such shelters shall be constructed so as to provide safety for the occupants of the manufactured home park in the event of a tornado. There shall be one such shelter for every 30 manufactured home lots and each shelter shall have a minimum area of 810 square feet.

(Code 1963, § 57.05(DP); Code 1980, § 12-33; Ord. No. 413, 2-6-1975)

**State Law reference**— Severe weather shelters in manufactured home parks, Minn. Stat. § 327.20, subd. 1(6)—(8).

**Sec. 46-103. Civil defense siren.**

An approved civil defense siren must be installed by the developer of a manufactured home park as close to the center of the manufactured home park as possible.

(Code 1963, § 57.05(CC); Code 1980, § 12-34; Ord. No. 413, 2-6-1975)

**Secs. 46-104—46-120. Reserved.**

***DIVISION 3. PERMIT***

[Sec. 46-121. Required; application; fee.](#)

[Sec. 46-122. Compliance by applicant with building code; addenda; compliance with state health regulations.](#)

[Sec. 46-123. Public hearing; issuance.](#)

[Secs. 46-124—46-150. Reserved.](#)

**Sec. 46-121. Required; application; fee.**

- (a) A permit is required for the establishment, construction and maintenance of a manufactured home park or recreational camping area.
- (b) Application for a permit shall be made to the city. The application for a permit shall be accompanied by 15 copies of the manufactured home park or recreational camping area plan showing the following, either existing or proposed:
  - (1) The extent and area proposed for manufactured home park or recreational camping purposes.
  - (2) Location of streets and driveways therein.
  - (3) Location of lots for manufactured homes or recreational camping vehicles.
  - (4) Location and number of sanitary conveniences and location of solid waste storage areas.
  - (5) Proposed disposition of surface drainage.
  - (6) Proposed street surfacing and lighting.
  - (7) Off-street parking.



- (8) Patios.
  - (9) Location of community building.
  - (10) Location of recreation facilities.
  - (11) Location of sidewalks.
  - (12) Location of setback lines.
  - (13) Location of screening, planting, green areas, etc.
  - (14) If a sales lot in conjunction with the manufactured home park or recreational camping area is to be operated, location of sales lot in relation to manufactured homes or recreational camping vehicles used as dwellings.
  - (15) Any other information requested by the city.
- (c) Each application for a permit shall be accompanied by a certified list of owners of all of the property within 350 feet of any boundary line of the proposed site.
- (d) Each applicant shall be required to pay a per acre and per lot fee established by council resolution, with a minimum as established by council resolution at the time that such application is filed with the city. This money shall be used by the city to defray the expense of processing applications.
- (Code 1963, § 57.03(A)—(D); Code 1980, § 12-20; Ord. No. 413, 2-6-1975; Ord. No. 98-1695, § 6, 2-5-1998)

**Sec. 46-122. Compliance by applicant with building code; addenda; compliance with state health regulations.**

- (a) The applicant for a building permit for the construction of a manufactured home park or recreational camping area or any part thereof shall comply with all of the applicable provisions of the building code.
- (b) Each application shall be accompanied by four copies of detailed plans of the proposed construction and improvements of the site.
- (c) Every application for a building permit to construct or to expand an existing manufactured home park or recreational camping area shall be accompanied by plans approved by the state department of health showing that the applicant is complying with all recommendations, suggestions, and laws under the jurisdiction of that department.

(Code 1963, § 57.04(A)—(C); Code 1980, § 12-21; Ord. No. 413, 2-6-1975)

<sup>87</sup>**State Law reference**— State license and permit for manufactured home park and recreational camping area, Minn. Stat. §§ ~~27.15~~, 327.16.

**Sec. 46-123. Public hearing; issuance.**

- (a) No permit shall be approved by the council until after a public hearing has been held on the matter by the planning commission. This hearing shall be advertised in the official newspaper of the city at least once, not less than ten days and not more than 20 days prior to the public hearing. The city manager

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<sup>87</sup> **Sec. 46-122. Compliance by applicant with building code etc.** M.S.A. § 27.15 was repealed in 1996.

shall mail a notice of such hearing to each of the property owners shown on the certified list of owners at their last known addresses so that they might appear and be heard.

(b) All building permits shall be approved in advance by the council.

(Code 1963, §§ 57.03(E), 57.04(D); Code 1980, § 12-22; Ord. No. 413, 2-6-1975)

**Secs. 46-124—46-150. Reserved.**

#### **ARTICLE IV. TRAFFIC IN MANUFACTURED HOME PARKS \***

~~\*Cross reference—Traffic and vehicles, ch. 82.~~

Sec. 46-151. Purpose of article.

Sec. 46-152. Right of entry.

Sec. 46-153. Traffic regulatory provisions and stopping of motor vehicles within manufactured home parks.

Sec. 46-154. Misdemeanor traffic violations within a manufactured home park.

Sec. 46-155. Petty misdemeanor traffic violations within a manufactured home park.

##### **Sec. 46-151. Purpose of article.**

This article is adopted for the safety and protection of persons and property, pursuant to Minn. Stat. § 327.26, subd. 2.

(Code 1980, § 12-50; Ord. No. 99-1767, 2-4-1999)

##### **Sec. 46-152. Right of entry.**

Authorized law enforcement personnel shall be permitted in manufactured home parks at any time, for the safety and protection of persons and property and/or for the enforcement of state statutes or this article.

(Code 1980, § 12-51; Ord. No. 99-1767, 2-4-1999)

##### **Sec. 46-153. Traffic regulatory provisions and stopping of motor vehicles within manufactured home parks.**

The operation of motor vehicles on private roads within a manufactured home park shall be subject to the highway traffic regulatory provisions of Minn. Stat. ch. 169, notwithstanding Minn. Stat. § 169.02, subd. 1. Authorized law enforcement personnel shall have the same authority to stop a motor vehicle driving within a manufactured home park as authorized law enforcement personnel have to stop motor vehicles on public streets or highways.

(Code 1980, § 12-52; Ord. No. 99-1767, 2-4-1999)

**Sec. 46-154. Misdemeanor traffic violations within a manufactured home park.**

Any person who drives, operates, or allows the driving or operation of a motor vehicle, within a manufactured home park in violation of any of the following subsections is guilty of a misdemeanor, punishable by fine of up to \$1,000.00 and/or 90 days in jail.

- (1) Driving after suspension, as set forth in Minn. Stat. § 171.24, subd. 1.
- (2) Driving after revocation, as set forth in Minn. Stat. § 171.24, subd. 2.
- (3) Driving after cancellation, as set forth in Minn. Stat. § 171.24, subd. 3.
- (4) Violating a restricted driver's license, as set forth in Minn. Stat. § 171.09.
- (5) Failure to provide proof of insurance, as set forth in Minn. Stat. § 169.791, subd. 2.
- (6) Driving with improper license plates, as set forth in Minn. Stat. § 168.36.
- (7) Leaving the scene of an accident, as set forth in Minn. Stat. § 169.09.
- (8) Open bottle, as set forth in Minn. Stat. § 169A.35.
- (9) Possession of marijuana in a motor vehicle, as set forth in Minn. Stat. § 152.027, subd. 3.
- (10) Disabled parking, as set forth in Minn. Stat. § 169.346.

(Code 1980, § 12-53; Ord. No. 99-1767, 2-4-1999)

**State Law reference**— Penalty for ordinance violations, Minn. Stat. §§ 410.33, 412.231, 609.0332, 609.034.

**Sec. 46-155. Petty misdemeanor traffic violations within a manufactured home park.**

Any person who drives, operates, or allows the driving or operation of a motor vehicle, within a manufactured home park in violation of any of the following subsections is guilty of a petty misdemeanor, punishable by fine of up to \$300.00:

- (1) Driving with an expired driver's license, as set forth in Minn. Stat. § 171.27.
- (2) Driving without a driver's license in possession, as set forth in Minn. Stat. § 171.08.
- (3) Failing to change address on driver's license, as set forth in Minn. Stat. § 171.11.
- (4) Driving without a motorcycle endorsement, as set forth in Minn. Stat. § 171.02, subd. 3.
- (5) Failure to transfer title, as set forth in Minn. Stat. § 168A.10.
- (6) Sign or signal violations, as set forth in Minn. Stat. § 169.06.
- (7) Failure to yield violations, as set forth in Minn. Stat. §§ 169.20 and 169.201.
- (8) Equipment violations (license plates), as set forth in Minn. Stat. § 169.50, subd. 2.
- (9) Obstructed license plate violations, as set forth in Minn. Stat. § 169.50, subd. 2.
- (10) Obstructed view violations, as set forth in Minn. Stat. § 169.37.
- (11) Seatbelt violations, as set forth in Minn. Stat. § 169.686.

(Code 1980, § 12-54; Ord. No. 99-1767, 2-4-1999)

**State Law reference**— Penalty for ordinance violations, Minn. Stat. §§ 410.33, 412.231, 609.0332, 609.034.

**Chapter 50 OFFENSES ~~AND MISCELLANEOUS PROVISIONS~~ \***

~~\*Cross reference—Traffic and vehicles, ch. 82.~~

ARTICLE I. - IN GENERAL

ARTICLE II. - OFFENSES INVOLVING PROPERTY RIGHTS

ARTICLE III. - OFFENSES INVOLVING PUBLIC SAFETY

ARTICLE IV. - OFFENSES INVOLVING PUBLIC PEACE AND ORDER

ARTICLE V. - OFFENSES INVOLVING PUBLIC MORALS

ARTICLE VI. - OFFENSES INVOLVING UNDERAGE PERSONS

**ARTICLE I. IN GENERAL**

Sec. 50-1. State criminal statutes; adoption by reference.

Sec. 50-2. Consuming intoxicating beverage in public.

Secs. 50-3—50-30. Reserved.

**Sec. 50-1. State criminal statutes; adoption by reference.**

The state criminal statutes, Minn. Stat. ch. 609, are hereby adopted as the law of the city and hereby incorporated in and made a part of this Code as if set out completely in this section, except those portions of Minn. Stat. ch. 609 which deal with gross misdemeanors and felonies.

(Code 1963, § 108.01; Code 1980, § 13-1; Ord. No. 244, 8-20-1970)

**State Law reference—**Adoption by reference, Minn. Stat. § 471.62.

**Sec. 50-2. Consuming intoxicating beverage in public.**

Any person consuming an intoxicating beverage on any street or public place within the city is guilty of a misdemeanor.

(Code 1963, § 83.05; Code 1980, § 13-2; Ord. No. 417, 12-19-1974)

~~Cross reference—Alcoholic beverages, ch. 6; streets, sidewalks and other public places, ch. 70.~~

Secs. 50-3—50-30. Reserved.

**ARTICLE II. OFFENSES INVOLVING PROPERTY RIGHTS \***

**\*State Law reference—**Offenses involving property rights, Minn. Stat. § 609.52 et seq.

DIVISION 1. - GENERALLY

DIVISION 2. - GRAFFITI

DIVISION 3. - RESIDENTIAL PICKETING

***DIVISION 1. GENERALLY***

Secs. 50-31—50-50. Reserved.

**Secs. 50-31—50-50. Reserved.**

***DIVISION 2. GRAFFITI \****

**\*State Law reference—** Criminal damage to property, Minn. Stat. § 609.595.

Sec. 50-51. Definitions.

Sec. 50-52. Penalties for violation of division.

Sec. 50-53. Intent of division.

Sec. 50-54. Abatement of defaced property.

Sec. 50-55. Prohibited acts.

**Secs. 50-56—50-70. Reserved.**

**<sup>88</sup>Sec. 50-51. Definitions.**

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

~~*City manager* means the city manager of the city or the city manager's designee.~~

*Graffiti* means defacing of public or private property by any means including painting, drawing, writing, etching, inscription, burning, or carving with paint, spray paint, ink, knife, or any other method without written permission of the owner of the property.

*Owner* means any person owning, leasing, occupying or having control or possession of any property in the city.

*Owner of record* means any person who is specified as the owner of the property by the records of the county assessor's office.

(Code 1980, § 11-104; Ord. No. 99-1818, 10-21-1999)

~~**Cross reference—**Definitions generally, § 1-2.~~

**<sup>89</sup>Sec. 50-52. Penalties for violation of division.**

~~Any person violating any provision of this division shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine not to exceed \$1,000.00, or by imprisonment not to exceed 90 days, or both, or any different amounts adopted by statute. Enforcement of this article may also be pursued through the city administrative municipal court for adult offenders.~~

~~(Code 1980, § 11-106; Ord. No. 99-1818, 10-21-1999)~~

~~**State Law reference—**Penalty for ordinance violations, Minn. Stat. §§ 410.33, 412.231, 609.0332, 609.034.~~

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<sup>88</sup> **Sec. 50-51. Definitions.** Definition of self-defining term should be stricken as shown.

<sup>89</sup> **Sec. 50-52. Penalties for violation of division.** Duplicative penalty provisions should be stricken as shown.

**Sec. 50-53. Intent of division.**

The intent of this division is to help prevent the spread of graffiti vandalism and to establish a program for the removal of graffiti from public and private property. Graffiti is a public nuisance and is destructive to the rights and values of property owners as well as the entire community.

(Code 1980, § 11-103; Ord. No. 99-1818, 10-21-1999)

**Sec. 50-54. Abatement of defaced property.**

- (a) All property, which is defaced by graffiti, is hereby declared to be a public nuisance and in the interest of public health, safety, morals, and general welfare, shall be abated as set forth by ordinance or state law.
- (b) Whenever any graffiti is found on a property, the city manager may cause a written order to be sent to the owner of the property upon which the graffiti exists. The written order shall direct the owner to:
  - (1) Remove the graffiti within ten calendar days or such longer periods as determined for good cause by the city manager at the owner's expense; or
  - (2) Provide written consent and agreement for the city to enter upon the property to remove the graffiti within ten calendar days or such longer period as determined for good cause by the city manager at the expense of the owner.
- (c) The owner shall be advised in the written order of his right to a hearing before the city administrative municipal court hearing officer. If a hearing is requested and the hearing officer determines that the graffiti must be removed by the owner and the owner fails to comply with the order of the hearing officer, the city may cause the graffiti to be removed or corrected at the expense of the owner in addition to an administrative fine set forth by the city administrative municipal court fine schedule. Collection of the expenses associated with the removal of the graffiti and the administrative fine shall be according to the provisions of the city administrative municipal court procedures.
- (d) If the owner fails to remove the graffiti or request a hearing before the city administrative municipal court within ten calendar days or such longer period as determined for good cause by the city manager after written notice is given, the city will remove the graffiti at the expense of the owner, in addition to an administrative fee determined by the city.

(Code 1980, § 11-107; Ord. No. 99-1818, 10-21-1999)

**Sec. 50-55. Prohibited acts.**

- (a) It shall be unlawful for any person to deface public or private property through the use of graffiti.
- (b) It shall be unlawful for any person to possess, while on public or private property without the consent of the owner of such property, any paint, spray paint, broad-tipped marker, etching equipment, or other substance or article adapted, designed, or commonly used for committing or facilitating the commission of the offense of graffiti with the intent to use the substance or article, or with the knowledge that some person intends to use the substance or article, in the commission of such offense set forth in subsection (a) of this section.
- (c) It shall be unlawful for any person or entity owning property, acting as manager or agent for the owner of the property, or in possession or control of property to permit graffiti to remain on such property.

(Code 1980, § 11-105; Ord. No. 99-1818, 10-21-1999)

**Secs. 50-56—50-70. Reserved.**

<sup>90</sup>***DIVISION 3. RESIDENTIAL PICKETING***

[Sec. 50-71. Findings and purpose.](#)

[Section 50-72. Definitions.](#)

[Sec. 50-73. Prohibition.](#)

[Sec. 50-74. Penalty.](#)

[Secs. 50-75—50-90. Reserved.](#)

**Sec. 50-71. Findings and purpose.**

The city has an interest in the protection of residential privacy, the well-being and tranquility of the home, and protecting citizens from unwanted speech when they are a captive audience within their homes. The city council finds that, without resorting to targeted residential picketing, ample opportunities exist for those otherwise engaged in targeted residential picketing to exercise constitutionally protected freedoms of speech and expression.

(Ord. No. [21-2469](#) [4-19-2021](#))

<sup>91</sup>**Section 50-72. Definitions.**

The following words, terms, and phrases, when used in this division, shall have the meaning given them in this section.

*Targeted residential picketing* means:

- (1) Marching, standing, or patrolling by one or more persons directed solely at a particular residential building or occupant of a building identified by name, occupation, photograph, or other means in a manner that adversely affects the safety, security, or privacy of an occupant of the building; or
- (2) Marching, standing, or patrolling by one or more persons which prevents an occupant of a residential building from gaining access to or exiting from the property on which the residential building is located; or
- (3) Standing, marching, patrolling, or picketing by one or more persons focused in front of or adjacent to a particular residential dwelling without the consent of that dwelling's occupants.

(Ord. No. [21-2469](#) [4-19-2021](#))

**Sec. 50-73. Prohibition.**

No person shall engage in targeted residential picketing within the city.

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<sup>90</sup> **Div. 3. Residential picketing.** This division should be collapsed into a single section and moved to division 1.

<sup>91</sup> **Section 50-72. Definitions.** The definition of targeted residential picketing in M.S.A. § 609.748 does not include the subdivision (3) included here.



(Ord. No. [21-2469](http://newords.municode.com/readordinance.aspx?ordinanceid=1080435&datasource=ordbank), 4-19-2021)

**Sec. 50-74. Penalty.**

Any person who engages in targeted residential picketing within the city is guilty of a misdemeanor.

(Ord. No. [21-2469](http://newords.municode.com/readordinance.aspx?ordinanceid=1080435&datasource=ordbank), 4-19-2021)

**Secs. 50-75—50-90. Reserved.**

**ARTICLE III. OFFENSES INVOLVING PUBLIC SAFETY**

**DIVISION 1. - GENERALLY**

**DIVISION 2. - WEAPONS**

**DIVISION 3. - DISORDERLY HOUSES**

**DIVISION 4. - ULTIMATE FIGHTING**

***DIVISION 1. GENERALLY***

[Secs. 50-91—50-110. Reserved.](#)

**Secs. 50-91—50-110. Reserved.**

**<sup>92</sup>DIVISION 2. WEAPONS \***

~~\*Cross reference—Rifle or pistol ranges, § 22-331 et seq.~~

**State Law reference—** Municipalities prohibited from regulating firearms, ammunition, or their respective components, other than ordinances identical to state law and ordinances prohibiting discharge of firearms, Minn. Stat. § 471.633; weapons generally, Minn. Stat. § 609.66 et seq.; gun control, Minn. Stat. § 624.71 et seq.; local regulation of pistols preempted, Minn. Stat. § 624.717.

[Sec. 50-111. Definitions.](#)

[Sec. 50-112. Violations.](#)

[Sec. 50-113. Exemptions from division prohibitions.](#)

[Sec. 50-114. Possession of deadly weapons concealed or in public park.](#)

[Sec. 50-115. Discharge of deadly weapon limited; archery permit; special permit at funerals; hunting with firearm.](#)

[Sec. 50-116. Hunting with bow and arrow.](#)

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<sup>92</sup> **Div. 2. Weapons.** The definition of “weapons” includes “firearms” and the regulation of firearms, other than discharge, is preempted by M.S.A. § 471.633. The preemption does allow the city to adopt provisions identical to state law. The only provision of this section related to firearms prohibits concealed carry unless such carry is authorized by state law (M.S.A. § 624.714 carry prohibitions and exception for permit holders). That language may be sufficient to avoid statutory conflict. However, it may be clearer and therefore preferable to address firearms separately and track the exact statutory language that the city intends to apply within the city.

[Secs. 50-117—50-140. Reserved.](#)

**Sec. 50-111. Definitions.**

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

*Deadly weapons* means the following:

- (1) All firearms;
- (2) Bows and arrows when arrows are point tipped;
- (3) All instruments used to expel at high velocity any pellets of any kind including, but not limited to, BB guns and air rifles;
- (4) Slingshots;
- (5) Sand clubs;
- (6) Metal knuckles; and
- (7) Daggers, dirks and knives.

(Code 1963, § 101.01; Code 1980, § 13-40)

~~Cross-reference—Definitions generally, § 1-2.~~

**Sec. 50-112. Violations.**

Any person violating this division is guilty of a misdemeanor, and in addition thereto, any weapons used or carried shall be seized and impounded and destroyed on order of any court of competent jurisdiction.

(Code 1963, § 101.11; Code 1980, § 13-45; Ord. No. 204, 8-7-1969)

**Sec. 50-113. Exemptions from division prohibitions.**

Nothing in this division shall be construed to prohibit the discharge and use of deadly weapons or use of other weapons in the following situations:

- (1) By a person not a law enforcement officer if authorized by the city manager, or in the lawful defense of persons, property, or family; or
- (2) By a law enforcement officer in the lawful execution of any duties imposed upon such officer by law.

(Code 1963, § 101.07; Code 1980, § 13-44; Ord. No. 232, 8-15-1974; Ord. No. 04-2016, 5-20-2004)

**Sec. 50-114. Possession of deadly weapons concealed or in public park.**

Except as provided in Min. Stat. § 624.714, the possession by any person other than a law enforcement officer of any deadly weapon concealed or furtively carried on the person is hereby prohibited.

(Code 1963, § 101.05; Code 1980, § 13-41; Ord. No. 392, 8-15-1974; Ord. No. 597, 12-21-1978; Ord. No. 04-2016, 5-20-2004)

~~Cross-reference—Parks and recreation, ch. 54.~~

**Sec. 50-115. Discharge of deadly weapon limited; archery permit; special permit at funerals; hunting with firearm.**

- (a) Except as specifically authorized in this division and in article VII, chapter 22 of this Code, all discharging and use of deadly weapons within the city are hereby prohibited.
- (b) The city manager may issue permits for archery ranges within the city to allow the discharge and use of bows and arrows in conjunction with an approved archery range.
- (c) The police department may issue special permits to persons firing salutes over the graves of deceased persons. Any permits issued under this section shall be in writing and in the possession of the person using the permit.
- (d) The city manager or his designee is authorized to issue temporary hunting permits for muzzle loaders only for hunting deer in the city, provided that such permits shall be issued only for the deer season in zone 3 as authorized by the state department of natural resources, and provided that all applicable state laws and regulations are observed, and provided that such deer hunters shall have in their possession written permission of the property owner on whose property they intend to hunt. The city manager may establish hunting area limits to protect the public safety and welfare and such hunting areas shall be approved by the city council.
- (e) All rules and regulations as established by the state department of natural resources regarding hours, limits, zones and so forth shall be adhered to.

(Code 1963, §§ 63.01, 101.06; Code 1980, § 13-42; Ord. No. 326, 8-1-1974; Ord. No. 392, 8-15-1974; Ord. No. 663, 9-19-1979; Ord. No. 742, 10-1-1981; Ord. No. 762, 8-19-1982)

**Sec. 50-116. Hunting with bow and arrow.**

- (a) The city manager may establish hunting area limits to protect the public safety and welfare. The city manager, or his designee, is authorized to issue temporary bow and arrow deer hunting authorization for certain designated properties within the city; provided, however, that such authorization shall be issued only during the deer hunting season for bow and arrow, as authorized by the state and the state department of natural resources. All other rules and regulations established by the state department of natural resources regarding hours, limits, zones, and so forth, shall be adhered to.
- (b) The city manager, or his designee, may establish boundaries and restrictions for bow and arrow hunting within the city on an annual basis. Such boundaries and restrictions shall be on file with the city clerk and available at city hall for public inspection. Such boundaries and restrictions shall be designed to further public safety.
- (c) Any person hunting on designated property shall have the written permission of the property owner allowing them to hunt on the designated property in their immediate possession.
- (d) Any violation of this section or the bow and arrow hunting restrictions on file with the city shall be a misdemeanor.

(Code 1963, § 101.12; Code 1980, § 13-43; Ord. No. 602, 10-5-1978; Ord. No. 653, 8-16-1979; Ord. No. 706, 9-4-1980; Ord. No. 731, 8-6-1981; Ord. No. 763, 8-19-1982; Ord. No. 89-1160, 9-7-1989; Ord. No. 96-1596, 5-16-1996; Ord. No. 06-2098, 7-13-2006)

**Secs. 50-117—50-140. Reserved.**

### ***DIVISION 3. DISORDERLY HOUSES \****

**\*State Law reference—** Disorderly houses, Minn. Stat. § 609.33.

Sec. 50-141. Definitions.

Sec. 50-142. Penalty for violation of division.

Sec. 50-143. Evidence.

Sec. 50-144. Operation.

Sec. 50-145. Presence in or visiting.

**Secs. 50-146—50-154. Reserved.**

#### <sup>93</sup>**Sec. 50-141. Defined Definitions.**

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

As used in this division, ~~disorderly~~ house means any building, dwelling, place, establishment or premises in which actions or conduct occur in violation of any law or ordinance relating to the following:

- (1) Sale or regulation of an intoxicating liquor or 3.2 percent malt liquor.
- (2) Gambling.

**State Law reference—** Gambling, Minn. Stat. § 609.75 et seq.

- (3) Prostitution, acts relating to prostitution, solicitation to vice, or lewd and indecent behavior.

**State Law reference—** Prostitution and related offenses, Minn. Stat. § 609.321 et seq.

- (4) The sale, possession or use of drugs or controlled substances as defined by state law.

**State Law reference—** Controlled substances, Minn. Stat. ch. 152.

- (5) Disorderly conduct as defined by state law.

**State Law reference—** Disorderly conduct, Minn. Stat. § 609.72.

- (6) Assault as defined by state law.

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<sup>93</sup> **Sec. 50-141. Defined.** Subsections (5) through (8) are not included in M.S.A. § 609.33, subd. 1, defining disorderly houses.

**State Law reference—** Assault, Minn. Stat. § 609.221 et seq.

(7) Public nuisance as defined by state law.

(8) Any other unlawful conduct or pattern of unlawful conduct pursuant to city ordinance or state law.

(Code 1980, § 13-60; Ord. No. 98-1752, 11-5-1998)

~~Cross-reference—Definitions generally, § 1-2.~~

**Sec. 50-142. Penalty for violation of division.**

~~(a)~~ Any violation of this division shall constitute a misdemeanor. ~~(b)~~ Each violation and every day in which a violation occurs or continues, shall constitute a separate offense.

(Code 1980, § 13-64; Ord. No. 98-1752, 11-5-1998)

<sup>94</sup>**Sec. 50-143. Evidence.**

Evidence of unlawful sales or free distribution of intoxicating liquor or 3.2 percent malt liquor or of gambling shall be prima facie evidence of the existence of a disorderly house. Evidence of possession, sales or use of drugs or controlled substances shall be prima facie evidence of the existence of disorderly house. Evidence of possession, sales or use of drugs and/or controlled substances may include, but is not limited to, the presence in the house of devices for smoking cocaine or marijuana, scales, sieves or sifters or any other drug paraphernalia, shall be prima facie evidence of the existence of a disorderly house. Evidence of the occurrence of any incident of disorderly conduct, assault, or public nuisance shall be prima facie evidence of the existence of a disorderly house. Evidence of a violation of this Code or the Uniform Building Code shall be prima facie evidence of the existence of a disorderly house. Evidence of any weapon violation shall be prima facie evidence of the existence of a disorderly house. Evidence of a pattern of vandalism and/or theft by the occupants of a disorderly house shall constitute prima facie evidence that such occupants reside in a disorderly house.

(Code 1980, § 13-63; Ord. No. 98-1752, 11-5-1998)

**Sec. 50-144. Operation.**

No person shall own, lease, operate, manage, reside in, maintain or conduct a disorderly house, or invite or attempt to invite others to visit or remain in such disorderly house.

(Code 1980, § 13-61; Ord. No. 98-1752, 11-5-1998)

**Sec. 50-145. Presence in or visiting.**

No person shall be present in, visit or remain in a disorderly house.

(Code 1980, § 13-62; Ord. No. 98-1752, 11-5-1998)

**Secs. 50-146—50-154. Reserved.**

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<sup>94</sup> **Sec. 50-143. Evidence.** This section also does not conform to M.S.A. § 609.33, subd. 4.

#### **DIVISION 4. ULTIMATE FIGHTING**

Sec. 50-155. Ultimate fighting.

Secs. 50-156—50-180. Reserved.

##### **Sec. 50-155. Ultimate fighting.**

- (a) *Definition and purpose.* Ultimate fighting is any activity, regardless of how named or described, or any form of entertainment, where the primary practice involves individuals engaged in physical contact by striking an opponent with hands, head, feet or body. This shall include, but not be limited to, any contest where kicking, punching, martial arts, or submission holds are permitted. The city council finds that the practice of ultimate fighting is dangerous and puts individuals and the public health, safety and welfare at great risk.
- (b) *Prohibited conduct.* It shall be unlawful in any public or private building or place to organize, permit, be present at, or to participate in the practice of ultimate fighting. Officially sanctioned and regulated boxing, martial arts, wrestling and team sports in which physical contact is incidental to the primary purpose of the game such as hockey, basketball, volleyball, soccer, baseball and softball, are not included among activities prohibited by this section.

(Ord. No. 07-2142, 8-2-2007)

Secs. 50-156—50-180. Reserved.

#### **ARTICLE IV. OFFENSES INVOLVING PUBLIC PEACE AND ORDER**

DIVISION 1. - GENERALLY

DIVISION 2. - NOISE

##### **DIVISION 1. GENERALLY**

Sec. 50-181. Harassing telephone call.

Secs. 50-182—50-200. Reserved.

<sup>95</sup>Sec. 50-181. Harassing telephone call.

(a) Whoever,

(1) by means of a telephone,

(i) makes any comment, request, suggestion or proposal which is obscene, lewd, or lascivious,

(ii) with the intent to harass or intimidate another person, repeatedly makes telephone calls, whether or not conversation ensues, and thereby places the other person in reasonable fear of substantial bodily harm; places the person in reasonable fear that the person's family or household members will be subject to substantial bodily harm; or causes or would reasonably be expected to cause substantial emotional distress to the other person, or

(iii) with the intent to harass or intimidate any person at the called or notified number, makes or causes the telephone of another to repeatedly or continuously ring or receive electronic notifications and thereby places the other person in reasonable fear of substantial bodily harm; places the person in reasonable fear that the person's family or household members will be subject to substantial bodily harm; or causes or would reasonably be expected to cause

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<sup>95</sup> Sec. 50-181. Harassing telephone call. I suggest this section be conformed to statute as indicated.

substantial emotional distress as defined in M.S.A. § 609.749, subd. 2(a)(4), to the other person, or

(2) having control of a telephone, knowingly permits it to be used for any purpose prohibited by this section,

shall be guilty of a misdemeanor.

~~Whoever, without disclosing his identity and with intent to alarm or annoy another, makes a telephone call, whether or not conversation ensues, is guilty of a misdemeanor.~~

(b) Such acts are a violation of this section whether the call is made from or received in the city.

(Code 1963, § 99.05; Code 1980, § 13-3; Ord. No. 141, 6-1-1967)

**State Law reference**— Obscene or harassing telephone calls, Minn. Stat. § 609.79.

**Secs. 50-182—50-200. Reserved.**

## ***DIVISION 2. NOISE***

**Sec. 50-201. Intent of division.**

**Sec. 50-202. General prohibition.**

**Sec. 50-203. Prohibited noises and acts.**

**Secs. 50-204—50-230. Reserved.**

### **Sec. 50-201. Intent of division.**

The purpose of this division is to protect and promote the public health, safety and general welfare by restricting activities which emit noise that unreasonably annoys, disturbs, injures or endangers the comfort, repose, health, peace, safety or welfare of any persons, or precludes their enjoyment of property, or adversely affects their property's value.

(Code 1980, § 11-80; Ord. No. 97-1645, 3-6-1997)

### **Sec. 50-202. 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 persons, or precludes their enjoyment of property, or adversely affects their property's value. This general prohibition is not limited by the specific prohibitions contained in section 50-203.

(Code 1980, § 11-81; Ord. No. 97-1645, 3-6-1997)

### **Sec. 50-203. Prohibited noises and acts.**

The noises and acts set forth in the following subsections are declared to be prohibited noises in violation of this division, but such enumeration shall not be deemed to be exclusive:

- (1) *Horns and signaling devices.* No person shall sound any horn or signaling device on any vehicle, except as a warning of danger, as required by Minn. Stat. § 169.68;

- (2) *Radios, phonographs, paging systems, and similar devices.* No person shall use or operate, or permit the use or operation of, any electronic sound system or audio equipment including, but not limited to, any compact disc player, cassette tape player, AM-FM radio, citizen band radio, paging system, musical instrument, phonograph, or any other device designed for the production or reproduction of sound, in a distinctly and loudly audible manner as to unreasonably disturb the peace, quiet, and comfort of any person nearby.
- a. It shall be presumed that a violation of this section has occurred when any electronic sound system or audio equipment is operated in a manner in which it is plainly audible, at a distance of 50 feet or more, between the hours of 10:00 p.m. and 7:00 a.m. It shall be presumed that a violation of this section has occurred when any electronic sound or audio equipment is operated in a manner in which it is plainly audible, at a distance of 100 feet or more, between the hours of 7:00 a.m. and 10:00 p.m.;
  - b. When noise violating this section is produced by an electronic sound system or audio equipment that is located in or on a vehicle, the driver of the vehicle and the person who owns, or is in control of, the vehicle may be guilty of the violation;
  - c. This section shall not apply to sound produced by the following:
    - 1. Amplifying equipment used in connection with activities which are authorized, sponsored or permitted by the city, so long as the activity is conducted pursuant to the conditions of the license, permit or contract authorizing such activity;
    - 2. Church bells, chimes or carillons, school bells, or emergency civil defense warning signals;
    - 3. Antitheft devices;
    - 4. Machines or devices for the production of sound on or in authorized emergency vehicles;
- (3) *Loudspeakers, amplifiers for advertising.* No person shall operate or permit the use of operation of any electronic sound system, audio equipment, loudspeaker, sound amplifier, or any other device for the production or reproduction of sound on a street or other public place for the purpose of commercial advertising or attracting the attention of the public to any commercial establishment or vehicle;
- (4) *Exhausts.* No person shall discharge or permit the discharge of the exhaust of any steam engine, stationary internal combustion engine, motor boat, motor vehicle, or snowmobile except through a muffler or other device which effectively prevents loud or explosive noises which complies with all applicable state laws and regulations;
- (5) *Construction-related activities.* No person shall engage in the following activities between the hours of 10:00 p.m. and 7:00 a.m. daily:
- a. Construction, installation and maintenance of utility and street projects;
  - b. Operation of tools and domestic maintenance equipment powered by external air compressors or internal combustion engines including, but not limited to, use of lawn mowers, hedge clippers, chain saws, mulchers, garden tillers, edgers, or other similar domestic power maintenance equipment. Snow removal and street sweeping equipment are exempt from this subsection;
  - c. Repair and servicing of vehicles or other equipment where the noise from that activity is audible beyond the property lines on which the repair or servicing is being conducted;
  - d. Exterior construction, remodeling, repair or maintenance of structures;



- e. Exceptions: The performance of city or state authorized, sponsored, or licensed work to preserve the public health, safety or welfare, or in the performance of work necessary to restore public service or eliminate a public hazard shall be exempt from the restrictions of this section. Any person responsible for such work shall take all reasonable actions to minimize the amount of noise;

(6) *Noisy parties and gathering.* No person shall permit or participate in any party or other gathering of people, on public or private property, giving rise to noise, unreasonably disturbing the peace, quiet, or repose of another person. It shall be presumed that a violation of this section has occurred when any noise from a gathering is plainly audible, at a distance of 50 feet or more, between the hours of 10:00 p.m. and 7:00 a.m.:

- a. When a police officer has probable cause that a violation of this section has occurred the officer may order all persons present, other than the owner or tenant of the premises, to disperse and leave the premises immediately. It shall be a violation of this section for any person to refuse to leave after being so ordered by the police officer;

b. Exceptions: The following are exempt from violation of this section:

1. Activities which are duly authorized, sponsored or licensed by the city, so long as the activity is conducted pursuant to the conditions of the license, permit or contract authorizing such activity;
2. Persons who have gone to a party for the sole purpose of abating the violation.

(Code 1980, § 11-82; Ord. No. 97-1645, 3-6-1997)

**Secs. 50-204—50-230. Reserved.**

## **ARTICLE V. OFFENSES INVOLVING PUBLIC MORALS**

[Sec. 50-231. Obscene motion pictures at drive-in theaters.](#)

[Secs. 50-232—50-260. Reserved.](#)

### **Sec. 50-231. Obscene motion pictures at drive-in theaters.**

The provisions of Minn. Stat. §§ 617.298 and 617.299 are hereby adopted as the law of the city and hereby incorporated in and made a part of this Code as if set out completely in this section, except those portions thereof which deal with gross misdemeanors.

(Code 1963, § 109B.01; Code 1980, § 13-4; Ord. No. 293, 11-16-1972)

**State Law reference—** Obscenity, Minn. Stat. § 617.23 et seq.; adoption by reference, Minn. Stat. § 471.62.

**Secs. 50-232—50-260. Reserved.**

## **ARTICLE VI. OFFENSES INVOLVING UNDERAGE PERSONS**

DIVISION 1. - GENERALLY

DIVISION 2. - CURFEW

DIVISION 3. - OPIUM OR MARIJUANA PARAPHERNALIA

***DIVISION 1. GENERALLY***

Secs. 50-261—50-280. Reserved.

Secs. 50-261—50-280. Reserved.

***DIVISION 2. CURFEW \****

\*State Law reference— Municipal curfew to be consistent with county curfew, Minn. Stat. § 145A.05, subds. 7a, 9.

Sec. 50-281. Purpose of division.

Sec. 50-282. Definitions.

Sec. 50-283. Penalties.

Sec. 50-284. Exceptions.

Sec. 50-285. Enforcement.

Sec. 50-286. Prohibited acts.

Secs. 50-287—50-310. Reserved.

***Sec. 50-281. Purpose of division.***

The purpose of this division is to regulate the conduct of minors in public places during nighttime hours, for the protection of juveniles and the general public and for the furtherance of the public good, safety, and welfare.

(Code 1963, § 93.01; Code 1980, § 13-5(a); Ord. No. 96-1604, 6-6-1996)

***Sec. 50-282. Definitions.***

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

*Authorized adult* means any person who is at least 18 years of age and authorized by a parent or guardian to have custody and control of a juvenile.

*Emergency* means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

*Juvenile* means a person under the age of 18 years. The term does not include persons under 18 who are married or have been legally emancipated.

*Parent* means any person having legal custody of a juvenile as a:

- (1) Natural, adoptive parent, or stepparent;
- (2) Legal guardian; or
- (3) Person to whom legal custody has been given by order of the court.

*Public place* means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, roadways, parks, public recreation, entertainment or

civic facilities, schools, and the common areas of hospitals, apartment houses, office buildings, transport facilities, and shops.

*Serious bodily injury* means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

(Code 1963, § 93.01; Code 1980, § 13-5(b); Ord. No. 96-1604, 6-6-1996)

~~Cross reference—Definitions generally, § 1-2.~~

#### **Sec. 50-283. Penalties.**

Violation of section 50-286(a), (b), and (c) will be prosecuted pursuant to Minn. Stat. ch. 260B and will be subject to the penalties therein. Violation of section 50-286(d) and (e) shall be a misdemeanor.

(Code 1963, § 93.05; Code 1980, § 13-9; Ord. No. 96-1604, 6-6-1996)

#### **Sec. 50-284. Exceptions.**

(a) The following shall constitute valid exceptions to the operation of the curfew:

- (1) At any time, if a juvenile is accompanied by his parent or any authorized adult;
- (2) At any time, if a juvenile is involved in, or attempting to remedy, alleviate, or respond to an emergency;
- (3) If the juvenile is engaged in a lawful employment activity, or is going to or returning home from his place of employment;
- (4) If the juvenile is attending an official school, religious, or other social or recreational activity supervised by adults or sponsored by a city or the county, a civic organization, or other similar entity that takes responsibility for the juvenile;
- (5) If the juvenile is going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by a city or the county, a civic organization, or another similar entity that takes responsibility for the juvenile;
- (6) If the juvenile is on an errand as directed by his parent, without any detour or stop;
- (7) If the juvenile is engaged in interstate travel;
- (8) If the juvenile is on the public right-of-way boulevard or sidewalk abutting the juvenile's residence or abutting the neighboring property, structure, or residence;
- (9) If the juvenile is exercising first amendment rights protected by the United States Constitution (or those similar rights protected by article I of the state constitution), such as free exercise of religion, freedom of speech, and the rights of assembly; or
- (10) If the juvenile is homeless or uses a public or semipublic place as his usual place of abode.

(b) It is an affirmative defense to prosecute under this article that the owner, operator or employee of an establishment promptly notified the police department that a juvenile was present on the premises of the establishment during curfew hours and refused to leave. The owner, operator or employee reasonably and in good faith relied upon a juvenile's representations of proof of age. Proof of age may

be established pursuant to Minn. Stat. § 340A.503, subd. 6, or other verifiable means including, but not limited to, school identification cards and birth certificates.

(Code 1963, § 93.03; Code 1980, § 13-7; Ord. No. 96-1604, 6-6-1996)

**Sec. 50-285. Enforcement.**

Before taking any enforcement action under this division, a police officer shall ask the apparent offender's age and reason for being in a public place. The officer shall not issue a citation or make an arrest under this division unless the officer reasonably believes that an offense has occurred and that no exception set forth in this division is applicable.

(Code 1963, § 93.04; Code 1980, § 13-8; Ord. No. 96-1604, 6-6-1996)

**Sec. 50-286. Prohibited acts.**

- (a) It is unlawful for a juvenile under the age of 12 years to be present in any public place within the city any time between 9:00 p.m. on any Sunday, Monday, Tuesday, Wednesday or Thursday, and 5:00 a.m. of the following day; and any time between 10:00 p.m. on any Friday or Saturday and 5:00 a.m. the following day.
- (b) It shall be unlawful for any juvenile age 12 to 14 years to be present in any public place within the city any time between 10:00 p.m. on any Sunday, Monday, Tuesday, Wednesday or Thursday, and 5:00 a.m. of the following day; and any time between 11:00 p.m. on any Friday or Saturday and 5:00 a.m. on the following day.
- (c) It shall be unlawful for any juvenile age 15 to 17 years to be in any public place within the city any time between 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday or Thursday, and 5:00 a.m. of the following day; and any time between 12:01 a.m. and 5:00 a.m. on any Saturday or Sunday.
- (d) It shall be unlawful for a parent or authorized adult of a juvenile to knowingly, or through negligent supervision, habitually permit such juvenile to be in any public place within the city during the hours prohibited by subsections (a), (b), and (c) of this section, under circumstances not constituting an exception to this section as set forth in section 50-284. The term "knowingly" includes knowledge which a parent or authorized adult shall reasonably be expected to have concerning the whereabouts of a juvenile under such person's care.
- (e) It shall be unlawful for any person operating or in charge of any place of amusement or refreshment which is open to the public to knowingly and habitually permit any juvenile to be in such place during the hours prohibited by subsections (a), (b), and (c) of this section, under circumstances not constituting an exception to this section as set forth in section 50-284. The term "person operating" shall mean any individual, firm, association, partnership or corporation operating, managing or conducting any such establishment. The term includes the members or partner of an association or partnership and the officers of a corporation.

(Code 1963, § 93.02; Code 1980, § 13-6; Ord. No. 96-1604, 6-6-1996)

**Secs. 50-287—50-310. Reserved.**

***DIVISION 3. OPIUM OR MARIJUANA PARAPHERNALIA \****

***\*State Law reference—*** Controlled substances, Minn. Stat. ch. 152.

[Sec. 50-311. Exemptions.](#)

[Sec. 50-312. Opium-smoking paraphernalia; possession.](#)

**Sec. 50-311. Exemptions.**

The provisions of section 50-312 shall not apply to common carriers or warehousemen or their employees engaged in the lawful distribution or storage of the drugs and materials mentioned in such section, or to public officers or employees while engaged in the performance of their official duties, or to the temporary incidental possession thereof by employees or agents of persons lawfully entitled to such possession.

(Code 1963, § 104.05; Code 1980, § 13-11)

**Sec. 50-312. Opium-smoking paraphernalia; possession.**

No person shall use, possess or have under such person's control for use any stem, bowl, pipe, lamp, yen hock, or other opium-smoking paraphernalia or cannabis indica or cannabis sativa or marijuana smoking paraphernalia or accessories used for the smoking or inhalation of opium or cannabis indica or cannabis sativa or marijuana.

(Code 1963, § 104.04; Code 1980, § 13-10)

## Chapter 54 PARKS AND RECREATION \*

~~\*Cross reference—Any ordinance vacating any easement or park land saved from repeal, § 1-11(9); environment, ch. 34; park and recreation area in manufactured home parks, § 46-100; possession of deadly weapons concealed, or possession in public park, § 50-114; streets, sidewalks and other public places, ch. 70; leaving vehicles on public park land at night, § 82-155; vegetation, ch. 90.~~

State Law reference— Parks generally, Minn. Stat. ch. 448.

ARTICLE I. - IN GENERAL

ARTICLE II. - PARK BOARD

ARTICLE III. - CONDUCT IN PUBLIC PARKS

ARTICLE IV. - CITY SWIMMING BEACHES RULES AND REGULATIONS

### ARTICLE I. IN GENERAL

[Sec. 54-1. Designation.](#)

[Secs. 54-2—54-30. Reserved.](#)

<sup>96</sup>Sec. 54-1. Designation [of park and open space land.](#)

(a) The following land shall be designated as park and open space land pursuant to the Charter of the city, section 12.05, sales of real property. Property designated as parkland:

PROPERTY IDENTIFICATION NUMBERS	PROPERTY ADDRESS/LOCATION/DESCRIPTION
323123210006	Aquatore Park — 9191 Lincoln Street
293123330005	
323123210008	
323123210016	
323123210013	
313123210104	Aurelia Park — 382 91st Avenue
313123210029	
313123210030	
313123210031	
313123210032	
313123210033	
313123210001	
353123440069	Austin Park — 4041 85th Lane
083123320017	Baseball Complex — 1150 Paul Parkway

<sup>96</sup> **Sec. 54-1. Designation.** I recommend that these schedules be removed and replaced with language referring to them as “on file” in the appropriate office.

083123230002	
053123440094	Broken Oaks — 12726 Fergus Street
053123110102	Carrara East Park — 13129 Eldorado Street
053123120043	Carrara West Park — 1495 132nd Avenue
263123120030	Centennial Green Park — 4041 Austin Street
263123110136	
263123120029	
263123120002	
263123110135	
243123410007	Centennial Park — 10450 Rockney Street
303123130080	Cloverleaf Park — 650 99th Avenue
303123420101	
293123220144	Colony Preserve Park — 10030 Fillmore Street
163123320006	Deacons Park — 11200 Arnold Palmer Drive
103123140065	East Lake Park — 3550 Lakes Parkway
243123120027	Eastside Park — 4715 107th Avenue
243123120009	
243123210001	
243123210004	
203123230077	Fillmore Park — 10634 Fillmore Street
183123330051	Fort Lion Park — 10905 5th Street
183123330050	
073123320002	Happy Acres Park — 11900 7th Avenue
073123320001	
073123320003	
073123330072	
073123330071	
073123330065	
073123330085	
073123330086	
073123330066	
073123330067	
073123230145	

033123130027	Harpers Park — 3013 129th Lane
173123230025	Hidden Ponds Park — 11465 Polk Street
093123230047	Ivy Hills Park — 12197 Fergus Street
083123140100	
073123410090	Jaycee Park — 12100 Oak Park Boulevard
063123420072	Jefferson Park — 12833 Jefferson Street
093123120014	Jim Peterson Athletic Complex — 12302 Cloud Drive
093123130049	
343123240060	Kane Meadows Park — 2946 Rice Creek Parkway
323123320022	Laddie Lake Park — 1051 87th Avenue
323123320003	
323123320041	
323123320043	
323123320027	
323123320052	
323123320010	
323123320011	
323123320005	
323123320009	
323123320008	
323123320006	
323123320007	
323123320012	
103123240097	Lakeside Commons Park — 3020 Lakes Parkway
103123130027	
103123130060	
173123120062	Lakeside Park — 1556 116th Avenue
173123110094	
023123320011	Legacy Creek Park — 12714 Legacy Creek Parkway
123123320001	Lexington Athletic Complex — 4286 121st Avenue
313123440042	Little Bit Park — 8616 Polk Street
183123420078	Little League Park — 730 113th Avenue
183123420088	



133123230003	Lochness Park — 11121 Lexington Avenue
133123310001	
133123420009	
133123240001	
093123310013	London Park — 11913 London Street
093123310039	
323123440023	Mary Elizabeth Park — 8630 Eldorado Street
323123440022	
323123440003	
323123440005	
323123440021	
323123440006	
323123440020	
063123430042	Meadowbrook Park — 12650 Madison Street
063123430004	
153123130023	North Oaks West Park — 3092 Rodeo Drive
153123420015	
073123410094	Northwood Park — 12047 Oak Park Boulevard
073123140064	
073123140065	
073123140062	Oak Creek Park — 854 Paul Parkway
293123230065	Olympia Park — 1047 98th Avenue
053123230107	Ostmans Park — 1201 130th Lane
053123230045	
053123230008	
053123240065	
163123210002	Palmer Park — 11700 Arnold Palmer Drive
073123130011	Pine Grove Gardens Park — 11501 Club West Parkway
043123440001	Pioneer Park — 2491 125th Avenue
043123410001	
043123420022	
193123330114	President Park — 10214 President Drive
043123240032	Quail Creek Park — 2205 Quail Creek Parkway

043123210048	
043123210088	
193123130095	Quincy Park — 10601 Quincy Boulevard
193123130093	
193123130094	
163123440049	Radisson Woods Park — 2576 Radisson Woods Drive
223123210005	Sanctuary North Park — 10713 Sanctuary Drive
213123410022	Sanctuary South Park — 10435 Vermillion Circle
033123410015	Savanna Grove Park — 12733 Midway Street
103123430102	South Lake Park — 3150 117th Avenue
303123430069	Sunnyside Park — 750 Cloverleaf Parkway
303123440147	
203123210052	Suzanna Park — 1347 108th Avenue
203123210021	
303123230084	Swan Park — 9790 5th Street
193123310090	Territorial Park — 10410 Jefferson Street
193123310091	
193123340083	
173123410077	The Commons Park — 1623 113th Avenue
173123420022	The Green Park — 11347 Club West Parkway
213123110017	Town Square Park — 10802 Town Square Drive
173123140053	Trees Edge Park — 1731 113th Lane
303123410099	Van Buren Park — 828 95th Lane
103123320004	West Lake Park — 11903 South Lake Boulevard
313123410063	Westwood Park — 8819 Able Street
313123410080	
313123410064	
313123410079	
313123410078	
313123410065	
313123410066	
343123230043	Xylite Park — 9033 Xylite Street
343123230091	

343123230089	
323123210009	9191 Lincoln Street (Aquatore Park) EXCEPT for Parcel B as described below:
	<p>PARCEL B</p> <p>That part of Lot 2, Block 1, CLOVERLEAF COMMERCE CENTER 2ND ADDITION, according to the recorded plat thereof, and situated in Anoka County, Minnesota lying southerly and southwesterly of the following described line:</p>
	Commencing at the most northwesterly corner of said Lot 2; thence on an assumed bearing of North 89 degrees 50 minutes 28 seconds East, along the most northerly line of said Lot 2, a distance of 100.91 feet to the point of beginning of the line to be described; thence South 60 degrees 16 minutes 10 seconds East a distance of 1444.62 feet; thence southerly and southeasterly 124.08 feet along a tangential curve concave to the northeast, said curve having a radius of 5516.05 feet and a central angle of 1 degree 17 minutes 20 seconds; thence South 69 degrees 13 minutes 19 seconds East, not tangent to last described curve, a distance of 228.03 feet; thence North 89 degrees 50 minutes 28 seconds East a distance of 742.94 feet to the east line of said Lot 2 and said line there terminating.
	EXCEPT that part shown as Parcel 211 on Minnesota Department of Transportation Right of Way Plat No. 02-15

(b) The following land shall be designated as open space land pursuant to the City Charter, § 12.05, sales of real property:

PROPERTY IDENTIFICATION NUMBER(S)	PROPERTY LOCATION
293123340003	Cloverleaf Commerce Center
293123330009	Cloverleaf Commerce Center 4th Addition
343123330020	Coral Sea Crossing Addition
083123330083	Eagle Creek Addition
083123330082	
173123230029	Kersten Gardens Addition
183123440055	Knoll Creek North
183123410014	
193123110003	Knoll Creek South
193123110005	
193123140046	
193123140048	
193123140049	

193123410029	
103123440005	The Lakes Addition
113123230002	The Lakes Addition
113123320003	The Lakes Addition
01-31-23-24-0004 (Parcel A)	Land locked parcel between Lexington Avenue and Lever Street and ¾ mile north of 125th Avenue
11-31-23-41-0005 (Parcel B)	11980 Lexington Avenue
023123230005	131st Avenue
173123230027	Parkos Addition
173123230050	Pine Island Estates
113123430002	Open Space, Blaine Wetland Complex
113123340002	Open Space, Blaine Wetland Complex
153123140027	Open Space, Blaine Wetland Complex
153123440006	Open Space, Blaine Wetland Complex
143123130012	Open Space, Blaine Wetland Complex
143123320006	Open Space, Blaine Wetland Complex
143123140013	Open Space, Blaine Wetland Complex
303123210035	Open Space, Pleasure Creek
303123210053	Open Space, Pleasure Creek
193123340081	Open Space, Pleasure Creek
343123420007	Rice Creek
343123420024	Rice Creek Park Fourth Addition
343123310038	Rice Creek Park Fourth Addition
343123320002	Rice Creek Park Fourth Addition
343123320004	Rice Creek Park Third Addition
343123130011	Rice Creek Parkway
353123430129	Trail Corridor, W of Austin Park, Rice Creek Park 2nd Addition
143123130010	Trail Corridor, Blaine Wetland Complex
143123320007	Trail Corridor, Blaine Wetland Complex
083123220038	Trail Corridor-Heatherwood 2nd Addition (OLB)
343123120051	Trail Corridor, Meadows of Rice Creek
083123110096	Trail Corridor, S of 124th Lane, E of Goodhue St.
093123220057	Trail Corridor, to Ivy Hills Park, S of 123rd Lane

303123210032	Trail Corridor, Pleasure Creek
193123420009	Trail Corridor, Pleasure Creek
043123240045	Trail Corridor to Quail Creek Park

(Code 1980, § 14-30; Ord. No. 00-1864, 10-5-2000; Ord. No. 04-2012, 4-15-2004; Ord. No. 04-2027, 11-18-2004; Ord. No. 04-2029, 11-18-2004; Ord. No. 06-2080, 4-6-2006; Ord. No. 06-2112, 12-21-2006; Ord. No. 07-2129, 5-17-2007; Ord. No. 09-2186, 8-6-2009; Ord. No. 09-2187, 8-6-2009; Ord. No. 09-2190, 9-3-2009; Ord. No. 10-2200, 3-18-2010; Ord. No. 10-2207, 5-20-2010; Ord. No. 13-2258, 2-21-2013; Ord. No. 13-2259, 2-21-2013; Ord. No. 14-2294, 10-16-2014; [web="yes">Ord. No. 16-2337, 1-21-2016](http://newords.municode.com/readordinance.aspx?ordinanceid=752810&datasource=ordbank) </ulink>)

~~Editor's note — Ord. No. 14-2294, adopted October 16, 2014, amended § 54-1 to read as set out herein. Previously § 54-1 was titled park and open space land designated.~~

Secs. 54-2—54-30. Reserved.

## ARTICLE II. PARK BOARD \*

~~\*Cross reference — Boards and commissions, § 2-241 et seq.~~

Sec. 54-31. Established; members; organization.

Sec. 54-32. Purpose.

Sec. 54-33. Functions.

Sec. 54-34. Submitting of park and recreational proposals.

Secs. 54-35—54-70. Reserved.

### Sec. 54-31. Established; members; organization.

(a) *Established.* There is hereby established for the city a park board.

(b) *Compensation of members; expenses.* The members of the park board shall receive as compensation such remuneration as set by council action, and the board may, with the consent of the council, incur expenses that are deemed necessary.

(c) *Removal of members.* Any park board member may be removed from office at any time by a four-fifths vote of the council. Any member absent from three consecutive regular meetings without the consent of the board shall be deemed to have vacated such member's office, and such vacancy shall be filled by the council as stated in this section.

(d) *Chairperson.* The chairperson of the board shall be designated by the mayor from among the members of the board. The chairperson shall be responsible for calling and presiding at meetings and shall be entitled to an equal vote with other members of the board.

(e) *Rules of procedures.* The board shall elect its own officers (except for the chairperson), establish meeting times and adopt its own rules of procedures.

(Code 1963, §§ 72.01, 72.05—72.09; Code 1980, § 14-1; Ord. No. 277, 6-18-1972; Ord. No. 489, 12-18-1975; Ord. No. 88-1113, 1-5-1989; Ord. No. 95-1558, 5-18-1995; Ord. No. 96-1629, 1-2-1997; <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=722439&datasource=ordbank" web="yes">Ord. No. 15-2319, 7-9-2015 </ulink>; Ord. No. <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=998690&datasource=ordbank" web="yes">19-2442 </ulink>, 1-6-2020)

**Sec. 54-32. Purpose.**

The purpose of the park board is to provide a high quality of life for the city's residents through protection of its natural resources, its scenic, historical and aesthetic values, and by development of compatible facilities for public enjoyment.

(Code 1963, § 72.02; Code 1980, § 14-2; Ord. No. 277, 6-18-1972)

**Sec. 54-33. Functions.**

The functions of the park board shall be as follows:

- (1) To promote cooperation among all units of city government for the betterment of the residents of the city through the park systems.
- (2) To encourage participation of individuals and civic groups in development and maintenance of city recreational areas.
- (3) To make recommendations regarding development and maintenance of all city parks.
- (4) To review and make recommendations to the council of each new proposed plat or subdivision for future development of park and recreational purposes.
- (5) To make recommendations to the council for general use categories of all parks and recreational areas.
- (6) To develop and continuously review a comprehensive plan, both long range and short range, for the park system.
- (7) To review requests for special use of any park and make recommendations to the council regarding such requests.
- (8) To maintain cognizance of a city land fund comprised of monies received in lieu of park land and all donations made to the city for purchasing of park properties.
- (9) To submit a proposed annual park board budget to the city manager.
- (10) To maintain surveillance of all current and pending expenditures for park purposes.

(Code 1963, § 72.03; Code 1980, § 14-3; Ord. No. 277, 6-18-1972)

**Sec. 54-34. Submitting of park and recreational proposals.**

Park and recreational proposals shall be submitted to the park board in the preliminary stage to facilitate acceptance of the proposal.

(Code 1963, § 72.04; Code 1980, § 14-4; Ord. No. 277, 6-18-1972)

**Secs. 54-35—54-70. Reserved.**

### **ARTICLE III. CONDUCT IN PUBLIC PARKS**

**Sec. 54-71. Hours public parks open.**

**Sec. 54-72. Use of motorboats on any water ways within city limits.**

**Sec. 54-73. Alcoholic beverages.**

**Sec. 54-74. Dogs to be kept under restraint.**

**Sec. 54-75. Merchandising, advertising and signs.**

**Sec. 54-76. Authority to establish additional regulations.**

**Secs. 54-77—54-89. Reserved.**

#### **Sec. 54-71. Hours public parks open.**

No person, except authorized personnel, or persons participating in events conducted under a special events license issued by the city shall be in or remain in a public park in the city between the hours of 10:00 p.m. and 5:00 a.m. of the day following.

(Code 1963, § 74.01; Code 1980, § 14-5; Ord. No. 596, 12-21-1978)

#### **Sec. 54-72. Use of motorboats on any water ways within city limits.**

(a) ~~**Defined. Definitions.** The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning: For purposes of this section, “motorboats” means any watercraft propelled in any respect by machinery, including watercraft temporarily equipped with detachable motors and does not include a boat which is operated solely by an electric trolling device as defined in section 82-196.~~

(b) *Prohibited generally; exception.* No person, except fish and game management, fire/rescue personnel and law enforcement personnel acting in the performance of their assigned duties and training exercises, shall operate a motorboat on any water ways within city limits.

(Code 1963, § 73.02; Code 1980, §§ 14-6, 14-7; Ord. No. 391, 11-7-1974; [print="yes"](http://newords.municode.com/readordinance.aspx?ordinanceid=764958&datasource=ordbank)  
[url="http://newords.municode.com/readordinance.aspx?ordinanceid=764958&datasource=ordbank"](http://newords.municode.com/readordinance.aspx?ordinanceid=764958&datasource=ordbank)  
[web="yes">Ord. No. 16-2346, 4-7-2016](http://newords.municode.com/readordinance.aspx?ordinanceid=764958&datasource=ordbank) [</ulink>](http://newords.municode.com/readordinance.aspx?ordinanceid=764958&datasource=ordbank))

~~**Editor's note** [print="yes"](http://newords.municode.com/readordinance.aspx?ordinanceid=764958&datasource=ordbank)  
[url="http://newords.municode.com/readordinance.aspx?ordinanceid=764958&datasource=ordbank"](http://newords.municode.com/readordinance.aspx?ordinanceid=764958&datasource=ordbank)  
[web="yes">Ord. No. 16-2346, adopted April 7, 2016](http://newords.municode.com/readordinance.aspx?ordinanceid=764958&datasource=ordbank) [</ulink>](http://newords.municode.com/readordinance.aspx?ordinanceid=764958&datasource=ordbank), amended §§ 54-72 to read as set out herein. Previously § 54-72 pertained to "Use of motorboats on Lochness Lake."~~

#### **Sec. 54-73. Alcoholic beverages.**

No person shall drink, consume or have in their possession any alcoholic beverages in any city park. No person shall drink, consume or have in their possession an open bottle or container of alcoholic

beverages in any motor vehicle when such vehicle is within the boundaries of a city park, including parking and other areas connected with the park. The prohibition relating to the possession or consumption of intoxicating or 3.2 percent malt liquor within a city park shall not apply to an event for which a temporary intoxicating or 3.2 percent malt liquor license has been issued pursuant to section 6-38(3) and Minn. Stat. § 340A.404 or relating to the possession or consumption of intoxicating malt liquor or intoxicating liquor within a city park authorized by the police chief after proof of a state issued caterer's permit and appropriate liquor liability insurance as part of a city approved event. Licensing and sale of intoxicating liquor will only be allowed in community city parks, including but not limited to Aquatore Park, the Blaine Baseball Complex, and the Lexington Athletic Complex and will not be allowed in neighborhood parks or Lakeside Commons.

(Code 1980, § 14-8; Ord. No. 88-104, 6-2-1988; <http://newords.municode.com/readordinance.aspx?ordinanceid=764958&datasource=ordbank> web="yes">Ord. No. 16-2346, 4-7-2016 </a>)

#### ~~Cross-reference—Alcoholic beverages, ch. 6~~

#### **Sec. 54-74. Dogs to be kept under restraint.**

All dogs, while on designated city park land or open space, shall be under control and on a leash. Dogs shall only be allowed without a physical restrain in city designated "off-leash areas."

(<http://newords.municode.com/readordinance.aspx?ordinanceid=746380&datasource=ordbank> web="yes">Ord. No. 15-2328, 12-3-2015 </a>)

#### **Sec. 54-75. Merchandising, advertising and signs.**

No person in a park shall:

- (1) Expose or offer for sale any article or thing; nor shall they station or place any stand, cart or vehicle for the transportation, sale or display of any such article or thing unless a special event license has been issued.
- (2) Announce, advertise, or call the public attention in any way to any article or service for sale or hire.
- (3) Paste, glue, tack or otherwise post any sign whatever on any public lands or highways or roads adjacent to a park.
- (4) Exception is here made as to anyone acting by and under the authority and regulation of the city manager or designee for a city sponsored event.

(<http://newords.municode.com/readordinance.aspx?ordinanceid=764958&datasource=ordbank> web="yes">Ord. No. 16-2346, 4-7-2016 </a>)

~~**Editor's note**—<http://newords.municode.com/readordinance.aspx?ordinanceid=764958&datasource=ordbank> web="yes">Ord. No. 16-2346, adopted April 7, 2016 </a> enacted a new §§ 54-74, 54-75. Inasmuch as a § 54-74 already exists, and at the editor's discretion, those provisions have been included as §§ 54-75, 54-76.~~



**Sec. 54-76. Authority to establish additional regulations.**

The city council shall authorize the city manager or their designee to establish such other regulations as they deem appropriate for the use of parks and shall cause such regulations to be posted or otherwise published in the policy for usage of public parks, recreational facilities and equipment, so as to make their terms known to the affected users of the parks. A violation by any person of any such park advisory board regulations shall be deemed to be a violation of this article.

( <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=764958&datasource=ordbank" web="yes">Ord. No. 16-2346, 4-7-2016 </ulink>)

~~Editor's note—See editor's note at § 54-75.~~

**Secs. 54-77—54-89. Reserved.**

**ARTICLE IV. CITY SWIMMING BEACHES ~~RULES AND REGULATIONS~~**

[Sec. 54-90. Purpose.](#)

[Sec. 54-91. Definitions.](#)

[Sec. 54-92. Beach season.](#)

[Sec. 54-93. Hours.](#)

[Sec. 54-94. General rules and regulations.](#)

[Sec. 54-95. Enforcement.](#)

[Sec. 54-96. Penalty.](#)

**Sec. 54-90. Purpose.**

The purpose of this article is to provide for the safety, enjoyment, health, and welfare of all persons using public beaches and its facilities in the City of Blaine and further provide a means of operation and protection of the public beach and its facilities and to provide a family-oriented atmosphere at an environmentally friendly and enjoyable public beach.

(Ord. No. 10-2206, 5-20-2010)

<sup>97</sup>**Sec. 54-91. Definitions.**

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

*Public swimming beach* means a public swimming beach shall mean any public land adjoining public water and which has been so designated and posted by the city.

*Unguarded swimming beach* means an unguarded swimming beach shall mean no qualified lifeguard will be on duty to supervise the public while participating in swimming activities in the designated swimming area as established by the City of Blaine. The public shall be responsible for their own safety and understand there is risks while in the designated swimming water.

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<sup>97</sup> **Sec. 54-91. Definitions.** Definitions duplicative of chapter 1 general provisions should be stricken as shown.

*Designated swimming area* means a designated swimming area shall mean an area that is identified by buoys and rope used for swimming and wading.

~~City means the governing body of the City of Blaine, Minnesota.~~

~~Person shall mean and refer to any individual, firm, corporation and association of persons.~~

(Ord. No. 10-2206, 5-20-2010)

**Sec. 54-92. Beach season.**

The date of the season opening and closing of the city swimming beaches, generally June 1 to September 1, shall be at the discretion of the park and recreation director each calendar year.

(Ord. No. 10-2206, 5-20-2010)

**Sec. 54-93. Hours.**

The city swimming beaches shall be open at hours and times designated by the park and recreation director.

Exceptions to open hours may be made at the discretion of the city when special events have been authorized or for other reasons the city may determine necessary or desirable.

The city park and recreation director or designated staff member may close the swimming beaches whenever, in that person's judgment, the water is unsafe or too cold for swimming. The swimming beaches may close for periods of severe weather or the presence of lightning. No persons shall be permitted in the water during the periods when the beaches are declared closed.

(Ord. No. 10-2206, 5-20-2010)

**Sec. 54-94. Use regulations ~~General rules and regulations.~~**

- (a) No person shall violate any park rule or regulation.
- (b) No person shall engage in any indecent, profane or vulgar language or loud noise that would be offensive to any reasonable person or engage in any disorderly conduct or behavior tending to breach the public peace.
- (c) No person shall throw, cast, deposit, damage, lay, place carry or scatter in the water or upon any swimming beach any lit or unlit cigars or cigarettes; or any glass, bottles, nails, tacks, wire, crockery, cans or other sharp or cutting substance; or any refuse matter or article or thing of any kind. If any glass is broken, the person responsible for the breakage shall immediately pick up the pieces and place them in a trash container.
- (d) No person shall conduct behavior upon any swimming beach or in water in such a manner as to jeopardize the safety and health of themselves and/or others.
- (e) Children under 12 years of age must be accompanied and supervised by a competent person 16 years of age or older.
- (f) All children requiring diapers shall not be allowed to swim in diapers except for those exclusively made for swimming. All children who require diapers and do not have the proper swim diapers are required to wear rubber water-proof pants that will contain all human waste.

- (g) No person shall enter or remain in the water other than in designated swimming areas, or enter or remain in the water when an area is posted "No Swimming" or "Beach Closed," or enter or remain in the water during times when swimming is not permitted. No person shall swim outside of markers in a designated swimming area. For purposes of this prohibition, swimming shall include wading.
- (h) No person shall enter the water while having, or apparently having, an infectious or contagious disease.
- (i) No person shall swim in the water fronting any swimming beach outside established hours or outside the designated swimming area at any city beach.
- (j) No person shall bring into or use at the swimming beach or designated swimming area, any inner tube, life raft, or other inflatable or buoyant object intended to support a person except U.S. Coast Guard approved life jackets or vests when properly attached.
- (k) No swimmer shall enter the water or onto any swimming beach unless clothed in an appropriate swim wear which is socially acceptable. Revealing swimwear is not allowed.
- (l) No person shall appear in the state of nudity, nor shall any person make any indecent exposure of their person in any park or upon any swimming beach.
- (m) No person shall change clothes on the beach or in vehicles parked at the beach or park. Changing is allowed in the designated beach house.
- (n) No person, except children, their parents, custodians or guardians, shall be permitted in any play area on swimming beaches designated for children.
- (o) No person shall operate any watercraft within an area that has been designated as a swimming area.
- (p) No person shall fish in designated swimming areas.
- (q) No pets or animals allowed on the swimming beach premises, except for the use of seeing-eye or disability assistance animals.
- (r) No person shall use soap, shampoo, or other cleaning agents in or outside the designated swimming area.
- (s) No person shall bring or carry any bicycle upon any swimming beach or in the water in such manner as to jeopardize the safety and health of themselves and/or others.
- (t) No person shall light or make use of any fire on any city swimming beach.
- (u) No person shall use the swimming beach area for purposes of picnicking.
- (v) No person shall use tents or any enclosed structure on any city swimming beach.

(Ord. No. 10-2206, 5-20-2010)

**Sec. 54-95. Enforcement.**

This article may be enforced by any duly authorized law enforcement officer, as well as other individuals designated by the City of Blaine.

(Ord. No. 10-2206, 5-20-2010)

~~<sup>98</sup>Sec. 54-96. Penalty.~~

~~Any violation of this chapter is a misdemeanor and is subject to all penalties provided for such violations under the provisions of chapter 50 of the City Code.~~

~~(Ord. No. 10-2206, 5-20-2010)~~

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<sup>98</sup> **Sec. 54-96. Penalty.** This should be a reference to general penalties for code violation which also renders the section duplicative of those provisions since they apply to the code in its entirety. The section should be stricken as shown.

<sup>99</sup>~~Chapter 58 PERSONNEL \*~~

~~\*Cross reference—Administration, ch. 2.~~

~~ARTICLE I.—IN GENERAL~~

~~ARTICLE II.—LEAVE~~

~~ARTICLE III.—DISCIPLINE AND TERMINATION~~

~~ARTICLE I. IN GENERAL~~

~~Sec. 58 1. Definitions.~~

~~Sec. 58 2. Purpose of chapter.~~

~~Sec. 58 3. Exempt positions.~~

~~Sec. 58 4. Applicability to employees under negotiated agreement.~~

~~Sec. 58 5. General conditions.~~

~~Sec. 58 6. Administration.~~

~~Sec. 58 7. Employee and volunteer background investigations.~~

~~Sec. 58 8. Promotion.~~

~~Sec. 58 9. Publication of notice of position openings.~~

~~Sec. 58 10. Reserved.~~

~~Sec. 58 11. Position classification.~~

~~Sec. 58 12. Compensation plan.~~

~~Sec. 58 13. Overtime.~~

~~Sec. 58 14. Transfer.~~

~~Sec. 58 15. Political activity.~~

~~Sec. 58 16. Employee assistance program for the treatment of emotional, alcoholic and drug disabilities and other personal problems.~~

~~Secs. 58 17—58 50. Reserved.~~

~~Sec. 58 1. Definitions.~~

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

~~*Full time or regular employee* means an employee who is regularly scheduled to work 80 hours per biweekly payroll period and is a budgeted position that is considered to be a regular position.~~

~~*Part time employee* means an employee who is scheduled to work on a regular and recurring schedule of less than 80 hours in a biweekly payroll period.~~

~~*Temporary employee* means either a full time, part time, seasonal or student employee who has been appointed to a temporary position of less than 80 hours in a biweekly payroll. Employment for temporary~~

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<sup>99</sup> **Chapter 58, Personnel.** I recommend that personnel policy, which is not a matter of general public interest, be omitted from the code and collected in a personnel manual adopted by reference.

~~employees shall be limited to 67 working days in any calendar year. A temporary employee who is a full-time student under the age of 22 and is enrolled in a nonprofit or public educational institution prior to being hired, during employment and after the temporary employment shall be exempt from the 67-day requirement.~~

~~Work hours means work schedules for employees shall be established by the appropriate department head with approval of the city manager. The regular workweek for employees is five eight hour working days in addition to a lunch period, Monday through Friday, except as otherwise established by the department head in accordance with custom and needs of the department.~~

~~(Code 1963, § 112.01(B); Code 1980, § 16-1; Ord. No. 427, 2-6-1975; Ord. No. 83-808, 10-20-1983; Ord. No. 88-1064, 2-4-1988)~~

~~Cross reference—Definitions generally, § 1-2.~~

**~~Sec. 58-2. Purpose of chapter.~~**

~~It shall be the purpose of this chapter to establish an uniform and equitable system of municipal personnel administration for the city, to be applicable to all regular and probationary employees of the city, except where the city shall otherwise hereafter provide, or unless modified by a separate agreement.~~

~~(Code 1963, § 112.01(A); Code 1980, § 16-2; Ord. No. 427, 2-6-1975)~~

**~~Sec. 58-3. Exempt positions.~~**

~~All offices and positions in the city government, now existing or hereafter created, shall be subject to the policies and procedures of this chapter, except the following:~~

- ~~(1) All elected officials and members of boards and commissions.~~
- ~~(2) Volunteer fire department and personnel appointed to serve without pay.~~
- ~~(3) City manager, if covered by a separate employment agreement.~~
- ~~(4) Consultants rendering professional services.~~

~~(Code 1963, § 112.02(A) — (E); Code 1980, § 16-3; Ord. No. 427, 2-6-1975; Ord. No. 88-1064, 2-4-1988)~~

**~~Sec. 58-4. Applicability to employees under negotiated agreement.~~**

~~The provisions of the policies and procedures of this chapter shall apply to all organized personnel who work under negotiated agreements with the city. In the event of a conflict between the terms of an employee agreement and this chapter, the terms of the negotiated agreement shall take precedence and those employees subject to the agreement shall be so regulated.~~

~~(Code 1963, § 112.02(F); Code 1980, § 16-4; Ord. No. 427, 2-6-1975)~~

**~~Sec. 58-5. General conditions.~~**

~~It is hereby declared personnel policy of the city that:~~

- ~~(1) Employment in the city organization shall be based on merit and fitness, free of personal considerations.~~

- ~~(2) Just and equitable incentives and conditions of employment shall be established and maintained to promote efficiency and economy in the operation of the city government.~~
- ~~(3) Positions having similar duties and responsibilities shall be classified and compensated for on a uniform basis.~~
- ~~(4) Tenure of employees covered by this chapter shall be based on the satisfactory performance of work and the continuation of position.~~
- ~~(5) There shall be no discrimination against any person seeking employment or employee because of any political or religious affiliation or race, sex, age, physical disability or marital status. City policy shall be consistent with the conditions and provisions of applicable federal and state laws relating to municipal employees.~~
- ~~(6) In case of appointment to positions for which examinations are required by law, or administrative procedure, merit and fitness may be ascertained by written, oral, physical (which include drug and alcohol testing), or other examinations, and shall relate to those matters which will test fairly the capacity and fitness of candidates to perform efficiently the duties of the positions for which examinations are held.~~
- ~~(7) In case of appointment to positions for which examinations are not required, the city manager may require examinations including medical examinations and drug and alcohol testing. The city manager may appoint any person who meets the requirements listed in the position classification, whom the city manager deems qualified to perform the duties of the position.~~
- ~~(8) Residency shall be encouraged but will not be mandatory for municipal employees. To the extent possible, police and other emergency personnel, as determined by the city manager, shall reside within 25 miles or 30 minutes driving time from city hall. Emergency personnel shall maintain a telephone in their residence and shall have reasonable access to a plowed street.~~
- ~~(9) No person shall henceforth be appointed to a position which would require supervision of such person's relative. A person shall be deemed to be a relative if such relationship is as brother, sister, spouse, lineal ancestor, lineal descendant, uncle, aunt, nephew, niece, first cousin, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, or related by marriage through the relationship of a first cousin.~~
- ~~(10) The personnel code should not be construed to constitute a contract of employment and that all employees (not having a written agreement to the contrary) are employed at will with the employee enjoying the freedom to resign at will, as well as freedom on the part of the employer to terminate the employee at any time.~~

~~(Code 1963, § 112.03; Code 1980, § 16-5; Ord. No. 427, 2-6-1975; Ord. No. 88-1064, 2-4-1988)~~

**~~Sec. 58-6. Administration.~~**

- ~~(a) All appointments to positions in the city government, except the city manager and the police chief, shall be made by the city manager where consistent with the provisions of the city charter, and according to merit and fitness. The city manager may, by written administrative order, assign any part or all of the city manager's duties and responsibilities under this chapter to one or more staff members. Under such circumstances, the actions of the staff member shall have the same force and effect as if taken by the city manager.~~
- ~~(b) The police chief is in all respects subject to the administrative direction of the city manager as all other heads of departments and all subordinate officers and employees in the departments.~~

~~(c) Recruitment, appointment and removal of the police chief is delegated to the city manager by the city council.~~

~~(Code 1963, § 112.04; Code 1980, § 16-6; Ord. No. 427, 2-6-1975; Ord. No. 88-1064, 2-4-1988; Ord. No. 96-1591, 3-7-1996)~~

**~~Sec. 58-7. Employee and volunteer background investigations.~~**

~~(a) Applicants for city employment. The purpose and intent of this section is to establish regulations that will allow law enforcement access to Minnesota's Computerized Criminal History information for specified non-criminal purposes of employment background checks for the positions described in section 58-7(b).~~

~~(b) Criminal history employment background investigations. The Blaine Police Department is hereby required, as the exclusive entity within the city, to do a criminal history background investigation on the applicants for all regular part time or full time employees of the City of Blaine and other positions that work with children or vulnerable adults within the city, unless the city's hiring authority concludes that a background investigation is not needed.~~

~~In conducting the criminal history background investigation in order to screen employment applicants, the police department is authorized to access data maintained in the Minnesota Bureau of Criminal Apprehensions Computerized Criminal History information system in accordance with BCA policy. Any data that is accessed and acquired shall be maintained at the police department under the care and custody of the chief law enforcement official or his or her designee. A summary of the results of the computerized criminal history data may be released by the police department to the hiring authority, the city manager, or other city staff involved in the hiring process.~~

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

- ~~(1) The grounds and reasons for the denial;~~
- ~~(2) The applicant complaint and grievance procedure set forth in Minn. Stat. § 364.06;~~
- ~~(3) The earliest date the applicant may reapply for employment; and~~
- ~~(4) That all competent evidence of rehabilitation will be considered upon reapplication.~~

~~(c) Pursuant to an authorized consent form, the city manager or designee may obtain criminal history data on a person who has, may have, or seeks to have access to a child under Minn. Stat. § 299C.61 and who is employed by, volunteers with, or seeks to be employed by or volunteer with the city or with a children's service provider utilizing city parks, buildings, or facilities. These background checks shall be in accordance with Minn. Stat. §§ 299C.60—299C.64 known as "Minnesota Child Protection Background Check Act."~~

~~(Code 1980, § 16-28; Ord. No. 93-1326, 4-1-1993; Ord. No. 95-1582, 11-16-1995; Ord. No. 09-2181, 5-7-2009)~~



**Editor's note**—Ord. No. 09-2181, adopted May 7, 2009, changed the title of § 58-7 from "Background investigations" to read as herein set out.

**~~Sec. 58-8. Promotion.~~**

~~The city manager shall be responsible for determining whether or not an employee possesses the necessary qualifications for promotion to a particular position. Appropriate tests may be given to aid in this determination. Length of full-time employment with the city will be considered in promotions only when all other qualifications are equal.~~

~~(Code 1963, § 112.05; Code 1980, § 16-7; Ord. No. 427, 2-6-1975)~~

**~~Sec. 58-9. Publication of notice of position openings.~~**

~~Notice of all vacancies shall be posted at city hall for ten days.~~

~~(Code 1963, § 112.06; Code 1980, § 16-8; Ord. No. 427, 2-6-1975)~~

**~~Sec. 58-10. Reserved.~~**

**Editor's note**—Ord. No. [21-2477](http://newords.municode.com/readordinance.aspx?ordinanceid=1099758&datasource=ordbank), adopted Aug. 2, 2021, repealed § 58-10, which pertained to probationary period and derived from 1963 Code, § 112.07; 1980 Code, § 16-9; Ord. No. 427, adopted Feb. 6, 1975; Ord. No. 83-808, adopted Oct. 20, 1983; and Ord. No. 88-1064, adopted Feb. 4, 1988.

**~~Sec. 58-11. Position classification.~~**

~~The city manager shall establish and maintain a position classification plan for all positions covered by the provisions of this chapter. All positions shall be grouped in classes, each having a definite range of difficulty and responsibility. When a new position is created for which no appropriate position classification exists, or when the duties of an existing position are sufficiently changed so that no appropriate class exists, the city manager shall create a new class and cause an appropriate position classification to be written for such class.~~

~~(Code 1963, § 112.08; Code 1980, § 16-10; Ord. No. 427, 2-6-1975)~~

**~~Sec. 58-12. Compensation plan.~~**

~~The city manager shall present to the council a compensation plan for all positions subject to this chapter. The compensation plan for each position shall be approved by resolution of the council annually and shall be filed with the city clerk.~~

~~(Code 1963, § 112.09; Code 1980, § 16-11; Ord. No. 427, 2-6-1975)~~

**~~Sec. 58-13. Overtime.~~**

~~The city manager is hereby authorized to establish by administrative order, in compliance with applicable provisions of the Federal Fair Labor Standards Act, a policy for overtime work for employees who shall be reimbursed through compensatory time or hourly rates of pay. Overtime will be calculated to~~

the nearest 15 minutes. Overtime for personnel working under a negotiated agreement shall be specified by agreement between the city and the exclusive representative for each bargaining unit in the city.

(Code 1963, § 112.10; Code 1980, § 16-12; Ord. No. 427, 2-6-1975)

**~~Sec. 58-14. Transfer.~~**

~~The city manager may transfer any regular or probationary employee to another position, if, in the discretion of the city manager, the employee is qualified for the position.~~

(Code 1963, § 112.22; Code 1980, § 16-23; Ord. No. 427, 2-6-1975; Ord. No. 88-1064, 2-4-1988)

**~~Sec. 58-15. Political activity.~~**

- ~~(a) Any employee is not precluded from becoming or continuing to be a member of a political club or organization or from attendance at a political meeting or enjoying entire freedom from all interference in casting such employee's vote or from seeking or accepting election or appointment to public office.~~
- ~~(b) Any employee who shall become a candidate for any elective public office may be required to take a leave of absence without pay and shall perform no duties connected with the position held by such employee until such employee is no longer a candidate, if such candidacy interferes with such employee's normal duties of employment. If the needs of the municipal service require, the vacancy created by such employee's absence may be filled and such employee's services terminated.~~
- ~~(c) In the case of an employee declaring as a candidate for an elective office of the city, such employee shall automatically receive a leave of absence for the duration of such candidacy.~~
- ~~(d) If elected to public office, such employee may be required to resign or take a leave of absence if the duties of such employee's elective office interfere with such employee's duties as a city employee.~~

(Code 1963, § 112.25; Code 1980, § 16-26; Ord. No. 427, 2-6-1975; Ord. No. 88-1064, 2-4-1988)

**~~Sec. 58-16. Employee assistance program for the treatment of emotional, alcoholic and drug disabilities and other personal problems.~~**

- ~~(a) An employee assistance program is established under the jurisdiction of the city manager for the purpose of assisting temporary and permanent city employees with emotional, alcoholic and drug disabilities and other personal problems. The purpose and goal of the program is the referral, treatment, and rehabilitation, if necessary, of city employees in order to make them better employees. The role of the city manager or designated employee will be to provide referral service to the appropriate private or public agencies and resources, to assist the employee in obtaining help, and to monitor the employee's progress. Employees who refuse to seek assistance for their emotional, alcoholic, or drug-related problems and who refuse to follow a recommended program of treatment, thus resulting in the employee's inability to resolve such employee's problem, may be subject to disciplinary action or termination as provided in this chapter.~~
- ~~(b) The city manager or designated employee is required to develop guidelines for the employee assistance program to be approved by the council. A copy of the guidelines shall be provided for all city employees. In addition, the employee's family shall be contacted directly to make the members thereof aware of this assistance program. Families of city employees are encouraged to notify the city manager or the city manager's designated employee if they have reason to believe the employee is in need of help.~~

(Code 1963, § 112.26; Code 1980, § 16-27; Ord. No. 427, 2-6-1975; Ord. No. 88-1064, 2-4-1988)

~~Secs. 58-17—58-50. Reserved.~~

## **ARTICLE II. LEAVE**

~~Sec. 58-51. Legal holidays.~~

~~Sec. 58-52. Vacation leave.~~

~~Sec. 58-53. Sick leave.~~

~~Sec. 58-54. Injury leave.~~

~~Sec. 58-55. Family and medical leave.~~

~~Sec. 58-56. School conference leave.~~

~~Sec. 58-57. Bone marrow donation leave.~~

~~Sec. 58-58. Jury and witness duty.~~

~~Sec. 58-59. Attendance at conference and other meetings.~~

~~Secs. 58-60—58-90. Reserved.~~

### **Sec. 58-51. Legal holidays.**

(a) The following holidays will be observed by city employees:

Police	Other	Public Works
Ten days per year to be paid in cash in December of each year	New Year's Day	New Year's Day
	Martin Luther King's Birthday	Martin Luther King's Birthday (employer's designated floating holiday)
	President's Day	
One floating holiday	Memorial Day	President's Day
	Independence Day	Memorial Day
	Labor Day	Independence Day
	Veterans' Day	Labor Day
	Thanksgiving Day	Columbus Day
	Christmas Day	Veterans' Day
	One floating holiday	Thanksgiving Day
	One floating holiday designated by city manager	Christmas Day
		One floating holiday

~~When New Year's Day, Independence Day, Veterans' Day or Christmas Day falls on Saturday, the preceding day shall be observed as a holiday. When New Year's Day, Independence Day, Veterans' Day or Christmas Day falls on Sunday, the following day shall be observed as a holiday.~~

~~(b) Request for floating holidays shall be approved by the department head and designated supervisory employees as prescribed by administrative procedure.~~

~~(c) Full holiday pay will be granted to all regular and probationary employees. Employees shall be on the payroll on the workday immediately preceding and the work day immediately following a holiday to be eligible for that holiday pay.~~

~~(Code 1963, § 112.11; Code 1980, § 16-13; Ord. No. 427, 2-6-1975; Ord. No. 83-808, 10-20-1983; Ord. No. 86-923, 1-16-1986; Ord. No. 88-1064, 2-4-1988)~~

#### **~~Sec. 58-52. Vacation leave.~~**

~~(a) Vacation leave for personnel working under a negotiated agreement shall be specified by agreement between the city and the exclusive representative for each bargaining unit in the city.~~

~~(b) Vacation leave for all other personnel not working under a negotiated agreement shall be specified by administrative policy as set forth by the city manager.~~

~~(Code 1963, § 112.12; Code 1980, § 16-14; Ord. No. 427, 2-6-1975; Ord. No. 83-808, 10-20-1983; Ord. No. 92-1274, 2-6-1992; Ord. No. 97-1646, 3-20-1997; Ord. No. <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=929707&datasource=ordbank" web="yes">18-2420 </ulink>, 12-20-2018)~~

#### **~~Sec. 58-53. Sick leave.~~**

~~(a) Sick leave shall be a benefit provided to all regular and probationary city employees and shall be specified by administrative policy as set forth by the city manager.~~

~~(Code 1963, § 112.13; Code 1980, § 16-15; Ord. No. 427, 2-6-1975; Ord. No. 83-808, 10-20-1983; Ord. No. 88-1064, 2-4-1988; Ord. No. 92-1274, 2-6-1992; Ord. No. 93-1325, 4-1-1993; Ord. No. 94-1518, 4-21-1994; Ord. No. 97-1646, 3-20-1997; Ord. No. <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=929707&datasource=ordbank" web="yes">18-2420 </ulink>, 12-20-2018)~~

#### **~~Sec. 58-54. Injury leave.~~**

~~(a) Injury leave shall be granted to regular and probationary employees who are incapacitated as a result of injury or occupational disease incurred, subject to the condition that the injury or disease qualifies the employee for benefits from worker's compensation insurance.~~

~~(b) Employees injured during the performance of their duties for the employer and thereby rendered unable to work for the employer will be paid the difference between the employee's regular pay and worker's compensation insurance payments for a period not to exceed 90 working days per injury, not charged to the employee's vacation, sick leave, or other accumulated paid benefits, after a three-working-day initial waiting period per injury. The three-working-day waiting period shall be charged to the employee's sick leave account, less worker's compensation insurance payment. Employees drawing~~

~~worker's compensation benefits shall not receive supplementary IOD pay or sick leave pay which provides for more after tax take home pay than the employee made while working. Family and medical leave will run concurrently with injury on duty leave.~~

- ~~(c) The city's supplemental IOD pay during the 90 working day period shall be terminated upon the date of certification by a competent medical authority, approved by the city manager, that the employee can return to duty and can perform the essential functions of the job. If an employee is not certified by a medical authority to return to duty by the end of 90 working days, the employee may request a leave of absence up to 90 days, subject to approval of the city manager, and may elect to supplement worker's compensation by using accumulated sick leave and/or accumulated vacation.~~
- ~~(d) Employees who are absent from work and receiving worker's compensation disability benefits will be considered to be working for the purpose of accumulating vacation leave or sick leave for up to 90 days. No sick leave or vacation benefits will accrue beyond the 90 days for employees receiving worker's compensation disability unless the employee is granted a family/medical leave.~~
- ~~(e) Whenever an employee is injured on the job, a report of such accident shall be made immediately to the department head, who shall forward a written report to the city manager.~~

~~(Code 1963, § 112.14; Code 1980, § 16-16; Ord. No. 427, 2-6-1975; Ord. No. 83-808, 10-20-1983; Ord. No. 88-1064, 2-4-1988; Ord. No. 94-1518, 4-21-1994)~~

**~~Sec. 58-55. Family and medical leave.~~**

- ~~(a) The city will provide eligible employees a total of 12 unpaid work weeks of leave per 12 month period to care for:
  - ~~(1) The employee's newborn or newly placed adopted or foster child;~~
  - ~~(2) The employee's parent, child, or spouse with a serious health condition; or~~
  - ~~(3) The employee's own serious health condition.~~~~
- ~~(b) Family/medical leave shall be taken simultaneously with the Minnesota Parenting Leave and shall be no longer than 12 weeks in any 12 month period.~~
- ~~(c) The city or the employee may substitute certain types of paid leave for any part of the 12 week leave.~~
- ~~(d) The city will continue to pay the city's contribution for group health coverage for the employee during the 12 week FML leave.~~
- ~~(e) Employees are required to confirm their intention to return to work at the end of the leave. If an employee granted family/medical leave does not return from the leave and work at least 30 calendar days, the city will seek reimbursement from the employee for the city's portion of group health coverage premiums paid during the leave.~~
- ~~(f) To be eligible for family/medical leave, an employee must:
  - ~~(1) Have been employed by the city for at least 12 months; and~~
  - ~~(2) Have worked for the city a minimum of 120 hours within the previous 12 months.~~~~
- ~~(g) Intermittent or reduced family/medical leave may be granted by the city manager in special circumstances.~~
- ~~(h) The employee shall provide the city manager with 30 days' notice of a foreseeable leave or as soon as practicable if the leave is due to unexpected or unforeseeable situations; provide medical certification~~

for a serious health condition for either the employee or a covered family member; and provide written notice of the return to work date.

- (i) Upon returning from leave, the employee will be restored to the same or equivalent position. Employees on leave shall accrue no benefits or seniority during the family/medical leave.
- (j) The city manager may deny employment restoration to exempt employees who are among the highest paid ten percent if such denial is necessary to prevent substantial economic injury to the city's operation.
- (k) The city manager will consider each request for family/ medical leave on a case by case basis in accordance with the statute and regulation.

(Code 1980, § 16-17; Ord. No. 94-1518, 4-21-1994)

**Sec. 58-56. School conference leave.**

- (a) Regular part time and full time employees employed by the city for the preceding 12 months shall be granted upon reasonable notice up to a maximum of 16 hours of unpaid leave during any 12 month period for the employee to attend conferences or classroom activities related to the school, child care, or pre-kindergarten program of the employee's child.
- (b) Such leave shall be granted only if the conference and activities cannot be scheduled during nonwork hours.
- (c) An employee may substitute accrued vacation leave for any part of the leave.

(Code 1980, § 16-17A; Ord. No. 94-1518, 4-21-1994)

**Sec. 58-57. Bone marrow donation leave.**

- (a) An employee shall be granted up to a maximum of 40 hours paid leave for a bone marrow donation medical procedure.
- (b) Physician verification of the purpose and length of leave shall be submitted to the city manager.
- (c) The amount of family medical leave shall not be reduced by the amount of bone marrow donation leave.

(Code 1980, § 16-17B; Ord. No. 94-1518, 4-21-1994)

**Sec. 58-58. Jury and witness duty.**

If an employee is called to serve as a juror or subpoenaed as a court witness, the employee shall receive compensation which will equal the difference between the employee's regular pay and compensation paid for jury duty or witness fees. Employees are expected to report to work in the city when they are released from court during regular office hours and to make every effort to complete the work assigned to them during the time they are serving as jurors or witnesses.

(Code 1963, § 112.16; Code 1980, § 16-18; Ord. No. 427, 2-6-1975)

**Sec. 58-59. Attendance at conference and other meetings.**

Attendance at conferences and other meetings shall be considered as time on regular duty, provided that such attendance shall be approved by the city manager.

(Code 1963, § 112.18; Code 1980, § 16-20; Ord. No. 427, 2-6-1975)

~~Secs. 58-60—58-90. Reserved.~~

### ~~ARTICLE III. DISCIPLINE AND TERMINATION~~

~~Sec. 58-91. Notice of resignation.~~

~~Sec. 58-92. Layoffs.~~

~~Sec. 58-93. Suspension.~~

~~Sec. 58-94. Dismissal, demotion and disciplinary action.~~

#### ~~Sec. 58-91. Notice of resignation.~~

~~Any nonexempt employee pursuant to FLSA (Fair Labor Standards Act) wishing to leave the municipal service in good standing shall file with such employee's department head or city manager at least 14 calendar days before leaving, a written resignation stating the effective date of the resignation. Any exempt employee pursuant to FLSA wishing to leave the municipal service in good standing shall file with such employee's department head or city manager at least 30 calendar days before leaving, a written resignation stating the effective date of the resignation.~~

(Code 1963, § 112.19; Code 1980, § 16-21; Ord. No. 427, 2-6-1975; Ord. No. 85-904, 9-19-1985)

#### ~~Sec. 58-92. Layoffs.~~

~~(a) The city manager may lay off any employee whenever such action is made necessary as provided in the annual budget by reason of shortage of work or funds, the abolition of a position or because of changes in organization. Two weeks' advance written notice of the layoff shall be given. An employee may be transferred to another position if such employee is qualified. Qualifications and job performance shall be the determining factor for layoffs.~~

~~(b) Employees who have been laid off will be recalled to their former position classification in the reverse order of their layoff.~~

(Code 1963, § 112.21; Code 1980, § 16-22; Ord. No. 427, 2-6-1975; Ord. No. 88-1064, 2-4-1988)

#### ~~Sec. 58-93. Suspension.~~

~~The city manager may suspend by a written notice any employee without pay for disciplinary reasons. Such suspensions shall not exceed 30 days in any one calendar year.~~

(Code 1963, § 112.23; Code 1980, § 16-24; Ord. No. 427, 2-6-1975; Ord. No. 88-1064, 2-4-1988)

#### ~~Sec. 58-94. Dismissal, demotion and disciplinary action.~~

~~(a) Causes for demotion. An employee may be demoted by the city manager for inefficient performance of such employee's duty, for disciplinary reasons, or for any other justifiable cause.~~

~~(b) Causes for dismissal, demotion, or disciplinary action. Any employee subject to the provisions of this chapter, including all department heads, may be dismissed from the municipal service by the city manager only for cause. The particular dismissal, demotions or suspensions shall be based on the individual facts and circumstances involved, and evidence of cause for dismissal, demotion or disciplinary action shall include, but not be limited to the following:~~

- ~~(1) Incompetence or inefficiency in the performance of the employee's duties.~~
  - ~~(2) Violation of any lawful or official regulation or administrative order, or violation of any lawful direction made and given by such employee's supervisor, where such violation amounts to an act of insubordination or a breach of proper discipline or has resulted or reasonably might be expected to result in loss or injury to the municipality or to the public.~~
  - ~~(3) Unsatisfactory conduct in job performance resulting from being under the influence of alcohol or drugs. See the city administrative policy on drugs and alcohol testing.~~
  - ~~(4) Physical or mental defect which in the judgment of the city manager incapacitates the employee in the proper performance of the duties of such employee's position. An examination by a licensed medical doctor may be required and refusal to undergo one requested under the city drug and alcohol policy may be grounds for discipline including, but not limited to, discharge.~~
  - ~~(5) Use of offensive conduct or language toward the public or municipal officers or employees.~~
  - ~~(6) Failure to pay or make reasonable provisions for future payment of just debts due or owing by such employee causing thereby annoyance to officers and employees of the municipality.~~
  - ~~(7) Carelessness and negligence in the handling or control of municipal property or unauthorized use of city property.~~
  - ~~(8) Inducing or attempting to induce an officer or employee of the municipality to commit an unlawful act or to act in violation of any lawful and reasonable official regulation or administrative order.~~
  - ~~(9) Receiving any cash, gift or any other thing of monetary value in the course of or in connection with such employee's work, from any person for such employee's personal use when such cash, gift, or other thing of monetary value is given in the expectation of receiving a more favorable treatment than that accorded other persons. Any gift of cash shall be deemed to be given in the expectation of receiving a more favorable treatment and shall be deemed to be improper. The employee shall report all gifts to such employee's department head and the city manager. If the city manager approves the gift, the gift shall be deemed to be proper.~~
  - ~~(10) Conduct in private life which brings discredit upon the municipal service.~~
  - ~~(11) Dishonesty in the performance of such employee's duties.~~
  - ~~(12) Conduct or actions which create or may create a clear conflict of interest with such employee's position, duties and responsibilities as a city employee.~~
  - ~~(13) Insubordination.~~
  - ~~(14) Violations of the provisions of this chapter.~~
  - ~~(15) Other good or sufficient grounds.~~
- (c) Hearings.*
- ~~(1) In cases involving dismissal, demotion or suspension, the employee shall have seven calendar days following receipt of the city manager's statement to file a written demand with the city manager for a hearing, before the city manager. The hearing shall not be held later than ten days from the date of filing of the employee's written demand for a hearing. Unless otherwise provided by law, the city manager may revoke or modify the previous action taken.~~
  - ~~(2) The rights of any employee, if such employee is exonerated and reinstated to such employee's former position, shall be retroactive to the effective date of the disciplinary action.~~



~~(Code 1963, § 112.24; Code 1980, § 16.25; Ord. No. 427, 2-6-1975; Ord. No. 431, 3-20-1975; Ord. No. 88-1064, 2-4-1988)~~

## **Chapter 62 SOLID WASTE \***

~~\*Cross reference—Buildings and building regulations, ch. 18; environment, ch. 34; health and sanitation, ch. 42; manufactured homes and trailers, ch. 46; utilities, ch. 86. Waste Management Act, Minn. Stat. ch. 115A; littering, Minn. Stat. §§ 115A.99, 169.42, 609.671, subd. 13.~~

**State Law reference—**Waste Management Act, Minn. Stat. ch. 115A; littering, Minn. Stat. §§ 115A.99, 169.42, 609.671, subd. 13.

ARTICLE I. - IN GENERAL

ARTICLE II. - COLLECTION AND DISPOSAL

ARTICLE III. - SOLID WASTE DISPOSAL FACILITIES

ARTICLE IV. - RESOURCE RECOVERY/SOLID WASTE TRANSFER STATION FACILITIES

### **ARTICLE I. IN GENERAL**

[Secs. 62-1—62-30. Reserved.](#)

**Secs. 62-1—62-30. Reserved.**

### **ARTICLE II. COLLECTION AND DISPOSAL \***

**\*State Law reference—**Mandatory that the city provides for solid waste collection, Minn. Stat. § 115A.941; rubbish removal, Minn. Stat. ch. 443.

[Sec. 62-31. Definitions.](#)

[Sec. 62-32. General items.](#)

[Sec. 62-33. Obligations of the refuse generators.](#)

[Sec. 62-34. Obligations of the haulers.](#)

[Sec. 62-35. Unauthorized collection of recyclables.](#)

[Secs. 62-36—62-70. Reserved.](#)

#### **Sec. 62-31. Definitions.**

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

*Apartment building* means three or more dwelling units or apartments grouped in one building with a common entryway.

*Dwelling unit* means a residential accommodation including complete kitchen facilities, permanently installed, which is arranged, designed, used or intended for use exclusively as living quarters for one family and not more than an aggregate of two roomers or boarders.

*Hauler* means a public or private operation engaged in the collection and transportation of refuse, recyclables and yard waste.

*Hazardous waste* means any hazardous waste as defined in Minn. Stat. § 116.06, subd. 11, and any substance identified as a hazardous waste pursuant to rules adopted by the state pollution control agency under Minn. Stat. § 116.07; and any hazardous waste as defined in the Resource Conservation and Recovery Act, under 42 USC 6903, which is listed or has the characteristics identified under 42 USC

6921, not including any hazardous waste the regulation of which has been suspended by an act of Congress.

*Manufactured home* means any dwelling unit, as defined in the Minnesota Rules 1350.0100, subp. 38.

*Place of business* means any social, commercial, fraternal, religious, educational, medical or industrial establishment, or apartment buildings.

*Recyclable materials* means materials that are separated from mixed municipal solid waste for the purpose of recycling, including paper, glass, plastics, metals, automobile oil, and batteries. Refuse-derived fuel or other material that is destroyed by incineration is not a recyclable material.

**State Law reference**— Similar provisions, Minn. Stat. § 115A.03, subd. 25a.

*Recycling collection service* means the collection of all recyclable materials accumulated in recycling containers set out for the purpose of recycling at any residences in the city receiving garbage and refuse collection.

*Refuse* means all waste which normally results from the operation of a dwelling unit except body waste including, but not limited to, paper waste, metal cans, cardboard, glass, wood, ashes, fabric, food waste, tree and shrub trimmings, furniture and plastic. This does not include yard waste, construction debris resulting from work of independent contractors, whole trees or parts of trees which are in excess of six inches in diameter, major appliances as defined in Minn. Stat. § 115A.03, subd. 17a, street sweepings, sludges, agricultural waste, tires, lead acid batteries, used oil, and other materials collected, processed and disposed of as separate waste streams.

*Set out for collection* means the placing of materials designated as refuse, yard waste, or recyclables by the residents and businesses in the city for collection by the hauler.

*Unauthorized collection (scavenging)* means the collection by any person, other than the hauler, of recyclable materials set out by the residents for collection.

*Yard waste* means garden waste; leaves; lawn cuttings; weed, shrub and tree waste and prunings.

**State Law reference**— Similar provisions, Minn. Stat. § 115A.03, subd. 38.

(Code 1980, § 10-1; Ord. No. 91-1273, 1-9-1992)

~~**Cross-reference**—Definitions generally, § 1-2.~~

## **Sec. 62-32. General items.**

- (a) *Promulgation of rules and regulations.* The city manager may make such administrative regulations and rules as may be necessary and proper to regulate, enforce and implement the provisions of this article.
- (b) *Sanitation fund.* All income from the operation of refuse, recyclable and yard waste collection systems and the record of expenses and operation shall be kept and maintained in a separate fund designated as the sanitation fund. The sanitation fund shall be used exclusively for sanitation activities. Sanitation activities are all activities relating to the collection, transportation, storage or disposal of refuse, yard waste, hazardous waste, and recyclable materials generated within the city.

(c) *Littering.* No person shall deposit or cause to be deposited any of the refuse, yard waste and/or recyclable materials described in this section upon any street, alley, other public ground, vacant lot or upon any ground appurtenant to any building in the city, except in the manner provided by this article.

(d) *Interference with containers or contents thereof.*

(1) No person, except as provided in this section, shall disturb, collect, or in any manner interfere with refuse, recyclables and yard waste placed in containers for collection or interfere in any manner with containers for refuse, recyclables and yard waste. Furthermore, no person shall deposit or cause to be deposited any of the materials described in this section into containers for refuse, recyclables and yard waste on private property of others unless authorization from the property owner has been obtained.

(2) Prohibition of unauthorized collection of materials set out for the curbside recycling program.

a. Recyclable materials shall be the sole property of the city from the time of set out for collection by the residents until collection by the hauler. At the time of collection, items designated as recyclables shall become the sole property of the hauler contracted to provide collection service.

b. It shall be unlawful for any persons, other than licensed haulers contracted to provide collection service, to collect any recyclables set out for collection. The first violation of this section shall constitute a petty misdemeanor. The second and subsequent violations shall constitute misdemeanors.

(Code 1980, § 10-2; Ord. No. 91-1273, 1-9-1992)

**Sec. 62-33. Obligations of the refuse generators.**

(a) *Providing collection at households or businesses.* Pursuant to Minn. Stat. § 115A.941, every dwelling unit and place of business in the city must contract for solid waste collection service, which must be provided at least once a week. All dwelling units except apartment buildings and manufactured homes will be provided service under a city contract.

(b) *Cleanliness of premises; placing garbage and refuse in containers.* Every property owner, occupant, or owner of any dwelling unit or place of business shall control the refuse on the premises so as to keep the premises in a clean and sanitary condition. All refuse accumulating between the times of collection shall be placed in containers as described. Containers shall not be left at the curbside for more than 24 hours.

(c) *Container placement for collection.*

(1) Dwelling units, except apartment buildings and manufactured homes not contracting for curbside service: On the designated pickup day, refuse, recyclables and yard waste shall be set out for collection immediately behind and within two feet of the curb. Containers shall not be placed in the street.

(2) Businesses: Every property owner, occupant or owner of a place of business shall place containers used for the storage of refuse, recyclables and yard waste in conformance with the city zoning ordinances. Such containers shall be accessible to the haulers at all reasonable times.

(d) *Containers; specifications; cleaning and disinfecting.*

(1) Every property owner or occupant or any place of business that accumulates refuse shall provide one or more rust resistant, watertight, nonabsorbent and easily washable containers, which are

equipped with a bail or handle and covered with close-fitting lid. Containers shall have a capacity of not less than ten nor more than 32 gallons and shall be of sufficient number to store all refuse accumulating between collections. Places of business having accumulations in excess of three 32-gallon containers per week shall provide dumpsters for storage. Dumpsters shall be no less than one cubic yard capacity and be covered with a lid that keeps precipitation and animals from getting in.

- (2) Every property owner and occupant of any dwelling unit except manufactured homes and apartment buildings shall provide a sufficient number of containers, described in this subsection (d), which do not exceed 32 gallons capacity. Residents on the city "one-can" program may also use plastic bags to put out excess garbage.
- (3) All containers shall be washed and treated with disinfectant as often as necessary to prevent a nuisance.

*(e) Service charges; as established; periods, delinquency.*

- (1) There is hereby imposed upon each dwelling unit except manufactured homes and apartment buildings for the collection of refuse and recyclables, a monthly charge for such services billed in accordance with schedules established from time to time by action of the council.
- (2) If such charge is not paid within 25 days after the last day of the billing period, there shall be a late charge of ten percent of the amount owing for the previous period, with a minimum late charge of \$1.00.
- (3) Such delinquent charge, plus penalty, as heretofore provided, shall be entered, shown and placed on the tax assessment rolls for the city for each dwelling unit within the city.

*(f) Reduced rate for disabled citizens and senior citizens with a hardship.*

- (1) The refuse and recycling collection service charges shall be reduced by one-half for any dwelling unit (excluding manufactured homes and apartment buildings) which is principally occupied by:
  - a. Persons who are 65 years of age or older who meet the hardship conditions.
  - b. Disabled citizens having received an award letter from the Social Security Administration indicating that the individual is 100 percent disabled and who meet the hardship conditions.
- (2) A hardship shall be deemed to exist when all the following apply:
  - a. The annual gross income of the household according to its most recent federal income tax return does not exceed the Federal Poverty Income Guidelines for a family of four, plus \$3,000.00. If no such return was filed, the clerk shall require the applicant to submit other documentation to show that this qualification is met.
  - b. The total assets of the household, exclusive of the homestead, do not exceed \$20,000.00.

*(g) Burning of refuse; adoption of state regulations by reference.*

- (1) It is unlawful to kindle or authorize the kindling or maintenance of open fires which are fueled in part by refuse or yard wastes. This includes, but is not limited to, chemically treated lumber and other burnable building materials. Air pollution control regulations of the state pollution control agency, and any amendments thereto, are hereby adopted by reference by the city.

**State Law reference—** Adoption by reference, Minn. Stat. § 471.62.

- (2) One copy of the standards and regulations shall be marked as an official copy and filled for use and examination by the public in the office of the city clerk.

(Code 1980, § 10-3; Ord. No. 91-1273, 1-9-1992; Ord. No. 03-1967, 3-6-2003; <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=866910&datasource=ordbank" web="yes">Ord. No. 17-2393 </ulink>, 12-21-2017)

**Sec. 62-34. Obligations of the haulers.**

(a) *Transporting of refuse, recyclables and yard waste; persons authorized.* Except as provided in this section, no person shall transport refuse, recyclables, or yard waste over any street or alley in the city.

(b) *Private hauler's license; authorized; term; contractor with city excepted.*

- (1) The city council may, as deemed necessary, license a person to collect, remove and haul refuse, recyclables and yard waste from premises within the city.
- (2) If the city council issues private licenses to any person, in conjunction with the provisions of this article, such licenses shall terminate on January 1 of each year. The renewal of such licenses shall be at the discretion of the city council.
- (3) If the city contracts with any person for the collection of refuse, recyclables and yard waste from dwelling units within the city (excluding manufactured homes and apartment buildings), such hauler shall not be required to secure a license for the performance of such contract. If such hauler also collects refuse, recyclables or yard waste from places of business, a license shall be obtained from the city council.
- (4) All haulers licensed to haul in the city shall offer the collection and disposition of recyclables from each of their customers.
- (5) Recycling collection shall consist of an opportunity to recycle at least three broad types of recyclables as listed in Minn. Stat. § 115A.151.
- (6) All haulers shall provide to the city by the 15th day of each month a full accounting, in tons, of all refuse, recyclables and yard waste that has been collected in the city during the previous month.
- (7) The hauler shall convey all refuse collected to a properly permitted solid waste disposal facility in accordance with all laws and provisions of all governing political jurisdictions and subdivisions.
- (8) The hauler shall maintain all appropriate records pertaining to any business conducted within the borders of the city for a period of at least five years.
- (9) The hauler shall convey all collected recyclables to be recycled in a manner that is consistent with industry norms and standards. Licensee shall specifically not dispose of any collected recyclables in or on a solid waste disposal facility or site. Exemptions may be granted on a case-by-case basis.
- (10) As a condition of licensing, licensed solid waste collectors must, upon request, permit the city manager or his designees to inspect the licensee's city customer list in order to ensure compliance with collection requirements in Minn. Stat. § 115A.941.

(c) *Application; bond, insurance, fee for licensed haulers.*

- (1) Any person desiring a private license as a hauler shall file an application in writing with the city clerk, which application shall state the applicant's name, age, and residence, the type of equipment

to be used in collecting, hauling and removing such refuse, recyclables and yard waste and a schedule of rates to be charged for such service.

- (2) The city manager shall require such applicant, as a condition to the issuance of such license, to furnish a bond in an amount to be determined by the city manager for the performance of such service in accordance with the ordinances of the city and the rules and regulations of the health officer of the county and shall also require such haulers to have on file with the city clerk public liability and property damage insurance in such sums as the city manager shall determine. All haulers, as a condition of licensing, shall defend, indemnify, and hold the city harmless from and against all liabilities, losses, damages, and claims of damages (including all reasonable attorney's fees, and other expenses incident thereto) suffered or incurred by the city that may arise by reason of any act or omission on the part of the licensee, its agents, or independent contractors, while engaged in the collection and transportation of refuse, recyclables or yard waste.

- (3) A license fee shall be set by action of the council and paid prior to issuance of a license.

(d) *Vehicle and equipment requirements for haulers.*

- (1) The hauler's name or firm name, together with his phone number, shall be printed or painted in legible letters, not less than five inches in height, on both sides and, when practical, rear of all trucks and conveyances used in the city. Brooms and shovels in good usable condition shall be placed and maintained on each truck.
- (2) All haulers shall use vehicles that are specifically designed or adapted for the collection and transportation of refuse, recyclables and yard waste. The hauler shall make all collections of refuse and yard waste in watertight metal receptacles or vehicles with closed tops so constructed that their contents will not leak or spill therefrom. Such receptacles and vehicles shall be kept clean and as free from all offensive odors as possible and shall not be allowed to stand in any street, alley or other place longer than is reasonably necessary to collect garbage, refuse, recyclables and yard waste.

- (e) All information collected by the city under this section is subject to the Data Privacy Act.

(Code 1980, § 10-4; Ord. No. 91-1273, 1-9-1992)

**Sec. 62-35. Unauthorized collection of recyclables.**

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

*Contractor* means any person that has entered into a written contract with the city for the collection of garbage, rubbish, recyclables and yard waste.

*Curbside recycling program* means the organized collection of items designated as recyclable by the contractor or his authorized representative.

*Materials designated as recyclable* means items agreed upon by the city and the contractor to be collected in the curbside recycling program.

*Set out for collection* means the placing of materials designated as recyclables, by the residents of the city, at the curbside for collection by the contractor.

*Unauthorized collection (scavenging)* means the collection by any person, other than the contractor or his authorized representative, of materials that are designated as recyclables and set out for collection by the residents.

- (b) *Intent.* The intent of this section is to prevent the unauthorized collection of materials that are designated as recyclables and set out as part of the city's curbside recycling program. The theft of these materials will deprive the contractor of their market value and forces overall costs to go up. These costs will eventually be passed on to the citizens of the city. The city will also be deprived of credit for recycling tonnage reported to the county, the metropolitan council and the state.

(Code 1980, §§ 10-99, 10-100; Ord. No. 88-1110, 1-5-1989)

**Secs. 62-36—62-70. Reserved.**

### **ARTICLE III. SOLID WASTE DISPOSAL FACILITIES \***

\***State Law reference—** Certification of need for new solid waste disposal facilities, Minn. Stat. § 115A.917.

DIVISION 1. - GENERALLY

DIVISION 2. - LICENSE

DIVISION 3. - LANDFILLS

#### ***DIVISION 1. GENERALLY***

[Sec. 62-71. Dangerous substances.](#)

[Secs. 62-72—62-90. Reserved.](#)

#### **Sec. 62-71. Dangerous substances.**

No solid waste shall be deposited at the facility which is hazardous waste as defined in article II of this chapter.

(Code 1963, § 13A.03(E); Code 1980, § 10-44; Ord. No. 310, 3-1-1973; Ord. No. 91-1273, 1-9-1992)

**Secs. 62-72—62-90. Reserved.**

#### ***DIVISION 2. LICENSE***

[Sec. 62-91. Required; fee; period.](#)

[Sec. 62-92. Conditions to granting.](#)

[Sec. 62-93. Filing notice of granting.](#)

[Sec. 62-94. Suspension or revocation.](#)

[Secs. 62-95—62-120. Reserved.](#)

#### **Sec. 62-91. Required; fee; period.**

No person shall establish, maintain, conduct or operate a solid waste disposal facility without first obtaining a license to do so from the council.

(Code 1963, § 13A.02; Code 1980, § 10-40; Ord. No. 310, 3-1-1973; Ord. No. 91-1273, 1-9-1992)



**Sec. 62-92. Conditions to granting.**

The council may not grant a license except upon full compliance with this article and unless the following conditions have been fulfilled:

- (1) *Application.* Application for license shall be made to the city clerk upon such form as the clerk shall provide. The application shall set forth the name and address of the applicant, the legal description of the land to be used as a solid waste disposal area, the name and address of the owner of the land, a description of the type of solid waste material to be placed upon the premises, and a statement that the applicant will comply with all conditions prescribed by the city or its officers or agents and the regulations promulgated by the state pollution control agency for the disposal of solid wastes. The application shall be referred to the planning commission for its recommendation. A public hearing may be held by the planning commission pursuant to notice as provided in the zoning ordinance.
- (2) *Fee.* The license fee shall be an amount established by council action per year, or any fraction thereof, payable to city clerk at the time the application is made. The license period shall be from January 1 to December 31.
- (3) *State permit.* A license shall not be granted unless the applicant has already obtained the required permit from the state pollution control agency. A certified copy of such permit shall be filed with the city clerk at the time of application. The applicant shall notify in writing the city clerk within ten days of any revocation or suspension of a permit issued by the state pollution control agency.
- (4) *Control with other ordinances.* Prior to the granting of a license, all other applicable city ordinances shall be complied with.

(Code 1963, § 13A.03(A)—(D); Code 1980, § 10-41; Ord. No. 310, 3-1-1973; Ord. No. 98-1695, § 5, 2-5-1998)

**Sec. 62-93. Filing notice of granting.**

If a license is granted, the city clerk shall prepare a notice setting forth the legal description and the location of the solid waste disposal facility. The clerk shall file such notice in the office of the register of deeds or registrar of titles of the county.

(Code 1963, § 13A.05; Code 1980, § 10-42; Ord. No. 310, 3-1-1973; Ord. No. 91-1273, 1-9-1992)

**Sec. 62-94. Suspension or revocation.**

The noncompliance with any provision of this article shall be grounds for suspension or revocation of the license and the discontinuance of the operation of the solid waste disposal site.

(Code 1963, § 13A.04; Code 1980, § 10-43; Ord. No. 310, 3-1-1973)

**Secs. 62-95—62-120. Reserved.**

***DIVISION 3. LANDFILLS***

[Sec. 62-121. Sanitary method; description.](#)

[Sec. 62-122. Prohibited areas for fill and trench method.](#)

[Sec. 62-123. Maintenance and operation practices.](#)

[Secs. 62-124—62-150. Reserved.](#)

**Sec. 62-121. Sanitary method; description.**

Sanitary landfill is a method of disposing of solid waste on land, without creating nuisances or hazards to public health or safety, by utilizing the principles of engineering to confine the solid waste to the smallest practical areas, to reduce it to the smallest practical volume, and to cover it with a layer of earth at the conclusion of each day's operation, or at such more frequent intervals as may be required by the city.

(Code 1963, § 13A.03(F); Code 1980, § 10-45; Ord. No. 310, 3-1-1973; Ord. No. 91-1273, 1-9-1992)

**Sec. 62-122. Prohibited areas for fill and trench method.**

The fill and trench areas of sanitary landfill sites are prohibited within the following areas:

- (1) Within "shoreland" as defined in Minn. Stat. § 103F.205, subd. 4.
- (2) Within 1,000 feet, at the time of commencement of construction of the sanitary landfill, of the nearest edge of the right-of-way of any state, federal or interstate highway or of the boundary of a public park or of an occupied dwelling. Permission may be granted under this subsection, without these distance requirements, for a site which is screened by natural objects, plantings, fences or other appropriate means so as not to be readily visible from the highway or park.
- (3) Within one mile of a municipal well or one mile of a water intake.

(Code 1963, § 13A.03(F)(1); Code 1980, § 10-46; Ord. No. 310, 3-1-1973)

**Sec. 62-123. Maintenance and operation practices.**

Any person who maintains or operates a sanitary landfill site or permits the use of property for such shall maintain and operate the site in conformance with the following practices:

- (1) Open burning is prohibited.
- (2) Solid waste shall not be deposited in such a manner that material or leachings therefrom may cause pollution of groundwater or surface water.
- (3) Dumping of solid waste shall be confined to as small an area as practicable and surrounded with appropriate facilities to confine possible wind-blown material within the area. At the conclusion of each day of operation, all wind-blown material resulting from the operation shall be collected and returned to the area by the owner or operator.
- (4) Solid waste shall be compacted as densely as practicable and covered after each day of operation, with a compacted layer of at least six inches of suitable cover.
- (5) Surface water drainage shall be diverted around the landfill operating area.
- (6) A minimum separating distance of 20 feet shall be maintained between the disposal operation and the adjacent property line.
- (7) Effective means shall be taken to control flies, rodents and other insects or vermin.
- (8) The approach road to the disposal site shall be of all-weather construction and maintained in good condition.

- (9) Equipment shall be provided to control accidental fires, and arrangements made with the local fire protection agency to immediately acquire its services when needed.
- (10) Adequate communication facilities shall be provided for emergency purposes.
- (11) Sanitary facilities and shelter shall be available for site personnel.
- (12) Salvaging is prohibited.
- (13) An attendant shall be on duty at the site at all times while it is open for public use.
- (14) The site shall be fenced and a gate shall be provided at the entrance to the site and kept locked when an attendant is not on duty.
- (15) A permanent sign, identifying the operation and showing the permit number of the site, and indicating the hours and days the site is open for public use, the penalty for nonconforming dumping, and other pertinent information shall be posted at the site entrance.
- (16) Within one month after final termination of a site, or a major part thereof, the area shall be covered with at least two feet of compacted earth material adequately graded to allow surface water runoff.
- (17) The finished surface of the filled area shall be covered with adequate topsoil and seeded with native grasses or other suitable vegetation immediately upon completion, or immediately in the spring on areas terminated during winter conditions. If necessary, seeded slopes shall be covered with straw or similar material to prevent erosion.
- (18) Prior to completion of a sanitary landfill site, the city shall be notified in order that a site investigation may be conducted by the city before earth-moving equipment is removed from the property.

(Code 1963, § 13A.03; Code 1980, § 10-47; Ord. No. 310, 3-1-1973; Ord. No. 767, 10-21-1982)

**Secs. 62-124—62-150. Reserved.**

#### **ARTICLE IV. RESOURCE RECOVERY/SOLID WASTE TRANSFER STATION FACILITIES \***

**\*State Law reference—** Recycling of solid waste, Minn. Stat. ch. 116F, Minn. Stat. § 115A.551 et seq.

[Sec. 62-151. Definitions.](#)

[Sec. 62-152. Intent of article.](#)

[Sec. 62-153. Purpose of article.](#)

[Sec. 62-154. Conditional use permit requirements and approval criteria.](#)

[Sec. 62-155. Conditional use permit application procedures.](#)

[Sec. 62-156. Final site plan application and procedure.](#)

[Sec. 62-157. Standards.](#)

[Sec. 62-158. Inspections.](#)

[Sec. 62-159. Notice of spills, leaks, explosions, fires or accidents.](#)

**Sec. 62-151. Definitions.**

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

*Citizen's dropoff* means a facility which provides for disposal of materials not collected by waste haulers. In general, vehicles will be unloaded by hand at such a facility. The design will depend on the waste materials anticipated but will typically include large portable containers into which waste can be deposited.

*Disposal* means the discharge, deposit, injection, dumping, spilling, leaking or placing of any waste into or on any land or water so that the waste or any constituent thereof may enter the environment or be emitted into the air, or discharged into any water, including groundwater.

*Dropoff or buy-back center for recyclables* means a facility where recyclable material such as, but not limited to, glass, paper, metal containers, plastics and corrugated cardboard can be brought for temporary storage prior to delivery to a processing facility or market.

*Hazardous waste* means any hazardous waste as defined in Minn. Stat. § 116.06, subd. 11, and any substance identified as a hazardous waste pursuant to rules adopted by the state pollution control agency under Minn. Stat. § 116.07; and any hazardous waste as defined in the Resource Conservation and Recovery Act, under 42 USC 6903, which is listed or has the characteristics identified under 42 USC 6921, not including any hazardous waste the regulation of which has been suspended by an act of Congress.

*Household hazardous waste* means waste generated from household activity that exhibits the characteristics of or that is listed as hazardous waste under the state pollution control agency rules, but does not include waste from commercial, industrial or agricultural activities that is generated, stored or present in a household.

*Household hazardous waste program* means a program to collect or receive household quantities of hazardous waste materials from residential sources and arrange for transportation of these materials to permitted hazardous treatment, storage or disposal facilities.

*Recycling facility* means a site used to separate, process, modify, convert, or otherwise prepare solid waste so that component materials or substances may be beneficially used or reused as raw materials.

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

*Solid waste generation* means the act or process of producing solid waste.

*Solid waste management* means the systematic control of the collection, source separation, storage, transportation, processing, treatment, and disposal of solid waste.

*Treatment* means, when used in connection with solid waste, any method, technique, or process so as to render such solid waste safe for transport, amenable for recycling, amenable for storage, or reduced in volume.

*Wetland* means any designated state department of natural resources wetland or U.S. Army Corps of Engineers Wetland.

*Yard waste composting* means controlled microbial degradation of garden wastes, leaves, lawn cuttings and prunings are generated at residential or commercial properties to yield a humus-like product.

*Yard waste composting facility* means a site used to compose yard waste materials, including all structures or processing equipment used to control drainage; collect and treat leachate; and storage areas for the incoming waste, the final product and residuals resulting from the composting process.

(Code 1980, § 10-92; Ord. No. 88-1063, 2-4-1988; Ord. No. 91-1273, 1-9-1992)

~~Cross-reference—Definitions generally, § 1-2.~~

**Sec. 62-152. Intent of article.**

Thousands of tons of solid waste are handled each year within the county. In order to protect the environment, quality of life, and maintain efficient solid waste management, these materials must be delivered to a resource recovery facility or transfer station as designated by the county pursuant to Minn. Stat. §§ 115A.80—115A.893 or recycled through a variety of recovery mechanisms in a safe, proper, and efficient manner. Therefore, the purposes of this article are to ensure that:

- (1) Solid waste transfer station facilities are sited in a manner consistent with the public health, safety, and welfare;
- (2) Other types of solid waste facilities are sited in a manner consistent with public health, safety, and welfare;
- (3) The impact to adjoining properties and the community, in general, are minimized to the greatest extent reasonably possible.

(Code 1980, § 10-90; Ord. No. 88-1063, 2-4-1988)

**Sec. 62-153. Purpose of article.**

- (a) For the purposes of this article, a solid waste transfer facility shall be a building, structure, or use of land devoted, or intended to be devoted, primarily for collection of solid waste from refuse packer trucks, individual residents and businesses which can be deposited into transfer vehicles designed to haul waste over long distances. Any such transfer facility must be an intermediate phase in the treatment of solid waste, and after the solid waste has been deposited into transfer vehicles, it shall be transported from this site.
- (b) In addition to any such transfer facility, a resource recovery facility shall be any building, structure, or use of land devoted, or intended to be devoted to receiving certain types of solid waste from county haulers, residents, or businesses for special programs including citizens' dropoff, an intermediate recycling processing facility, a composting facility, a dropoff or buy-back center for recyclables, or a household hazardous waste program.
- (c) However, under no circumstances are the following allowed:
  - (1) A facility which is intended to receive and/or transfer hazardous waste received in mixed loads of waste from residential or commercial sources.
  - (2) A disposal facility, as defined in Minn. Stat. § 115A.03.

(Code 1980, § 10-91; Ord. No. 88-1063, 2-4-1988; Ord. No. 91-1273, 1-9-1992)

**Sec. 62-154. Conditional use permit requirements and approval criteria.**

Resource recovery/solid waste transfer facilities may be permitted only as a conditional use within the heavy industrial (I-2) zoning district, and shall be subject to all appropriate provisions of this article. Yard waste dropoff facilities shall not be considered a resource recovery/solid waste transfer station facility as regulated by this article. The council shall consider and make findings with respect to the following criteria:

- (1) The proposed resource recovery/solid waste transfer facility is developed and operated in accordance with all applicable local, state and federal laws, rules and regulations regarding, but not limited to, groundwater pollution, water quality, air pollution, noise, odors, or vibration;
- (2) The proposed resource recovery/solid waste transfer buildings and/or uses shall be located no closer than 50 feet of any state department of natural resources designated wetland or body of water and be designed and operated according to the applicable rules and regulations of the state department of natural resources;
- (3) The proposed resource recovery/solid waste transfer buildings shall be located no lower than two feet above the HUD 100-year floodplain as determined by the FEMA west of T.H. 65 and by the city engineer east of T.H. 65;
- (4) Sufficient safeguards against spills, fires, and explosions are established to protect the public health, safety and welfare to the greatest extent reasonably possible utilizing Uniform Building Code, Uniform Fire Code, and Federal Hazardous Waste regulations as standards, if otherwise applicable to the proposed use;
- (5) The proposed site for resource recovery/solid waste transfer facilities shall be developed in such a way so as to provide for opaque screening and landscaping to minimize the negative visual impacts from such a facility on any adjacent property;
- (6) The proposal is consistent with all applicable codes and regulations of the city Code;
- (7) The proposal shall be consistent with the city adopted comprehensive plan;
- (8) The proposed site for resource recovery/solid waste transfer facilities be developed in such a way so as to provide for adequate off-site access defined as a minimum of a two-lane, nine-ton roadway with turning lanes; and
- (9) The proposed site shall be reviewed using section 27.04(a) of the city zoning ordinance.

(Code 1980, § 10-93; Ord. No. 88-1063, 2-4-1988; Ord. No. 95-1564, 7-6-1995)

**Sec. 62-155. Conditional use permit application procedures.**

(a) *Procedure.* The procedure for obtaining a conditional use permit is as follows:

- (1) The applicant shall meet with the zoning administrator to explain his proposals, learn the procedures, and obtain an application form.
- (2) The applicant shall file the completed application form together with the required exhibits with the zoning administrator and shall pay a filing fee as established by action of the city council. All applications for a conditional use permit must be received in the planning and economic development department 30 days prior to a planning commission meeting.

- (3) The zoning administrator shall transmit the application to the planning commission and shall notify all property owners within 1,000 feet of the outer boundaries of the property in question.
  - (4) The zoning administrator shall set the date for a public hearing and shall have notice of such hearing published at least once in a legal newspaper, not less than ten days and not more than 30 days prior to such hearing.
  - (5) The planning commission shall hold the public hearing and determine possible adverse effects of the proposed conditional use and determine what additional requirements may be necessary to reduce such adverse effects and recommend to the city council one of three actions: approval, denial, or conditional approval.
  - (6) The planning commission shall transmit, within 60 days, its recommendation to the city council for its official action.
  - (7) The city council shall take appropriate action on the request for conditional use permit within 60 days of receiving the recommendations by the planning commission. If it grants a conditional use permit, the city council may impose conditions, including time limits it considers necessary to protect the public health, safety, and welfare, and such conditions may include a time limit for the use to exist or operate.
- (b) *Required application and exhibits for a conditional use permit.*
- (1) Conditional use permit application.
  - (2) Application fee.
  - (3) Property owners listing/labels within 1,000 feet of the subject site.
  - (4) A narrative of proposed activities.
  - (5) A certified survey showing the following information of a preliminary site plan, a preliminary grading/drainage plan, a preliminary landscape plan, and preliminary building elevation plans.
  - (6) Any other information as required by the city.
- (c) *Revocation/suspension of conditional use permits.*
- (1) Where a conditional use permit has been issued pursuant to provisions of this article, such permit shall become null and void without further action by the planning commission or city council unless construction or uses commences within one year of the date of granting such conditional use. Permitted activities of a conditional use permit shall expire if the specific use is discontinued for more than six consecutive months.
  - (2) If the applicant violates any of the conditions set forth in the permit, the city council shall have the authority to revoke the conditional use permit following a public hearing. Any order issued pursuant to this article may include a suspension or revocation of the conditional use permit issued under this article, and shall state with reasonable specificity the nature of the violation and specify a time for compliance. Any violation of this article shall be considered a misdemeanor.

(Code 1980, § 10-94; Ord. No. 88-1063, 2-4-1988; Ord. No. 91-1273, 1-9-1992)

**Sec. 62-156. Final site plan application and procedure.**

- (a) *Site plan submission and review.* All building construction and land improvements shall be accompanied by a complete site plan, showing the proposed building, the proposed use of the balance of the property, and any anticipated development phasing. The plan shall show waste disposal, water supply, drainage,

ingress and egress, landscaping, screening, and other supportive and pertinent data. Distances to surrounding buildings must also be shown on the site plan. All building permits shall be approved by the zoning administrator following his review of the site plan for conformity with the city's present development codes and comprehensive plan. The zoning administrator, in his discretion, may submit the application to the administrative review committee for site plan review. The committee shall also consider the proposed development in terms of its conformity with the city's present development code and comprehensive land use plan. The zoning administrator, with the concurrence of the administrative review committee, may refer the building permit application to the planning commission and city council for its review and approval.

(b) *Plans required.*

- (1) *Certificate of survey.* The certificate of survey shall be drawn at a scale of one inch equals 50 feet, or 100 feet, or 200 feet. The certificate of survey shall indicate all existing structures and site improvements.
- (2) *Site plan.* The site plan shall be drawn at a scale of one inch equals 50 feet or 100 feet, or 200 feet. The submission may be composed of one or more sheets and drawings and shall include the location of all proposed buildings and their proposed uses; location of driveways and parking areas; indicate front, rear and side yard setbacks proposed and approved by the community development department; location of all easements, width and purposes; location and size of existing public improvements adjacent to the lot site, excluding sanitary sewer, water main, and storm drainage; location and size of existing buildings and structures on site and within the distance of 100 feet of the site; existing zoning and land use; location of refuse areas; location of outdoor storage areas; locations and specifications of signs; location and type of lighting.
- (3) *Landscape plan.* The landscape plan shall be prepared at a scale of one inch equals 50 feet and in accordance with the requirements of the city zoning ordinance, section 33.08, landscaping requirements.
- (4) *Grading and drainage plan.* The grading and drainage plan shall be drawn at a scale of one inch equals 50 feet, or 100 feet, or 200 feet, and shall contain the following information: existing and proposed grades with a minimum of two-foot contour intervals to a known sea level datum; sufficient spot elevations on all proposed hard surface areas; estimated runoff of the area based upon ten-year and 100-year storm events; provisions to carry runoff to the nearest adequate outlet, such as a storm drain, natural drainageway, or street; location of any proposed ponding areas, indicating the size and depth of the pond and amount of acre feet of water to be stored; finished floor elevations of all buildings; identification of soil conditions by type and location, including identification of the water table, and suitability of soil for proposed development; identification of any areas located within a flood hazard zone as identified by the city's floodplain maps.
- (5) *A topographic map.* The topographic map shall be drawn at a scale of one inch equals 100 feet and shall contain the following information: two-foot contour intervals to a known sea level datum; identification of watercourses, rock outcroppings, and other significant land features. Use USGS datum for mapping.
- (6) *Floor plans and elevations.* All floor plans and elevations shall be drawn to a legible scale and include the following information: Floor plans indicating square footage and dimensions of all proposed rooms and areas identifying the proposed uses; elevations of the proposed building, identifying exterior treatment materials to be used, and color of paint.
- (7) *Transportation plan.* The transportation plan shall indicate the manner in which all long haul trucks and/or household hazardous waste haulers are anticipated to enter/exit to and from the site. Such



plan shall indicate required truck routings, county/local road designations/impacts, and projected daily trip generations.

(c) *Preparation of plans.*

- (1) Site and landscape plans shall be prepared under the supervision of a landscape architect, architect, or land planner.
  - (2) The grading and drainage plan shall be prepared by a registered engineer.
  - (3) Floor plans and building elevations shall be prepared by a registered architect or registered engineer.
- (d) *Narrative.* A narrative explaining the estimated solid waste proposed to be disposed of, treated, transported, and the time, frequency or rate of which such waste is proposed to be disposed of, treated, transported or stored.
- (e) *Time limitations.* If final site plan approval is not granted within a one-year period from the time of the approval of the conditional use permit application, the proposal shall be declared null and void and the applicant will have to refile a preliminary plan and conditional use permit application with the planning and economic development department.

(Code 1980, § 10-95; Ord. No. 88-1063, 2-4-1988; Ord. No. 91-1273, 1-9-1992)

**Sec. 62-157. Standards.**

- (a) *Zoning.* The property must be zoned I-2 heavy industrial or I-2A heavy industrial.
- (b) *Minimum lot size.* The minimum lot size shall be seven acres. A transfer station can also be collocated with other uses.
- (c) *Transfer station building setbacks.* Transfer station building setbacks are as follows:
- (1) Front yard: 150 feet
  - (2) Side yard: 100 feet
  - (3) Rear yard: 100 feet or 50 feet if adjacent to an airport property
- Ancillary building setbacks:
- Front yard: 100 feet
- Side yard: 100 feet or 50 feet if adjacent to an airport property
- Rear yard: 100 feet or 50 feet if adjacent to an airport property
- (d) *Building height.* The building height shall be 50 feet from the ground level. All buildings shall be sprinkled and contain other fire and life safety standards denoted in NFPA 101 and subject to Metropolitan Airport Commission regulations.
- (e) *Parking and driveways.* Parking and driveways may be constructed to within the following minimum setbacks of property line:
- (1) Front yard/corner site yard: 50 feet.
  - (2) Side yard: 50 feet.
  - (3) Rear yard: 50 feet.

Concrete curbing shall be required along all parking/driveway areas. All parking/driveway areas shall be either concrete or asphalt surfaces.

(f) *Landscaping.* All landscaping requirements shall meet the provisions of the city zoning ordinance, section 33.08, including the following:

- (1) Underground irrigation shall be required for all front yards and corner side yards, not left in a natural vegetative condition.
- (2) Traffic safety islands and/or general parking islands, where deemed appropriate, shall be landscaped.
- (3) Minimum plant sizes shall be increased to the following:

Overstory trees	3½-inch caliper B & B
Ornamental trees	3-inch caliper B & B
Conifer trees	15 feet high
Shrubs	3 feet high

- (4) The entire site perimeter shall be screened with landscaping. Such screening can occur anywhere within the parking setbacks and can be achieved by any combination of natural vegetation, new landscaping, berming, or fencing. Newly created site perimeter screening areas shall be designed to achieve yearround screening using conifers, evergreen shrubbery, berms, fencing, or a combination thereof.

(g) *Storage.* Outdoor storage of materials shall be permitted if approved as part of a conditional use permit. All outdoor storage areas to be delineated by permanent fencing.

(h) *Lighting.* Lighting shall not be directed on another lot or obscure driver's vision on public streets. No freestanding light fixture shall be higher than 20 feet, unless additional pole heights as authorized by separate CUP approval. Such fixtures shall be approved by planning department and shall be shielded downlit style. Off-street parking areas shall be illuminated to an average of one footcandle at eye level over the entire surface of the parking area during operating hours.

(i) *Mechanical/electrical equipment.* Equipment on the roof or ground, such as heating, air conditioning, transformers, shall be screened on all sites such as not to be visible from public streets or adjoining property.

(j) *Signs.* Only one ground sign and one wall sign shall be permitted per lot.

- (1) Such ground sign shall not be higher than ten feet nor longer than 14 feet.
- (2) Such ground sign shall be architecturally compatible with the building.
- (3) Such ground sign shall not be located within ten feet of any property line.
- (4) Such wall sign shall meet the zoning ordinance section 34.07(1) requirements.
- (5) Signs may be illuminated internally or by ground lighting only.
- (6) Signs may only identify the building name, address, the name of the principal building occupant, or the hours of operation.

No other signs shall be permitted except building safety, address and traffic signs, which must be approved by the city on the site plan. One construction and one real estate sign not to exceed 32 square feet each shall be permitted during construction but must be removed prior to the issuance of the certificate of occupancy.

(k) *Architectural control.*

- (1) All buildings erected shall be a type of construction as defined in the Uniform Building Code, except Type V.
- (2) Any building shall be constructed so that all exterior sides shall be surfaced equivalent to the front building elevation as determined by the zoning administrator.
- (3) Exterior wall surfaces of all building shall be primarily faced with brick, stone, pre-cast panel, cast-in-place panel, architectural concrete in combination with other permitted materials, or glass.
- (4) Use of modern metal paneling materials or its equivalent shall be considered for exterior wall surfaces provided such materials are used in conjunction with other materials listed in this section. Use of modern metal paneling materials or its equivalent shall not exceed 35 percent of any individual wall surface.
- (5) The building design should exhibit architectural control, which seeks to be creative and maximize architectural uniqueness. In addition, the city is desirous of such building design, which will enhance energy conservation and attempt to use active or passive solar design.
- (6) All building design and exterior wall surface materials shall be reviewed and approved by the community development department.

(Code 1980, § 10-96; Ord. No. 88-1063, 2-4-1988; Ord. No. 01-1897, 4-5-2001)

**Sec. 62-158. Inspections.**

For the purpose of enforcing the provisions of this article, any holder of a conditional use permit pursuant to this article shall:

- (1) Furnish information relating to the operation of the resource recovery/solid waste transfer facilities upon the reasonable request of the city manager or fire chief.
- (2) Allow the city manager, fire chief, or other duly authorized city personnel free access to the resource recovery/solid waste transfer facilities at any reasonable time for the purpose of making such inspections as may be necessary to determine compliance with the requirements of this article or other applicable local, state or federal laws, rules or regulations.
- (3) Allow the city manager, fire chief, or other duly authorized city personnel access to records concerning the operation of the resource recovery/solid waste transfer facility.

The existence of any violation of local, state or federal laws, rules or regulations may result in a public hearing for such violations and the identification and implementation of additional safeguards to prevent future violations.

(Code 1980, § 10-97; Ord. No. 88-1063, 2-4-1988)

**Sec. 62-159. Notice of spills, leaks, explosions, fires or accidents.**

In the event of a spill, leak, explosion, fire or accident occurs at the resource recovery/solid waste transfer station facility which requires notification of the state pollution control agency, pursuant to Minn. Stat. § 115.061 or which threatens the public health, safety or welfare, then the owner or operator of the facility shall also notify the city manager and the fire chief as soon as reasonably possible after the spill, leak, explosion, fire or accident becomes known. Failure to report such incidents as required shall constitute a misdemeanor.

(Code 1980, § 10-98; Ord. No. 88-1063, 2-4-1988)



<sup>100</sup>**Chapter 66 SPECIAL ASSESSMENTS \***

~~\***Charter reference**—Public improvements and special assessments, ch. 8.~~

~~**Cross reference**—Any ordinance levying or imposing any special assessment saved from repeal, § 1-11(11); administration, ch. 2; streets, sidewalks and other public places, ch. 70.~~

**State Law reference**— Special assessments, Minn. Stat. ch. 429.

Sec. 66-1. Providing for partial prepayment.

**Sec. 66-1. Providing for partial prepayment.**

- (a) The owner of any property within the city upon which a special assessment has been levied pursuant to Minn. Stat. ch. 429 may make a partial prepayment of the special assessment any time within 30 days following the adoption of the special assessment by the city council. The partial prepayment shall be at least ten percent of the special assessment. No interest shall be charged on the partial prepayment.
- (b) The remaining unpaid balance shall be payable in annual installments including principal and interest, each in the amount annually required to pay the principal over the period of the special assessment with interest at the rate stated in the assessment resolution.

(Code 1980, § 8-31; Ord. No. 97-1665, 7-17-1997)

**State Law reference**— Partial prepayment of special assessments, Minn. Stat. § 429.061, subd. 3.

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<sup>100</sup> **Chapter 66, Special Assessments.** This single section chapter should be eliminated and the section moved to the taxation chapter or the administration chapter finance article.

## Chapter 70 SPECIAL EVENTS, PUBLIC WAYS ~~STREETS, SIDEWALKS AND OTHER~~ PUBLIC PLACES \*

~~\*Editor's note—<ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=771556&datasource=ordbank" web="yes">Ord. No. 16-2350, adopted May 19, 2016 </ulink>, amended the title of ch. 70 to read as set out herein. Previously ch. 70 was titled "Streets, Sidewalks and Other Public Places."~~

~~Charter reference—Vacation of streets, § 12.06.~~

~~Cross reference—Any ordinance levying or imposing any special assessment saved from repeal, § 1-11(11); any ordinance dedicating, establishing, naming, locating, relocating, opening, paving, widening, repairing or vacating any street saved from repeal, § 1-11(12); any ordinance establishing the grade or any street or sidewalk saved from repeal, § 1-11(13); furnishing to unauthorized person; consuming in unlicensed public place, on highways or in motor vehicles, § 6-36; buildings and building regulations, ch. 18; peddlers, solicitors, and transient merchants, § 22-271 et seq.; environment, ch. 34; manufactured homes and trailers, ch. 46; streets, curbs and sidewalks in manufactured home parks, § 46-93; street lighting in manufactured home parks, § 46-94; consuming intoxicating beverage in public, § 50-2; parks and recreation, ch. 54; special assessments, ch. 66; subdivisions, ch. 74; traffic and vehicles, ch. 82; utilities, ch. 86; vegetation, ch. 90.~~

~~State Law reference—Roads generally, Minn. Stat. ch. 160.~~

### ARTICLE I. - IN GENERAL

### ARTICLE II. - SPECIAL EVENTS ON PUBLIC LANDS OR PRIVATE PROPERTY WITH COMMERCIAL, REGIONAL RECREATIONAL OR INDUSTRIAL ZONING OR LAND USES

### ARTICLE III. - PUBLIC RIGHT-OF-WAY MANAGEMENT

#### ARTICLE I. IN GENERAL

Sec. 70-1. Permit required for work in right-of-way.

Sec. 70-2. Sidewalk snow removal.

Sec. 70-3. City street or public right-of-way obstruction.

Sec. 70-4. Use of bridges.

Secs. 70-5—70-40. Reserved.

#### Sec. 70-1. Permit required for work in right-of-way.

A permit shall be required for any work such as sidewalk construction, curb, or gutter construction, driveways, tree planting, boulevards, drainage, etc., which is proposed to be done within the public right-of-way. These permits shall be issued by the city after the application for the work has been approved by the city engineer. The city engineer shall approve the work upon a showing that there will be compliance with all applicable laws and ordinances. The council may by action establish a permit fee.

(Code 1963, § 37.55; Code 1980, § 17-1; Ord. No. 13-2264, 6-6-2013)

**Sec. 70-2. Sidewalk snow removal.**

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

*Owner* means any person having a property interest in the land that abuts the street right-of-way.

*Sidewalk* means that portion of street or highway right-of-way which is improved for pedestrian use, and which is adjacent to the side yard or front yard of the property.

- (b) *Duty of owner or occupant of abutting property.*

(1) No owner or occupant of any property, in front of which or adjacent to which, a sidewalk has been constructed for use of the public, shall allow snow to remain upon the sidewalk longer than 48 hours after the snow has ceased to fall thereon.

(2) Certain sidewalk areas may be exempted from this requirement by the decision of the city manager where circumstances, such as size of the boulevard or plowing of adjacent streets by state or local units of government, make it difficult for the adjacent property owner to keep the sidewalk free from snow.

- (c) *Removal by city at property owner's or occupant's expense.* Any snow which is not removed in accordance with this section shall be removed by the city at the expense of the owner or occupant of the abutting property. The public works director shall keep a record of the costs and time of such work done.

- (d) *Recovery of city's expenses.* The cost of removal of snow by the city shall be billed to the property owner. Failure to pay such bill, when due, will result in the costs, plus a delinquency charge of 15 percent, being certified to the county auditor with taxes against the property abutting for collection as other taxes are collected.

- (e) *Nonliability of city.* No claim shall be made against the city because of failure of the owner to comply with this section.

(Code 1980, § 17-2; Ord. No. 83-783, 2-3-1983; Ord. No. 13-2264, 6-6-2013)

**Sec. 70-3. City street or public right-of-way obstruction.**

- (a) No person shall create an obstruction on any public street through the placement or storage of items not otherwise authorized for use on the public street. This shall include, but is not limited to, refuse, refuse/recycling/yard waste containers, basketball hoops, fencing, landscape materials sports nets/goals, or any other tangible object that may hinder free and open passage over that or any part of the public street.

- (b) No person shall deposit or permit to be deposited and leave on any public street in the city leaves, grass, sand or similar materials, nor shall any person plow, shovel, or blow or permit the blowing, shoveling or plowing of snow onto a public street in the city and leaving it. This provision shall not apply to any person who is in the process of constructing or maintaining a yard or drive, provided that the materials are immediately removed from the street.

- (c) Any person violating any provision of this section shall be guilty of a misdemeanor, and upon conviction, shall be punished by a fine not to exceed \$1,000.00, or by imprisonment not to exceed 90 days, or both, or any different amounts adopted by statute. Enforcement of this chapter may also be pursued through the city administrative municipal court for adult offenders.

(Code 1980, §§ 17-4, 17-5; Ord. No. 99-1829, 1-6-2000; Ord. No. 13-2264, 6-6-2013; <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=866910&datasource=ordbank" web="yes">Ord. No. 17-2393 </ulink>, 12-21-2017)

**State Law reference**— Penalty for ordinance violations, Minn. Stat. §§ 410.33, 412.231, 609.0332, 609.034.

**Sec. 70-4. Use of bridges.**

- (a) No person shall be upon nor use any public or private vehicular, pedestrian, or railroad bridge, for the purpose of fishing, diving, jumping, entering into water, or swimming therefrom.
- (b) Any person violating any provision of this section shall be guilty of a misdemeanor. Enforcement of this section may also be pursued through the city administrative municipal court for adult offenders.

(Ord. No. 06-2110, 11-16-2006; Ord. No. 13-2264, 6-6-2013)

**Secs. 70-5—70-40. Reserved.**

**<sup>101</sup>ARTICLE II. SPECIAL EVENTS**

**~~ON PUBLIC LANDS OR PRIVATE PROPERTY WITH COMMERCIAL, REGIONAL RECREATIONAL OR INDUSTRIAL ZONING OR LAND USES~~ \***

~~\*Editor's note—<ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=771556&datasource=ordbank" web="yes">Ord. No. 16-2350, adopted May 19, 2016 </ulink>, amended the title of art. II to read as set out herein. Previously art. II was titled "Special Events."~~

Sec. 70-41. Definitions.

Sec. 70-42. License.

Sec. 70-43. Fees for usage and maintenance of public property.

Sec. 70-44. Exceptions.

Sec. 70-45. Requirements for a special event license.

Sec. 70-46. Issuance of license; conditions.

Sec. 70-47. Trash management/recycling required.

Sec. 70-48. Violation; penalty.

Sec. 70-49. Duties of special event coordinator.

Sec. 70-50. Notice to abutting property owners.

Secs. 70-51—70-59. Reserved.

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<sup>101</sup> **Art. II, Special Events.** I suggest the article title be restored. The current title is too long to be useful as a title.



**Sec. 70-41. Special event defined Definitions.**

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

~~For purposes of this article, “special event” means an activity planned and constructed by a person, corporation, or organization on public, commercial, regional recreational or industrial zoning or land uses property. For purposes of this article, the term "special events" includes but is not limited to:~~

- ~~(1) Snowmobile races;~~
- ~~(2) Athletic tournaments or events where it is estimated that 1,000 or more people will be in attendance;~~
- ~~(3) Parades/races;~~
- ~~(4) Picnics, weddings, gatherings, or civic celebrations where it is estimated that 100 or more people will be in attendance;~~
- ~~(5) Carnivals;~~
- ~~(6) Musical festivals;~~
- ~~(7) Outdoor concerts;~~
- ~~(8) Convoys or processions, excluding funeral processions, of more than 200 vehicles, 25 commercial vehicles, or 100 people;~~
- ~~(9) Gathering in a City park of more than 150 people;~~
- ~~(10) Events outside the customary use of the property;~~

(Code 1963, § 69.01; Code 1980, § 4-20; Ord. No. 435, 4-3-1975; Ord. No. 13-2264, 6-6-2013; <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=771556&datasource=ordbank" web="yes">Ord. No. 16-2350, 5-19-2016 </ulink>)

~~Cross-reference—Definitions generally, § 1-2.~~

**Sec. 70-42. License.**

*(a) Required; application; health regulation compliance.*

- (1) No person shall promote or conduct a special event as defined in this article without first obtaining a license therefor from the city. Event promotion, including but not limited to advertising, marketing, publicizing and registration, of any special event prior to first obtaining a license from the city may be a consideration in the determination of whether to grant a license.
- (2) Application for a special event license shall be submitted to the city clerk for approval by the city manager or designee 45 days in advance on forms prescribed by the city clerk. Application for a special event license shall set forth the following information:
  - a. If the special event is proposed to be conducted for, on behalf of, or by an organization, the name, address and telephone number of the headquarters of the organization, and of the authorized and responsible heads of such organization.
  - b. The name, address and telephone numbers, daytime and nighttime, of the person who will be the special event coordinator and who will be responsible for its conduct.

- c. The date when the special event is to be conducted.
  - d. The approximate number of persons, animals and vehicles which will constitute such special event; the type of animals, and description of the vehicles.
  - e. The hours when such desired special event will assemble, start and terminate.
  - f. A statement as to whether the special event would occupy all or only a portion of the width of the streets proposed to be traversed.
  - g. The desired location by streets of any assembly areas for such special event.
  - h. The time at which units of the special event will begin to assemble at any such assembly area or areas.
  - i. The maximum interval of space to be maintained between units if a parade/race.
  - j. If the special event is designed to be held by, and on behalf of or for, any person other than the applicant, the applicant for such license shall file with the city clerk written communication from the person proposing to hold the special event, authorizing the applicant to apply for the license on behalf of the person proposing to hold the special event.
  - k. Whether any intoxicating liquor or 3.2 percent malt liquor will be consumed in conjunction with the special event at the staging area prior to the special event or at the terminus of the special event; and if any intoxicating liquor or 3.2 percent malt liquor will be served, that all necessary licenses have been obtained from the appropriate authorities.
  - l. The estimated number of participants.
  - m. Notice of who will provide traffic control, security and police supervision.
  - n. Disclosure of previous denials and/or violations of special event permits/licenses within the city or another jurisdiction.
  - o. Such other information as the city clerk shall find necessary to the enforcement of this chapter.
- (3) If food is to be prepared, sold, or dispensed at the special event, the applicant shall provide proof of compliance with the regulations of the county health department.
- (b) *Fee.* For each special event license, a fee shall be established by action of the council. License fees shall be submitted with the application. No event can be held without full payment of license fee or any associated fees. If the application for a special event license is denied, the license fee shall be returned to the applicant. In addition to the application fee for processing the license, applicants for a license hereunder shall be required to submit, before the license is issued, a traffic-control and security plan and fee in an amount established by the chief of police or his or her designee. The traffic-control and security plan fee shall cover the cost to the city of providing sufficient officers to regulate traffic and maintain public order. The fee for reimbursable police services are established annually by the city council. The number of sufficient officers under any special event license shall be determined by the police chief or his or her designees, based on consideration of the following information, which the applicant is required to submit, and which shall serve as standards to guide his or her discretion:
- (1) The proposed location for the special event;
  - (2) Details of proposed route if parade/race/convoy/procession requested, the starting point and the termination point;
  - (3) The time of day that the event is to take place;
  - (4) The date and day of the week proposed;

- (5) The general traffic conditions in the area requested, both vehicular and pedestrian, with special attention being given to the rerouting of vehicles or pedestrians normally using the requested area;
- (6) The number of marked and unmarked intersections along the route requested, together with the traffic-control devices present;
- (7) If traffic must be completely rerouted from the area, then the number of marked and unmarked intersections and the traffic-control devices are taken into consideration;
- (8) The estimated number of participants and vehicles;
- (9) The estimated number of viewers;
- (10) The nature, composition, format and configuration of the special event;
- (11) The estimated time or duration of the special event;
- (12) The plan of the applicant for emergency medical services for participants in the special event; and
- (13) Provisions arranged for and made by the applicant for handicapped parking.

(Code 1963, §§ 69.02, 69.03; Code 1980, §§ 4-21, 4-22; Ord. No. 435, 4-3-1975; Ord. No. 84-854, 12-6-1984; Ord. No. 98-1695, § 2, 2-5-1998; Ord. No. 13-2264, 6-6-2013; <http://newords.municode.com/readordinance.aspx?ordinanceid=771556&datasource=ordbank> web="yes">Ord. No. 16-2350, 5-19-2016 </ulink>; <http://newords.municode.com/readordinance.aspx?ordinanceid=850333&datasource=ordbank> web="yes">Ord. No. 17-2381 </ulink>, 9-21-2017)

#### **Sec. 70-43. Fees for usage and maintenance of public property.**

If the applicant uses city facilities or equipment in connection with a licensed special event as defined in this article on public property, the following usage and maintenance fees shall be paid to the city:

- (1) *Deposit fee.* An amount established by council resolution per special event to be deposited with the city to cover any justifiable expenses incurred in excess of the fees prescribed by this section.
- (2) *Maintenance responsibilities.* Maintenance of fields and grounds shall be the responsibility of the applicant as set forth in the maintenance compliance agreement with the city. If the applicant chooses to have the city perform the maintenance of fields and grounds, the applicant will be charged for the actual costs incurred by the city including labor, materials and supplies.
- (3) *Park lighting fee.* A per hour minimum charge established by council action per field for the use of outdoor lighting equipment on ball fields and a per hour minimum lighting charge established by council action for the use of hockey rinks and skating rinks. The total charge for such lighting may be deducted from any deposit refund due to the applicant.
- (4) *Park usage fee.* An amount established by council action per day for the private or exclusive use of public parks or certain portions thereof, including ball fields, hockey rinks, and skating rinks, excepting that civic nonprofit organizations shall be charged an amount established by council action per day. The city manager may waive the park usage fee for civic nonprofit organizations upon receipt of a written request for such waiver.
- (5) *Building usage fee.* An amount established by council action per day for the use of a city building or concession stand when used in conjunction with a licensed special event.

- (6) *Picnic shelter usage fee.* An amount established by council action per day for the exclusive use of a city picnic shelter.
- (7) *Equipment usage fee.* Fees for rental use of city equipment shall be established by council action. The equipment usage fee shall be collected pursuant to administrative procedure. Applicants shall be advised in writing of their responsibility to repair or replace lost or damaged equipment.
- (8) Temporary intersection lighting. If determined by the police chief or designee, rental of temporary intersection lighting may be required and paid for by applicant.
- (9) Any fees for additional portable restrooms, garbage and recycling receptacles to be arranged and paid for by applicant.

(Code 1963, § 69.04; Code 1980, § 4-23; Ord. No. 435, 4-3-1975; Ord. No. 684, 3-6-1980; Ord. No. 84-854, 12-6-1984; Ord. No. 98-1695, § 2, 2-5-1998; Ord. No. 13-2264, 6-6-2013; [print="yes"](http://newords.municode.com/readordinance.aspx?ordinanceid=771556&datasource=ordbank)  
[url="http://newords.municode.com/readordinance.aspx?ordinanceid=771556&datasource=ordbank"](http://newords.municode.com/readordinance.aspx?ordinanceid=771556&datasource=ordbank)  
[web="yes">Ord. No. 16-2350, 5-19-2016 </ulink>](http://newords.municode.com/readordinance.aspx?ordinanceid=771556&datasource=ordbank))

<sup>102</sup> **Sec. 70-44. Exceptions.**

- (a) Activity sponsored by a school district.
- (b) Any other city-sponsored special event or other event at city manager's discretion or their designee.
- (c) [Events sponsored by a business such as a customer appreciation or employee event, grand opening, etc. where a food truck is present and is the only attraction.](#)

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[web="yes">Ord. No. 16-2350, 5-19-2016 </ulink>](http://newords.municode.com/readordinance.aspx?ordinanceid=771556&datasource=ordbank); Ord. No. [print="yes"](http://newords.municode.com/readordinance.aspx?ordinanceid=985330&datasource=ordbank)  
[url="http://newords.municode.com/readordinance.aspx?ordinanceid=985330&datasource=ordbank"](http://newords.municode.com/readordinance.aspx?ordinanceid=985330&datasource=ordbank)  
[web="yes">19-2436 </ulink>](http://newords.municode.com/readordinance.aspx?ordinanceid=985330&datasource=ordbank), 10-7-2019; ([Ord. No. 21-2485, 11-15-2021—Inserted here temporarily for purposes of legal review only](#))

**Sec. 70-45. Requirements for a special event license.**

- (a) Application; time limit. Application for a special event license shall be submitted to the city clerk at least 45 calendar days prior to the event. The time limit may be waived by the police chief or designee upon submission of proof of extreme hardship on the part of the applicant.
- (b) Consent. All applications shall be accompanied by the written consent of 60 percent of property owners or tenants (if the property is not owner-occupied) of property adjacent to the portion of the public street, sidewalk, alley, or property sought to be used for the special event. If it is not practicable to obtain the written consent of 60 percent of property owners or tenants for special events larger than three city blocks in length, the city council may waive the consent requirement upon a written petition submitted to the police chief, which petition sets forth why the written consent of 60 percent of property owners or tenants is not practicable. The police chief shall then forward the petition to the

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<sup>102</sup> **Sec. 70-44. Exceptions.** Subsection (c) from Ord. No. 21-2485 is inserted in this draft temporarily for legal review purposes only. The ordinance still needs to be formally codified.

city council for its consideration. No license shall be granted without such consent being filed with the police department unless waived by the city council as provided above.

- (c) Insurance. All applications shall be accompanied by evidence in the form of a properly executed certificate of insurance that the city is protected as an additional insured under a comprehensive public liability insurance policy against all liability or claims which might arise out of the holding the special event, the insurance coverage to be in the amounts not less than \$100,000.00 for bodily injury for each person and \$300,000.00 for each occurrence, \$50,000.00 with respect to property damage. Said licensee shall obtain and keep in full force and effect proper insurance coverage against any liability for injury sustained by any persons operating said licensed activities, as required under the provisions of the Workers' Compensation Act of the State of Minnesota.
- (d) Indemnity agreement. Applications shall be accompanied by either:
  - (1) A written agreement by the person or persons seeking the license that he, she or they will defend, hold harmless and indemnify the city, its employees, agents and officers against all claims, demands, actions or causes of action of whatsoever nature or character arising out of or by the special event, which by agreement shall also provide for the repair of or payment for damages to public property; or
  - (2) Evidence in the form of a properly executed certificate of casualty and property damage insurance which will insure all public or city property within the area of the special event loss. This certificate shall be accompanied by a written agreement that the person(s) will indemnify the city up to the amount of any deductible applicable to such casualty and property damage insurance; or
- (e) Review and recommendation. Each application for a license shall be routed to or referred to a committee consisting of representatives from the departments of fire, police, community standards, parks and recreation, planning and public works for its review and recommendation as to whether the requested use will unnecessarily interfere with public travel on the street or alley proposed to be used and if there are other health and safety issues which need to be addressed. Such committee may also recommend terms and conditions necessary in its judgment to protect the public peace, health and safety, including limiting the portion of the street or alley that may be used for the event, the hours thereof, and the type and number of blockades or warning devices that are to be provided for the safety of motorists and the protection of those persons participating in the special event.
- (f) Every application shall include the recommendation of the police chief or designee. The police chief or designee shall promptly report the recommendation to the city clerk and any grounds for denial or revocation shall be in writing. Notice shall be sent by the city clerk by regular mail to the applicant upon a denial informing the applicant of the right to appeal to the city council within 20 days. If an appeal to the city council is timely received by the city clerk, the hearing before a hearing officer shall take place within a reasonable period of receipt of the appeal by the city clerk.
- (g) Notification. The committee shall have discretion to require the applicant to give notice to any property owner or organization which may be affected by such special event and/or to any neighborhood or community-based organization through or in whose organizational area the special event may take place.
- (h) Nothing shall prohibit the requirement of the conditional use permit process should the scope of the special event go beyond the customary use of the property as determined by the committee.
- (i) The city clerk shall be so informed once the committee review is complete and if the recommendation is satisfactory and all conditions are met the city manager or designee shall issue the license. If the

special event is to be located in a regional recreational zoned district the license request shall be forwarded to the city council for approval.

( <ulink class="ordbank" print="yes"  
url="http://newords.municode.com/readordinance.aspx?ordinanceid=771556&datasource=ordbank"  
web="yes">Ord. No. 16-2350, 5-19-2016 </ulink>)

**Sec. 70-46. Issuance of license; conditions.**

- (a) The committee shall have the power to recommend and the council, upon notice and hearing, shall have the power to impose reasonable conditions upon any license issued under this chapter in response to multiple resident complaints about the orderliness, safe operation and impact on the surrounding neighborhood of any special event. Such conditions may include, but are not limited to, time, manner and place restrictions on the sale of alcoholic beverages, the furnishing by the applicant(s) of security services for the event and restrictions on the location and use of loudspeakers. In deciding whether or not to impose conditions, the council may consider the hardship to the special event organizers in meeting the conditions before the event. Nothing herein shall be construed to allow noncompliance with section 50-203. Prohibited noises and acts.
- (b) The City shall reserve the right to modify the conditions of the special event license as in response to complaints or as traffic, security, or other needs change.

( <ulink class="ordbank" print="yes"  
url="http://newords.municode.com/readordinance.aspx?ordinanceid=771556&datasource=ordbank"  
web="yes">Ord. No. 16-2350, 5-19-2016 </ulink>)

**Sec. 70-47. Trash management and recycling management/recycling required.**

The purpose of this section is to ensure proper trash management and have recycling options that are proportional to trash collection services.

- (1) Any person or organization holding a special event must provide and pay for the collection and proper disposal of recyclable material separate from non-recyclable materials through the city's provider. Recyclable materials may include but are not limited to: metal, glass or plastic food and beverage containers, corrugated cardboard, boxboard, plastic film or other packaging, or miscellaneous paper.
- (2) Arrangements must be made for the delivery of all recyclable material to a valid recyclable materials processing facility, transfer station or drop off center promptly after completion of the special event. Where applicable, arrangements must be made for the delivery of all organic materials to an appropriate organic materials processing facility or transfer station.

( <ulink class="ordbank" print="yes"  
url="http://newords.municode.com/readordinance.aspx?ordinanceid=771556&datasource=ordbank"  
web="yes">Ord. No. 16-2350, 5-19-2016 </ulink>)

**Sec. 70-48. Violation; penalty.**

- (a) Any person who violates any provision of this chapter or who violates any condition or requirement of a license issued pursuant to this chapter shall be guilty of a misdemeanor.
- (b) Licenses issued under false pretenses shall be immediately revoked.
- (c) Ability to reapply. Any applicant who has violated any of the provisions of this chapter shall not be eligible to apply for a new license for a period of two years following the expiration or termination of the applicant's last previous license or from the date of any event that did not have a license.

( <ulink class="ordbank" print="yes"  
url="http://newords.municode.com/readordinance.aspx?ordinanceid=771556&datasource=ordbank"  
web="yes">Ord. No. 16-2350, 5-19-2016 </ulink>; <ulink class="ordbank" print="yes"  
url="http://newords.municode.com/readordinance.aspx?ordinanceid=850333&datasource=ordbank"  
web="yes">Ord. No. 17-2381 </ulink>, 9-21-2017)

**Sec. 70-49. Duties of special event coordinator.**

- (a) The licensee hereunder shall comply with all license directions and conditions and with all applicable laws and ordinances and shall designate a special event coordinator for the event. The special event coordinator or any other person designated as heading or leading such activity shall carry the special event license upon his or her person during the entire special event.
- (b) Within the two-hour period immediately following the end of the special event, the special event coordinator will ensure clean up, removal and disposal of all litter or material of any kind which is placed or left on public, commercial, regional recreational or industrial zoning or land uses property due to such special event. Should the special event coordinator fail to do so, the city will bill the special event coordinator for all costs related to the clean-up, removal and disposal of litter left on the public, commercial, regional recreational or industrial zoning or land uses property due to such special event. If the special event coordinator fails to satisfy this obligation within the time specified in the invoice, the city will commence all appropriate legal action to collect all debts owed the city. In addition, no future applications will be considered until all obligations are satisfied.
- (c) No parking sign posting fee. If the posting of temporary "No Parking" signs along a parade or race route is required, applicants seeking a parade/race license for a parade or race must additionally pay fees that shall be set time to time by resolution of the city council.
- (d) Required undertakings. In addition to information required the applicant will, without expense to the city, undertake the following:
  - (1) The applicant will provide either authorized civilian personnel, if applicable, or police personnel through the city police department reimbursable police services at all intersections requiring traffic-control personnel.
  - (2) The applicant will provide volunteers to monitor the barricades at all intersections not requiring traffic-control personnel, as determined by the department of public works and the police department.
  - (3) The applicant will provide, install and remove the barricades, signs and delineation equipment as directed by either the director of public works or the chief of police or their designees.

- (4) The applicant will defend and hold the city harmless from all claims, demands, actions or causes of action, of whatsoever nature or character, arising out of or by reason of the conduct of the activity authorized by such license, including attorney fees and expenses.

( <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=771556&datasource=ordbank" web="yes">Ord. No. 16-2350, 5-19-2016 </ulink>)

**Sec. 70-50. Notice to abutting property owners.**

- (a) This section shall apply only to special events involving bicycle racing, foot racing, race walking, wheelchair racing, rollerblading, marathons and jogging events.
- (b) Upon issuance of a special event license for an event described in section 70-41 the special event coordinator shall notify all occupants and building managers of property abutting the parade/race route by leaflet at least 48 hours, but not more than seven days, before the parade/race.
- (c) In the case of a residential building containing three units or less, a leaflet shall be distributed to each unit. In the case of a residential building or facility containing more than three units, a leaflet shall be prominently posted in the lobby or common entryway. Leaflets shall also be distributed to nonresidential abutting properties.
- (d) The leaflet shall briefly describe the nature of the parade/race, shall identify the name and telephone number of the special event coordinator and the date and time of the parade/race, shall contain a map of the route, and shall describe all restrictions upon traffic and parking on or crossing the parade/race route.
- (e) Prior to distribution of the leaflet, the applicant shall file a copy of the leaflet with the city clerk.

( <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=771556&datasource=ordbank" web="yes">Ord. No. 16-2350, 5-19-2016 </ulink>)

**Secs. 70-51—70-59. Reserved.**

**ARTICLE III. PUBLIC RIGHT-OF-WAY MANAGEMENT**

[Sec. 70-60. Findings, purpose, and intent.](#)

[Sec. 70-61. Election to manage the public rights-of-way.](#)

[Sec. 70-62. Definitions.](#)

[Sec. 70-63. Administration.](#)

[Sec. 70-64. Registration and right-of-way occupancy.](#)

[Sec. 70-65. Right to occupy rights-of-way.](#)

[Sec. 70-66. Franchise; franchise supremacy.](#)

[Sec. 70-67. Registration information.](#)

[Sec. 70-68. Reporting obligations.](#)



Sec. 70-69. Permit requirement.

Sec. 70-70. Permit applications.

Sec. 70-71. Issuance of permit; conditions.

Sec. 70-72. Action on small wireless facility permit applications.

Sec. 70-73. Permit fees.

Sec. 70-74. Right-of-way patching and restoration.

Sec. 70-75. Joint applications.

Sec. 70-76. Supplementary applications.

Sec. 70-77. Other obligations.

Sec. 70-78. Denial of permit.

Sec. 70-79. Installation requirements.

Sec. 70-80. Inspection.

Sec. 70-81. Work done without a permit.

Sec. 70-82. Supplementary notification.

Sec. 70-83. Revocation of permits.

Sec. 70-84. Mapping data.

Sec. 70-85. Location and relocation of facilities.

Sec. 70-86. Pre-excavation facilities location.

Sec. 70-87. Damage to other facilities.

Sec. 70-88. Right-of-way vacation.

Sec. 70-89. Indemnification and liability.

Sec. 70-90. Abandoned and unusable facilities.

Sec. 70-91. Appeal.

Sec. 70-92. Reservation of regulatory and police powers.

Sec. 70-93. Transit amenities.

Sec. 70-94. Newspaper vending machines.

Sec. 70-95. Severability.

Sec. 70-96. Penalties for violation of section.

<sup>103</sup>**Sec. 70-60. Findings, purpose, and intent.**

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

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<sup>103</sup> **Sec. 70-60. Findings, purpose, and intent.** Unnecessary text should be stricken as shown.

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

This chapter shall be interpreted consistently with ~~state statutes 1997 Session Laws, Chapter 123, substantially codified in Minn. Stat. §§ 237.16, 237.162, 237.163, 237.79, 237.81, and 238.086 (the "Act") and 2017 Minn. Laws, ch. 94, art. 9, amending the Act, the other laws~~ governing applicable rights of the city and users of the right-of-way. This chapter shall also be interpreted consistent with Minnesota Rules 7819.0050—7819.9950 and Minn. R., ch. 7560 where possible. To the extent any provision of this chapter cannot be interpreted consistently with the Minnesota Rules, that interpretation most consistent with the Act and other applicable statutory and case law is intended. This chapter shall not be interpreted to limit the regulatory and police powers of the city to adopt and enforce general ordinances necessary to protect the health, safety and welfare of the public.

(Ord. No. 13-2264, 6-6-2013; <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=863775&datasource=ordbank" web="yes">Ord. No. 17-2390 </ulink>, 12-7-2017)

#### **Sec. 70-61. Election to manage the public rights-of-way.**

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

(Ord. No. 13-2264, 6-6-2013)

#### <sup>104</sup>**Sec. 70-62. Definitions.**

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

*Abandoned facility* means a facility no longer in service or physically disconnected from a portion of the operating facility, or from any other facility, that is in use or still carries service.

*Applicant* means any person requesting permission to excavate or obstruct a right-of-way.

~~*City* means the City of Blaine, Minnesota, its elected officials, officers, employees and/or agents.~~

*Collocate* or *collocation* means to install, mount, maintain, operate, or replace a small wireless facility on, under, or adjacent to an existing wireless support structure or utility pole that is owned privately, or by the city or other government unit.

*Commission* means the state public utilities commission.

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<sup>104</sup> **Sec. 70-62. Definitions.** Definitions duplicative of chapter 1 definitions should be stricken as shown.

*Congested right-of-way* means a crowded condition in the subsurface of the public right-of-way that occurs when the maximum lateral spacing between existing underground facilities does not allow for construction of new underground facilities without using hand digging to expose the existing lateral facilities in conformance with Minn. Stat. § 216D.04, subd. 3, over a continuous length in excess of 500 feet.

*Construction performance bond* means any of the following forms of security provided at permittee's option:

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

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

*Degradation cost* subject to Minnesota Rule 7819.1100 means the cost to achieve a level of restoration, as determined by the city at the time the permit is issued, not to exceed the maximum restoration shown in plates 1 to 13, set forth in Minnesota Rules parts 7819.9900 to 7819.9950.

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

*Department* means the public services department of the city.

*Department inspector* means any person authorized by the city to carry out inspections related to the provisions of this section.

*Director* means the public services manager or director of public works of the city, or the city's designee.

*Delay penalty* means the penalty imposed as a result of unreasonable delays in right-of-way excavation, obstruction, patching, or restoration as established by permit.

*Emergency* means a condition that poses a danger to life or health; or of a significant loss of property; or requires immediate repair or replacement of facilities in order to restore service to a customer.

*Equipment* means any tangible asset used to install, repair, or maintain facilities in any right-of-way.

*Excavate* means to dig into or in any way remove or physically disturb or penetrate any part of a right-of-way except horticultural practices of penetrating the boulevard area to a depth of 12 inches or less.

*Excavation permit* means the permit which, pursuant to this chapter, must be obtained before a person may excavate in a right-of-way. An excavation permit allows the holder to excavate that part of the right-of-way described in such permit. Overhead facilities, including setting utility service poles, do not require an excavation permit.

*Excavation permit fee* means money paid to the city by an applicant to cover the costs as provided in section 70-73.

*Facility or facilities* means any tangible asset, including equipment, that is located in the right-of-way, including facilities placed underground ("underground facilities") and facilities installed above the ground, which may include, but is not limited to poles, utility cabinets, towers, wires, and related attachments, including anchors and foundations, transit amenities and gas district regulator stations ("overhead facilities").

*High density corridor* means a designated portion of the public right-of-way within which telecommunications right-of-way users having multiple and competing facilities may be required to build and install facilities in a common conduit system or other common structure.

*Hole* means an excavation in the pavement, with the excavation having a length less than the width of the pavement.

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

*Management costs* means the actual costs the city incurs in managing its rights-of-way, including such costs, if incurred, as those associated with registering applicants; issuing, processing, and verifying right-of-way permit applications; inspecting job sites and restoration projects; maintaining, supporting, protecting, or moving user facilities during right-of-way work; determining the adequacy of right-of-way restoration; restoring work inadequately performed after providing notice and the opportunity to correct the work; and revoking right-of-way permits. Management costs do not include payment by a telecommunications right-of-way user for the use of the right-of-way, the fees and cost of litigation relating to the interpretation of Minnesota Session Laws 1997, Chapter 123; Minn. Stat. §§ 237.162 or 237.163; or any ordinance enacted under those sections, or the city fees and costs related to appeals taken pursuant to section 70-91 of this chapter.

*Micro wireless facility* means a small wireless facility that is no longer than 24 inches long, 15 inches wide, and 12 inches high, and whose exterior antenna, if any, is no longer than 11 inches.

*Newspaper vending machine* means any device designed for and used to hold and dispense newspapers or other printed publications.

*Obstruct* means to place any tangible object in a right-of-way so as to hinder free and open passage over that or any part of the right-of-way.

*Obstruction permit* means the permit which, pursuant to this chapter, must be obtained before a person may obstruct a right-of-way, allowing the holder to hinder free and open passage over the specified portion of that right-of-way, for the duration specified therein. Obstruction permits are required to install overhead facilities.

*Obstruction permit fee* means money paid to the city by a permittee to cover the costs as provided in section 70-73.

*Patch or patching* means a method of pavement replacement that is temporary in nature. A patch consists of the compaction of the subbase and aggregate base, and the replacement, in kind, of the existing pavement for a minimum of two feet beyond the edges of the excavation in all directions. A patch is considered full restoration only when the pavement is included in the city's five-year project plan.

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

*Permit* has the meaning given "right-of-way permit" in Minn. Stat. § 237.162.

*Permittee* means any person to whom a permit to excavate or obstruct a right-of-way has been granted by the city under this chapter.

~~*Person* means an individual or entity subject to the laws and rules of this state, however organized, whether public or private, whether domestic or foreign, whether for profit or nonprofit, and whether natural, corporate, or political.~~

*Probation* means the status of a person that has not complied with the conditions of this article.

*Probationary period* means one year from the date that a person has been notified in writing that they have been put on probation.

*Public right-of-way* or *right-of-way* means the area on, below, or above a public roadway, highway, street, cartway, bicycle lane or public sidewalk in which the city has an interest, including other dedicated rights-of-way for travel purposes and utility easements of the city. A right-of-way does not include the airwaves above a right-of-way with regard to cellular or other nonwire telecommunications or broadcast service. Public grounds and property are also considered "public right-of-way" for purposes of this chapter with respect to "telecommunications right-of-way users".

*Registrant* means any person who has or seeks to have its equipment or facilities located in any right-of-way, or in any way occupy or uses, or seeks to occupy or use, the right-of-way or place its facilities or equipment in the right-of-way.

*Restore* or *restoration* means the process by which an excavated right-of-way and surrounding area, including pavement and foundation, is returned to the same condition and life expectancy that existed before excavation.

*Restoration cost* means the amount of money paid to the city by a permittee to achieve the level of restoration according to plates 1 to 13 of Minnesota Public Utilities Commission rules.

*Right-of-way permit* means the excavation permit, obstruction permit, small wireless facility permit, or conditional/special use permit, or any combination thereof, depending on the context, required by this article.

*Right-of-way user* means:

- (1) A telecommunications right-of-way user as defined by Minn. Stat. § 237.162, subd. 4.
- (2) A person or entity owning or controlling a facility in the right-of-way that is used or intended to be used for providing a service, and who has a right under law, franchise, or ordinance to use the public right-of-way, including persons or entities who have installation and maintenance responsibilities by contract, lease, sublease, or assignment.
- (3) A person or entity owning or controlling a facility in the right-of-way that is used or intended for something other than providing utility service, including persons who have installation and maintenance responsibilities by contract, lease, sublease, or assignment.

*Service* includes:

- (1) Those services provided by a public utility as defined in Minn. Stat. § 216B.02, subds. 4 and 6;
- (2) Services of a telecommunications right-of-way user, including transporting of voice or data information;
- (3) Services of a cable communications systems as defined in Minn. Stat. ch. 238;
- (4) Natural gas or electric energy or telecommunications services provided by the city;

- (5) Services provided by a cooperative electric association organized under Minn. Stat. ch. 308A; and
- (6) Water, and sewer, including service laterals, steam, cooling or heating services.

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

*Small wireless facility* means a wireless facility that meets both of the following qualifications: (1) each antenna is located inside an enclosure of no more than six cubic feet in volume or could fit within such an enclosure; and (2) all other wireless equipment associated with the small wireless facility provided such equipment is, in aggregate, no more than 28 cubic feet in volume, not including electric meters, concealment elements, telecommunications demarcation boxes, battery backup power systems, grounding equipment, power transfer switches, cutoff switches, cable conduit, vertical cable runs for the connection of power and other services, and any equipment concealed from public view within or behind an existing structure or concealment.

*Small wireless facility permit* means the permit which, pursuant to this article, must be obtained before a person may install, place, maintain, or operate a small wireless facility in a public right-of-way to provide wireless service. A small wireless facility permit allows the holder to conduct such activities in that part of the right-of-way described in such permit. A small wireless facility permit does not authorize (1) providing any service other than a wireless service, or (2) installation, placement, maintenance, or operation of a wireline backhaul facility in the right-of-way.

*Small wireless facility permit fee* means money paid to the city by a permittee to cover the costs as provided in section 70-73.

*Supplementary application* means an application made to excavate or obstruct more of the right-of-way than allowed in, or to extend or supply additional information to, a permit that had already been submitted or issued.

*Telecommunication right-of-way user* means a person owning or controlling a facility in the right-of-way, or seeking to own or control a facility in the right-of-way, that is used or is intended to be used for transporting telecommunication or other voice or data information. Telecommunications right-of-way users must obtain an obstruction permit before a person may install, operate, or maintain facilities in the right-of-way. For purposes of this chapter, a cable communication system defined and regulated under Minn. Stat. ch. 238, and telecommunication activities related to providing natural gas or electric energy services whether provided by a public utility as defined in Minn. Stat. § 16B.02, a municipality, a municipal gas or power agency organized under Minn. Stat. chs. 453 and 453A, or a cooperative electric association organized under Minn. Stat. ch. 308A, are not telecommunications right-of-way users for purposes of this article except to the extent such entity is offering wireless service.

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

*Transit amenity* means a bus shelter or bench, with or without advertising, constructed and maintained at a designated transit stop along a public street, located on a public boulevard, for the convenience and comfort of persons waiting for buses or other transit vehicles.

*Trench* means an excavation in the pavement, with the excavation having a length equal to or greater than the width of the pavement.

*Two-year project plan* shows projects adopted by the city for construction within the next two years.

*Utility originated projects* means planned projects for replacement of existing facilities as a result of obsolescence, deterioration or to increase capacity or new projects to improve service or capacity. Projects to provide direct service within new developments are not included.

*Utility pole* means a pole that is used in whole or in part to facilitate telecommunications or electric service.

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

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

*Wireless support structure* means a new or existing structure in a right-of-way designed to support or capable of supporting small wireless facilities, as reasonably determined by the city.

*Wireline backhaul facility* means a facility used to transport communications data by wire from a wireless facility to a communications network.

*Work in right-of-way permit* means a permit, on a form issued by the city, for minor work in the right-of-way typically done by private property owners or their contractors. This includes such work as mailbox banks, driveways or sewer and water utility service repairs and installations.

(Ord. No. 13-2264, 6-6-2013; <http://newords.municode.com/readordinance.aspx?ordinanceid=863775&datasource=ordbank> web="yes">Ord. No. 17-2390 <http://newords.municode.com/readordinance.aspx?ordinanceid=929709&datasource=ordbank> web="yes">18-2421 <http://newords.municode.com/readordinance.aspx?ordinanceid=929709&datasource=ordbank> web="yes">12-20-2018)

#### **Sec. 70-63. Administration.**

The city may designate a principal city official responsible for the administration of the rights-of-way, right-of-way permits, and the ordinances related thereto. The city may delegate any or all of the duties hereunder.

(Ord. No. 13-2264, 6-6-2013)

#### **Sec. 70-64. Registration and right-of-way occupancy.**

- (a) *Registration.* Each person who occupies or uses, or seeks to occupy or use, the right-of-way or any facilities located in the right-of-way or place any equipment or facilities in or on the right-of-way, including persons with installation and maintenance responsibilities by lease, sublease or assignment, must register with the city. Registration will consist of providing application information to and as required by the city and paying a registration fee. If the work is to be performed by agent, contractor

or subcontractor on behalf of a registrant, such application shall also be signed or preauthorized by the registrant.

- (b) *Registration prior to work.* No person may construct, install, repair, remove, relocate, or perform any other work on, or use any facilities or any part thereof, in any right-of-way without first being registered with the city.
- (c) *Exceptions.* Persons engaged in the following activities in the right-of-way are not deemed to use or occupy the right-of-way, and are not governed by this section, but may be governed by other City Code of Ordinance sections or permit requirements such as a work in right-of-way permit.
  - (1) Planting or maintaining boulevard plantings in the right-of-way between their property and the street curb, subject to section 82-233, Intersection sight distance triangle, of the City Code of Ordinances.
  - (2) Installing non-vegetative landscaping items such as blocks, bricks, timber or rocks to a height of 12 inches or less above the existing ground.
  - (3) Installing, modifying or replacing private driveways. These activities may require a separate work in the right-of-way permit and are subject to the conditions of that permit.
  - (4) Installing, modifying, repairing or replacing private sewer and water services. These activities do require a separate work in the right-of-way permit and are subject to the conditions of that permit.
  - (5) Installing private irrigation systems or pet containment systems.
  - (6) Installing mail boxes or newspaper delivery boxes on a stand consisting of a post no larger than four inches by four inches.
  - (7) Federal, state county and city agencies.
  - (8) Persons installing newspaper vending machines must comply with section 70-94 of this article.

However, nothing herein relieves a person from complying with the provisions of the Minn. Stat. ch. 216D, Gopher One Call Law.

If, for any reason, the city or its agents needs to perform work in the right-of-way, the owner may be required, at their expense, to remove any structures, landscaping or boulevard plantings and visibly mark any private irrigation or pet containment systems located within the right-of-way within seven days of being notified. Any expenses or damages arising from the work and subsequent removal and replacement of any structures, landscaping or boulevard plantings, or damages to unmarked irrigation and pet containment systems within the right-of-way is the sole responsibility of the owner

- (d) *Franchise agreement.* Any service or utility provided by a person under a franchise with the city shall register pursuant to this section, but need not provide the registration information required by section 70-64 if such information has been received by the city in the administration of the franchise agreement.

(Ord. No. 13-2264, 6-6-2013; <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=863775&datasource=ordbank" web="yes">Ord. No. 17-2390 </ulink>, 12-7-2017)

#### **Sec. 70-65. Right to occupy rights-of-way.**

- (a) *Payment of fees.* Any person required to register under section 70-64 which occupies, uses or places its equipment in the right-of-way is hereby granted a right to do so if and only so long as it timely pays



all fees as provided herein and complies with all other requirements of law, to be determined in the sole opinion of the city.

- (b) *Conditions.* The grant of such right is expressly conditioned on and is subject to the police powers of the city, continuing compliance with all provisions of law now or hereinafter enacted, including this chapter as it may be amended from time to time and further, is specifically subjected to the obligation to obtain any and all additional required authorizations whether from the city or other body or authority.

(Ord. No. 13-2264, 6-6-2013)

**Sec. 70-66. Franchise; franchise supremacy.**

The city may, in addition to the requirements of this chapter, require any person which has or seeks to have facilities located in any right-of-way to obtain a franchise to the full extent permitted by law now or hereinafter enacted. The terms of any franchise which are in direct conflict with any provision of this chapter whether granted prior or subsequent to enactment of this chapter, shall control and supersede the conflicting terms of this chapter. All other terms of this chapter shall be fully applicable to all persons whether franchised or not.

(Ord. No. 13-2264, 6-6-2013)

**Sec. 70-67. Registration information.**

- (a) *Information required.* The information provided to the city at the time of registration shall include, but not be limited to:

- (1) Each registrant's name, Gopher One Call registration certificate number, address and 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 accessible for consultation at all times. Current information regarding how to contact the local representative in an emergency shall be provided at the time of registration.
- (3) A certificate of insurance or self-insurance:
  - a. Verifying that an insurance policy has been issued to the registrant by an insurance company licensed to do business in the State of Minnesota, or a form of self-insurance acceptable to the city;
  - b. Verifying that the registrant is insured against claims for personal injury, including death, as well as claims for property damage arising out of the:
    1. Use and occupancy of the right-of-way by the registrant, its officers, agents, employees and permittees, and
    2. Placement and use of facilities and equipment in the right-of-way by the registrant, its officers, agents, employees and permittees, including, but not limited to, protection against liability arising from completed operations, damage of underground facilities and collapse of property;

- c. Naming the city as an additional insured as to whom the coverages required herein are in force and applicable and for whom defense will be provided as to all such coverages;
- d. Requiring that the city be notified 30 days in advance of cancellation of the policy or material modification of a coverage term; and
- e. Indicating comprehensive liability coverage, automobile liability coverage, workers compensation and umbrella coverage established by the city in amounts sufficient to protect the city and the public and to carry out the purposes and policies of this chapter.

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

<sup>105</sup>(5) If the person is a corporation, a copy of the certificate is required to be filed under M.S.A. § 47.14 et seq. ~~Minn. Stat. § 300.06~~ as recorded and certified to by the secretary of state.

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

(7) Such other information as the city may require.

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

(Ord. No. 13-2264, 6-6-2013)

#### **Sec. 70-68. Reporting obligations.**

(a) *Operations.* Each registrant shall, at the time of registration and by December 1 of each year, file a construction and major maintenance plan for service originated projects with the city. Registrants must use commercially reasonable efforts to anticipate and plan for all upcoming projects and include all such projects in a construction or major maintenance plan. Such plan shall be submitted using a format designated by the city and shall contain the information determined by the city to be necessary to facilitate the coordination and reduction in the frequency of excavations and obstructions of rights-of-way.

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

- (1) The locations and the estimated beginning and ending dates of all projects to be commenced during the next calendar year (in this section, a "next-year project"); and
- (2) To the extent known, the tentative locations and estimated beginning and ending dates for all projects contemplated for the five years following the next calendar year (in this section, a "five-year project").
- (3) The term "project" in this section shall include both next-year projects and five-year projects.

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

Thereafter, by February 1, each registrant may change any project in its list of next-year projects, and must notify the city and all other registrants of all such changes in said list. Notwithstanding the

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<sup>105</sup> **Sec. 70-67. Registration information.** The cited statute was repealed effective August 1, 2006. See suggested correction.

foregoing, a registrant may at any time join in a next-year project of another registrant listed by the other registrant.

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

(Ord. No. 13-2264, 6-6-2013; <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=863775&datasource=ordbank" web="yes">Ord. No. 17-2390 </ulink>, 12-7-2017)

#### **Sec. 70-69. 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 right-of-way permit from the city to do so.

- (1) *Excavation permit.* An excavation permit is required by a registrant to excavate that part of the right-of-way described in such permit and/or 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. Excavation permits are not required for overhead facilities, including installation of poles for utility services.
- (2) *Obstruction permit.* An obstruction permit is required by a registrant to hinder free and open passage over the specified portion of right-of-way by placing equipment, facilities, vehicles or other obstructions 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.

An obstruction permit may not be required for obstructions of eight hours or less for the purpose of repairing or maintaining previously installed facilities. An obstruction permit is required by a registrant to install overhead or above-ground facilities in a public right-of-way, including excavation of holes for the installation of supporting poles and structures.

- (3) *Small wireless facility permit.* A small wireless facility permit is required by a registrant to erect or install a wireless support structure, to collocate a small wireless facility, or to otherwise install a small wireless facility in the specified portion or the right-of-way, to the extent specified therein, provided that such permit shall remain in effect for the length of time the facility is in use, unless lawfully revoked. No small wireless facility permit is required to solely conduct (1) routine maintenance of a small wireless facility; (2) replacement of a small wireless facility with a new facility that is substantially similar or smaller in size, weight, height, and wind or structural loading than the small wireless facility being replaced; or (3) installation, placement, maintenance, operation, or replacement of micro wireless facilities that are suspended on cables strung between existing utility poles in compliance with national safety codes, however, a service provider is required to make written notice of such activities to the city if the work will obstruct a public right-of-way.
- (4) *Special/conditional use permit.* A special or conditional use permit is required to install a new wireless support structure for the siting of a small wireless facility in a right-of-way in a district or area that is zoned for single-family residential use or within a historic district established by federal or state law or city ordinance as of the date of application for a small wireless facility permit.

(b) *Permit extensions.* No person may excavate or obstruct the right-of-way beyond the date or dates specified in the permit unless:

- (1) Such person makes a supplementary application for another right-of-way permit before the expiration of the initial permit, and
- (2) A new permit or permit extension is granted.

(c) *Delay penalty.* In accordance with Minnesota Rule 7819.1000 subp. 3, and notwithstanding subsection (b) of this section, the city shall establish and impose a delay penalty for unreasonable delays in right-of-way excavation, obstruction, patching, or restoration. The delay penalty shall be established from time to time by city council ordinance. A delay penalty shall not be imposed if the delay in project completion is due to force majeure, including inclement weather, labor disputes, acts of God or other circumstances beyond the control of the registrant, and recognizing registrant's need to respond to emergencies in other communities.

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

(Ord. No. 13-2264, 6-6-2013; <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=863775&datasource=ordbank" web="yes">Ord. No. 17-2390 </ulink>, 12-7-2017)

#### **Sec. 70-70. Permit applications.**

Application for a permit is made to the city. Right-of-way permit applications shall contain, and will be considered complete only upon compliance with, the requirements of the following provisions:

- (1) Registration with the city pursuant to this chapter;
- (2) Submission of a completed permit application form, including all required attachments, and scaled drawings showing the location and defined area of the proposed project and the location of all known existing and proposed facilities, as determinable from existing records, within the defined project area.
- (3) Payment of money due the city for:
  - a. Permit fees, estimated restoration costs and other management costs;
  - b. Prior obstructions or excavations;
  - c. Any undisputed loss, damage, or expense suffered by the city because of applicant's prior excavations or obstructions of the rights-of-way or any emergency actions taken by the city;
  - d. Franchise fees or other charges, if applicable.
- (4) Payment of disputed amounts due the city by posting security or depositing in an escrow account an amount equal to at least 110 percent of the amount owing.
- (5) Posting an additional or larger construction performance bond for additional facilities when applicant requests an excavation permit to install additional facilities and the city deems the existing construction performance bond inadequate under applicable standards.

(Ord. No. 13-2264, 6-6-2013)

**Sec. 70-71. Issuance of permit; conditions.**

- (a) *Permit issuance.* If the applicant has satisfied the requirements of this chapter, the city shall either issue a permit or provide reasons in writing for denial of the application.
- (b) *Conditions.* The city may impose reasonable conditions upon the issuance of the permit and the performance of the applicant thereunder to protect the health, safety and welfare or when necessary to protect the right-of-way and its current use. In addition, a permittee shall comply with all requirements of local, state, and federal laws, including but not limited to Minn. Stat. §§ 216D.01—216D.09 (Gopher One Call Excavation Notice System) and Minn. R., ch. 7560.
- (c) *Small wireless facility conditions.* In addition to subsection (b), the erection or installation of a wireless support structure, the collocation of a small wireless facility, or other installation of a small wireless facility in the right-of-way, shall be subject to the following conditions:
  - (1) A small wireless facility shall only be collocated on the particular wireless support structure, under those attachment specifications, and at the height indicated in the applicable permit application.
  - (2) No new wireless support structure installed within the right-of-way shall exceed 50 feet in height without the city's written authorization, provided that the city may impose a lower height limit in the applicable permit to protect the public health, safety and welfare or to protect the right-of-way and its current use, and further provided that a registrant may replace an existing wireless support structure exceeding 50 feet in height with a structure of the same height subject to such conditions or requirements as may be imposed in the applicable permit.
  - (3) No wireless facility may extend more than ten feet above its wireless support structure.
  - (4) Where an applicant proposes to install a new wireless support structure in the right-of-way, the city may impose separation requirements between such structure and existing wireless support structure or other facilities in and around the right-of-way.
  - (5) Where an applicant proposes collocation on a decorative wireless support structure, sign or other structure not intended to support small wireless facilities, the city may impose reasonable requirements to accommodate the particular design, appearance or intended purpose of such structure.
  - (6) Where an applicant proposes to replace a wireless support structure, the city may impose reasonable restocking, replacement or relocation requirements on the replacement of such structure.
- (d) *Small wireless facility agreement.* A small wireless facility shall only be issued after the applicant has executed a standard small wireless facility collocation and lease agreement with the city. The standard collocation agreement may require payment of the following:
  - (1) Up to \$150.00 per year per site for rent to collocate on the city structure;
  - (2) Twenty-five dollars per year per site for maintenance associated with the collocation;
  - (3) If the provider obtains electrical service through the city, a monthly fee for electrical service as follows:
    - (a) Seventy-three dollars per radio node less than or equal to 100 maximum watts;
    - (b) One hundred eighty-two dollars per radio node over 100 maximum watts; or
    - (c) The actual costs of electricity, if the actual cost exceed the foregoing.

The standard collocation agreement shall be in addition to, and not in lieu of, the required small wireless facility permit provided, however, the applicant shall not be additionally required to obtain a



**Sec. 70-73. Permit fees.**

- (a) *Excavation permit fee.* The city shall establish an excavation permit fee in an amount sufficient to recover the following costs:
  - (1) The city management costs.
  - (2) Degradation costs, if applicable.
  - (3) Restoration, if done or caused to be done by the city.
- (b) *Obstruction permit fee.* The city shall establish the obstruction permit fee and shall be in an amount sufficient to recover the city costs allocated to obstruction permits.
- (c) *Small wireless facility permit fee.* The city shall impose a small wireless facility permit fee in an amount sufficient to recover:
  - (1) Management costs; and
  - (2) City engineering, make-ready, and construction costs associated with collocation of small wireless facilities.
- (d) *Conditional/special use permit fee.*
- (e) *Delay penalty.* The city may, at its discretion, establish and impose by ordinance of the city council a delay penalty for unreasonable delays in excavations or obstructions in the right-of-way. A delay penalty will not be imposed for delays due to force majeure, including inclement weather, labor disputes, acts of God, or other circumstances beyond the control of the applicant. Before imposing a delay penalty, the city will recognize and take into consideration the applicant's need to respond to emergencies in other communities or areas.
- (f) *Payment of permit fees.* No excavation permit, obstruction permit, small wireless facility permit, or conditional use permit shall be issued without payment of corresponding permit fees. Permittees that typically obtain large numbers of permits each year may request that permit fees be billed to the permittee quarterly rather than at the time of each individual permit application. Approval of any such request will be at the sole discretion of the city and subject to a billing agreement between the city and the permittee.
- (g) *Nonrefundable.* Permit fees that were paid for a permit that the city has revoked for a breach as stated in section 70-83 are not refundable. Any refunded permit fees shall be reduced by all city costs up to and including the date of refund.
- (h) *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.

(Ord. No. 13-2264, 6-6-2013; <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=863775&datasource=ordbank" web="yes">Ord. No. 17-2390 </ulink>, 12-7-2017)

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**Sec. 70-74. 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 section 70-77. The permittee must inspect the area of the work and use reasonable care to maintain the same condition for 12 months thereafter.
- (b) *Patch and restoration.* Permittee shall patch its own work. The city may choose either to have the permittee restore the right-of-way or to restore the right-of-way itself.
  - (1) *City restoration.* If the city restores the right-of-way, permittee shall pay the costs thereof within 30 days of billing. If, following such restoration, the pavement settles due to permittee's improper backfilling, the permittee shall pay to the city, within 30 days of billing, all costs associated with correcting the defective work.
  - (2) *Permittee restoration.* If the permittee restores the right-of-way itself, it shall at the time of application for an excavation permit post a construction performance bond in accordance with the provisions of Minnesota Rule 7819.3000. If, 12 months after completion of the restoration of the right-of-way, the city determines that the right-of-way has been properly restored, the surety on the performance bond shall be released.
  - (3) *Degradation fee in lieu of restoration.* In lieu of right-of-way restoration, a right-of-way user may elect to pay a degradation fee to cover city costs associated with a decrease in the useful life of a public right-of-way caused by excavation. However, the right-of-way user shall remain responsible for patching and the degradation fee shall not include the cost to accomplish these responsibilities.
- (c) *Standards.* The permittee shall perform excavation, backfilling, patching and restoration according to the standards and with the materials specified by the city and shall comply with Minnesota Rule 7819.1100.
- (d) *Duty to correct defects.* The permittee shall correct defects in patching or restoration performed by permittee or its agents and shall maintain it for 12 months following its completion. During this 12-month period it shall, upon notification from the city, correct all restoration work to the extent necessary using the method required by the city. When corrective work is necessary to restore service or to insure safety, work shall be completed within five days of the receipt of the notice from the city, not including days during which work cannot be done because of circumstances constituting force majeure or days when work is prohibited as unseasonal or unreasonable under section 70-77. Where corrective work is required, but is not necessary to restore service or to insure safety, work shall be done promptly upon receipt of notice.
- (e) *Failure to restore.* If the permittee fails to restore the right-of-way in the manner and to the condition required by the city, or fails to satisfactorily and timely complete all restoration required by the city, the city shall notify the permittee in writing of the specific alleged failure or failures, and shall allow the permittee ten days from the receipt of said written notice to cure said failure or failures, or to respond with a plan to cure. In the event the permittee fails to cure or fails to respond hereunder, the city at its option may perform the necessary work, and the permittee shall pay to the city, within 30 days of billing, the actual cost of restoring the right-of-way. If permittee fails to pay as required, the city may exercise its rights under the construction performance bond.



(Ord. No. 13-2264, 6-6-2013; <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=863775&datasource=ordbank" web="yes">Ord. No. 17-2390 </ulink>, 12-7-2017)

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#### **Sec. 70-75. Joint applications.**

- (a) *Joint application.* Registrants may jointly apply for permits to excavate or obstruct the right-of-way at the same place and time.
- (b) *Shared fees.* Registrants who apply for permits for the same obstruction or excavation, which the city does not perform, may share in the payment of the obstruction or excavation permit fee. In order to obtain a joint permit, registrants must agree among themselves as to the portion each will pay and indicate the same on their applications.
- (c) *With city projects.* Registrants who join in a scheduled obstruction or excavation performed by the city, whether or not it is a joint application by two or more registrants or a single application, are not required to pay the excavation or obstruction and degradation portions of the permit fee, but a permit would still be required.

(Ord. No. 13-2264, 6-6-2013; <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=863775&datasource=ordbank" web="yes">Ord. No. 17-2390 </ulink>, 12-7-2017)

~~Editor's note —<ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=863775&datasource=ordbank" web="yes">Ord. No. 17-2390 </ulink>, adopted Dec. 7, 2017, renumbered former § 70-74 as § 70-75.~~

#### **Sec. 70-76. 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.

(Ord. No. 13-2264, 6-6-2013; <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=863775&datasource=ordbank" web="yes">Ord. No. 17-2390 </ulink>, 12-7-2017)

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~~web="yes">Ord. No. 17-2390</ulink>, adopted Dec. 7, 2017, amended and renumbered former § 70-75~~  
~~as § 70-76.~~

**Sec. 70-77. Other obligations.**

- (a) *Compliance with other laws.* Obtaining a right-of-way permit does not relieve permittee of its duty to obtain all other necessary permits, licenses, and authority and to pay all fees required by the city or other applicable rule, law or regulation. A permittee shall comply with all requirements of local, state and federal laws, including but not limited to Minn. Stat. § 216D.01-.09 (Gopher One Call Excavation Notice System) and Minnesota Rules chapter 7560. A permittee shall perform all work in conformance with all applicable codes and established rules and regulations and is responsible for all work done in the right-of-way pursuant to its permit, regardless of who does the work.
- (b) *Prohibited work.* Except in an emergency, and with the approval of the city, no right-of-way obstruction or excavation may be done when seasonally prohibited or when conditions are unreasonable for such work.
- (c) *Interference with right-of-way.* A permittee shall not so obstruct a right-of-way that the natural free and clear passage of water through the gutters or other waterways shall be interfered with. Private vehicles of those doing work in the right-of-way may not be parked within or next to a permit area, unless parked in conformance with city parking regulations. The loading or unloading of trucks must be done solely within the defined permit area unless specifically authorized by the permit.
- (d) *Trenchless excavation.* As condition of all applicable permits, permittees employing trenchless excavation methods including but not limited to horizontal directional drilling shall follow all requirements set forth in Minn. Stat. ch. 216D and Minnesota Rules chapter 7560, and shall require potholing or open cutting over existing underground utilities before excavating, as determined by the director.
- (e) *Traffic control.* The permittee shall take appropriate measures to assure that during the performance of the work, traffic conditions as nearly normal and as practical shall be maintained at all times so as to cause as little inconvenience as possible to the occupants of the abutting property and to the general public. The city may permit the closing of streets to all traffic for a period of time prescribed by the city if, in the sole opinion of the city, such closure is necessary. The permittee shall implement traffic control measures and use traffic control procedures in accordance with the most recent manuals on uniform traffic control, traffic control devices and traffic zone layouts published by the Minnesota Department of Transportation. The following steps shall be taken before any roadway may be closed or restricted to traffic:
  - (1) The permittee must receive the approval of the city.
  - (2) The permittee must notify the chiefs of the police and fire departments, the school district transportation coordinator, the ambulance service serving the city, the metropolitan council transit operations, Anoka County Traveler Transportation Coordinator and the U.S. Post Office of any streets so closed or restricted.
  - (3) Upon completion of construction work the permittee shall notify the chiefs of the police and fire departments, the school district transportation coordinator, the ambulance service serving the city, the metropolitan council transit operations, Anoka County Traveler Transportation Coordinator

and the U.S. Post Office before traffic is moved back to its normal flow so that any necessary adjustments may be made.

- (f) *Access to fire stations and fire hydrants.* The work shall be performed and conducted so as not to unreasonably interfere with access to fire stations and fire hydrants. Materials or obstructions shall not be placed within 15 feet of fire hydrants or plugs, and passageways leading to fire escapes or fire fighting equipment shall be kept free of piles of material or other obstructions.
- (g) *Vehicular and pedestrian crossings.* The permittee shall erect and maintain suitable barriers to confine dirt from trenches or other excavations in order to prevent such dirt from encroaching upon roadways as much as possible. When necessary, the permittee shall construct and maintain adequate and safe crossings over excavations and across roadways under improvement to accommodate vehicular and pedestrian traffic at all street intersections. Vehicular and pedestrian crossings shall be constructed and maintained of adequate size and strength to safely accommodate vehicular and pedestrian traffic.
- (h) *Interference with utilities.* The permittee shall not unreasonably interfere with any existing utility without the written consent of the city and the utility company or person owning the utility. If it becomes necessary to remove an existing utility, it shall be done by its owner. No utility owned by the city shall be moved to accommodate the permittee unless the cost of such work is borne by the permittee.
- (i) *Pedestrian facilities.* When pedestrian facilities, such as sidewalks or trails, are impacted due to the work, pedestrian accommodations must be provided to the maximum extent feasible. These accommodations must have accessibility features up to the level of the disturbed route. Signage and devices, as necessary, must be provided to direct pedestrians safely through the work zone. If an existing pedestrian route is impacted by a short-term or short duration work zone that is attended with project personnel, establishing an alternate pedestrian route may not be necessary if the work can be stopped and pedestrians can navigate the work zone safely. Pedestrians may be delayed for a short period of time for project personnel to move equipment and material to facilitate passage. Project personnel may also assist pedestrians with disabilities.
- (j) *Protection of the public.* The permittee shall erect such barriers and provide such warning devices about the site of the excavation work as shall prevent danger to persons using the city street or sidewalks, and such protective barriers shall be maintained until the work shall be completed or the danger removed.
- (k) *Excavated material.* All material excavated from trenches and piled adjacent to the trench or any street shall be piled and maintained in such a manner as not to endanger those working in the trench, pedestrians, or users of the streets and so that as little inconvenience as possible is caused to those using streets and adjoining property. Appropriate protections must be utilized to prevent the migration of excavated materials caused by wind, water or other erosion means.
- (l) *Damage to existing improvements.* All damage done to existing improvements during the progress of the excavation work shall be repaired by the permittee. Materials for such repairs shall conform to the requirements of this Code.
- (m) *Clean up operations.* As the excavation work progresses, all streets and private property shall be thoroughly cleaned of all rubbish, excess earth, rocks, and other debris resulting from such work. All clean up operations at the location of such excavation shall be accomplished at the expense of the permittee and shall be completed to the satisfaction of the city.
- (n) *Private irrigation systems, invisible dog fences and landscaping.* Any damage done to existing private irrigation systems, invisible dog fences and landscaping during the progress of the project shall be

repaired by the permittee at their expense and shall be completed to the satisfaction of the city. The permittee shall protect the root growth of significant trees both in and adjacent to the right-of-way.

- (o) *Property corners and monuments.* The permittee shall replace, with the services of a Minnesota licensed land surveyor, any property corners or monuments disturbed as a result of the project.
- (p) *Notification.* The permittee must provide 48-hour written notice to abutting property owners before commencement of any project work that may disrupt the use of and access to the abutting property.

(Ord. No. 13-2264, 6-6-2013; <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=863775&datasource=ordbank" web="yes">Ord. No. 17-2390 </ulink>, 12-7-2017)

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#### Sec. 70-78. Denial of permit.

- (a) *Reasons for denial.* The city may deny a permit for failure to meet the requirements and conditions of this chapter or if the city determines that the denial is necessary to protect the health, safety, and welfare or when necessary to protect the right-of-way and its current use. The city may deny a permit if the utility has failed to comply with previous permit conditions. The city may withhold issuance of a permit until the applicant is in compliance with the conditions of a previous permit.
- (b) *Procedural requirements.* The denial of a right-of-way permit must be made in writing and must document the basis for the denial. The city must notify the applicant or right-of-way user in writing within three business days of the decision to deny a permit. If an application is denied, the right-of-way user may cure the deficiencies identified by the city and resubmit its application. If the application is resubmitted within 30 days of receipt of the notice of denial, no additional application fee shall be imposed. The city must approve or deny the resubmitted application within 30 days after submission.

(Ord. No. 13-2264, 6-6-2013; <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=863775&datasource=ordbank" web="yes">Ord. No. 17-2390 </ulink>, 12-7-2017)

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#### Sec. 70-79. Installation requirements.

The excavation, backfilling, patching and restoration, and all other work performed in the right-of-way shall be done in conformance with Minnesota Rules 7819.1100 and 7819.5000 and other applicable local requirements, in so far as they are not inconsistent with the Minn. Stat. §§ 237.162 and 237.163. Installation of service laterals shall be performed in accordance with Minnesota Rules chapter 7560 and these ordinances. Service lateral installation is further subject to those requirements and conditions set

forth by the city in the applicable permits, city specifications, city design standards and/or agreements referenced in section 70-84(b) of this chapter.

(Ord. No. 13-2264, 6-6-2013; <http://newords.municode.com/readordinance.aspx?ordinanceid=863775&datasource=ordbank> web="yes">Ord. No. 17-2390 </a>, 12-7-2017)

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## Sec. 70-80. Inspection.

- (a) *Notice of completion.* When the work under any permit hereunder is completed, the permittee shall furnish a completion certificate in accordance Minnesota Rule 7819.1300.
- (b) *Site inspection.* Permittee shall make the work-site available to the city and to all others as authorized by law for inspection at all reasonable times during the execution of and upon completion of the work. Permittee shall schedule, with the city, all inspections in a timely manner as indicated on the permit.
- (c) *Authority of director.*
  - (1) At the time of inspection, the director may order the immediate cessation of any work which poses a serious threat to the life, health, safety or well-being of the public.
  - (2) The director may issue an order to the permittee for any work that does not conform to the terms of the permit or other applicable standards, conditions, or codes so long as the nonconformance constitutes a "substantial breach" as set forth in Minn. Stat. § 237.163, subd. 4(c)(1)—(5). The order shall state that failure to correct the violation will be cause for revocation of the permit. Within ten days after issuance of the order, the permittee shall present proof to the director that the violation has been corrected. If such proof has not been presented within the required time, the director may revoke the permit pursuant to section 70-83.
  - (3) The cost of any action taken by the city shall be paid by the permittee.
  - (4) The director may require that the permittee immediately cease work if the permittee has recently performed work without regard for public safety. Such work without regard for public safety may include, but not be limited to, causing by means of work within the right-of-way, damage to two or more utility facilities within 48 hours or damage to three or more utility facilities within one week. Should such work without regard for public safety occur, the director reserves the right to require:
    - a. That the permittee cease work immediately;
    - b. Prepare a new safety plan to prevent future occurrences;
    - c. Present said safety plan to the director or the director's staff for approval 24 hours after the order to cease work;
    - d. That the permittee not return to work until the safety plan satisfies the director; and
    - e. The director instructs the permittee that it is okay to return to work by form of a written letter.

(Ord. No. 13-2264, 6-6-2013; <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=863775&datasource=ordbank" web="yes">Ord. No. 17-2390 </ulink>, 12-7-2017)

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#### **Sec. 70-81. Work done without a permit.**

(a) *Emergency situations.* Each registrant shall immediately notify the director or the director's designee of any event regarding its facilities that it considers to be an emergency. The registrant may proceed to take whatever actions are necessary to respond to the emergency. Excavators' notification to Gopher State One Call regarding an emergency situation does not fulfill this requirement. Within two business days after the occurrence of the emergency, the registrant shall apply for the necessary permits, pay the fees associated therewith, and fulfill the rest of the requirements necessary to bring itself into compliance with this chapter for the actions it took in response to the emergency. If the city becomes aware of an emergency regarding a registrant's facilities, the city will attempt to contact the local representative of each registrant affected, or potentially affected, by the emergency. In any event, the city may take whatever action it deems necessary to respond to the emergency, the cost of which shall be borne by the registrant whose facilities occasioned the emergency.

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

(Ord. No. 13-2264, 6-6-2013; <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=863775&datasource=ordbank" web="yes">Ord. No. 17-2390 </ulink>, 12-7-2017)

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#### **Sec. 70-82. Supplementary notification.**

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

(Ord. No. 13-2264, 6-6-2013; <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=863775&datasource=ordbank" web="yes">Ord. No. 17-2390 </ulink>, 12-7-2017)

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## **Sec. 70-83. Revocation of permits.**

- (a) *Substantial breach.* The city reserves its right, as provided herein and in accordance with Minn. Stat. § 237.163, subd. 4, to revoke any right-of-way permit without a fee refund, if there is a substantial breach of the terms and conditions of any statute, ordinance, rule or regulation, or any material condition of the permit. A substantial breach by permittee shall include, but shall not be limited to, the following:
- (1) The violation of any material provision of the right-of-way permit;
  - (2) An evasion or attempt to evade any material provision of the right-of-way permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the city or its citizens;
  - (3) Any material misrepresentation of fact in the application for a right-of-way permit;
  - (4) The failure to maintain the required bonds and/or insurance;
  - (5) The failure to complete the work in a timely manner, unless a permit extension is obtained or unless the failure to complete work is due to reasons beyond the permittee's control; or
  - (6) The failure to correct, in a timely manner, work that does not conform to a condition indicated on an order issued pursuant to section 70-80.
- (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 follow the procedural requirements of section 70-78(b) of this article. In addition, 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 a time period established in a written notification of breach received from the city, permittee shall provide the city with a plan, acceptable to the city, that will cure the breach. Permittee's failure to so contact the city, or permittee's failure to timely submit an acceptable plan, or permittee's failure to reasonably implement the approved plan, shall be cause for immediate revocation of the permit.
- (d) *Cause for probation.* From time to time, the city may establish a list of conditions of the permit, which if breached will automatically place the permittee on probation for one full year, such as, but not limited to, working out of the allotted time period or working on right-of-way grossly outside the permit authorization.
- (e) *Automatic revocation.* If a permittee, while on probation, commits a breach as outlined above, permittee's permit will automatically be revoked and permittee will not be allowed further permits for one full year, except for emergency repairs.
- (f) *Reimbursement of city costs.* If a permit is revoked, the permittee shall also reimburse the city for the city's reasonable costs, including restoration costs and the costs of collection and reasonable attorneys' fees incurred in connection with such revocation.



(Ord. No. 13-2264, 6-6-2013; <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=863775&datasource=ordbank" web="yes">Ord. No. 17-2390 </ulink>, 12-7-2017)

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#### Sec. 70-84. Mapping data.

- (a) *Information required.* Each registrant and permittee shall provide mapping information required by the city in accordance with Minnesota Rules 7819.4000 and 7819.4100. Within 90 days following completion of any work pursuant to a permit, the permittee shall provide the director accurate maps and drawings certifying the "as-built" location of all equipment installed, owned and maintained by the permittee. Such maps and drawings shall include the horizontal and vertical location of all facilities and equipment and shall be provided consistent with the city's electronic mapping system, when practical or as imposed by the director. Failure to provide maps and drawings pursuant to this subsection shall be grounds for revoking the permit holder's registration.
- (b) *Service laterals.* All permits issued for the installation or repair of service laterals, other than minor repairs as defined in Minnesota Rule 7560.0150, subpart 2, shall require the permittee's use of appropriate means of establishing the horizontal locations of installed service laterals and the service lateral vertical locations in those cases where the director reasonably requires it. Permittees or their subcontractors shall submit to the director evidence satisfactory to the director of the installed service lateral locations. Compliance with this subsection (b) and with applicable Gopher State One Call Law and Minnesota Rules governing service laterals install after December 31, 2005, shall be a condition of any city approval necessary for:
- (1) Payments to contractors working on a public improvement project including those under Minn. Stat. ch. 429, and
  - (2) City approval of performance under development agreements, or other subdivision or site plan approval under Minn. Stat. ch. 462.

The director shall reasonably determine the appropriate method of providing such information to the city. Failure to provide prompt and accurate information on the service laterals installed may result in the revocation of the permit issued for the work or for future permits to the offending permittee or its subcontractors.

(Ord. No. 13-2264, 6-6-2013; <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=863775&datasource=ordbank" web="yes">Ord. No. 17-2390 </ulink>, 12-7-2017)

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**Sec. 70-85. Location and relocation of facilities.**

- (a) *Placement, location, and relocation of facilities* must comply with the Act, with other applicable law, and with Minnesota Rules 7819.3100, 7819.5000 and 7819.5100, to the extent the rules do not limit authority otherwise available to cities.
- (b) *Corridors*. The city may assign a specific area within the right-of-way, or any particular segment thereof as may be necessary, for each type of 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. Any registrant who has facilities in the right-of-way in a position at variance with the corridors established by the city shall, no later than at the time of the next reconstruction or excavation of the area where the facilities are located, move the facilities to the assigned position within the right-of-way, unless this requirement is waived by the city for good cause shown, upon consideration of such factors as the remaining economic life of the facilities, public safety, customer service needs and hardship to the registrant.
- (c) *Nuisance*. One year after the passage of this article, any facilities found in a right-of-way that have not been registered shall be deemed to be a nuisance. The city may exercise any remedies or rights it has at law or in equity, including but not limited to, abating the nuisance or taking possession of the facilities and restoring the right-of-way to a useable condition.
- (d) *Limitation of space*. To protect health, safety, and welfare, or when necessary to protect the right-of-way and its current use, the city shall have the power to prohibit or limit the placement of new or additional facilities within the right-of-way. In making such decisions, the city shall strive to the extent possible to accommodate all existing and potential users of the right-of-way, but shall be guided primarily by considerations of the public interest, the public's needs for the particular utility service, the condition of the right-of-way, the time of year with respect to essential utilities, the protection of existing facilities in the right-of-way, and future city plans for public improvements and development projects which have been determined to be in the public interest.
- (e) *Joint trenching*. All facilities must be placed in appropriate portions of right-of-way so as to cause minimum conflict with other underground facilities. When technically appropriate and no safety hazards are created, all utilities must be installed, constructed or placed within the same trench. Notwithstanding the foregoing, gas and electric lines must be placed in conformance with state rules governing safety standards.

(Ord. No. 13-2264, 6-6-2013; [ulink class="ordbank" print="yes"](http://newords.municode.com/readordinance.aspx?ordinanceid=863775&datasource=ordbank)  
[url="http://newords.municode.com/readordinance.aspx?ordinanceid=863775&datasource=ordbank"](http://newords.municode.com/readordinance.aspx?ordinanceid=863775&datasource=ordbank)  
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[web="yes">Ord. No. 17-2390 </ulink>](http://newords.municode.com/readordinance.aspx?ordinanceid=863775&datasource=ordbank), adopted Dec. 7, 2017, amended and renumbered former § 70-84  
as § 70-85.

**Sec. 70-86. Pre-excavation facilities location.**

In addition to complying with the requirements of Minn. Stat. § 216D.01-.09 ("One Call Excavation Notice System") before the start date of any right-of-way excavation, each registrant who has facilities or equipment in the area to be excavated shall mark the horizontal and vertical placement of all said

facilities. Any registrant whose facilities are less than 20 inches below a concrete or asphalt surface shall notify and work closely with the excavation contractor to establish the exact location of its facilities and the best procedure for excavation.

(Ord. No. 13-2264, 6-6-2013; <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=863775&datasource=ordbank" web="yes">Ord. No. 17-2390 </ulink>, 12-7-2017)

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#### **Sec. 70-87. Damage to other facilities.**

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

(Ord. No. 13-2264, 6-6-2013; <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=863775&datasource=ordbank" web="yes">Ord. No. 17-2390 </ulink>, 12-7-2017)

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#### **<sup>106</sup>Sec. 70-88. Right-of-way vacation.**

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

(Ord. No. 13-2264, 6-6-2013; <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=863775&datasource=ordbank" web="yes">Ord. No. 17-2390 </ulink>, 12-7-2017)

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<sup>106</sup> **Sec. 70-88. Right-of-way vacation.** A single sentence section does not need a subcatchline.

## **Sec. 70-89. Indemnification and liability.**

Issuance of a permit does not impose any liability on the city for (i) injuries to persons, damage to property or loss of service claims by parties other than the permittee or the city, or (ii) claims or penalties of any sort resulting from the installation, presence, maintenance or operation of equipment or facilities by registrants or permittees or activities of registrants or permittees.

By registering with the city, or by accepting a permit under this chapter, a registrant or permittee agrees to defend, indemnify and hold harmless the city, its officials, officers, employees and agents in accordance with the provisions of Minnesota Rule 7819.1250.

(Ord. No. 13-2264, 6-6-2013; <http://newords.municode.com/readordinance.aspx?ordinanceid=863775&datasource=ordbank> web="yes">Ord. No. 17-2390 </ulink>, 12-7-2017)

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## **Sec. 70-90. Abandoned and unusable facilities.**

- (a) *Discontinued operations.* A registrant who has determined to discontinue all or a portion of its operations in the city must provide information satisfactory to the city that the registrant's obligations for its facilities in the right-of-way under this chapter have been lawfully assumed by another registrant.
- (b) *Removal.* Any registrant who has abandoned facilities in any right-of-way shall remove it from that right-of-way if required in conjunction with other right-of-way repair, excavation, or construction, unless this requirement is waived by the city.

(Ord. No. 13-2264, 6-6-2013; <http://newords.municode.com/readordinance.aspx?ordinanceid=863775&datasource=ordbank> web="yes">Ord. No. 17-2390 </ulink>, 12-7-2017)

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## **Sec. 70-91. Appeal.**

- (a) *Appealing denial, revocation, or fees.* A person that has been denied registration, has been denied a right-of-way permit, has had its right-of-way permit revoked, or believes that the fees imposed on the user by the city are not in conformity with Minn. Stat. § 237.163, subd. 6, or disputes a determination of the director regarding subsection 70-84(b) of this article 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, provided the right-of-way user has submitted its appeal with sufficient time to include the appeal as a regular agenda item. A decision by the city council affirming the denial, revocation, or fee imposition must be in writing and supported by written findings establishing the reasonableness of the decision.

(Ord. No. 13-2264, 6-6-2013; <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=863775&datasource=ordbank" web="yes">Ord. No. 17-2390 </ulink>, 12-7-2017)

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#### **Sec. 70-92. Reservation of regulatory and police powers.**

The city by the granting of a right-of-way permit, or by registering a person under this chapter, does not surrender or to any extent lose, waive, impair, or lessen the lawful powers and rights, which it has now or which may be hereafter vested in the city under the Constitution and Statutes of the State of Minnesota or the Charter of the city to regulate the use of the right-of-way by the permittee; and the permittee by its acceptance of a right-of-way permit or by registration under those ordinances agrees that all lawful powers and rights, regulatory power, or police power, or otherwise as are or the same maybe from time to time vested in or reserved to the city, shall be in full force and effect and subject to the exercise thereof by the city at any time. A permittee or registrant is deemed to acknowledge that its rights are subject to the regulatory and police powers of the city to adopt and enforce general ordinances necessary to the safety and welfare of the public and is deemed to agree to comply with all applicable general laws and ordinances enacted by the city pursuant to such powers.

Any permit issued pursuant to this section is subject to the future exercise of the police power by the city and the issuance or termination of such will not entitle the permittee to any compensation from the city by virtue of the exercise of such police power.

Any conflict between the provisions of a registration or of a right-of-way permit and any other present or future lawful exercise of the city's regulatory or police powers shall be resolved in favor of the latter.

(Ord. No. 13-2264, 6-6-2013; <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=863775&datasource=ordbank" web="yes">Ord. No. 17-2390 </ulink>, 12-7-2017)

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#### **Sec. 70-93. Transit amenities.**

No person shall place or maintain any transit amenity on public right-of-way in the city unless they shall have obtained a permit and have complied with the provisions of this chapter.

- (1) *Procedure for issuance of permits.* The city will take into account such things as comments or complaints from adjacent property owners, ridership numbers at the proposed location, and the locations of other transit amenities along a transit route when considering the issuance of a permit. A permit to install and maintain a transit amenity on or along any public sidewalk or right-of-way may be issued by the city to a person complying with the following requirements:

- a. The person, firm or corporation desiring such a permit shall make application to the city pursuant with section 70-70, and include the requested location and detailed plans and specifications of each proposed transit amenity and any other such information as may be deemed necessary by the city.
  - b. The location of each transit amenity shall be placed at an active, designated pickup location for the public transit system.
  - c. If the transit amenity placement is proposed to be located within Anoka County or Minnesota Department of Transportation right-of-way, written permission must be secured from Anoka County or the Minnesota Department of Transportation and filed with the city.
  - d. All permits shall expire as of the 31st day of December next following the date of issuance thereof, unless renewed. At least 30 days prior to the expiration of any permit, the holder may make written application for renewal thereof, accompanied by the permit fee in an amount as set forth by city council ordinance. Renewal of permits shall not be automatic. Some factors used in considering permit renewal will be the level of demonstrated demand by the public for the transit amenity and comments or complaints from adjacent property owners.
  - e. If plans and specifications of the transit amenity or location of the transit amenity are not to be changed, the application for renewal shall be sufficient if the applicant gives their name and address and the location and number of the transit amenity for which a renewal permit is desired. Whenever a transit amenity for which a permit has been issued is sold or title or control thereof transferred or assigned, a new permit shall be required and obtained for its maintenance.
  - f. If the application is for permits for more than one transit amenity at the same or different locations, a separate number and permit shall, when issued, be assigned and granted for each transit amenity authorized to be installed, but each such permit issued shall be valid only for the particular location designated therein.
- (2) *Locations where transit amenities are prohibited.* No permit shall be issued for the installation of any such transit amenity:
- a. Without the approval of the city.
  - b. In any locations, districts or zones as established by the city council.
  - c. At any location where the distance from the face of curb to the inside sidewalk line is less than six feet.
  - d. At any location more than 50 feet from the nearest point of intersection within a street unless the designated bus stop is in such other location.
  - e. At any location within 500 feet of another transit amenity in the same direction of travel, unless multiple amenities are permitted at a single location. Multiple amenity locations must be approved by resolution of the city council. For the purposes of this section, multiple amenity locations are defined as locations with more than one bus bench or shelter; bus shelters with interior benches will constitute a single amenity site.
  - f. At any location that is in conflict with public or private infrastructure or poses a health or safety concern to the public, as solely determined by the city.
  - g. Bus shelters may not be located within the AG, FR, RE, R-1, R-1A, R-1AA, R-1B, or R-2 zoning districts unless located along a collector or arterial street or at a public facility.

(3) *Revocation.*

- a. The application for installation and maintenance of any transit amenity shall be denied if the city shall find that the maintenance of the transit amenity at the proposed location would tend to unduly obstruct passage along any public sidewalk or public way or to create a hazard, or otherwise be detrimental to the public safety, convenience or welfare.
- b. Any permit may be revoked, or the application for renewal thereof denied, for failure to comply with the provisions of this chapter, or for misrepresentation of any material facts in the application, or for any reason which would have been ground for denial of the original application, or where in the judgment of the city, maintenance has become inappropriate. No revocation or denial shall be made arbitrarily or inequitably as between different applicants.

(4) *Standards and maintenance.*

- a. Each permitted transit amenity shall be installed parallel with the curb and set back not less than 30 inches from the face of the curb.
- b. No bench shall be more than 42 inches high nor more than 30 inches wide or seven feet long.
- c. Bus shelters are limited to a maximum dimension of 120 square feet and ten feet in height, unless a specific site as determined by the city requires a larger shelter due to the special nature of the transit stop.
- d. Each transit amenity shall have the permit number displayed in a conspicuous place.
- e. Benches and shelters shall be installed on a level and stable base on a concrete slab, with an extension to a sidewalk or curb line in compliance with current Americans with Disabilities Act (ADA) standards as applicable or required unless otherwise authorized by the city.
- f. At no time may a transit amenity be installed on or otherwise encroach upon any sidewalk, trail, or other walkway or conveyance.
- g. It shall be the duty of the permittee to maintain, at the permittee's cost, each transit amenity at all times in a safe condition at its proper location and to inspect each bench periodically in order that it may be properly maintained. Transit amenities shall be kept at all times in a clean and useable condition. Ice and snow shall be removed from the transit amenities and the vicinity in such a manner that each transit amenity shall be accessible within 72 hours of a snow fall or other weather event. Trash and debris shall be removed weekly. Weeds and grass shall be maintained at less than six inches in length. Any graffiti shall be removed and any damage to the transit amenity shall be repaired within two days of discovery or receipt of notice from the city.
- h. When directed by the city as necessary to address refuse and litter issues, transit amenity sites shall be equipped with an architecturally complementary trash receptacle. The permittee, at their cost, shall maintain and empty the trash receptacle weekly.

(5) *Advertisements.* Advertising may be allowed upon a transit amenity in accordance with the following standards:

- a. No advertising matter or sign shall be displayed upon any bench except only upon the front surface of the backrest and may not be lighted, flashing or moving.
- b. Advertising matter or signs on shelters must be located on the far end wall of the shelter away from the direction of travel for the transit route serving the stop.

- c. Advertising panels on a bus shelter are limited to two panels measuring a maximum of 24 square feet per panel.
- d. No advertising matter or sign shall display the words "STOP," "LOOK," "DRIVE IN," "DANGER," or any other word, phrase or symbol which might interfere with, mislead or distract traffic.

*(6) Removal of transit amenities.*

- a. Upon the revocation or expiration of any permit without renewal, if the permittee fails to promptly remove a transit amenity, the city may do so within ten days after written notice given by mail directed to the address of the permittee on file, and if the permittee shall fail to pay the cost of removal and storage thereof within a period of 60 days after the giving of such notice, the permittee's rights in said transit amenity shall be forfeited, but such forfeiture shall not excuse the permittee from the payment of the cost of removal and storage of said transit amenity.
- b. The permittee shall move benches or shelters immediately upon request of the city, at the permittee's expense, should temporary or permanent removal be made necessary by construction or repair work in the vicinity of the transit amenity or if the transit amenity poses a safety hazard or interferes with pedestrian or vehicular travel within the right-of-way.
- c. The permittee shall remove, at the permittee's expense, benches or shelters within 30 days if a transit stop is no longer active at the location of the transit amenity.

*(7) Insurance and bonding.*

- a. Applicants for permits shall maintain insurance in accordance with subsection 70-67(a)(3).
- b. The insurance shall be maintained in its original amount by the permittee at the permittee's expense at all times during the period for which the permit is in effect.
- c. In the event that two or more permits are issued to one permittee, one such insurance policy may be furnished to cover two or more benches or shelters and the insurance policy shall be of a type in which coverage shall automatically be restored immediately after the occurrence of any accident or loss from which liability may thereafter accrue. Such policy shall not be terminated without 30 days prior written notice to the city.
- d. Before a permit is issued, the applicant shall post a performance bond, in an amount determined to be sufficient by the city and in a form approved by the city, conditioned on the applicant removing and disposing of the transit amenity and foundation, restoring the site to its previous grade, and restoring and maintaining vegetative cover as appropriate.

(Ord. No. 13-2264, 6-6-2013; <http://newwords.municode.com/readordinance.aspx?ordinanceid=863775&datasource=ordbank> web="yes">Ord. No. 17-2390 </ulink>, 12-7-2017)

~~Editor's note — <http://newwords.municode.com/readordinance.aspx?ordinanceid=863775&datasource=ordbank> web="yes">Ord. No. 17-2390 </ulink>, adopted Dec. 7, 2017, renumbered former § 70-92 as § 70-93.~~

## **Sec. 70-94. Newspaper vending machines.**

No person shall place or maintain any newspaper vending machines on public right-of-way in the city unless they have notified the city in writing, on a form provided by the city, of the location of the vending machine.

- (1) *Placement conditions.* Placement of newspaper vending machines shall comply with the following conditions.
  - a. Shall be placed no closer than four feet from the roadway curb or edge of the roadway where no curb exists.
  - b. Shall not obstruct or block any portion of a sidewalk or trail.
  - c. No more than one newspaper vending machine per publisher may be placed within 800 feet of any other newspaper vending machine of that same publisher.
  - d. No newspaper machine may be attached to a public or private facility within the public right-of-way such as utility poles, transit amenities, roadway signs or fire hydrants.
  - e. No newspaper vending machine may be placed in a public right-of-way adjacent to a property zoned residential and containing four residential units or less.
- (2) *Removal.* The permittee shall remove a newspaper vending machine immediately upon request of the city, at the permittee's expense, should temporary or permanent removal be made necessary by construction or repair work in the vicinity of the newspaper vending machine or if the newspaper vending machine poses a safety hazard or interferes with pedestrian or vehicular travel within the right-of-way.

(Ord. No. 13-2264, 6-6-2013; [ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=863775&datasource=ordbank" web="yes">Ord. No. 17-2390 </ulink>](http://newords.municode.com/readordinance.aspx?ordinanceid=863775&datasource=ordbank), 12-7-2017)

~~**Editor's note** — [ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=863775&datasource=ordbank" web="yes">Ord. No. 17-2390 </ulink>](http://newords.municode.com/readordinance.aspx?ordinanceid=863775&datasource=ordbank), adopted Dec. 7, 2017, renumbered former § 70-93 as § 70-94.~~

## ~~**<sup>107</sup>Sec. 70-95. Severability.**~~

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

~~(Ord. No. 13-2264, 6-6-2013; [ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=863775&datasource=ordbank" web="yes">Ord. No. 17-2390 </ulink>](http://newords.municode.com/readordinance.aspx?ordinanceid=863775&datasource=ordbank), 12-7-2017)~~

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<sup>107</sup> **Sec. 70-95. Severability.** Section is duplicative of chapter 1 general provisions and should be stricken.



~~Editor's note — <ulink class="ordbank" print="yes"  
url="http://newords.municode.com/readordinance.aspx?ordinanceid=863775&datasource=ordbank"  
web="yes">Ord. No. 17-2390 </ulink>, adopted Dec. 7, 2017, renumbered former § 70-94 as § 70-95.~~

#### **Sec. 70-96. Penalties for violation of section.**

Any person violating any provision of this section shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine not to exceed \$1,000.00, or by imprisonment not to exceed 90 days, or both, or any different amounts adopted by statute.

(Ord. No. 13-2264, 6-6-2013; <ulink class="ordbank" print="yes"  
url="http://newords.municode.com/readordinance.aspx?ordinanceid=863775&datasource=ordbank"  
web="yes">Ord. No. 17-2390 </ulink>, 12-7-2017)

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web="yes">Ord. No. 17-2390 </ulink>, adopted Dec. 7, 2017, renumbered former § 70-95 as § 70-96.~~

## Chapter 74 SUBDIVISIONS \*

~~\*Cross reference—Any ordinance dedicating, accepting or vacating any plat or subdivision saved from repeal, § 1-11(14); buildings and building regulations, ch. 18; environment, ch. 34; manufactured homes and trailers, ch. 46; streets, sidewalks and other public places, ch. 70; utilities, ch. 86; vegetation, ch. 90.~~

**State Law reference—** Subdivision regulations, Minn. Stat. § 462.358; plats, Minn. Stat. ch. 505; Minnesota Subdivided Land Sales Practices Act, Minn. Stat. § 83.20 et seq.

### ARTICLE I. - IN GENERAL

### ARTICLE II. - PLATS

### ARTICLE III. - DESIGN STANDARDS AND REQUIRED IMPROVEMENTS

## ARTICLE I. IN GENERAL

### Sec. 74-1. Definitions.

### Sec. 74-2. Purpose and application of chapter provisions.

### Sec. 74-3. Modifications, exceptions and variances.

### Sec. 74-4. Registered land survey and conveyance by metes and bounds.

### Sec. 74-5. Building permits.

### Secs. 74-6—74-40. Reserved.

### Sec. 74-1. Definitions.

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

*Administrative review committee* means a committee composed of the director of community development, city engineer, city building official and other appropriate city officials appointed by the city manager. The chairperson of the committee shall be the director of community development.

*Administrator* means the duly appointed director of community development charged with enforcement of this chapter.

*Block* means an area of land within a subdivision that is entirely bounded by a street or by streets and the exterior boundary or boundaries of the subdivision, or a combination of the above with a river or lake.

*Boulevard* means the portion of the street right-of-way between the curblin and the property line.

*Butt lots* means any lots, or lot, at the end of a block, located between two corner lots.

*Comprehensive plan* and *comprehensive municipal plan* mean a compilation of policy statements, goals, standards, and maps for guiding the physical, social and economic development, both public and private, of the municipality and its environs, as defined in Minn. Stat. § 462.352, subd. 5, and includes any unit or part of such plan separately adopted and any amendment to such plan or parts thereof.

*Corner lot* means a lot bordered on at least two sides by streets.

*Double frontage lot* means a lot which has a front line abutting on one street and a back or rear line abutting on another street.

*Drainage channel* means the open manmade portion of a drainage system.

*Drainage system* means either an open or enclosed system and all laterals or parts thereof. It includes the improvement of any natural waterway included in or utilized in the construction of any drainage system.

*Easement* means a grant by an owner for the specific use of such land for a public or quasipublic purpose.

*Final plat* means a final map, drawing or chart on which the subdivider's plan of a subdivision is presented to the council for approval and which if approved will be submitted to and filed by the county register of deeds.

<sup>108</sup>**State Law reference**— Plat defined, M.S.A. § 462.352, subd. 13 ~~Minn. Stat. § 426.352, subd. 13~~.

*Lot* means a parcel or portion of land in a subdivision or plat of land, separated from other parcels by description, as on a subdivision or registered land survey, for the purpose of sale, lease, or separate use thereof.

*Metes and bounds description* means a description of real property shown on a map, which is not described by reference to a lot or block, but is described by starting at a known point and describing the bearings and distances of the lines forming the boundaries of the property, or is a description of real property which delineates a fractional portion of a section, lot or area by described lines or portions thereof.

*Natural waterway* means a natural passageway in the surface of the earth so situated and having such a topographical nature that surface water flows through it from other areas before reaching a final ponding area.

*Owner* means any person having a proprietary interest in the land being subdivided under this chapter.

*Park board* means the park board of this city.

*Pedestrian way* means a public right-of-way across or within a block to provide access for pedestrians.

*Planning commission* means the planning commission of this city.

*Preliminary plat* means a tentative map, drawing, or chart of a proposed subdivision, meeting requirements enumerated in this chapter.

*Protective covenants* means contracts entered into between private parties which constitute a restriction on the use of all property within a subdivision for the benefit of the property owners.

**State Law reference**— Plat defined, Minn. Stat. § 462.352, subd. 13.

*PUD (planned unit development)* means a development, having two or more principal uses or structures on a single tract of land, developed according to an approved plan under single ownership or unified control. A planned unit development allows for flexibility not available under normal zoning district requirements. A planned unit development may include projects such as apartment projects involving more than one building, multiuse structures, such as an apartment building with retail stores on the ground floor level, townhouses, and similar projects.

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<sup>108</sup> **Sec. 74-1. Definitions.** Transposition error in citation should be corrected as shown.

*Reverse frontage lot* means a lot extending between and having frontage on a major traffic street and a minor street, with vehicular access solely from the latter.

*Right-of-way* means a strip of land occupied or intended to be occupied by a street, sidewalk, railroad, electric transmission line, pedestrian way, or other specific use.

*Sketch plan* means a drawing showing the proposed subdivision of property.

*Street width* means the shortest distance between the lines delineating the right-of-way of a street.

*Streets and alleys* means as follows:

- (1) *Alley*. A minor way which is used primarily for secondary vehicular service access to the back or the side of properties abutting on a street.
- (2) *Arterial street*. A street or highway with access restrictions designed to carry large volumes of traffic between various sectors of the county and beyond.
- (3) *Collector street*. A street which carries traffic from local streets to arterials.
- (4) *Cul-de-sac*. A local street with only one outlet permanently terminated by a vehicular turnaround.
- (5) *Local street*. A street of limited continuity used primarily for access to the abutting properties and the local need of a neighborhood.
- (6) *Service street*. A marginal access street, or otherwise designated, is a minor street, which is parallel and adjacent to a thoroughfare, and which provides access to abutting properties and protection from through traffic.
- (7) *Street*. A public way for vehicular traffic, whether designated as a street, highway, thoroughfare, arterial, parkway, throughway road, avenue, lane, place or however otherwise designated.

*Subdivider* means any person commencing proceedings under this chapter to effect a subdivision of land for such person or for others.

*Subdivision* means the division of a parcel of land into two or more lots or parcels, for the purpose of transfer of ownership or building development except those subdivisions:

- (1) Where all the resulting parcels, tracts, lots, or interests will be 20 acres or larger in size including dedicated right-of-way and 500 feet in width for residential uses and five acres or larger in size for commercial and industrial uses;
- (2) Creating cemetery lots;
- (3) Resulting from court orders, or the adjustment of a lot line by the relocation of a common boundary; or, if a new street is involved, any division of a parcel of land.

When appropriate to the context, the term "subdivision" shall relate to the process of subdividing or to the land subdivided.

**State Law reference**— Similar provisions, Minn. Stat. § 462.352, subd. 12.

(Code 1963, § 56.02; Code 1980, § 18-2; Ord. No. 87-1018, 4-16-1987)

~~Cross reference—Definitions generally, § 1-2.~~

**Sec. 74-2. Purpose and application of chapter provisions.**

- (a) The process of dividing or subdividing land into home sites, or separate parcels for other uses, is one of the most important factors in the growth of any community. Few activities have a more lasting effect upon its appearance and environment. Once the land has been subdivided and the streets, homes and other structures have been constructed, the basic character of this permanent addition to the community has become firmly established. It is then virtually impossible to alter its basic character without substantial expense. As a result of subdivision, roads and streets must be maintained and various public services must be provided. The welfare of the entire community is thereby affected in many important respects. It is, therefore, to the interest of the general public, the developer, and the future owners that subdivisions be conceived, designed, and developed in accordance with sound rules and proper standards.
- (b) The council deems the regulations of this chapter to be necessary for the preservation of the health, safety, and general welfare of the city. The regulations of this chapter have been developed pursuant to the authority set forth in Minn. Stat. § 462.358, and in the appropriate sections of Minn. Stat. ch. 505, as indicated.
- (c) Except as provided in this chapter, no land shall be platted, subdivided, rearranged, developed or improved in any way which is not in conformity with the regulations of this chapter. All subdivisions of land hereafter submitted for approval shall fully comply, in all respects, with the regulations set forth in this chapter. It is the purpose of the regulations of this chapter to:
  - (1) Encourage well-planned, efficient, and attractive subdivisions by establishing adequate standards for design and construction;
  - (2) Provide for the health, welfare and safety of residents by requiring properly designed streets, adequate sewage and water service, adequate storm drainage systems and other necessary improvements;
  - (3) Place the cost of improvements against those benefitting from their construction; and
  - (4) Secure the rights of the public with respect to public lands and waters.
- (d) The city council finds that the use of private water and private sewer systems within the commercial and industrial zoning districts of the city creates potentially serious health and safety hazards. The council also finds that scattered development in these districts causes a burden upon the taxpayers of the city, creates fiscal and engineering problems in the installation of improvements and utilities, causes financial burdens upon the city for police protection, street and utility maintenance, fire protection, and snow removal, disrupts orderly planning and stable growth and reduces community cohesion. For these reasons, the council has adopted the following regulations relating to the subdivision of land within commercial and industrial zoning districts:
  - (1) Developers subdividing land without municipal water, sewer, street and storm drainage improvements being provided shall submit a proposed development plan illustrating future division and future right-of-way designation on the basis of the minimum lot size requirement for the land's zoning designation to provide for future municipal services.
  - (2) Restrictive covenants shall be recorded whereby a developer agrees to install municipal sewer and water within a reasonable time after municipal sewer and water are available.
  - (3) If municipal water is not available to serve the property, the developer shall install a private fire suppression system as determined by the fire chief.

(Code 1963, § 56.01; Code 1980, § 18-1; Ord. No. 85-890, 10-17-1985)

**Sec. 74-3. Modifications, exceptions and variances.**

- (a) *Planned unit development (PUD)*. In recognition of changing trends, techniques and materials in the process of urban development, the council and planning commission may permit development in terms of planned unit developments. Applications for any such planned unit development shall be made in writing by the subdivider at the time the preliminary plat is filed for consideration by the planning commission, stating fully all facts. The application shall be supplemented with maps, plans, or other additional data which may aid the planning commission and the council in the analysis of the proposed project.
- (b) *Hardship*. The council may grant a variance upon receiving a report from the planning commission in any particular case where the subdivider can show by reason of exceptional topography or any other physical conditions that strict compliance with the regulations of this chapter would cause unusual hardship, provided that such relief may be granted without detriment to the public welfare and without impairing the intent and purpose of the regulations of this chapter. In this section, the term "unusual hardship" includes, but is not limited to, inadequate access to direct sunlight for solar energy systems. The planning commission may recommend variances from the requirements of this chapter in specific cases which, in its opinion, do not affect the comprehensive plan or the intent of this chapter. Any variance thus recommended shall be entered in the minutes of the planning commission, setting forth the reasons which justify the variance. The council may approve variances from these requirements in specific cases which, in its opinion, do not affect the spirit or intent of this chapter.

(Code 1963, § 56.08; Code 1980, § 18-8)

**State Law reference**— Variances, Minn. Stat. § 462.358, subd. 6.

**Sec. 74-4. Registered land survey and conveyance by metes and bounds.**

- (a) *Registered land surveys (Minn. Stat. § 508.47)*. It is the intent of this chapter that all registered land surveys in the city shall be presented to the planning commission in the form of a preliminary plat to be processed in accordance with the standards set forth in this chapter for preliminary plats. The planning commission shall review the arrangements, of proposed tracts on the registered land survey. Tracts to be used as easements or roads shall be deeded to the city free and clear of taxes and assessments. Unless the council has approved the registered land survey in accordance with the standards set forth in this chapter, building permits will be withheld for buildings on tracts which have been established by registered land survey. The council may refuse to accept tracts for streets or roads and may refuse to improve, repair or maintain any such tracts unless so approved.

**State Law reference**— Registered land surveys, Minn. Stat. § 508.47.

(b) *Conveyance by metes and bounds*.

- (1) No conveyance of land within the city shall be filed or recorded, if it is described in the conveyance by metes and bounds or by reference to an unapproved registered land survey made after April 21, 1961, or to an unapproved plat made after November 2, 1967.
- (2) The provisions of subsection (b)(1) of this section do not apply to a conveyance if the land described:
  - a. Was a separate parcel of record on October 1, 1964;
  - b. Was the subject of a written agreement to convey entered into prior to such time;

- c. Was a separate parcel of not less than 2½ acres in area and 150 feet in width on January 1, 1966;
  - d. Was a separate parcel of not less than five acres in area and 300 feet in width on July 1, 1980;
  - e. Is a single parcel of commercial or industrial land of not less than five acres and having a width of not less than 300 feet and its conveyance does not result in the division of the parcel into two or more lots or parcels, any one of which is less than five acres in area or 300 feet in width; or
  - f. Is a single parcel of residential or agricultural land of not less than 20 acres and having a width of not less than 500 feet and its conveyance does not result in the division of the parcel into two or more lots or parcels, any one of which is less than 20 acres in area or 500 feet in width.
- (3) In any case in which compliance with the foregoing restrictions will create an unnecessary hardship and failure to comply does not interfere with the purpose of this chapter, the council may waive such compliance by adoption of a resolution to that effect and the conveyance may then be filed or recorded.
  - (4) Any owner or agent of the owner of land who conveys a lot or parcel in violation of the provisions of this subsection (b) shall forfeit and pay to the city a penalty of not less than \$100.00 for each lot or parcel so conveyed.
  - (5) The city may enjoin such conveyance or may recover such penalty by a civil action in any court of competent jurisdiction.

**State Law reference**— Similar provisions, Minn. Stat. § 462.358, subd. 4b.

(Code 1963, § 56.09; Code 1980, § 18-9; Ord. No. 93-1484, 11-18-1993)

#### **Sec. 74-5. Building permits.**

No building permits shall be issued for construction or alteration of any building or structure on any parcel of land which is conveyed in violation of the provisions of section 74-4(b). No building permits will be issued for the construction of any building or structure on any lot in a subdivision which has approved for platting, until all requirements of this chapter have been fully complied with.

(Code 1963, § 56.10; Code 1980, § 18-10)

~~**Cross reference**— Buildings and building regulations, ch. 18.~~

**Secs. 74-6—74-40. Reserved.**

## **ARTICLE II. PLATS \***

**\*State Law reference**— Platting, Minn. Stat. § 462.358, subd. 3a; plat review procedures, Minn. Stat. § 462.358, subd. 3b.

[Sec. 74-41. Platting procedure.](#)

[Sec. 74-42. Preliminary plat.](#)

[Sec. 74-43. Final plat.](#)

Secs. 74-44—74-80. Reserved.

**Sec. 74-41. Platting procedure.**

The subdividing of any tract of land into two or more lots or parcels shall comply with the following:

- (1) *Preapplication requirements.* Prior to the preparation of a preliminary plat, the subdividers or owners shall meet with the director of community development, city engineer, and other appropriate officials to review all applicable ordinances, regulations and plans in the area to be subdivided. At this time, or at subsequent informal meetings, the subdivider shall submit a general sketch plan of the proposed subdivision and drainage plan. The sketch plan can be presented in a simple form but should include any zoning changes which would be required, and should show that consideration has been given to the relationship of the proposed subdivision to existing community facilities that would serve it, to neighboring subdivision and development, and to the topography of the site. The subdivider is urged to avail such person of the advice and assistance of the planning commission at a planning commission meeting at this point in order to save time and effort and facilitate the approval of the preliminary plat.
- (2) *Preliminary plat.* After the preapplication meeting, the subdivider shall file with the director of community development an application and 15 copies of the preliminary plat, which has been prepared in accordance with regulations set forth in this chapter. At the time of submission of the preliminary plat, a per lot fee and a per acre fee as established by action of the council shall be paid to the city treasurer. This fee shall be used to defray costs incurred by the city in connection with consideration of the proposed subdivision.
  - a. The administrative review committee shall undertake a comprehensive review of the preliminary plat in order to determine how the proposed development will affect traffic, utilities, drainage, community facilities, public safety, surrounding development, natural features, historic sites, open space, etc. The committee shall also consider the proposed development in terms of its conformity with the city's comprehensive land use plan.
  - b. The chairperson of the administrative review committee shall prepare a written report to be entitled the "Administrative Review Committee Report" and shall forward such report to the attention of the planning commission. A copy of the report shall also be sent to the subdivider.
  - c. The administrator shall refer a copy of the preliminary plat to the park board. The park board shall make a written report to the council and the director of community development for forwarding to the planning commission, prior to, the public hearing on the preliminary plat.
  - d. The director of community development shall submit copies of the preliminary plat to the watershed district, the county highway department, the state highway department (where applicable). The written report from such agencies shall be submitted to the director of community development prior to referral to the planning commission.
  - e. The director of community development shall refer copies of the preliminary plat to the planning commission. The director of community development shall arrange for a public hearing to be held within 45 days of the approval of the application by the director of community development. The required legal publication shall be made and notices shall be sent to all property owners of record within 350 feet of the exterior boundaries of the proposed plat and within 350 feet of all contiguous property under common ownership. The developer is required to furnish the director of community development with a certified owner's report of the property owners.



- f. The subdivider or a duly authorized representative shall attend the planning commission meetings at which the proposal is scheduled for consideration.
- g. At the public hearing, all persons interested in the proposed subdivision shall be heard, and the planning commission shall, within 36 days of the hearing, approve, modify and approve, or disapprove the preliminary plat, and submit to the council, the applicant and administrator its findings and recommendations. The council shall act upon the preliminary plat and send written notification of its action to the planning commission, administrator, and the applicant. Failure of the council to act within 60 days of the public hearing is deemed approval. Should the subdivider desire to amend the preliminary plat as approved, such person shall submit the amended plat in accordance with the original procedure set forth in this section, with the exception of the public hearing and fees. If the council determines that the scope of the revisions constitutes a new plat, then the public hearing and fees shall be required.
- h. At this time, the subdivider shall petition the council for installation of the required improvements. The council may order a feasibility report and the subdivider will bond for the estimated cost of such a report, as estimated by the city engineer, pursuant to section 74-82. At such time as the financial guarantee described in section 74-82 is furnished to the city, the bond for the feasibility report shall be released.

*(3) Final plat.*

- a. The subdivider within 180 days after the approval of the preliminary plat shall file, with the administrator, ten copies of the final plat prepared by a land surveyor duly registered in the state. Failure of the subdivider to submit the final plat within 180 days, unless a written request for extension has been submitted and for good cause granted by the council, shall cause the preliminary plat to become null and void.
- b. The subdivider shall also submit to the city, at the same time, a title opinion or title insurance naming the city as an insured party, a copy of any restrictive covenants, and such other evidence as the city may require showing the subdivider's title or ownership in the land to be subdivided.
- c. The subdivider shall have incorporated all changes and modifications in the final plat required by the council. In all other respects the final plat shall conform to the preliminary plat.
- d. A development plan for the necessary improvements shall be submitted by the subdivider to the director of community development, and then forwarded to the city engineer for a cost estimate.
- e. The director of community development, upon receipt of the final plat, shall retain one copy of the final plat for such officer's records and shall:
  - 1. Refer three copies of the final plat to the administrative review committee, which shall review the final plat with respect to its conformance with the approved preliminary plat, and the committee shall report its findings to the director of community development within 15 days of its receipt by the committee.
  - 2. Refer one copy each to applicable public and private utility companies.
  - 3. Review the title opinion or title insurance naming the city as an insured party, and any restrictive covenants, that will reflect title or ownership in the land to be subdivided.

4. Obtain a written report or statement from the city treasurer certifying the payment by the subdivider of all fees due the city pursuant to this chapter.
  5. Place the consideration of the final plat on the agenda of the next regularly scheduled council meeting, and notify the subdivider in writing of the date, place and time of the meeting.
  6. Submit all of the above reports to the council for its consideration.
- f. The subdivider or a duly authorized representative shall attend the meeting before the council at which the final plat is scheduled for consideration.
  - g. The council may, if all reports indicate full compliance with the provisions of this chapter, approve the final plat as submitted and authorize the mayor and city manager to sign the final plat.
  - h. The council may, if the report from the administrative review committee indicates substantial deviation in the final plat from the approved preliminary plat, determine if the submission shall represent a new plat. If the submission does represent a new plat, the council shall deny the final plat and direct the subdivider to resubmit such subdivider's proposal following preliminary plat requirements.
  - i. The council may, if any of the other reports indicate a lack of compliance with the provisions of this chapter, require full compliance by the subdivider within the 180-day period from the date of approval of the preliminary plat. Failure of the subdivider to comply shall nullify and void the preliminary and final plats.
  - j. The subdivider shall, if the final plat is approved by the council and signed by the mayor and city manager, record the final plat with the county register of deeds within 30 days of the date of the approval and signing of the final plat. Any final plat not so recorded shall become null and void, unless the council has granted an extension, which shall not exceed 90 additional days.
  - k. The subdivider shall furnish the director of community development a tracing and three copies of the final plat showing evidence of the recording. The subdivider shall be responsible for any costs incurred pertaining to the verification of the final plat materials. The subdivider shall also furnish one reduced tracing of the final plat with a scale of one inch equals 200 feet. Failure to furnish such copies shall be grounds for refusal to issue building permits for lots within the final plat.
  - l. No changes, erasures, modifications or revisions shall be made in any final plat, after approval has been given by the council, unless such plat is resubmitted to the city and the council approves any modifications. If any such final plat is recorded without complying with this requirement, the same shall be considered null and void, no building permits shall be issued for lots within the final plat, and the council shall institute proceedings to have the plat stricken from the records of the city and county.

(Code 1963, § 56.03; Code 1980, § 18-3; Ord. No. 625, 4-19-1979; Ord. No. 733, 8-20-1981; Ord. No. 89-1137, 4-20-1989; Ord. No. 98-1695, § 8, 2-5-1998)

**Sec. 74-42. Preliminary plat.**

- (a) *Survey and design information required.* The preliminary plat shall be clearly and legibly drawn at a scale of one inch equals 100 feet and shall contain the following information:

(1) *Identification and description.*

- a. The proposed name of the subdivision, which shall not duplicate or be similar in pronunciation to the name of any plat previously recorded in the county.
- b. The location of the subdivision by section, township, and range or by other legal description.
- c. The names and addresses of the owners, subdivider, surveyor and designer.
- d. Graphic scale, north point, date of preparation.

(2) *Existing conditions.*

- a. A boundary line survey of the proposed subdivision, including measured distances and angles, which shall be tied into the nearest section or quarter section corner by traverse.
- b. Existing zoning classifications for land within the subdivision and on abutting property within 350 feet of the property within the preliminary plat.
- c. Total acreage.
- d. Location, width, and name of every existing or previously platted street or other public way, showing type, width and condition of improvements, railroad and utility right-of-way, parks, and other public open spaces, permanent buildings and structures, easements, section lines and corporate lines within the proposed subdivision and within a distance of 350 feet beyond the proposed subdivision.
- e. If the proposed subdivision is a rearrangement or replat of any former plat, the lot and block arrangement of the original plat, along with its original name, shall be indicated by dotted or dash lines. Also, any revised or vacated roadways of the original plat shall be so indicated.
- f. Location and size of existing sewers, water mains, culverts, or other underground facilities within the tract and to a distance of 100 feet beyond the tract, including such data as grades, invert elevations, and locations of catchbasins, manholes, and hydrants.
- g. Boundary lines of unsubdivided lands within 350 feet, identified by name and ownership.

(3) *Subdivision design features.*

- a. Layout of proposed streets showing right-of-way widths and proposed street names. If the proposed street is an extension of an existing named street, that name shall be used. In all other cases the name of any street shall be consistent with the county and city street naming system.
- b. Locations and widths of alleys, pedestrian ways, and utility easements.
- c. Layout, numbers, and preliminary dimensions of lots and blocks.
- d. Areas intended to be dedicated or reserved for public use, including their size in acres.
- e. Areas intended for uses other than residential or public.
- f. Minimum front and side street building setback lines, as required by the zoning ordinance.

(b) *Supplementary information required.* The following information shall be filed with the preliminary plat:

- (1) A complete topographic map at a scale of one inch equals 100 feet, with contour intervals not greater than two feet, showing watercourses, marshes, rock outcrops and other significant features. At least one print of the preliminary plat shall be superimposed on a copy of the topographic map. USGS datum shall be used for all topographic mapping.

- (2) Soil absorption tests where septic tanks are proposed, and, any other subsoil information requested by the city engineer, including soil borings to a depth of at least 15 feet.
- (3) Plans for water supply, sewage disposal, drainage system, and flood control, including the proposed location, size and gradient of proposed sewer lines and water mains, and such other supporting data, as may be required by the city engineer or the planning commission.
- (4) Centerline gradients of proposed streets.
- (5) Typical cross section of proposed street improvements.
- (6) If any zoning changes are necessary for property within the preliminary plat, a rezoning application shall be filed and considered concurrently by the council with the preliminary plat.
- (7) Where the subdivider owns property adjacent to that which is being proposed for subdivision, the planning commission may require that the subdivider submit a preliminary plat of the adjacent property so as to show the relationship of the proposed subdivision to the future development of the adjacent property.
- (8) Any additional information required by the planning commission and city staff.

(c) *Qualifications governing approval of a preliminary plat.*

- (1) The approval of a preliminary plat by the council shall only constitute acceptance of the design as a basis for the preparation of the final plat by the owners or subdividers. Subsequent approval by appropriate officials having jurisdiction will be required of the engineering proposals, pertaining to water supplies, storm drainage, sewer disposal, sidewalks, grading, gradients and roadway widths, and the surfacing of streets prior to the approval of final plat by the city. The subdivider shall also present evidence that the plat has been reviewed by, and meets the requirements of, those responsible for the provision of gas, electric, and telephone service.
- (2) No plan will be approved for a subdivision which includes any area subject to periodic flooding or which contains poor drainage facilities which would make adequate drainage of the streets and lots impossible, unless the subdivider agrees to make improvements which will, in the opinion of the city engineer, make the area completely safe for occupancy and provide adequate street and lot drainage.

(Code 1963, § 56.04; Code 1980, § 18-4)

<sup>109</sup>**Sec. 74-43. Final plat.**

The final plat shall be prepared in accordance with Minn. Stat. § 505.08. The plat may consist of more than one sheet, numbered progressively, and shall contain the following information:

- (1) The name of the subdivision, lettered in large print at the top of the plat, together with the location of the subdivision by section, range and township and by city and county.
- (2) Graphic scale and north point.
- (3) An accurate map of the proposed subdivision at a scale of one inch equals 100 feet, which shall show the following information and meet the requirements of ~~M.S.A. § 505.021 Minn. Stat. § 505.02.~~

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<sup>109</sup> **Sec. 74-43. Final plat.** Citation should be corrected as shown. M.S.A. § 505.02 was repealed in 2007.

- a. A boundary line survey including the measured distances and angles and the true distance and bearing between a known point on the boundary and the nearest official monument which shall be accurately described on the plat. One permanent monument shall be placed on one corner of any plat of four or more lots.
  - b. The accurate location of all monuments.
  - c. Accurate angular and linear dimensions for all lines, angles, and curvatures used to describe the boundaries, streets, alleys, easements, areas to be reserved for public use, and other important features within the proposed subdivision. All linear dimensions shall be shown in feet and hundredths of feet, and all angles and bearings shall be shown in degrees, minutes, and seconds. The radius, angle of curvature, point of tangent, point of curvature and length of arc shall be shown for every curve. No ditto marks will be permitted in indicating dimensions.
  - d. All lots and blocks numbered in numerical order.
  - e. All municipal, township, county, or section lines within the proposed subdivision.
  - f. Identification and accurate boundaries of any areas to be dedicated or reserved for public use or for the exclusive use of property owners within the subdivision.
  - g. The names of all streets and alleys.
  - h. If the subdivision is a replatting or rearrangement of a legal subdivision, the original platting shall be shown by dotted lines.
  - i. Low land and water areas.
  - j. Any sites reserved for other than residential and public use.
- (4) Notarized certification by a registered land surveyor that the plat represents a survey made by such surveyor and that the monuments, lot corners, and survey points shown thereon exist as located, and that all dimensions are correct, as required by Minn. Stat. § 505.03.
- (5) Notarized certification by owners of record at the time of the approval of the plat and the dedication of streets and other public areas as required by Minn. Stat. § 505.03.
- (6) Certification showing that all taxes and special assessments currently due on the property to be subdivided have been paid in full.
- (7) A form for recording the approval of the council as follows:

"Approved by the City of Blaine, Minnesota this \_\_\_\_ day of \_\_\_\_, 20\_\_.

Signed	_____ Mayor
Signed	_____ City Manager"

(Code 1963, § 56.05; Code 1980, § 18-5)

**Secs. 74-44—74-80. Reserved.**

### ARTICLE III. DESIGN STANDARDS AND REQUIRED IMPROVEMENTS \*

\***State Law reference**— Authority to require improvements in subdivisions and financial assurance for their completion, Minn. Stat. § 462.358, subd. 2a; authority to require dedications and fees in lieu of dedications, Minn. Stat. § 462.358, subd. 2b.

[Sec. 74-81. Subdivision design standards.](#)

[Sec. 74-82. Improvements required.](#)

#### Sec. 74-81. Subdivision design standards.

##### (a) *General requirements.*

- (1) The planning commission and the council, in their review of the preliminary plat, will consider the requirements of the community, the best use of the land being subdivided, the size and arrangement of the proposed lots, open space requirements, and necessary fire protection.
- (2) The subdivision shall conform to the adopted comprehensive plan, official maps, and the zoning ordinance.
- (3) The arrangement, character, extent, width and location of all streets shall be considered in their relation to existing and planned streets, to reasonable circulation of traffic, to topographic conditions, to water supply, and sewage disposal, to drainage of stormwater, to public convenience and safety, and in their appropriate relation to the proposed use of the land to be served by such streets. Wherever possible and necessary, the arrangement of streets in new subdivisions shall provide for the continuation of existing streets in adjoining areas. Where adjoining unsubdivided areas may be subdivided, the arrangement of streets in a new subdivision shall make provision for the proper projection of streets into adjoining areas by carrying the new streets to the boundaries of the new subdivision at appropriate locations.

##### (b) *Streets.*

- (1) *Widths.* Street right-of-way widths shall be as shown on the comprehensive plan and where not shown thereon, shall not be less than as follows:

Principal arterial	120 feet
Arterial	80 feet
Collector street	70 feet
Local street	60 feet
Commercial and/or industrial	80 feet
Service drive (except for service drive adjacent to principal arterial)	60 feet
Cul-de-sac	60-foot radius

- (2) *Intersections.* Insofar as practical streets shall intersect at right angles. In no case shall the angle formed by the intersection of two streets be less than 60 degrees. Intersections having more than four corners shall be prohibited. Adequate land for future intersection and interchange construction needs shall be provided for.

- (3) *Deflections.* When connecting street lines deflect from each other at one point by more than ten degrees, they shall be connected by a curve with a radius adequate to ensure a sight distance of not less than 500 feet for arterials, 300 feet for collectors, and 100 feet for all other streets. The council may allow greater or lesser sight distances at the recommendation of the city engineer.
  - (4) *Centerline gradients.* All centerline gradients shall be at least 0.5 percent and shall not exceed the following:
    - a. Arterial streets and collector streets: four percent;
    - b. Local streets and marginal access streets: six percent.
  - (5) *Vertical curves.* Different connecting street gradients shall be connected with vertical curves. The minimum length in feet of these curves shall be 30 times the algebraic difference in the percent of grade of the two adjacent slopes.
  - (6) *Street jogs.* Street jogs with centerline offsets of less than 125 feet shall be avoided.
  - (7) *Local streets.* Local streets shall be laid out so that their use by through traffic will be discouraged.
  - (8) *Access to arterials.* In the case where the proposed plat is adjacent to an arterial street, there shall be no direct vehicular or pedestrian access from individual lots to arterials. As a general requirement, access to arterials shall be at intervals of not less than one-fourth-mile and through existing and established cross roads, where possible.

In the platting of small tracts of land fronting on arterials, where there is no convenient access to existing entrances and where access from such plat would be closer than one-fourth-mile from an existing access point, a temporary entrance permit may be granted by the city. Provision shall be made in such plats for the connection of roads to neighboring land. As the neighboring land is platted and developed, and access becomes possible at a preferred location, such temporary entrance permits shall become void.
  - (9) *Half streets.* Half streets shall be prohibited except where it will be practicable to require the dedication of the other half when the adjoining property is subdivided, in which case the dedication of a half street may be permitted. The probable length of time elapsing before dedication of the remainder shall be considered in this decision. No building permits shall be issued for a building located on a lot fronting on a half street.
  - (10) *Private streets.* Private streets shall not be permitted, nor shall public improvements be approved for any private streets.
  - (11) *Hardship to owners of adjoining property.* The street arrangements shall not be such as to cause hardship to owners of adjoining property in platting their own land and providing convenient access to it.
  - (12) *Dedication.* All proposed streets shown on the plat shall be offered for dedications as public streets.
- (c) *Alleys.* No alleys shall be allowed within the city.
- (d) *Easements and conveyances.*
- (1) *Utilities.* Easements at least ten feet wide centered on rear and other lot lines shall be provided for utilities, where necessary. They shall have continuity of alignment from block to block and at the deflection points, an easement for a pole line anchor shall be provided where necessary.
  - (2) *Drainage.* Easements shall be provided along each side of the centerline of any waterway or drainage channel, whether or not shown on the comprehensive plan, of a sufficient width to

provide proper maintenance and protection, and to provide for stormwater runoff and installation and maintenance of drainage systems. Where necessary, drainage easements corresponding with lot lines shall be provided. Such easements for drainage purposes shall not be less than 20 feet in width. Underground storm sewers shall be required to convey storm drainage from all points of collection in the street surface to major open drainage channels or natural waterways. Points of collection shall be provided on curb and gutter streets at appropriate intervals not exceeding 2,000 feet. Rights-of-way for drainage channels and natural waterways shall be of appropriate width for proper maintenance, and shall not be less than 50 feet in width.

- (3) *Dedication.* All easements shall be dedicated for the required uses by appropriate language on the plat, as required by Minn. Stat. § 505.03.

(e) *Blocks.*

- (1) *Length.* The maximum length of blocks shall be 1,500 feet and the minimum length 400 feet. Blocks over 900 feet long may require pedestrian ways at least ten feet wide at their approximate center. The use of additional pedestrian ways to schools, parks, and other destinations may be required.
- (2) *Arrangement.* A block shall be so designed as to provide two tiers of lots unless it adjoins a railroad or a arterial where it may have a single tier of lots.

(f) *Lots.*

- (1) *Location.* All lots shall abut for their full frontage on a publicly dedicated street.
- (2) *Size.* The lot dimensions and areas shall comply with the requirements specified in the zoning ordinance.
- (3) *Side lot lines.* Side lot lines shall be substantially at right angles to straight street lines or radial to curved street lines.
- (4) *Watercourses.* Lots abutting upon a waterway, drainage channel, or stream shall be of sufficient size to provide an area of land equal to or greater than the minimum lot dimensions specified in the zoning ordinance for the district in which lots are located. The dedicated area for such watercourses shall not be included in the lot.
- (5) *Grading for drainage.* Lots shall be graded so as to provide drainage away from building locations.
- (6) *Natural features.* In the subdividing of any land, every effort shall be made to preserve all natural features, such as tree growth, watercourses, wetlands, historic spots, or similar conditions.
- (7) *Lot remnants.* All remnants of lots below minimum size remaining after subdividing of a larger tract must be added to adjacent lots rather than allowed to remain as unusable parcels.
- (8) *Double and reverse frontage lots.* Double frontage and reverse frontage lots shall not be permitted except where lots back on an arterial street. Such lots shall have an additional depth of at least ten feet in order to allow for screening along the back lot line.
- (9) *Outlots.* An outlot shall be deemed as a nondevelopable parcel until replatted through the city's subdivision procedure and registered with the county as a platted lot or part of a platted lot.
- (10) *Rear lot widths.* Minimum rear lot widths should have a minimum 30-foot width at a point measured 30 feet from the rear of the house.
- (11) *Required lot area above 100-year floodplain.* All lots shall have at least 8,000 square feet above the 100-year floodplain elevation.



- (12) *Corner lot width.* All corner lots shall have an additional ten feet of width.
- (13) *Proposed front yards.* All lots shall have the proposed front yard shown on a plat map prior to final plat approval.
- (g) *Park dedication.* Whenever any land in the city is subdivided by any process including, but not limited to, subdivision, registered land survey, metes and bounds, or whenever any land within the city is to be built upon where no previous park fee was paid, the policy of the city is to require dedication for park land and facilities in accordance with the policies detailed in this section. If property, which was subject to a park dedication fee or dedication of land computed on the basis of a use that is not constructed, is to be subsequently developed with uses that would require an additional fee for dedication of additional land, there shall be a credit for the amount previously paid or dedicated.
- (1) Because the subdivision of land results in additional development in the community, and thus causes additional demand upon the recreational park facilities located therein, the subdivider shall dedicate lands for park purposes or pay a park dedication fee as determined in this section. Because of the current status of the park and recreational system for the city, and particularly the amount of undeveloped park land, the need for additional lands for parks does not necessarily coincide with the areas being subdivided. Consequently, the council determines that contributions by subdividers to the development of recreational park facilities should be primarily by payment of park dedication fee rather than land dedication. Park dedication fees shall be deposited in the special park fund and used solely for the purchase of parks or improvement of parks, playgrounds, community centers, or other recreational facilities in accordance with the park and recreational segment of the city's comprehensive plan. The park advisory board shall make a recommendation to the city council as to the location of any sites or facilities to be purchased with such funds.
- (2) Where a proposed park site is shown on the future land use plan of the city, and is located in whole or in part in the area being subdivided, the subdivider shall delineate such land on the final subdivision plat. Land in excess of the land required to be dedicated may be dedicated by the developer as part of the subdivision approval. Land in excess of that required or agreed to be dedicated shall be differentiated by symbol on the final plat from the land to be dedicated. The acquisition of such additional land, other than required public right-of-way, may be acquired by the city at the cost of unimproved land at the time of final plat approval. Land reserved in excess of the amount of land required or agreed to be dedicated shall be reserved for acquisition by the city for one year from the date of approval of the final subdivision plat. The city may waive this requirement if it does not plan to acquire the land within the year.
- (3) If a required public right-of-way exceeds 80 feet in width, such right-of-way shall not be included in the gross area of the subdivision for purposes of park dedication. Whenever a parcel of land is subdivided into lots containing one or more acres and such lots may eventually be subdivided into smaller lots, the city council may require that such parcel of land be divided, so as to allow for the future construction of bike/walk paths or trails. Easements providing for the future opening and extension of such path or trails may be made a requirement of the plat. The water surface area of required holding ponds shall not be included in the gross area of the subdivision for purposes of park dedication.
- (4) Determination of land to be dedicated or fees to be paid:
- a. *Land amount.* The amount of land required to be dedicated by a developer shall be based on the gross area included in the subdivision, which would be developed for residential, commercial, or industrial purposes and shall be determined by the following formula:
1. *Residential.*

Dwelling Unit/Acre	Land to be Dedicated
0—1 .....	5 percent
2—3 .....	10 percent
4—5 .....	12 percent
6—7 .....	14 percent
8—12 .....	16 percent
13—16 .....	18 percent
For each unit over 16/acre, add 0.5 percent	

2. *Industrial.* The park dedication requirement for an industrial subdivision shall be three percent of the gross area.
  3. *Commercial.* The park dedication requirement for a commercial subdivision shall be three percent of the gross area.
- b. *Fee amount.* The park dedication fees to be paid by a developer shall be based on the cost to provide neighborhood parks, to improve existing community parks and to acquire and develop new community parks, community recreational facilities, trails and public open space.
1. *Residential.* The city council shall determine by action the park dedication fee for each type of residential unit permitted within the city.
  2. *Industrial.* The city council shall determine by action the park dedication fee for industrial development. This fee shall be computed on a per-acre basis and shall not exceed three times the park dedication fee for a single-family residential unit.
  3. *Commercial.* The city council shall determine by action the park dedication fee for commercial development. This fee shall be computed on a per-acre basis and shall not exceed three times the park dedication fee for a single-family residential unit.
- c. *Procedure.* Because differing amounts of land, or no lands at all, will be required, the following procedure will be used:
1. If the city council determines that specific land within the subdivision is desired for park purposes, the subdivider shall convey marketable title by warranty deed, free and clear of all encumbrances, as verified by the city attorney.
    - i. If the amount of land is less than the percentage required to be dedicated, the subdivider shall pay in addition, an amount determined by multiplying the park dedication fee otherwise payable, by the total number of units approved for development, less the fair market value of the unimproved land dedicated.
    - ii. If the amount of land is greater than the percentage required to be dedicated, the city shall pay to the subdivider the fair market value of the unimproved land in excess of the percentage required to be dedicated, which value shall be determined at the time of final plat approval.

2. If the city elects to accept cash in lieu of land, the subdivider shall pay to the city the amount of the fee as determined by action of the city council.
- d. *Savings clause.* If any of the procedures for the determination of the park dedication fee are determined by any court to be invalid for any reason whatsoever, the park dedication fee shall then be determined as follows:
  1. The city manager shall determine the fair market value of the unimproved land to be divided at the time of the final approval.
  2. A percentage equal to the percentage of land to be dedicated shall be applied to the fair market value in addition to the cost of developing parks and shall be the park dedication fee.
- e. *Definition.* The term "fair market value" means a price that a willing buyer would pay and a willing seller would accept for the unimproved land or influences as determined by the city manager but excluding any buildings or structures located thereon.
- f. *Park board review.* The director of planning/economic development, or his designated representative, shall transmit a copy of all preliminary plats involving land to be dedicated for parks to the director of parks and recreation, who shall review the plat with the park board and report back to the director of planning/economic development within 30 days on the appropriateness of any proposed park dedication.
- g. Blaine Resolution No. 03-249 provides that park dedication fees can be adjusted beginning January 1 of each year by the percent of increase in the fair market value of undeveloped land within the city, with an annual increase not to exceed ten percent. The fair market value average of unimproved land has increased in 2020 and park dedication fees for 2021 shall remain the same as 2020 park dedication fees.
  1. *2021 park dedication fees.* The following fees are hereby adopted for 2021, and shall be effective for final plats, plat waivers and building permits approved or issued after January 1, 2021, except for those final plats that are part of previously approved developments, which have specific language limiting park dedication rate increases approved by city council in previous development agreements.

FEE	TYPE OF DEVELOPMENT
\$4,449.00/unit of	Single-Family
\$4,449.00/unit of	Duplex
\$4,449.00/unit of	Townhouse and Quad
\$4,449.00/unit of	Multiple Family
\$4,449.00/unit of	Mobile Home
\$8,704.00/acre of	Commercial
\$6,702.00/acre of	Industrial

2. *Use of fees.* The fees collected for residential development shall be distributed 65 percent to park development and 35 percent to open space development. One hundred percent of commercial and industrial fees shall be used for park development. The cost for land acquisition and construction of trails outside of parks shall be funded from the open space portion of the park dedication fee.

(h) *Drainage.* The natural drainage shall be used as far as is feasible for the storage and flow of runoff. The design of a drainage system shall conform to the city comprehensive stormwater drainage plan and Chapter 34, Article XI of this Code. The following requirements shall also apply:

- (1) Stormwater drainage shall be discharged to marshlands, swamps, retention basins, drainage channels, natural waterways, or other treatment facilities. Diversion of stormwater to marshlands or swamps shall be considered for existing or planned surface drainage. Marshlands and swamps used for stormwater shall provide for natural or artificial water level control. Pretreatment of runoff and dewatering operations must be provided before discharge to any surface waters.
- (2) No existing ditch, stream, drain or drainage channel shall be deepened, widened, rerouted or filled without written permission from the city and other governmental agencies.
- (3) Where drainage channels must be constructed to augment the natural drainage system, such channels, as well as the natural drainageways, may be planned as part of a recreational trail system. Channels shall be designed to be aesthetically compatible for recreational trail use.
- (4) The drainage system shall be constructed and shall be operational as quickly as possible during construction of the required improvements.

(Code 1963, § 56.06; Code 1980, § 18-6; Ord. No. 583, 7-6-1978; Ord. No. 624, 4-19-1979; Ord. No. 86-938, 3-20-1986; Ord. No. 88-1074, 3-17-1988; Ord. No. 89-1134, 4-20-1989; Ord. No. 93-1334, 6-3-1993; Ord. No. 97-1638, 2-6-1997; Ord. No. 97-1647, 3-20-1997; Ord. No. 10-2199, 2-4-2010; Ord. No. 10-2205, 5-20-2010; Ord. No. 12-2240, 3-1-2012; Ord. No. 13-2275, 12-19-2013; Ord. No. 14-2298, 11-20-2014; <ulink class="ordbank" print="yes"

url="http://newords.municode.com/readordinance.aspx?ordinanceid=748334&datasource=ordbank" web="yes">Ord. No. 15-2333, 12-17-2015 </ulink>; <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=774596&datasource=ordbank" web="yes">Ord. No. 00-1857, 6-22-2000 </ulink>; <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=801650&datasource=ordbank" web="yes">Ord. No. 16-2367 </ulink>, 12-1-2016; <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=857893&datasource=ordbank" web="yes">Ord. No. 17-2386 </ulink>, 11-2-2017; Ord. No. <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=923472&datasource=ordbank" web="yes">18-2416 </ulink>, 11-15-2018; Ord. No. <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=997227&datasource=ordbank" web="yes">19-2439 </ulink>, 12-2-2019; Ord. No. <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=1048662&datasource=ordbank" web="yes">20-2458 </ulink>, 11-2-2020)

#### **Sec. 74-82. Improvements required.**

(a) *Improvements.* Prior to the approval of a final plat by the council, the subdivider shall have agreed in the manner set forth below to install, in conformity with construction plans approved by the city engineer and in conformity with all applicable standards and ordinances of the city, the following improvements on the site:

- (1) *Monuments.* Monuments of a permanent character, as required by Minn. Stat. § 505.02, shall be placed at an angle and curve points on the outside boundary lines of the plat and also at all block corners and at all intermediate points on the block lines indicating changes of direction in the lines. Pipes or steel rods shall be placed at each corner of each lot and each intersection of street centerlines.
- (2) *Streets.* The full width of the right-of-way of each street dedicated in the plat shall be graded. All streets shall have an adequate sub-base and shall be constructed in accordance with the design standards filed in the office of the city engineer. Except for areas platted for rural development with large lots, as specified in the zoning ordinance, all streets shall be provided with an impervious surface.
- (3) *Curb and gutter.* A concrete curb and gutter shall be installed on both sides of each street dedicated in the plat where curb and gutter are required. Concrete curb and gutter shall be required on both sides of each street in all subdivisions except in areas being platted for rural development with large lots, as specified in the zoning ordinance.
- (4) *Water supply.* Water mains shall be provided to serve the subdivision by extension of an existing community system. Service connections shall be stubbed into the property line and all fire hydrants shall also be provided. Extensions of the public water supply system shall be designed so as to provide public water service to each lot. The design of such extension shall be in accordance with the standards of the city. In areas being platted for rural development with large lots, as specified in the zoning ordinance, individual wells shall be provided on each lot, properly placed in relationship to the adjoining lots. Well location plans must be submitted for the approval of the city engineer and the building official.
- (5) *Sewage disposal.* Sanitary sewer mains and service connections shall be installed to serve all the lots in the subdivision and shall be interconnected with the public system. In areas being platted for rural development with large lots, as specified in the zoning ordinance, individual on-site sewage disposal facilities shall be provided for each lot, property located with reference to the wells on the same and adjoining lots and the disposal facilities on adjacent lots. The subdivider shall have made and submit the results of certified tests to ascertain subsurface soil, rock and groundwater conditions in such a subdivision. Plans for individual on-site facilities shall be submitted for the approval of the city engineer and the building official.
- (6) *Drainage.* A drainage system as approved by the city engineer shall be provided. The use of dry wells for the purpose of stormwater disposal is prohibited.
- (7) *Street trees.* Street trees shall be planted in conformance with standards and specifications adopted by the council.
- (8) *Street signs.* Street signs of standard design approved by the city shall be installed at the developer's expense at each street intersection.
- (9) *Utilities.* All utility lines for telephone and electrical service shall be placed underground in the street right-of-way or designated easement.
- (10) *Street lighting.* Street lighting shall be provided to conform with standards as adopted by the council.
- (11) *Sidewalks and trails.* Sidewalk or trail shall be required on one side of collector streets. Sidewalks and/or trails may be required along both sides of collector streets depending upon pedestrian needs and connectivity to existing or planned sidewalk and trail systems. Sidewalks and trails shall be

constructed in accordance with design standards filed in the office of the city engineer. Variation to these sidewalk and trail requirements may be approved upon the discretion of the city council.

- (b) *Payment for installation of improvements.* The required improvements, which are listed and described in subsection (a) of this section, are to be furnished and installed at the sole expense of the subdivider and at no expense to the city. However, in the case of an improvement which would, by general policy of the city, be assessed only in part to the improved property and the remaining cost paid by the city, the council may make provision for payment of a portion of the cost by the subdivider and the remaining portion of the cost by the city. If any improvement installed within the subdivision will be of benefit to lands beyond the boundaries of the subdivision, the council may make provision for causing a portion of the cost of the improvement representing the benefit to such lands to be assessed against the same. In such case, the subdivider will be required only to pay for such portions of the entire cost of such improvements which represent the benefit to the property within the subdivision.
- (c) *Required contract providing for installation of improvements.* Prior to installation of any required improvements and prior to approval of the final plat, the subdivider shall enter into a development contract in writing with the city requiring the subdivider to furnish and construct such improvements at such subdivider's sole cost in accordance with the approved plans and specifications and usual contract conditions, which shall include provisions for supervision of details of construction by the city engineer. The city engineer shall have the authority to correlate the work to be done under such contract by any subcontractor authorized to proceed thereunder with any other work being done or contracted by the city in the vicinity. The contract shall require the subdivider to make an escrow deposit or, in lieu thereof, to furnish the performance bonds, as described in subsection (d) of this section. The time for completion of work shall be determined by the council upon recommendation of the city engineer, after consultation with the subdivider, and shall be reasonable in relation to the work to be done, the season of the year, and proper correlation with construction activity in the subdivision.
- (d) *Financial guarantee.* The development contract described in subsection (c) of this section shall require the subdivider, at the option of the city, to deposit cash in escrow, furnish a performance bond, or file a letter of credit to ensure payment of the total cost of the required improvements. The total cost of the required improvements shall be estimated by the city engineer and shall include, but not be limited to, the following costs: the cost of construction or installation; engineering; preparation of feasibility report; preparation of plans and specifications; inspection; legal services; right-of-way acquisition; construction interest; and related administrative costs. The city shall be entitled to reimbursement from the financial guarantee for the cost of the required improvements, for any expense incurred by the city to cause completion of the work in the event of subdivider default of the development contract, and for any damages or legal costs sustained by the city on account of any breach thereof. Upon completion of the work and termination of any subdivider liability under the development contract, the financial guarantee or any cash balance and interest earnings retained by the city shall be refunded to the subdivider. If the cost of required improvements or any part thereof are assessed, the financial guarantee may be retained by the city until such time as the subdivider has completed its obligations under the development contract. Financial guarantees shall be posted as follows:
  - (1) *Improvements not assessed.* The subdivider shall deposit cash in escrow with the city or furnish to the city a performance bond or irrevocable letter of credit, with surety, form, and conditions satisfactory to the city in an amount equal to 125 percent of the total cost of the required improvements, as estimated by the city engineer.
  - (2) *Improvements assessed.* If the city consents to special assess the costs of the required improvements, the subdivider shall deposit cash in escrow or an irrevocable letter of credit with the city in the amount equal to 25 percent of the total cost of the required improvements. The subdivider shall agree in the development contract to pay at the time of sale the respective special

assessments levied against each lot sold within the subdivision or to pay into escrow 125 percent of any pending special assessment against each lot sold within the subdivision.

- (e) *Construction plans.* Construction plans for the required improvements, conforming in all respects to the standards and ordinances of the city, shall be prepared under the direction of the city engineer by a professional engineer, registered in the state. Payment for such plans and specifications, feasibility reports, inspection of the work by the city engineer, and administrative costs shall be the sole responsibility of the subdivider.

(Code 1963, § 56.07; Code 1980, § 18-7; Ord. No. 380, 6-20-1974; Ord. No. 496, 3-18-1976; Ord. No. 699, 7-17-1980; Ord. No. 737, 8-20-1981; Ord. No. 94-1499, 2-17-1994; [web="yes">Ord. No. 16-2366](http://newords.municode.com/readordinance.aspx?ordinanceid=798372&datasource=ordbank), 11-3-2016)

## **Chapter 78 TAXATION \***

~~\***Charter reference**—Taxation and finance, ch. 7.~~

~~**Cross reference**—Any ordinance promising or guaranteeing the payment of money or authorizing the issuance of bonds or other instruments of indebtedness saved from repeal, § 1-11(5); any ordinance levying, imposing or otherwise relating to taxes not codified in the Code saved from repeal, § 1-11(15); finance, § 2-131 et seq.; businesses, ch. 22.~~

**State Law reference**— Property taxes, Minn. Stat. chs. 272—287.

### **ARTICLE I. - IN GENERAL**

### **ARTICLE II. - LODGING TAX**

### **ARTICLE I. IN GENERAL**

Secs. 78-1—78-30. Reserved.

Secs. 78-1—78-30. Reserved.

### **ARTICLE II. LODGING TAX \***

\***State Law reference**— Local lodging tax, Minn. Stat. § 469.190.

Sec. 78-31. Definitions.

Sec. 78-32. Purpose.

Sec. 78-33. Imposition; rate.

Sec. 78-34. Collections.

Sec. 78-35. Refunds.

Sec. 78-36. Penalties; deficiency.

Sec. 78-37. Tax determined by the city council.

Sec. 78-38. Administration.

Sec. 78-39. Violations.

Sec. 78-40. Deposit in special purpose fund.

Sec. 78-41. Distribution.

#### **Sec. 78-31. Definitions.**

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

*City finance director* means the individual designated by the city manager to fulfill the duties of city treasurer as specified in the city charter.

*Hotel* means the furnishing, for consideration, of lodging by a hotel, tourist court, or motel, and the granting of any similar license to use real property other than the renting or leasing thereof for a continuous period of 30 days or more. The furnishing of rooms by any legally constituted religious, educational or nonprofit organization shall not constitute lodging for the purposes of this article.



*Operator* means the person who is the proprietor of the hotel, whether in the capacity of owner, lessee, sublessee, licensee, or any officer, agent, or employee of such person.

*Person* means any individual corporation, partnership, association, limited liability company or partnership, estate, receiver, trustee, executor, administrator, assignee, syndicate or any other combination of individuals. Whenever the term "person" is used in any provision of this article prescribing and imposing a penalty, the term as applied to a corporation, partnership, association, limited liability company or partnership, or shall mean the officers or partners thereof as the case may be.

(Code 1980, § 8-11; Ord. No. 96-1592, 3-7-1996)

~~Cross-reference—Definitions generally, § 1-2.~~

**Sec. 78-32. Purpose.**

There is hereby created a tax upon lodging at hotels, motels, roominghouses, tourist courts, or resorts. The purpose of the tax is to provide funding for a convention and visitors bureau to promote tourism and conventions.

(Code 1980, § 8-10; Ord. No. 96-1592, 3-7-1996)

**Sec. 78-33. Imposition; rate.**

On or after April 15, 1996, the following tax, as authorized by Minn. Stat. § 469.190, shall apply:

- (1) For the privilege of occupation of any hotel, each person shall pay a tax in the amount of three percent of the charge made by the operator.
- (2) Those persons qualifying under subsection (1) of this section shall pay the tax to the operator of the hotel at the time the charge is paid. Such tax constitutes a debt owed to the city by the operator and is extinguished only by payment to the city.

(Code 1980, § 8-12; Ord. No. 96-1592, 3-7-1996)

**Sec. 78-34. Collections.**

- (a) *Operator's duties.* Each operator shall collect the tax imposed by this article at the time the rent is paid. The amount of tax shall be separately stated from the rent charged. Those persons paying the tax shall receive a receipt of payment from the operator.
- (b) *Reports.* Each operator collecting such tax shall make a report upon forms distributed to the operator by the city finance director. Such reports shall contain, at a minimum:
  - (1) The amount of room rentals collected.
  - (2) The amount of tax required to be collected and due for the period.
  - (3) The signature of the operator or that of the agent if the operator has not made the report.
  - (4) The period the return covers.
  - (5) The amount of room rental uncollectible.
  - (6) Such additional information as the city council, in its discretion, from time to time requires.

- (c) *Payment to the city.* Payment of the tax shall be submitted by the operator to the city along with the required reports. Payment shall cover the tax due for the preceding calendar month, or any alternative four-week accounting period, whichever shall be, and such payment shall be made no later than 25 days after the end of such calendar or alternative accounting month.
- (d) *Uncollectible charges.* The operator may offset against the tax due with respect to any reporting period the amount of the taxes imposed by section 78-33 previously paid as a result of any transaction which becomes uncollectible during such reporting period, but only in proportion to the portion of such amount which becomes uncollectible.
- (e) *Examination of return.* After a return is filed, the city finance director may make any examination of the records and accounts of the person making the return which he deems necessary for determining its correctness. The tax computed on the basis of such examination shall be the tax to be paid. If the tax due is found to be greater than that paid, such excess shall be paid within ten days after receipt of such notice. Such notice shall be given either personally or sent by registered mail to the address listed on the return. If the tax paid is greater than the tax found to be due, the excess paid shall be refunded to the operator at the address listed on the return.

(Code 1980, § 8-13; Ord. No. 96-1592, 3-7-1996)

#### **Sec. 78-35. Refunds.**

- (a) Any operator may file for a refund for taxes paid in excess of the amount equally due for that period, provided that no such claim shall be entertained unless filed within one year after such tax paid.
- (b) Upon application, the city finance director shall determine the correctness of the claim and return any excess paid. If no excess is found, the city shall so inform the operator. The operator may make written application for city council hearing within five days after receipt of notice that the claim has been denied. The operator shall be informed at least five days in advance of the scheduled council hearing.

(Code 1980, § 8-14; Ord. No. 96-1592, 3-7-1996)

#### **Sec. 78-36. Penalties; deficiency.**

Any operator failing to make payment within the 25-day period specified in section 78-33 shall be required to pay a penalty of ten percent. If the delinquency continues beyond 30 days after the tax is due as specified in section 78-33, such delinquent taxes, plus penalty, as heretofore provided, shall be entered, shown and placed on the tax assessment rolls of the city for the hotel generating the delinquency, or the city attorney may commence such action necessary to collect the tax and penalties due including all costs of collection including, but not limited to, attorney's fees.

(Code 1980, § 8-15; Ord. No. 96-1592, 3-7-1996)

#### **Sec. 78-37. Tax determined by the city council.**

- (a) If the operator refuses to collect the tax imposed or fails to make the required reports, the city finance director shall obtain facts and information and make an estimate of the amount of tax due and shall give the operator a statement of the tax due to his estimate and give notice personally or through registered mail to such operator of the amount due. Depending upon the time periods as specified in section 78-33, the amount of tax estimated shall include the applicable penalties and interest. Payments shall be made within ten days after receipt of the notice. For the purpose of carrying out the provisions

of this section, the city finance director shall have the right of access to the books and records of the operator.

- (b) The operator shall have ten days after receipt of notice to make a written application for a hearing on the amount estimated to the city finance director. If no request is made during this ten-day period, the amount specified in the statement of the city finance director, including penalties, becomes final and payable within ten days.
- (c) If a hearing is properly requested, the running of the time periods described in section 78-36 are automatically stayed. Notice of the hearing shall be given to the operator at least ten days in advance. All hearings are to be held before the city council. The council may determine the amount due, when it shall be paid, and whether or not the penalty time period under section 78-36 shall resume running until payment. Once the amount due becomes fixed under either subsection (a), (b), or (c) of this section, any further steps necessary to ensure collection as described in section 78-36 for the collection of deficiencies shall be taken.

(Code 1980, § 8-16; Ord. No. 96-1592, 3-7-1996)

**Sec. 78-38. Administration.**

The city finance director shall be charged with the responsibility for enforcement and administration of this article.

(Code 1980, § 8-17; Ord. No. 96-1592, 3-7-1996)

**Sec. 78-39. Violations.**

Any willful violations of any provision of this article, or tendering a false report required pursuant to this article, shall be a misdemeanor.

(Code 1980, § 8-18; Ord. No. 96-1592, 3-7-1996)

**Sec. 78-40. Deposit in special purpose fund.**

All revenues collected by the city pursuant to this article shall be deposited in a special purpose fund hereby established to be known as the hotel/motel tax fund.

(Code 1980, § 8-19; Ord. No. 96-1592, 3-7-1996)

**Sec. 78-41. Distribution.**

Distribution of all revenues relating to three percent of the charge made by the operator and collected pursuant to this article shall be used for the purpose of the advancement of the city as a tourist and convention center. The city may retain a sum not to exceed five percent of the gross proceeds from the tax authorized in section 78-33.

(Code 1980, § 8-20; Ord. No. 96-1592, 3-7-1996)

## Chapter 82 TRAFFIC AND VEHICLES \*

~~\*Editor's note—Ord. No. <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=973794&datasource=ordbank" web="yes">19-2433 </ulink>, adopted Aug. 19, 2019, amended Ch. 82 in its entirety to read as herein set out. Former Ch. 82, §§ 82-1—82-8, 82-61, 82-62, 82-91, 82-92, 82-111—82-113, 82-151—82-156, 82-191—82-197, and 82-231—82-233, pertained to traffic and vehicles. Please see Code Comparative Table for complete derivation.~~

ARTICLE I. - IN GENERAL

ARTICLE II. - ADMINISTRATION AND ENFORCEMENT

ARTICLE III. - ~~GENERAL RULES OF~~ VEHICLE OPERATION

ARTICLE IV. - STOPPING, STANDING AND PARKING

ARTICLE V. - SNOWMOBILES AND OTHER RECREATIONAL ~~MOTOR~~ VEHICLES

ARTICLE VI. - TRAFFIC VISIBILITY

### ARTICLE I. IN GENERAL

Sec. 82-1. Purpose.

Sec. 82-2. Violation of statutes adopted by reference.

Sec. 82-3. Adoption of state law by reference.

Sec. 82-4. Location of stop and yield signs.

Sec. 82-5. Sales of vehicles on public and private property.

Sec. 82-6. Traffic commission—Establishment, membership, organization.

Secs. 82-7—82-40. Reserved.

#### Sec. 82-1. Purpose.

In order to preserve civic beauty, to ensure public health, safety, and welfare by preventing congestion and traffic hazards, to prevent unauthorized use and trespass on vacant property, and to prevent damage and erosion problems associated with off-road vehicle travel on unimproved surfaces, it is necessary to regulate traffic and vehicles within the city.

(Ord. No. <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=973794&datasource=ordbank" web="yes">19-2433 </ulink>, 8-19-2019)

~~Cross reference—Blaine Zoning Ordinance Part III—Chapter 33 Performance Standards.~~

#### <sup>110</sup>Sec. 82-2. Violation of statutes adopted by reference.

Any violation of the statutes adopted by reference in this chapter is a violation of this Code when the violation occurs within the city. Any person violating any provision of such statutes shall be guilty of a

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<sup>110</sup> **Sec. 82-2. Violation of statutes adopted by reference.** This section and section 82-3 should be combined.

petty misdemeanor unless where otherwise referenced as a misdemeanor and shall be subject to the sanctions set forth in the applicable statutes adopted in this chapter by reference.

(Ord. No. [19-2433](http://newords.municode.com/readordinance.aspx?ordinanceid=973794&datasource=ordbank), 8-19-2019)

<sup>111</sup>**Sec. 82-3. Adoption of state law by reference.**

**(a)** The provisions of Minn. Stat. **chapters:**

**84 Department of Natural Resources;**

168 Vehicle Registration, Taxation, Sale;

169 Traffic Regulations,

169A Driving While Impaired, and

171 Driver's Licenses and Training Schools

as they may be amended from time to time, with reference to the definition of terms and all other matters pertaining to traffic regulations and the Highway Traffic Regulation Act are hereby adopted by reference and are made a part of this article as if set out in full.

**(b)** It is the intention of the city council that all future amendments to the above-referenced Minn. Stat. are hereby adopted by reference or referenced and incorporated in as per Minn. Stat. § 471.62 and made part of this Code as completely as if set out in this section in full and as if they had been in existence at the time this article is adopted.

(Ord. No. [19-2433](http://newords.municode.com/readordinance.aspx?ordinanceid=973794&datasource=ordbank), 8-19-2019)

**Sec. 82-4. Location of stop and yield signs.**

Stop and yield signs shall be placed and maintained at locations specified by ordinances and resolutions of the council, which ordinances and resolutions are on file in the office of the city clerk.

(Ord. No. [19-2433](http://newords.municode.com/readordinance.aspx?ordinanceid=973794&datasource=ordbank), 8-19-2019)

**Sec. 82-5. Sales of vehicles on public and private property.**

No person, business, association or corporation shall store, display or park, or allow the storage, display or parking of an individual vehicle which has displayed on or near it a sign indicating a phone number, address, or other identifying information, or a sign indicating that the vehicle is for sale, consignment, lease, trade or exchange:

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<sup>111</sup> **Sec. 82-3. Adoption of state law by reference.** I do not understand the inclusion of Chapter 84 in this adoption section. It is topically unrelated and much of that chapter does not apply to the city.

- (1) Upon any public property including public right-of-way and easements; or
- (2) Upon any private property, unless the vehicle is stored, displayed, or parked on an improved hard surface designed and improved for vehicle travel and only if the vehicle is registered to the property upon which it is stored, displayed, or parked.

(Ord. No. [19-2433](http://newords.municode.com/readordinance.aspx?ordinanceid=973794&datasource=ordbank) [8-19-2019](http://newords.municode.com/readordinance.aspx?ordinanceid=973794&datasource=ordbank))

**<sup>112</sup>Sec. 82-6. Traffic commission—Establishment, membership, organization.**

- (a) *Establishment.* There is hereby established for the city a traffic commission. The traffic commission is an advisory board to the city council. The traffic commission shall review neighborhood traffic concerns on local streets, define issues, review alternatives, look at costs, hold public hearings, and make recommendations to the city council.
- (b) *Organization.* The traffic commission shall adopt rules for the transaction of its business and such rules may include provisions for the giving of oaths to witnesses and the filing of written briefs by the parties. The commission shall provide a public record of its proceedings which include the minutes of its meetings, its findings, and action taken on each matter heard by it, including the final recommendation. The meetings of the traffic commission shall be held at the call of the chair and at such other times as the commission in its rules of procedure may specify.

(Ord. No. [19-2433](http://newords.municode.com/readordinance.aspx?ordinanceid=973794&datasource=ordbank) [8-19-2019](http://newords.municode.com/readordinance.aspx?ordinanceid=973794&datasource=ordbank) Ord. No. [19-2442](http://newords.municode.com/readordinance.aspx?ordinanceid=998690&datasource=ordbank) [1-6-2020](http://newords.municode.com/readordinance.aspx?ordinanceid=998690&datasource=ordbank))

**Secs. 82-7—82-40. Reserved.**

**<sup>113</sup>ARTICLE II. ADMINISTRATION AND ENFORCEMENT**

~~**DIVISION 1. GENERALLY**~~

~~**DIVISION 2. IMPOUNDMENT OF VEHICLES**~~

~~**DIVISION 1. GENERALLY**~~

~~**Secs. 82-41—82-60. Reserved.**~~

~~**Secs. 82-41—82-60. Reserved.**~~

~~**DIVISION 2. IMPOUNDMENT OF VEHICLES**~~

~~**Sec. 82-61. Towing of illegally parked vehicles.**~~

~~**Sec. 82-62. Release of motor vehicles from impoundment.**~~

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<sup>112</sup> **Sec. 82-6. Traffic commission—Establishment, membership, organization.** This section should be moved to article II (administration and enforcement) below.

<sup>113</sup> **Art II. Administration etc.** This article should be reduced to contain two sections: 82-6 per preceding footnote and 82-61—82-62 combined into a single section.

~~Sees. 82-63—82-90. Reserved.~~

<sup>114</sup>**Sec. 82-61. Towing of illegally parked vehicles.**

Any vehicle parked in violation of the city ordinances or in violation of the state law may be removed by towing at the direction of the city police to a suitable place for storage until claimed by the owner or agent of the owner. The owner or other person responsible for such parking of the vehicle shall be liable for the reasonable cost of such towing and storage upon conviction for such illegal parking. The city shall in no way be liable for any damage to any vehicle which has been ordered towed away.

(Ord. No. [19-2433](http://newwords.municode.com/readordinance.aspx?ordinanceid=973794&datasource=ordbank) [8-19-2019](http://newwords.municode.com/readordinance.aspx?ordinanceid=973794&datasource=ordbank))

**Sec. 82-62. Release of motor vehicles from impoundment.**

If a motor vehicle is impounded by a peace officer following the arrest or taking into custody of a driver the impounded vehicle shall only be released from impoundment:

- (1) To the registered owner, a person authorized by the registered owner, a lien owner of record, or a person who has purchased the vehicle from the registered owner, who provides proof of ownership of the vehicle, proof of valid state driving privileges, and proof of insurance required by law to cover the vehicle;
- (2) If the vehicle is subject to a rental or lease agreement, to a renter or lessee with valid state driving privileges who provides a copy of the rental or lease agreement and proof of insurance required by law to cover the vehicle; or
- (3) To an agent of a towing company authorized by the registered owner if the owner provides proof of ownership of the vehicle, and proof of insurance required by law to cover the vehicle.

(Ord. No. [19-2433](http://newwords.municode.com/readordinance.aspx?ordinanceid=973794&datasource=ordbank) [8-19-2019](http://newwords.municode.com/readordinance.aspx?ordinanceid=973794&datasource=ordbank))

~~Sees. 82-63—82-90. Reserved.~~

<sup>115</sup>**ARTICLE III. ~~GENERAL RULES OF VEHICLE OPERATION~~**

~~DIVISION 1. GENERALLY~~

~~DIVISION 2. VEHICLE OPERATION ON CITY OR OTHER PUBLIC PROPERTY~~

***DIVISION 1. GENERALLY***

~~Sec. 82-91. Unreasonable acceleration.~~

~~Sees. 82-92—82-110. Reserved.~~

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<sup>114</sup> **Sec. 82-61. Towing of illegally parked vehicles.** This section and section 82-62 should be combined into a single section.

<sup>115</sup> **Art. II. Vehicle Operation.** This article should also be reduced to three sections with no divisions: 82-91, 82-111, and 82-112. Alternatively, and preferably, this article could be eliminated and the three sections moved to article I.

**Sec. 82-91. Unreasonable acceleration.**

No person shall start or accelerate any motor vehicle with an unnecessary exhibition of speed on any public or private way within the city limits. Prima facie evidence of such unnecessary exhibition of speed shall be squealing or screeching sounds emitted by the tires or the throwing of sand, gravel, or other debris by the tires of such vehicle.

(Ord. No. [19-2433](http://newords.municode.com/readordinance.aspx?ordinanceid=973794&datasource=ordbank) [8-19-2019](http://newords.municode.com/readordinance.aspx?ordinanceid=973794&datasource=ordbank))

**~~Secs. 82-92—82-110. Reserved.~~**

**~~DIVISION 2. VEHICLE OPERATION ON CITY OR OTHER PUBLIC PROPERTY~~**

**~~Sec. 82-111. Operating vehicles in designated places only.~~**

**~~Sec. 82-112. Damage to barricades.~~**

**~~Secs. 82-113—82-150. Reserved.~~**

**Sec. 82-111. Operating vehicles in designated places only.**

It shall be unlawful for any person to drive, park, or operate a motor vehicle upon any city property which has not been expressly designated for motor vehicle traffic, is not licensed for such use, or not permitted by ordinance unless part of a city-sponsored special event or other event/activity at city manager's discretion or their designee.

(Ord. No. [19-2433](http://newords.municode.com/readordinance.aspx?ordinanceid=973794&datasource=ordbank) [8-19-2019](http://newords.municode.com/readordinance.aspx?ordinanceid=973794&datasource=ordbank))

**Sec. 82-112. Damage to barricades.**

It shall be unlawful for any person to remove, deface, or damage any such barricade, fence or obstruction erected for preventing motor vehicle traffic from passing over city roadways, city property including city park property and state property.

(Ord. No. [19-2433](http://newords.municode.com/readordinance.aspx?ordinanceid=973794&datasource=ordbank) [8-19-2019](http://newords.municode.com/readordinance.aspx?ordinanceid=973794&datasource=ordbank))

**Secs. 82-113—82-150. Reserved.**

**ARTICLE IV. STOPPING, STANDING AND PARKING**

**Sec. 82-151. General time limitation on leaving vehicle in public right-of-way.**

**Sec. 82-152. Parking during snowfall.**

**Sec. 82-153. Truck parking in residential zones.**

**Sec. 82-154. Leaving vehicles on public park land at night.**

**Sec. 82-155. Parking restrictions.**



Sec. 82-156. Parking violations; penalty for owner or lessee.

Secs. 82-157—82-190. Reserved.

**Sec. 82-151. ~~General~~ Time limitation on leaving vehicle in public right-of-way.**

- (a) No owner of any vehicle or person in charge of any vehicle shall park or permit such vehicle to stand upon any highway, street, or alley in the city for more than 48 consecutive hours at any time. Any vehicle moved a distance of not more than three-tenths of a mile during this period shall be deemed to have remained stationary.
- (b) From November 1 to April 1, no person shall park or permit to be parked any vehicle on any highway, street, or alley between the hours of 2:00 a.m. and 7:00 a.m. without an emergency parking permit issued by the city police department. Any vehicle parked in violation of this section may be removed as provided by section 82-61. The term "highway, street, or alley" shall be construed to mean the entire width of the right-of-way.

(Ord. No. [19-2433](http://newords.municode.com/readordinance.aspx?ordinanceid=973794&datasource=ordbank) [8-19-2019](http://newords.municode.com/readordinance.aspx?ordinanceid=973794&datasource=ordbank))

**Sec. 82-152. Parking during snowfall.**

It shall be unlawful to park or permit to be parked, or to continue to park or permit to stand, any vehicle upon any street after two inches or more of snowfall, until such time as the snow has been plowed from the street, curb to curb.

(Ord. No. [19-2433](http://newords.municode.com/readordinance.aspx?ordinanceid=973794&datasource=ordbank) [8-19-2019](http://newords.municode.com/readordinance.aspx?ordinanceid=973794&datasource=ordbank))

**<sup>116</sup>Sec. 82-153. Truck parking in residential zones.**

- (a) For the purposes of this chapter, definitions in [M.S.A. § 168.002](#) ~~Minn. Stat. § 168.011~~ shall be adopted by reference.
- (b) No trucks, farm trucks, semitrailers, special mobile equipment, truck tractors, farm implements or tractors, or trucks carrying or designed to carry explosive or flammable materials, buses, or vehicles exceeding gross vehicle capacity of 12,000 pounds shall be parked on public or private property in any residential district, except the farm residential and agriculturally zoned districts. Pickup trucks and vans rated under 12,000 gross vehicle capacity are exempt from this subsection.
- (c) This shall not prohibit recreational motor vehicles from parking, provided that the recreational motor vehicle is not used to display advertising or service.
- (d) This shall not prohibit vehicles, as described in subsection (b) of this section, from short term parking (two hours or less), actively loading, unloading or performing a service.
- (e) No auxiliary motors or engines on any vehicle shall be allowed to operate except when actively loading, unloading or performing a service.

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<sup>116</sup> **Sec. 82-153. Truck parking in residential zones.** Statute was renumbered as shown in 2008.

- (f) No person shall allow a semitrailer to be parked unattached from a tractor unit for any length of time on any city street in the city except in an emergency in order to change tractors
- (g) Any person violating this provision shall be guilty of a misdemeanor and shall be subject to the sanctions set forth in the applicable statutes adopted in this chapter by reference.

(Ord. No. [19-2433](http://newords.municode.com/readordinance.aspx?ordinanceid=973794&datasource=ordbank), 8-19-2019)

**<sup>117</sup>Sec. 82-154. Leaving vehicles on public park land at night.**

No person shall park or leave standing any vehicle, as defined in [M.S.A. § 169.011, subd. 92](#) ~~Minn. Stat. § 169.01~~, or any snowmobile or recreational motor vehicle, as defined in this Code, in or upon any public park between the hours of 10:00 p.m. and 5:00 a.m. of the day following excluding parking with special event licenses.

(Ord. No. [19-2433](http://newords.municode.com/readordinance.aspx?ordinanceid=973794&datasource=ordbank), 8-19-2019)

**Sec. 82-155. Parking restrictions.**

- (a) No person shall stop, stand, or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control device, in any of the following places:
  - (1) On a sidewalk;
  - (2) In front of a public or private driveway;
  - (3) Within an intersection;
  - (4) Within ten feet of a fire hydrant;
  - (5) On a crosswalk;
  - (6) Within 20 feet of a crosswalk at an intersection;
  - (7) Within 30 feet upon the approach to any flashing beacon, stop sign, or traffic-control signal located at the side of a roadway;
  - (8) Between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by signs or markings;
  - (9) Within 50 feet of the nearest rail of a railroad crossing;
  - (10) Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of said entrance when properly signposted;
  - (11) Alongside or opposite any street excavation or obstruction when such stopping, standing, or parking would obstruct traffic;
  - (12) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;

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<sup>117</sup> **Sec. 82-154. Leaving vehicles on public park land at night.** Statute renumbered 169.11 in 2008, then repealed effective August 2014. See now 169.011.

- (13) Upon any bridge or other elevated structure upon a highway or within a highway tunnel, except as otherwise provided by ordinance;
  - (14) Within a bicycle lane, except when posted signs permit parking; or
  - (15) At any place where official signs prohibit stopping or parking.
  - (16) In a sign-posted fire lane;
  - (17) In an alley;
  - (18) On any boulevard or berm which has been curbed;
  - (19) In front of a mailbox during the hours of 9:00 a.m. and 6:00 p.m., Monday through Saturday, in a manner which would prevent the distribution of mail by the United States Postal Service. Postal carriers must be able to drive into and out of the delivery area without backing up;
  - (20) More than 12 inches from the curb, or from the edge of the street traveled portion of the right-of-way;
  - (21) Where parking may cause a hazard;
  - (22) To interfere with emergency vehicles;
  - (23) On private property unless on a paved surface as specified in Blaine Zoning Ordinance, section 33.14 - Performance standards - Parking.
- (b) No person shall move a vehicle not owned by such person into any prohibited area or away from a curb such distance as is unlawful.
- (c) No person shall, for camping purposes, leave or park a travel trailer on or within the limits of any highway or on any highway right-of-way, except where signs are erected designating the place as a campsite.
- (d) No person shall stop or park a vehicle on a street or highway when directed or ordered to proceed by any peace officer invested by law with authority to direct, control, or regulate traffic.

(Ord. No. [19-2433](http://newords.municode.com/readordinance.aspx?ordinanceid=973794&datasource=ordbank), 8-19-2019)

**Sec. 82-156. Parking violations; penalty for owner or lessee.**

- (a) If a motor vehicle is stopped, standing, or parked in violation of section 82-155, the owner of the vehicle, or for a leased motor vehicle the lessee of the vehicle, is guilty of a petty misdemeanor.
- (b) The owner or lessee may not be fined under paragraph (a) if (1) another person is convicted for, or pleads guilty to, that violation, or (2) the motor vehicle was stolen at the time of the violation.
- (c) Paragraph (a) does not apply to a lessor of a motor vehicle if the lessor keeps a record of the name and address of the lessee.
- (d) Paragraph (a) does not prohibit or limit the prosecution of a motor vehicle operator for violating section 82-155(a).
- (e) A violation under paragraph (a) does not constitute grounds for revocation or suspension of the owner's or lessee's driver's license.

(Ord. No. [19-2433](http://newords.municode.com/readordinance.aspx?ordinanceid=973794&datasource=ordbank), 8-19-2019)

**Secs. 82-157—82-190. Reserved.**

## **ARTICLE V. SNOWMOBILES AND OTHER RECREATIONAL MOTOR VEHICLES**

[Sec. 82-191. Operation of recreational motor vehicle; generally; permission of landowner.](#)

[Sec. 82-192. Destruction of signs; illegally posting.](#)

[Sec. 82-193. Motorboats, snowmobiles and recreational motor vehicles and motor vehicles prohibited on lakes and waterways.](#)

**Secs. 82-194—82-230. Reserved.**

### **Sec. 82-191. Operation of recreational motor vehicle; generally; permission of landowner.**

(a) It is unlawful for any person to enter, operate, or stop a recreational motor vehicle:

- (1) On publicly owned land and easements, including park property, playgrounds, and recreational areas and all bodies of water, except where such areas are posted permitting recreational motor vehicles to operate on such property along, on or upon a city roadway;
- (2) Carelessly or heedlessly in disregard of the rights or the safety of others, or in a manner so as to endanger any person or property.

(b) No person shall enter, operate, or stop a recreational motor vehicle on lands not such person's own, except where otherwise allowed by law, without written permission of the owner, occupant, or lessee of such lands. Written permission may be given by a posted notice of any kind or description that the owner, occupant, or lessee prefers, so long as it specifies the kind of vehicles allowed, such as by saying "recreational motor vehicles allowed," "trailbikes allowed," or words substantially similar. Written permission other than posted notice shall be carried on the person of the operator of the recreational motor vehicle.

Any person violating this provision shall be guilty of a misdemeanor and shall be subject to the sanctions set forth in the applicable statutes adopted in this chapter by reference.

(Ord. No. [19-2433](http://newords.municode.com/readordinance.aspx?ordinanceid=973794&datasource=ordbank), 8-19-2019)

### <sup>118</sup>**Sec. 82-192. Destruction of signs; illegally posting.**

It is unlawful for a person to post, mutilate or remove any notice or sign as provided in this chapter upon or from any lands or waters over which such person has no right, title, interest or license.

(Ord. No. [19-2433](http://newords.municode.com/readordinance.aspx?ordinanceid=973794&datasource=ordbank), 8-19-2019)

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<sup>118</sup> **Sec. 82-192. Destruction of signs; illegally posting.** This section, applicable to the chapter, should be moved to article I.

**Sec. 82-193. Motorboats, snowmobiles and recreational motor vehicles and motor vehicles prohibited on lakes and waterways.**

In the interests of public health, safety and the general welfare, the following regulations are hereby imposed upon all motorboats, snowmobiles, recreational motor vehicles and motor vehicles operated, placed or maintained in or upon any lake or waterway within the City of Blaine:

- (1) No person shall operate any motorboat, or motor vehicle, including snowmobiles, on any lake or bodies of water within the City of Blaine. For purposes of this subsection "motorboat" does not include a boat which is operated solely by an electric trolling device.
- (2) Motorboats, motor vehicles, recreational motor vehicles and snowmobiles utilized by city, county or state officers for law enforcement, rescue or resource management shall be exempt from the provisions of this section.
- (3) Between the hours of 10:00 p.m. and 7:00 a.m.

Any person violating this provision shall be guilty of a misdemeanor and shall be subject to the sanctions set forth in the applicable statutes adopted in this chapter by reference.

(Ord. No. [19-2433](http://newords.municode.com/readordinance.aspx?ordinanceid=973794&datasource=ordbank), 8-19-2019)

**Secs. 82-194—82-230. Reserved.**

**<sup>119</sup>ARTICLE VI. TRAFFIC VISIBILITY**

**Sec. 82-231. Declaration of a nuisance.**

**Sec. 82-232. Intersection sight distance triangle.**

**Sec. 82-231. Declaration of a nuisance.**

Structures, objects, or plantings in excess of 30 inches above the abutting curbline within the intersection sight distance triangle, which are deemed to create a hazard by the city engineer, are declared to be a public nuisance and shall be removed in accordance with the provisions of applicable ordinances and state laws.

(Ord. No. [19-2433](http://newords.municode.com/readordinance.aspx?ordinanceid=973794&datasource=ordbank), 8-19-2019)

**Sec. 82-232. Intersection sight distance triangle.**

On all corner lots in all districts, no structure, object or planting in excess of 30 inches above the abutting curbline shall be permitted within a triangular area defined as follows: The intersection sight distance triangle, in the case of 90 degree intersecting streets, shall be described as the area within a triangle formed by connecting the following three points: the point of intersection of the curbline adjacent to the lot of the intersecting streets, a point 60 feet from such point of intersection along one

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<sup>119</sup> **Art. VI. Traffic Visibility.** The two sections in this article should be combined and moved to article I, eliminating this article.

curbline, and a point 60 feet from such point of intersection along the other curbline. In the case of all other intersecting streets, the intersection sight distance triangle shall be determined by the city engineer.

(Ord. No. [19-2433](http://newords.municode.com/readordinance.aspx?ordinanceid=973794&datasource=ordbank), 8-19-2019)

## Chapter 86 UTILITIES \*

~~\***Charter reference**—Public ownership and operation of utilities, ch. 11.~~

~~**Cross reference**—Administration, ch. 2; buildings and building regulations, ch. 18; water and sewer connection agreement, § 18-7; provisions and maintenance of basic services and utilities in manufactured home parks, § 18-344; businesses, ch. 22; environment, ch. 34; individual sewage treatment systems, § 34-241 et seq.; health and sanitation, ch. 42; manufactured homes and trailers, ch. 46; water and sewer facilities; burial of utility lines, § 46-97; solid waste, ch. 62; streets, sidewalks and other public places, ch. 70; telecommunications permit, § 70-3; subdivisions, ch. 74.~~

**State Law reference**—Water and sewer systems authorized, Minn. Stat. § 444.075.

### ARTICLE I. - IN GENERAL

### ARTICLE II. - WATER AND SEWER SERVICE APPLICATIONS

### ARTICLE III. - CONNECTIONS TO SYSTEMS

### ARTICLE IV. - WATER, SEWER AND STORMWATER RATES AND CHARGES

### ARTICLE V. - WATER METERS

## <sup>120</sup>ARTICLE I. IN GENERAL

Sec. 86-1. Violation.

Sec. 86-2. Utilities division designated; superintendent in charge; duties as outlined.

Sec. 86-3. Designation of superintendent; enforcement of rules and regulations, preventing illegal opening of hydrants.

Sec. 86-4. Nonliability of city.

Sec. 86-5. Use of water from fire hydrants; permit required.

Sec. 86-6. Voluntary discontinuance of service.

Sec. 86-7. Lawn sprinkler restrictions.

Sec. 86-8. Waste of water; inspections to determine, correction of condition.

Sec. 86-9. Reservation of right to restrict waste discharges; violations; regulations.

Sec. 86-10. Adoption of contracts regulating sewer use.

Sec. 86-11. Definitions.

Sec. 86-12. Discontinuing service.

Sec. 86-13. Regulating nonessential water usage upon critical water deficiency.

Secs. 86-14—86-40. Reserved.

### Sec. 86-1. Violation.

In addition to any other remedy provided in this chapter, any person who violates any provision of this chapter, or of any regulation adopted under this chapter, shall be guilty of a misdemeanor and upon

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<sup>120</sup> **Art. I. In General.** This article has provisions that could be moved to a water and a sewer article, separately, rather than dropped into this catchall group. See highlighting for sections I would suggest grouping in other articles.

conviction thereof shall be punished as provided in section 1-7. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue. Violations shall be corrected or remedied within a reasonable time and when not otherwise specified, each day during which violations exist shall constitute a separate offense.

(Code 1963, § 52.09; Code 1980, § 21-4; Ord. No. 543, 5-19-1977)

**Sec. 86-2. Utilities division designated; superintendent in charge; duties as outlined.**

The utilities division shall be a unit of the department of public works and shall be under the direct supervision of the superintendent of utilities who shall be directly responsible to the public works director.

(Code 1963, § 49.01; Code 1980, § 21-1; Ord. No. 543, 5-19-1977)

**Sec. 86-3. Designation of superintendent; enforcement of rules and regulations, preventing illegal opening of hydrants.**

The city manager shall designate a superintendent of utilities and it shall be such superintendent's duty to see that all rules and regulations pertaining to the public utilities system, the tapping of water mains by licensed plumbers, and the use of city water be complied with in all respects, and to see that no person shall open any hydrant for any purpose whatsoever without such superintendent's permission, except members of the fire department.

(Code 1963, § 49.02; Code 1980, § 21-2; Ord. No. 543, 5-19-1977)

**Sec. 86-4. Nonliability of city.**

No claim shall be made against the city because of the breaking of any water main, sewer main or service pipe or fixture or for any other interruption of the supply, by reason of the breaking of machinery or stoppage for necessary repair.

(Code 1963, § 51.03; Code 1980, § 21-5; Ord. No. 543, 5-19-1977)

**Sec. 86-5. Use of water from fire hydrants; permit required.**

No person, except a member of the utilities division or a member of the city fire department, in the case of fire, shall be allowed to open any fire hydrant in the city for any purpose whatsoever, without first securing a permit from the superintendent. Payment for such water used, except for firefighting, shall be made in accordance with the utilities division rate schedule.

(Code 1963, § 50.08; Code 1980, § 21-3; Ord. No. 543, 5-19-1977)

~~Charter reference—Public ownership and operation of utilities, ch. 11.~~

**Sec. 86-6. Voluntary discontinuance of service.**

- (a) Any consumer desiring to discontinue the water or sewer service, or both, for reason of moving, shall notify the city of the moving date and forwarding address. Sufficient notification shall be given so that the water meter can be read during normal working hours. Notice of the amount owing for utilities



shall be mailed to the forwarding address. If the bill is not paid after sufficient notice, it shall be charged against the premises as stated in this chapter.

- (b) Any property owner desiring to disconnect from the city water or sewer system, or both, for redevelopment shall notify the city to that effect. The water or sewer service, or both, shall be disconnected at the main and capped at the expense of the property owner.

(Code 1963, § 50.12; Code 1980, § 21-21; Ord. No. 543, 5-19-1977)

**Sec. 86-7. Lawn sprinkler restrictions.**

- (a) The use of the municipal water system for lawn sprinkling shall be regulated as provided in this section. Lawn and garden sprinkling and the use of irrigation systems will be permitted for properties having odd numbered addresses only on odd numbered days and for properties having even numbered addresses only on even numbered days.
- (b) From May 15 through September 15 lawn and garden sprinkling will be prohibited between the hours of 10:00 a.m. and 6:00 p.m. daily.
- (c) Exceptions.
  - (1) This section does not apply to private wells.
  - (2) Employees and agents of the city in such instances wherein lawn, grass or turf used for athletic fields or areas owned and operated by the city require more frequent watering to prevent unreasonable damage thereto.
  - (3) Limited hand watering of plants, flowers, garden areas, trees using a hose.
  - (4) Watering of new landscaping, sod or seed within 30 days of installation.
  - (5) Lawn and garden sprinkling and the use of irrigation systems can be further prohibited as to hours and/or days if deemed necessary by the city manager or designated employee of the utilities division in order to maintain an adequate supply of water and continuity of essential public services.
- (d) The penalty provisions of section 86-1 shall apply to violations of this section.

(Code 1963, § 50.10; Code 1980, § 21-28; Ord. No. 543, 5-19-1977; Ord. No. 546, 6-16-1977; Ord. No. 85-887, 6-20-1985; Ord. No. 97-1650, 4-3-1997; Ord. No. 05-2040, 4-7-2005; [web="yes">Ord. No. 16-2363 </ulink>](http://newords.municode.com/readordinance.aspx?ordinanceid=785897&datasource=ordbank), 8-18-2016; Ord. No. [web="yes">21-2475 </ulink>](http://newords.municode.com/readordinance.aspx?ordinanceid=1097805&datasource=ordbank), 7-19-2021)

**Sec. 86-8. Waste of water; inspections to determine, correction of condition.**

The city manager, or any designated employee of the utilities division, shall have free access, at all reasonable hours, to premises to ascertain the location or condition of all hose connections, pipes and plumbing fixtures which in such inspector's opinion are causing unnecessary waste of water or health hazard to the public. Such inspector shall promptly notify the owner or occupant of such necessary repairs. If any such designated repairs are not made within 24 hours after such notification, the superintendent shall make such repairs, or cause the repairs to be made, and the cost thereof shall be

charged to the owner or occupant of such premises and collected in the same manner provided for the collection of other bills due the city.

(Code 1963, § 50.13; Code 1980, § 21-29)

**Sec. 86-9. Reservation of right to restrict waste discharges; violations; regulations.**

The city reserves the right to regulate the disposal of any waste through the sanitary sewer system both in quantity and character.

- (1) No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, cooling water, or unpolluted industrial process waters to any sanitary sewer.
- (2) Stormwater and all other unpolluted drainage shall be discharged to such sewer as are specifically designed as storm sewers, or to a natural outlet approved by the city manager. Industrial cooling waters or unpolluted process waters may be discharged upon approval of the city manager to a storm sewer, or natural outlet.
- (3) All of the rules and regulations adopted pursuant to Minn. Stat. §§ 473.501—473.549 are adopted by reference in this section to become a part of this Code as though completely set forth in this section. Any conflict between such statutes and the rules and regulations of such statutes, as amended, and the provisions of this Code shall be resolved in favor of the provisions of this Code.

**State Law reference—** Adoption by reference, Minn. Stat. § 471.62.

- (4) Plans, specifications, and any other pertinent information relating to proposed preliminary treatments facilities shall be submitted for the approval of the council, state pollution control agency and metropolitan waste control commission. No construction of such facilities shall be commenced until such approval is obtained in writing.
- (5) The owner of any property served by a building sewer carrying industrial waste may be required to install a suitable control manhole in the building sewer to facilitate observation, sampling and measurement of wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the city engineer. The manhole shall be installed by the owner at the owner's expense, and shall be maintained by the owner so as to be safe and accessible at all times.
  - a. All measurements, tests, and analysis of the characteristics of waters and wastes shall be determined according to methods employed by the state department of health and metropolitan waste control commission; and shall be determined at the control manhole or from suitable samples taken at the control manhole. If no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to which the building sewer is connected.
  - b. No statement contained in this chapter shall be construed as preventing any special agreement or arrangement between the city and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the city subject to designated restrictions or conditions.

(Code 1963, § 51.02(1)—(5); Code 1980, § 21-30; Ord. No. 543, 5-19-1977)

**Sec. 86-10. Adoption of contracts regulating sewer use.**

The existing contracts between the city, adjoining municipalities and the metropolitan waste control commission are hereby made a part of this Code insofar as the same relate to the proper use of the sanitary sewer system. Any use deemed improper in such contracts shall be considered unlawful.

(Code 1963, § 51.01(c); Code 1980, § 21-31; Ord. No. 543, 5-19-1977)

<sup>121</sup>**Sec. 86-11. Definitions.**

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

*Meter* [means] the actual water meter for measurement of water usage and shall also [include] all other components of the metering system including but not limited to the water meter register, the communications radio module, and the wiring connecting the register to the module.

(<http://newords.municode.com/readordinance.aspx?ordinanceid=887677&datasource=ordbank>)  
web="yes">Ord. No. 18-2404</a>, 4-19-2018)

**Sec. 86-12. Discontinuing service.**

- (a) The city reserves the right to discontinue service to any customer of the water and sanitary sewer system without notice when necessary for repairs, additional connections or reconnections, or when, in the judgment of the public works director or designee, such action is necessary to protect the purity of the municipal water supply or the safety of the water system and/or the life, health, and safety of its customers.
- (b) The city reserves the right to discontinue service to any customer of the water and sanitary sewer system for disregard of any rules or regulations in connection with the use or operation of the system.
- (c) The city reserves the right to discontinue water and sanitary sewer service to any vacant property or premises without heat.
- (d) The city reserves the right to discontinue service to any customer of the water and sanitary sewer system for nonpayment of charges or bills.
- (e) The service of water or sanitary sewer shall not be shut off for nonpayment of charges or bills until notice and an opportunity for a hearing have first been given to the occupant and owner of the premises involved. The notice shall be personally served or delivered by certified mail and shall state that, if payment is not made before the date stated in the notice, but not less than ten days after the date upon which the notice is given, the water supply to the premises will be shut off. The notice shall also state that the occupant may, before such date, demand a hearing before the city council, in which case the supply will not be shut off until after the hearing is held. If, as a result of the hearing, the city council finds that the amount claimed owing is actually due and unpaid and that there is no legal reason why the water supply of the delinquent customer may not be shut off in accordance with this article, the city may then shut off the supply.

Whenever any service has been discontinued for nonpayment of charges or bills or for disregard of any rules or regulations in accordance with the procedures set forth above, it shall not be resumed except upon payment of the charges or bills accrued together with interest thereon, at a rate to be determined by

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<sup>121</sup> **Sec. 86-11. Definitions.** This section should be moved to the beginning of this article.

city council or compliance with the rules and regulations previously violated and payment to the city of a disconnect fee in the amount established by city council.

( <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=887677&datasource=ordbank" web="yes">Ord. No. 18-2404 </ulink>, 4-19-2018)

**Sec. 86-13. Regulating nonessential water usage upon critical water deficiency.**

This section establishes water conservation restrictions that will be in effect at any time the governor declares by executive order a critical water deficiency, pursuant to Minn. Stats. § 103G.291.

*(1) Definitions.*

- a. Department means the city water department.
- b. Emergency means the declaration of a critical water deficiency by the governor.
- c. Irrigation means the watering of shrubs, trees, sod, seeded areas, gardens, lawns, or any other outdoor vegetation, except outdoor vegetation utilized for agricultural purposes.
- d. Notification to public means notification through local media, including interviews and issuance of news releases.
- e. Public water supplier means the city or other entity that owns, manages, or operates a public water supply, as defined in Minn. Stat. § 144.382, subdivision 4.
- f. Reclaimed water means water collected from rooftops, paved surfaces, or other collection devices and all water utilized more than once before re-entering the natural water cycle.
- g. Water recirculation system means any system which enables a user to reuse water at least once prior to returning the water to the natural water cycle.

*(2) Application.*

- a. This ordinance applies to all customers of public water suppliers who own or control water use on any premises.
- b. No person shall make, cause, use, or permit the use of water received from a public water supply for residential, commercial, industrial, governmental, or any other purpose in any manner contrary to any provision in this ordinance.
- c. Mandatory emergency conservation measures shall be implemented based upon the declaration of a critical water emergency by the governor.

*(3) Declaration of critical water deficiency.* Upon the declaration of a critical water deficiency by the governor, the public water supplier shall immediately post notice of the emergency declaration at the usual meeting place of the city council, or the official city bulletin board. The city shall provide notification to the public as quickly as possible or through established water supply plans emergency response plans or procedures.

*(4) Mandatory emergency water conservation measures.* Upon declaration of a water emergency and notification to the public, the following mandatory restrictions upon nonessential water use shall be enforced:

- a. Outdoor irrigation of yards, gardens, golf courses, parklands, and other non-agricultural land, except for those areas irrigated with reclaimed water, is prohibited.

- b. Washing or spraying of sidewalks, driveways, parking areas, tennis courts, patios, or other paved areas with water from any pressurized source, including garden hoses, except to alleviate immediate health or safety hazards, is prohibited.
  - c. The outdoor use of any water-based play apparatus connected to a pressurized source is prohibited.
  - d. Restaurants and other food service establishments are prohibited from serving water to their customers, unless water is specifically requested by the customer.
  - e. Operation of outdoor misting systems used to cool public areas is prohibited.
  - f. The filling of swimming pools, fountains, spas, or other exterior water features is prohibited.
  - g. The washing of automobiles, trucks, trailers, and other types of mobile equipment is prohibited, except at facilities equipped with wash water recirculation systems, and for vehicles requiring frequent washing to protect public health, safety, and welfare.
- (5) *Variances.* The city manager or their designee, is authorized to grant variances to this ordinance where strict application of its provisions would result in serious hardship to a customer.
- A variance may be granted only for reasons involving health or safety. An applicant may appeal the denial of a variance within five days of the decision by submitting a written appeal to the city manager. The city council shall hear the appeal at the next city council meeting. The decision of the city council is final.
- (6) The penalty provisions of section 86-1 shall apply to violations of this section.

(Ord. No. [21-2475](http://newords.municode.com/readordinance.aspx?ordinanceid=1097805&datasource=ordbank), 7-19-2021)

**Secs. 86-14—86-40. Reserved.**

## **ARTICLE II. WATER AND SEWER SERVICE APPLICATIONS**

DIVISION 1. - GENERALLY

DIVISION 2. - FIRE SERVICES

### ***DIVISION 1. GENERALLY***

[Sec. 86-41. Form; effect.](#)

[Sec. 86-42. Owner's responsibility under contract.](#)

[Sec. 86-43. Responsibility of consumer and agent; delinquency assessment provisions in contract.](#)

[Sec. 86-44. Agreement to pay assessments required and payment of connection charges.](#)

**Secs. 86-45—86-70. Reserved.**

#### **Sec. 86-41. Form; effect.**

Applications for water and sewer service shall be made on printed forms, shall state the legal description and address and official house numbers of the premises to be supplied, the nature of the improvement to be done and the name of the licensed plumber employed to do the work. Such application shall be signed by the plumber or the plumber's authorized agent. Such application shall set forth the rules and regulations of the utilities division with respect to the rates and use of water and sewer. Each

applicant by such application shall subscribe to and be obligated to be bound by such rules and regulations.

(Code 1963, § 49.03; Code 1980, § 21-6; Ord. No. 543, 5-19-1977)

**Sec. 86-42. Owner's responsibility under contract.**

All contracts made under the provisions of this chapter shall be made by the superintendent of utilities with the owner of the premises to be served, or the owner's duly appointed agent or attorney. The owner of the property shall be liable to the city for all rents accruing through the use of water or sewer upon such premises whether the same be personally used by such owner or by renters, lessees or other occupants of the premises.

(Code 1963, § 50.05; Code 1980, § 21-7; Ord. No. 543, 5-19-1977)

**Sec. 86-43. Responsibility of consumer and agent; delinquency assessment provisions in contract.**

All provisions of this chapter wherein the term "consumer" is used shall be construed as including the owner of the premises served. Each of the premises desiring the use of city water or city sewer shall file with the utilities division the name of applicant's agent, if applicant desires to act through an agent, or applicant's own name and address, and shall direct in such instrument the one to whom the bill shall be sent, and notices to be given, and the same shall be binding until a further notice differing therefrom shall have been made in writing and filed with the utilities division. The contract made with the owner shall provide that any delinquencies in the payment of the water or sewer bill on such premises shall be a lien and charge against the premises so served regardless of whether or not the same be a homestead. Such lien, in case of delinquency, shall be reported to the county auditor by the city clerk at the same time and in the same manner as special assessments on real estate for street improvements, and shall be collected in the same manner as taxes against real estate; provided, however, that nothing in this article shall change the provisions of this chapter with reference to turning off water for nonpayment of charges.

(Code 1963, § 49.04; Code 1980, § 21-8; Ord. No. 543, 5-19-1977)

**Sec. 86-44. Agreement to pay assessments required and payment of connection charges.**

It is the intent of the city that all property within the city will pay an equivalent amount for the availability of municipal water and sanitary sewer utilities, and storm sewer systems and related facilities. The special assessment records of the premises shall be examined to determine if an assessment for the full cost of furnishing water and sewer utilities and storm sewer systems and related facilities to the premises has been paid. If an assessment has not been paid, or levied against the premises for municipal water or sanitary sewer utilities, or storm sewer systems and related facilities, the city shall collect a connection charge, pursuant to Minn. Stat. § 444.075, prior to issuance of the permit. If a special assessment is determined to be invalid for any reason, the connection charges referred to in this section shall become payable at the time of such determination. The city shall determine the amount of the connection charge as provided in Minn. Stat. § 444.075 and shall consider the costs of providing trunk services to the area and the actual cost of serving adjoining properties or properties served at approximately the same time, updated by Engineering News Records Construction Index to the present. The city, at its option, may consent to the spreading of the connection charge against the applicant's property as a special assessment for a period not to exceed ten years in annual installments with interest payable at the current rate of interest used for special assessment projects per annum on the unpaid balance. In cases of proven hardship, the special assessment, at the discretion of the city manager, may be

spread over a period not to exceed 20 years. If there are deferred assessments levied against the premises, then, at the option of the city, prior to issuance of a permit, the applicant shall be required to:

- (1) Pay the balance owing thereon.
- (2) Consent to the spreading of such charge against applicant's property in the form of a special assessment for a period not to exceed ten years in annual installments with interest payable at the current rate of interest used for special assessment projects per annum on the unpaid balance. In cases of proven hardship, the special assessment, at the discretion of the city manager, may be spread over a period not to exceed 20 years.
- (3) Unpaid connection charges shall be certified to the county auditor with taxes against the property served for collection as other taxes are collected.

(Code 1963, § 52.02; Code 1980, § 21-9; Ord. No. 543, 5-19-1977; Ord. No. 84-822, 4-19-1984; Ord. No. 94-1524, 5-5-1994; Ord. No. 97-1664, 7-17-1997)

**Secs. 86-45—86-70. Reserved.**

***DIVISION 2. FIRE SERVICES \****

*\*Cross reference—* Fire prevention and protection, ch. 38.

[Sec. 86-71. Application; installations; use; rates as established.](#)

[Sec. 86-72. Detector check valve and meter; illegal use.](#)

[Secs. 86-73—86-100. Reserved.](#)

**Sec. 86-71. Application; installations; use; rates as established.**

Application for service connections which are to be used exclusively for supplying water to extinguish fires shall be made to the utilities division. Such applications shall be made by the owner of the premises to be served or such owner's legal representative and shall be accompanied by a complete and correct drawing showing the location of the premises to be supplied, together with the location of all valves, pipes, hydrants, tanks, sprinkler heads and other appliances to be installed on the premises. If such applicant will be permitted to make such connections with the water mains, such connections shall be made under the orders and direction of the superintendent. All the cost and expense thereof shall be borne by the applicant. No water shall be drawn from any such fire service pipes so installed for any purpose whatever except for the extinguishing of fires, and no connection shall be made between the fire service pipe system and the regular water supply to the premises. Valves or hose outlet, drain cock, hydrants and other outlays placed on such pipe system shall be of a type approved by the city. Where a connection is made for automatic sprinkler system for standby fire service only, a charge for such service shall be made on a regular basis as provided in the rate schedule. These rates shall apply in all cases where automatic sprinklers, fire gates and other sealed outlets are installed. No charge will be made for water used in extinguishing fires.

(Code 1963, § 56.06; Code 1980, § 21-10; Ord. No. 543, 5-19-1977)

**State Law reference—** Restrictions on fire protection charges, Minn. Stat. § 444.25.

**Sec. 86-72. Detector check valve and meter; illegal use.**

- (a) Detector check valve and meter shall be installed on the fire services described in this division.
- (b) Should it be found that water not metered is used through a fire connection for any purpose other than the extinguishing of fire upon the premises, the owner and/or occupant will be notified, and if such improper conditions are not corrected within ten days, the water will be shut off until proper adjustments are made, and the owner shall be subject to a fine in the sum of not less than \$10.00 nor more than \$25.00. In any case where such fire service is shut off from such premises, the water shall not be turned on until the offenders give reasonable assurance to the city that the offense will not be repeated and shall pay to the superintendent a fee established by council action for again turning on the water. A second violation of the rules will be considered sufficient cause for cutting the service off at the water main and refusing to reconnect the service while the offender occupies the premises.

(Code 1963, 50.07; Code 1980, § 21-11; Ord. No. 543, 5-19-1977; Ord. No. 98-1695, § 10, 2-5-1998)

**Secs. 86-73—86-100. Reserved.**

<sup>122</sup>**ARTICLE III. CONNECTIONS TO SYSTEMS**

**Sec. 86-101. Plumber qualifications.**

**Sec. 86-102. Payment of charges; persons authorized to make; fixtures which belong to city.**

**Sec. 86-103. Water connection permit; workmanship on service lines.**

**Sec. 86-104. Prohibited water line tap-in.**

**Sec. 86-105. Installation and maintenance of water service line.**

**Sec. 86-106. Sewer connection permit; workmanship on service lines.**

**Sec. 86-107. Purpose.**

**Secs. 86-108—86-140. Reserved.**

**Sec. 86-101. Plumber qualifications.**

Any plumber wishing to do plumbing work or perform any service in connection with city water system or sewer system must hold a plumber's license in the state.

(Code 1963, § 50.14; Code 1980, § 21-40; Ord. No. 543, 5-19-1977)

**Sec. 86-102. Payment of charges; persons authorized to make; fixtures which belong to city.**

- (a) The charges for connecting to the water and sewer mains and the cost of a water meter hereinafter specified shall be payable when application is made. All charges against the premises must be paid before service can be provided.
- (b) No person except a master plumber licensed by the state or a duly authorized city employee will be permitted to do any work on a water service pipe within public right-of-way or install a water meter that is part of the municipal water system.

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<sup>122</sup> **Art. III. Connections to Systems.** I recommend establishing a separate water article and sewer article and sorting the provisions of this and other articles into those two articles as appropriate.



- (c) The stop cock at the main and the curb stop at the property line, together with box and cover are the property of the city, and all persons are forbidden to interfere with them.

(Code 1963, § 49.03(a), (b), (c); Code 1980, § 21-41; Ord. No. 543, 5-19-1977)

**Sec. 86-103. Water connection permit; workmanship on service lines.**

- (a) No person shall connect, either directly or indirectly, to any water main within the city without first having obtained a permit from the utilities division and having paid the charges set forth in this article. No plumber shall commence any plumbing work of any kind where a permit is necessary without first being assured that a permit has been granted.
- (b) In constructing such water service line, the plumber shall adhere to standards regarding locations, size, grade, material and workmanship as determined by city regulations and/or plumbing code. After the water service connection has been accomplished, the plumber shall notify the utilities division. It shall be unlawful to cover the water service line until an inspection has been completed to ensure that a proper and suitable connection has been made.

(Code 1963, § 50.14; Code 1980, § 21-42; Ord. No. 543, 5-19-1977)

**Sec. 86-104. Prohibited water line tap-in.**

No person having a connection with any city water main from any lot or from any building of any kind, shall connect therewith from any other lot or building whatsoever, owned or controlled by such person without first having obtained a permit from the city as provided in this chapter; nor shall any person having connection with any water main allow, suffer or permit any other person to connect therewith from any lot or any building of whatsoever name or nature, owned or controlled by such other person, unless such other person shall first have obtained a permit from the city, as provided in this chapter.

(Code 1963, § 50.15; Code 1980, § 21-43; Ord. No. 543, 5-19-1977)

**Sec. 86-105. Installation and maintenance of water service line.**

- (a) The service pipe from the building to the curb stop and the connection thereto shall be the property of the applicant and must be protected and maintained by the applicant. If the applicant or any customer shall fail to make any necessary repairs to such service connections or pipe within 24 hours after being notified to do so by the superintendent of utilities, the superintendent shall make such repairs, and the cost thereof shall be charged to the owner of such premises or the consumer and shall be collected in the same manner as other bills for utilities are collected.
- (b) While installing or repairing service pipes, the street must be open at a time and in a manner which will cause the least inconvenience to the traveling public and every precaution must be taken to ensure the public safety and the safety of property. All excavations remaining open overnight shall be protected by substantial barriers, with sufficient flashing lights.
- (c) While filling trenches in streets, the plumber shall carefully tamp in the material so that it will be as solid and in as good a shape in every respect as before opening the trench. The plumber shall replace or repair all curb, sidewalk, pavement, boulevard or street surface in as good a condition as when such plumber found it, and shall pay all costs of replacement or repairs.

(Code 1963, §§ 50.16—50.18; Code 1980, § 21-44; Ord. No. 543, 5-19-1977)

**Sec. 86-106. Sewer connection permit; workmanship on service lines.**

- (a) Any property owner desiring a permit to connect a dwelling or other building to the sanitary sewer system of the city shall apply therefor on a form provided by the city.
- (b) No sanitary service line between the sewer main and the plumbing system of any dwelling or other building to be served shall be constructed until a plumber, licensed by the state, shall obtain a connection permit from the city.
- (c) In constructing such sanitary sewer service line, the plumber shall adhere to standards regarding location, size, grade, material and workmanship as determined by the city regulations and/or city or state plumbing code. After the sewer service connection has been accomplished, the plumber shall notify the city. It shall be unlawful to cover the sanitary sewer service line until an inspection has been completed to ensure that a proper and suitable connection has been made.
- (d) The cost of installing the sanitary sewer service line between the building and main service stub shall be borne wholly by the property owner. After the initial connection to the main service stub, the property owner shall thereafter be liable for all maintenance and repairs to such owner's sewer service line between the street main and the building being served, except that no excavation shall be performed in the street property without first having obtained a permit from the utilities division.

(Code 1963, § 51.01(a), (b); Code 1980, § 21-45; Ord. No. 543, 5-19-1977)

**Sec. 86-107. Purpose.**

This section sets forth requirements to aid in the prevention of sanitary sewer blockages, obstructions, and overflows due to the contribution and accumulation of fats, oils, and grease (FOG) into the City of Blaine sanitary sewer system from commercial and industrial businesses, and food service establishments (FSE). The ordinance regulates such businesses and FSEs by requiring that grease interceptors and other devices and equipment be used to control FOG, and by requiring that such devices and equipment be installed, implemented and maintained in accordance with the provisions hereof. The objective is to eliminate FOG related sanitary sewer overflows and sewer line blockages to prevent residential and commercial property damage, decrease sewer maintenance costs, improve sanitary sewer pipe and lift station conditions, and to protect the environment.

*(a) Fats, oils and grease (FOG) control program participation required.*

- (1) This section applies to all "food service establishments" (FSE), "food manufacturer/processors" (FM/P), and commercial and industrial businesses discharging wastewater containing fats, oils and grease to the city sanitary sewer system including, but not limited to, restaurants, grocery stores, meat markets, hotels, correctional facilities, factory and office building cafeterias, public and private schools, hospitals, multiple tenant housing, commercial day care centers, churches, and catering services.
- (2) As of the effective date of the ordinance codified in this section, from which this section derives and thereafter, no FSE or FM/P shall discharge any substance of any kind into any portion of the city's wastewater system except in accordance with a best management practice (BMP) program which has been approved by the city utility superintendent in writing.
- (3) The city shall, from time to time, establish by resolution the minimum standards for the content of a BMP program.
- (4) No FSE or FM/P shall discharge any substance of any kind into any portion of the wastewater collection system which is not in conformance with the BMP program for that FSE or FM/P.

(b) *FOG prohibitions.* The following prohibitions apply to all FSE or FM/Ps:

- (1) Installation of food grinders in a plumbing or sewage system in any new construction or renovation of a structure designed to house a FSE or FM/P;
- (2) Discharge any wastewater containing FOG into a wastewater collection system except in compliance with the BMP program for that facility;
- (3) Introduction of any additives into the wastewater collection system for the purpose of emulsifying FOG or biologically or chemically treating any substance introduced into any wastewater system for purpose of treatment or pretreatment of wastewater, unless a specific written authorization by the utility superintendent is obtained;
- (4) Discharge of wastewater from dishwashers to any grease interceptor or grease trap;
- (5) Discharge of wastewater at temperatures in excess of 140 degrees Fahrenheit to any grease interceptor or grease trap;
- (6) Operation of grease interceptors/traps if the unit has accumulated waste, both FOG and food solids, accounting for 25 percent or more of its wetted depth measured from the static water level to the interior tank bottom, with FOG and solids accumulation, exceeding 25 percent of the total operating depth of the grease interceptor/trap; or
- (7) Discharge of any FOG or any other solid materials removed from the grease control device to the wastewater collection system.

(c) *Grease interceptor/grease trap installation requirements.*

- (1) Except as provided for in subsection (l) below, any structure designed for or intended to be used for an FSE or FM/P must have a grease interceptor/trap installed prior to discharging any wastewater into the wastewater collection system. Such grease interceptor/trap must comply with all conditions as set forth in the State of Minnesota Administrative Code, § 4715.1115, Exterior Grease Interceptors;
- (2) Property owners of new commercial construction structure designed to house multiple tenants on a single parcel shall be responsible to install and maintain a single grease interceptor/trap to serve each individual tenant unless a property owner demonstrates to the utility superintendent that it is not practically possible to install and maintain a single grease interceptor/trap to serve each individual unit located in the structure in which case the utility superintendent has the discretion to approve a plan for such structure providing for more than one grease interceptor/trap or a combination of grease interceptors and grease traps to service such property, which approval shall be in writing. Said approved plan shall include the minimum number of grease interceptors and grease traps that can reasonably serve the structure and the BMP program shall specifically include service for all approved grease interceptors and grease traps;
- (3) The owner of any structure occupied by more than one FSE or FM/P (strip malls) shall be jointly and severally liable with the owner of each FSE or FM/P served by any grease interceptor or any grease trap for the servicing and maintenance of that grease interceptor or grease trap and for any servicing and maintenance of any wastewater facility located downstream from said structure to remove any accumulations of FOG therefrom;
- (4) The utility superintendent may require existing FSE or FM/Ps and owners of structures in which such FSE or FM/Ps are located which have been identified as introducing FOG into any portion of the wastewater system, and which introduction of FOG, in whole or in

combination with other FOG contributors, has been responsible for causing the need for the city to clean such portion of the wastewater system more than twice in a single calendar year to install grease interceptors or other FOG equipment as deemed necessary to comply with this section. Such installation shall be completed and operational within 180 days of notice by the utility superintendent.

- (d) *Maintenance and cleaning of grease interceptors/traps.* In the maintaining and routine cleaning of grease interceptors and any other grease control device, the owner of the FSE or FM/P and the owner of the structure in which it is located, if different from the owner of the FSE or FM/P shall be responsible for the proper removal and disposal by appropriate means of the captured material. If not performed by personnel under the direct control and direction of any such owner/manager, such removal and haul shall be performed by currently licensed waste disposal haulers.

The 25-percent rule requires that the depth of oil and grease (floating and settled) in a trap shall be less than 25 percent of the total operating depth of the trap. The operating depth of a trap is determined by measuring the internal depth from the outlet water elevation to the bottom of the trap.

- (e) *Outdoor grease interceptors.* Maintenance of outdoor grease interceptors shall be performed as frequently as necessary to protect the sanitary sewer collection system against the accumulation of FOG. Maintenance shall be performed as determined by inspection and application of the 25-percent rule. Maintenance shall be performed at least every 90 days.
- (f) *Indoor grease traps.* Maintenance of indoor grease traps shall be performed as frequently as necessary to protect the sanitary sewer collection system against the accumulation of FOG. Maintenance shall be performed as required by inspection and/or sampling. Maintenance shall be performed at least every 14 days.
- (g) *Maintenance process.* Maintenance process shall include the following minimum services:
- (1) Complete removal of all grease interceptor or trap contents rather than skimming the top grease layer;
  - (2) Thorough cleaning of the grease interceptor or trap to remove grease and scum from inner walls and baffles;
  - (3) Filling cleaned interceptor or trap with cold potable water;
  - (4) Completed waste hauler's section of the grease disposal manifest form and delivery to waste disposal site along with the grease interceptor or trap waste; and
  - (5) Top skimming, decanting or back flushing of the grease interceptor or trap or its contents for the purpose of reducing the volume of waste to be hauled is prohibited. Vehicles capable of separating water from grease shall not discharge separated water into the grease trap or into the wastewater collection system.
- (h) *Maintenance modifications.* Food service facilities which operate infrequently or only for special events may request a modification to the maintenance schedule specified above. The utility superintendent may authorize a maintenance frequency related to the operation of the food service facility. The user shall submit a request for a modified maintenance schedule which includes all details of operation for the utility superintendent to review.
- (i) *Disposal.* The user shall be responsible for the proper removal and disposal of the grease interceptor or trap waste. All waste removed from each grease interceptor or trap must be disposed of properly at an appropriate facility designed to receive grease interceptor or trap waste. No grease interceptor or trap waste shall be discharged into any city sanitary or storm sewer system.

- (j) *Maintenance log.* The user shall be responsible for retaining records of the maintenance of grease interceptors and traps including manifests, permits, permit applications, correspondence, sampling data and any other documentation that may be requested by the city. This log shall include the dates of service, volume of waste removed, waste hauler, and disposal site of waste. These records shall be kept on-site at the location of the grease interceptor or trap for a period of three years and are subject to review without prior notification.
- (k) *[Inspections.]* The city will perform periodic inspections of these facilities and shall notify the user of any additional required maintenance or repairs. Upon written notification by the city, the user shall be required to perform the maintenance and records of said maintenance within 14 calendar days.

Upon inspection by the city, the user may be required to install, at their expense, additional controls to provide a complete system which prevents discharges of undesirable materials into the wastewater collection system.

- (l) *Exception from grease interceptor/trap requirements.* If the owner of any FSE or FM/P or of any structure in which an FSE or FM/P is located or is to be located demonstrates to the reasonable satisfaction of the utility superintendent that installation of a grease interceptor/trap is not feasible, the utility superintendent may grant an exception allowing such owner to install grease traps or other alternative treatment technology which will in his or her discretion adequately control the release of FOG from the FSE or FM/P or the structure into the wastewater system. The FSE or FM/P bears the burden of demonstrating that the installation of a grease interceptor/trap is not feasible. The request for an exemption shall include the following information if relevant:
- (1) Evidence of a lack of available exterior space necessary to place an interceptor/trap relative to the location of sewer main and easement;
  - (2) Evidence of a lack of adequate slope for gravity flow between kitchen plumbing fixtures in the FSE or FM/P and the wastewater facilities;
  - (3) Description and specifications of the alternative grease control equipment that will be installed;
  - (4) Evidence that the size, available seating or type of food preparation does not generate any significant volume of FOG.
- (m) *Charge for remedial maintenance or repair of the city wastewater system.*
- (1) In the event that the owner of an FSE or FM/P or the owner of any structure in which an FSE or FM/P is located is found to have contributed to the partial or complete obstruction of a wastewater facility resulting from the discharge of wastewater or waste containing FOG and that the city is required to act immediately to control a public health hazard because of such blockage, such owner shall be required to reimburse the city for all costs of abating such condition. In situations where there are multiple owners identified as contributing to FOG causing such obstruction, the utility superintendent will apportion the cost of the cleanup, maintenance or repair costs on a prorated basis, based on each owner's percentage share of the average total sanitary sewer charges for all such owners. Further, should inspection, testing or other sampling activity by the city confirm that any user is contributing excessive FOG (including other harmful ingredients) and is causing the repair or extraordinary maintenance activity to maintain the integrity of the system, the utility superintendent may require retrofitting of the structure with grease interceptors or grease traps, including testing facilities and access thereto sufficient to resolve the problem;

- (2) The costs for curing any private sewer lateral failures and sewer system overflows, including cleaning and other maintenance, caused in whole or in part by FOG introduced into the wastewater collection system by any FSE or FM/P, alone or in conjunction with any other party, are the responsibility of the owner of the FSE or FM/P and the owner of any structure in which the FSE or FM/P contributing the FOG to wastewater system is located.

(n) *Compliance.*

- (1) Compliance with the grease control program shall be evaluated based on the following criteria:

- a. All food service establishments who are implementing and documenting BMPs, including employee training and kitchen procedures, and performing and documenting grease retention unit cleaning at the required frequency will be considered to be in full compliance with this policy.
- b. When an obstruction and/or sanitary sewer overflow (SSO) occur, the records of all FSE or FM/P that discharge to the affected sanitary sewer line may be reviewed in order to determine the responsible party. Any FSE or FM/P found to be in noncompliance with the required grease retention unit cleaning frequency shall be deemed a responsible party for cost recovery. Payment of cost recovery does not preclude further enforcement actions for noncompliance.

(o) *Penalties and assessments for FOG program noncompliance.* In the event that the owner of an FSE or FM/P or the owner of any structure in which an FSE or FM/P is located is found to have failed to comply with the provisions of this division, the following penalties or assessments or both may be applied:

- (1) For introduction of FOG into any wastewater collection system resulting in obstruction to said system or in a SSO:
  - a. The city may disconnect water and sewer service to the FSE or FM/P and to the structure in which the FSE or FM/P is located;
  - b. City may impose a fine each month until such owner demonstrates that the subject FSE or FM/P or structure is in compliance with the requirements of this section;
- (2) For failure to maintain records as required by the BMP program for any FSE or FM/P, or failing or refusing to timely comply with any request for records required to be provided to the utility superintendent, a fine by the city each day until such records are provided;
- (3) For failure to pass the FOG inspection due to lack of or ineffective FOG equipment the utility superintendent may:
  - a. Require the subject FSE or FM/P to install additional FOG equipment as necessary to resolve the problem and/or;
  - b. Impose penalties as outlined below:
    1. For a first violation within any two-year period, a written warning will be issued;
    2. For a second violation within any two-year period, a fine of \$500.00 per month;
    3. For a third violation within any two-year period, a fine of \$1,000.00 per month;
    4. For a fourth or more violation within any two-year period the city will recommend suspension/non-renewal/revocation of any Anoka County food establishment license(s) and any city/state issued alcohol licensing until resolved.

(Ord. No. [19-2438](http://newords.municode.com/readordinance.aspx?ordinanceid=991913&datasource=ordbank), 11-18-2019)

Secs. 86-108—86-140. Reserved.

#### ARTICLE IV. WATER, SEWER AND STORMWATER RATES AND CHARGES \*

~~\*Editor's note—Ord. No. 07-2138, adopted July 19, 2007, amended the title of Art. IV to read as herein set out. Former article was entitled water and sewer rates and charges.~~

Sec. 86-141. Rates, fees and charges.

Sec. 86-142. Reduced sewer service charges.

Sec. 86-143. Sewer unit assignments.

Sec. 86-144. Industrial user sewer strength charge.

Sec. 86-145. Monthly service charge billing; late charge.

Sec. 86-146. Quarterly service charge billing; late charges.

Sec. 86-147. Service charge delinquency.

Sec. 86-148. Water turn-on after turnoff for nonpayment or violation.

Sec. 86-149. Sewer disconnection for violation.

Sec. 86-150. General operation of municipal stormwater system.

Sec. 86-151. Stormwater utility definitions.

Sec. 86-152. Residential equivalency factors.

Sec. 86-153. Stormwater utility fee.

Sec. 86-154. Stormwater utility credits.

Sec. 86-155. Appeal of stormwater utility fee.

Sec. 86-156. Statement of stormwater utility charges.

Sec. 86-157. Delinquent stormwater utility accounts.

Secs. 86-158—86-180. Reserved.

##### Sec. 86-141. Rates, fees and charges.

- (a) The council shall adopt a schedule of water and sanitary sewer rates, fees and all connection charges. Such action shall be published once in the official newspaper of the city. The city manager, shall annually review such schedule and make recommendations to the council for adjustments in the rates and other charges. Such recommendations to the council regarding rate adjustment shall be based upon annual report of the operations of the utility, including an accounting of all monies or revenue received and disbursed, together with a working budget estimate of the needs of the utility. A certified copy of such schedule shall be on file in the office of the city clerk, where it may be examined.
- (b) The rate schedule for water and sewer charges is incorporated in this section by reference.

(Code 1963, §§ 49.03(d), 52.01; Code 1980, § 21-12; Ord. No. 543, 5-19-1977)

**Sec. 86-142. Reduced sewer service charges.**

- (a) The quarterly sewer service charges for single-family and two-family dwelling units, which are occupied only by persons who meet any of the following requirements, shall be entitled to reduced sewer service charges of one-half of the quarterly charge established as provided in section 86-141:
- (1) Persons who are 62 years of age or older, or who are members of a household in which one of the spouses is 62 years of age or older, and neither is gainfully employed;
  - (2) Persons who are 62 years of age or older, or who are members of a household in which one of the spouses is 62 years of age or older, and neither is gainfully employed, who occupy the unit with not more than two other persons, who are also 62 years of age or older, or who occupy the unit with one person under 62 years of age, who is not gainfully employed;
  - (3) Persons who are 62 years of age or older, or who are members of a household in which one of the spouses is 62 years of age or older, and neither is gainfully employed, who occupy the unit with more than two other persons, one of whom is 62 years of age or older and head of the household, and the annual gross income of the household according to its most recent federal income tax return does not exceed the federal poverty income guidelines for a family of four, plus \$3,000.00, and the total assets of the household, exclusive of the homestead, do not exceed \$20,000.00. If no federal income tax return was filed, the applicant shall be required to submit other documentation to show that this qualification is met.
- (b) Such reduced quarterly charge shall be effective in the first billing quarter that commences following receipt of the appropriate city application forms, completed by the individual persons over 62 years of age. Such reduced quarterly charge shall become effective in the first billing quarter after there has been a change in the conditions described in subsection (a) of this section. Persons meeting such requirements shall file with the city in January of each year an affidavit approved by the city.

(Code 1963, § 52.07; Code 1980, § 21-13; Ord. No. 543, 5-19-1977; Ord. No. 03-1964, 3-6-2003)

**Sec. 86-143. Sewer unit assignments.**

Sewer units shall be assigned to land uses in the following manner:

- (1) *Single-family, townhouse, duplex.* Each single-family home, townhouse or duplex shall comprise one unit.
- (2) *Multiple dwellings.* Multiple dwellings shall be assigned one unit for each dwelling unit in the multiple dwelling structure.
- (3) *Manufactured home park.* Manufactured home dwellings shall be assigned one unit for each manufactured home lot within the manufactured home park. Other buildings within a manufactured home park shall be treated under subsection (4) of this section.
- (4) *Other buildings and structures.* All buildings and structures other than those set forth in this section shall be assigned one unit for each 70,000 gallons of estimated sewer discharge. The determination of the number of the units shall be to the nearest whole unit.

(Code 1963, § 52.03; Code 1980, § 21-14; Ord. No. 543, 5-19-1977)



**Sec. 86-144. Industrial user sewer strength charge.**

- (a) *Recitals.* The metropolitan waste control commission, a metropolitan commission organized and existing under the laws of the state (the commission), in order to receive and retain grants in compliance with the federal water pollution control act amendments of 1972 and regulations thereunder (the act), has determined to impose an industrial user sewer strength charge upon users of the metropolitan disposal system as defined in Minn. Stat. § 473.121, subd. 24, to recover operation and maintenance costs of treatment works attributable to the strength of the discharge of industrial waste, such strength charge being in addition to the charge based upon the volume of discharge. In order for the city to pay such costs based upon strength of industrial discharge and allocated to it each year by the commission, it is hereby found, determined and declared to be necessary to establish sewer strength charges and a formula for the computation thereof for all industrial users receiving waste treatment services within or served by the city. Furthermore, Minn. Stat. § 444.075, subd. 3, empowers the city to make such sewer charge a charge against the owner, lessee, occupant or all of them and certify unpaid charges to the county auditor as a tax lien against the property served.
- (b) *Establishment of strength charges.* For the purposes of paying the costs allocated to the city each year by the commission that are based upon the strength of discharge of all industrial users receiving waste treatment services within or served by the city, there is hereby approved, adopted and established, in addition to the sewer charge based upon the volume of discharge, a sewer charge based upon each person receiving waste treatment services within or served by the city, based upon strength of industrial waste discharged into the sewer system of the city, which charge shall be referred to in this section as the "strength charge."
- (c) *Establishment of strength charge formula.* For the purpose of computation of the strength charge established in this section, there is hereby established, approved and adopted in compliance with the act the same strength charge formula designated in Resolution No. 76-172, adopted by the governing body of the commission on June 15, 1976, which resolution is incorporated in this section by reference and a copy of which is on file in the office of the city clerk. Such formula is based upon pollution qualities and difficulty of disposal of the sewage produced through an evaluation of pollution qualities and quantities in excess of an annual average base and the proportionate costs of operation and maintenance of waste treatment services provided by the commission.
- (d) *Strength charge payment.* It is hereby approved, adopted and established that the strength charge established in this section shall be paid by each industrial user receiving waste treatment services and subject thereto before the 20th day next succeeding the date of billing thereof to such user by or on behalf of the city, and such payment thereof shall be deemed to be delinquent if not so paid to the billing entity before such date. Furthermore, it is hereby established, approved and adopted that if such payment is not paid before such date an industrial user shall pay interest compounded monthly at the rate of two-thirds of one percent per month on the unpaid balance due.
- (e) *Establishment of tax lien.* As provided by Minn. Stat. § 444.075, subd. 3, it is hereby approved, adopted and established that if payment of the strength charge established in this section is not paid before the 60th day next succeeding the date of billing thereof to the industrial user by or on behalf of the city, such delinquent sewer strength charge plus accrued interest established in this section, shall be deemed to be a charge against the owner, lessee and occupant of the property served, and the city or its agent shall certify such unpaid delinquent balance to the county auditor with taxes against the property served for collection as other taxes are collected; provided, however, that such certification shall not preclude the city or its agent from recovery of such delinquent sewer strength charge and interest thereon under any other available remedy.

(Code 1963, § 51.021; Code 1980, § 21-15; Ord. No. 584, 7-6-1978)

**Sec. 86-145. Monthly service charge billing; late charge.**

- (a) Monthly bills for utilities furnished and supplied by the city to nonresidential customers shall be payable monthly within 25 days after the first of each month. At the first of each month, the city manager shall cause to be read all such meters.
- (b) The monthly billing requirement shall be at the discretion of the city, based on normal high water or sewer usage. Within ten days after the first of each month, there shall be mailed to each user of water or sewer service, a bill stating the amount due the city from such consumer during the preceding month, together with the amount due the city for repairs on meters, penalties, or other indebtedness. Such statement shall be deemed sufficient notice to the consumer and to the owner of the property against which such charges are made.
- (c) In addition to the charges provided in this section, there shall be a late charge as established by council action for payments made after 25 days after the first of each month. Within ten days after such payment becomes delinquent, the utilities division shall mail a notice to each consumer of water service whose bill for the preceding month has not been paid. Such notice shall be deemed sufficient notice to the consumer and to the owner of the property against which such charges are made.

(Code 1963, § 52.05; Code 1980, § 21-16; Ord. No. 543, 5-19-1977; Ord. No. 98-1695, § 10, 2-5-1998)

**Sec. 86-146. Quarterly service charge billing; late charges.**

- (a) Quarterly bills for utilities furnished and supplied by the city to residential customers shall be payable quarterly, within 25 days after the first of each quarter. Where service is for less than a quarterly period, this charge will be prorated on a monthly basis. At the first of each quarter, there shall be mailed a card to each consumer of water service requiring a reading of such meter by the consumer, who shall return the card to the city postmarked on or before the last day of the month in which consumer receives it. If such card is not returned to the city on time, there shall be added to the charges an additional charge as provided in the rate schedule.
- (b) Within ten days after the first of each quarter, there shall be mailed to each user of water or sewer service, a bill stating the amount due the city from such consumer or customer during the preceding three months, together with the amount due the city for repairs on meters, penalties, or other indebtedness. Such statement shall be deemed sufficient notice to the consumer and to the owner of the property against which such charges are made.
- (c) In addition to the charges provided in this section, there shall be a late charge as established by council action for payments made after 25 days after the first of each quarter. Within ten days after the above payment becomes delinquent, there shall be mailed a notice to each consumer of water service, whose bill for the preceding quarter has not been paid. Such notice shall be deemed sufficient notice to the consumer and to the owner of the property against which such charges are made.

(Code 1963, § 52.04; Code 1980, § 21-17; Ord. No. 543, 5-19-1977; Ord. No. 98-1695, § 10, 2-5-1998)

**Sec. 86-147. Service charge delinquency.**

At the end of 30 days from date of such notice or statement, all bills not paid shall become overdue. There shall be mailed an overdue notice to the above accounts. At the end of 14 days from date of such overdue notice, all bills not paid shall become delinquent. Twice annually, a list of delinquent accounts shall be generated and a notice shall be mailed informing the property owner of pending certification. If the delinquent account remains unpaid after the date specified on the notice, an administrative charge as established by city council action shall be assessed on the delinquent account, and this fee along with the

delinquent amount, including penalties, shall be certified by the city council to the county department of property records and taxation for collection with taxes due against such premises.

(Code 1963, § 52.06; Code 1980, § 21-18; Ord. No. 543, 5-19-1977; Ord. No. 03-1965, 3-6-2003)

**Sec. 86-148. Water turn-on after turnoff for nonpayment or violation.**

In all cases where water has been turned off for nonpayment of bills or for violation of any rules or regulations of the city, such water shall not be again turned on unless and until such bill has been fully paid and a reconnection charge, as provided in the rate schedule, paid to the city for turning such water on. When arrangements are made for turning water on at a time other than normal business hours, there shall be an additional charge as provided for in the rate schedule.

(Code 1963, § 50.04; Code 1980, § 21-19; Ord. No. 543, 5-19-1977)

**Sec. 86-149. Sewer disconnection for violation.**

If any person violates any of the regulations contained in this chapter, or makes improper use of the sanitary sewer system contrary to any provisions of this chapter, the city may, after five days' mailed notice to such person, disconnect the sewer service to the premises of such person, and charge such owner the cost of such disconnection. The term "mailed notice," as used in this section shall be sufficient if mailed to the address shown on such person's application for sewer service. Such charge may be collected by the city in the manner prescribed in this chapter relating to the collection of delinquent sewer charges.

(Code 1963, § 51.02(6); Code 1980, § 21-20; Ord. No. 543, 5-19-1977)

**Sec. 86-150. General operation of municipal stormwater system.**

The municipal stormwater system shall be operated as a public utility (hereinafter called the stormwater utility), pursuant to Minn. Stat. § 444.075, from which revenues will be derived subject to the provisions of this chapter and Minnesota Statutes.

(Ord. No. 07-2138, 7-19-2007)

**Sec. 86-151. Stormwater utility definitions.**

- (a) *Residential equivalency factor (REF)*. The REF is defined as the ratio of runoff volume, in inches, for a particular land use, to the runoff volume, in inches, for a one-third-acre residential lot, assuming a 2.30-inch rainfall and soil conservation service (SCS) "Type B" soil conditions.
- (b) *Stormwater utility fee*. The stormwater utility fee is defined as the quarterly charge developed for each parcel of land.
- (c) *Quarterly stormwater utility revenue*. The quarterly stormwater utility revenue is the estimated quarterly expenditures for planning and inventories, capital expenditures, personnel and equipment and operation of the stormwater utility, in accordance with established city policy. The quarterly stormwater utility revenue and resulting stormwater utility fees shall be established for a period of time as set by council resolution.

(Ord. No. 07-2138, 7-19-2007)

**Sec. 86-152. Residential equivalency factors.**

The REF factors for various land uses used to determine the surface water management fees are assigned as follows:

Classification	Land Use	REF
1	Single-family residential	1.00
2	Medium density residential	1.49
3	High density residential	7.11
4	Institutional (churches, schools)	3.49
5	Industrial	8.44
6	Commercial	10.53
7	City of Blaine	1.00
8	County	1.00
9	Airport	1.49
10	Regional recreation	1.49
11	Parks, golf courses, cemeteries	0.76
12	Agriculture	1.26

(Ord. No. 07-2138, 7-19-2007)

**Sec. 86-153. Stormwater utility fee.**

- (a) Stormwater utility fees shall be established for a period of time as set by council resolution. Such action shall be published once in the official newspaper of the city. The city manager shall annually review such schedule and make recommendations to the council for adjustments in the rates and other charges. Such recommendations to the council regarding rate adjustment shall be based upon annual report of the operations of the utility, including an accounting of all monies or revenue received and disbursed, together with a working budget estimate of the needs of the utility. A certified copy of such schedule shall be on file in the office of the city clerk, where it may be examined.
- (b) The stormwater utility fee for each parcel shall be determined by multiplying the rate times the REF for the appropriate land use category for the parcel times the acreage of the parcel, except in the case of low and medium density residential parcels. Acreage is already factored for these parcels having used these land use classes in determining the base rate.

(Ord. No. 07-2138, 7-19-2007)

**Sec. 86-154. Stormwater utility credits.**

The council may adopt policies, by resolution, for adjustments of the surface water management fees. Information to justify a fee adjustment must be supplied by the property owner. Such adjustments of fees shall not be retroactive, unless provided within said resolution. Credits will be reviewed annually by a staff committee.

(Ord. No. 07-2138, 7-19-2007)

**Sec. 86-155. Appeal of stormwater utility fee.**

If a property owner or person responsible for paying the stormwater utility fee believes that a particular assigned fee is incorrect, such a person may request that the fee be recomputed. Appeals will be heard by the council once a year in accordance with the schedule established for credit applications, in established city policy.

(Ord. No. 07-2138, 7-19-2007)

**Sec. 86-156. Statement of stormwater utility charges.**

Statements for the stormwater utility fee shall be mailed to each customer pursuant to the same procedures as listed under sections 86-145 and 86-146 of this Code.

(Ord. No. 07-2138, 7-19-2007)

**Sec. 86-157. Delinquent stormwater utility accounts.**

At the end of 30 days from the date of such notice or statement, all bills not paid shall become overdue. Accounts deemed delinquent shall be handled as described in section 86-147 of this Code.

(Ord. No. 07-2138, 7-19-2007)

**Secs. 86-158—86-180. Reserved.**

**ARTICLE V. WATER METERS**

[Sec. 86-181. Ownership; required; payment of cost.](#)

[Sec. 86-182. Repair and maintenance.](#)

[Sec. 86-183. Location; obstructing.](#)

[Sec. 86-184. Testing; adjustment of charges.](#)

[Sec. 86-185. On private line of sewer user.](#)

[Sec. 86-186. Reservation of right to restrict water use; use during fires.](#)

**Sec. 86-181. Ownership; required; payment of cost.**

The city shall exclusively own and control the water meters to be used in the city water system and each consumer is hereby required to have a city approved water meter. The cost of the meter shall be included in the water service permit fees.

(Code 1963, § 50.01; Code 1980, § 21-22)

**Sec. 86-182. Repair and maintenance.**

If any meters are damaged by freezing, hot water or other causes, either by carelessness or neglect of the owner or occupant of the premises or their agents, the owners or occupants shall pay for the repair of such meters. The cost of ordinary maintenance and repairs of all meters owned by the city shall be borne by the city.

(Code 1963, § 50.02; Code 1980, § 21-23)

**Sec. 86-183. Location; obstructing.**

All residential water meters will be installed in the laundry area, adjacent to a floor drain, or in the well pit if the well pit is in a heated basement. The well pit door shall have louvers to prevent the meter from freezing. Meters in breezeways or garages are not permitted. The customer is prohibited from obstructing the meter so as to prohibit the reading or repairing of the meter. Failure to grant access to the inside of a home to read, replace, or repair a water meter shall be enforced per section 86-12, discontinuing service.

(Code 1963, § 50.03; Code 1980, § 21-24; Ord. No. 03-1966, 3-6-2003; [ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=887677&datasource=ordbank" web="yes">Ord. No. 18-2404 </ulink>](http://newords.municode.com/readordinance.aspx?ordinanceid=887677&datasource=ordbank), 4-19-2018)

**Sec. 86-184. Testing; adjustment of charges.**

- (a) At the written request of any owner or consumer the city manager will test or cause to be tested the meter supplying the premises of such owner or consumer. An additional charge as provided in the rate schedule will be required before the meter is disconnected, which will be returned to the owner or consumer if the meter is not found to be registering correctly within ten percent. Otherwise, the deposit so made shall be retained by the city to cover the cost of such test. The owner or consumer may, if such person desires, be present at the time any such test is made. The result of any such test shall be reported to such owner or consumer in every case.
- (b) If the testing of a meter, as provided in subsection (a) of this section, indicated that it registers in excess of ten percent error, the charge to the consumer for water used and consumed during the quarter within which such test is made shall be based on the corresponding quarter of the previous year. If for any other reason the charge so made for such corresponding period cannot be justly applied, the charge so made for the quarter within which such test occurred shall be equitably adjusted by the superintendent. Any other adjustment of charges for water supplied through meters shall be made only by the council.

(Code 1963, §§ 50.19, 50.20; Code 1980, § 21-25; Ord. No. 543, 5-19-1977)

**Sec. 86-185. On private line of sewer user.**

The city reserves the right to require that any connected property owner, other than single-family and multiple-family, shall install, at the property owner's expense, a water meter on a private water supply, to determine amount of sewer usage.

(Code 1963, § 50.01(d); Code 1980, § 21-26; Ord. No. 543, 5-19-1977)

**Sec. 86-186. Reservation of right to restrict water use; use during fires.**

The city hereby reserves the right to limit the use of water from city water supply and distribution system and to prescribe the conditions for any use. It shall be unlawful for any person in the city or any person owning or occupying premises connected to the municipal water system, to use or allow to be used during a fire any water from such municipal water system except for the purposes of extinguishing such fire, and it shall be the duty of every person to see that all water services are tightly closed and that no water is used except for necessary household purposes during such fire.

(Code 1963, § 50.09; Code 1980, § 21-27; Ord. No. 543, 5-19-1977)

## **Chapter 90 VEGETATION \***

~~\*Cross reference—Buildings and building regulations, ch. 18; environment, ch. 34; manufactured homes and trailers, ch. 46; parks and recreation, ch. 54; streets, sidewalks and other public places, ch. 70; subdivisions, ch. 74.~~

ARTICLE I. - IN GENERAL

ARTICLE II. - WEEDS AND TALL GRASS

ARTICLE III. - SHADE TREE MANAGEMENT

### **ARTICLE I. IN GENERAL**

Secs. 90-1—90-30. Reserved.

Secs. 90-1—90-30. Reserved.

### **ARTICLE II. WEEDS AND TALL GRASS**

Sec. 90-31. Definitions.

Sec. 90-32. Penalty for violation of article.

Sec. 90-33. Nonapplicability of article provisions.

Sec. 90-34. Declaration of nuisance and illegality.

Sec. 90-35. Notice to abate.

Sec. 90-36. Assessment of abatement cost.

Sec. 90-37. Exceptions.

Secs. 90-38—90-70. Reserved.

#### **Sec. 90-31. Definitions.**

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

*Land management plan* means a written plan relating to the management of the native lawn area. This plan shall include a legal description of the property to be planted in native lawn; a statement of intent and purpose of the lawn, a general description of the vegetation types, plants and plant succession involved; any borders, natural or manmade screens or barriers around the native lawn; the specific management/maintenance techniques to be employed; and a list of all adjoining or certified property owners.

*Native lawn* means a lawn consisting of grasses and flowering plants which are native to, or adapted to, the state, which are commonly found in meadow and prairie plant communities, except noxious weeds. This does not include turf grasses or plantings consisting exclusively of wildflowers, without tall grasses.

*Turf grasses* means grasses that are commonly used in regularly cut lawn areas such as blue grass, fescue, and rye grass blends.

(Code 1980, § 11-20; Ord. No. 96-1593, 3-21-1996)

**Cross reference—**Definitions generally, § 1-2.



**Sec. 90-32. Penalty for violation of article.**

Any person who shall not abate the nuisance as directed in this article or who shall fail to comply with the provisions of any notice provided in this article, or who shall resist or obstruct the city manager or authorized representative in the abatement of a nuisance, shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to punishment as provided in section 1-7.

(Code 1963, § 109C.04; Code 1980, § 11-25; Ord. No. 592, 9-21-1978; Ord. No. 96-1593, 3-21-1996)

**Sec. 90-33. Nonapplicability of article provisions.**

The provisions of this article do not apply to noxious weeds as defined in Minn. Stat. § 18.87.

**Sec. 90-34. Declaration of nuisance and illegality.**

- (a) All weeds or grass growing to a greater height than six inches, or weeds or growing grass which have gone or are about to go to seed, existing on any platted lot in the city or existing on any outlot, which is created in conjunction with and by virtue of the approval of a plat, are hereby declared to be a nuisance and are hereby declared to be detrimental to the health, safety and general welfare of the residents of the city.
- (b) It shall be unlawful for the owner, lessee, occupant or representative of any such owner, lessee or occupant, of any land described in subsection (a) of this section in the city, to allow, permit, or maintain a nuisance on any such land or along the sidewalk, street or alley adjacent thereto.

(Code 1963, § 109C.01; Code 1980, § 11-21; Ord. No. 592, 9-21-1978; Ord. No. 96-1593, 3-21-1996)

**Sec. 90-35. Notice to abate.**

When the owner, lessee or occupant of any land within the city permits a nuisance to exist in violation of this article, the city manager or authorized representative, shall cause to be served a notice in writing upon the owner, lessee, or occupant if other than the owner, stating specific instructions and methods when and how the nuisance is to be controlled or eradicated. The notice shall be served personally or by U.S. mail. Service on persons living temporarily or permanently outside the city, whose property is vacant or unoccupied, may be made by sending the notice by U.S. mail to the last known address of such person, to be ascertained, if necessary, from the last tax list in the county treasurer's office. The notice shall order that the nuisance be abated within ten days after service of such notice. The notice shall also state that in the event of failure to comply, the nuisance will be abated by the city at the expense of the owner of the property.

For second and subsequent violations of this article within the same calendar year, notice shall be made by posting of the order in a clearly visible and conspicuous location at the property or structure. The notice shall order that the nuisance be abated within three days after posting of such notice. The notice shall also state that in the event of failure to comply, the nuisance will be abated by the city at the expense of the owner of the property.

(Code 1963, § 109C.02; Code 1980, § 11-22; Ord. No. 592, 9-21-1978; Ord. No. 96-1593, 3-21-1996; Ord. No. 08-2160, 5-1-2008)

**Sec. 90-36. Assessment of abatement cost.**

If such person fails to comply with the notice to abate within the time frame set forth in the notice, the city manager or authorized representative, shall have the nuisance cut and removed or otherwise

eradicated. A record showing the cost of such work attributable to each separate lot or parcel shall be delivered to the city clerk. Notice in writing of the work done and the costs and expenses incurred, including the administration fee to be imposed pursuant to the fee schedule adopted by the council, shall be served on the owner, lessee or occupant of the property, in accordance with the service requirements of this article. Such notice shall indicate that if the total amount is not paid to the city within 30 days of service of the notice, the amount of the costs and expenses incurred, along with the administration fee, shall be certified to the county auditor on or about October 1 of each year and shall be collected in the same manner as other taxes are collected.

(Code 1963, § 109C.03; Code 1980, § 11-23; Ord. No. 592, 9-21-1978; Ord. No. 96-1593, 3-21-1996; Ord. No. 08-2160, 5-1-2008; Ord. No. 12-2247, 4-5-2012)

#### **Sec. 90-37. Exceptions.**

(a) *For native lawns.* The owners or their assigned managers of residential property within the city may seek approval of a land management plan to convert a portion of their property to a native lawn, one where the grasses and other growth may exceed six inches in height, provided that such land management plan shall provide such plantings shall be maintained so as not to present hazards to adjoining properties or to persons or vehicles traveling on the public ways, not present a hazard to structures on such affected land, and further, shall be maintained as to enhance the appearance of the property on which located. Those seeking approval to convert a portion of their property to natural lawn must submit, with their land management plan, a form provided by the city bearing the signatures of at least 51 percent of the adjoining property owners. If the majority of the adjoining property owners do not sign the form stating that they have no objections to the native lawn, the application will be denied. The term "adjoining property owners" are defined as any landowner whose property lines touch those of the applicant for a natural lawn. The city manager shall instruct the appropriate staff persons to review the lawn management plan. The following guidelines shall be used for review:

- (1) The native lawn shall not contain any plants classified as noxious weed.
- (2) The native lawn shall not encroach upon the public right-of-way or boulevard.
- (3) The native lawn must be screened from view by a natural or manmade barrier, the property owner shall maintain at least a five-foot setback from all property lines, unless waived in writing by the owner of the abutting property on the side so affected. A five-foot setback shall be maintained from all buildings on site.
- (4) Native lawn areas shall be located in the rear yard only.

The privilege of maintaining a native lawn does not automatically transfer with the sale of property and must be applied for by a new owner. If within one year after receiving approval of a natural lawn management plan, the plan has not been put into effect, the approval for the plan is considered null and void. The city reserves the right upon approval of a plan to inspect the premises to ensure compliance with the provisions of this section.

(b) *Other exceptions.* Other exceptions to the tall grass and weed restrictions may include the following:

- (1) A wetland or floodplain designated on the official zoning map.
- (2) A drainage pond or ditch which stores or conveys stormwater.
- (3) An area currently being used as pasture land for domestic hoofed animals.
- (4) An area on which the land and vegetation appears not to be graded, landscaped, mowed, or otherwise disturbed by human mechanical means at any time. Determination of what constitutes

this type of area will be based on a reasonable judgment of the present appearance of the area.  
The recent history of the area may be relevant in this determination.

(5) Publicly owned property which is being maintained in its natural state.

(Code 1980, § 11-24; Ord. No. 96-1593, 3-21-1996)

**Secs. 90-38—90-70. Reserved.**

<sup>123</sup>**ARTICLE III. SHADE TREE MANAGEMENT \***

\*State Law reference— Shade tree disease control, M.S.A. § 89.62 ~~Minn. Stat. § 18.023~~.

Sec. 90-71. Penalty for violation of article.

Sec. 90-72. Finding of fact; intent; coordinator.

Sec. 90-73. City forester.

Sec. 90-74. Designation of tree disease control areas.

Sec. 90-75. Declaration of nuisance.

Sec. 90-76. Nuisance prohibited; abatement authorized.

Sec. 90-77. Inspections and investigations.

Sec. 90-78. Interference with forester.

Sec. 90-79. Abatement generally.

Sec. 90-80. Abatement methods; protection of healthy trees during abatement.

Sec. 90-81. Assessment of abatement costs.

Sec. 90-82. Oak wilt protection.

Sec. 90-83. Planting.

Sec. 90-84. Public tree care.

Sec. 90-85. Abuse or mutilation of public trees.

**Sec. 90-71. Penalty for violation of article.**

Any person in violation of any of the provisions in this article shall be guilty of a misdemeanor. Each day on which such violation continues shall constitute a separate offense.

(Code 1980, § 20-34; Ord. No. 98-1701, 3-5-1998)

**Sec. 90-72. Finding of fact; intent; coordinator.**

(a) *Findings.* The council has determined that the urban forest both planted and existing woodlands are a vital component of the city infrastructure. It is further determined the urban forest within the city is threatened by fatal tree diseases including Dutch elm and oak wilt diseases. It has further determined that the loss of trees growing upon public and private property would substantially depreciate the value

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<sup>123</sup> **Art. III, Shade Tree Management.** Statute cited was repealed in 2003. See suggested correction.

of property within the city and impair the safety, good order, general welfare and quality of life of the public.

- (b) *Intent.* It is the intention of the council to control the spread of epidemic diseases and insects in the urban forest and ensure that the urban forest is safeguarded from both natural and human hazards.
- (c) *Coordinator.* The city forester shall act as coordinator between the commissioner of agriculture and the council in the conduct of this program.

(Code 1980, § 20-20; Ord. No. 98-1701, 3-5-1998)

**Sec. 90-73. City forester.**

It is the duty of the city forester to coordinate and administer, under the direction and control of the city manager, all activities of the city relating to shade tree management and to the control and prevention of Dutch elm disease, oak wilt disease, and other epidemic diseases including insect infestation of shade trees. The city forester shall recommend to the city manager the details of a program for the control of such diseases and administer the program. The city forester shall develop and maintain an informational program relating to the control and abatement of epidemic diseases and of shade tree management.

(Code 1980, § 20-21; Ord. No. 98-1701, 3-5-1998)

**Sec. 90-74. Designation of tree disease control areas.**

- (a) The city forester under the direction of the city council will designate the shade tree disease control areas within the city in which this article must be used.
- (b) The oak wilt disease control area will be the entire area within city limits. Efforts to reduce overland transmission of the oak wilt disease will occur within the entire control area. Efforts to control root graft transmission of the oak wilt disease will be mandated on unplatted land and will be voluntary on platted land.
- (c) The Dutch elm disease control areas will be designated by the city forester based on incidents of disease.

(Code 1980, § 20-22; Ord. No. 98-1701, 3-5-1998)

**Sec. 90-75. Declaration of nuisance.**

The following things are public nuisances within the city:

- (1) Any living or standing elm tree or part thereof infected to any degree with the Dutch elm disease fungus, *Ceratocystis ulmi* (Buisman) Moreau, or which harbors any of the elm bark beetles, *Scolytus multistriatus* (Eichh.) or *Hylurgopinus rufipes* (Marsh).
- (2) Any bark intact, dead or dying elm tree or part thereof, or an elm wood including, but not limited to, logs, branches greater than two inches in diameter, stumps, roots, firewood or other elm material, which has not been stripped of its bark and burned, or sprayed with an effective elm bark beetle insecticide that poses a threat, as determined by city forester, of harboring or acting as a breeding site for the elm bark beetles, *Scolytus multistriatus* (Eichh.) or *Hylurgopinus rufipes* (Marsh).
- (3) Any living or standing oak tree or part thereof infected to any degree with the oak wilt fungus, *Ceratocystis fagacearum*, that has been determined by the city forester to pose a threat of overland transmission of the fungus to other oak trees. To reduce incidents of overland or long range spread

of oak wilt fungus and to prevent oak wilt fungus from producing spores during the hazardous spring period.

- (4) Any bark intact dead or dying oak tree or part thereof, or an oak tree wood including, but not limited to, logs, branches greater than two inches in diameter, stumps, roots, firewood, or other oak material, which has not been stripped of its bark and burned, or sprayed with an effective fungicide that poses a threat, as determined by city forester, of harboring or acting as a breeding site for the oak wilt fungus, *Ceratocystis fagacearum*. Any tree that wilted from oak wilt in July or August of one year may be declared a nuisance for the spring of the following year as determined by the city forester. The hazardous spring period for overland or long range spread of oak wilt fungus is hereby defined as April 15 to July 1. Dead standing wood or tree material of the red oak group that has advanced beyond the potential for spore production is not considered a nuisance unless it constitutes a hazard to life and/or property. The red oak group is defined as, including but not limited to, Northern red oak, Northern pin oak, black oak, scarlet oak, Eastern pin oak, red oak, pin oak.
- (5) Other shade trees with epidemic diseases or epidemic insect infestations.
- (6) Any tree considered in the opinion of the city forester to pose eminent danger to life or property to adjoining properties. Trees of such condition will be determined hazardous.

(Code 1980, § 20-23; Ord. No. 98-1701, 3-5-1998)

**Sec. 90-76. Nuisance prohibited; abatement authorized.**

It shall be unlawful for any person to permit any public nuisance to remain on any premises owned or controlled by such person within the city. Such nuisances may be abated in the manner prescribed by this article.

(Code 1980, § 20-24; Ord. No. 98-1701, 3-5-1998)

**Sec. 90-77. Inspections and investigations.**

- (a) *Inspections.* The city forester shall inspect as often as necessary all public and private places within designated control areas of the city which might harbor plant pests, to determine whether a public nuisance exists. The city forester shall investigate all reported incidents of infection or infestation by the Dutch elm fungus, elm bark beetles, oak wilt fungus, or any other epidemic diseases or insect infestation of shade trees. The term "private place" means every place except the private home.
- (b) *Right of entry.* The city forester or the city forester's duly authorized agents may enter upon all public and private places at any reasonable time for the purposes of carrying out any of the duties assigned in this section.
- (c) *Disease determination.* Whenever possible, diagnosis will be based upon accepted field symptoms. The city forester and/or city forester's duly authorized agents may, upon finding indications of oak wilt or Dutch elm disease take such steps as may be appropriate to confirm the diagnosis. These steps may include analysis of twig and stem samples from trees, or parts thereof, suspected of being infected. Laboratory isolation and confirmation of the presence of the fungi will be done by the state department of agriculture disease diagnosis laboratory or other laboratories capable of performing such services approved by the state commissioner of agriculture. Except as provided in this section, no action to remove infected trees or wood shall be taken until there has been a positive diagnosis.

(Code 1980, § 20-25; Ord. No. 98-1701, 3-5-1998)

**Sec. 90-78. Interference with forester.**

It shall be unlawful for any person to prevent, delay or interfere with the forester or the forester's agents while they are engaged in the performance of duties set forth in this article.

(Code 1980, § 20-26; Ord. No. 98-1701, 3-5-1998)

**Sec. 90-79. Abatement generally.**

If the city forester finds with reasonable certainty that a public nuisance exists in any tree or wood in any public or private place in the city, the city forester shall notify the owner of the property on which the tree or wood is located, by certified mail that the nuisance will be abated within a specified time, not less than ten days from the date of mailing of such notice. After the expiration of the time set forth in the notice, the city forester may abate the nuisance.

(Code 1980, § 20-27; Ord. No. 98-1701, 3-5-1998)

**Sec. 90-80. Abatement methods; protection of healthy trees during abatement.**

(a) *Dutch elm disease.* All bark intact wood and tree parts thereof, determined to be a public nuisance as defined in section 90-75(1), (2), must be debarked, shipped for salvage, or removed to an authorized wood waste disposal site, within 21 days of receipt of official notification. Stumps of trees declared public nuisance must be either removed, or ground out, or debarked to the ground line.

(b) *Oak wilt disease.* Diseased trees will be abated as described:

- (1) The diseased tree may be used as fuel wood or be salvaged for other purposes, provided that the requirements of this article are met. The wood must be debarked, dried or completely covered with four mil or greater black plastic from April 15 to July 1, of the year following the appearance of the oak wilt symptoms. After this time, the wood or tree material will no longer be a public nuisance. Any wood or tree material declared a public nuisance and not salvaged will be disposed of by chipping, or removing to an authorized woodwaste disposal site prior to April 15, of the year following the appearance of the symptoms. Recognizing the hardship of multiple tree removals, the city will pay landowners with more than three trees marked for removal per year, a payment of amount as declared by council to landowners who comply with the initial removal deadline.
- (2) Stumps of a diseased tree declared a public nuisance as defined in section 90-75(3), (4), must be removed, or ground out, or debarked to ground line, or completely covered with a minimum of two inches of compacted soil, or sealed in four-mil or greater black plastic to eliminate all possibilities of spore formation and overland disease spread.
- (3) To prevent root graft transmission of the disease, a barrier must be created between diseased and healthy trees, either by cutting the root system with a 54-inch blade or longer by using a vibratory cable plow, or by digging a trench to a minimum depth of 54 inches in the soil surrounding the diseased trees or by treating the soil surrounding the diseased trees with a fumigant, sodium N-Methyldithiocarbamate (SMDC), presently sold under the trade names Vapam and VPM. Such abatement procedures will be carried out in accordance with current technical and expert opinions and plans as may be designated by the state commissioner of agriculture.

(c) *Hazard trees.* Hazard trees described in section 90-75 must be abated by removal or other prescribed corrections to the tree to eliminate eminent danger to life or property to adjoining properties.

(Code 1980, § 20-28; Ord. No. 98-1701, 3-5-1998)

**Sec. 90-81. Assessment of abatement costs.**

If the property owner fails to abate the nuisance, the city forester shall give notice to the property owner by certified mail of the costs and expenses involved to abate the nuisance. If the total amount is not paid to the city within 30 days of service of the notice, the amount of the costs and expenses incurred, plus a penalty of eight percent will be certified to the county auditor on or about October 1 of each year and will be collected in the same manner as other taxes are collected.

(Code 1980, § 20-29; Ord. No. 98-1701, 3-5-1998)

**Sec. 90-82. Oak wilt protection.**

The pruning of oaks must be avoided during the most susceptible period of infection, April 15 to July 1. If wounding is unavoidable during this period, as in the aftermath of a storm or when the tree interferes with utility lines, a tree wound dressing must be applied immediately to the wound.

(Code 1980, § 20-30; Ord. No. 98-1701, 3-5-1998)

**Sec. 90-83. Planting.**

All trees planted on public property will conform with location, cultivar or variety, and planting specifications approved by the city forester.

(Code 1980, § 20-31; Ord. No. 98-1701, 3-5-1998)

**Sec. 90-84. Public tree care.**

The city has the right to plant, prune, maintain, remove or perform any other arboricultural practices as necessary on all public property including the street right-of-way to ensure public safety and to preserve or enhance the symmetry and beauty of such public grounds.

(Code 1980, § 20-32; Ord. No. 98-1701, 3-5-1998)

**Sec. 90-85. Abuse or mutilation of public trees.**

Unless specifically authorized by the city forester, no person shall intentionally damage, cut, carve, transplant, remove any tree, attach any rope, wire, nails, advertising poster, or other contrivance to any tree, allow any gaseous liquid, or solid substance which is harmful to come in contact with any tree, or set fire or permit any fire to burn when the heat could injure any portion of any tree, or top a tree by severely cutting back the tree canopy to a stub.

(Code 1980, § 20-33; Ord. No. 98-1701, 3-5-1998)





<sup>124</sup>**PART III. ZONING ~~BLAINE ZONING ORDINANCE~~ \***

--- (ZON\_1) ---

**Editor's note**— Part III contains the text of the zoning rules and regulations **for the county** which derive from an **ordinance adopted July 20, 2020**. Amendments are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original resolution. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines, capitalization, citation to state statutes, and expression of numbers in text has been used to conform to the Code of **Ordinances**. Additions made for clarity are indicated by brackets.

Chapters 1—21 - RESERVED

Chapter 22 - TITLE

Chapter 23 - PURPOSE—INTENT

Chapter 24 - RULES

Chapter 25 - DEFINITIONS

Chapter 26 - GENERAL PROVISIONS

Chapter 27 - ADMINISTRATION

Chapter 28 - ZONING DISTRICTS—PROVISIONS

Chapter 29 - RESIDENTIAL DISTRICTS

Chapter 31 - INDUSTRIAL DISTRICTS

Chapter 32 - OVERLAY DISTRICTS

Chapter 33 - PERFORMANCE STANDARDS

Chapter 34 - SIGNS

**~~Chapter 22 TITLE~~**

**~~22.01 Title.~~**

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<sup>124</sup> **Part III. Zoning.** Zoning is a particularly technical topic of a necessarily local character, so there are few recommendations in this legal review for change to these provisions. With few exceptions, the recommendations in this chapter are editorial in nature. Note the following:

- Ord. No. 21-2489, waiting for codification, has not been inserted in this chapter since it did not impact legal review. I suggest the title of this part be changed as shown. The ordinance has been codified and should be referred to as such, rather than “ordinance”.
- The editor’s note requires correction. See highlighted text.
- In the event the city elects to recodify its code in the future, I recommend that this part be renumbered consistently with the remainder of the code.
- In the meantime, this part could be styled so that it is consistent with the general code. (See, for example, the divergent number style, capitalization, and other conventions in the general code compared to this part 3.) They should be made consistent.
- I recommend dropping all source history notes to a single history note at the end of sections to make the sections more reader friendly while still maintaining complete source information.
- References to “the Blaine Code of Ordinances” should be changed to “this Code”.

<sup>125</sup>**22.01 Title.**

~~This ordinance shall be known and may be cited and referred as the "Blaine Zoning Ordinance," except as referred to herein, where it shall be known as "this ordinance."~~

~~(Ord. No. <http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank> web="yes">20-2447</a>, 7-20-2020)~~

**Chapter 23 PURPOSE—INTENT**

**23.01 Purpose—Intent.**

<sup>126</sup>**23.01 Purpose—Intent.**

**This ordinance is** adopted for the following purposes:

- (a) To promote the health, safety, and general welfare of the inhabitants of the City of Blaine.
- (b) To minimize congestion in the public rights-of-way, securing safety from fire, panic and other dangers, provide for adequate light and air.
- (c) Facilitating the adequate provisions for transportation, water, sewage, schools, parks, and other public requirements.
- (d) To promote a more efficient and desirable utilization of land by recognizing special land features, such as slopes, topography, soils, vegetation, wetland areas, and wildlife.
- (e) Conserving and developing natural resources and maintaining a high standard of environmental quality.
- (f) Conserving the natural, scenic beauty, and attractiveness of Blaine.
- (g) Preserving the capacity of floodplains to carry and discharge flood waters.
- (h) To divide the city into zones or districts as to the compatible use of land and structures for residences, business, and industrial purposes.
- (i) To prohibit the use of buildings, structures, and lands that are incompatible with the intended use or development of lands within the specified zones.
- (j) Providing for the compatible and appropriate use of land throughout the City of Blaine.
- (k) Promoting orderly development of residential, commercial, industrial, recreational, and public areas.
- (l) Minimizing pollution of all types.
- (m) Providing for the administration of this ordinance and amendments thereto.
- (n) Defining the powers and duties of the administrative officers and bodies.
- (o) Describing penalties for the violation of provisions of this ordinance or any amendment thereto.

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<sup>125</sup> **22.01 Title.** Short titles are superfluous after codification.

<sup>126</sup> **23.01 Purpose—Intent.** Here are throughout this chapter, “this ordinance” should be changed to “this chapter” or “this part.”

(Ord. No. [20-2447](http://newwords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

## Chapter 24 RULES

### 24.01 Rules.

#### <sup>127</sup>24.01 Rules.

The language set forth in the text of this ordinance shall be interpreted in accordance with the following rules of construction:

- (a) Any use not herein expressly permitted is hereby expressly prohibited.
- ~~(b) The singular number includes the plural and plural the singular.~~
- ~~(c) The present tense includes the past and future tense and the future, the present.~~
- ~~(d) The word "shall" is mandatory and the word "may" is permissive.~~
- ~~(e) The masculine gender indicates the feminine and neuter genders.~~
- ~~(f) Whenever a word or term defined hereinafter appears in the text of this ordinance, its meaning shall be construed as set forth in such definition thereof.~~
- (g) All measured distances expressed in feet shall be rounded to the nearest foot.
- (h) The word "building" shall include the word "structure."
- ~~(i) The word "person" shall include any firm, association, organization, partnership, trust, company or corporation, as well as an individual.~~
- (j) The phrase "used for" shall include the phrases "arranged for," "designed for," "intended for," "maintained for," and "occupied for."

(Ord. No. [20-2447](http://newwords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

## Chapter 25 DEFINITIONS

### 25.01 Intent.

### 25.02 Definitions.

#### <sup>128</sup>25.01 Intent.

The following words and terms, wherever they occur in this ordinance, shall be construed as herein defined. Words not defined shall be interpreted in accordance with definitions in any standard dictionary.

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<sup>127</sup> **24.01 Rules.** Chapter 1 of this code applies to this part, so I recommend striking provisions that duplicate the chapter 1 provisions.

<sup>128</sup> **25.01 Intent.** This section should be combined with section 25.02.

<sup>129</sup>**25.02 Definitions.**

*Abutting:* Making contact with or separated only by public thoroughfare, railroad, or public utility right-of-way.

*Access drive or driveway:* A paved or unpaved pathway upon a property and intended to provide vehicular access to and from a public street or alley. (Ord. No. 91-1243, amended 1-17-1991)

*Accessory building:* A subordinate building, or a portion of the main building which is located on the same lot or parcel as the main building and the use of which is clearly incidental to that of the main building or to the use of the premises. Playhouses over 30 square feet and/or five feet in height, enclosed gazebos, glass greenhouses, and enclosed treehouses are considered accessory buildings. (Ord. No. [20-2447](http://newwords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

*Accessory use or structure:* A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

*Addition:* An extension or increase in floor area or height of a building or structure.

*Adult use:* See 22-31 of the [Blaine Code of Ordinances](http://newwords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank). (Ord. No. [20-2447](http://newwords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

*Agricultural building or structure:* Any building or structure existing or erected which is used principally for agricultural purposes, with the exception of dwelling units.

*Agricultural use:* The use of land for the growing and/or production of field crops, livestock, and livestock products for the production of income, including but not limited to the following: (a) field crops, including: barley, soy beans, corn, hay, oats, potatoes, rye, sorghum, sunflowers, and sod; (b) livestock, including: dairy and beef cattle, goats, horses, poultry; (c) livestock products, including: milk, butter, cheese, eggs, meat, fur and honey.

*Airport or heliport:* Any land or structure which is used or intended for use, for the landing and takeoff of aircraft, and any appurtenant land or structure used or intended for use for port buildings or other port structures or rights-of-way.

*Alley:* A public right-of-way less than sixteen (16) feet, but not less than ten (10) feet in width, which has been dedicated or deeded to the public for public use and designed to provide secondary property access.

*Animals, domestic farm:* Cattle, hogs, horses, bees, sheep, goats, chickens, and other commonly known farm animals. (Ord. No. [20-2447](http://newwords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

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<sup>129</sup> **25.02 Definitions.** Ord. No. 21-2489 is waiting to be codified in part in this section. It did not impact legal review so it is not inserted here. Also, I recommend that introductory text be added before these definitions (e.g., “The following words and phrases when used in this chapter shall have the meanings respectively ascribed to them in this section, except where the context otherwise requires.” Finally, the definitions in this section that duplicate chapter 1 general code definitions should be stricken.

*Animals, domestic pets:* Dogs, cats, birds, and other commonly known house pets.

*Animal unit:* The following animals constitute one (1) animal unit equivalency: one (1) cow or steer, one (1) horse, donkey, or burro, one (1) bee hive consisting of one queen bee, three (3) sheep or goats, or one hundred (100) fowl, or an equivalent thereof. (Ord. No. <http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank> web="yes">20-2447 </alink>, 7-20-2020)

*Apartment:* A room or suite of rooms rented, leased, or similar tenancy, with cooking facilities available which is occupied as a residence by a single family, or a group of individuals living together as a single-family unit. Apartments must have minimum lease terms of 30 days. This includes any unit in buildings with more than two (2) dwelling units. (Ord. No. <http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank> web="yes">20-2447 </alink>, 7-20-2020)

*Apartment building:* Three (3) or more dwelling units or apartments grouped in one (1) building with a common entryway. Apartment buildings may include one (1) or more guest suites. (Ord. No. <http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank> web="yes">20-2447 </alink>, 7-20-2020)

*ARC:* Administrative Review Committee is a committee composed of the Director of Community Development, City Engineer, Chief Building Official, and other appropriate City officials. The Chairman of the committee shall be the Director of Community Development or their designee. (Ord. No. <http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank> web="yes">20-2447 </alink>, 7-20-2020)

*Automobile, car wash:* A building, or portion thereof, containing facilities for washing more than two (2) automobiles, using production line methods, including, but not limited to, steam cleaning device or other mechanical devices.

*Automobile or motor vehicle reduction yard:* A lot or yard where one (1) or more unlicensed motor vehicle(s) or the remains thereof, are kept for the purpose of dismantling, wrecking, crushing, repairing, rebuilding, sale of parts, sale of scrap, storage, or abandonment. (See also "Junkyard").

*Automobile repair, major:* General repair, rebuilding, or reconditioning of engines, motor vehicles or trailers, including body work, frame work, welding and painting of entire vehicle or major portion thereof.

*Automobile repair, minor:* The replacement of any part or repair of any part which does not require the removal of the engine head or pan, engine, transmission or differential; incidental body and fender work, minor painting and upholstering service when said service above stated is applied to passenger vehicles. (Ord. No. 94-1534, amended 9-1-1994)

*Automobile wrecking:* The dismantling or wrecking of used motor vehicles or trailers, or the storage, sale or dumping of dismantled, partially dismantled, or wrecked vehicles or their parts. (See also "Junkyard").

*Basement:* A portion of a building located partly underground, but having half or more of its floor to ceiling height below the average grade of the adjoining ground.

*Bay:* Abbreviated portion of a room which extends from the main structure or building.

*Billboard:* See Sign, advertising.

**Board:** The Board of the Planning Commission.

**Boarder and/or roomer:** A person who regularly receives room and/or meals at another's home for pay or services.

**Boarding house (Room or Lodging House):** A building or dwelling unit other than a motel or hotel, where, for compensation and by prearrangement, meals, or lodgings are provided for three (3) or more persons not to exceed eight (8) persons, where such residency is on a temporary basis as opposed to permanent residency.

**Brew pub:** A brewer who holds one or more retail on-sale licenses and who manufactures fewer than 3,500 barrels of malt liquor in a year, at any one licensed premises, the entire production of which is solely for consumption on tap on any licensed premises owned by the brewer, or for off-sale from those licensed premises as permitted by state statute.

**Brewer taproom:** An area on the premises of a brewery or on the premises adjacent to a brewery owned by the brewer in which the brewer sells or otherwise provides exclusively malt liquor produced by the brewer for consumption within the brewer taproom.

**Brewery:** A facility that brewer malt liquor for distribution off site.

**Broadcasting antenna, radio and television:** Commercial, public or private broadcasting towers exceeding the district height limitations, or more than one (1) tower of any height located on the same lot or parcel.

**Buffer:** The use of land, topography, difference in elevation, space, fences, or landscape planting to screen or partially screen a use or property from another use or property, and thus reduce undesirable influences, such as site, glare, noise, dust, and other external affects. When installed for the purpose of erosion or stormwater protection the definition contained in Section 33.15 (h) - Submittal Components. (Ord. No. 10-2203, amended 5-20-2010; Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

**Buildable area:** The space remaining on a lot after the minimum setback, drainage provisions, ponding, compensatory storage, soils, open space and other site constraint requirements of this ordinance have been met.

**Building:** Any structure having a roof which may provide shelter, support, protection, or enclosure of persons, animals, or property of any kind, and when said structures are divided by party walls without openings, each portion of such building so separated shall be deemed a separate building.

**Building height:** The vertical distance to be measured from the grade of a building line to the top, to the cornice of a flat roof, to the deck line of a mansard roof, to a point of the roof directly above the highest wall of a shed roof, to the uppermost point on a round or other arch type roof, to the mean distance of the highest gable on a pitched or hip roof.

**Building line:** An imaginary line separating buildable area and the required yards as defined herein.

**Building line, shoreland:** A line measured across the width of the lot where the main structure is placed in accordance with setback provisions from the ordinary high water mark, as designated by the Department of Natural Resources.

**Building setback:** The minimum horizontal distance between the building and lot line or the normal high water mark of a lake, as designated by the Department of Natural Resources.

**Building, unit group:** Two (2) or more buildings (other than dwellings) grouped upon a lot and held under one (1) ownership, such as universities, hospitals, institutions and industrial plants.

**Bulk commodity:** A bulk product stored on the floor of a building that is delivered in bulk by semi or large truck and distributed in a similar fashion without being placed in small containers or packaged. Bulk commodity materials, for purposes of this ordinance, include but are not necessarily limited to gravel, sand, black dirt, roadway salt, organic compost or grain. (Ord. No. 01-1935, added 1-3-2002)

**Business:** Any occupation, employment or enterprise, wherein merchandise is exhibited or sold, or where services are offered for compensation.

**Carport:** A permanently constructed automobile shelter having one (1) or more sides open. (Ord. No. [20-2447](http://newwords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

**Cemetery:** Site set apart for the burial or interment of the human dead.

**Cemetery, pet:** Site set apart for the burial of pets.

**Church:** A building, together with its necessary buildings and uses, where persons regularly assembly for religious worship and which buildings, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

**Clear cutting:** The removal of an entire stand of vegetation.

**Club or lodge:** A club or lodge is a nonprofit association of persons who are bonafide members paying annual dues, with the use of premises being restricted to members and their guests. The serving of food and meals on such premises is permissible providing adequate dining room space and kitchen facilities are available. Serving of alcoholic beverages to members and their guests shall be allowed, provided such serving is secondary and incidental to the operation of the dining room for the purpose of serving food and meals and providing further that such serving of alcoholic beverages is in compliance with the applicable federal, state, county, and municipal laws.

**Clustering/cluster housing:** The development pattern and technique whereby structures are arranged in closely related groupings to make the most efficient use of natural amenities of the land.

**Communication equipment facilities:** Essential communication service structures designed to house equipment necessary for the distribution requirements of all districts. The structures shall be less than three hundred (300) square feet in area. (Ord. No. 86-929, amended 2-20-1986)

**Compensatory storage:** The storage volume required to be excavated within or adjacent to a floodplain equal to the area filled in a floodplain.

**Comprehensive plan or policies:** A computation of goals, policy statements, standards, programs and maps for guiding the physical, social, and economic development, both public and private, as defined in the Minnesota Municipal Planning Act, and includes any part of such plan separately adopted and any amendment to such plan or parts thereof.

**Conditional use:** A use classified as conditional generally may be appropriate or desirable in a specific zone, but requires special approval because if not carefully located or designed, it may create special problems such as excessive height or bulk or abnormal traffic congestion.

**Conditional use permits:** There are certain types of land uses which are allowed in some zoning districts, provided that certain conditions or safeguards are imposed by the City Council.

**Condominium:** A form of individual ownership within a building which may entail joint ownership and responsibility for maintenance and repairs of the land and other common property of the building.

*Conservancy:* The purpose of which is to protect the natural resources in managed areas per Section 32.10.

*Cooperative:* A multiunit development operated for and owned by its occupants. Individual occupants do not own their specific housing unit outright as in a condominium, but they own shares in the enterprise.

*Covenant:* A contract between two (2) individuals which constitutes a restriction of a particular parcel of land.

*Day care center, commercial:* A licensed commercial facility in which care is provided for children.

*Density:* A number expressing the relationship of the number of dwellings to an acre of land.

*Donation drop-off box:* A portable outdoor container intended or used for the collection and storage of unwanted textiles and household items which are removed from the container on a periodic basis or the collection of recyclable materials not generated on the site, except for designated recycling collection centers, as designated by the Zoning Administrator. Containers less than 8 cubic feet are except from regulation under this code.

*Drive thru:* Any use where products and/or services are provided to the customer under conditions where the customer does not have to leave the car or where fast service to the automobile occupants is a service offered regardless of whether the service is provided within the building. (Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

*Dwelling attached:* A dwelling which is joined to another dwelling at one (1) or more sides by a party wall or walls.

*Dwelling detached:* A dwelling which is entirely surrounded by open space on the same lot.

*Dwelling multiple or apartment building (multiple dwelling complex):* A residential building, or portion of a building, containing three (3) or more dwelling units served by a common entrance, or a building designed for occupancy by three (3) or more families.

*Dwelling one-family:* A residential building containing one (1) detached dwelling unit or a building designed and occupied exclusively by one (1) family.

*Dwelling two-families (duplex or two-family):* A residential building containing two (2) dwelling units, or a building designed for occupancy by two (2) families.

*Dwelling unit:* A residential building or portion thereof intended for occupancy by a single family, but not including hotels, motels, boarding or rooming houses. There are three (3) principal types: (a) single-family: a freestanding (detached) residence structure designed for or occupied by one (1) family only; (b) two-family: a residence designed for or occupied by two (2) families only, with separate housekeeping and cooking facilities for each; (c) multiple family: a residence designed for or occupied by three (3) or more families, either wholly (attached) or partially a part of a larger structure (detached), with separate housekeeping and cooking facilities for each. (Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

*Easement:* A grant by a property owner for use of a strip of land by the public or any person for any specific purpose or purposes of construction and maintaining utilities, including, but not exclusive of the following: sanitary sewers, water mains, electric lines, telephone lines, other transmission lines, storm sewer, storm drainage ways, gas lines, other service utilities, etc.



*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.

*Essential services:* Overhead or underground electrical, gas, steam or water transmission or distribution systems, and collection, communication, supply or disposal systems and structures used by public utilities or governmental departments or commissions or systems as are required for the protection of public health, safety or general welfare, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes and accessories in connection therewith, not including buildings except communication equipment facilities as approved by the Department of Community Development. (Ord. No. 86-929, amended 2-20-1986)

*Exterior storage:* The storage of goods, materials, equipment, manufactured products and similar items not fully enclosed by a building.

*Extraction area:* Any nonagricultural, artificial, excavation of earth exceeding fifty (50) square feet of surface area of two (2) feet in depth, excavated or made by the removal from the natural surface of the earth, sod, soil, sand, gravel, stone or other natural matter, or made by turning, or breaking or undermining the surface of the earth.

*Family:* Family means any of the following:

- (a) An Individual
- (b) A group of not more than four (4) individuals, none of whom are related by blood or marriage, adoption, or foster care, but all of whom are maintaining a common residence.
- (c) Up to two adult individuals, whether related or unrelated, and the parents and children of each, if any, residing in the same dwelling unit and maintaining a common residence.
- (d) A combination of (a) and (c)

For the purposes of this definition, maintaining a common residence shall mean sharing access by all residents to permanently installed cooking and kitchen facilities, eating areas, laundry facilities, bathroom facilities, and social areas. (Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

*Farm:* Any tract of land, five (5) acres or greater, used for agricultural purposes, which is under cultivation or is fenced and utilized as pasture.

*Farming:* Process of operating a farm for the growing and harvesting of crops which shall include those necessary accessory buildings related to operating the farm and the keeping of common domestic animals which shall not exceed one (1) animal unit per acre in aggregate. In addition, hobby farm is defined as a farming activity engaged in primarily for pleasure. (Ord. No. 84-856, amended 1-3-1985)

*Fence:* A fence is defined, for the purpose of this ordinance, as any partition, structure, wall, or gate erected as a divider marker, barrier or enclosure and located along the boundary, or within the required yard.

*Flood:* A temporary increase in the flow or stage of a stream or in the stage of a lake that results in the inundation of normally dry areas.

*Flood frequency:* The average frequency, statistically determined, at which it is expected that a specific flood stage or discharge may be equaled or exceeded.

*Flood fringe:* That portion of the floodplain outside of the floodway. (Flood fringe is synonymous with the term "floodway fringe" used in the Flood Insurance Study - Reference Section 32.02(b).

*Floodplain:* The channel or beds proper and the areas adjoining a wetland, lake or watercourse that have been or hereafter may be covered by the regional flood. (Ord. No. 10-2203, amended 5-20-2010)

*Floodproofing:* A combination of structural provisions, changes or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.

*Floodway:* The channel of the watercourse and those portions of the adjoining floodplain which are reasonably required to carry and discharge the regional flood.

*Floor area:* The area included within the surrounding exterior walls of a building or portion thereof, including the sum of the gross horizontal areas of several floors of a building including interior balconies, mezzanines, basements, and attached buildings, exclusive of vent shafts, courts, utility rooms, stairs, escalators, or the like.

*Floor area ratio:* The numerical value obtained through dividing the gross floor area of a building or buildings by the lot area on which such building or buildings are located.

*Floor plan:* A graphic representation of the anticipated utilization of the floor area within a building or structure, but not necessarily as detailed as construction plans.

*Foster care arrangement:* Shall mean a facility providing care and shelter for nonblood related persons where adult supervision does not involve the payment of money or services or shelter in lieu of money other than direct payment by social service governmental agencies.

*Frontage:* That boundary of a lot which abuts an existing or dedicated public street.

*Garage, private:* A detached or attached accessory building or a portion of the principal building, including a car port, which is used primarily for the storing of passenger vehicles, trailers, mobile homes, trucks or a rated capacity not in excess of ten thousand (10,000) lbs. gross weight, in which only vehicles used by the tenants of the building or buildings on the premises are stored or sheltered.

*Garage, public:* Any premises, except those described as a private garage, used for the storage or care of power driven vehicles or where any such vehicles are equipped for operation, repaired or kept for remuneration, hire or sale.

*Garage, repair:* A building or space for the repair or maintenance of vehicles, but not including factory assembly of such vehicles, auto wrecking establishments or junkyards.

*Garage sale:* Any display of used goods and/or salesmen samples for sale of said goods on a property customarily used as a residence. The persons conducting the sale shall be residents of the immediate neighborhood.

*Garden supply store:* A business selling trees; flowering, ornamental, or vegetable plants; grasses; shrubs; and other ground covers as well as selling non-living garden or yard products such as but not limited to: fertilizer, herbicides, pesticides, garden and yard tools, yard maintenance and care equipment, landscape rock, yard decorations, edging, etc. Garden supply stores may be conducted within a building or without. (Ord. No. 98-1728, amended 6-25-1998)

*Gasoline station:* A facility which supplies and dispenses at retail motor fuels, including electrical charging, directly into vehicles. When the use is incidental to the conduct of a public garage, the premises is classified as a public garage. (Ord. No. <http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank> web="yes">20-2447 </a>, 7-20-2020)

*General development plan:* A report in text and in map form with the map drawn to scale depicting the general location and relationship of structures, streets, driveways, recreation areas, parking areas, utilities, etc., as related to a proposed development.

*General floodplain district(s):* Those areas designated as unnumbered A Zones on the Flood Insurance Rate Map.

*Greenhouse:* A glass building in which plants are grown. Greenhouse does not include structures using tarps, plastic sheeting, or other temporary materials.

*Group family daycare center:* A licensed facility which is accessory to a residential use and where daycare is provided for no more than fourteen (14) children at any one (1) time. The total number of children includes all children of any care giver when the children are present in the residence. Group family daycare includes facilities licensed as family childcare and group family childcare. (Ord. No. 91-1248, amended 4-4-1991; Ord. No. <http://newwords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank> web="yes">20-2447 </a>, 7-20-2020)

*Group home:* A state licensed residential facility or housing with services establishment licensed under Minnesota statute 144D. (Ord. No. <http://newwords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank> web="yes">20-2447 </a>, 7-20-2020)

*Guest suite:* An apartment or room in an apartment building that is occupied exclusively by guests of leaseholders in the apartment building.

*Home occupation:* Any business or commercial activity that is conducted or petitioned to be conducted from property that is zoned for residential use.

*Horticulture:* Horticulture uses and structures designed for the storage of products and machinery pertaining and necessary thereto.

*Hotel:* Any building or portion thereof providing provisions for nine (9) or more guests, in which lodging is provided with or without meals for compensation and which is open to transient or permanent guests or both, and where no provision is made for cooking in any guest room, and in which ingress and egress to and from all rooms is through an inside lobby or office, supervised by a person in charge.

*Impound lot:* A property used for the storing of impounded vehicles with or without towing service.

*Institutional housing:* Housing for students, mentally ill, elderly, nurses, physically retarded, and similar housing of a specialized nature.

*Interim use:* An interim use may or may not be consistent with the zoning regulations of the district within which they are proposed but may be acceptable or beneficial if reviewed and provisionally approved for a limited period of time.

*Intersection sight distance triangle:* The intersection sight distance triangle, in the case of ninety (90) degree intersecting streets, shall be described as the area within a triangle formed by connecting the following three (3) points: the point of intersection of the curb lines adjacent to the lot of the intersecting streets, a point sixty (60) feet from said point of intersection along one (1) curb line, and a point sixty (60) feet from said point of intersection along the other curb line. In the case of all other intersecting streets, the intersection sight distance triangle shall be defined by the Zoning Administrator. (Reference diagram in appendix section).

*Junkyard:* Land or buildings where waste, discarded or salvaged materials are brought, sold, exchanged, stored, baled, cleaned, packed, disassembled, or handled, including, but not limited to, scrap

metal, rags, paper, rubber products, plastics, glass products, lumber products and products resulting from wrecking or salvage of automobiles or other vehicles, outdoor storage of two (2) or more unregistered vehicles, except as otherwise authorized. Such use shall not include sanitary land fill, organic waste or material.

*Kennel, commercial:* Any structure or premises on which four (4) or more animals - domestic pets, of one (1) type, over four (4) months of age are kept, owned, boarded, groomed, sheltered, protected, bred, or offered for sale or any other merchandising.

*Kennel, private:* Any structure or premises on which four (4) or more animals - domestic pets, of one (1) type, over four (4) months of age are kept for private enjoyment and not for monetary gain.

*Land reclamation:* The reclaiming of land by depositing and/or excavating material so as to alter at the minimum four hundred (400) cubic yards of the existing grade, either by hauling and/or regarding the area, shall constitute land reclamation.

*Landfills:* A system of trash, waste, refuse, debris, salvaged material, or garbage disposal, in which the waste is buried between layers of soil.

*Landscaping:* Alteration of the natural terrain, including the planting of trees, grass, shrubs, and ground cover.

*Live entertainment:* An activity performed in person by one (1) or more individuals for the purpose to amuse or interest an audience including, but not limited to bands and disc jockeys. (Ord. No. 92-1227, amended 2-6-1992)

*Livestock:* Any animal or animals other than domestic pets kept for commercial sale or profit.

*Loading space:* An area, not within a building, used for loading or unloading of goods from any type of vehicle. (Ord. No. 89-1135, amended 4-20-1989)

*Lodging house:* A building or premises where lodging is provided for compensation for three (3) or more persons, but not exceeding twenty-five (25) persons.

*Lot:* A tract of land, designated by metes and bounds, registered land survey, or plat, and separated from other tracts of land by legal description approved by the City of Blaine and recorded or to be recorded in the Office of the Anoka County Recorder. In addition, a lot is a tract of land occupied or used or intended for occupancy or use for purposes permitted in this ordinance, abutting on a public street or approved private street, of sufficient size to provide the yards and area required by this ordinance.

*Lot area:* Area within a lot, including land over which easements have been granted, but not including any land within the limits of a street upon which such lot abuts, even if fee title to such a street is in the owner of the lot. If a corner lot has its corner bounded by a curved line connecting other street lines which, if extended, would intersect, the area may be computed as if such boundary lines were so extended.

*Lot area per unit:* The lot area required by this ordinance to be provided for each dwelling unit.

*Lot, corner:* A lot situated at the junction of, and abutting on two (2) or more intersecting streets, or a lot at the point of deflection in alignment of a continuous street, the interior angle of which does not exceed one hundred thirty-five (135) degrees.

*Lot depth:* The minimum horizontal distance between the front lot line and the rear lot line of a lot.

*Lot, double frontage:* An interior lot having frontage on two (2) streets.

*Lot, interior:* A lot other than a corner lot.

*Lot line:* A lot line is the property line bounding a lot, except that where any portion of a lot extends into a public right-of-way or a proposed right-of-way, the line of such public right-of-way shall be the lot line.

*Lot line, front:* That boundary of a lot which abuts an existing or dedicated public street. In no case shall there be more than two (2) front lot lines applied to any lot. Any other lines abutting a public right-of-way shall be designated by the Zoning Administrator as either a side or rear lot line. (Ord. No. 88-1085, amended 6-16-1988).

*Lot line, rear:* That boundary of a lot which is opposite the front lot line. If the rear lot line is less than ten (10) feet in length, or if the lot forms a point at the rear, the rear lot line shall be a line ten (10) feet in length within the lot, parallel to, and at the maximum distance from the front lot line.

*Lot line, side:* Any boundary of a lot which is not a front lot line or a rear lot line.

*Lot of record:* Any lot which is one (1) unit of a plat duly approved and filed, or one (1) unit of an auditors subdivision or a registered land survey, that has been recorded in the Office of the County Recorder for Anoka County, Minnesota, prior to the effective date of this ordinance.

*Lot width:* The maximum horizontal distance between the side lot lines of a lot measured on or within the front yard setback requirements.

*Maintenance free exterior:* Construction involving the use of low or no maintenance exterior materials not requiring frequent maintenance such as but not limited to aluminum, steel, cementitious, or vinyl siding, brick, stucco or other unpainted masonry products, vinyl or aluminum clad windows and doors, garage doors, fascia, soffits, or other trim. (Ord. No. 94-1538, amended 11-17-1994; Ord. No. <http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank> web="yes">20-2447 </a>, 7-20-2020)

*Major industrial buildings:* An industrial building or facility which comprises at least one hundred thousand (100,000) square feet of occupied building area and is situated on at least ten (10) acres. (Ord. No. 92-1282, amended 3-5-1992)

*Manufactured home:* Manufactured home means a structure, transportable in one (1) or more sections, which in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designated to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein; except that the term includes any structure which meets all the requirements and with respect to which the manufacturer voluntarily files a certification pursuant to Minnesota Statutes, Sections 327.31 through 327.36, as amended.

*Manufactured home lot:* A parcel of land for the placement of a single mobile home for the exclusive use of the occupants of said mobile home.

*Manufactured home park:* Any site, lot, field, or tract of land under single ownership, designed, maintained or intended for the placement of two (2) or more occupied mobile homes. Mobile home parks shall include any buildings, structures, vehicles, or enclosure intended for use as part of the equipment of such mobile home park.

*Manufactured home stand:* That part of an individual mobile home lot which has been reserved for placement of the mobile home, appurtenant structures or additions.

*Manufacturing, heavy:* All manufacturing, compounding, processing, packaging, treatment, or assembly of products and materials that may emit objectionable and offensive influences beyond the lot on which the use is located. Such uses include, but are not limited to the following: sawmill, refineries, commercial feedlots, acid, cement, explosives, flour, seed, and grain milling or storage, meat packing, slaughter houses, coal or tar asphalt distillation, rendering of fat, grease, lard or tallow, alcoholic beverages, poisons, exterminating agents, glue or size, lime, gypsum, plaster of Paris, tanneries, automobile parts, paper and paper products, glass, chemicals, plastics, crude oil and petroleum products, including storage, electric power generation facilities, vinegar works, junkyard, auto reduction yard, foundry, forge, casting of metal products, rock, stone, cement products.

*Manufacturing, light:* Fabrication, processing, or assembly employing only electric or other substantially noiseless and inoffensive motive power, utilizing hand labor or quiet machinery and processes, and free from neighborhood disturbing agents, such as odors, gas fumes, smoke, cinders, flashing or excessively bright lights, refuse matter, electromagnetic radiation, heat or vibration.

*Mean flow level:* The average flow elevation of a stream or river computed as the midpoint between extreme low and extreme high water.

*Medical uses:* Those uses concerned with the diagnosis, treatment, and care of human beings. These include: hospitals, dental services, medical services, or clinics. (Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

*Medical cannabis dispensary:* A retail store that sells medical cannabis as defined and regulated by Minnesota Statute 152.22-152.37.

*Memory care facility:* A secure assisted living facility or a portion of such facility providing services specifically for adults experiencing memory loss due to Alzheimer's disease or other dementia related illness.

*Metes and bounds description:* A description of real property which is not described by reference to a lot or block shown on a map, but is described by starting at a known point and describing the bearings and distances of the lines forming the boundaries of the property or delineates a fractional portion of the section, lot or area by described lines or portions thereof.

*Mining:* The extraction of sand, gravel, rock, soil or other material from the land in the amount of one thousand (1,000) cubic yards or more and the removal thereof from the site. For the purpose of this ordinance, mining shall not include: the removal of materials associated with the construction of a building, the removal of excess materials in accordance with approved plats or utility and highway construction, minor agricultural and sod removal except as further regulated herein.

*Multiple residence:* Three (3) or more dwelling units in one (1) structure.

*Municipal water and sewer systems:* Utility systems serving a group of buildings, lots, or an area of the City, with the design and construction of such utility systems as approved by the City Engineer.

*Natural resource analysis:* A report in map and text form identifying the existing natural features of a parcel of land and the relationship of a proposed use to the existing natural conditions of the parcel.

*Noise:* One (1), or a group of, loud, harsh nonharmonious sounds or vibrations that are present and irritating to the ear.

*Noise, ambient:* All encompassing sounds associated with a given environment, which may be either a composite of sounds, transmitted by any means from many sources near and far or from a single predominant source.

*Nonconforming structure:* A structure which does not comply with the bulk yard setback or height regulations of the district in which it is located. Any structure permitted by existing City ordinance upon the effective date of this ordinance, which would not conform to the applicable regulations if the structure were to be erected under the provisions of this ordinance.

*Nonconforming use:* Any use of a lot or structure which does not conform to the applicable use regulations of the district in which it is located, or use of land, building or structures permitted and existing at the time of adoption of this ordinance, which does not comply with all of the regulations of this ordinance, or any amendments hereto, governing the zoning district in which such use is located.

*Noxious:* Matter which is capable of causing injury or is in any way harmful to living organisms, or is capable of causing detrimental effect upon the health, the physiological and social or economic well-being of human beings.

*Nursery, landscape:* A business growing and selling trees, flowering and ornamental plants, grasses, shrubs, and other ground covers, which may be conducted within a building or without, for the purpose of landscape construction.

*Nursery, temporary landscape:* A business conducting temporary sales with an associated primary use erected on a commercially zoned lot for the purpose of displaying or selling seasonal plant and landscape materials not inside a permanent structure.

*Nursing home, rest home or convalescent home:* A building with facilities for the care of children, the aged, infirm, or place of rest for those suffering bodily disorder but not containing equipment for surgical care or for treatment of disease or injury. Said nursing home shall be licensed by the State Board of Health, as provided for in Minnesota Statutes, Section 144.50.

*Obstruction:* Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stock pile, refuse, fill, structure, or matter in, along, across or projecting into any channel, water course, or regulatory floodplain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.

*Occupancy:* The purpose for which a building is used or intended to be used. The term shall also include the building or rooms housing such use. Change of occupancy is not intended to include change of tenants or proprietors.

*Office uses:* Those commercial activities that take place in office buildings, where goods are not produced, sold, or repaired. These include: banks, general offices, professional offices, governmental offices, insurance offices, real estate offices, travel agencies or transportation ticket offices, telephone exchanges, utility offices, radio broadcasting and similar uses.

*Open sales lot:* Land devoted to the display of goods for sale, rent, lease, advertising, merchandising, or trade where such goods are not enclosed within a building, including, but not limited to flea markets. Open sales lots do not include temporary landscape nurseries. (Ord. No. <http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank> print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank" web="yes">20-2447 </a>, 7-20-2020)

*Open space:* Any open area not covered by structure.



*Open space, common:* A parcel or parcels of land or an area of water not required for storage of the "regional flood" or a combination of such land and water area within the site designated for private open space for the sole benefit, use and enjoyment of the homeowners within a planned unit development or similar developments associated with common open space area.

*Open space, private:* Any open space owned by a person or persons.

*Open space, public:* Any open space publicly owned.

*Open storage:* Storage of any material outside of the building and/or structure.

*Ordinary high water level:* The boundary of water basins, watercourses, public waters, and public waters wetlands, and:

- (a) The ordinary high water level is an elevation delineating the highest water level that has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly the point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial;
- (b) For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel; and
- (c) For reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool. (Ord. No. 10-2203, amended 5-20-2010)

*Overhead doors:* A door which allows passenger vehicles and/or trucks to enter and/or exit a building. (Ord. No. 89-1135, amended 4-20-1989)

*Parcel:* Is a tract of land that does not have sufficient street frontage or area, as defined within the ordinance, to be considered a buildable lot.

*Parking space:* A suitably surfaced and permanently maintained area on privately owned property either within or outside of a building of sufficient size to store one (1) automobile.

*Party wall:* A common wall which divides two (2) independent structures.

*Paths of solar energy system:* A solar energy system that uses natural and architectural components to collect and store solar power energy without using external mechanical power.

*Pedestrian way:* A public or private right-of-way across or within a block, to be used by pedestrians.

*Performance standards:* Criteria established to control environmental conditions such as, but not limited to: odor, smoke, toxic or noxious matter, vibration, fire and explosive hazard, glare, runoff generated by or inherent in use of land or building.

~~*Person:* An individual, firm, partnership, association, corporation or organization of any kind.~~

*Plan, comprehensive:* Comprehensive Plan shall mean 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 planning agency's recommendations for the future development of the community.

*Plan, concept:* A report in map and depicting the location, general purpose, general type of land use, and circulation pattern, primary relationship between site elements and between the proposed development and surrounding development, proposed general schedule of development and information on the proposed developer. (Ord. No. <ulink class="ordbank" print="yes"



url="http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank" web="yes">20-2447 </ulink>, 7-20-2020)

*Plan, general development:* A report in text and map form with the map drawn to scale, depicting the general location and relationship of structures, streets, driveways, recreation areas, parking areas, utilities, buffering, as related to a proposed development.

*Plan, parking:* A graphic, plan, or map shall be prepared reflecting the total parking required, based on the more restrictive land use where a building is proposed to accommodate uses that may require application of two (2) or more differing parking standards, based on potential occupancy. The standard providing the greatest amount of parking shall be applied exclusively. (Ord. No. <ulink class="ordbank" print="yes"

url="http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank" web="yes">20-2447 </ulink>, 7-20-2020)

*Plan, site:* A map or graphics prepared to scale depicting the development of a tract of land, including, but not limited to, the location and relationship of the structures, streets, driveways, recreation areas, parking areas, utilities, landscaping, existing and proposed grading, walkways, and other site development information as related to a proposed development.

*Plat:* A map, graphics or drawing which graphically delineates the boundary of land parcels for the purpose of identification and record title. The plat is recorded legal document and must conform to all Minnesota State Laws.

*Practical difficulty:* Undue hardship as used in connection with the recommending of the granting of a variance means the property in question cannot be put to a reasonable use if used under conditions allowed by the official controls, the plight of the landowner is due to circumstances unique to his property not created by the landowner, and the variance, if recommended, will not alter the essential character of the locality. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the Zoning **Ordinance**.

*Prefabricated home:* A nonmobile housing unit, the walls, floors and ceilings of which are constructed at a central factory and transported to a building site where final construction is completed, permanently affixing the unit to the site.

*Principal structure or use:* One (1) which determines the predominant use as contrasted to accessory use or structure.

*Property line:* The legal boundaries of a parcel of property which may also coincide with the right-of-way of a road, cartway and the like.

*Public land:* Land owned or operated by municipalities, school district, county, state, or other governmental unit.

*Public building:* A building owned and operated by the City including but not limited to, fire stations, wells, City Hall, public works, senior citizen facility and police facilities.

*Quad:* A four-unit multiple residence building with private entrances to each unit. (Ord. No. <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank" web="yes">20-2447 </ulink>, 7-20-2020)

*Reclamation, land:* The improvement of land by the depositing of material to elevate the grade. Any parcel upon which four hundred (400) cubic yards or more of fill are deposited shall be considered as reclaimed land.

*Recreation, commercial:* Includes all uses such as bowling alleys, driving ranges, movie theaters, or the equivalent thereof, that are privately owned and operated with the intention of earning a profit by providing entertainment for the public. (Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

*Recreation, public:* Includes all uses such as tennis courts, ball field, picnic areas, and the like, that are commonly provided for the public at parks, playgrounds, community centers, and other sites, owned and operated by a unit of government for the purpose of providing recreation.

*Recreation, regional:* A public indoor and outdoor recreation facility serving a regional clientele, including but not limited to uses such as soccer, track and field events, skating, hockey, biking, volleyball, and concerts. The site must be owned and operated by a unit of government, public, or not-for-profit-organization for the purpose of providing recreation. (Ord. No. 98-1753, amended 11-19-1998)

*Recreational equipment:* Non enclosed structures or equipment used for recreational purposes including but not limited to trampolines, treehouses without walls and roofs, slides, climbing structures, playhouses under 30 square feet with a maximum height of 5 feet, and playground equipment. Recreation equipment does not include playhouses over 30 square feet and/or five feet in height or treehouses with fully enclosed walls.

*Recreational vehicle:* Any vehicle or structure constructed in such a manner as to permit occupancy thereof, as living quarters and so designed that it is or may be mounted on wheels, and used as conveyance on highways and streets, propelled or drawn by its own or other motor power. (Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

*Regional flood:* A flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval.

*Registered land survey:* A survey map of registered land designed to simplify a complicated metes and bounds description, designating the same into tract or tracts of registered land survey number.

*Regulatory flood protection elevation:* It is the elevation to which uses regulated by this ordinance are required to be elevated or floodproofed. The Regulatory Flood Protection Elevation shall be an elevation no lower than two (2) feet above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway. (Ord. No. 99-1770, amended 2-18-1999)

*Restaurants (Class I):* Traditional restaurant where food is served by a waitress or waiter to a customer and consumed while seated at a counter or a table. Food is served on nondisposable containers.

*Restaurants (Class II):* Fast food restaurants in which a majority of the customers are served food at a counter and take it to a table to eat at or may take food outside to consume in a vehicle or off the premises.

*Road:* A public right-of-way affording primary access by pedestrians in vehicles to abutting property whether designated as a street, highway, thoroughfare, parkway, road, avenue, boulevard, land, place, or however otherwise designated. Egress and ingress easements shall not be considered roads.

*Selective cutting:* The removal of single scattered trees.

*Self storage facility, Indoor:* A fully enclosed, climate controlled, building containing separate, individual and private storage spaces of varying sizes, leased or rented on an individual basis for the storage of personal property; where individual renters control and access individual storage spaces via its own access door. Each unit must be directly accessed from the interior of the building via its own access door. Outdoor access to individual units is prohibited. Ancillary retail sales of related items, such as moving supplies, facility offices, and a dwelling for a night watchman may also be included. Such facilities to be used for storage only.

*Senior housing:* Multifamily housing with occupancy restricted to persons over 55 years of age. Senior housing includes Senior Assisted Living Facility.

<sup>130</sup> ~~Senior~~ *Assisted living facility:* A housing with services establishment that provides sleeping accommodations to one or more adult residents, at least 80 percent of which are 55 years of age or older, and offering or providing, for a fee, one or more regularly scheduled health-related services or two or more regularly scheduled supportive services, whether offered or provided directly by the establishment or by another entity arranged for the establishment, as defined in M.S.A. § 144G.08, subd. 7 ~~Minn. Stat. 144D.01, subd. 4 and Minn. Statute 144G.~~

*Sewage:* Sewage is any water carrying domestic waste, exclusive of footing and rough drainage of any residence, industry, agricultural or commercial establishment, whether treated or untreated and includes the liquid waste produced by bathing, laundry, and culinary operations, and from toilets and floor drains. Raw sewage is sewage which has not been subjected to any treatment process.

*Shop, specialty:* A business in a commercial zone which requires a conditional use permit because of the special product or services sold or rendered.

*Shopping center, community center:* A regional center designed for the purpose of retailing and providing a wide range of goods and services such as apparel, furniture and banking and financial services, for a trade area comprised of several residential neighborhoods.

*Shopping center, neighborhood center:* A retail center designed for the purpose of retailing convenience goods, such as food and drugs, providing personal services such as barber shops and laundry stations, for a combination of basic day to day shopping for service needs of persons living or working within the nearby area.

*Shopping center, regional center:* A retail center designed to serve a trade area of several communities and to provide a range of convenience and shoppers endurable goods and services comparable to that found in the central business districts of Minneapolis and St. Paul.

*Shoreland:* Land located within the following distances from public water; (1) [one] thousand (1,000) feet from the normal high water mark of a lake, pond, or flowage; or (2) three hundred (300) feet from a river or stream or floodplain designated by ordinance on such a river or stream, whichever is greater. The practical limits of shorelands may be less than the statutory limits whenever the waters involved are bounded by natural topographic divides which extend landward from the water for lesser distances. Public waters shall be any existing body of water, wetland, drainage way as designated by the Minnesota Department of Natural Resources.

*Shoreland alteration:* Grading and filling in shoreland areas or any alteration of the natural topography where the slope of the land is towards a public water or watercourse leading to a public water.

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<sup>130</sup> **25.02 Definitions—Senior assisted living facility.** Cited statute was repealed effective August 2021. See update. Also note that the term is now “assisted living facility” so this definition now needs to be moved into proper alphabetical place.

*Shoreland setback:* The minimum horizontal distance between the structure and the normal high water mark.

*Sign:* Any letters, words, symbols, poster, picture, device reading matter, or representation in the nature of a message, announcement, visual communication, or advertisement whether printed, painted, posted, affixed, constructed, or displayed for the purpose of information or communication. This definition includes sign structural supports, uprights, bracing and framework. The term sign shall specifically include architectural or graphic features which are intrinsically associated with a particular product, good service, business, firm corporation, or profession. (Ord. No. 86-934, amended 6-5-1986)

*Sign, advertising:* A sign which directs attention to a business, commodity, service, activity, or entertainment not necessarily conducted, sold, or offered upon the premises where such sign is located: such as a beer billboard.

*Significant tree:* Any live healthy tree measuring eight (8) inches in diameter or greater, measured at four and one-half (4.5) feet above the ground. (Ord. No. 93-1337, amended 6-3-1993)

*Solar energy:* Radiant energy that is direct, diffused, and reflected energy received from the sun.

*Solar energy system:* A device or structural design feature, a substantial purpose of which is to provide for the collection, storage and distribution of solar energy for space heating or cooling, electricity generation or water heating. (Ord. No. <http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank> print="yes" web="yes">20-2447 </ulink>, 7-20-2020)

*Solar energy system, ground mounted:* A freestanding solar energy system mounted directly to the ground.

*Stable, commercial:* Any structure or premises on which horses are kept, owned, boarded, groomed, trained, bred, or offered for sale. Requires a Conditional Use Permit. (Ord. No. 89-1130, amended 4-20-1989)

*Stable, private:* Any structure or premises on which twenty (20) or more horses, or more than one (1) horse per acre, are kept for private enjoyment and hobby purposes only. Requires a Conditional Use Permit. (Ord. No. 89-1130, amended 4-20-1989)

*Street:* A public right-of-way which affords primarily means of access to abutting property, and shall also include avenue, highway, road, or way.

*Street, arterial or major:* A street which serves, or is designed to serve heavy flows of traffic which is used primarily as a street route for traffic between communities and/or other heavy traffic generating areas.

*Street, collector:* A street which serves or is designed to serve as a traffic way for a neighborhood or as a feeder to a major roadway. Direct driveway access is limited to the greatest extent possible.

*Street, local:* A street intended to serve primarily as access to abutting properties.

*Street, pavement:* The wearing or exposed surface of the roadway used by vehicular traffic.

*Street, right-of-way:* The width of the right-of-way, measured at right angles to the center line of the street.

*Street, width:* The width of street surface measured at right angles between the curbs or edge of pavement.

*Story:* That portion of a building included between the surface of any floor and the surface of the flooring next above. A basement shall be counted as a story provided forty percent (40%) or more of the height of the basement is above grade.

*Structural alteration:* Any change, other than incidental repairs, which would prolong the life of supporting members of a building such as bearing walls, columns, beams, girders, or foundations.

*Structure:* Anything constructed, the use of which requires more or less permanent location on the ground, or attached to something having a permanent location on the ground.

*Subdivision:* The division or redivision of a lot, tract, or parcel of land into two (2) or more lots, either by plat, metes and bounds, or by registered land survey.

*Top soil:* Black dirt composed of unconsolidated material, largely undecomposed organic matter with a maximum of 35% sand. (Ord. No. 86-972, amended 8-21-1986; Ord. No. [20-2447](http://newwords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

*Tow truck:* Motor vehicles equipped with a crane and winch, or an attached device used exclusively to transport vehicles, and further equipped to control the movement of the towed or transported vehicle.

*Tow truck operation:* Operation of tow trucks based out of the location of a minor or major auto repair business. Tow truck operation does not include the drop off of vehicles by tow trucks not associated with the business.

*Townhouse:* A single-family building attached by party walls with other single-family buildings, and orientated so that all exits open to the outside with private entries maintained to each individual unit.

*Toxic and hazardous waste:* Waste materials including, but not limited to: poisons, pesticides, herbicides, acids, caustics, pathological wastes, radioactive materials, flammable or explosive materials, and similar harmful chemicals and waste which requires special handling and must be disposed of in a manner which conserves the environment and protects the public health and safety.

*Transient sale:* Temporary sale of goods, wares, services, and merchandise within the city outside of a building with a valid certificate of occupancy in or upon a vacant lot, motor vehicle, trailer, tent, or railroad car. (Ord. No. [20-2447](http://newwords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

*Treehouse:* A structure constructed in a tree. Treehouses without enclosed walls and roofs are regulated as recreational equipment and treehouses with enclosed walls and roofs are regulated as accessory buildings.

*Truck terminal:* A building or area in which freight brought by motor truck is assembled, stored, and/or transferred for routing in intrastate or interstate shipment by motor truck. (Ord. No. 89-1135, amended 4-20-1989)

*Use:* The purpose or activity for which the land or building thereon is designated, arranged, or intended, for which it is occupied, utilized, or maintained.

*Use, accessory:* A use subordinate to and serving the principal use or structure on the same lot and customarily incidental thereto.

*Use, permitted:* A public or private use which of itself conforms with the purposes, objectives, requirements, regulations, performance standards of a particular district.

*Use, principal:* The main use of land or buildings as distinguished from subordinate or accessory uses. A principal use may be either permitted or conditional.

*Variance:* A modification or variation of the provisions of this ordinance where it is determined that by reason of special and unusual circumstances relating to a specific lot, that strict application of the ordinance would cause a practical difficulty. (Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

*Vehicle:* Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively upon stationary rails or tracks. (Ord. No. 86-936, amended 4-3-1986)

*Vehicle, passenger:* Any motor vehicle designed and used for carrying not more than ten (10) persons including station wagons, pickup trucks, vans and motorcycles. (Ord. No. 86-936, amended 4-3-1986)

*Vehicle rental agency:* Any real property owned, leased or used by a person, association or corporation for the purpose of storing, displaying or parking two (2) or more passenger vehicles for short term lease of not more than ninety (90) days. (Ord. No. 05-2063, added 10-20-2005)

*Vehicle sales lot:* Any real property owned, leased or used by a persons, business, association or corporation for the purpose of storing, displaying or parking two (2) or more new or used vehicles for sale, consignment, lease, trade or exchange. Parking or storage of two (2) or more vehicles on real property with a sign or signs indicating a phone number, address or other identifying information, or a sign or signs indicating that such vehicles are for sale, consignment, lease, trade or exchange, is prima facie evidence of a vehicle sales lot. (Ord. No. 86-936, amended 4-3-1986)

*Warehousing:* The use of a portion or all of a building or buildings used for the storage of goods, of any type. (Ord. No. 89-1135, amended 4-20-1989; Ord. No. 95-1586, amended 12-21-1995)

*Wetlands:* Lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this definition, wetlands must have the following three (3) attributes:

- (a) Have a predominance of hydric soils;
- (b) Are inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and
- (c) Under normal circumstances support a prevalence of such vegetation. (Ord. No. 10-2203, amended 5-20-2010)

*Yard:* A required open space on the lot which is unoccupied and obstructed by a structure from its lowest level to the sky except as permitted in this ordinance. A yard extends along the lot line at right angles to such lot line to a depth or width specified in the setback regulations for the zoning district in which such lot is located.

*Yard, front:* A yard extending along the full width of the front lot line between the side lot lines and extending from the abutting street right-of-way to the front face(s) of the principal building or to the depth required in the setback regulations for the zoning district in which such lot is located whichever distance is greater. (Ord. No. 00-1836, amended 3-16-2000)

*Yard, rear:* A yard extending along the full width of the rear lot line between the side lot lines and extending from the rear lot line to the rear face(s) of the principal building or to the depth required in the

setback regulations for the zoning district in which such lot is located whichever distance is greater. In single-family residential districts the principal building shall include attached garages. (Ord. No. 00-1836, amended 3-16-2000)

*Yard, side:* The yard extending along the side lot line between the front and rear yards to the face(s) of the principal building or to the depth or width required by setback regulations for the zoning district in which such lot is located whichever distance is greater. (Ord. No. 00-1836, amended 3-16-2000)

*Yard waste drop-off facility:* A facility for disposal of yard waste not typically collected by commercial and residential waste haulers. Yard waste includes compostable items such as leaves, lawn clippings and shrub prunings, but for the purposes of this definition also includes tree branches, tree trunks, and stumps from removed trees. All on-site yard waste must be stored within a building or within portable metal containers. No processing or treatment of yard waste nor active composting may occur at a drop-off facility. (Ord. No. 95-1564, amended 7-6-1995)

*Zero lot line:* The location of a building and/or parking area over a common lot line. (Ord. No. 89-1135, amended 4-20-1989)

*Zero lot line split:* The instance where a structure is allowed to be constructed over a lot line of two (2) adjoining lots.

*Zoning administrator:* The officer charged with the administration and enforcement of this ordinance. For the purposes of this ordinance, the Zoning Administrator and/or Director of Community Development shall be considered the Director of Planning & Economic Development or their designee when referenced in this code. (Ord. No. 93-1337, amended 6-3-1993; Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

*Zoning amendment:* A change of the zoning map or zoning text authorized by the City, either in the allowed use with a district, or in the boundaries of a district.

*Zoning district:* An area or areas within the limits of the City for which the regulations and requirements governing use are uniform.

*Zoning district, overlay:* A zoning district containing regulations superimposed upon other zoning district regulations and superseding the underlying zoning district use regulations.

*Zoning district, underlying:* All zoning districts except Overlay Zoning Districts.

*Zoning map:* The map or maps incorporated into this Ordinance as a part thereof, designating the zoning districts.

## **Chapter 26 GENERAL PROVISIONS**

[26.01 Application of this ordinance.](#)

[26.02 Private agreements.](#)

[26.03 Separability.](#)

[26.04 Accessory buildings, structures, uses.](#)



26.05 Existing lots.

26.06 Nonconforming structures, uses.

**26.01 Application of this ordinance.**

- (a) In their interpretation and application, the provisions of this ordinance shall be minimum requirements for the promotion of public health, safety, morals, and welfare.
- (b) Where the conditions imposed by any provision of this ordinance are either more restrictive or less restrictive than comparable conditions imposed by any other law, ordinance, statute, resolution, or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall prevail.
- (c) From and after the effective date of this ordinance, the use of all land and every building or portion of a building erected, altered in respect to height and area, added to, or relocated, and every use within a building or use accessory thereto, in the City of Blaine, shall be in conformity with the provisions of this ordinance. Any existing building or structure and any existing use or properties not in conformity with the regulations herein prescribed, shall be regarded as nonconforming, but may be continued, extended or changed, subject to the special regulations herein provided with respect to nonconforming properties or uses.

**26.02 Private agreements.**

This ordinance does not abrogate any easement, covenant, or any other private agreement which are legally enforceable, provided that where the regulations of this ordinance are more restrictive or impose higher standards or requirements than such easements, covenants, or other private agreements, the requirements of this ordinance shall govern.

~~<sup>131</sup>26.03 Separability.~~

~~It is hereby declared to be the intention that the provisions of this ordinance are separable in accordance with the following:~~

- ~~(a) If any court of competent jurisdiction shall adjudge any provisions of this ordinance to be invalid, such judgment shall not affect any other provisions of this ordinance not specifically included in said statement.~~
- ~~(b) If any court of competent jurisdiction shall adjudge invalid the application of any provision of this ordinance to a particular property, building, or structure, such judgment shall not affect other property, buildings, or structures.~~

**26.04 Accessory buildings, structures, uses.**

- (a) No accessory building or use shall be constructed or use developed on a lot prior to obtaining a building permit for the principal building or use to which it is accessory.

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<sup>131</sup> 26.03 Separability. Duplicative of chapter 1 provisions and should be stricken.



- (b) A detached accessory building or garage shall not be located in any required front or side yard setback. (Ord. No. 84-856, amended 1-3-1985)
- (c) All accessory buildings and uses shall comply with the regulations of the zoning district in which they are located.
- (d) No accessory building shall exceed the height of the principal building except in the Agriculture zoning district. (Ord. No. 94-1501, amended 4-21-1994; Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

## 26.05 Existing lots.

A lot or parcel of land in a residential district which was of record as a separate lot or parcel in the Office of the Anoka County Recorder on or before the date of adoption of this **ordinance**, may be used for single family detached dwelling purposes, provided the area and width are within seventy-five percent (75%) of the minimum requirements of this **ordinance**, and provided that it can be demonstrated that safe and adequate sewer systems can be installed to serve such permanent dwelling, and provided that it does have access on the public street.

## 26.06 Nonconforming structures, uses.

The lawful use of any land or building existing at the time of the adoption of this **ordinance** may be continued, even if such does not conform to the regulations of this **ordinance**, except as provided below:

- (a) *Nonconforming structures except nonconforming signs which are regulated by Section 34.03* (Ord. No. 86-934, amended 6-5-1986)
  - (1) Alterations: A nonconforming building or structure shall not be reconstructed or altered unless such building or structure is changed to conform with the regulations of this **ordinance**.
  - (2) Enlargement: A nonconforming building or structure shall not be added to or enlarged in any manner unless such additions or enlargements are made so as to bring said building or structure into conformity with the regulations of this **ordinance**.
  - (3) Restoration: A nonconforming building or structure which is damaged by fire or other causes to the extent of more than fifty percent (50%) of its market value, unless a formal application for a building permit has been applied for within one hundred eighty (180) days of when the property was damaged, shall not be restored except in conformity with the regulations of this **ordinance**. (Ord. No. 04-2035, amended 12-16-2004)
  - (4) Abandonment: A nonconforming use of a building which has been discontinued for a period of more than one (1) year shall not be reestablished, and any future use shall be in conformity with the regulations of this **ordinance**. (Ord. No. 04-2035, amended 12-16-2004)
  - (5) Maintenance: Normal maintenance of a building or other structure containing or related to a lawful nonconforming use is permitted, including necessary nonstructural repairs and incidental alterations which do not extend or intensify the nonconforming use.
  - (6) Existing buildings not in conformance with architectural control standards in the applicable zoning district shall construct additions in conformance with the architectural control standards. Any addition greater than 50% of the square footage of the building shall require the entire building to meet architectural control standards. (Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

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(b) *Nonconforming use of building or land.*

- (1) Extension: No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the time of the effective date of this ordinance.
- (2) No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the time of the effective date of this ordinance.
- (3) If any such nonconforming use of land or building ceases for any reason for a period of more than one (1) year, any subsequent use of such land shall conform to the regulations specified by this ordinance for the district in which such land is located. (Ord. No. 04-2035, amended 12-16-2004)

(c) *Inspection.*

- (1) The enforcing officer shall make an annual inspection each June, of all the nonconforming uses and report to the City Council within sixty (60) days.

## **Chapter 27 ADMINISTRATION**

### **27.01 Enforcing officer.**

### **27.02 Planning commission/board of appeals and adjustments.**

### **27.03 Zoning comprehensive plan amendments.**

### **27.04 Conditional use permits.**

### **27.05 Interim use permits.**

### **27.06 Variances.**

### **27.07 Administration.**

### **27.08 Financial guarantee.**

### **27.09 Administrative fees.**

### **27.01 Enforcing officer.**

The Director of Community Development or their designee shall serve as the Zoning Administrator. The Zoning Administrator shall enforce the ordinance. (Ord. No. <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank" web="yes">20-2447 </ulink>, 7-20-2020)

- (a) Oversee issuance of building and other permits, and make and maintain records thereof.
- (b) Conduct inspections of buildings and use of land to determine compliance with the terms of this ordinance.

- (c) Maintain permanent and current records of this **ordinance**, including, but not limited to, all maps, amendments, and conditional uses, variances, appeals and applications.
- (d) Receive, file, and forward all applications for appeals, variances, special uses or other matters to the designated official bodies.

## **27.02 Planning commission/board of appeals and adjustments.**

- (a) There is hereby established, for the City of Blaine, a Planning Commission, which also may be known as the Commission.
- (b) The Planning Commission is an advisory board to the City Council. The Planning Commission shall review, hold public hearings, and make recommendations to the City Council on all applications for zoning amendments, conditional use permits, and variances, using the criteria in Sections 27.03(a), 27.04(a) and 27.05(a). The Planning Commission shall also prepare and recommend a comprehensive plan for the development of the City, study and make recommendations to the City Council as regards means to carry out and maintain the comprehensive plan and regulations thereto. The Commission shall prepare and recommend to the proper officials of the municipality, needed capital improvements consistent with the comprehensive plan for the City. The Commission shall conduct hearings, study, and recommend to the City Council, a zoning code and such amendments thereto as may, from time to time, be proposed. (Ord. No. 88-1112, amended 1-5-1989; Ord. No. 95-1557, amended 5-18-1995; Ord. No. 96-1628, amended 1-2-1997; Ord. No. 15-2319, amended 7-9-2015; Ord. No. 19-2442, amended 1-6-2020)
- (c) Hearings by the Planning Commission shall be held within such time and upon such notice to interested parties as provided in this **ordinance** and its adopted rules for the transaction of its business. (Ord. No. 19-2442, amended 1-6-2020)
- (d) The Planning Commission is hereby established as a Board of Appeals and Adjustments for the City of Blaine. The decisions of the Board on matters within its jurisdiction are advisory to the City Council. The Board shall have the powers hereinafter set forth. (Ord. No. 19-2442, amended 1-6-2020)
  - (1) To hear appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by an administrative officer in the enforcement of the zoning **ordinance**. (Ord. No. 19-2442, amended 1-6-2020)
  - (2) To hear requests for variances from the literal provisions of the zoning **ordinance** in instances where their strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration, and to recommend granting such variances only when it is demonstrated that such actions will be in keeping with the spirit and intent of the zoning **ordinance**. The Board may not recommend the granting of a variance for any use that is not permitted under the zoning **ordinance** for property in the zone where the affected person's land is located. The Board may impose conditions in the recommendation for a variance to insure compliance and to protect adjacent properties. A hearing on a request for a variance to the zoning **ordinance** shall comply with the applicable provisions of the zoning **ordinance**. (Ord. No. 19-2442, amended 1-6-2020)
  - (3) To hear appeals to the denial of permits found to be in conflict with the official map as described in Minnesota Statute 462.359. (Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

- (e) Hearings before the Board, pursuant to the provisions of paragraphs (d)(1) and (3) shall be preceded by the following: Notice of the purpose, time, and place of such hearing shall be published in the official newspaper of the City at least ten (10) days prior to the hearing and a similar notice shall be mailed to the affected property owner, who is the appellant, at least ten (10) days before the day of the hearing. For the purpose of giving notice, the City may use any appropriate records to determine the name and address of the affected property owner. (Ord. No. 19-2442, amended 1-6-2020; Ord. No. <http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank> print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank" web="yes">20-2447 </a>, 7-20-2020)
- (f) The Board shall within a reasonable time make its recommendation as to the matter before it, and shall serve a copy of such recommendation upon the appellant or petitioner by mail. Any party may appear at the hearing in person or by agent or attorney. The Board may adopt rules for the conduct of the hearings before it. Such rules may include provisions for the giving of oaths to witnesses and the filing of written briefs by the parties. The Board shall provide for a record of its proceedings, which shall include the minutes of its meetings, its findings, and the actions taken on each matter heard by it, including the final recommendation. (Ord. No. 19-2442, amended 1-6-2020)

### 27.03 Zoning comprehensive plan amendments.

- (a) *Criteria for granting zoning/comprehensive plan amendments:* (Ord. No. 86-939, amended 4-3-1986)
- (1) The City Council may adopt amendments to the zoning ordinance, zoning map, and comprehensive plan relative to land uses within a particular district or to the location of the district lines. Zoning amendments 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. (Ord. No. 86-939, amended 4-3-1986)
- (b) *Type of amendments:*
- (1) A change in the district's boundary.
  - (2) A change in a district's regulations.
  - (3) A change in any other provision of this ordinance.
  - (4) A change in the comprehensive plan. (Ord. No. 86-939, amended 4-3-1986)
  - (5) Establishment of an agricultural preserve. (Ord. No. 86-939, amended 4-3-1986)
- (c) *Initiation of proceedings.* Proceedings for amending this ordinance shall be initiated by at least one (1) of the following three (3) methods:
- (1) By petition of an owner or owners of property which is proposed to be rezoned, or for which district regulation changes are proposed.
  - (2) By recommendation of the Planning Commission.
  - (3) By action of the City Council.
- (d) *Required exhibits for rezoning, district regulation changes, or comprehensive plan amendments.* (Ord. No. 86-939, amended 4-3-1986)
- (1) A boundary line survey.
  - (2) A general development plan showing the potential development of the property, indicating proposed streets, buildings, drainage, and landscaping.

- (3) Other information as required by staff.
- (e) *Procedure.* The procedure for a property owner to initiate a rezoning, district regulation change or comprehensive plan amendment is: (Ord. No. 86-939, amended 4-3-1986)
- (1) The property owner or his agent shall meet with the Zoning Administrator to explain his proposal, obtain procedures, and an application form.
  - (2) The applicant shall file the completed application form together with the required exhibits with the Zoning Administrator and shall pay a filing fee as established by the City Council. All applications for rezoning or comprehensive plan amendment shall be received in the Office of Community Development no later than thirty (30) days prior to a Planning Commission meeting. (Ord. No. 86-939, amended 4-3-1986)
  - (3) The Zoning Administrator shall transmit the application and the required exhibits to the Planning Commission.
  - (4) The Zoning Administrator shall set the date for the public hearing and shall have notices of such hearing published in the legal newspaper at least once, not less than ten (10) days and not more than thirty (30) days prior to said hearing in accordance with Minnesota Statute 462.357 Subd. 3. (Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)
  - (5) The Zoning Administrator shall see that a similar notice shall be mailed at least ten (10) days before the day of the hearing to all property owners of record within three hundred fifty (350) feet of the exterior boundaries of the property in accordance with Minnesota Statute 462.357 Subd. 3. (Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)
  - (6) The Planning Commission shall hold the public hearing and then shall recommend one (1) of three (3) actions: approval, denial, or conditional recommendation. (Ord. No. 04-2035, amended 12-16-2004)
  - (7) The Planning Commission shall transmit its recommendation to the City Council for its official action. (Ord. No. 04-2035, amended 12-16-2004)
  - (8) The Council shall act upon the application after receiving the recommendation of the Planning Commission. (Ord. No. 04-2035, amended 12-16-2004)
  - (9) No application of a property owner for an amendment to the text of the zoning ordinance, zoning map, or comprehensive plan shall be considered by the Planning Commission within a one-year period following a denial of such request, except that the Planning Commission may permit a new application, if, in the opinion of the Planning Commission, new evidence or a change of circumstances warrant it. (Ord. No. 86-939, amended 4-3-1986).

#### 27.04 Conditional use permits.

- (a) Criteria for granting conditional use permits. In granting a conditional use permit, the Blaine City Council shall consider the advice and recommendations of the Planning Commission and the effect of the proposed use on the comprehensive plan and upon the health, safety, and general welfare of occupants of surrounding lands. Among other things, the Council shall consider the following findings where applicable. (Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

url="http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank" web="yes">20-2447 </ulink>, 7-20-2020)

- (1) The use shall not create an excessive burden on existing parks, schools, streets and other public facilities and utilities which serve or are proposed to serve the area.
  - (2) The use will be located, designed, maintained, and operated to be compatible with adjoining properties and the existing or intended character of the zoning district. (Ord. No. <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank" web="yes">20-2447 </ulink>, 7-20-2020)
  - (3) The use shall have an appearance that will not have an adverse effect upon adjacent properties.
  - (4) The use, in the opinion of the City Council, shall be reasonably related to the overall needs of the City and to the existing land use.
  - (5) The use shall be consistent with the purposes of the zoning code and purposes of the zoning district in which the applicant intends to locate the proposed use.
  - (6) The use shall not be in conflict with the comprehensive plan of the City.
  - (7) The use will not cause traffic hazard or congestion.
  - (8) The use shall have adequate utilities, access roads, drainage and necessary facilities.
- (b) Conditional use permits shall remain with the property, and not the applicant, as long as the property and use are in compliance with the conditions attached to the permit. (Ord. No. <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank" web="yes">20-2447 </ulink>, 7-20-2020)

A conditional use permit shall expire if the use is discontinued for a period of more than one (1) year. (Ord. No. 04-2035, amended 12-16-2004)

A conditional use permit shall be recorded pursuant to Minnesota Statutes, Section 462.3595.

- (c) Additional conditions. In permitting a new conditional use or the alteration of an existing conditional use, the City Council may impose, in addition to these standards and requirements expressly specified by this ordinance, additional conditions which the City Council considers necessary to protect the best interest of the surrounding area or 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 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 additional fencing, screening, landscaping or other facilities to protect adjacent or nearby property.
  - (8) Designating sites for open space.

- (9) Enhanced building materials or architectural design.

The Zoning Administrator shall maintain a record of all conditional use permits issued, including information on the use, location, and conditions imposed by the City Council such as review dates, and other information as may be appropriate.

- (d) Required exhibits for a conditional use permit. The following exhibits shall be required:

- (1) A boundary line survey.
- (2) A general development plan showing the potential development of the property, including proposed streets, buildings, landscaping, and drainage.
- (3) Any other information as required.

- (e) Procedure. The procedure for obtaining a conditional use permit is as follows:

- (1) The property owner or his agent shall meet with the Zoning Administrator to explain his proposal, learn the procedures, and obtain an application form.
- (2) The applicant shall file the completed application form together with the required exhibits with the Zoning Administrator and shall pay a filing fee as established by the City Council. All applications for a conditional use permit must be received in the Office of Community Development thirty (30) days prior to a Planning Commission meeting.
- (3) The Zoning Administrator shall transmit the application to The Planning Commission and shall notify all property owners of record within three hundred fifty (350) feet of the exterior boundaries of the property in question and within three hundred fifty (350) feet of all contiguous property under common ownership. (Ord. No. 88-1067, amended 2-4-1988)
- (4) The Zoning Administrator shall set the date for a public hearing and shall have notice of such hearing published at least once in legal newspaper, not less than ten (10) days and not more than thirty (30) days prior to said hearing.
- (5) The Planning Commission shall hold the public hearing and determine possible adverse effects of the proposed conditional use and determine what additional requirements may be necessary to reduce such adverse effects and recommend to the City Council one (1) of three (3) actions - approval, denial, or conditional approval. (Ord. No. <http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank> web="yes">20-2447 </ulink>, 7-20-2020)
- (6) The Planning Commission shall transmit its recommendation to the City Council for its official action. (Ord. No. 04-2035, amended 12-16-2004)
- (7) The City Council shall take appropriate action on the request for conditional use permit after receiving the recommendations by the Planning Commission. If it grants a conditional use permit, the City Council may impose conditions it considers necessary to protect the public health, safety, and welfare. (Ord. No. 04-2035, amended 12-16-2004; Ord. No. <http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank> web="yes">20-2447 </ulink>, 7-20-2020)
- (8) Zoning Administrator may transmit the application directly to the City Council to hold the public hearing following the notice produce outlined in 27.04 (e) 3-5.

- (f) Revocation of Conditional Use Permits.



- (1) Where a conditional use permit has been issued pursuant to provisions of this **ordinance**, such permit shall become null and void without further action by The Planning Commission or City Council unless construction commences within one (1) year of the date of granting such conditional use. A conditional use permit shall be deemed to authorize only one (1) particular use and shall expire if that use shall cease for more than one (1) year. (Ord. No. 04-2035, amended 12-16-2004)
- (2) In the event that the applicant violates any of the conditions set forth in the permit, the City Council shall have the authority to revoke the conditional use permit following a public hearing. In addition to a potential revocation of the conditional use permit, the City may issue a citation for a violation of any of the conditions set forth in the permit, pursuant to Section 27.07(d). (Ord. No. 11-2227, amended 8-4-2011)

#### **27.05 Interim use permits.**

- (a) Criteria for granting interim use permits. An interim use permit is to allow a temporary use that is not designated as permitted or conditionally permitted but is acceptable for a limited period of time subject to conditions. The Blaine City Council shall consider the advice and recommendations of the Planning Commission and the effect of the proposed use on the comprehensive plan and upon the health, safety, and general welfare of occupants of surrounding lands. Among other things, the Council shall consider the following findings where applicable.
  - (1) The proposed use will not impose additional costs on the public if it is necessary for the public to take the property in the future;
  - (2) The proposed use will not create an excessive burden on parks, streets, and other public facilities; and
  - (3) The proposed use will not be injurious to the surrounding neighborhood or otherwise harm the public health, safety, and general welfare.
- (b) Interim use permits shall terminate upon the specified termination date or whenever the use is discontinued for more than one (1) year. The city council may impose conditions requiring termination prior to the termination date, including but not limited to the platting of neighboring property.
- (c) Additional conditions. In permitting a new interim use or the alteration of an existing interim use, the City Council may impose, in addition to these standards and requirements expressly specified by this **ordinance**, additional conditions which the City Council considers necessary to protect the best interest of the surrounding area or community as a whole. These conditions may include, but are not limited to, the following
  - (1) All conditions listed in 27.04 (c);
  - (2) Termination date;
  - (3) Conditions requiring termination prior to the termination date.
- (d) Procedure. The procedure for obtaining an interim use permit and the exhibits required for making an application shall be the same as for a conditional use permit, as 27.04 (d)-(e).
- (e) Revocation of Interim Use Permits. In the event that the applicant violates any of the conditions set forth in the permit, the City Council shall have the authority to revoke the interim use permit following a public hearing. In addition to a potential revocation of the interim use permit, the City may issue a citation for a violation of any of the conditions set forth in the permit, pursuant to Section 27.07(d).



(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

## 27.06 Variances.

- (a) Criteria for granting variances. A variance to the provision of the zoning ordinance may be issued by the City Council to provide relief to the land owner in those cases where the ordinance imposes practical difficulty on the property owner in the use of his land. No use variances may be issued. A variance may be granted only in the event that the following circumstances exist. (Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)
- (1) Exceptional or extraordinary circumstances apply to the property which 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 owners of the property, since enactment of this ordinance, have had no control.
  - (2) The literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance.
  - (3) That the special conditions or circumstances do not result from the actions of the applicant.
  - (4) That the granting of the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other owners of lands, structures or buildings within the same district.
  - (5) That the variance requested is the minimum variance which would alleviate the hardship. Economic considerations alone shall not be considered a hardship.
  - (6) A variance would not be materially detrimental to the purposes of this ordinance, or to other property in the same zone.
  - (7) The proposed variance will not impair an adequate supply of light and air to the adjacent property, or substantially increase the congestion of public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values within the neighborhood.
- (b) The City Council may impose such restrictions and conditions upon the premises benefited by the variance as may be necessary to comply with the standards established by this ordinance, or to reduce or minimize the effect of such variance upon other properties in the neighborhood, and to better carry out the intent of the variance.
- (c) Required exhibits for variances.
- (1) The boundary survey and preliminary building and site development plan.
  - (2) Any other information as required.
- (d) Procedures. The procedure for obtaining a variance from the regulations of this ordinance are as follows:
- (1) The property owner or agent shall meet with the Zoning Administrator to explain his situation, learn the procedures and obtain an application form.

- (2) The applicant shall file the completed application form together with the required exhibits with the Zoning Administrator and shall pay a filing fee as established by the City Council. Applications for variance must be submitted to the Office of Community Development no later than thirty (30) days prior to a Planning Commission meeting.
  - (3) The Zoning Administrator shall transmit the application to the Planning Commission and shall notify all property owners of record within three hundred fifty (350) feet of the exterior boundaries of the property in question and within three hundred fifty (350) feet of all contiguous property under common ownership. (Ord. No. 88-1065, amended 2-4-1988)
  - (4) The Planning Commission shall hold the public hearing and determine possible adverse effects of the variance and determine what additional requirements may be necessary to reduce such adverse effects and recommend to the City Council one (1) of three (3) actions - approval, denial, or conditional approval.
  - (5) The Planning Commission shall transmit its recommendation to the City Council for its official action. (Ord. No. 04-2035, amended 12-16-2004)
  - (6) The City Council shall take appropriate action on the request for a variance after receiving the recommendations by the Planning Commission. (Ord. No. 04-2035, amended 12-16-2004)
  - (7) No application by a property owner for a variance shall be submitted to the Planning Commission within a twelve-month period following denial of such request, except that the Planning Commission may permit a new application if, in the opinion of the Planning Commission, new evidence or a change of circumstances warrant it.
  - (8) The City Council may revoke a variance if any conditions established by the City Council, as part of granting the variance request, are violated.
- (e) Expiration. When a variance has been issued pursuant to the provisions of this **ordinance**, the variance shall become null and void without further action by the Planning Commission or City Council unless construction relative to the variance commences within one (1) year of the date of granting the variance. If a variance ceases to exist for a period of more than one (1) year, it shall also expire without further action by the City. (Ord. No. 85-921, amended 1-2-1986; Ord. No. 04-2035, amended 12-16-2004)

(Ord. No. [20-2447](http://newwords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

#### **27.07 Administration.**

- (a) *The Director of Community Development shall serve as the Zoning Administrator.* The Zoning Administrator shall enforce the **ordinance** and shall perform the following duties.
- (1) Enter upon land or within a building during reasonable working hours as found necessary to fulfill his duties as Administrator of this **ordinance**.
  - (2) Conduct inspections of buildings, structures, and uses of land, to determine compliance with the terms of this **ordinance**.
  - (3) Maintain permanent and current records of this **ordinance**, including, but not limited to the following: all maps, amendments, conditional use permits, variances, appeals, nonconforming uses, planned unit developments, and other applications thereto.

- (4) To receive, file, and forward to the Planning Commission all applications for amendments, appeals, variances, conditional use permits, planned unit developments, and other matters which these bodies are required to consider under this ordinance.
  - (5) Institute, in the name of the City of Blaine, appropriate actions or proceedings against a violator as provided by law.
  - (6) Establish and enforce necessary or desirable regulations in writing, clarifying or explaining any provision of this ordinance.
  - (7) To provide such clerical, technical, and professional assistance as may be required by the Planning Commission in the exercise of their duties.
  - (8) Other information; the staff may require the applicant to furnish such additional information as may be necessary.
- (b) *Building permit.* No person shall erect, alter, remodel, wreck or move any kind of a structure or building or part thereof without first securing a building permit.
- (1) Single and two family home permits: Applications for building permits shall be made with the building permit forms available from the zoning administrator and shall be accompanied by building plans and a certificate of survey. Building permits shall not be issued prior to receipt of permit fees established by the city council.
  - (2) Site Plan: All applications for commercial, industrial, institutional, apartments, attached townhomes, or detached townhomes must secure site plan approval in addition to required building permits. Building permits shall not be issued prior to approval of site plan by the Zoning Administrator or his or her designee. All applications shall be accompanied by the following materials:
    - (a) Certificate of Survey. The survey shall be drawn to an established scale indicated on the survey and indicate all existing structures and site improvements.
    - (b) Site plan. The site plan shall include the location of all proposed buildings and their proposed uses; location of driveways and parking areas; front, side and rear setbacks; location, size, and purpose of all easements; location and size of existing buildings and structures on site and within the distance of 100 feet from the property; location of refuse areas; location of outdoor storage areas.
    - (c) Tree preservation plan. Plan shall include all requirements of 33.09.
    - (d) Landscape plan. Plan shall include all requirements of 33.07.
    - (e) Grading and drainage plan. Grading and drainage plan shall contain existing and proposed grades with a minimum of two-foot contour intervals to a known datum. All proposed stormwater management facilities, roadway gradients, flood hazard zones, and spot elevations on parking lots and curb lines must also be shown on the grading plan. The grading and drainage plan must also comply with the requirements of Section 33.15(h), Submittal Components.
    - (f) Utilities plan. Utilities plan shall indicate the location of existing and proposed water and sanitary sewer lateral and service locations and size of pipe. Other utilities information required as requested by the city engineer.
    - (g) Lighting and photometric plan. The lighting plan shall include detail drawings for all proposed lighting fixtures and a photometric plan depicting the extent of lighting within and beyond the property lines.

(h) Floor plans. Floor plans shall indicate the square footage and dimensions of all proposed rooms and areas identifying the proposed uses.

(i) Elevations. Elevations shall include specification of colors and materials to be used. A material board including samples of the proposed materials shall be submitted upon request of the zoning administrator.

All plans to be drawn to an established engineering scale and prepared by a registered architect, engineer, landscape architect, or surveyor.

(c) *Procedure.* All building permits shall be issued by the Building Official following review and approval by the Zoning Administrator of the site plan for conformity with the city's present development code and Comprehensive Land Use Plan. The zoning administrator may submit the application to the Administrative Review Committee for review.

(d) *Violations and Penalties.* Any person or entity who shall violate or refuse to comply with any condition of a conditional use permit or any other provisions of this ordinance shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not to exceed one thousand dollars (\$1,000.00) or by imprisonment not to exceed ninety (90) days, or both, together with the cost of prosecution.

In addition to the potential criminal sanctions set forth above, a violation of any condition of a conditional use permit will result in revocation of such permit by the City Council, following public hearing.

Notice and public hearings of violations and termination proceedings and all nonconforming, conditional, incompatible, accessory, special uses, or home occupation uses, notice of hearing shall be given by the City Council to the interested party or parties by certified mail or in lieu thereof one (1) legal published notice at least ten (10) days before the public hearing date, which notice shall be given by the City Council within a reasonable time.

(Ord. No. <http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank> web="yes">20-2447 </ulink>, 7-20-2020)

## **27.08 Financial guarantee.**

(a) *Improvements required, agreement providing for proper installment of improvements.* Prior to installation of any required improvements and prior to issuance of a building permit, the developer shall complete a detailed cost estimate of proposed site improvements on a City form titled "The Work," and shall enter into a contract in writing, called the "Site Improvement Performance Agreement," with the City (on file in the Office of Community Development), requiring the developer to furnish and construct said site improvements at his sole cost and in accordance with the plans and specifications and usual contract conditions, all approved by the City Council. The contract shall provide that the developer will assure the City that the improvements and utilities will be constructed and installed according to the specifications approved by the City Council. The developer shall secure the City by a cash deposit, certified check, or in lieu thereof, by furnishing a letter of credit or performance bond as hereinafter set forth in Section 27.08(d) of this Code. (Ord. No. <http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank> web="yes">20-2447 </ulink>, 7-20-2020)

(b) *Improvements required, financial guarantee.* The contract provided by Section 27.09(a) above shall require the developer to make a cash deposit, certified check, or in lieu thereof, furnish the performance bond(s) as follows:

(1) *Performance Bonds et al.* The developer shall provide cash deposit equal to at least 10% of the cost of the improvements with any difference between the cost of the improvements and the cash deposit guaranteed by a letter of credit or performance bond with the City listed as beneficiary. These guarantees shall be filed with the City prior to issuance of a building permit. Items covered by these guarantees include: (Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

Lighting;

Fences, screen structures;

Trash disposal enclosures;

Curbing, islands, delineators;

Storm drainage system, sewers, catch basins, culverts, swales;

Public trail and/or sidewalk construction;

Grading;

Paving;

Private trail and sidewalk construction;

Driveway, curb cut, parking lot, fire lane construction;

Water mains, hydrants, sanitary sewers;

Landscaping;

Sod and seed;

Trees;

Other plantings and materials;

Site grading, berming (except public trail grading).

These financial guarantees are for all of the improvements to be furnished and installed by the developer, pursuant to the contract.

(2) The developer may request a one-time reduction in the financial guarantee, provided there has been substantial progress shown in completion of the proposed plans.

(c) *Single Family Landscape Escrows.* (Ord. No. 99-1812, added 9-16-1999)

(1) Landscaping improvements or other site requirements that are required for single family homes either by ordinance or development agreement can be completed after Certificate of Occupancy provided an escrow has been deposited with the City. The escrow will contain a fee to be collected

at the time of escrow to cover the City's cost of reinspection. Additional fees may be charged by the City for work that is not completed within the required time frame.

- (2) If escrow related work is not completed within the time period required by the City, the Zoning Administrator may authorize escrow account closure. Written notification to the escrow payor will be made by regular and certified mail to payor's last known address at least thirty (30) days in advance of account closure. Closed accounts will be used by the City to complete unfinished items with any unused balance dispersed to the current owner of the property.

(Ord. No. 86-957, amended 7-10-1986; Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

## 27.09 Administrative fees.

All permit fees, application fees, planning fees, administrative fees and other charges for services under this **ordinance** shall be set in accordance with a fee schedule adopted by resolution of the City Council.

(Ord. No. 90-1184, added 2-1-1990; Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

## Chapter 28 ZONING DISTRICTS—PROVISIONS

### 28.00 - ZONING DISTRICTS

#### 28.00 ZONING DISTRICTS

##### [28.01 Zoning districts.](#)

##### [28.02 Zoning map.](#)

##### [28.03 Exemptions.](#)

#### 28.01 Zoning districts.

The zoning districts are so designed to assist in carrying out the intents and purposes of the comprehensive plan and are based upon the comprehensive plan which has the purpose of protecting the public health, safety, convenience and general welfare. For the purposes of this **ordinance**, the City of Blaine is hereby divided into the following zoning districts.

Symbols	Names
AG	Agricultural

FR	Farm Residence
R-E	Residential Estate
R-1	Single Family
R-1A	Single Family
R-1AA	Single Family
R-2	Two Family
R-1B	Single Family
R-3A	Multi-Family Low Density
R-3B	Multi-Family Medium Density
R-3C	Multi-Family High Density
R-4	Mobile Home
RR	Regional Recreation
DF	Development Flex
B-1	Neighborhood Business
B-2	Community Commercial
B-3	Regional Commercial
B-4	Office Research Park
I-1	Light Industrial
I-1A	Light Industrial
I-2	Heavy Industrial
I-2A	Heavy Industrial I
PBD	Planned Business District
PBD-A	Planned Business District-Airport
POD	Planned Office District
FP	Floodplain
HOD	Highway 65 Overlay District

(Ord. No. 98-1753, amended 11-19-1998; Ord. No. 15-2322, amended 9-17-2015)

## 28.02 Zoning map.

The location and boundaries of the districts established by this **ordinance** are set forth on the official zoning map which is hereby incorporated as part of this **ordinance** and which is on file with the Office of Community Development. (Ord. No. [unlinked](#) print="yes")



url="http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank" web="yes">20-2447 </ulink>, 7-20-2020)

District boundary lines recorded on the City zoning map are intended to follow lot lines, the center lines of streets or alleys, the center lines of streets or alleys projected, railroad right-of-way lines, the center of watercourses or the corporate limit lines as they exist at the time of the enactment of this ordinance.

Whenever any street, alley, or other public way is vacated, the zoning district adjoining that of such vacated street, alley or public way, shall automatically be extended to the center of such vacated area and all area included therein shall be then and hence forth subject to all of the regulations of the extended district.

Any area shown on the zoning map as park, playground, school, cemetery, water body, etc., shall be subject to the zoning regulations of the district in which it is located. In case of doubt, the zoning regulations of the most restricted adjoining district shall govern.

All territory which may hereafter be annexed to the City shall be considered zoned in the same manner as contiguous territory inside the previous City limits unless otherwise classified.

It shall be the responsibility of the Zoning Administrator to maintain and amend said zoning map. The Zoning Administrator shall make, or cause to have made, any corrections or amendments to said map after all of the procedures outlined in this ordinance for the making of such revisions or amendments shall have been followed by The Planning Commission and City Council.

Amendments to the zoning map shall be recorded on said map within fifteen (15) days after adoption by the City Council. The copy of the official zoning map shall be kept on file in the Office of the Community Development Department and shall be open to public inspection at all times during which the office is customarily open.

In the event that the official zoning map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the City Council may, by ordinance, adopt a new official zoning map. The new official zoning map may correct drafting or other errors or omissions in the principal zoning map, but no such corrections shall have the effect of amending the original zoning ordinance or any subsequent amendment thereof. The new official zoning map shall be identified by the signature of the Mayor, attested by the City Clerk, and under the following words: "This is to certify that this official zoning map supersedes and replaces the official zoning map."

### 28.03 Exemptions.

The following essential services are permitted in any district: the erection, construction, alteration, or maintenance, by public utilities or municipal or other governmental agencies of systems, including gas, electrical, steam or water transmission or distribution systems; collection, communication systems, including communication equipment facilities, supply or disposal systems; elevated and underground water storage tanks; poles, wires, mains, drains, sewers, pipes, conduits, cables; fire alarm boxes, police call boxes; traffic signals, hydrants, and other similar equipment and accessories in connection therewith, including city buildings and parks; reasonably necessary for the furnishing of adequate service of such public utilities or municipal or other governmental agencies or for the public health or safety or general welfare.



(Ord. No. 86-929, amended 2-20-1986; Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

## **Chapter 29 RESIDENTIAL DISTRICTS**

29.00 - AGRICULTURAL (AG)  
29.010 - FARM RESIDENTIAL (FR)  
29.020 - RESIDENTIAL ESTATE (RE)  
29.030 - SINGLE FAMILY (R-1)  
29.040 - SINGLE FAMILY (R-1AA)  
29.050 - SINGLE FAMILY (R-1A)  
29.060 - R-1B (SINGLE FAMILY)  
29.070 - TWO FAMILY (R-2)  
29.080 - LOW DENSITY MULTI-FAMILY (R-3A)  
29.090 - MEDIUM DENSITY MULTI-FAMILY (R-3B)  
29.100 - HIGH DENSITY MULTI-FAMILY (R-3C)  
29.110 - DEVELOPMENT FLEX (DF)  
29.120 - MANUFACTURED HOMES (R-4)  
30.00 - NEIGHBORHOOD BUSINESS (B-1)  
30.10 - COMMUNITY COMMERCIAL (B-2)  
30.20 - REGIONAL COMMERCIAL (B-3)  
30.30 - OFFICE PARK (B-4)  
30.40 - REGIONAL RECREATION (RR)  
30.50 - PLANNED BUSINESS DISTRICT (PBD)  
30.60 - PLANNED BUSINESS DISTRICT—AIRPORT (PBD-A)  
30.70 - PLANNED OFFICE DISTRICT (POD)  
30.80 - TOWN COMMERCIAL (B-5)

### **29.00 AGRICULTURAL (AG)**

29.001 Intent.

29.002 Permitted uses.

29.003 Accessory uses.

29.004 Conditional uses.

29.005 Standards.

#### **29.001 Intent.**

This district is intended for areas for long term agricultural preserves. No sewer service will be provided to these areas. This district is established to preserve farmland in the City.

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

#### **29.002 Permitted uses.**

- (a) Agricultural preserves.
- (b) Single family detached dwellings.
- (c) Raising of domestic farm animals, excluding hogs and fur bearing animals, not to exceed one (1) animal unit per acre.
- (d) Group family day care. (Ord. No. 91-1248, amended 4-4-1991)
- (e) State licensed residential care facilities or housing with services established registered under Minnesota Statute 144D serving six or fewer persons.

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

#### **29.003 Accessory uses.**

- (a) Private garages/accessory buildings/carports attached to garages.
- (b) Private swimming pools and tennis courts.
- (c) Signs as regulated in Section 34.07(c).
- (d) Keeping of not more than two (2) boarders and/or roomers per dwelling unit.
- (e) Commercial daycare accessory to a legal conforming church or school. (Ord. No. 94-1527, amended 7-21-1994)

(Ord. No. 94-1501, amended 4-21-1994; Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

#### **29.004 Conditional uses.**

- (a) Boarding houses.
- (b) Churches.
- (c) Schools.
- (d) Golf courses.
- (e) Home occupations as described in 33.10(d).
- (f) Kennel—Private.
- (g) Accessory buildings, including all garages and carports, with a total combined area greater than three thousand (3,000) square feet.

(Ord. No. 94-1501, amended 4-21-1994; Ord. No. <http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank> web="yes">20-2447 </a>, 7-20-2020)

## 29.005 Standards.

- (a) Minimum area to be zoned AG—Forty (40) acres.
- (b) Minimum lot area—Forty (40) acres.
- (c) Front footage—One thousand two hundred (1,200) feet.
- (d) Minimum depth—None.
- (e) Average width—One thousand two hundred (1,200) feet.
- (f) Front yard setback—Forty-five (45) feet for house, forty-five (45) feet for garage/accessory building, two hundred (200) feet for accessory buildings sheltering domestic farm animals. (Ord. No. 94-1501, amended 4-21-1994)
- (g) Rear yard—House thirty (30) feet, garage/accessory building thirty (30) feet, accessory buildings sheltering domestic farm animals fifty (50) feet. (Ord. No. 94-1501, amended 4-21-1994)
- (h) Side yard—House twenty (20) feet, garage/accessory building twenty (20) feet, accessory buildings sheltering domestic farm animals fifty (50) feet. (Ord. No. 94-1501, amended 4-21-1994)
- (i) Corner lot—House forty-five (45) feet, garage/accessory building forty-five (45) feet, accessory buildings sheltering domestic farm animals two hundred (200) feet. (Ord. No. 94-1501, amended 4-21-1994)
- (j) It shall be required for all single family dwellings that there be a garage constructed of a minimum of four hundred (400) square feet with no dimension less than twenty (20) feet. Total garage/carport/accessory building space shall not exceed three thousand (3,000) square feet of gross area except provided for in Section 29.04. (Ord. No. 94-1501, amended 4-21-1994)

The architectural style and color of a garage/accessory building shall be compatible with the principal building. The facing material of the garage shall be compatible with the principal building. (Ord. No. 94-1501, amended 4-21-1994)
- (k) Maximum building height—Two and one-half (2½) stories or thirty (30) feet.
- (l) No part of the garage shall be considered a livable area.
- (m) For a single family dwelling, the minimum above grade finished floor area of the various kinds of dwellings shall be as follows:
  - (1) Without basement 1,240 square feet.
  - (2) With basement 1,040 square feet.
- (n) No residential structure shall have a width of less than twenty-four (24) feet at its narrowest point. Width measurements shall not take into account overhangs or other projections beyond the principal exterior walls.
- (o) All residential structures shall have permanent concrete or wood foundations, which comply with the Minnesota Residential Code as adopted by the State of Minnesota and which is solid for the complete circumference of the house.

- (p) All single family dwellings and additions to single family dwellings, other than earth sheltered homes and rear yard pre-engineered patio enclosures, shall have at least a three-twelfths (3/12) roof pitch and shall have a shingled roof. Pre-engineered patio enclosures shall be limited to not more than three hundred twenty (320) square feet of floor area and shall not have any dimension greater than twenty (20) feet. All pre-engineered patio enclosure plans need to be approved by the building department with issuance of a building permit. (Ord. No. 98-1743, amended 9-17-1998)
- (q) All residential dwellings must be built in conformance with the Minnesota Residential Code as adopted in the State of Minnesota.
- (r) All residential dwellings shall have roof overhangs which extend a minimum of one (1) foot from the exterior wall of the structure.
- (s) Any metal siding upon residential structure shall have horizontal edges and overlapping sections no wider than twelve (12) inches. Sheet metal siding shall not be permitted in this residential district except as follows: (Ord. No. 84-856, amended 1-3-1985)
  - (1) For parcels of five (5) acres or more, metal siding shall be permitted for accessory structures other than the garage. (Ord. No. 84-856, amended 1-3-1985)
- (t) All single family lots shall contain a minimum of two (2) front yard trees of a minimum of two and one-half (2½) inch caliper. (Ord. No. 94-1501, amended 4-1-1994)
- (u) Driveways shall not be constructed closer than five (5) feet to the property line.
- (v) The lowest floor elevation shall be no lower than two (2) feet above the Regulatory Flood Protection elevation or four (4) feet above the high water level established by a registered professional engineer, whichever is greater. (Ord. No. 86-972, amended 8-21-1986)
- (w) Single family lots shall provide a driveway with a surface equal to the street's surface for the first thirty-five (35) feet off the traveled street.

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

## **29.010 FARM RESIDENTIAL (FR)**

### **29.011 Intent.**

### **29.012 Permitted uses.**

### **29.013 Accessory uses.**

### **29.014 Conditional uses.**

### **29.015 Standards.**

### **29.011 Intent.**

This district is intended for areas where urban services are not presently available. A minimum lot size of ten (10) acres will retain these lands in their natural uses and agricultural uses pending proper timing of economical provision for parks, streets, utilities, and other public facilities, so that orderly development will occur.

(Ord. No. <http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank> web="yes">20-2447 </alink>, 7-20-2020)

#### **29.012 Permitted uses.**

- (a) Single family detached dwellings.
- (b) General farming and gardening.
- (c) Raising of domestic farm animals, excluding swine and fur bearing animals, not to exceed one (1) animal unit per acre.
- (d) Group family day care. (Ord. No. 91-1248, amended 4-4-1991)
- (e) Nurseries (Ord. No. 98-1728, amended 6-25-1998)
- (f) State licensed residential care facilities or housing with services established registered under Minnesota Statute 144D serving six or fewer persons.

(Ord. No. <http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank> web="yes">20-2447 </alink>, 7-20-2020)

#### **29.013 Accessory uses.**

- (a) Private garages/accessory buildings/carports attached to garages. (Ord. No. 94-1501, amended 4-21-1994; Ord. No. <http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank> web="yes">20-2447 </alink>, 7-20-2020)
- (b) Private swimming pools and tennis courts.
- (c) Signs as regulated in Section 34.07(c). (Ord. No. 94-1501, amended 4-21-1994)
- (d) Keeping of not more than two (2) boarders and/or roomers per dwelling unit. (Ord. No. 94-1501, amended 4-21-1994)
- (e) Commercial daycare accessory to a legal conforming church or school. (Ord. No. 94-1527, amended 7-21-1994)

#### **29.014 Conditional uses.**

- (a) Churches.
- (b) Golf courses and golf driving ranges. (Ord. No. 93-1492, amended 12-16-1993)
- (c) Schools.
- (d) Public buildings.
- (e) Home occupations as described in 33.10(d).
- (f) Kennel—Private.
- (g) Boarding houses.

- (h) Private stables with a density exceeding one (1) horse per acre, or more than twenty (20) horses in aggregate, meeting standards outlined in 29.015 (x). (Ord. No. 89-1113, amended 4-20-1989)
- (i) Garden supply stores. (Ord. No. 95-1574, added 9-21-1995.; Ord. No. 98-1729, amended 6-25-1998)
- (j) Accessory buildings located within the front yard, provided the structure to be placed in the front yard has at least a one-hundred-foot front yard setback. (Ord. No. 01-1910, added 7-19-2001; Ord. No. 01-1933, amended 12-20-2001)
- (k) Accessory buildings with a total combined area greater than twelve hundred (1,200) square feet but less than three thousand (3,000) square feet. (Ord. No. 01-1933, amended 12-20-2001).

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### **29.015 Standards.**

- (a) Minimum lot area—ten (10) acres.
- (b) Frontage—Three hundred (300) feet.
- (c) Average width—Three hundred (300) feet.
- (d) Minimum depth—None.
- (e) Front yard setback—Forty-five (45) feet for house, forty-five (45) feet for garage/accessory building, two hundred (200) feet for accessory buildings sheltering domestic farm animals. (Ord. No. 94-1501, amended 4-21-1994)
- (f) Rear yard—House thirty (30) feet, garage/accessory building thirty (30) feet, accessory buildings sheltering domestic farm animals fifty (50) feet. (Ord. No. 94-1501, amended 4-21-1994)
- (g) Side yard—House twenty (20) feet, garage/accessory building twenty (20) feet, accessory buildings sheltering domestic farm animals fifty (50) feet. (Ord. No. 94-1501, amended 4-21-1994)
- (h) Corner lot—House forty-five (45) feet, garage/accessory building forty-five (45) feet, accessory buildings sheltering domestic farm animals two hundred (200) feet. (Ord. No. 94-1501, amended 4-21-1994)
- (i) It shall be required for all single family dwellings that there be a garage constructed of a minimum of four hundred (400) square feet with no dimension less than twenty (20) feet. Total garage/accessory building/carport space shall not exceed 1,200 square feet, except as provided by Section 29.014(j). The height of the accessory structure shall not exceed the height of the principal building.

Accessory buildings shall only be located in the rear yard, except as permitted by Section 29.014(j). The architectural style and color of a garage/accessory building shall be compatible with the principal building. The facing material of the garage shall be compatible with the principal building. (Ord. No. 94-1501, amended 4-21-1994; Ord. No. 01-1910, amended 7-19-2001)

- (j) Maximum building height—Two and one-half (2½) stories or thirty (30) feet.
- (k) No part of the garage shall be considered a livable area.
- (l) For a single family dwelling, the minimum above grade finished floor area of the various kinds of dwellings shall be as follows:

- (1) Without basement—One thousand two hundred forty (1,240) square feet.
- (2) With basement—One thousand forty (1,040) square feet.
- (m) No residential structure shall have a width of less than twenty-four (24) feet at its narrowest point. Width measurements shall not take into account overhangs or other projections beyond the principal exterior walls.
- (n) All residential structures shall have permanent concrete or wood foundations, which comply with the Minnesota Residential Code as adopted by the State of Minnesota and which is solid for the complete circumference of the house.
- (o) All single family dwellings and additions to single family dwellings, other than earth sheltered homes and rear yard pre-engineered patio enclosures, shall have at least a three and one-half-inch roof pitch and shall have a shingled roof. Steel panel (standing seam) roofing can be used as an alternative to a shingled roof provided the material used is 1) a minimum twenty-six (26) gauge steel base sheet 2) provided with a minimum G-90 galvanized protective coating or equivalent 3) a factory finished solid color material with a minimum paint quality grade of Standard or Better. All steel panel roofing shall be installed per the most current edition of the Minnesota State Residential Building Code and the manufacturer's installation instructions. Only manufacturer produced flashing, fasteners, trim pieces and vents shall be used in the installation of steel panel roofing. Variations on non-manufacturer produced accessories shall be pre-approved by the City Building Official for use with any steel panel roofing. Pre-engineered patio enclosures shall be limited to not more than three hundred twenty (320) square feet of floor area and shall not have any dimension greater than twenty (20) feet. All pre-engineered patio enclosure plans need to be approved by the building department with issuance of a building permit. (Ord. No. 98-1743, amended 9-17-1998; Ord. No. 11-2225, amended 6-16-2011)
- (p) All residential dwellings must be built in conformance with the Minnesota Residential Code as adopted in the State of Minnesota.
- (q) All residential dwellings shall have roof overhangs which extend a minimum of one (1) foot from the exterior wall of the structure.
- (r) Any metal siding upon residential structure shall have horizontal siding edges and overlapping sections no wider than twelve (12) inches. Sheet metal siding shall not be permitted in this residential district except as follows: (Ord. No. 84-856, amended 1-3-1985)
  - (1) For parcels of four (4) acres or more, metal siding shall be permitted for accessory structures other than the garage. (Ord. No. 84-856, amended 1-3-1985)
- (s) All single family lots shall contain a minimum of two (2) front yard trees of a minimum of two and one-half (2½) inch caliper. (Ord. No. 94-1501, amended 4-21-1994)
- (t) Driveways shall not be constructed closer than five (5) feet to the property line.
- (u) The lowest floor elevation shall be no lower than two (2) feet above the Regulatory Flood Protection elevation or four (4) feet above the high water level established by a registered professional engineer, whichever is greater. (Ord. No. 86-972, amended 8-21-1986)
- (v) Single family lots shall provide a driveway with a surface equal to the street's surface for the first thirty-five (35) feet off the traveled street. (Ord. No. 94-1501, amended 4-21-1994)
- (w) All new homes within five hundred (500) feet of any minor and principal roadways as defined by the City of Blaine Transportation Plan, shall meet the Noise Abatement Standards, Section 33.22.
- (x) Standards and requirements for private stables: (Ord. No. 89-1113, added 4-20-1989; Ord. No. 95-1574, amended 9-21-1995)

- (1) Minimum lot area—Ten (10) acres.
- (2) Maximum density—Three (3) horses per acre.
- (3) Must obtain Minnesota Pollution Control Agency (MPCA) feedlot permit.
- (4) Building(s) used for sheltering, training, or riding horses shall have a minimum two-hundred-foot setback from any property line.
- (5) Fences to control livestock adjacent to single family zoning districts, excluding AG and FR, shall have a minimum setback of one hundred (100) feet.
  - (aa) Standards and requirements for churches, golf courses and golf driving ranges, schools, and garden supply stores: (Ord. No. 95-1574, added 9-21-1995; Ord. No. 98-1728, amended 6-25-1998)
    - (i) Shall have principal access to a collector or arterial roadway.
    - (ii) Front, rear, and side yard building and parking setbacks—Forty-five (45) feet.
    - (iii) Maximum building height two (2) stories.
    - (iv) Off street loading and overhead doors shall comply with Section 33.15.
    - (v) All site improvements and landscaping shall comply with Sections 33.07 and 33.08.
    - (vi) Underground irrigation is required for all front and corner side yards.
    - (vii) Architectural style and building materials shall be compatible with the surrounding area and subject to Council approval.

(Ord. No. [20-2447](http://newwords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

## **29.020 RESIDENTIAL ESTATE (RE)**

### [29.021 Intent.](#)

### [29.022 Permitted uses.](#)

### [29.023 Accessory uses.](#)

### [29.024 Conditional uses.](#)

### [29.025 Standards.](#)

#### **29.021 Intent.**

The residential estate district is established to provide for a large lot zoning of two and one-half (2½) acres or more in size. Single family homes are permitted in this district. This district shall be located only in areas where sanitary sewer and water services can be extended in the near future.

(Ord. No. [20-2447](http://newwords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)



**29.022 Permitted uses.**

- (a) Single family detached dwellings.
- (b) Group family day care. (Ord. No. 91-1248, amended 4-4-1991)
- (c) State licensed residential care facilities or housing with services established registered under Minnesota Statute 144D serving six or fewer persons.

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

**29.023 Accessory uses.**

- (a) Private garages/accessory buildings/carports attached to garages.
- (b) Private swimming pools and tennis courts.
- (c) Signs as regulated in Section 34.07(c).
- (d) Keeping of not more than two (2) boarders and/or roomers per dwelling.
- (e) Commercial daycare accessory to a legal conforming church or school. (Ord. No. 94-1527, amended 7-21-1994)
- (f) Keeping of not more than six (6) hen chickens consistent with standards outlined in Section 33.22. (Ord. No. 15-2320, amended 8-6-2015)

(Ord. No. 94-1501, amended 4-21-1994; Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

**29.024 Conditional uses.**

- (a) Boarding houses.
- (b) Schools.
- (c) Churches.
- (d) Home occupations as described in 33.10 (d).
- (e) Golf courses.
- (f) Kennel—Private.
- (g) More than two (2) garage/accessory buildings. (Ord. No. 94-1501, amended 4-21-1994)
- (h) Garage, carport, and accessory building space with total combined area larger than two thousand (2,000) square feet and up to three thousand (3,000) square feet for properties outside the MUSA boundary. (Ord. No. 09-2195, added 10-15-2009)

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

## 29.025 Standards.

- (a) The minimum area to be zoned RE is forty (40) acres.
- (b) Front yard setback—Thirty-five (35) feet.
- (c) Side yard setback—Ten (10) feet.
- Corner lots—Thirty-five (35) feet.
- (d) Rear yard setback—Thirty (30) feet.
- (e) Minimum lot size—One hundred four thousand (104,000) square feet (two and one-half (2½) acres).
- (f) Minimum frontage—One hundred (100) feet.
- (g) Minimum lot depth—Three hundred (300) feet.
- (h) Average lot width—One hundred fifty (150) feet.
- (i) Maximum building height shall not exceed two and one-half (2½) stories or thirty (30) feet.
- (j) It shall be required for all single family dwellings that there be a garage constructed of a minimum of four hundred (400) square feet with no dimension less than twenty (20) feet. Total garage and accessory building space shall not exceed two thousand (2,000) square feet of gross area for parcels inside the MUSA boundary. (Ord. No. 94-1501, amended 4-21-1994; Ord. No. 01-1911, amended 7-19-2001; Ord. No. 09-2195, amended 10-15-2009)

The architectural style and color of a garage and accessory building shall be compatible with the principal building. The facing material of the garage shall be compatible with the principal building. Garage/accessory building access doors shall not exceed ten (10) feet in height. Accessory buildings shall only be located in the rear yard. (Ord. No. 94-1501, amended 4-21-1994).

- (k) No part of the garage shall be considered a livable area.
- (l) For a single family dwelling, the minimum finished first floor area of the various kinds of dwellings shall be as follows:
  - (1) Without basement—One thousand two hundred forty (1,240) square feet
  - (2) With basement—One thousand forty (1,040) square feet
- (m) No residential structure shall have a width of less than twenty-four (24) feet at its narrowest point. Width measurements shall not take into account overhangs or other projections beyond the principal exterior walls.
- (n) All residential structures shall have permanent concrete or wood foundations, which comply with the Minnesota Residential Code as adopted by the State of Minnesota and which is solid for the complete circumference of the house.
- (o) All single family dwellings and additions to single family dwellings, other than earth sheltered homes and rear yard pre-engineered patio enclosures, shall have at least a three-twelfths ( 3/12 ) roof pitch and shall have a shingled roof. Steel panel (standing seam) roofing can be used as an alternative to a shingled roof provided the material used is 1) a minimum twenty-six (26) gauge steel base sheet 2) provided with a minimum G-90 galvanized protective coating or equivalent 3) a factory finished solid color material with a minimum paint quality grade of Standard or Better. All steel panel roofing shall be installed per the most current edition of the Minnesota State Residential Building Code and the manufacturer's installation instructions. Only manufacturer produced flashing, fasteners, trim pieces and vents shall be used in the installation of steel panel roofing. Variations on non-manufacturer

produced accessories shall be pre-approved by the City Building Official for use with any steel panel roofing. Pre-engineered patio enclosures shall be limited to not more than three hundred twenty (320) square feet of floor area and shall not have any dimension greater than twenty (20) feet. All pre-engineered patio enclosure plans need to be approved by the building department with issuance of a building permit. (Ord. No. 98-1743, amended 9-17-1998; Ord. No. 11-2225, amended 6-16-2011)

- (p) All residential dwellings must be built in conformance with the Minnesota Residential Code as adopted in the State of Minnesota.
- (q) All residential dwellings shall have roof overhangs which extend a minimum of one (1) foot from the exterior wall of the structure.
- (r) Any metal siding upon residential structure shall have horizontal edges and overlapping sections no wider than twelve (12) inches. Sheet metal siding shall not be permitted in this residential district. (Ord. No. 84-856, amended 1-3-1985)
- (s) Driveways shall not be constructed closer than five (5) feet to the property line.
- (t) The lowest floor elevation shall be no lower than two (2) feet above the Regulatory Flood Protection elevation or four (4) feet above the high water level established by a registered professional engineer, whichever is greater. (Ord. No. 86-972, amended 8-21-1986)

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

## **29.030 SINGLE FAMILY (R-1)**

### **29.031 Intent.**

### **29.032 Permitted uses.**

### **29.033 Accessory uses.**

### **29.034 Conditional uses.**

### **29.035 Standards.**

### **29.031 Intent.**

The purpose of this district is to allow low density single family units in developing portions of the city where sanitary sewer and water services are available.

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### **29.032 Permitted uses.**

- (a) Single family detached dwellings.
- (b) Group family day care. (Ord. No. 91-1248, amended 4-4-1991)
- (c) State licensed residential care facilities or housing with services established registered under Minnesota Statute 144D serving six or fewer persons.

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

#### **29.033 Accessory uses.**

- (a) Private garages/accessory buildings.
- (b) Private swimming pools.
- (c) Signs as regulated in Section 34.07(c).
- (d) Keeping of not more than two (2) boarders and/or roomers per dwelling unit. (Ord. No. 90-1193, amended 3-15-1990)
- (e) Commercial daycare accessory to a legal conforming church or school. (Ord. No. 94-1527, amended 7-21-1994)
- (f) Keeping of not more than six (6) hen chickens consistent with standards outlined in Section 33.22. (Ord. No. 15-2320, amended 8-6-2015)

(Ord. No. 94-1501, amended 4-21-1994; Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

#### **29.034 Conditional uses.**

- (a) Boarding houses.
- (b) Churches.
- (c) Schools.
- (d) Golf courses.
- (e) Home occupations as described in 33.10(d).
- (f) More than two (2) garage/accessory buildings. (Ord. No. 94-1501, amended 4-21-1994)
- (g) Total combined garage, carport and accessory structure space greater than one thousand (1,000) square feet and up to one thousand two hundred (1,200) square feet. (Ord. No. 99-1799, amended 7-8-1999)

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

#### **29.035 Standards.**

- (a) Front yard setback—Thirty (30) feet. (Ord. No. 90-1193, amended 3-15-1990; Ord. No. 98-1694, amended 1-22-1998)
- (b) Side yard setback—Ten (10) feet.
- Corner lots—Twenty (20) feet.

- (c) Rear yard setback—Thirty (30) feet. Building setback of seventy-five (75) feet from the surveyed ordinary high water mark of public waters as defined by the Minnesota Department of Natural Resources. ( Ord. No. 17-2371 , amended 2-2-2017)
- (d) Garages and accessory building shall have rear and side yard setbacks of not less than five (5) feet with the exception that accessory buildings, less than one hundred twenty (120) square feet in area, shall have a rear and side yard setback of not less than one (1) foot. Accessory buildings placed within the five (5) foot setback area, and within a drainage and utility easement, shall not be placed or constructed, in the easement, in a manner to limit the use of the easement or alter storm drainage in any way as to negatively impact other property. Accessory buildings placed within a drainage and utility easement are placed, by the owner, at the owner's risk of removal by the City or other agencies that may have legal use of the easement. Garages and accessory buildings shall have corner yard setbacks of not less than 20 feet. (Ord. No. 05-2062, amended 10-20-2005; Ord. No. 90-1193, amended 3-15-1990)
- (e) Conditional use permits under [section] 29.034(b), (c), and (d) shall have the following setbacks; building—Fifty (50) feet front, rear and side; parking—Thirty (30) feet front, rear and side. (Ord. No. 90-1193, amended 3-15-1990)
- (f) Minimum lot size—Ten thousand (10,000) square feet.
- (g) Minimum lot width as measured at the front setback line—Eighty (80) feet. (Ord. No. 90-1193, amended 3-15-1990)
- (h) Minimum frontage—Sixty (60) feet. (Ord. No. 99-1813, amended 9-16-1999; Ord. No. 90-1193, amended 3-15-1990)
- (i) Minimum depth—One hundred twenty-five (125) feet.
- (j) Maximum building height shall not exceed two and one-half (2½) stories or thirty (30) feet, whichever is less.
- (k) It shall be required for all single family dwellings that there be a garage constructed of a minimum of four hundred (400) square feet with no dimension less than twenty (20) feet. Total combined garage, carport and accessory building space shall not exceed one thousand (1,000) square feet unless specifically authorized by a Conditional Use Permit. The architectural style and color of a garage and accessory building shall be compatible with the principal building. The facing material of the garage shall be compatible with the principal building. Garage/accessory building access doors shall not exceed ten (10) feet in height. (Ord. No. 94-1501, amended 4-21-1994; Ord. No. 99-1799, amended 4-21-1994)
- (l) No accessory building, other than a garage shall be located within any yard other than the rear yard, except that single story accessory buildings may be permitted in the side yard with the approval of the Zoning Administrator only if there is a door on the same side of the single family dwelling that is accessible to living space. Side yard shed approval will also be based on a screening plan consisting of privacy fencing and or landscaping to minimize the impact to adjacent properties. Garages located in the rear yard must have capability of hard surface driveway access meeting all setback requirements. The minimum width of access drive shall be no less than eight (8) feet. Access can include the ability to drive through existing garage into the rear yard upon providing evidence that an eight-foot minimum width garage door has been installed along the rear of the garage and that access to rear door is not restricted by non-vehicular storage. Garages or accessory buildings not having driveway access capability shall be limited in door size to no more than five (5) feet in width to preclude storage of vehicles normally requiring driveway access. (Ord. No. 00-1836, amended 3-16-2000; Ord. No. 98-1705, amended 3-19-1998)

- (m) For a single family dwelling, the minimum finished first floor area of the various kinds of dwellings shall be as follows:
  - (1) Without basement—One thousand two hundred forty (1,240) square feet
  - (2) With basement—One thousand forty (1,040) square feet
- (n) No residential structure shall have a width of less than twenty-four (24) feet at its narrowest point. Width measurements shall not take into account overhangs or other projections beyond the principal exterior walls.
- (o) All single family dwellings and additions to single family dwellings, other than earth sheltered homes and rear yard pre-engineered patio enclosures, shall have at least a three-twelfths (3/12) roof pitch and shall have a shingled roof. Steel panel (standing seam) roofing can be used as an alternative to a shingled roof provided the material used is 1) a minimum twenty-six (26) gauge steel base sheet 2) factory finished solid color material with a minimum paint quality grade of Standard or Better. All steel panel roofing shall be installed per the most current edition of the MN Residential Code and the manufacturer's installation instructions. Only manufacturer produced flashing, fasteners, trim pieces and vents shall be used in the installation of steel panel roofing. Variations on non-manufacturer produced accessories shall be pre-approved by the City Building Official for use with any steel panel roofing. Pre-engineered patio enclosures shall be limited to not more than three hundred twenty (320) square feet of floor area and shall not have any dimension greater than twenty (20) feet. All pre-engineered patio enclosure plans need to be approved by the building department with issuance of a building permit. (Ord. No. 98-1743, amended 9-17-1998; Ord. No. 12-2249, amended 4-19-2012)
- (p) All residential dwellings must be built in conformance with the Minnesota Residential Code. (Ord. No. 90-1193, amended 3-15-1990)
- (q) All residential dwellings shall have roof overhangs which extend a minimum of one (1) foot from the exterior wall of the structure.
- (r) Any metal siding upon residential structure shall have horizontal edges and overlapping sections no wider than twelve (12) inches. Sheet metal siding shall not be permitted in this residential district. (Ord. No. 84-856, amended 1-3-1985)
- (s) Driveways shall not be constructed closer than three (3) feet to the property line. All driveways and approaches shall be hard surfaced using concrete, blacktop, or equivalent paving approved by the City Engineer. (Ord. No. 87-1000, amended 5-7-1987; Ord. No. 89-1163, amended 10-19-1989)
- (t) It shall be required that all front yards, rear yards, and side yards be sodded over a minimum of four (4) inches of black dirt. Each lot shall also contain two front yard overstory deciduous trees of two and one half caliper. One of the required trees may be replaced by a six foot conifer or two ornamental trees of two caliper inches. One additional overstory tree shall be planted in side corner yards on corner lots. In addition, all corner lots will contain an additional boulevard tree along the corner side yard. All trees shall meet the City's residential tree planting requirements. All landscaping work to be completed at the time of request for a Certificate of Occupancy if issued between May 15th and October 15th, unless dates have been modified by the Zoning Administrator to accommodate unseasonable weather. A Certificate of Occupancy requested after October 15th and before May 15th may be issued with a cash deposit submitted by the builder in an amount required by the Zoning Administrator to guarantee installation of landscaping. Natural areas left undisturbed can be excluded from this requirement with the approval of the Zoning Administrator. (Ord. No. 99-1823, amended 11-18-1999; Ord. No. 99-1771, amended 3-4-1999; Ord. No. 84-839, amended 9-6-1984; Ord. No. 86-972, amended 8-21-1986; Ord. No. 97-1686, amended 11-20-1997; Ord. No. 01-1903, amended 5-23-2001)

- (u) The lowest floor elevation shall be no lower than the Regulatory Flood Protection elevation or four (4) feet above the high ground water level established by a registered professional engineer, whichever is greater. (Ord. No. 90-1193, amended 3-12-1990)
- (v) All new homes constructed southeast or northeast of the Anoka County Airport, as subsequently described, and within five hundred (500) feet of any minor and principal roadways as defined by the City of Blaine Transportation Plan, shall meet the Noise Abatement Standards, Section 33.21. The southeast area is bounded by 85th Avenue, 35W, 95th Avenue and the Airport; the northeast area is bounded by 101st Avenue, Naples Street, 109th Avenue, and Radisson Road. (Ord. No. 05-2053, amended 8-18-2005)

(Ord. No. 94-1543, added 2-16-1995; Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

## **29.040 SINGLE FAMILY (R-1AA)**

### [29.041 Intent.](#)

### [29.042 Permitted uses.](#)

### [29.043 Accessory uses.](#)

### [29.044 Conditional uses.](#)

### [29.045 Standards.](#)

#### **29.041 Intent.**

The purpose of this district is to allow low density single family units in developing portions of the city where sanitary sewer and water services are available. This district establishes lot sizes and house sizes that are slightly larger than those of the R-1 District.

(Ord. No. 90-1181, added 1-18-1990; Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

#### **29.042 Permitted uses.**

- (a) Single family detached dwellings.
- (b) Group family day care. (Ord. No. 91-1248, amended 4-4-1991)
- (c) State licensed residential care facilities or housing with services established registered under Minnesota Statute 144D serving six or fewer persons.

(Ord. No. 90-1181, added 1-18-1990; Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

#### **29.043 Accessory uses.**

- (a) Private garages/accessory buildings.
- (b) Private swimming pools.
- (c) Signs as regulated in Section 34.07(c).
- (d) Keeping of not more than two (2) boarders and/or roomers per dwelling unit.
- (e) Commercial daycare accessory to a legal conforming church or school. (Ord. No. 94-1527, Amended 7-21-1994)
- (f) Keeping of not more than six (6) hen chickens consistent with standards outlined in Section 33.22. (Ord. No. 15-2320, amended 8-6-2015)

(Ord. No. 90-1181, added 1-18-1990; Ord. No. 94-1501, amended 4-21-1994; Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

#### **29.044 Conditional uses.**

- (a) Boarding houses.
- (b) Churches.
- (c) Schools.
- (d) Golf courses.
- (e) Home occupations as described in 33.10(d).
- (f) More than two (2) garage/accessory buildings. (Ord. No. 94-1501; amended 4-21-1994)
- (g) Total combined garage and accessory structure space greater than one thousand (1,000) square feet and up to one thousand two hundred (1,200) square feet. (Ord. No. 99-1799, amended 7-8-1999)
- (h) Accessory dwelling unit, detached consistent with the standards outlined in section 33.25.

(Ord. No. 90-1181, added 1-18-1990; Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

#### **29.045 Standards.**

- (a) Front yard setback—Thirty (30) feet.
- (b) Side yard setback—Ten (10) feet.  
Corner lots—Twenty (20) feet.
- (c) Rear yard setback—Thirty (30) feet.
- (d) Garages and accessory buildings shall have rear and side yard setbacks of not less than five (5) feet and corner yard setbacks of not less than 20 feet.



- (e) Conditional use permits under [section] 29.3604(b), (c), (d) and (e) shall have the following setbacks; building—Fifty (50) feet front, rear and side; parking—Thirty (30) feet front, rear and side.
- (f) Minimum lot size—Ten thousand eight hundred (10,800) square feet.
- (g) Lot width—Eighty (80) feet.  
Lot width corner—Ninety (90) feet.
- (h) Minimum frontage—Sixty (60) feet. (Ord. No. 99-1813, amended 9-16-1999)
- (i) Minimum depth—One hundred twenty-five (125) feet.
- (j) Maximum building height shall not exceed two and one-half (2½) stories or thirty (30) feet, whichever is less.
- (k) It shall be required for all single family dwellings that there be a garage constructed of a minimum of four hundred (400) square feet with no dimension less than twenty (20) feet. Total combined garage and accessory building space shall not exceed one thousand (1,000) square feet unless specifically authorized by a Conditional Use Permit. The architectural style and color of a garage and accessory building shall be compatible with the principal building. The facing material of the garage shall be compatible with the principal building. Garage/accessory building doors shall not exceed ten (10) feet in height. (Ord. No. 99-1799, amended 6-24-1999; Ord. No. 94-1501, amended 4-21-1994)
- (l) No accessory building, other than a garage shall be located within any yard other than the rear yard, except that single story accessory buildings may be permitted in the side yard with the approval of the Zoning Administrator only if there is a door on the same side of the single family dwelling that is accessible to living space. Side yard shed approval will also be based on a screening plan consisting of privacy fencing and or landscaping to minimize the impact to adjacent properties. Garages located in the rear yard must have capability of hard surface driveway access meeting all setback requirements. The minimum width of access drive shall be no less than eight (8) feet. Access can include the ability to drive through existing garage into the rear yard upon providing evidence that an eight-foot minimum width garage door has been installed along the rear of the garage and that access to rear door is not restricted by non-vehicular storage. Garages or accessory buildings not having driveway access capability shall be limited in door size to no more than five (5) feet in width to preclude storage of vehicles normally requiring driveway access. (Ord. No. 00-1836, amended 03-16-2000; Ord. No. 98-1705, amended 3-19-1998)
- (m) For a single family dwelling, the minimum finished floor area above grade shall be one thousand two hundred forty (1,240) square feet.
- (n) No residential structure shall have a width of less than twenty-four (24) feet at its narrowest point. Width measurements shall not take into account overhangs or other projections beyond the principal exterior walls.
- (o) All single family dwellings and additions to single family dwellings, other than earth sheltered homes and rear yard pre-engineered patio enclosures, shall have at least a three-twelfths ( 3/12 ) roof pitch and shall have a shingled roof. Pre-engineered patio enclosures shall be limited to not more than three hundred twenty (320) square feet of floor area and shall not have any dimension greater than twenty (20) feet. All pre-engineered patio enclosure plans need to be approved by the building department with issuance of a building permit. (Ord. No. 98-1743, amended 9-17-1998)
- (p) All residential dwellings must be built in conformance with the Minnesota Residential Code.
- (q) Any metal siding used on residential structures shall have horizontal edges and overlapping sections no wider than twelve (12) inches. Sheet metal siding shall not be permitted in this residential district.

- (r) Residential driveways and vehicle parking areas shall not be constructed closer than three (3) feet to the property line. All driveways, approaches and vehicle parking areas shall be hard surfaced using concrete, blacktop, or equivalent paving approved by the City Engineer.
- (s) All front yards, rear yards, and side yards shall be sodded over a minimum of four (4) inches of black dirt. All landscaping work to be completed at the time of request for a Certificate of Occupancy if issued between May 15th and October 15th, unless dates have been modified by the Zoning Administrator to accommodate unseasonable weather. A Certificate of Occupancy requested after October 15th and before May 15th may be issued with a cash deposit submitted by the builder in an amount required by the Zoning Administrator to guarantee installation of landscaping. Natural areas left undisturbed can be excluded from this requirement with the approval of the Zoning Administrator. In addition, each lot shall contain two front yard overstory deciduous trees of two and one half caliper. One of the required trees may be replaced by a six foot conifer or two ornamental trees of two caliper inches. One additional overstory tree shall be planted in side corner yards on corner lots. In addition, all corner lots will contain an additional tree along the corner side yard. All trees shall meet the City's residential tree planting requirements. Existing trees within the front yard can be substituted upon approval of the Zoning Administrator. (Ord. No. 99-1823, amended 11-18-1999; Ord. No. 99-1771, amended 3-4-1999; Ord. No. 97-1686, amended 11-20-1997; Ord. No. 01-1903, amended 5-23-2001)
- (t) The lowest floor elevation shall be no lower than the Regulatory Flood Protection elevation or four (4) feet above the high ground water level as established by a registered professional engineer, whichever is greater.
- (u) All new homes constructed southeast or northeast of the Anoka County Airport, as subsequently described, and within five hundred (500) feet of any minor and principal roadways as defined by the City of Blaine Transportation Plan, shall meet the Noise Abatement Standards, Section 33.21. The southeast area is bounded by 85th Avenue, 35W, 95th Avenue and the Airport; the northeast area is bounded by 101st Avenue, Naples Street, 109th Avenue, and Radisson Road. (Ord. No. 05-2053, amended 8-18-2005; Ord. No. 94-1543, added 2-16-1995)

(Ord. No. 90-1181, added 1-18-1990; Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

## **29.050 SINGLE FAMILY (R-1A)**

### [29.051 Intent.](#)

### [29.052 Permitted uses.](#)

### [29.053 Accessory uses.](#)

### [29.054 Conditional uses.](#)

### [29.055 Standards.](#)

#### **29.051 Intent.**

The purpose of this district is to allow low density single family units in developing portions of the City. This district shall encourage larger lot single family dwelling units utilizing City services of sanitary sewer, water, street, and storm drainage.

(Ord. No. 87-1044, added 11-5-1987; Ord. No. <http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank> web="yes">20-2447 </ulink>, 7-20-2020)

#### **29.052 Permitted uses.**

- (a) Single family detached dwellings.
- (b) Group family day care. (Ord. No. 91-1248, amended 4-4-1991)
- (c) State licensed residential care facilities or housing with services established registered under Minnesota Statute 144D serving six or fewer persons.

(Ord. No. 87-1044, added 11-5-1987; Ord. No. <http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank> web="yes">20-2447 </ulink>, 7-20-2020)

#### **29.053 Accessory uses.**

- (a) Private garages/accessory buildings.
- (b) Private swimming pools.
- (c) Private tennis courts and patios.
- (d) Signs as regulated under [Section] 34.07(c).
- (e) Keeping of not more than two (2) boarders and/or roomers per dwelling unit.
- (f) Keeping of not more than six (6) hen chickens consistent with standards outlined in Section 33.22. (Ord. No. 15-2320, amended 8-6-2015)

(Ord. No. 87-1044, added 11-5-1987; Ord. No. 94-1501, amended 4-21-1994; Ord. No. <http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank> web="yes">20-2447 </ulink>, 7-20-2020)

#### **29.054 Conditional uses.**

- (a) Boarding house.
- (b) Home occupations as described in 33.10(d).
- (c) More than two (2) garage/accessory buildings.
- (d) Recreation facilities such as golf courses and country clubs.

(Ord. No. 87-1044, added 11-5-1987; Ord. No. 94-1501, amended 4-21-1994; Ord. No. <http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank> web="yes">20-2447 </ulink>, 7-20-2020)

## 29.055 Standards.

- (a) Front yard setback—Thirty-five (35) feet.
- (b) Side yard setback—Ten (10) feet.
- (c) Corner side yard setback—Twenty-five (25) feet. (Ord. No. 90-1193, amended 3-15-1990)
- (d) Rear yard setback—Thirty (30) feet. (Ord. No. 92-1304, amended 8-20-1992)
- (e) Rear yard and side yard setback for detached garage—Fifteen (15) feet, and accessory buildings—Five (5) feet. Corner yard setback for garages and accessory buildings—twenty five (25) feet. (Ord. No. 96-1599; amended 5-16-1996)
- (f) Uses by conditional use permit Section 29.054 (d) shall have the following building setbacks for front yard, side yard, and rear yard—Fifty (50) feet. (Ord. No. 90-1193, amended 3-15-1990)
- (g) Parking/driveway for conditional uses Section 29.054 (d) shall have a minimum setback of twenty-five (25) feet. (Ord. No. 90-1193, amended 3-15-1990)
- (h) Minimum lot size—Twelve thousand one hundred fifty (12,150) square feet (interior lot) with City sewer and water services. Thirteen thousand five hundred (13,500) square feet (corner lot) with City water and sewer services. Ten (10) acres without City sewer and water services.
- (i) Minimum lot width as measured at the front setback line—Ninety (90) feet. Minimum corner lot width—One hundred (100) feet. (Ord. No. 90-1193, amended 3-15-1990)
- (j) Minimum lot depth—One hundred thirty-five (135) feet.
- (k) Maximum building height—Two and one-half (2½) stories or thirty-five (35) feet—An accessory structure shall not exceed the height of the home.
- (l) It shall be required for all single family dwellings that there be a garage constructed of a minimum of five hundred twenty-eight (528) square feet (twenty-four (24) feet by twenty-two (22) feet). Total combined garage and accessory building space shall not exceed one thousand two hundred (1,200) square feet. Attached garages shall have a side yard setback of not less than ten (10) feet. Triple stall attached garages shall have a side yard setback of not less than five (5) feet. (Ord. No. 90-1193, amended 3-15-1990)

The architectural style and color of a garage and accessory building shall be compatible with the principal building. The facing material of the garage shall be compatible with the principal building. Garage and accessory access doors shall not exceed ten (10) feet in height. (Ord. No. 94-1501, amended 4-21-1994)

- (m) No accessory building, other than a garage, shall be located within any yard other than the rear yard, except that single story accessory buildings may be permitted in the side yard with the approval of the Zoning Administrator only if there is a door on the same side of the single family dwelling that is accessible to living space. Side yard shed approval will also be based on a screening plan consisting of privacy fencing and or landscaping to minimize the impact to adjacent properties. Garages located in the rear yard must have capability of hard surface driveway access meeting all setback requirements. The minimum width of access drive shall be no less than eight (8) feet. Access can include the ability to drive through existing garage into the rear yard upon providing evidence that an eight-foot minimum width garage door has been installed along the rear of the garage and that access to rear door is not restricted by non-vehicular storage. Garages or accessory buildings not having driveway access capability shall be limited in door size to no more than five (5) feet in width to preclude storage of

vehicles normally requiring driveway access. (Ord. No. 00-1836, amended 03-16-00; Ord. No. 98-1705, amended 3-19-1998)

- (n) For a single family dwelling, the minimum finished floor area at or above grade of the various kinds of dwellings shall be as follows:
  - (1) With basement—One thousand five hundred (1,500) square feet.
  - (2) Without basement—One thousand seven hundred (1,700) square feet.
- (o) No residential structure shall have a width of less than twenty-six (26) feet at its narrowest point. Width measurements shall not take into account overhangs or other projections beyond the principal exterior walls.
- (p) All single family dwellings and additions to single family dwellings, other than earth sheltered homes and rear yard pre-engineered patio enclosures, shall have at least a three-twelfths (3/12) roof pitch and shall have a shingled roof. Pre-engineered patio enclosures shall be limited to not more than three hundred twenty (320) square feet of floor area and shall not have any dimension greater than twenty (20) feet. All pre-engineered patio enclosure plans need to be approved by the building department with issuance of a building permit. (Ord. No. 98-1743, amended 9-17-1998)
- (q) All residential dwellings must be built in conformance with the Minnesota Residential Code. (Ord. No. 90-1193, amended 3-15-1990)
- (r) Residential dwellings shall have roof overhangs which extend a minimum of two (2) foot from the exterior wall of the structure or approved alternative. (Ord. No. 89-1167, amended 11-16-1989)
- (s) Any single family house constructed in this zoning district shall use the following exterior materials:
  - Front elevation: Use of wood, stone, stucco, cementitious siding, or brick. Metal or vinyl siding is also permitted on the front exterior when used in combination with wood, stone, stucco, or brick. The minimum gauge of the siding shall be .024 for metal and .042 for vinyl. The maximum coverage of metal and vinyl siding shall be seventy-five percent (75%) of front exterior exclusive of window and door openings.
  - Side/rear elevations: Use of wood, stone, stucco, brick, wood paneling, metal, cementitious siding product, or vinyl. (Ord. No. 90-1217, amended 8-2-1990)
- (t) Driveways shall not be constructed closer than five (5) feet to the property line. All driveways and approaches shall be hard surfaced using concrete, blacktop, or equivalent paving approved by the City Engineer.
- (u) It shall be required that all front yards, side yards, and rear yards of a new single family dwelling be sodded over a minimum of four (4) inches of black dirt. Each lot shall also contain two front yard overstory deciduous trees of two and one half caliper. One of the required trees may be replaced by a six foot conifer or two ornamental trees of two caliper inches. One additional overstory tree shall be planted in side corner yards on corner lots. All trees shall meet the City's residential tree planting requirements. All landscaping work to be completed at the time of request for a Certificate of Occupancy if issued between May 15th and October 15th, unless dates have been modified by the Zoning Administrator to accommodate unseasonable weather. A Certificate of Occupancy requested after October 15th and before May 15th may be issued with a cash deposit submitted by the builder in an amount required by the Zoning Administrator to guarantee installation of landscaping. Any undisturbed area beyond the first one hundred twenty (120) feet of lot depth may be left in its natural vegetative state. (Ord. No. 99-1823, amended 11-18-1999; Ord. No. 99-1771, amended 3-4-1999; Ord. No. 01-1903, amended 3-4-1999)

- (v) The lowest floor elevation shall be no lower than the Regulatory Flood Protection elevation or four (4) feet above the high ground water level established by a registered professional engineer, whichever is greater. (Ord. No. 90-1195, amended 3-15-1990)
- (w) All new homes constructed southeast or northeast of the Anoka County Airport, as subsequently described, and within five hundred (500) feet of any minor and principal roadways as defined by the City of Blaine Transportation Plan, shall meet the Noise Abatement Standards, Section 33.21. The southeast area is bounded by 85th Avenue, 35W, 95th Avenue and the Airport; the northeast area is bounded by 101st Avenue, Naples Street, 109th Avenue, and Radisson Road. (Ord. No. 05-2053, amended 8-18-2005; Ord. No. 94-1543, added 2-14-1995)

(Ord. No. 87-1044, added 11-5-1987; Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

## **29.060 R-1B (SINGLE FAMILY)**

### [29.061 Intent.](#)

### [29.062 Permitted uses.](#)

### [29.063 Accessory uses.](#)

### [29.064 Conditional uses.](#)

### [29.065 Standards.](#)

#### **29.061 Intent.**

The purpose of this district is to allow low density single family units in developing portions of the City. This district shall encourage tree preservation, open space, and larger lot single family dwelling units utilizing City services of sanitary sewer, water, street, and storm drainage.

(Ord. No. 99-1770, added 2-19-1999; Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

#### **29.062 Permitted uses.**

- (a) Single family detached dwellings.
- (b) Group family day care. (Ord. No. 91-1248, amended 4-4-1991)
- (c) State licensed residential care facilities or housing with services established registered under Minnesota Statute 144D serving six or fewer persons.

(Ord. No. 99-1770, added 2-19-1999; Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### **29.063 Accessory uses.**

- (a) Detached accessory buildings meeting the requirements of Section 29.065(k) and chicken coops as regulated under Section 33.22.
- (b) Private swimming pools.
- (c) Private tennis courts and patios.
- (d) Signs as regulated under [Section] 34.07(c).
- (e) Keeping of not more than two (2) boarders and/or roomers per dwelling unit.
- (f) Keeping of not more than six (6) hen chickens consistent with standards outlined in Section 33.22. (Ord. No. 15-2320, amended 8-6-2015)

(Ord. No. 99-1770, added 2-19-1999; Ord. No. <http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank> web="yes">20-2447 </ulink>, 7-20-2020; Ord. No. <http://newords.municode.com/readordinance.aspx?ordinanceid=1062124&datasource=ordbank> web="yes">20-2465 </ulink>, 12-7-2020)

### **29.064 Conditional uses.**

- (a) Boarding house.
- (b) Home occupations as described in 33.10(d).
- (c) Recreation facilities such as golf courses and country clubs.

(Ord. No. 99-1770, added 2-19-1999; Ord. No. <http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank> web="yes">20-2447 </ulink>, 7-20-2020)

### **29.065 Standards.**

- (a) Front yard setback—Twenty-five (25) feet minimum.
- (b) Side yard setback—Ten (10) feet.
- (c) Corner side yard setback—Twenty-five (25) feet.
- (d) Rear yard setback—Thirty-five (35) feet.
- (e) Developments, structures, utilities, and all other site activities shall be designed, installed, and constructed so that the maximum number of trees are preserved on all lots or parcels. Flexibility of city standards shall be considered when possible to ensure the preservation of the maximum number of trees.
- (f) Parking/driveway for conditional uses shall have a minimum setback of twenty-five (25) feet.
- (g) Minimum lot size—Fifteen thousand (15,000) square feet (interior lot) with City sewer and water services. Sixteen thousand five hundred (16,500) square feet (corner lot) with City water and sewer services. Ten (10) acres without City sewer and water services.
- (h) Minimum lot width—One hundred (100) feet.

Minimum corner lot width—One hundred ten (110) feet.

(i) Minimum lot depth—One hundred thirty-five (135) feet.

(j) Maximum building height—Two and one-half (2½) stories or thirty-five (35) feet.

(k) It shall be required for all single family dwellings that there be an attached garage constructed of a minimum of five hundred twenty-eight (528) square feet (twenty-four (24) feet by twenty-two (22) feet). Total attached garage space and detached accessory building space shall not exceed twelve hundred (1,200) square feet of gross area. A minimum garage shall be located on the lot such to allow for future expansion of ten (10) feet in width.

Garages (attached) shall have a rear and side yard setback of not less than 10 feet. Detached accessory buildings shall have rear and side yard setback of not less than five feet. However, pursuant to **Ordinance** Section 34-521, no detached accessory building may be located in the protective buffer zone of any stormwater pond. The protective buffer zone for the R-1B district is 75 feet from the high water level of the stormwater pond as defined in **Ordinance** Section 34.462.

One detached accessory building per lot is allowed and the square footage of the detached accessory building shall not exceed 120 square feet. A minimum garage shall be located on the lot such to allow for future expansion of ten (10) feet in width.

The architectural style and color of an attached garage and detached accessory building shall be compatible with the principal building. The facing material of the attached garage shall be compatible with the principal building. Garage (attached) doors shall not exceed ten (10) feet in height and detached accessory building doors cannot exceed 8 feet in height. (Ord. No. 94-1501, amended 4-21-1994)

Detached accessory buildings placed within a drainage and utility easement are done so at the owner's risk of removal by the City or other agencies that may have legal use of the easement.

(l) No part of the garage shall be considered a livable area.

(m) For a single family dwelling, the minimum finished floor area at or above grade of the various kinds of dwellings shall be as follows:

(1) Without basement—Two thousand (2,000) square feet

(2) With basement—One thousand eight hundred (1,800) square feet

(n) No residential structure shall have a width of less than twenty-eight (28) feet at its narrowest point. Width measurements shall not take into account overhangs or other projections beyond the principal exterior walls.

(o) All residential structures shall have permanent concrete or wood foundations, which comply with the Residential Code as adopted by the State of Minnesota and which is solid for the complete circumference of the house.

(p) All single family dwellings, other than earth sheltered homes, shall have at least a five-twelfths (5/12) roof pitch and shall have a shingled roof, unless alternative is approved by the Zoning Administrator.

(q) All residential dwellings must be built in conformance with the Residential Code as adopted in the State of Minnesota.

(r) All residential dwellings shall have roof overhangs which extend a minimum of one (1) foot from the exterior wall of the structure.

(s) Any single family house constructed in this zoning district shall use the following exterior materials:



— Front elevation: Use of wood, cementitious composite plank, stone, stucco or brick. Steel, [or] aluminum, or .041 or better vinyl siding may be used in combination with these other materials. (Ord. No. 01-1922, amended 10-4-2001)

— Side/rear elevations: Use of wood, cementitious composite plank, stone, stucco, brick, aluminum, [or] steel, or .041 or better vinyl siding. (Ord. No. 01-1922, amended 10-4-2001)

- (t) Driveways shall not be constructed closer than five (5) feet to the property line. All driveways and approaches shall be hard surfaced using concrete, blacktop, or equivalent paving approved by the City Engineer.
- (u) It shall be required that all front yards, side yards, and rear yards of a new single family dwelling be sodded over a minimum of four (4) inches of black dirt. Each lot shall contain a minimum of two front yard overstory deciduous trees of two and one half caliper. One of the required trees may be replaced by a six foot conifer or two ornamental trees of two caliper inches. One additional overstory tree shall be planted in side corner yards on corner lots. All trees shall meet the City's residential tree planting requirements. Existing trees within the front yard can be substituted upon approval of the Community Development Department. All landscaping work to be completed at the time of request for a Certificate of Occupancy if issued between May 15th and October 15th. A Certificate of Occupancy requested after October 15th and before May 15th may be issued with a cash deposit submitted by the builder in an amount required by the Zoning Administrator to guarantee installation of landscaping. Natural areas left undisturbed can be excluded from this requirement with the approval of the Zoning Administrator. (Ord. No. 01-1903, amended 5-23-2001)
- (v) The lowest floor elevation shall be no lower than the Regulatory Flood Protection elevation or four (4) feet above the high water level established by a registered professional engineer, whichever is greater.

(Ord. No. 99-1770, added 2-19-1999; Ord. No. <http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank> web="yes">20-2447 </ulink>, 7-20-2020; Ord. No. <http://newords.municode.com/readordinance.aspx?ordinanceid=1062124&datasource=ordbank> web="yes">20-2465 </ulink>, 12-7-2020)

## **29.070 TWO FAMILY (R-2)**

### [29.071 Intent.](#)

### [29.072 Permitted uses.](#)

### [29.073 Accessory uses.](#)

### [29.074 Conditional uses.](#)

### [29.075 Standards.](#)

#### **29.071 Intent.**

The purpose of this district is to allow single and two family dwelling units in developing portions of the city where sanitary sewer and water services are available. This district shall be located adjacent to collector or arterial streets. (Ord. No. 90-1222, amended 9-6-1990)

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

<sup>132</sup>**29.072 Permitted uses.**

- (a) Two family detached dwellings.
- (b) Single family detached dwelling meeting all requirements of [Section] 29.35.
- (c) Group family day care. (Ord. No. 91-1248, amended 4-4-1991)
- (d) State licensed residential care facilities or housing with services established registered under **Minnesota Statute 144D** serving six or fewer persons.

(Ord. No. 90-1222, amended 9-6-1990; Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

**29.073 Accessory uses.**

- (a) Private garages/accessory. (Ord. No. 94-1501, amended 4-21-1994)
- (b) Private swimming pools.
- (c) Signs as regulated in Section 34.07(c).
- (d) One accessory building.
- (e) Commercial daycare accessory to a legal conforming church or school. (Ord. No. 94-1527, amended 7-21-1994)

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

**29.074 Conditional uses.**

- (a) Boarding houses.
- (b) Churches.
- (c) Public buildings.
- (d) Home occupations as described in 33.10(d).
- (e) Golf courses.
- (f) Zero lot line splits.
- (g) More than two (2) garage/accessory buildings. (Ord. No. 94-1501, amended 4-21-1994)

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<sup>132</sup> **29.072 Permitted uses.** All statute citations throughout this chapter should be formatted for consistency and so that they will be flagged for and included in the table of state law citations that accompanies this code.

(h) Manufactured home park meeting the standards of 29.120.

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

#### **29.075 Standards.**

(a) Front yard setback—Thirty-five (35) feet.

(b) Side yard setback—Ten (10) feet.

Corner lots—Thirty-five (35) feet.

(c) Rear yard setback—Thirty (30) feet.

(d) Rear yard setback—Detached garages and accessory buildings—Five (5) feet.

(e) Minimum lot size—Fourteen thousand (14,000) square feet. Zero lot line split—Six thousand two hundred fifty (6,250) square feet/lot. (Ord. No. 89-1141, amended 5-18-1989)

(f) Average lot width—Ninety (90) feet. (Ord. No. 89-1141, amended 5-18-1989)

(g) Minimum frontage—Sixty (60) feet. (Ord. No. 86-948, amended 6-5-1986)

(h) Minimum depth—One hundred twenty-five (125) feet.

(i) Maximum building height shall not exceed two and one-half (2½) stories or thirty (30) feet, whichever is less.

(j) It shall be required for all two family dwellings that there be a garage constructed of a minimum of four hundred (400) square feet with no dimension less than twenty (20) feet for each individual dwelling unit. Total garage space per unit shall not exceed ten (10) percent of the lot area and in no case exceed one thousand (1,000) square feet of gross area. Garages shall have a side yard setback of not less than five (5) feet. (Ord. No. 84-856, amended 1-3-1985)

The architectural style and color of a garage shall be compatible with the principal building. The facing material of the garage shall be compatible with the principal building. Garage access doors shall not exceed ten (10) feet in height. No Accessory building, other than the garage, shall be located within any yard other than the rear yard. (Ord. No. 94-1501, amended 4-21-1994)

(k) Conditional use permits (except a, b, c, and e) shall have the following setbacks; front yard—Fifty (50) feet, side yard—Fifty (50) feet; rear yard—Fifty (50) feet.

(l) No part of the garage shall be considered a livable area.

(m) For two-family dwelling house, the minimum finished floor area for one- and two-bedroom units shall be eight hundred fifty (850) square feet per unit. Each additional bedroom beyond two shall require an additional one hundred twenty (120) square feet of finished floor area.

(n) No residential structure shall have a width of less than twenty-four (24) feet at its narrowest point. Width measurements shall not take into account overhangs or other projections beyond the principal exterior walls.

(o) All residential structures shall have permanent concrete or wood foundations, which comply with the Minnesota Residential Code as adopted by the State of Minnesota and which is solid for the complete circumference of the house.

- (p) All two-family and single family dwellings and additions to two-family and single family dwellings, other than earth sheltered homes, shall have at least a three-twelfths (  $3/12$  ) roof pitch and shall have a shingled roof. Pre-engineered patio enclosures shall be limited to not more than three hundred twenty (320) square feet of floor area and shall not have any dimension greater than twenty (20) feet. All pre-engineered patio enclosure plans need to be approved by the building department with issuance of a building permit. (Ord. No. 98-1743, amended 9-17-1998)
- (q) All residential dwellings must be built in conformance with the Minnesota Residential Code as adopted in the State of Minnesota.
- (r) All residential dwellings shall have roof overhangs which extend a minimum of one (1) foot from the exterior wall of the structure.
- (s) Any metal siding upon residential structure shall have horizontal edges and overlapping sections no wider than twelve (12) inches. Sheet metal siding shall not be permitted in this residential district. (Ord. No. 84-856, amended 1-3-1985)
- (t) Driveways shall not be constructed closer than five (5) feet to the property line except for common lot lines on zero lot line splits.
- (u) It shall be required that all front yards, rear yards, and side yards be sodded over a minimum of four (4) inches of black dirt and that the work be completed at the time of request for a certificate of occupancy. Natural areas left undisturbed can be excluded from this requirement with the approval of the Zoning Administrator. Each lot shall contain two front yard overstory deciduous trees of two and one half caliper. One of the required trees may be replaced by a six foot conifer or two ornamental trees of two caliper inches. One additional overstory tree shall be planted in side corner yards on corner lots. (Ord. ....No. 84-839, amended 9-6-1984; Ord. No. 86-972, amended 8-21-1986; Ord. No. 97-1686, amended 11-20-1997)
- (v) The lowest floor elevation shall be no lower than two (2) feet above the Regulatory Flood Protection elevation or four (4) feet above the high water level established by a registered professional engineer, whichever is greater. (Ord. No. 86-972, amended 8-21-1986)
- (w) Maintenance free exterior as approved by the Zoning Administrator. (Ord. No. 94-1538, amended 11-17-1994)

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

## **29.080 LOW DENSITY MULTI-FAMILY (R-3A)**

### [29.081 Intent.](#)

### [29.082 Permitted uses.](#)

### [29.083 Accessory uses.](#)

### [29.084 Conditional uses.](#)

### [29.085 Standards—quad, townhouse.](#)

### [29.086 Setback buffers.](#)

### [29.087 Landscaping.](#)

### [29.088 Screening.](#)

## 29.089 Senior housing standards.

### 29.081 Intent.

The district is intended to create low density areas, with a maximum density of five (5) dwelling units per acre. These districts shall be located on the fringe of established one and two-family residential neighborhoods.

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank) [7-20-2020](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank))

### 29.082 Permitted uses.

- (a) Townhouses.
- (b) Quads.
- (c) Group family day care. (Ord. No. 91-1248, amended 4-4-1991)

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank) [7-20-2020](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank))

### 29.083 Accessory uses.

- (a) Private garages.
- (b) Signs as regulated in Section 34.07(c).
- (c) Commercial daycare accessory to a legal conforming church or school. (Ord. No. 94-1527, amended 7-21-1994)

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank) [7-20-2020](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank))

### 29.084 Conditional uses.

- (a) Schools.
- (b) Churches.
- (c) State licensed residential care facility or state licensed childcare facility serving up to 16 persons.
- (d) Home occupations as described in 33.10(d).
- (e) Golf courses (public and private).
- (f) Private tennis courts.
- (g) Private swimming pools.

(h) Senior Housing complying with standards as set forth in Section 29.089. (Ord. No. 87-1017, added 4-2-1987)

(i) Manufactured home park meeting the standards of 29.120.

(Ord. No. <http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank> web="yes">20-2447 </a>, 7-20-2020)

#### **29.085 Standards—quad, townhouse.**

(a) Minimum area to be zoned R-3A—Ten (10) acres.

(b) Minimum frontage—None.

(c) Minimum depth—None.

Minimum width—None.

(d) Front yard—Thirty-five (35) feet.

(e) Rear yard—Twenty (20) feet.

(f) Side yard—Twenty (20) feet.

(g) Maximum density—Five (5) units per acre.

(h) Minimum dwelling size:

(1) Two-bedroom multi-level—Nine hundred sixty (960) square feet on first finished floor.

(2) More than two (2) bedrooms—One hundred twenty (120) square feet for each additional bedroom.

(i) Minimum distance between buildings—Forty (40) feet.

(j) Number of units permitted per building—Minimum of three (3), maximum of six (6) - (townhouses only).

(k) Maximum building height—Two and one-half (2½) stories or thirty (30) feet, whichever is less.

(l) Parking and driveways may be constructed to within the following minimum setbacks of property line: (Ord. No. 85-898, amended 8-15-1985)

(1) Front yard/corner side yard ..... 30 feet.

(2) Side yard ..... 20 feet.

(3) Rear yard ..... 20 feet.

(m) The lowest floor elevation shall be no lower than two (2) feet above the Regulatory Flood Protection elevation or four (4) feet above the high water level established by a registered professional engineer, whichever is greater. (Ord. No. 86-972, amended 8-21-1986)

(n) Garage access doors shall not exceed eight (8) feet in height. (Ord. No. 94-1501, amended 4-21-1994)

(o) Maintenance free exterior as approved by the Zoning Administrator. (Ord. No. 94-1538, amended 11-17-1994)

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

#### **29.086 Setback buffers.**

When higher density districts are located adjacent to lower density districts, the following setbacks shall apply for all buildings. (Ord. No. 85-898, amended 8-15-1985)

- (1) R-3A adjacent to single family —Sixty (60) feet.
- (2) R-3A adjacent to R-2—Fifty (50) feet.
- (3) A reduction in the required setback buffer may be requested by following the requirements of Section 33.20, Buffer Yard Flexibility. (Ord. No. 86-937, amended 4-3-1985)

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

#### **29.087 Landscaping.**

- (a) All open areas of any lot not occupied by building or parking shall be landscaped with trees, shrubs, and berms, in accordance with requirements of Section 33.07.
- (b) Underground irrigation shall be required for all front yards and corner side yards. Such irrigation shall extend to include public boulevards and into landscaped parking islands, except natural areas to be preserved. (Ord. No. 89-1177, added 1-4-1990)

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

#### **29.088 Screening.**

At least seventy-five percent (75%) of the setback requirements shall be maintained as an opaque landscape buffer zone.

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

#### **29.089 Senior housing standards.**

- (a) Notwithstanding other provisions of this chapter, Senior Housing projects shall meet the following requirements.

- (1) *Minimum Floor Area:*

Efficiency ..... 440 square feet.

One-bedroom ..... 520 square feet.

Two-bedroom ..... 700 square feet (minimum 100 square feet per bedroom).

(2) *Minimum Lot Area:*

One (1) acre.

(3) *Open Space.* Two hundred fifty (250) square feet per unit, plus on-site sidewalk system with sitting areas. This area shall not include setback area requirements for parking lots. Active open spaces (i.e., game areas, garden plots, etc.) shall be no less than fifty (50) feet in any direction, unless integrated with primary use areas of the site and having suitable access to residents.

(4) *Recreation.* Recreational areas for elderly, handicapped, and children shall be provided.

(5) *Height.* 30 feet.

(6) *Maintenance Free Exteriors.* Maintenance free exterior as approved by the Zoning Administrator. (Ord. No. 94-1538, amended 11-17-1994)

(Added 4-2-1987; Ord. No. [ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank" web="yes">20-2447 </ulink>](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

**29.090 MEDIUM DENSITY MULTI-FAMILY (R-3B)**

[29.091 Intent.](#)

[29.092 Permitted uses.](#)

[29.093 Accessory uses.](#)

[29.094 Conditional uses.](#)

[29.095 Standards—quad, townhouse.](#)

[29.096 Standards—multiple dwelling.](#)

[29.097 Setback buffers.](#)

[29.098 Landscaping.](#)

[29.099 Screening.](#)

[29.0991 Storage.](#)

[29.0992 Parking.](#)

[29.0993 Senior housing standards.](#)

**29.091 Intent.**

The district is intended to allow the development of townhouses, quads, and other types of medium density multi-family units at ten (10) dwelling units per acre located adjacent to major collector streets and served by public services and facilities.



(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

#### **29.092 Permitted uses.**

- (a) Townhouses.
- (b) Quads.
- (c) Multiple dwellings.
- (d) Group family day care. (Ord. No. 91-1248, amended 4-4-1991)

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

#### **29.093 Accessory uses.**

- (a) Private garages.
- (b) Signs as regulated in Section 34.07(c).
- (c) Commercial daycare accessory to a legal conforming church or school. (Ord. No. 94-1527, amended 7-21-1994)

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

#### **29.094 Conditional uses.**

- (a) Schools.
- (b) Churches.
- (c) State licensed residential care facility or state licensed childcare facility serving up to 16 persons.
- (d) Golf courses (public and private).
- (e) Home occupations as regulated by 33.10(d).
- (f) Private tennis courts.
- (g) Private swimming pools.
- (h) Senior Housing complying with standards as set forth in Section 29.0993 (Ord. No. 87-1017, added 4-2-1987).
- (i) Structure heights of greater than two and one-half (2½) stories or thirty (30) feet for non-senior multiple dwellings. (Ord. No. 88-1072, amended 3-17-1988)
- (i) Manufactured home park meeting the standards of 29.120.

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

**29.095 Standards—quad, townhouse.**

- (a) Minimum area to be zoned R-3B—Ten (10) acres.
- (b) Minimum frontage—None.
- (c) Minimum depth—None.
- (d) Front yard—Thirty-five (35) feet.
- (e) Rear yard—Twenty (20) feet.
- (f) Side yard—Twenty (20) feet.
- (g) Maximum density—Ten (10) units per acre.
- (h) Minimum dwelling size:
  - (1) Two-bedroom multi-level—Nine hundred sixty (960) square feet on first finished floor.
  - (2) More than two (2) bedrooms—One hundred twenty (120) square feet for each additional bedroom.
- (i) Minimum distance between buildings—Forty (40) feet.
- (j) Number of units permitted per building—Minimum of three (3), maximum of six (6) - (townhouses only).
- (k) Maximum building height—Two and one-half (2½) stories or thirty (30) feet, whichever is less.
- (l) Parking and driveways may be constructed to within the following minimum setbacks of property line: (Ord. No. 85-898, amended 8-15-1985)
  - (1) Front yard/corner side yard ..... 30 feet.
  - (2) Side yard ..... 20 feet.
  - (3) Rear yard ..... 20 feet.
- (m) The lowest floor elevation shall be no lower than two (2) feet above the Regulatory Flood Protection elevation or four (4) feet above the high water level established by a registered professional engineer, whichever is greater. (Ord. No. 86-972, amended 8-21-1986)
- (n) Garage access doors shall not exceed eight (8) feet in height. (Ord. No. 94-1501, amended 4-21-1994)
- (o) Maintenance free exterior as approved by the Zoning Administrator. (amended 11-17-1994)

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

**29.096 Standards—multiple dwelling.**

- (a) Minimum area to be zoned R-3B—Ten (10) acres.
- (b) Minimum width—None.

- (c) Minimum frontage—None.
- (d) Minimum depth—None.
- (e) Front yard setback—Forty-five (45) feet
- (f) Rear yard setback—Thirty (30) feet.
- (g) Side yard setback—Thirty (30) feet.
- (h) Maximum density—Ten (10) units per acre.
- (i) Minimum dwelling size: Six-hundred (600) square feet plus one hundred twenty (120) square feet for each additional bedroom over one (1).
- (j) Parking and driveways may be constructed to within the following minimum setbacks of property line: (Ord. No. 85-898, amended 8-15-1985)
  - (1) Front yard/corner side yard ..... 30 feet.
  - (2) Side yard ..... 20 feet.
  - (3) Rear yard ..... 20 feet.

When a R-3B, Multiple Family, is located adjacent to a R-1 or R-2 zoning district, the side yard and rear yard parking/driveway setback shall be a minimum of twenty-five (25) feet.
- (k) The lowest floor elevation shall be no lower than two (2) feet above the Regulatory Flood Protection elevation or four (4) feet above the high water level established by a registered professional engineer, whichever is greater. (Ord. No. 86-972, amended 8-21-1986)
- (l) Maximum building height—Two and one-half (2½) stories or thirty (30) feet, whichever is less. Greater heights up to fifty (50) feet as permitted by Conditional Use Permit. (Ord. No. 88-1072, amended 3-17-1988)
- (m) Maintenance free exterior as approved by the Zoning Administrator. (Ord. No. 94-1538, amended 11-17-1994)

(Ord. No. <http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank> web="yes">20-2447 </a>, 7-20-2020)

#### **29.097 Setback buffers.**

- (a) When higher density districts are located adjacent to lower density districts, the following setbacks shall apply for all buildings. (Ord. No. 85-898, amended 8-15-1985)
  - (1) R-3B adjacent to single family districts, other than RE—Eighty (80) feet.
  - (2) R-3B adjacent to R-2—Sixty (60) feet.
  - (3) R-3B adjacent to RE—Thirty (30) feet.
  - (4) A reduction in the required setback buffer may be requested by following the requirements of Section 33.21, Buffer Yard Flexibility. (Ord. No. 86-937, amended 4-3-1986).

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

#### **29.098 Landscaping.**

- (a) All open areas of any lot not occupied by building or parking shall be landscaped with trees, shrubs, and berms, in accordance with requirements of Section 33.07.
- (b) Underground irrigation shall be required for all front yards and corner side yards. Such irrigation shall extend to include public boulevards and into landscaped parking islands, except natural areas to be preserved. (Ord. No. 89-1177, added 4-1-1990)

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

#### **29.099 Screening.**

At least seventy-five percent (75%) of the setback requirements shall be maintained as an opaque landscape buffer zone.

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

#### **29.0991 Storage.**

For multiple dwellings, garbage receptacles must be in either the rear or side yards and screened from public view by a six-foot-high solid fence.

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

#### **29.0992 Parking.**

Parking is permitted in the front yards provided that the parking area is opaquely screened from public view by a combination of berms and plantings. (Ord. No. 85-898, amended 8-15-1985)

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### **29.0993 Senior housing standards.**

(a) Notwithstanding other provisions of this chapter, Elderly/Retirement Housing projects shall meet the following requirements.

(1) *Minimum Floor Area:*

Efficiency ..... 440 square feet.

One-bedroom ..... 520 square feet.

Two-bedroom ..... 700 square feet (minimum one hundred (100) square feet per bedroom).

(2) *Minimum Lot Area:*

One (1) acre.

(3) *Open Space.* Two hundred fifty (250) square feet per unit, plus on-site sidewalk system with sitting areas. This area shall not include setback area requirements for parking lots. Active open spaces (i.e., game areas, garden plots, etc.) shall be no less than fifty (50) feet in any direction, unless integrated with primary use areas of the site and having suitable access to residents.

(4) *Recreation.* Recreational areas for elderly, handicapped, and children shall be provided.

(5) *Height.* Fifty (50) feet.

(6) *Maintenance Free Exterior.* Maintenance free exterior as approved by the Zoning Administrator.(Ord. No. 94-1538, amended 11-17-1994; Added 4-2-1987)

(Ord. No. <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?oridinanceid=1031180&datasource=ordbank" web="yes">20-2447 </ulink>, 7-20-2020)

### **29.100 HIGH DENSITY MULTI-FAMILY (R-3C)**

29.101 Intent.

29.102 Permitted uses.

29.103 Accessory uses.

29.104 Conditional uses.

29.105 Standards—quad, townhouse.

29.106 Standards—multiple dwelling.

29.107 Setback buffers.

29.108 Parking.

29.109 Landscaping.

29.1091 Screening.

29.1092 Storage.

29.1093 Senior housing standards.

#### **29.101 Intent.**

The district is intended to create, preserve, and enhance areas for multi-family use at higher densities up to twenty (20) units per acre for both permanent and more transient families. It is appropriate only in areas served by public utilities, with good accessibility to thoroughfares, public community centers, libraries, and shopping centers.

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

#### **29.102 Permitted uses.**

- (a) Townhouses.
- (b) Quads.
- (c) Multiple dwellings.
- (d) Group family day care. (Ord. No. 91-1248, amended 4-4-1991)

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

#### **29.103 Accessory uses.**

- (a) Private garages.
- (b) Signs as regulated in Section 34.07 (c).
- (c) Commercial daycare accessory to a legal conforming church or school. (Ord. No. 94-1527, amended 7-21-1994)

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

#### **29.104 Conditional uses.**

- (a) Schools.
- (b) Churches.
- (c) State licensed residential care facility or state licensed childcare facility serving up to 16 persons.
- (d) Home occupations as described in 33.10(d).
- (e) Golf courses (public and private).
- (f) Private swimming pools.
- (g) Private tennis courts.

- (h) Senior Housing complying with standards as set forth in Section 29.1093. (Ord. No. 87-1017, added 4-2-1987).
- (i) Structure height of greater than two and one-half (2½) stories or thirty (30) feet for non-senior multiple dwellings. (Ord. No. 88-1072, amended 3-17-1988)
- (j) Manufactured home park meeting the standards of 29.120.

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

#### **29.105 Standards—quad, townhouse.**

- (a) Minimum area to be zoned R-3C—Ten (10) acres.
- (b) Minimum frontage—None.
- (c) Minimum depth—None.
- (d) Front yard—Fifty-five (55) feet.
- (e) Rear yard—Thirty (30) feet.
- (f) Side yard—Thirty (30) feet.
- (g) Maximum density—Twenty (20) units per acre.
- (h) Minimum dwelling size:
  - (1) Two-bedroom multi-level—Nine hundred sixty (960) square feet on first finished floor.
  - (2) More than two (2) bedrooms—One hundred twenty (120) square feet for each additional bedroom.
- (i) Minimum distance between buildings—Forty (40) feet.
- (j) Number of units permitted per building—Minimum of three (3), maximum of six (6) - (townhouses only).
- (k) Maximum building height—Two and one-half (2½) stories or thirty (30) feet, whichever is less.
- (l) Parking and driveways may be constructed to within the following minimum setbacks of property line: (Ord. No. 85-898, amended 8-15-1985)
  - (1) Front yard/corner side yard ..... 30 feet.
  - (2) Side yard ..... 20 feet.
  - (3) Rear yard ..... 20 feet.
- (m) The lowest floor elevation shall be no lower than two (2) feet above the Regulatory Flood Protection elevation or four (4) feet above the high water level established by a registered professional engineer, whichever is greater. (Ord. No. 86-972, amended 8-21-1986)
- (n) Garage access doors shall not exceed eight (8) feet in height. (Ord. No. 94-1501, amended 4-21-1994)
- (o) Maintenance free exterior as approved by the Zoning Administrator. (Ord. No. 94-1538, amended 11-17-1994)

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

#### **29.106 Standards—multiple dwelling.**

- (a) Minimum area to be zoned R-3C—Ten (10) acres.
- (b) Minimum frontage—None.
- (c) Minimum depth—None.
- (d) Front yard—Fifty-five (55) feet.
- (e) Rear yard—Twenty (20) feet.
- (f) Side yard—Twenty (20) feet.
- (g) Parking—One-half ( $\frac{1}{2}$ ) garage space plus two (2) off-street spaces per unit.
- (h) Maximum density—Twenty (20) units per acre.
- (i) Minimum dwelling size: Six hundred square feet plus One hundred twenty (120) for each bedroom exceeding one.
- (j) Minimum distance between buildings—Forty (40) feet.
- (k) Maximum building height—Two and one-half ( $2\frac{1}{2}$ ) stories or thirty (30) feet, whichever is less. Greater heights permitted by Conditional Use Permit. (Ord. No. 88-1072, amended 3-17-1988)
- (l) Parking and driveways may be constructed to within the following minimum setbacks of property line: (Ord. No. 85-898, amended 8-15-1985)
  - (1) Front yard/corner side yard ..... 30 feet.
  - (2) Side yard ..... 20 feet.
  - (3) Rear yard ..... 20 feet.

When a R-3C, Multiple Family, is located adjacent to a single or two family zoning district, the side yard and rear yard parking/driveway setback shall be a minimum of twenty-five (25) feet.
- (m) The lowest floor elevation shall be no lower than two (2) feet above the Regulatory Flood Protection elevation or four (4) feet above the high water level established by a registered professional engineer, whichever is greater. (Ord. No. 86-972, amended 8-21-1986)
- (n) Maintenance free exterior as approved by the Zoning Administrator. (Ord. No. 94-1538, amended 11-17-1994)

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

#### **29.107 Setback buffers.**

When higher density districts are located adjacent to lower density districts, the following setbacks shall apply for all yards and shall not be used for parking.



- (a) R-3C adjacent to single family zoning districts —One hundred (100) feet.
- (b) R-3C adjacent to R-2—Seventy (70) feet.
- (c) R-3C adjacent to R-3A—Fifty (50) feet.
- (d) R-3C adjacent to R-3B—Thirty (30) feet.
- (e) A reduction in the required setback buffer may be requested by following the requirements of Section 33.21, Buffer Yard Flexibility. (Ord. No. 86-937, amended 4-3-1986).

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

#### **29.108 Parking.**

- (a) Parking is permitted in the side or front yards provided that the parking area is effectively screened from public view by a combination of fence, plantings, and berms. (Ord. No. 85-898, amended 8-15-1985)
- (b) For additional requirements, refer to Section 33.13.

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

#### **29.109 Landscaping.**

- (a) All open areas of any lot not occupied by building or parking shall be landscaped with trees, shrubs, and berms, in accordance with regulations of Section 33.07.
- (b) Underground irrigation shall be required for all front yards and corner side yards. Such irrigation shall extend to include public boulevards and into landscaped parking islands, except natural areas to be preserved. (Ord. No. 89-1177, added 1-4-1990)

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

#### **29.1091 Screening.**

At least seventy-five percent (75%) of the setback requirements between districts shall be maintained as a landscape buffer zone sufficient enough to provide an opaque screen. The buffer zone shall contain a combination of trees, shrubs, berms and fences.

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

## **29.1092 Storage.**

For multiple dwellings, garbage receptacles must be in either the rear or side yards and screened from public view by a six-foot-high solid fence.

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

## **29.1093 Senior housing standards.**

(a) Notwithstanding other provisions of this chapter, Elderly/Retirement Housing projects shall meet the following requirements.

### *(1) Minimum Floor Area:*

Efficiency ..... 440 square feet.

One-bedroom ..... 520 square feet.

Two-bedroom ..... 700 square feet (minimum one hundred (100) square feet per bedroom).

### *(2) Minimum Lot Area:*

One (1) acre.

(3) *Open Space.* Two hundred fifty (250) square feet per unit, plus on-site sidewalk system with sitting areas. This area shall not include setback area requirements for parking lots. Active open spaces (i.e., game areas, garden plots, etc.) shall be no less than fifty (50) feet in any direction, unless integrated with primary use areas of the site and having suitable access to residents.

(4) *Recreation.* Recreational areas for elderly, handicapped, and children shall be provided.

(5) *Height.* Fifty (50) feet, with greater heights permitted by CUP.

(6) *Maintenance Free Exteriors.* Maintenance free exterior as approved by the Zoning Administrator.(Amended 11-17-94. Ord. 94-1538)(Added 4-2-1987)

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

## **29.110 DEVELOPMENT FLEX (DF)**

[29.111 Intent.](#)

[29.112 Criteria.](#)

[29.113 Procedure.](#)

[29.114 Plan requirements.](#)

[29.115 Standards.](#)

### 29.111 Intent.

The Development Flex District (formerly known as the Residential Flex District) is intended to provide for greater flexibility in land use planning and maximize the choice of housing types and styles than is possible under the strict application of other sections of this **ordinance**. The Development Flex District also attempts to create a reasonable balance between the interests of the property owner in freely developing his property with greater flexibility in land uses, and at the same time protect the interest of surrounding properties in the following ways:

- (a) By encouraging a more creative approach in housing developments, that will result in quality living environments through innovative design and aesthetic controls;
- (b) By permitting a combination of housing types and style, including single, two-family, and multiple family dwellings, with the exception of mobile homes;
- (c) By allowing flexibility in design by permitting cluster developments and a variety of architectural styles and treatments;
- (d) By allowing for any type of ownership, private, condominium, or rental;
- (e) By allowing flexibility in setback and height restrictions;
- (f) By allowing non-residential uses, such as commercial or light industrial uses which will serve the inhabitants of such district, provided such non-residential uses will enhance the character, amenities, and convenience of those who live in the proposed development;
- (g) By providing an efficient use of land resulting in more cost efficient installation of utilities, streets, and other facilities.
- (h) By encouraging the preservation of common open space, recreational facilities, natural features, such as woodland and wetland areas;
- (i) By contributing to the tax base of the community without making undue demands on the community services; and
- (j) By providing the means for greater creativity and flexibility in environmental design than is provided under the strict application of the Blaine Zoning **Ordinance** and Subdivision **Ordinance**, while, at the same time, preserving the health, safety, order, convenience, prosperity, and general welfare of the City of Blaine and its inhabitants.

(Ord. No. 97-1658, amended 5-15-1997; Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### 29.112 Criteria.

The Development Flex District is a zoning district which may be allowed in combination with any residential, commercial, or light industrial land use designation. Every proposal presented to the City Council for rezoning to the Development Flex District shall be accompanied by a conditional use permit application and a site plan. The City Council shall consider the following criteria and objectives in processing the application for rezoning to Development Flex District and the application for the conditional use permit:

- (a) That the proposal shall provide for a wider range of housing types, price ranges and styles than could be accomplished under the existing zoning;

- (b) That the proposal shall provide amenities and facilities and open spaces greater than the minimum requirements under existing zoning;
- (c) That the proposed development is compatible with the purposes and intents of this ordinance and with the comprehensive plan;
- (d) That the proposal shall in no way be detrimental to the environment. Scenic aspects and natural features, such as streams, trees, topography, and geological features, shall be protected and preserved to the greatest extent possible;
- (e) That the proposal shall not impose any undue burden upon the public services and facilities, such as fire and police protection, schools, streets, water systems, sanitary sewer systems, and storm sewer systems;
- (f) That the proposed development is designed in such a manner to form a desirable and unified environment within its own boundaries, and also which will not be detrimental to future land uses in the surrounding areas; and
- (g) That the proposal be consistent with all other applicable City and State regulations.

(Ord. No. 97-1658, amended 5-15-1997; Ord. No. [ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank" web="yes">20-2447 </ulink>](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

#### **29.113 Procedure.**

- (a) Prior to making an application for the conditional use permit and rezoning to the Development Flex District, the developer shall meet with the Zoning Administrator to review all applicable ordinances, regulations and plans that will affect the area to be rezoned.
- (b) The developer shall present a concept plat or site plan to the Zoning Administrator. The Zoning Administrator shall review the concept design and recommend changes to comply with the criteria listed in 29.82.
- (c) Upon staff approval of concept plan a formal application may be made for a rezoning and conditional use permit. If applicable, an application for preliminary plat shall be made concurrently.
  - (1) The rezoning and conditional use permit shall be reviewed and considered as outlined under Sections 27.03 and 27.04 of this ordinance. The public hearing for the proposed rezoning shall be held concurrently with the conditional use permit and preliminary plat. A rezoning to Development Flex shall not be made without a conditional use permit.
  - (2) Prior to approval of building permits, the zoning administrator shall find that all standards listed in the conditional use permit have been satisfied in the site plan, building permit, and/or plat applications.
  - (3) Any changes to the standards or allowed uses within an area zoned DF shall require a conditional use permit amendment.
  - (4) If construction does not commence within two (2) years after issuance of the conditional use permit, the Council may initiate rezoning to remove the Development Flex District zoning and rezone the property to the zoning that was in effect at the time of the initial rezoning.

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

#### **29.114 Plan requirements.**

- (a) Submittal requirements for DF zoning when involving a new residential subdivision, including single family homes, duplexes, quads, and townhomes, the application shall include:
  - (1) All materials required for a preliminary plat in section 74-74 of the **Blaine Code of Ordinances**.
  - (2) Floor plans and elevations for all proposed homes.
  - (3) Anticipated pricing for proposed homes.
  - (4) Tree preservation plan meeting the requirements of 33.09.
  - (5) Landscape plan including plant materials proposed for common areas and for individual lots.
  - (6) Narrative explaining the proposed development and mix of housing types.
- (b) Submittal requirements for DF zoning when involving multifamily dwellings, commercial, industrial, or institutional uses shall include:
  - (1) Certificate of survey including all existing structures.
  - (2) Grading plan existing and proposed grades at 2 foot contour intervals to a known datum, sufficient spot elevations on all proposed hard surfaces, location of proposed stormwater facilities, identification of areas within a flood hazard zone, finished floor elevations of all buildings.
  - (3) Utility plan proposed location and size of all utility lines.
  - (4) Site plan including location of all proposed buildings and proposed uses, location of driveway and parking areas, building and parking setbacks, location of refuse areas, location of outdoor storage areas.
  - (5) Tree preservation plan meeting the requirements of 33.09.
  - (6) Landscape plan meeting the requirements of 33.07.
  - (7) Floor plan of proposed buildings including dimensions of proposed rooms, specification of uses.
  - (8) Elevations of the proposed building identifying exterior treatment, materials, and colors.
  - (9) Calculation of necessary parking spaces.
  - (10) Narrative explaining the operation of the property.

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

#### **29.115 Standards.**

In order to provide maximum flexibility, no fixed standards shall apply to the Development Flex District. All standards for the development shall be established in a conditional use permit. In determining appropriate standards, the City Council shall consider for any proposed use the regulations prescribed in

other sections of the zoning Code for the classification most closely resembling the proposed use. Unless specifically contradicted in the conditional use permit, all standards listed in Chapter 33 of this ordinance shall apply.

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

## **29.120 MANUFACTURED HOMES (R-4)**

### [29.121 Intent.](#)

### [29.122 Permitted uses.](#)

### [29.123 Accessory uses.](#)

### [29.124 Conditional uses.](#)

### [29.125 Standards.](#)

### [29.126 Filing requirements.](#)

### [29.127 Procedure.](#)

### **29.121 Intent.**

The purpose of this district is to allow manufactured home parks in appropriate areas of the City.

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### **29.122 Permitted uses.**

#### **(a) Manufactured Homes.**

#### **(b) Group family day care. (Ord. No. 91-1248, amended 4-4-1991)**

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### **29.123 Accessory uses.**

#### **(a) Within the community building: barber and beauty shops, laundromats, small grocery stores.**

#### **(b) Carport or garage not to exceed six hundred twenty-four (624) square feet. (Ord. No. 94-1540, amended 11-17-1994)**

#### **(c) Shed (accessory building) not to exceed two hundred (200) square feet. (Ord. No. 94-1540, amended 11-17-1994)**

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

#### **29.124 Conditional uses.**

- (a) Home occupations, as described in 33.10 (d).
- (b) Manufactured home sales office. (Ord. No. 86-975, amended 9-18-1986)
- (c) Manufactured home sales lots in conformity with 46-6 of the **Blaine Code of Ordinances**.

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

#### **29.125 Standards.**

- (a) Minimum acreage of manufactured home park—Twenty (20) acres.
- (b) Minimum lot size—Four thousand five hundred (4,500) square feet.
- (c) Minimum frontage—Sixty (60) feet. (Ord. No. 86-948, amended 6-5-1986)
- (d) Front yard setbacks—Ten (10) feet from the curb; five (5) feet from the sidewalk.
- (e) Where an alley is provided adjacent to the rear line, there shall be a minimum setback of five (5) feet.
- (f) Side yard setback—Five (5) feet.
- (g) Minimum distance between mobile homes—Twenty (20) feet.
- (h) Where a manufactured home park abuts a residential district, there shall be a setback of at least one hundred (100) feet which shall be landscaped and maintained.
- (i) The parking of more than one (1) mobile home on any single lot is not permitted.
- (j) A patio shall be constructed on the ground beside each mobile home parking space. The patio shall not be less than two hundred (200) square feet in area, constructed of concrete, with four-inch thickness or its approved equivalent.
- (k) Landscaping.
  - (1) At least one (1) overstory tree shall be placed and maintained on each lot.
  - (2) Except for the areas used for the mobile home, patios, sidewalks, and off-street parking areas, the entire lot shall be sodded and maintained with grass.
- (l) Parking.
  - (1) An off-street parking area of at least four hundred forty (440) square feet shall be provided for each mobile home lot. The parking area surface shall be equal to street construction.
  - (2) A parking area equal to one (1) space for each ten (10) mobile home lots shall be provided adjacent to the community building.
- (m) Streets, curbs and sidewalks.

- (1) Each mobile home park lot shall abut on and have access to a public or private street. The street shall be constructed of a minimum of two (2) inches of bituminous surface material on a MnDOT Class 5 base of at least four-inch thickness.
  - (2) A concrete curb shall be constructed on each side of the street. The face of this curb shall be at least fifteen (15) feet from the center line of said street. The curb design shall be of a type approved by the City Engineer.
  - (3) A concrete sidewalk, not less than thirty-six (36) inches wide shall be constructed.
- (n) Water and Sewer Facilities—Burial of utility lines.
- (1) Water facilities and sewage disposal shall be installed and maintained by the owner of the mobile home park and shall be constructed in accordance with the laws of the state, the recommendations of the State Health Department, and **ordinances** and requirements of the City.
  - (2) All utility lines within the mobile home park shall be buried.
- (o) Fire Hydrants. Fire hydrants shall be placed throughout the area in such a way to satisfy the State Department of Public Safety, Fire Marshall Division, that adequate fire protection is achieved.
- (p) Lighting. Street lighting shall be installed and maintained by the owner of the manufactured home park and shall be constructed in accordance with all applicable laws and **ordinances**.
- (q) Storage of Boats, Etc.
- (1) All boats, boat trailers, hauling trailers, and all other equipment not stored within the manufactured home or stored within the utility enclosure that may have been provided, shall be stored in a separate area provided by the park, and shall not be stored upon the lot occupied by manufactured homes, nor upon the streets within the manufactured home park.
  - (2) The storage area provided by the park must be secured for the storage of boats, campers, and hauling trailers and must be fenced with a minimum of six-foot high fencing. The storage area shall include at least 200 square feet of area for each ten manufactured home lots.
- (r) Park and Recreation. A minimum of ten percent (10%) of the total mobile home park shall be devoted to park and recreation and shall be furnished with playground equipment.
- (s) Office and Community Building. In a mobile home park an adequate office and community building shall be provided with a minimum square footage of 3,000 square feet.
- (t) Storm shelter and Civil Defense.
- (1) Storm shelters shall be provided in each mobile home park. Such shelters shall be constructed so as to provide safety for the occupants of the mobile home park in the event of a tornado. There shall be one (1) shelter for every thirty (30) mobile home lots and each shelter shall have a minimum area of eight hundred ten (810) square feet.
  - (2) An approved civil defense siren must be installed by the developer of the mobile home park as close to the center of the mobile home park as possible.
- (u) Mobile Homes Building Code.
- (1) All mobile homes occupied or stored in a mobile home park shall comply with the requirements of Mobile Homes Building Code.
- (v) Driveways shall not be constructed closer than five (5) feet to the property line without written authorization from the adjacent property owner and Zoning Administrator.



(w) Accessory Buildings (Garages, Carports, or Sheds). (Ord. No. 94-1540, added 11-17-1994)

- (1) Side and rear yard setbacks—Five (5) feet.
- (2) Front yard setbacks—Ten (10) feet from the curb; five (5) feet from the sidewalk.
- (3) Minimum distance between accessory buildings and mobile homes—Five (5) feet.
- (4) Color of accessory building shall be compatible with the principal building.
- (5) Accessory building total height shall not exceed twelve (12) feet.
- (6) Requests for building permits shall be submitted through park management. The management shall submit a survey of the lot showing the location of the garage or carport, mobile home, patio, off-street parking area, sidewalk, and landscaping prior to issuance of a building permit.

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

**29.126 Filing requirements.**

(a) *Survey and design information required.* The mobile home park plan shall be clearly and legibly drawn at a scale of one (1) inch equals fifty (50) feet, or one hundred (100) feet, or two hundred (200) feet and shall contain the following information:

(1) *Identification and description.*

- (a) The proposed name of the plan, which shall not duplicate or be similar in pronunciation to the name of any plan previously recorded in the county.
- (b) The location of the plan by section, township, and range or by other legal description.
- (c) The names and addresses of the owner(s), subdivider, surveyor and designer.
- (d) Graphic scale, north point, date of preparation.

(2) *Existing Conditions.*

- (a) A boundary line survey of the proposed plan, including measured distances and angles, which shall be tied into the nearest section of quarter section corner by traverse.
- (b) Existing zoning classifications for land within the plan and on abutting property within three hundred fifty (350) feet of the property within the mobile home park plan.
- (c) Total acreage.
- (d) Location, width, and name of every existing or previously platted street or other public way, showing type, width and condition of improvements, railroad and utility right-of-way, parks, and other public open spaces, permanent buildings and structures, easements, section lines and corporate lines within the proposed plan and within a distance of three hundred fifty (350) feet beyond the proposed plan.
- (e) If the proposed plan is a rearrangement or replat of any former plan, the lot and block arrangement of the original plan, along with its original name, shall be indicated by dotted or dash lines. Also, any revised or vacated roadways of the original plan shall be so indicated.

- (f) Location and size of existing sewers, watermains, culverts or other underground facilities within the tract and to a distance of one hundred (100) feet beyond the tract, including such data as grades, invert elevations, and locations of catch basins, manholes, and hydrants.
- (g) Boundary lines of unsubdivided lands within three hundred fifty (350) feet, identified by name and ownership.

(3) *Plan Design Features.*

- (a) Layout of proposed streets showing right-of-way widths and proposed street names. If the proposed street is an extension of an existing named street, that name shall be used. In all other cases, the name of any street shall be consistent with the county and city street naming system.
- (b) Locations and widths of alleys, pedestrian ways, and utility easements.
- (c) Layout, numbers, and preliminary dimensions of lots and blocks.
- (d) Areas intended to be dedicated or reserved for public use, including their size in acres.
- (e) Areas intended for uses other than residential or public.
- (f) Minimum front and side street building setback lines, as required by the zoning ordinance.

(b) *Supplementary information required.* the following information shall be filed with the Mobile Home Park Plan:

- (1) Soil absorption tests where septic tanks are proposed, and any other subsoil information requested by the City Engineer, including soil borings to a depth of at least fifteen (15) feet.
- (2) Plans for water supply, sewage disposal, drainage system, and flood control, including the proposed location, size and gradient of proposed sewer lines and watermains, and such other supporting data, as may be required by the City Engineer or the Planning Commission.
- (3) Center line gradients of proposed streets.
- (4) Typical cross section of proposed street improvements.
- (5) If any zoning changes are necessary for property within the mobile home park plan, a rezoning application shall be filed and considered concurrently by the Council with the mobile home park plan.
- (6) Where the subdivider owns property adjacent to that which is being proposed for subdivision, the Planning Commission may require that the subdivider submit a mobile home park plan of the adjacent property so as to show the relationship of the proposed plan to the future development of the adjacent property.
- (7) Any additional information required by the Planning Commission and City Staff.

(c) *Qualifications Governing Approval of a Mobile Home Park Plan.*

- (1) The approval of a mobile home park plan by the Council shall only constitute acceptance of the design as a basis for the preparation of the final mobile home park plan by the owners or subdividers. Subsequent approval by appropriate officials having jurisdiction will be required of the engineering proposals, pertaining to water supplies, storm drainage, sewer disposal, sidewalks, grading, gradients, and roadway widths, and the surfacing of streets prior to the approval of final mobile home park plan by the city. The subdivider shall also present evidence that the mobile home park plan has been reviewed by, and meets the requirements of, those responsible for the provision of gas, electric, and telephone service.

- (2) No subdivision will be approved for a mobile home park plan which includes any area subject to periodic flooding or which contains poor drainage facilities which would make adequate drainage of the streets and lots impossible, unless the subdivider agrees to make improvements which will, in the opinion of the City Engineer, make the area completely safe for occupancy and provide adequate street and lot drainage.

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

#### **29.127 Procedure.**

- (a) *Preapplication Requirements.* Prior to the preparation of a mobile home park plan, the owners shall meet with the Director of Community Development, City Engineer, and other appropriate officials, to review all applicable **ordinances**, regulations and plans in the area to be subdivided. At this time, or at subsequent informal meetings, the subdivider shall submit a general sketch plan of the proposed subdivision and drainage plan. The sketch plan can be presented in a simple form, but should include any zoning changes which would be required, and should show that consideration has been given to the relationship of the proposed subdivision to existing community facilities that would serve it, to neighboring subdivision and development, and to the topography of the site. The subdivider is urged to avail such person of the advice and assistance of the Planning Commission at a Planning Commission meeting at this point, in order to save time and effort and facilitate the approval of the preliminary plan.
- (b) *Preliminary Plan.* After the preapplication meeting, the subdivider shall file, with the Director of Community Development, an application and the preliminary plan which has been prepared in accordance with regulations set forth in this chapter. At the time of submission of the preliminary plan, a cash fee established by **ordinance** shall be paid to the City of Blaine. This fee shall be used to defray costs incurred by the city in connection with consideration of the proposed subdivision.
  - (1) The Administrative Review Committee shall undertake a comprehensive review of the preliminary plan in order to determine how the proposed development will affect traffic, utilities, drainage, community facilities, public safety, surrounding development, natural features, historic sites, open space, etc. The committee shall also consider the proposed development in terms of its conformity with the city's Comprehensive Land Use Plan.
  - (2) The Director of Community Development shall submit copies of the preliminary plan to the county highway department, the state highway department (where applicable). The written report from the above mentioned agencies shall be submitted to the Director of Community Development prior to referral to the Planning Commission.
  - (3) The Director of Community Development shall refer copies of the preliminary plan to the Planning Commission. The Director of Community Development shall arrange for a public hearing to be held. The required legal publication shall be made and notices shall be sent to all property owners of record within three hundred fifty (350) feet of all contiguous property under common ownership.
  - (4) The subdivider or a duly authorized representative shall attend the Planning Commission meetings at which the proposal is scheduled for consideration.
  - (5) At the public hearing all persons interested in the proposed subdivision shall be heard, and the Planning Commission shall, approve, modify and approve, or disapprove the preliminary plan,

and submit to the Council, the applicant, and the administrator, its findings and recommendations. The Council shall act upon the preliminary plan and send written notification of its action to the Planning Commission, Administrator, and the applicant. Should the subdivider desire to amend the preliminary plan as approved, such person shall submit the amended plan in accordance with the original procedure set forth above, with the exception of the public hearing and fees. If the Council determines that the scope of the revisions constitutes a new plan, then the public hearing and fees shall be required.

(c) *Final Plan.*

- (1) The subdivider, within one hundred eighty (180) days after the approval of the preliminary plan, shall file with the Administrator of the final plan prepared by a land surveyor duly registered in the state. Failure of the subdivider to submit the final plan within one hundred eighty (180) days, unless a written request for extension has been submitted and for good cause granted by the Council, shall cause the preliminary plan to become null and void.
- (2) The subdivider shall also submit to the Director of Community Development, at the same time, a currently certified abstract of title or registered property certificate and such other evidence as the City Attorney may require showing the subdividers title or ownership in the land to be subdivided.
- (3) The subdivider shall have incorporated all changes and modifications in the final plan required by the Council. In all other respects, the final plan shall conform to the preliminary plan.
- (4) A development plan for the necessary improvements shall be submitted by the subdivider to the Director of Community Development, and then forwarded to the City Engineer for a review of a cost estimate.
- (5) The Director of Community Development, upon receipt of the final plan, shall retain one (1) copy of the final plan for such officer's records and shall:
  - (a) Refer copies of the final plan to the Administrative Review Committee, which shall review the final plan with respect to its conformance with the approved preliminary plan and the Committee shall report its findings to the Director of Community Development within fifteen (15) days of its receipt by the Committee.
  - (b) Refer one (1) copy each to applicable public and private utility companies.
  - (c) Refer the abstract of title or registered property certificate to the City Attorney for examination and report on any restrictive covenants. The City Attorney's written report shall be submitted to the Director of Community Development within fifteen (15) days of its receipt by the City Attorney. The costs incurred by the City in this regard shall be the responsibility of the subdivider and shall be paid by the subdivider to the City prior to release of the executed final plan.
  - (d) Obtain a written report or statement from the City of Blaine certifying the payment by the subdivider of all fees due the City pursuant to this Chapter.
  - (e) Place the consideration of the final plan on the agenda of the next regularly scheduled Council meeting, and notify the subdivider, in writing, of the date, place, and time of the meeting.
  - (f) Submit all of the above reports to the Council for its consideration.
- (6) The subdivider or a duly authorized representative shall attend the meeting before the Council at which the final plan is scheduled for consideration.
- (7) The Council may, if all reports indicate full compliance with the provisions of this chapter, approve the final plan as submitted and authorize the Mayor and City Manager to sign the final plan.

- (8) The Council may, if the report from the Administrative Review Committee indicates substantial deviation in the final plan from the approved preliminary plan, determine if the submission shall represent a new plan. If the submission does represent a new plan, the Council shall deny the final plan and direct the subdivider to resubmit such subdividers proposal following preliminary plan requirements.
- (9) The Council may, if any of the other reports indicate a lack of compliance with the provisions of this chapter, require full compliance by the subdivider within the one-hundred-eighty-day period from the date of approval of the preliminary plan. Failure of the subdivider to comply shall nullify and void the preliminary and final plans.
- (10) The subdivider shall, if the final plan is approved by the Council and signed by the Mayor and City Manager, record the final plan with the County Register of Deeds within thirty (30) days of the date of approval and signing of the final plan. Any final plan not so recorded shall become null and void, unless the Council has granted an extension, which shall not exceed ninety (90) additional days.
- (11) The subdivider shall furnish the Director of Community Development a tracing and three (3) copies of the final plan showing evidence of the recording. The subdivider shall be responsible for any costs incurred pertaining to the verification of the final plan materials. The subdivider shall also furnish one (1) reduced tracing of the final. Failure to furnish such copies shall be grounds for refusal to issue building permits for lots within the final plan.
- (12) No changes, erasures, modifications or revisions shall be made in any final plan after approval has been given by the Council, unless said plan is resubmitted to the City and the Council approves any modifications. In the event that any such final plan is recorded without complying with this requirement, the same shall be considered null and void, no building permits shall be issued for lots within the final plan, and the Council shall institute proceedings to have the plan stricken from the records of the City and County.

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### **30.00 NEIGHBORHOOD BUSINESS (B-1)**

#### [30.01 Intent.](#)

#### [30.02 Permitted uses.](#)

#### [30.03 Accessory uses.](#)

#### [30.04 Conditional uses.](#)

#### [30.05 Standards.](#)

#### [30.06 Landscaping.](#)

#### [30.07 Screening.](#)

#### [30.08 Storage.](#)

#### [30.09 Outside display.](#)

#### [30.091 Architectural control.](#)

### 30.01 Intent.

The purpose of this district is to allow small commercial areas to serve principally residential neighborhoods. These areas are generally located along or at the intersection of collector streets and arterials with a minimum lot size of one (1) acre.

(Ord. No. 87-1016, added 4-2-1987; Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### 30.02 Permitted uses.

- (a) Grocery—Convenience store.
- (b) Beauty shop, barber shop.
- (c) Laundry, dry cleaning.
- (d) Business and professional offices as permitted in Section 30.32(a). (Ord. No. 97-1691, amended 1-8-1998)

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### 30.03 Accessory uses.

Signs as regulated in Section 34.07(b).

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### 30.04 Conditional uses.

- (a) Gasoline station without auto repair.
- (b) Specialty shops.
- (c) Day care centers—Commercial. (Ord. No. 89-1140, amended 5-18-1989)

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### 30.05 Standards.

- (a) Minimum lot area—One (1) acre.
- (b) Minimum frontage—One hundred fifty (150) feet.

- (c) Minimum depth—One hundred fifty (150) feet.
- (d) Front yard setback—Forty (40) feet.
- (e) Side yard setback—Ten (10) feet, corner lot—Forty (40) feet.
- (f) Rear yard setback—Thirty (30) feet.
- (g) Maximum building height shall not exceed two (2) stories or thirty (30) feet, whichever is less.
- (h) Parking and driveways may be constructed to within the following minimum setbacks of property line:  
(Ord. No. 85-898, amended 8-15-1985)
  - (1) Front yard/corner side yard ..... 30 feet.
  - (2) Side yard ..... 10 feet.
  - (3) Rear yard ..... 10 feet.(Ord. No. 95-1553, amended 4-20-1995)

When a B-1 zoning district is located adjacent to any residentially zoned property, the side yard and rear yard parking/driveway setback shall be a minimum of twenty-five (25) feet.

- (i) Off-street loading—Refer to Section 33.15.

(Ord. No. [20-2447](http://newwords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### 30.06 Landscaping.

- (a) All open areas of any lot not used for parking, driveways, or storage shall be landscaped with trees, shrubs, berms, and planted ground covers.
- (b) It shall be the owners responsibility to see that the landscaping is maintained in an attractive and well maintained condition. The owner shall also replace any dead or damaged trees or shrubs with a similar species. Any dead or damaged sod shall also be replaced.
- (c) All vacant lots or portions of lots shall be maintained in an orderly manner, free of litter and junk.
- (d) All lots in this district shall provide a landscaped yard. This yard shall be kept clear of all structures, storage and off-street parking. Except for driveways, the yard shall extend along the entire boundaries of the site. This yard shall have a minimum width of not less than ten (10) feet.
- (e) For additional landscaping requirements, refer to Section 33.07.
- (f) Underground irrigation shall be required for all yards. Such irrigation shall extend to include public boulevards and into landscaped parking islands, except natural areas to be preserved. (Ord. No. 89-1177, added 1-4-1990)

(Ord. No. 88-1075, amended 3-17-1988; Ord. No. [20-2447](http://newwords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### 30.07 Screening.

On a lot adjacent to a lot in a residential district, there shall be an opaque screen made up of trees and/or berms and a six foot high solid fence constructed of maintenance free materials. All screening within thirty (30) feet of any driveway or street intersection shall not be over thirty-six (36) inches in height above the curb or center line of the street.

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### 30.08 Storage.

- (a) Refuse facilities, except for individual containers for public use, shall be located only in the side yards or rear yards. Such facilities shall be constructed of masonry materials such as brick or textured block in colors compatible with the principal structure. Such facilities shall have solid gates.
- (b) No outdoor storage of any materials is permitted except as provided for in Section 30.09. (Ord. No. 02-1948, amended 6-20-2002)

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### 30.09 Outside display.

- (a) Outside display area is limited to a maximum of thirty percent (30%) of the width of a building frontage and is not to exceed a total of one hundred fifty (150) square feet of area. Building frontage is defined as the dimension or width of a store front occupied by the retailer establishing the outside display. For purposes of this ordinance a frontage must contain a public or customer entrance or exit and no space is allowed more than two (2) frontages.
- (b) Outside display to be located immediately adjacent to and within the dimensions of the building frontage and shall not extend from the front building edge more than fifty (50) inches.
- (c) Outside display shall not exceed a height of sixty (60) inches.
- (d) Vending machines or cabinets for items such as beverages, ice and propane are exempt from the height and area restrictions provided they are limited to a maximum of three (3) machines or cabinets per frontage.
- (e) Outside display shall not be located so as to block pedestrian walkways, doorways, parking stalls, drive aisles (including access for emergency services). Thirty-six (36) inches is the minimum width required to maintain pedestrian access.
- (f) Outside display to be maintained in an orderly and attractive manner that does not detract from the image of the community or adjacent businesses.
- (g) Outside display should be a representation of the products sold on site, not a storage area for inventory on pallets.
- (h) Products shall be able to be sold from the display.



(Ord. No. 02-1948, added 6-20-2002; Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### **30.091 Architectural control.**

- (a) At least fifty percent (50%) of all exterior wall finishes on any building shall be comprised of a combination of at least three (3) of the following materials with all materials present on each elevation.
  - (1) Brick.
  - (2) Natural or cultured stone.
  - (3) Glass.
  - (4) Stucco or EIFS.
  - (5) Cementitious siding.
  - (6) Architectural metal.
  - (7) Integrally colored rock faced block.
- (b) The remaining portion of all exterior wall finishes shall be comprised of any combination of decorative, rock faced concrete block and textured concrete panels or other comparable or superior materials as approved by the zoning administrator. All materials subject to Zoning Administrator approval.
- (c) Buildings may be constructed of primarily one of the materials listed in subsection (a) if the design meets or exceeds the intent of the **ordinance**.
- (d) All buildings to incorporate four sided design.
- (e) Gasoline canopies support columns shall be constructed of masonry materials consistent with the principal building to a minimum height of 5 feet.

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

## **30.10 COMMUNITY COMMERCIAL (B-2)**

### **30.11 Intent.**

### **30.12 Permitted uses.**

### **30.13 Accessory uses.**

### **30.14 Conditional uses.**

### **30.15 Standards.**

### **30.16 Landscaping.**

### **30.17 Screening.**

### **30.18 Storage.**

### **30.19 Outside display.**

### **30.191 Architectural control.**

### 30.11 Intent.

Intended to provide retailing and services of both a convenience and durable nature to shoppers, such as apparel, furniture, food, banking and financial services for a trade area of nearby residential neighborhoods.

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### 30.12 Permitted uses.

- (a) General retail, except when specifically listed elsewhere in the ordinance
- (b) Banks.
- (c) Restaurants.
- (d) Brew Pubs.
- (e) Personal services, including massage, hair salons, and similar businesses.
- (f) Dry cleaning and laundry.
- (g) Repair services, excluding repair of vehicles and small engines.
- (h) Business and professional offices, including medical offices.
- (i) Personalized instructional services, total floor area limited to 4,000 square feet without a conditional use permit.
- (j) Portrait or art studio.
- (k) Medical cannabis dispensary.

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### 30.13 Accessory uses.

Signs as regulated in Section 34.07(c).

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### 30.14 Conditional uses.

- (a) Animal hospitals.
- (b) Amusement and recreation.
- (c) Fitness center.

- (d) Gasoline station.
- (e) Minor auto repair.
- (f) Car wash.
- (g) Construction and contractor's offices.
- (h) Day care centers—Commercial. (Ord. No. 89-1140, amended 5-18-1989)
- (i) Educational uses not meeting the requirements of 30.12 (i). (j)
- (j) Small equipment rental; moving van rental and minor repair. Moving vans are limited to single rear axle vans and trucks up to thirty-three (33) feet in total overall length. Repair activities are limited to moving vans owned or leased by the equipment rental facility. (Ord. No. 95-1575, amended 9-21-1995)
- (k) Meeting/assembly halls.
- (l) Motels/hotels.
- (m) Open sales lot.
- (n) Private clubs.
- (o) Restaurants with live entertainment or outdoor dining. (Ord. No. 95-1573, amended 9-21-1995)
- (p) Theaters.
- (q) Vocation, technical, and trade schools.
- (r) Zero lot line splits with shared parking and/or access.
- (s) Off-Sale Liquor Stores. (Ord 86-928, amended 2-20-1986)
- (t) Two (2) or more buildings on same lot. (Ord. No. 88-1087, amended 6-16-1988)
- (u) Churches. (Ord. No. 91-1266, amended 10-3-1991)
- (v) Adult Uses-Principal. As defined and licensed under Article VI - Blaine Municipal Code. (Ord. No. 93-1320, amended 1-7-1993)
- (w) Domestic animal indoor kennel and training facilities. (Ord. No. 93-1479, amended 11-18-1993)
- (x) Major automobile repair for passenger vehicles. (Ord. No. 94-1534, amended 9-1-1994)
- (y) Funeral Homes. (Ord. No. 03-1983, added 6-26-2003; Ord. No. 03-1990, Amended 8-21-2003)
- (z) Vehicle Rental Agency with up to 15 vehicles on site. (Ord. No. 05-2063, added 10-20-2005; Ord No. 18-2407, amended 6-21-2018)
- (aa) Pawn shop. (Ord. No. 09-2179, added 2-19-2009)
- (bb) Indoor vehicle sales associated with and on the same property as major automobile repair. (Ord. No. 14-2295, added 10-16-2014; Ord. No. <http://newords.municode.com/readordinance.aspx?oridinanceid=1031180&datasource=ordbank> " web="yes">20-2447 </ulink>, 7-20-2020)

### **30.15 Standards.**

- (a) Minimum lot size—One (1) acre.

- (b) Front yard setback—Fifty (50) feet. (Ord. No. 93-1491, amended 12-16-1993)
- (c) Side yard setback—Twenty (20) feet when adjacent to commercial or industrial districts; corner lot fifty (50) feet; when adjacent to residential districts—One hundred (100) feet. (Ord. No. 93-1491, amended 12-16-1993)
  - (1) A reduction in the required setback buffer may be requested by following the requirements of Section 33.20 , Buffer Yard Flexibility. (Ord. No. 86-937, amended 4-3-1986)
- (d) Rear yard setback—Twenty (20) feet when adjacent to commercial or industrial districts; when adjacent to residential districts—One hundred (100) feet.
- (e) In the event where front, side or rear setback requirements from a differing adjacent district fall within a public street or highway right-of-way, the minimum setback shall be twenty (20) feet from the property line but not less than the required setback from the adjacent differing district boundary.
- (f) Maximum building height shall not exceed three (3) stories, or fifty (50) feet in height, whichever is less.
- (g) Parking and driveways may be constructed to within the following minimum setbacks of property line: (Ord 85-898, amended 8-15-1985)
  - (1) Front yard/corner side yard ..... 30 feet.
  - (2) Side yard ..... 10 feet.
  - (3) Rear yard ..... 10 feet.(Ord. No. 95-1553, amended 4-20-1995)

When a B-2 zoning district is located adjacent to any residentially zoned property, the side yard and rear yard parking/driveway setback shall be a minimum of twenty-five (25) feet.
- (h) Off-street loading—Refer to Section 33.15.
- (i) Major Automobile Repair Standards. (Ord. No. 94-1534, amended 9-1-1994)
  - (1) No outside storage of vehicle that have exterior damage or are dismantled.
  - (2) No air quality or noise impact to adjacent properties shall be permitted.
  - (3) Additional screening as determined by the Zoning Administrator.
  - (4) A seventy-five-foot landscaped buffer between a major automobile repair facility and all residential zoning districts. (Ord. No. 94-1539, amended 11-17-1994; Ord. No. <http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank> web="yes">20-2447 </ulink>, 7-20-2020)

### **30.16 Landscaping.**

- (a) All open areas of any lot not used for parking, driveways, or storage, shall be landscaped with trees, shrubs, berms, and planted ground covers.
- (b) It shall be the owners responsibility to see that the landscaping is maintained in an attractive and well maintained condition. The owner shall also replace any dead or damaged trees or shrubs with a similar species. Any dead or damaged sod shall also be replaced.
- (c) All vacant lots or portions of lots shall be maintained in an orderly manner, free of litter and junk.

- (d) All lots in this district shall provide a landscaped yard. This yard shall be kept clear of all structures, storage and off-street parking. Except for driveways, the yard shall extend along the entire boundaries of the site. This yard shall have a minimum width of not less than ten (10) feet.
- (e) For additional landscaping requirements, refer to Section 33.07.
- (f) Underground irrigation shall be required for all yards. Such irrigation shall extend to include public boulevards and into landscaped parking islands, except natural areas to be preserved. (Ord. No. 88-1075, amended 3-17-1988; Ord. No. 89-1177, added 1-4-1990; Ord. No. <http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank> web="yes">20-2447 </ulink>, 7-20-2020)

### 30.17 Screening.

On a lot adjacent to a lot in a residential district, there shall be an opaque screen made up of trees and/or berms and a six foot high solid fence made of maintenance free materials.

(Ord. No. <http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank> web="yes">20-2447 </ulink>, 7-20-2020)

### 30.18 Storage.

- (a) Refuse facilities, except for individual containers for public use, shall be located only in the side yards or rear yards. Such facilities shall be constructed of masonry materials such as brick or textured block in colors compatible with the principal structure. Such facilities shall have solid gates.
- (b) No outdoor storage of any materials is permitted except as provided for in Section 30.19. (Ord. No. 02-1948, amended 6-20-2002)
- (c) Employee service vehicles, associated with a commercial retail business that is specifically mentioned in this zoning district, may be parked outside under conditions as approved by the Zoning Administrator. (Ord. No. 91-1267, amended 10-3-1991)

(Ord. No. <http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank> web="yes">20-2447 </ulink>, 7-20-2020)

### 30.19 Outside display.

Outside display in B-2 retail sites is allowed provided the following standards are met:

- (a) Outside display area is limited to a maximum of thirty percent (30%) of the width of a building frontage and is not to exceed a total of one hundred fifty (150) square feet of area for buildings under 40,000 square feet and not to exceed 400 square feet for buildings larger than 40,000 square feet. Building frontage is defined as the dimension or width of a store front occupied by the retailer establishing the outside display. For purposes of this **ordinance** a frontage must contain a public or customer entrance or exit and no space is allowed more than two (2) frontages.

- (b) Outside display to be located immediately adjacent to and within the dimensions of the building frontage and shall not extend from the front building edge more than fifty (50) inches.
- (c) Outside display shall not exceed a height of sixty (60) inches.
- (d) Vending machines or cabinets for items such as beverages, ice and propane are exempt from the height and area restrictions provided they are limited to a maximum of three (3) machines or cabinets per frontage.
- (e) Outside display shall not be located so as to block pedestrian walkways, doorways, parking stalls, drive aisles (including access for emergency services). Thirty-six (36) inches is the minimum width required to maintain pedestrian access.
- (f) Outside display to be maintained in an orderly and attractive manner that does not detract from the image of the community or adjacent businesses.
- (g) Outside display should be a representation of the products sold on site, not a storage area for inventory on pallets.
- (h) Products shall be able to be sold from the display.

(Ord No. 02-1948, added 6-20-2002; Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### **30.191 Architectural control.**

- (a) At least fifty percent (50%) of all exterior wall finishes on any building shall be comprised of a combination of at least three (3) of the following materials with all materials present on each elevation.
  - (1) Brick.
  - (2) Natural or cultured stone.
  - (3) Glass.
  - (4) Stucco or EIFS.
  - (5) Cementitious siding.
  - (6) Architectural metal.
  - (7) Integrally colored rock faced block.
- (b) The remaining portion of all exterior wall finishes shall be comprised of any combination of decorative, rock faced concrete block and textured concrete panels or other comparable or superior materials as approved by the zoning administrator. All materials subject to Zoning Administrator approval.
- (c) Buildings may be constructed of primarily one of the materials listed in subsection (a) if the design meets or exceeds the intent of the **ordinance**.
- (d) All buildings to incorporate four sided design.
- (e) Gasoline canopies support columns shall be constructed of masonry materials consistent with the principal building to a minimum height of 5 feet.

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### **30.20 REGIONAL COMMERCIAL (B-3)**

#### [30.21 Intent.](#)

#### [30.22 Permitted uses.](#)

#### [30.23 Accessory uses.](#)

#### [30.24 Conditional uses.](#)

#### [30.25 Standards.](#)

#### [30.26 Landscaping.](#)

#### [30.27 Screening.](#)

#### [30.28 Storage.](#)

#### [30.29 Outside display.](#)

#### [30.291 Architectural control.](#)

#### **30.21 Intent.**

Intended to provide retailing and services of both a convenience and durable nature to shoppers, such as apparel, furniture, food, banking and financial services for a regional trade area.

(Ord. No. 93-1491, amended 12-16-1993; Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

#### **30.22 Permitted uses.**

- (a) General retail, except when specifically listed elsewhere in the **ordinance**.
- (b) Banks.
- (c) Restaurants.
- (d) Brew Pubs.
- (e) Personal services, including massage, hair salons, and similar businesses.
- (f) Dry cleaning and laundry.
- (g) Repair services, excluding repair of vehicles and small engines.
- (h) Business and professional offices, including medical offices.
- (i) Personalized instructional services, total floor area limited to 4,000 square feet without a conditional use permit.
- (j) Portrait or art studio.
- (k) Medical cannabis dispensary.

(Ord. No. 84-850, amended 11-15-1984; Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### **30.23 Accessory uses.**

Signs as regulated in Section 34.07(a).

(Ord. No. 93-1491, amended 12-16-1993; Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### **30.24 Conditional uses.**

- (a) Animal hospitals.
- (b) Amusement and recreation.
- (c) Fitness center.
- (d) Vehicle sales lot, for passenger vehicles only subject to the following standards.
  - (1) Minimum lots size shall be four (4) acres.
  - (2) Minimum building size shall be twenty five thousand (25,000) square feet.
  - (3) Site shall incorporate extensive berming along street frontages.
  - (4) Vehicle storage and display areas to have minimum twenty-five (25) foot setback from all interior property lines and forty (40) foot setback from any public right of way.
- (e) Gasoline station.
- (f) Minor auto repair.
- (g) Indoor vehicle sales.
- (h) Boat sales and display areas.
- (i) Bowling alleys.
- (j) Car wash.
- (k) Construction and contractor's offices.
- (l) Dance Hall.
- (m) Day care centers—Commercial. (Ord. No. 89-1140, amended 5-18-1989)
- (n) Educational uses.
- (o) Meeting/assembly halls.
- (p) Manufactured home sales lots.
- (q) Hotels.
- (r) Private clubs.
- (s) Recreational vehicle sales lots and showrooms.



- (t) Restaurants with live entertainment or outdoor dining. (Ord. No. 95-1573, amended 9-21-1995)
  - (u) Skating rinks.
  - (v) Small equipment rental; moving van rental and minor repair. Moving vans are limited to single rear axle vans and trucks up to thirty-three (33) feet in total overall length. Repair activities are limited to moving vans owned or leased by the equipment rental facility. (Ord. No. 95-1575, amended 9-21-1995)
  - (w) Theaters.
  - (x) Vocational, technical, and trade schools.
  - (y) Zero lot line split with shared access and/or parking.
  - (z) Off-Sale Liquor Stores. (Ord No. 86-928, amended 2-20-1986)
  - (aa) Two (2) or more buildings on same lot. (Ord. No. 88-1087, amended 6-16-1988)
  - (bb) Churches. (Ord. No. 91-1266, amended 10-3-1991)
  - (cc) Adult Uses—Principal. As defined and licensed under Article VI—Blaine Municipal Code. (Ord. No. 93-1320, amended 1-7-1993)
  - (dd) Domestic animal indoor kennel and training facilities. (Ord. No. 93-1479, amended 11-18-1993)
  - (ee) Major automobile repair for passenger vehicles. (Ord. No. 94-1534, amended 9-1-1994)
  - (ff) Funeral homes. (Ord. No. 03-1983, added 6-26-2003; Ord. No. 03-1990, amended 8-21-2003)
  - (gg) Vehicle Rental Agency with up to 15 vehicles on site. (Ord. No. 05-2063, added 10-20-2005; Ord. No. 18-2407, amended 6-21-2018)
  - (hh) Pawn shop. (Ord. No. 09-2179, added 2-19-2009)
- (Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### 30.25 Standards.

- (a) Minimum lot size—One (1) acre.
- (b) Front yard setback—Fifty (50) feet.
- (c) Side yard setback—Twenty (20) feet when adjacent to commercial or industrial districts.
- (d) Rear yard setback—Twenty (20) feet when adjacent to commercial or industrial districts.
- (e) In the event where front, side or rear setback requirements from a differing adjacent district fall within a public street or highway right-of-way, the minimum setback shall be twenty (20) feet from the property line but not less than the required setback from the adjacent differing district boundary.
- (f) Buildings exceeding three (3) stories or fifty (50) feet in height, whichever is less, must obtain a conditional use permit. (Ord. No. 90-1235, amended 10-18-1990)
- (g) Parking and driveways may be constructed to within the following minimum setbacks of property line: (Ord. No. 85-898, amended 8-15-1985)
  - (1) Front yard/corner side yard ..... 30 feet.

(2) Side yard ..... 10 feet.

(3) Rear yard ..... 10 feet. (Ord. No. 95-1553, amended 4-20-1995)

When a B-3 zoning district is located adjacent to any residentially zoned property, the side yard and rear yard parking/driveway setback shall be a minimum of twenty-five (25) feet.

(h) When a regional shopping center district is adjacent to any residential district, all building setbacks shall be one hundred (100) feet along any side adjacent to a residential district. (Ord. No. 85-898, amended 8-15-1985)

(1) A reduction in the required setback buffer may be requested by following the requirements of Section 33.20 , Buffer Yard Flexibility. (Ord. No. 86-937, amended 4-3-1986)

(i) Off-street loading—Refer to Section 33.14.

(j) Major Automobile Repair Standards: (Ord. No. 94-1534, amended 9-1-1994)

(1) No outside storage of vehicles that have exterior damage or are dismantled.

(2) No air quality or noise impact to adjacent properties shall be permitted.

(3) Additional screening as determined by the Zoning Administrator.

(4) A seventy-five-foot landscaped buffer between a major automobile repair facility and al residential zoning districts. (Ord. No. 94-1539, amended 11-17-1994)

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### 30.26 Landscaping.

(a) All open areas of any lot not used for parking, driveways, or storage, shall be landscaped with trees, shrubs, berms, and planted ground covers.

(b) It shall be the owners responsibility to see that the landscaping is maintained in an attractive and well maintained condition. The owner shall also replace any dead or damaged trees or shrubs with a similar species. Any dead or damaged sod shall also be replaced.

(c) All vacant lots or portions of lots shall be maintained in an orderly manner, free of litter and junk.

(d) For additional landscaping requirements, refer to Section 33.07.

(e) Underground irrigation shall be required for all yards. Such irrigation shall extend to include public boulevards and into landscaped parking islands, except natural areas to be preserved. (Ord. No. 89-1177, added 1-4-1990)

(Ord. No. 88-1075, amended 3-17-1988; Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### 30.27 Screening.

On a lot adjacent to a lot in a residential district, there shall be an opaque screen made up of trees and/or berms and a six foot high solid fence constructed of maintenance free materials.

(Ord. No. [20-2447](http://newwords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### 30.28 Storage.

- (a) Refuse facilities, except for individual containers for public use, shall be located only in the side yards or rear yards. Such facilities shall be constructed of masonry materials such as brick or textured block in colors compatible with the principal structure. Such facilities shall have solid gates.
- (b) No outdoor storage of any materials is permitted except as provided for in Section 30.29. (Ord. No. 02-1948, amended 6-20-2002)
- (c) Employee service vehicles, associated with a commercial retail business that is specifically mentioned in this zoning district, may be parked outside under conditions as approved by the Zoning Administrator. (Ord. No. 91-1267, amended 10-3-1991)

(Ord. No. [20-2447](http://newwords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### 30.29 Outside display.

Outside display in B-3 retail sites is allowed provided the following standards are met:

- (a) Outside display area is limited to a maximum of thirty percent (30%) of the width of a building frontage and is not to exceed a total of one hundred fifty (150) square feet of area for buildings under 40,000 square feet and not to exceed 400 square feet for buildings over 40,000 square feet. Building frontage is defined as the dimension or width of a store front occupied by the retailer establishing the outside display. For purposes of this ordinance a frontage must contain a public or customer entrance or exit and no space is allowed more than two (2) frontages.
- (b) Outside display to be located immediately adjacent to and within the dimensions of the building frontage and shall not extend from the front building edge more than fifty (50) inches.
- (c) Outside display shall not exceed a height of sixty (60) inches.
- (d) Vending machines or cabinets for items such as beverages, ice and propane are exempt from the height and area restrictions provided they are limited to a maximum of three (3) machines or cabinets per frontage.
- (e) Outside display shall not be located so as to block pedestrian walkways, doorways, parking stalls, drive aisles (including access for emergency services). Thirty-six (36) inches is the minimum width required to maintain pedestrian access.
- (f) Outside display to be maintained in an orderly and attractive manner that does not detract from the image of the community or adjacent businesses.
- (g) Outside display should be a representation of the products sold on site, not a storage area for inventory on pallets.
- (h) Products shall be able to be sold from the display.

(Ord. No. 02-1948, added 6-20-2002; Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### **30.291 Architectural control.**

- (a) At least fifty percent (50%) of all exterior wall finishes on any building shall be comprised of a combination of at least three (3) of the following materials with all materials present on each elevation.
  - (1) Brick.
  - (2) Natural or cultured stone.
  - (3) Glass.
  - (4) Stucco or EIFS.
  - (5) Cementitious siding.
  - (6) Architectural metal.
  - (7) Integrally colored rock faced block.
- (b) The remaining portion of all exterior wall finishes shall be comprised of any combination of decorative, rock faced concrete block and textured concrete panels or other comparable or superior materials as approved by the zoning administrator. All materials subject to Zoning Administrator approval.
- (c) Buildings may be constructed of primarily one of the materials listed in subsection (a) if the design meets or exceeds the intent of the **ordinance**.
- (d) All buildings to incorporate four sided design.
- (e) Gasoline canopies support columns shall be constructed of masonry materials consistent with the principal building to a minimum height of 5 feet.

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

## **30.30 OFFICE PARK (B-4)**

### **30.31 Intent.**

### **30.32 Permitted uses.**

### **30.33 Accessory uses.**

### **30.34 Conditional uses.**

### **30.35 Standards.**

### **30.355 Standards for restaurants.**

### **30.36 Landscaping.**

### **30.37 Screening.**

### **30.38 Storage.**

### **30.39 Architectural control.**

### 30.31 Intent.

The intent of this district is to encourage contemporary, professional and research offices in a park like setting for both individually developed lots or planned parks within the district. This district serves to provide for professional services to immediate residential neighborhoods and the City as well.

(Ord. No. 97-1680, amended 10-16-1997; Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### 30.32 Permitted uses.

- (a) Business and professional offices, including medical offices.
- (b) Uses not explicitly enumerated in this section as permitted uses, but closely similar thereto, provided that these uses are not explicitly mentioned as permitted or conditional uses elsewhere in this ordinance.

(Ord. No. 97-1680, amended 10-16-1997; Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### 30.33 Accessory uses.

Signs as regulated in Section 34.07.

(Ord. No. 97-1680, amended 10-16-1997; Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### 30.34 Conditional uses.

- (a) Restaurants meeting standards of [Section] 30.355.
- (b) Zero lot line split, with shared access and/or shared parking.
- (c) Daycare—Commercial. (Ord. No. 91-1252, amended 6-20-1991)
- (d) Banks and financial institutions.
- (e) Churches.
- (f) General retail and service uses. (Ord. No. 98-1729, amended 6-25-1998)
- (g) Funeral homes. (Ord. No. 98-1729, amended 6-25-1998)
- (h) Animal clinics. (Ord. No. 98-1729, amended 6-25-1998)

(Ord. No. 97-1680, amended 10-16-1997; Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### 30.35 Standards.

- (a) Minimum lot size—One (1) acre.
- (b) Front yard setback—Fifty (50) feet.
- (c) Side yard setback—Twenty (20) feet when adjacent to commercial or industrial districts; corner lot—One hundred (100) feet.
- (d) Rear yard setback—Twenty (20) feet when adjacent to commercial or industrial districts.
- (e) In the event where front, side or rear setback requirements from a differing adjacent district fall within a public street or highway right-of-way, the minimum setback shall be twenty (20) feet from the property line but not less than the required setback from the adjacent differing district boundary.
- (f) Maximum building height shall not exceed two and one-half (2½) stories, or thirty-six (36) feet in height, whichever is less. Buildings exceeding three (3) stories or fifty (50) feet in height, whichever is less, must obtain a conditional use permit. (Amended 11-1-90. Ord. No. 90-1235)
- (g) Parking and driveways may be constructed to within the following minimum setbacks of property line. (Ord. No. 85-898, amended 8-15-1985)
  - (1) Front yard/corner side yard ..... 30 feet.
  - (2) Side yard ..... 10 feet.
  - (3) Rear yard ..... 20 feet.

For additional parking requirements—Refer to Section 33.14.

When a B-4 zoning district is located adjacent to any residentially zoned property, the side yard and rear yard parking/driveway setback shall be a minimum of twenty-five (25) feet.

- (h) When an office park district is adjacent to any residential district, all building setbacks shall be one hundred (100) feet along any side adjacent to a residential district. (Ord. No. 85-898, amended 8-15-1985)
  - (1) A reduction in the required setback buffer may be requested by following the requirements of Section 33.21, Buffer Yard Flexibility. (Ord. No. 86-937, amended 4-3-1986)
- (i) Off-street loading—Refer to Section 33.15.

(Ord. No. 97-1680, amended 10-16-1997; Ord. No. <http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank> url="http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank" web="yes">20-2447 </ulink>, 7-20-2020)

### 30.355 Standards for restaurants.

- (a) Freestanding restaurants shall have a minimum first floor building square of six thousand (6,000) square feet.
- (b) Drive-up window or separate take-out facilities not permitted.
- (c) No live entertainment permitted.
- (d) Outdoor dining permitted as part of a Conditional Use Permit.

- (c) Restaurants are permitted in a multi-tenant building if the multi-tenant building contains a minimum first floor area of not less than six thousand (6,000) square feet.

(Ord. No. 98-1729, amended 6-25-1998; Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### **30.36 Landscaping.**

- (a) All open areas of any lot not used for parking, driveways, or storage shall be landscaped with trees, shrubs, berms, and planted ground covers.
- (b) It shall be the owners responsibility to see that the landscaping is maintained in an attractive and well maintained condition. The owner shall also replace any dead or damaged trees or shrubs with a similar species. Any dead or damaged sod shall also be replaced.
- (c) All vacant lots or portions of lots shall be maintained in an orderly manner, free of litter and junk.
- (d) For additional landscaping requirements, refer to Section 33.07.
- (e) Underground irrigation shall be required for all yards. Such irrigation shall extend to include public boulevards and into landscaped parking islands, except natural areas to be preserved. (Ord. No. 89-1177, added 1-4-1990)

(Ord. No. 88-1075, amended 3-17-1988; Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### **30.37 Screening.**

On a lot adjacent to a lot in a residential district, there shall be an opaque screen made up of trees and/or berms and a six foot high solid fence constructed of maintenance free materials.

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### **30.38 Storage.**

- (a) Refuse facilities, except for individual containers for public use, shall be located only in the side yards or rear yards. Such facilities shall be constructed of masonry materials such as brick or textured block in colors compatible with the principal structure. Such facilities shall have solid gates.
- (b) No outdoor storage of any materials is permitted.

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### **30.39 Architectural control.**

- (a) At least fifty percent (50%) of all exterior wall finishes on any building shall be comprised of a combination of at least three (3) of the following materials with all materials present on each elevation.
  - (1) Brick.
  - (2) Natural or cultured stone.
  - (3) Glass.
  - (4) Stucco or EIFS.
  - (5) Cementitious siding.
  - (6) Architectural metal.
  - (7) Integrally colored rock faced block.
- (b) The remaining portion of all exterior wall finishes shall be comprised of any combination of decorative, rock faced concrete block and textured concrete panels or other comparable or superior materials as approved by the zoning administrator. All materials subject to Zoning Administrator approval.
- (c) Buildings may be constructed of primarily one of the materials listed in subsection (a) if the design meets or exceeds the intent of the **ordinance**.
- (d) All buildings to incorporate four sided design.
- (e) Gasoline canopies support columns shall be constructed of masonry materials consistent with the principal building to a minimum height of 5 feet.

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### **30.40 REGIONAL RECREATION (RR)**

#### [30.41 Intent.](#)

#### [30.42 Conditional uses.](#)

#### [30.43 Standards.](#)

#### [30.44 Landscaping.](#)

#### [30.45 Storage refuse facilities.](#)

#### [30.46 Architectural control.](#)

#### **30.41 Intent.**

The Regional Recreation district is intended for a public recreation facility that provides facilities for a regional clientele.

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)



### 30.42 Conditional uses.

- (a) Indoor/outdoor public recreation of regional clientele, and maintenance facilities necessary for the operation thereof.
- (b) Fitness center.
- (c) Public assembly, exhibition and conference center.
- (d) Sports medicine clinic.
- (e) Educational uses. (Ord. No. 17-2376, added 4-6-2017)
- (f) Building taller than 50 feet in total height. (Ord. No. 18-2414, added 10-18-2018)
- (g) Sports dome with membrane supported roof not meeting architectural standards of Zoning Section 30.57. (Ord. No. 18-2414, added 10-18-2018)
- (h) Restaurant.
- (i) Dormitory.
- (j) Outdoor storage accessory to operation of a maintenance facility for a public recreation facility and located in rear yards.

(Ord. No. <http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank> web="yes">20-2447 <http://newords.municode.com/readordinance.aspx?ordinanceid=1099756&datasource=ordbank> web="yes">21-2476 <http://newords.municode.com/readordinance.aspx?ordinanceid=1099756&datasource=ordbank> web="yes">8-2-2021)

### 30.43 Standards.

- (a) Minimum area to be zoned RR—Eighty (80) acres.
- (b) Minimum lot size—Five (5) acres with City water and sewer services.
- (c) Minimum lot width—Two hundred (200) feet.
- (d) Minimum building size—Five thousand (5,000) square feet.
- (e) Front yard building setback—Forty (40) feet.
- (f) Corner side yard building setback—Forty (40) feet.
- (g) Side yard building setback—Fifteen (15) feet.
- (h) Rear yard building setback—Twenty (20) feet.
- (i) All buildings shall be sprinkled and contain other fire and life safety standards denoted in N.F.P.A. 101 and subject to Metropolitan Airport Commission regulations. (Ord. No. 18-2414 , amended 10-18-2018)
- (j) Parking and driveways may be constructed to within the following minimum setbacks of property line:
  - (1) Front yard/corner side yard ..... 25 feet.
  - (2) Side yard ..... 10 feet.
  - (3) Rear yard ..... 10 feet.

If rear yard or side yard parking setback is adjacent to a collector/arterial street as designated in the City's Transportation Plan, the parking setback shall be twenty-five (25) feet. Such setback shall be fifty percent (50%) opaquely screened with berms, shrubs, trees, fence, or a combination thereof.

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### **30.44 Landscaping.**

- (a) All landscaping requirements shall meet the provisions of Section 33.07, including the following:
- (1) Underground irrigation shall be required for all front yards and corner side yards. Such irrigation shall extend to include public boulevard and into general parking islands, except natural areas to be preserved.
  - (2) Traffic safety islands and/or general parking islands where deemed appropriate shall be landscaped.
  - (3) Ground covers used in lieu of grass shall be planted in such a manner as to present a finished appearance and reasonably complete coverage within twelve (12) months after planting.

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### **30.45 Storage refuse facilities.**

- (a) Refuse facilities, except for individual containers for public use, shall be located only in the side yards or rear yards. Such facilities shall be constructed of masonry materials such as brick or textured block in colors compatible with the principal structure. Such facilities shall have solid gates.
- (b) No outdoor storage of any materials is permitted, except for outdoor storage approved by a conditional use permit in 30.42 (j).

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020; Ord. No. [21-2476](http://newords.municode.com/readordinance.aspx?ordinanceid=1099756&datasource=ordbank), 8-2-2021)

### **30.46 Architectural control.**

- (a) All buildings erected shall be a type of construction as defined in the Minnesota Building Code, except Type V.
- (b) Any building shall be constructed so that all exterior sides shall be surfaced equivalent to the front building elevation as determined by the Zoning Administrator.
- (c) Exterior wall surfaces of all buildings shall be primarily faced with brick, stone, precast panel, cast-in-place panel, architectural concrete in combination with glass or other permitted materials.

Based on building size, height, location and/or special use, the Zoning Administrator may approve the use of modern metal paneling materials or its equivalent for exterior wall surfaces provided such materials are used in conjunction with other materials listed above. Use of modern metal paneling materials or its equivalent shall not exceed seventy percent (70%) of the cumulative area of all building walls. Modern metal paneling shall be used primarily on the rear wall and secondarily on the side and/or front wall.

- (d) The building design should exhibit architectural control which seeks to be creative and maximize building lines, shades, and angles to maximize architectural uniqueness.

In addition, the City is desirous of such building design which will enhance energy conservation and attempt to use active or passive solar design.

- (e) All building design and exterior wall surface materials shall be reviewed and approved by the Zoning Administrator.

(Ord. No. <http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank> web="yes">20-2447 </a>, 7-20-2020)

### **30.50 PLANNED BUSINESS DISTRICT (PBD)**

#### [30.51 Intent.](#)

#### [30.52 Land uses.](#)

#### [30.53 Development procedure.](#)

#### [30.54 Standards.](#)

#### **30.51 Intent.**

It is the intent of the Planned Business District to accomplish the following:

- (a) To promote a planned environment for integrated industrial, office, commercial and multi-floor residential uses which feature design continuity. A development shall reflect a common theme using compatible architectural design and consistency in signage, landscaping, and lighting.
- (b) To encourage orderly development of property through conditional uses, since proposed uses may be traditionally considered incompatible or may present special problems in an environment of mixed uses.
- (c) To provide opportunity for greater flexibility in arranging land uses according to relative compatibility, convenience, and community needs.
- (d) To encourage patterns of development in harmony with the objectives of the City's Comprehensive Plan.
- (e) To encourage more attractive and enduring business neighborhoods.
- (f) To encourage development compatible with the environmental values of the area and to preserve natural vegetation, wetlands, natural topography, and other such features of the District.
- (g) To accommodate uses requiring access to major highways.
- (h) To provide a uniform set of standards to be applied equally to all owners and developers in this District.

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### 30.52 Land uses.

Uses Allowed By Conditional Use Permit (CUP). Land Uses may include industrial, office, commercial, and multi-floor residential developments as specifically indicated below. All land uses not specified below are prohibited. All land uses shall be reviewed and approved pursuant to the Conditional Use Permit procedures in Section 27.04 of this **Ordinance**.

The proposed land uses, their mix, lot sizes, and location must be compatible and complementary both internally and with adjacent land uses. The proposed land uses must not create any internal and/or external traffic congestion or traffic flow problems.

- (a) General retail,
  - (a) Retail except when specifically listed elsewhere in the **ordinance**.
  - (b) Personal services, including massage, hair salons, and similar businesses.
  - (c) Dry cleaning and laundry.
  - (d) Repair services, excluding repair of vehicles and small engines.
  - (e) Business and professional offices, excluding medical offices.
  - (f) Non-classroom personalized instructional services.
  - (g) Portrait or art studio.
  - (h) Medical cannabis dispensary.
- (b) Restaurants, with or without live entertainment or outdoor dining,
- (c) Brew Pubs.
- (d) Medical offices.
- (e) Bank.
- (f) Hotel.
- (g) Trade and convention center.
- (h) Fitness center.
- (i) Gasoline station, with or without passenger vehicle auto lube/oil change service or automated car wash.
- (j) Manufacturing.
- (k) Multifamily residential.
- (l) Research and development laboratories.
- (m) Churches.
- (n) Commercial childcare.
- (o) Theaters.

- (p) Indoor amusement and recreation.
- (q) Corporate office/distribution/warehouse (requires a combination of office space or manufacturing space consisting of not less than twenty-five percent (25%) of gross building area either attached to or as part of a larger office manufacturing campus, operated by the same facility). (Ord. No. 03-1994, added 9-18-2003)
- (r) Post secondary education.
- (s) Brewer tap room as defined by Section 6-33 [of the Blaine Code] associated with and on the same site as a licensed brewery. (Ord. No. 15-2334, added 12-17-2015)
- (t) Motorcycle sales and maintenance.
- (u) Zero lot line splits with shared access and/or shared parking.
- (v) Ground mounted solar as an accessory use.

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### 30.53 Development procedure.

- (a) Prior to applying for a conditional use permit for development within the PBD zone, the developer shall meet with the Zoning Administrator, or their designee, to review the applicable **ordinances**, regulations and plans that will affect the area to be developed.
- (b) The developer shall present a concept plan or site plan to the zoning administrator. The zoning administrator shall review the concept design and recommend changes as needed to comply with performance standards and the standards of 27.04.
- (c) Upon staff approval of the concept design a formal application may be made for a conditional use permit. The conditional use permit shall be considered as outlined under section 27.04 of this **ordinance**.
- (d) Prior to approval of building permits, the zoning administrator shall find that all standards listed in the conditional use permit have been satisfied in the site plan and building permit applications.
- (e) The conditional use permit shall outline all allowed uses within the development, including square footages allotted to each use. A conditional use permit amendment shall be required for any deviation.

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### 30.54 Standards.

- (a) *Building Setbacks (minimum).*
  - (1) Front Yard—Fifty (50) feet, or one-half (½) the total building height whichever is greater.
  - (2) Side Yard—Fifteen (15) feet, or one-half (½) the total building height, whichever is greater.
  - (3) Rear Yard—Twenty (20) feet, or one-half (½) the total building height, whichever is greater.

- (4) All setbacks shall be determined from the planned Right-of-Way (ROW), as designated in the City, County or State Transportation Plan, and normally defined in the subdivision regulations.

(b) *Parking Lot Setbacks (minimum).*

- (1) Front Yard—Thirty (30) feet. (Ord No. 02-1955, amended 9-5-2002)
- (2) Side Yard—Fifteen(15) feet. (Ord. No. 04-2005, amended 1-22-2004)
- (3) Rear Yard—Twenty (20) feet.
- (4) All setbacks shall be determined from the planned Right-of-Way (ROW), as designated in the City, County or State Transportation Plan, and normally defined in the subdivision regulations.

(c) *Building Sizes (minimum).*

- (1) Industrial—Twelve thousand (12,000) square feet.
- (2) Freestanding Commercial—Five thousand (5,000) square feet with the exception of freestanding restaurants which shall have a minimum building size of four thousand (4,000) square feet. (Ord. No. 01-1896, Amended 3-15-2001; Ord. No. 02-1955, amended 9-5-2002)

- (d) *Building Height.* There shall be no height limitations, provided all buildings are in compliance with Metropolitan Airport Commission regulations.

(e) *Building Exteriors.*

- (1) At least fifty percent (50%) of all exterior wall finishes on any building shall be comprised of a combination of at least three (3) of the following materials with all materials present on each elevation.
  - (aa) Brick.
  - (bb) Natural or cultured stone.
  - (cc) Glass.
  - (dd) Stucco or EIFS.
  - (ee) Cementitious siding.
  - (ff) Architectural metal.
  - (gg) Integrally colored rock faced block.
- (2) The remaining portion of all exterior wall finishes shall be comprised of any combination of decorative, rock faced concrete block and textured concrete panels or other comparable or superior materials as approved by the zoning administrator. All materials subject to Zoning Administrator approval.
- (3) Buildings may be constructed of primarily one of the materials listed in subsection (a) if the design meets or exceeds the intent of the **ordinance**.
- (4) All buildings to incorporate four sided design.
- (5) Gasoline canopies support columns shall be constructed of masonry materials consistent with the principal building to a minimum height of 5 feet.

Under no circumstances shall sheet aluminum, corrugated aluminum, asbestos, iron, plain or painted plain concrete block be deemed acceptable as major exterior wall materials on buildings within the City.

- (f) *Landscaping*. In addition to the provisions of Section 33.07 of the **Ordinance**, the following requirements shall be met:
- (1) Underground irrigation shall be required.
  - (2) Traffic safety islands and/or general parking islands, were deemed appropriate by the Zoning Administrator, shall be landscaped and irrigated. At least five percent (5%) of the surface area of land within a parking area shall be landscaped.
  - (3) On any given site there shall be at least three (3) different shrub species.
- (g) *Open Space*. The minimum area of permeable surface shall be thirty percent (30%) of the total project area. The Zoning Administrator may approve a modification to the requirement provided additional architectural or landscape enhancements are provided.
- (h) *Loading Spaces/Overhead Doors*. Loading spaces/overhead doors shall be located primarily in designated rear yards and secondarily in designated side yards. Overhead doors will be permitted in front yards under unusual circumstances, as approved by the Zoning Administrator.
- (1) Loading spaces and overhead doors should be designed to be compatible with the principal building. Architectural techniques should be employed to reduce visual impacts from adjacent properties and roadways.
  - (2) Loading spaces and overhead doors should be designed to be compatible with the principal building. Architectural techniques should be employed to reduce visual impacts from adjacent properties and roadways.
  - (3) Overhead doors limited to not more than one door per six-thousand (6,000) square feet of floor area.
  - (4) Outside storage of trucks or semi trailers is limited to not more than the number of dock or overhead doors. (Ord. No. 03-1994, added 9-18-2003)
- (i) *Refuse Enclosures*. Refuse facilities, except for individual containers for public use, shall be located only in the side yards or rear yards. Such facilities shall be constructed of masonry materials such as brick or textured block in colors compatible with the principal structure. Such facilities shall have solid gates.
- (j) *Lighting*. A lighting plan shall be submitted depicting type and design, layout of fixtures, and the illumination pattern. The design shall preclude any off-site glare.

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### **30.60 PLANNED BUSINESS DISTRICT—AIRPORT (PBD-A)**

#### [30.61 Land uses.](#)

#### [30.62 Standards.](#)

#### **30.61 Land uses.**

All uses allowed in this district require a Conditional Use Permit (CUP) from the City.

Land Uses may include industrial, office and retail developments as specifically indicated below. All land uses not specified below are prohibited. All land uses shall be reviewed and approved pursuant to the Conditional Use Permit procedures (Zoning Section 27.04).

The proposed land uses, their mix, lot sizes, and location must be compatible and complementary both internally and with adjacent land uses. The proposed land uses must not create any internal and/or external traffic congestion or traffic flow problems.

This zoning category applies to only two (2) separate locations located entirely on the MAC property generally described as the MAC South site (NW corner of 93rd Lane Extension and 85th Avenue) and the MAC North site (SW corner of 105th Avenue and Radisson Road).

The MAC South Site and MAC North Site are allowed the following uses:

- (a) Offices—Business, medical, professional and governmental.
- (b) Research and development laboratories.
- (c) Hotels and motels.
- (d) Financial institution with drive thru.
- (e) Restaurants (Class I) without drive thru.
- (f) Outdoor dining associated with Class I restaurant.
- (g) Athletic clubs.
- (h) Manufacturing with warehouse limited to not more than fifty percent (50%).
- (i) Freestanding car wash.
- (j) Automotive accessory stores including minor auto repair.
- (k) Vet clinic.
- (l) Garden centers.

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### 30.62 Standards.

#### (a) *Building Setbacks (minimum).*

- (1) Front Yard—Fifty (50) feet, or one-half (½) the total building height, whichever is greater.
- (2) Side Yard—Fifteen (15) feet, or one-half (½) the total building height, whichever is greater.
- (3) Rear Yard—Twenty (20) feet, or one-half (½) the total building height, whichever is greater.
- (4) Minimum building setback from existing residential districts is fifty (50) feet. Additional setback from residential may be required in the CUP review process.
- (5) All setbacks shall be determined from the planned Right-of-Way (ROW), as designated in the City, County or State Transportation Plan, and normally defined in the subdivision regulations.

#### (b) *Parking Lot Setbacks (minimum).*



- (1) Front Yard—Thirty (30) feet.
- (2) Side Yard—Fifteen (15) feet.
- (3) Rear Yard—Twenty (20) feet.
- (4) Minimum parking and driveway setback from existing residential districts is fifty (50) feet. Additional setback from residential may be required in the CUP review process.
- (5) All setbacks shall be determined from the planned Right-of-Way (ROW), as designated in the City, County or State Transportation Plan, and normally defined in the subdivision regulations.

(c) *Building Sizes (minimum).*

- (1) Industrial—Twelve thousand (12,000) square feet.
- (2) Freestanding Commercial—Five thousand (5,000) square feet with the exception of freestanding restaurants which shall have a minimum building size of four thousand (4,000) square feet.

(d) *Building Height.* There shall be no height limitations, provided all buildings are in compliance with Metropolitan Airport Commission regulations.

(e) *Building Exteriors.*

- (1) At least fifty percent (50%) of all exterior wall finishes on any building shall be comprised of a combination of at least three (3) of the following materials with all materials present on each elevation.
  - (aa) Brick.
  - (bb) Natural or cultured stone.
  - (cc) Glass.
  - (dd) Stucco or EIFS.
  - (ee) Cementitious siding.
  - (ff) Architectural metal.
  - (gg) Integrally colored rock faced block.
- (2) The remaining portion of all exterior wall finishes shall be comprised of any combination of decorative, rock faced concrete block and textured concrete panels or other comparable or superior materials as approved by the zoning administrator. All materials subject to Zoning Administrator approval.
- (3) Buildings may be constructed of primarily one of the materials listed in subsection (a) if the design meets or exceeds the intent of the **ordinance**.
- (4) All buildings to incorporate four sided design.
- (5) Gasoline canopies support columns shall be constructed of masonry materials consistent with the principal building to a minimum height of 5 feet.

(f) *Landscaping.* In addition to the provisions of Section 33.07 of the **Ordinance**, the following requirements shall be met:

- (1) Underground irrigation shall be required for all yards.

- (2) Traffic safety islands and/or general parking islands, were deemed appropriate by the Zoning Administrator, shall be landscaped and irrigated. At least five percent (5%) of the surface area of land within a parking area shall be landscaped.
  - (3) On any given site there shall be at least three (3) different shrub species.
  - (g) *Open Space*. The minimum area of permeable surface shall be thirty percent (30%) of the total project area. The Zoning Administrator may approve a modification to the requirement provided additional architectural or landscape enhancements are provided.
  - (h) *Loading Spaces/Overhead Doors*. Loading spaces/overhead doors shall be located primarily in designated rear yards and secondarily in designated side yards. Overhead doors will be permitted in front yards under unusual circumstances, as approved by the Zoning Administrator.
    - (1) Loading spaces and overhead doors should be designed to be compatible with the principal building. Architectural techniques should be employed to reduce visual impacts from adjacent properties and roadways.
    - (2) Loading spaces and overhead doors should be designed to be compatible with the principal building. Architectural techniques should be employed to reduce visual impacts from adjacent properties and roadways.
    - (3) Overhead doors limited to not more than one door per six thousand (6,000) square feet of floor area.
    - (4) Outside storage of trucks or semi trailers is limited to not more than the number of dock or overhead doors.
  - (i) *Refuse Enclosures*. Refuse facilities, except for individual containers for public use, shall be located only in the side yards or rear yards. Such facilities shall be constructed of masonry materials such as brick or textured block in colors compatible with the principal structure. Such facilities shall have solid gates.
  - (j) Business signage as permitted and regulated by Zoning Sections 34.07(a)(1) and (2).
- (Ord. No. 15-2322, added 9-17-2015; Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### **30.70 PLANNED OFFICE DISTRICT (POD)**

#### [30.71 Intent.](#)

#### [30.72 Land uses.](#)

#### [30.73 Development procedure.](#)

#### [30.74 Standards.](#)

#### **30.71 Intent.**

It is the intent of the Planned Office District (POD) to accomplish the following:

- (a) To promote a planned environment for integrated business, office and manufacturing uses which feature design continuity. POD development shall reflect a common theme using compatible architectural design and consistency in signage, landscaping, and lighting.

- (b) To encourage orderly development of property through conditional uses, since proposed uses may be traditionally considered incompatible or may present special problems in an environment of mixed uses.
- (c) To provide opportunity for greater flexibility in arranging land uses according to relative compatibility, convenience, and community needs.
- (d) To encourage patterns of development that result in high quality, high value, physical development and employment generation consistent with the objectives of the City's Comprehensive Plan.
- (e) To encourage more attractive and enduring business parks or corporate office campuses.
- (f) To encourage development compatible with the environmental values of the area and to preserve natural vegetation, wetlands, natural topography, and other such features of the District.
- (g) To accommodate large scale uses requiring access to major roadways such as Lexington Avenue, 109th Avenue and 35W.
- (h) To provide a uniform set of standards to be applied equally to all owners and developers in this District.

(Ord. No. 07-2133, added 6-21-2007; Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### 30.72 Land uses.

*Uses Allowed By Conditional Use Permit (CUP).* Land Uses may include office, manufacturing and specific service use developments as specifically indicated below. All land uses not specified below are prohibited. All land uses shall be reviewed and approved pursuant to the Conditional Use Permit procedures in Section 27.04 of this **Ordinance**. The POD zoning classification is intended to be a companion to the PI (Planned Industrial) Land Use designation.

The proposed land uses, their mix, lot sizes, and location must be compatible and complementary both internally and with adjacent land uses. The proposed land uses must not create any internal and/or external traffic congestion or traffic flow problems. Existing business of industrial uses that were legal conforming uses as of the day of this **ordinance** adoption shall continue to be considered legal conforming uses under the provisions of this **ordinance**.

- (a) Offices—Business and professional.
- (b) Research and development laboratories.
- (c) Financial institutions.
- (d) Medical office/clinic.
- (e) Trade and convention centers.
- (f) Zero lot line and multi-building developments.
- (g) Manufacturing.
- (h) Distribution and warehousing of products limited to not more than thirty-three percent (33%) of total floor area.

- (i) Coffee shops, restaurants, day cares, and other service/retail uses accessory to a principal use and located within an office building.
- (j) Athletic clubs.
- (k) Full service or Business class hotel consisting of a minimum of four (4) floors, multiple meeting rooms, business data center, in-room desks, indoor pool and fitness area.

(Ord. No. 07-2133, added 6-21-2007; Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### 30.73 Development procedure.

- (a) Prior to applying for a conditional use permit for development within the PBD zone, the developer shall meet with the Zoning Administrator, or their designee, to review the applicable **ordinances**, regulations and plans that will affect the area to be rezoned.
- (b) The developer shall present a concept plan or site plan to the zoning administrator. The zoning administrator shall review the concept design and recommend changes to comply with performance standards and section 27.04.
- (c) Upon staff approval of the concept design a formal application may be made for a conditional use permit. The conditional use permit shall be considered as outlined under section 27.04 of this **ordinance**.
- (d) Prior to approval of building permits, the zoning administrator shall find that all standards listed in the conditional use permit have been satisfied in the site plan and building permit applications.
- (e) The conditional use permit shall outline all allowed uses within the development, including square footages allotted to each use. A conditional use permit amendment shall be required for any deviation.

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### 30.74 Standards.

#### (a) *Building Setbacks (minimum).*

- (1) Front Yard—Forty (40) feet.
- (2) Side Yard—Fifteen (15) feet.
- (3) Rear Yard—Twenty (20) feet.
- (4) The minimum setback from a County Road or arterial roadway shall be fifty (50) feet.
- (5) All setbacks shall be determined from the planned Right-of-Way (ROW), as designated in the City, County or State Transportation Plan, and normally defined in the subdivision regulations.

#### (b) *Parking Lot Setbacks (minimum).*

- (1) Front Yard—Twenty-five (25) feet.
- (2) Side Yard—Ten (10) feet.

- (3) Rear Yard—Fifteen (15) feet.
- (4) The minimum setback from a County Road or arterial roadway shall be fifty (50) feet.
- (5) All setbacks shall be determined from the planned Right-of-Way (ROW), as designated in the City, County or State Transportation Plan, and normally defined in the subdivision regulations.

(c) *Building Sizes (minimum).*

- (1) Forty Thousand (40,000) square feet for professional, medical or corporate office use.
  - (2) Fifty thousand (50,000) square feet for mixed use buildings containing manufacturing, product distribution or product warehousing. Mixed use buildings to contain a minimum office use component of at least fifty percent (50%) of the gross building area.
- (d) *Building Height.* There shall be no height limitations, provided all buildings are in compliance with Metropolitan Airport Commission regulations. Multi-floor buildings are encouraged.
- (e) *Building Exteriors.* Major exterior surfaces of all walls shall be face brick, stone, glass, stucco, architecturally treated concrete cast in place or pre-cast panels, decorative block, wood, or architectural metal, or approved equivalent, as determined by the City. Wood and metal may be used, provided that they are appropriately integrated into the overall building design and not placed in areas, which may be subject to damage associated with heavy use.

Under no circumstances shall sheet aluminum, corrugated aluminum, asbestos, iron, plain or painted plain concrete block be deemed acceptable as major exterior wall materials on buildings within this district.

(f) *Landscaping.* In addition to the provisions of Section 33.07 of the **Ordinance**, the following requirements shall be met:

- (1) Underground irrigation shall be required for all yards.
- (2) Traffic safety islands and/or general parking islands, were required as part of plan approval, shall be landscaped and irrigated. At least five percent (5%) of the surface area of land within a parking area shall be landscaped.
- (3) Applicable landscaping requirements set forth in Section 33.08 shall be increased by 1.5 times, which shall include at least twenty-five percent (33%) of the number of ornamental, conifer and overstory trees exceeding minimum size requirements in the front yard or in areas within view of the public right-of-way.

(g) *Loading Spaces/Overhead Doors:*

- (1) Loading spaces and overhead doors should be designed to be compatible with the principal building. Architectural techniques should be employed to reduce visual impacts from adjacent properties and roadways.
- (2) Loading spaces/overhead doors shall be located primarily in designated rear yards and secondarily in designated side yards.
- (3) Overhead doors limited to not more than one (1) door per twenty thousand (20,000) square feet of building area with the exception that all buildings are allowed a minimum of three (3) overhead doors and all City approved multi-tenant spaces are allowed a minimum of two (2) overhead doors.

- (4) Outside storage of trucks or semi trailers is limited to not more than the number of dock or overhead doors. All truck storage areas to be one hundred percent (100%) screened by a combination of earth berms, architectural elements such as fencing or building extensions and landscaping.
- (h) *Refuse Enclosures*. Refuse facilities, except for individual containers for public use, shall be located only in the side yards or rear yards. Such facilities shall be constructed of masonry materials such as brick or textured block in colors compatible with the principal structure. Such facilities shall have solid gates.

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### **30.80 TOWN COMMERCIAL (B-5)**

#### [30.81 Intent.](#)

#### [30.82 Permitted uses.](#)

#### [30.83 Conditional uses.](#)

#### [30.84 Accessory uses.](#)

#### [30.85 Prohibited uses.](#)

#### [30.86 Standards](#)

#### **30.81 Intent.**

It is the intent of this district to accomplish the following:

- (a) To promote a planned environment for integrated commercial uses which feature design continuity. A development shall reflect a common theme using compatible architectural design and consistency in signage, landscaping, and lighting.
- (b) To encourage orderly development of property.
- (c) To provide opportunity for greater flexibility in arranging land uses according to relative compatibility, convenience, and community needs.
- (d) To encourage patterns of development in harmony with the objectives of the City's Comprehensive Plan.
- (e) To encourage more attractive and enduring business neighborhoods.
- (f) To encourage development compatible with the environmental values of the area and to preserve natural vegetation, wetlands, natural topography, and other such features of the District.
- (g) To accommodate uses requiring access to major highways.
- (h) To provide a uniform set of standards to be applied equally to all owners and developers in this District.

(Ord. No. [21-2480](http://newords.municode.com/readordinance.aspx?ordinanceid=1102375&datasource=ordbank), 8-16-2021)

### **30.82 Permitted uses.**

- (a) General retail.
- (b) Personal services, including massage, hair salons, and similar businesses.
- (c) Dry cleaning and laundry.
- (d) Repair services, excluding repair of vehicles and small engines.
- (e) Business and professional offices, including medical offices.
- (f) Portrait or art studio.
- (g) Pharmacies.

(Ord. No. [21-2480](http://newords.municode.com/readordinance.aspx?ordinanceid=1102375&datasource=ordbank) [8-16-2021](http://newords.municode.com/readordinance.aspx?ordinanceid=1102375&datasource=ordbank))

### **30.83 Conditional uses.**

- (a) Class I and II Restaurants.
- (b) Brew Pubs.
- (c) Bank.
- (d) Hotel with convention facilities.
- (e) Churches.
- (f) Theaters.
- (g) Private community/recreation centers.
- (h) Animal hospitals/clinics.
- (i) Brewery with taproom.
- (j) Coffee Shop.
- (k) Liquor Stores.
- (l) Commercial daycare.
- (m) Indoor amusement and recreation not including fitness uses.
- (n) Zero lot line splits with shared access and/or shared parking.

(Ord. No. [21-2480](http://newords.municode.com/readordinance.aspx?ordinanceid=1102375&datasource=ordbank) [8-16-2021](http://newords.municode.com/readordinance.aspx?ordinanceid=1102375&datasource=ordbank))

### **30.84 Accessory uses.**

- (a) Signs as regulated in Section 34.07.

(Ord. No. [21-2480](http://newords.municode.com/readordinance.aspx?ordinanceid=1102375&datasource=ordbank), 8-16-2021)

### **30.85 Prohibited uses.**

- (a) Pawn shops.
- (b) Residential including memory care and assisted living facilities.
- (c) Event Centers.
- (d) Tobacco/Vape Shops.
- (e) Fitness Centers including yoga and gyms.
- (f) Auto repair and service.
- (g) Car washes.
- (h) Gas/convenience stores.

(Ord. No. [21-2480](http://newords.municode.com/readordinance.aspx?ordinanceid=1102375&datasource=ordbank), 8-16-2021)

### **30.86 Standards**

#### **(a) *Building Setbacks (minimum).***

- (1) Front Yard—Fifty (50) feet, or one-half (½) the total building height whichever is greater.
- (2) Side Yard—Fifteen (15) feet, or one-half (½) the total building height, whichever is greater.
- (3) Rear Yard—Twenty (20) feet, or one-half (½) the total building height, whichever is greater.
- (4) All setbacks shall be determined from the planned Right-of-Way (ROW), as designated in the City, County or State Transportation Plan, and normally defined in the subdivision regulations.

#### **(b) *Parking Lot Setbacks (minimum).***

- (1) Front Yard—Thirty (30) feet. (Ord No. 02-1955, amended 9-5-2002)
- (2) Side Yard—Fifteen (15) feet. (Ord. No. 04-2005, amended 1-22-2004)
- (3) Rear Yard—Twenty (20) feet.
- (4) All setbacks shall be determined from the planned Right-of-Way (ROW), as designated in the City, County or State Transportation Plan, and normally defined in the subdivision regulations.

#### **(c) *Building Sizes (minimum).***

- (1) Freestanding Class II Restaurants—Five thousand (5,000) square feet minimum building size.

#### **(d) *Building Height.*** There shall be no height limitations, provided all buildings are in compliance with Metropolitan Airport Commission regulations.

#### **(e) *Building Exteriors.***



- (1) At least fifty percent (50%) of all exterior wall finishes on any building shall be comprised of a combination of at least three (3) of the following materials with all materials present on each elevation.
    - (aa) Brick.
    - (bb) Natural or cultured stone.
    - (cc) Glass.
    - (dd) Stucco or EIFS.
    - (ee) Cementitious siding.
    - (ff) Architectural metal.
    - (gg) Integrally colored rock faced block.
  - (2) The remaining portion of all exterior wall finishes shall be comprised of any combination of decorative, rock faced concrete block and textured concrete panels or other comparable or superior materials as approved by the zoning administrator. All materials subject to Zoning Administrator approval.
  - (3) Buildings may be constructed of primarily one of the materials listed in subsection (a) if the design meets or exceeds the intent of the **ordinance**.
  - (4) All buildings to incorporate four-sided design. Under no circumstances shall sheet aluminum, corrugated aluminum, asbestos, iron, plain or painted plain concrete block be deemed acceptable as major exterior wall materials on buildings within the City.
- (f) *Landscaping*. In addition to the provisions of Section 33.07 of the **Ordinance**, the following requirements shall be met:
- (1) Underground irrigation shall be required.
  - (2) Traffic safety islands and/or general parking islands, were deemed appropriate by the Zoning Administrator, shall be landscaped and irrigated. At least five percent (5%) of the surface area of land within a parking area shall be landscaped.
  - (3) On any given site there shall be at least three (3) different shrub species.
- (g) *Open Space*. The minimum area of permeable surface shall be thirty percent (30%) of the total project area. The Zoning Administrator may approve a modification to the requirement provided additional architectural or landscape enhancements are provided.
- (h) *Refuse Enclosures*. Refuse facilities, except for individual containers for public use, shall be located only in the side yards or rear yards. Such facilities shall be constructed of masonry materials such as brick or textured block in colors compatible with the principal structure. Such facilities shall have solid gates.
- (i) *Lighting*. A lighting plan shall be submitted depicting type and design, layout of fixtures, and the illumination pattern. The design shall preclude any off-site glare.

(Ord. No. [21-2480](http://newords.municode.com/readordinance.aspx?oridinanceid=1102375&datasource=ordbank) [8-16-2021](http://newords.municode.com/readordinance.aspx?oridinanceid=1102375&datasource=ordbank))

## **Chapter 31 INDUSTRIAL DISTRICTS**

31.00 - LIGHT INDUSTRIAL (I-1)

31.10 - LIGHT INDUSTRIAL (I-1A)

31.20 - HEAVY INDUSTRIAL (I-2)

31.30 - HEAVY INDUSTRIAL (I-2A)

### **31.00 LIGHT INDUSTRIAL (I-1)**

31.01 Intent.

31.02 Permitted uses.

31.03 Accessory uses.

31.04 Conditional uses.

31.05 Standards.

31.06 Landscaping.

31.07 Loading facilities.

31.08 Storage/refuse facilities.

31.09 Mechanical/electrical equipment.

31.091 Architectural control.

#### **31.01 Intent.**

The purpose of this district is to provide for the development of industrial uses ranging from small to large scale industry and related services. This district shall encourage the development of industrial uses accessible to major highways and utilizing City services of sanitary sewer, water, street, and storm drainage. Such light industrial areas can be located next to heavy industrial, commercial, residential, and airport districts and shall be free of hazardous or objectionable elements such as noise, odor, dust, smoke, glare, or other pollutants.

(Ord. No. 87-1046, amended 11-5-1987; Ord. No. [ulink class="ordbank" print="yes"](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank)  
[url="http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank"](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank)  
[web="yes">20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank) [/ulink](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank)>, 7-20-2020)

#### **31.02 Permitted uses.**

- (a) Manufacturing uses: manufacturing, compounding, processing, packaging, storage, treatment, or assembly of products and materials within a structure, except for rendering/slaughtering/refining facilities.
- (b) Warehousing.
- (c) Wholesale businesses.

- (d) Offices—Business and professional, not including medical.
- (e) Engraving shops.
- (f) Machine shops.
- (g) Printing and publishing.
- (h) Repair services, except for businesses related to passenger vehicles and trucks.
- (i) Service uses of blue-printing, duplicating, mailing, and graphic arts.
- (j) Research and design laboratories.
- (k) Uses not explicitly enumerated in this section as permitted uses, but closely similar thereto as determined by the Zoning Administrator, provided these uses are not explicitly mentioned as permitted or conditional uses elsewhere in the ordinance. (Ord. No. 91-1264, amended 9-19-1991)

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### 31.03 Accessory uses.

- (a) Dwelling for watchman (not to exceed five hundred (500) square feet) and limited to one (1) person.
- (b) Signs as regulated in Section 34.07.
- (c) Retail sales, incidental to manufacturing, of products manufactured, assembled, or warehoused on the premises, provided no more than ten percent (10%) of the building is used for retail space.
- (d) Coffee shops/cafeteria for employees.
- (e) Recreational facilities for employees.
- (f) Day care related to employees.

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### 31.04 Conditional uses.

- (a) Commercial nurseries/greenhouses.
- (b) Online purchase pick-up location.
- (c) Heliports.
- (d) Passenger vehicle service, major repair, including painting, body work and dismantling, exclusive of auto reduction yards. Storage of vehicles shall be screened with one hundred percent (100%) opaqueness.
- (e) Outdoor storage of passenger vehicles or vans, provided such storage shall be screened with one hundred percent (100%) opaqueness. Such outdoor storage shall be related specifically to a permitted or approved conditional use.

- (f) Two (2) or more buildings on same lot provided such buildings relate to one (1) permitted or conditional use.
- (g) Building over fifty (50) feet from ground level.
- (h) Indoor vehicles sales showroom.
- (i) Zero lot line, with shared access and/or parking. (Ord. No. 89-1118, amended 3-16-1989; Ord. No. 98-1754, amended 11-19-1998)
- (j) Adult Uses-Principal. As defined and licensed under Article VI - Blaine Municipal Code. (Ord. No. 93-1320, amended 1-7-1993)
- (k) Indoor commercial dog kennel with dwelling for night watchman. (Ord. No. 97-1676, amended 9-18-1997)
- (l) Personal care, health care, recreation, fitness, or education related commercial services. Sites must be able to demonstrate adequate on-site parking. Uses must be destination based and not generate traffic volumes measurably above the range normally expected by the other allowed I-1 uses. With the exception noted in Section 31.03(c), general retail sales is not permitted under this section. (Ord. No. 04-2007, added 03-18-2004)
- (m) Brewer taproom as associated with and on the same site as a licensed brewery. (Ord. No. 15-2334, added 12-17-2015)
- (n) Ground mounted solar as an accessory use. (Ord. No. <http://newords.municode.com/readordinance.aspx?ordinanceid=1091733&datasource=ordbank> web="yes">21-2474 </ulink>, 6-21-2021)

(Ord. No. 87-1046, amended 11-5-1987; Ord. No. <http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank> web="yes">20-2447 </ulink>, 7-20-2020; Ord. No. <http://newords.municode.com/readordinance.aspx?ordinanceid=1091733&datasource=ordbank> web="yes">21-2474 </ulink>, 6-21-2021)

### **31.05 Standards.**

- (a) Minimum lot size—One (1) acre.
- (b) Minimum lot width—One hundred fifty (150) feet.
- (c) Minimum lot depth—One hundred fifty (150) feet.
- (d) Front yard building setback—Forty (40) feet.
- (e) Corner side yard building setback—Forty (40) feet.
- (f) Side yard building setback—Fifteen (15) feet.
- (g) Rear yard building setback—Twenty (20) feet.
- (h) Building height—Fifty (50) feet from ground level without a conditional use permit and subject to FAA regulations.
- (i) Minimum building size—Five thousand (5,000) square feet.
- (j) Parking and driveways may be constructed to within the following minimum setbacks of property line:

(1) Front yard/corner side yard ..... 25 feet.

(2) Side yard ..... 10 feet.

(3) Rear yard ..... 10 feet.

If rear yard or side yard parking setback is adjacent to a residential district, the parking setback shall be twenty-five (25) feet. Such setback shall be opaquely screened with berms, shrubs, trees, fence, or a combination thereof.

(k) When a light industrial district is adjacent to any residential district, building setbacks shall be one hundred (100) feet along any side adjacent to a residential district.

(1) A reduction in the required building setback buffer may be requested by following the requirements in Section 33.20, Buffer Yard Flexibility.

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank) [7-20-2020](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank))

### **31.06 Landscaping.**

All landscaping requirements shall meet the provisions of Section 33.07, including the following:

(1) Underground irrigation shall be required for all front yards and corner side yards. Such irrigation shall extend to include public boulevard except along I-35W and into general parking islands, except natural areas to be preserved.

(2) Traffic safety islands and/or general parking islands where deemed appropriate shall be landscaped.

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank) [7-20-2020](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank))

### **31.07 Loading facilities.**

Loading facilities shall be in the side or rear yards and shall be screened. Screening can be accomplished using berms, shrubs, trees, fencing, architectural design or a combination thereof. For additional information and requirements, refer to Section 33.14.

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank) [7-20-2020](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank))

### **31.08 Storage/refuse facilities.**

(a) There shall be no outdoor storage of any kind within this district. For purposes of this zoning district, car, vans and pickup trucks parked outside and used by employees and/or visitors in the normal course of the business operation will not be construed to be outdoor storage. Further, outside parked trucks, semi-trailers and any other vehicles larger than 10,000 GVW used in the normal business' commerce will not be construed to be outdoor storage provided a) total number of vehicles over 10,000 GVW,

including but not limited to box trucks, semi cab, and semi-trailers does not exceed the number of docks and/or bay doors; and b) such use is not construed as an operation listed as a conditional use in any industrial zone.

- (b) Refuse facilities, except for individual containers for public use, shall be located only in the side yards or rear yards. Such facilities shall be constructed of masonry materials such as brick or textured block in colors compatible with the principal structure. Such facilities shall have solid gates.
- (c) There shall be no detached silos, storage tanks, storage bin containers or similar detached structures within this district.
- (d) All attached silos, storage tanks, storage bin containers or similar attached structures shall have screening approved by the Zoning Administrator. Attached structures include structures immediately adjacent to the building, subject to Zoning Administrator approval.

(Ord. No. 98-1732, amended 7-9-1998; Ord. No. [20-2447](http://newwords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### **31.09 Mechanical/electrical equipment.**

All mechanical/electrical equipment on the ground or roof, such as heating, air conditioning, transformers, shall be screened on all sides so as not to be visible from public streets or adjoining property. Such screening shall be designed and constructed of material(s) that is compatible with the principal building(s).

(Ord. No. [20-2447](http://newwords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

#### **31.091 Architectural control.**

- (a) All buildings erected shall be a type of construction as defined in the Minnesota Building Code. (Ord. No. 00-1835, amended 3-16-2000; Ord. No. 00-1876, amended 10-19-2000)
- (b) Any building shall be constructed so that all exterior sides shall be surfaced equivalent to the front building elevation as determined by the Zoning Administrator.
- (c) Exterior wall surfaces of all buildings shall be primarily faced with brick, stone, precast panel, cast-in-place panel, architectural concrete with other permitted materials, or glass.

Use of modern metal paneling materials or its equivalent shall be considered for exterior wall surfaces provided such materials are used in conjunction with other materials listed above. Use of modern metal paneling materials or its equivalent shall not exceed thirty-five percent (35%) of any individual wall surface.

- (d) The building design should exhibit architectural control which seeks to be creative and maximize building lines, shades, and angles to maximize architectural uniqueness.
- (e) All building design and exterior wall surface materials shall be reviewed and approved by the Zoning Administrator.
- (f) All buildings shall contain a concrete floor. (Ord. No. 00-1876, amended 10-19-2000)

(Ord. No. 98-1732, amended 7-9-1998; Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### **31.10 LIGHT INDUSTRIAL (I-1A)**

#### [31.11 Intent.](#)

#### [31.12 Permitted uses.](#)

#### [31.13 Accessory uses.](#)

#### [31.14 Conditional uses.](#)

#### [31.15 Standards.](#)

#### [31.16 Landscaping.](#)

#### [31.17 Loading facilities.](#)

#### [31.18 Storage/refuse facilities.](#)

#### [31.19 Mechanical/electrical equipment.](#)

#### [31.191 Architectural control.](#)

### **31.11 Intent.**

The purpose of this district is to provide for the development of industrial uses ranging from small to large scale industry and related services and allow minimal outside storage. This district shall encourage the development of industrial uses accessible to major highways and utilizing City services of sanitary sewer, water, street, and storm drainage. Such light industrial areas can be located next to heavy industrial, commercial, residential, and airport districts and shall be free of hazardous or objectionable elements such as noise, odor, dust, smoke, glare, or other pollutants.

(Ord. No. 97-1687, added 11-20-1997; Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### **31.12 Permitted uses.**

- (a) Manufacturing uses: manufacturing, compounding, processing, packaging, storage, treatment, or assembly of products and materials within a structure, except for rendering/slaughtering/refining facilities.
- (b) Warehousing.
- (c) Wholesale businesses.
- (d) Offices—Business and professional.
- (e) Engraving shops.
- (f) Machine shops.
- (g) Printing and publishing.

- (h) Repair services, except for businesses related to passenger vehicles and trucks.
- (i) Service uses of blue-printing, duplicating, mailing, and graphic arts.
- (j) Research and design laboratories.
- (k) Uses not explicitly enumerated in this section as permitted uses, but closely similar thereto as determined by the Zoning Administrator, provided these uses are not explicitly mentioned as permitted or conditional uses elsewhere in the **ordinance**.

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### **31.13 Accessory uses.**

- (a) Dwelling for watchman (not to exceed five hundred (500) square feet) and limited to one (1) person.
- (b) Signs as regulated in Section 34.07.
- (c) Retail sales, incidental to manufacturing, of products manufactured, assembled, or warehoused on the premises, provided no more than ten percent (10%) of the building is used for retail space.
- (d) Coffee shops/cafeteria for employees.
- (e) Recreational facilities for employees.
- (f) Day care related to employees.

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### **31.14 Conditional uses.**

- (a) Commercial nurseries/greenhouses.
- (b) Online purchase pickup location.
- (c) Heliports.
- (d) Passenger vehicle service, major repair, including painting, body work and dismantling, exclusive of auto reduction yards. Storage of vehicles shall be screened with one hundred percent (100%) opaqueness.
- (e) Outdoor storage of passenger vehicles or vans, provided such storage shall be screened with one hundred percent (100%) opaqueness. Such outdoor storage shall be related specifically to a permitted or approved conditional use.
- (f) Two (2) or more buildings on same lot provided such buildings relate to one (1) permitted or conditional use.
- (g) Building over fifty (50) feet from ground level.
- (h) Indoor vehicles sales showroom.
- (i) Zero lot line with shared access and/or parking. (Ord. No. 98-1754, amended 11-19-1998)



- (j) Adult Uses-Principal. As defined and licensed under Article VI - Blaine Municipal Code.
- (k) Limited outside storage of materials or small equipment meeting standards of 31.15 (l).
- (l) Contractor yard meeting standards of 31.15 (l).
- (m) Ground mounted solar as an accessory use. (Ord. No. [21-2474](http://newords.municode.com/readordinance.aspx?ordinanceid=1091733&datasource=ordbank), 6-21-2021)

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020; Ord. No. [21-2474](http://newords.municode.com/readordinance.aspx?ordinanceid=1091733&datasource=ordbank), 6-21-2021)

### **31.15 Standards.**

- (a) Minimum lot size—One (1) acre.
- (b) Minimum lot width—One hundred fifty (150) feet.
- (c) Minimum lot depth—One hundred fifty (150) feet.
- (d) Front yard building setback—Forty (40) feet.
- (e) Corner side yard building setback—Forty (40) feet.
- (f) Side yard building setback—Fifteen (15) feet.
- (g) Rear yard building setback—Twenty (20) feet.
- (h) Building height—Fifty (50) feet from ground level without a conditional use permit and subject to FAA regulations.
- (i) Minimum building size—Five thousand (5,000) square feet.
- (j) Parking and driveways may be constructed to within the following minimum setbacks of property line:
  - (1) Front yard/corner side yard twenty-five (25) feet.
  - (2) Side yard ten (10) feet.
  - (3) Rear yard ten (10) feet.

If rear yard or side yard parking setback is adjacent to a residential district, the parking setback shall be twenty-five (25) feet. Such setback shall be opaquely screened with berms, shrubs, trees, fence, or a combination thereof.

- (k) When a light industrial district is adjacent to any residential district, building setbacks shall be one hundred (100) feet along any side adjacent to a residential district.
  - (1) A reduction in the required building setback buffer may be requested by following the requirements in Section 33.20 Buffer Yard Flexibility.
- (l) Limited outside storage:
  - (1) Outside storage area limited to a maximum of fifty percent (50%) of total building footprint.

- (2) Sites considered for limited outside storage shall be capable of providing full screening so that outside storage is not visible from any public right-of-way.
- (3) Screening to be achieved through a combination of masonry walls, fencing, berming, landscaping, additional setbacks, etc.
- (4) Limited outside storage limited to a maximum height of twelve (12) feet.
- (5) A Conditional Use Permit for limited outside storage shall not permit the outside storage of semi-trucks, semi-trailers, or heavy construction equipment.
- (6) All limited outside storage areas are to be hard surfaced and bound at the perimeter by either B-6-12 concrete curb and gutter or fencing as determined by the Zoning Administrator.
- (7) Additional screening may be required to effectively screen outside storage from the view of adjacent properties.

(Ord. No. [20-2447](http://newwords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank) [7-20-2020](http://newwords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank))

### **31.16 Landscaping.**

- (a) All landscaping requirements shall meet the provisions of Section 33.07, including the following:
  - (1) Underground irrigation shall be required for all front yards and corner side yards.
  - (2) Traffic safety islands and/or general parking islands where deemed appropriate shall be landscaped.

(Ord. No. [20-2447](http://newwords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank) [7-20-2020](http://newwords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank))

### **31.17 Loading facilities.**

- (a) Loading facilities shall be in the side or rear yards and shall be screened. When visible only to another lot, such facilities must be screened with fifty percent (50%) opaqueness. Screening can be accomplished using berms, shrubs, trees, fencing, architectural design or a combination thereof.

For additional information and requirements, refer to Section 33.15.

(Ord. No. [20-2447](http://newwords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank) [7-20-2020](http://newwords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank))

### **31.18 Storage/refuse facilities.**

- (a) There shall be no outdoor storage of any kind within this district except as authorized by a conditional use permit. For purposes of this zoning district, car, vans and pickup trucks parked outside and used by employees and/or visitors in the normal course of the business operation will not be construed to be outdoor storage. Further, outside parked trucks, semi-trailers and any other vehicles larger than 10,000 GVW used in the normal business' commerce will not be construed to be outdoor storage

provided a) total number of vehicles over 10,000 GVW, including but not limited to box trucks, semi cab, and semi-trailers does not exceed the number of docks and/or bay doors; and b) such use is not construed as an operation listed as a conditional use in any industrial zone.

- (b) Refuse facilities, except for individual containers for public use, shall be located only in the side yards or rear yards. Such facilities shall be constructed of masonry materials such as brick or textured block in colors compatible with the principal structure. Such facilities shall have solid gates.
- (c) There shall be no detached silos, storage tanks, storage bin containers or similar detached structures within this district.
- (d) All attached silos, storage tanks, storage bin containers or similar attached structures shall have screening approved by the Zoning Administrator. Attached structures include structures immediately adjacent to the building, subject to Zoning Administrator approval.

(Ord. No. 98-1732, amended 7-9-1998; Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### **31.19 Mechanical/electrical equipment.**

All mechanical/electrical equipment on the ground or roof, such as heating, air conditioning, transformers, shall be screened on all sides so as not to be visible from public streets or adjoining property. Such screening shall be designed and constructed of material(s) that is compatible with the principal building(s).

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### **31.191 Architectural control.**

- (a) All buildings erected shall be a type of construction as defined in the Minnesota Building Code. (Ord. No. 00-1876, amended 10-19-2000; Ord. No. 00-1835, amended 3-16-2000)
- (b) Any building shall be constructed so that all exterior sides shall be surfaced equivalent to the front building elevation as determined by the Zoning Administrator.
- (c) Exterior wall surfaces of all buildings shall be primarily faced with brick, stone, precast panel, cast-in-place panel, architectural concrete with other permitted materials, or glass.

Use of modern metal paneling materials or its equivalent shall be considered for exterior wall surfaces provided such materials are used in conjunction with other materials listed above. Use of modern metal paneling materials or its equivalent shall not exceed thirty-five percent (35%) of any individual wall surface.

- (d) The building design should exhibit architectural control which seeks to be creative and maximize building lines, shades, and angles to maximize architectural uniqueness.
- (e) All building design and exterior wall surface materials shall be reviewed and approved by the Zoning Administrator.
- (f) All buildings shall contain a concrete floor. (Ord. No. 00-1876, amended 10-19-2000)

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### **31.20 HEAVY INDUSTRIAL (I-2)**

#### **31.21 Intent.**

#### **31.22 Permitted uses.**

#### **31.23 Accessory uses.**

#### **31.24 Conditional uses.**

#### **31.25 Interim uses.**

#### **31.26 Standards.**

#### **31.27 Landscaping.**

#### **31.28 Loading facilities.**

#### **31.29 Storage/refuse facilities.**

#### **31.291 Mechanical/electrical equipment.**

#### **31.292 Architectural control.**

#### **31.293 Standards for transient sales.**

#### **31.294 Standards for crushing of concrete demolition materials.**

#### **31.21 Intent.**

The purpose of this district is to provide for the development of heavy industrial uses ranging from small to large scale industry with a need for outdoor uses and storage and related services. This district shall encourage the development of industrial uses accessible to major highways and utilizing City services of sanitary sewer, water, street, and storm drainage. Such heavy industrial areas should be located next to light industrial and airport districts and shall be free of hazardous or objectionable elements such as noise, odor, dust, smoke, glare, or other pollutants.

(Ord. No. 87-1024, amended 6-4-1987; Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

#### **31.22 Permitted uses.**

- (a) Manufacturing uses: manufacturing, compounding, processing, packaging, storage, treatment, or assembly of products and materials within a structure, except for rendering/slaughtering/refining facilities.
- (b) Warehousing with outside parking of trucks, semitrailers, or other vehicles greater than 10,000 GVW other than buses not exceeding the number of docks and/or bay doors. (Ord. No. 95-1586, amended 12-21-1995)
- (c) Wholesale businesses.

- (d) Offices—Business and professional.
- (e) Engraving shops.
- (f) Machine shops.
- (g) Printing and publishing.
- (h) Repair services, except for businesses related to passenger vehicles and trucks.
- (i) Service uses of blue-printing, duplicating, mailing, and graphic arts.
- (j) Passenger vehicle service, major repair, including painting, body work and dismantling, exclusive of auto reduction yards. Storage of vehicles shall be screened with one hundred percent (100%) opaqueness. Towing may be included as an incidental use for vehicles that are towed to the site for repair.
- (k) Uses not explicitly enumerated in this section as permitted uses, but closely similar thereto as determined by the Zoning Administrator, provided these uses are not explicitly mentioned as permitted or conditional uses elsewhere in this **ordinance**. (Ord. No. 91-1264, amended 9-19-1991)

(Ord. No. [20-2447](http://newwords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### **31.23 Accessory uses.**

- (a) Dwelling for watchman (not to exceed five hundred (500) square feet) and limited to one (1) person.
- (b) Signs as regulated in Section 34.07.
- (c) Retail sales, incidental to manufacturing, of products manufactured, assembled, or warehoused on the premises, provided no more than ten percent (10%) of the building is used for retail space.
- (d) Coffee shops/cafeteria for employees.
- (e) Recreational facilities for employees.
- (f) Day care related to employees.
- (g) Short term lodging facilities for transportation terminals (31.14(l)). Limited to a maximum of sixteen (16) beds. (Ord. No. 90-1179, added 1-18-1990)
- (h) Bulk commodity storage facilities. Such facilities are exempt from the regulations of Section 31.193 Architectural Control. (Ord. No. 01-1935, added 2-3-2002)

(Ord. No. [20-2447](http://newwords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### **31.24 Conditional uses.**

- (a) Commercial nurseries/greenhouses.
- (b) Waste transfer facility.
- (c) Automotive towing business with outdoor tow yard or impound lot.

- (d) Heliports.
- (e) Outdoor storage of materials or equipment other than passenger vehicles. All outside storage areas greater than one (1) acre require additional building standards outlined in [Section] 31.15(i). (Ord. No. 16-2342, amended 2-18-2016)
- (f) Condominium conversion of building(s).
- (g) Two (2) or more buildings on same lot provided such buildings relate to one (1) permitted or conditional use.
- (h) Contractor yards. (Ord. No. 89-1147, amended 6-15-1989)
- (i) Commercial kennels.
- (j) Public transportation terminal- privately owned.
- (k) Trap and skeet ranges.
- (l) Tractor, trailer, farm implement, or marine assembly, manufacturing, or repair without outside storage of trucks or trailers exceeding the number of dock and/or bay doors on the building. (Ord. No. 94-1498, amended 2-3-1994)
- (m) Equipment rental.
- (n) Building over fifty (50) feet from ground level.
- (o) Automobile reduction/automobile reduction yards. (Ord. 88-1104, amended 11-17-1988)
- (p) Zero lot line with shared access and/or parking. (Ord. No. 89-1118, amended 3-16-1989)
- (q) Online purchase pick-up location.
- (r) Adult Uses—Principal. As defined and licensed under Article VI - Blaine Municipal Code. (Ord. No. 93-1320, amended 1-7-1993)
- (s) Yard waste drop-off facility. (Ord. No. 95-1564, amended 7-6-1995)
- (t) Retail sales facility for CNG (Compressed Natural Gas) or other alternative automotive fuels. Retail sales must be accessory to an onsite fleeting fueling operation. (Ord. No. 11-2224, added 6-16-2011)
- (u) Personal care, health care, recreation, fitness, or education related commercial services. Sites must be able to demonstrate adequate on-site parking. Uses must be destination based and not generate traffic volumes measurably above the range normally expected by the other allowed I-2 uses. With the exception noted in Section 31.23 (c) , general retail sales is not permitted under this section. (Ord. No. 13-2266, added 5-16-2013)
- (v) Indoor vehicle sales showroom. (Ord. No. 14-2295, added 10-16-2014)
- (w) Brewer taproom associated with and on the same site as a licensed brewery. (Ord. No. 15-2334, added 12-17-2015)
- (x) Ground mounted solar as an accessory use. (Ord. No. [21-2474](http://newords.municode.com/readordinance.aspx?ordinanceid=1091733&datasource=ordbank), 6-21-2021

(Ord. No. 98-1722, amended 5-21-1998; Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020; Ord. No. [21-2474](http://newords.municode.com/readordinance.aspx?ordinanceid=1091733&datasource=ordbank), 6-21-2021)

url="http://newords.municode.com/readordinance.aspx?ordinanceid=1091733&datasource=ordbank" web="yes">21-2474 </ulink>, 6-21-2021)

### **31.25 Interim uses.**

- (a) Transient Sales meeting standards outlined in Section 31.293.
- (b) Crushing of concrete demolition materials meeting standards of Section 31.294 (Ord. No. 93-1327, amended 4-15-1993)

(Ord. No. <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank" web="yes">20-2447 </ulink>, 7-20-2020)

### **31.26 Standards.**

- (a) Minimum lot size—One (1) acre.
- (b) Minimum lot width—One hundred fifty (150) feet.
- (c) Minimum lot depth—One hundred fifty (150) feet.
- (d) Front yard building setback—Forty (40) feet.
- (e) Corner side yard building setback—Forty (40) feet.
- (f) Side yard building setback—Fifteen (15) feet.
- (g) Rear yard building setback—Twenty (20) feet.
- (h) Building height—Fifty (50) feet from ground level unless authorized by a conditional use permit and subject to FAA regulations.
- (i) Minimum building size—Five thousand (5,000) square feet. A site with an outside storage area greater than one (1) acre in size requires a minimum building size of twenty thousand (20,000) square feet.
- (j) Parking and driveways may be constructed to within the following minimum setbacks of property line:
  - (1) Front yard/corner side yard—Twenty-five (25) feet.
  - (2) Side yard—Ten (10) feet.
  - (3) Rear yard—Ten (10) feet.

If rear yard or side yard parking setback is adjacent to a residential district, the parking setback shall be twenty-five (25) feet. Such setback shall be opaquely screened with berms, shrubs, trees, fence or a combination thereof.

- (k) When a heavy industrial district is adjacent to any residential district, building setbacks shall be one hundred (100) feet along any side adjacent to a residential district.
  - (1) A reduction in the required building setback buffer may be requested by following the requirements in Section 33.20 Buffer Yard Flexibility.

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### **31.27 Landscaping.**

- (a) All landscaping requirements shall meet the provisions of Section 33.07, including the following:
- (1) Underground irrigation shall be required for all front yards and corner side yards. Such irrigation shall extend to include public boulevard except along I-35W and into general parking islands, except natural areas to be preserved.
  - (2) Traffic safety islands and/or general parking islands where deemed appropriate shall be landscaped.

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### **31.28 Loading facilities.**

Loading facilities shall be in the side or rear yards. When adjacent to and/or visible from any public street, such facilities must be screened with one hundred percent (100%) opaqueness. When visible only to another lot, such facilities must be screened with fifty percent (50%) opaqueness. Screening can be accomplished using berms, shrubs, trees, fencing, architectural design or a combination thereof. For additional information and requirements, refer to Sections 31.24, 31.26.

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### **31.29 Storage/refuse facilities.**

- (a) Outdoor storage shall be allowed within this district meeting all conditions imposed under a conditional use permit. All outdoor storage shall be located in the rear yard.
- (b) Refuse facilities, except for individual containers for public use, shall be located only in the side yards or rear yards. Such facilities shall be constructed of masonry materials such as brick or textured block in colors compatible with the principal structure. Such facilities shall have solid gates.
- (c) There shall be no detached silos, storage tanks, storage bin containers or similar detached structures within this district. Above ground fuel tanks are exempt from this requirement with Zoning Administrator approval of placement, screening and issuance of Building and Fire Department permits. (Ord. No. 95-1564, amended 7-6-1995)
- (d) All attached silos, storage tanks, storage bin containers or similar attached structures shall have screening approved by the (Community Development Director) Zoning Administrator. Attached structures include structures immediately adjacent to the building, subject to Zoning Administrator approval.



(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### **31.291 Mechanical/electrical equipment.**

All mechanical/electrical equipment on the ground or roof, such as heating, air conditioning, transformers, shall be screened on all sides so as not to be visible from public streets or adjoining property. Such screening shall be designed and constructed of material(s) that is compatible with the principal building(s).

(Ord. No. 98-1732, amended 7-9-1998; Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### **31.292 Architectural control.**

- (a) All buildings erected shall be a type of construction as defined in the Minnesota Building Code. (Ord. No. 00-1876, amended 10-19-2000; Ord. No. 00-1835, amended 3-16-2000)
- (b) Any building shall be constructed so that all exterior sides shall be surfaced equivalent to the front building elevation as determined by the Zoning Administrator.
- (c) Exterior wall surfaces of all buildings shall be primarily faced with brick, stone, pre-cast panel, cast-in-place panel, architectural concrete in combination with glass or other permitted materials.

Based on building size, height, location and/or special use, the Zoning Administrator may approve the use of modern metal paneling materials or its equivalent for exterior wall surfaces provided such materials are used in conjunction with other materials listed above. Use of modern metal paneling materials or its equivalent shall not exceed seventy percent (70%) of the cumulative area of all building walls. Modern metal paneling shall be used primarily on the rear wall and secondarily on the side and/or front wall. (Ord. No. 90-1236, amended 10-18-1990)

- (d) The building design should exhibit architectural control which seeks to be creative and maximize building lines, shades, and angles to maximize architectural uniqueness.
- (e) All building design and exterior wall surface materials shall be reviewed and approved by the Zoning Administrator.
- (f) All buildings shall contain a concrete floor. (Ord. No. 00-1876, amended 10-19-2000)

(Ord. No. 98-1732, amended 7-9-1998; Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### **31.293 Standards for transient sales.**

- (a) Location of the sale shall have a minimum one-hundred-fifty-foot setback from any intersection.
- (b) No sales shall be located within or upon any public right-of-way, landscaped area, required front and side yard setbacks when the side yard abuts a street, fire lane, or designated drive aisle.

- (c) The space used for transient sales, including off-street parking in connection with the transient sales, shall not exceed the space needed for any existing business at the site.
- (d) Merchandise offered for sale shall not occupy more than one hundred (100) square feet.
- (e) Adequate off-street parking must be available to serve both the principal use of the property and the use of the property for transient sales.
- (f) Use of the property for transient sales shall not exceed eight (8) days within a maximum period of six (6) months.
- (g) Transient sales shall not take place between the hours of 6:00 p.m. and 10:00 a.m.
- (h) No overnight storage of transient merchant equipment or merchandise shall be allowed. Transient merchant equipment or merchandise shall be permitted on the premises only between the hours of 8:00 a.m. and 8:00 p.m. on a day transient sales are to take place.
- (i) Signs shall be subject to the requirements of Chapter 34 of the Blaine Zoning **Ordinance**.
- (j) The use of any horn, bell, or any loud or unusual noise to call attention to a transient sale is prohibited.
- (k) A license shall be issued pursuant to Sections 22-271 through 22-330 of the Blaine Code.
- (l) The license required by Minnesota Statutes Section 329.11 shall be filed with the City Clerk and shall be conspicuously posted in the transient merchant's place of business.
- (m) Written permission to occupy the property shall be filed with the City Clerk and shall be conspicuously posted in the transient merchant's place of business.

(Ord. No. 89-1168, added 3-1-1990; Ord. No. 98-1732, amended 7-9-1998; Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### **31.294 Standards for crushing of concrete demolition materials.**

- (a) Minimum lot size of ten (10) acres.
- (b) Crushing and storage located in rear yard only.
- (c) Storage of demolition materials to meet the following setbacks:
  - 1. Ten (10) feet against I-2 zoned uses.
  - 2. Fifty (50) feet against I-1 zoned uses.
  - 3. One hundred (100) feet against all other zoning districts.
- (d) Recycling (crushing) of concrete demolition materials to meet the following setbacks:
  - 1. Fifty (50) feet against I-2 zoned uses.
  - 2. One hundred (100) feet against all other zoning districts.
- (e) Storage bunkered on three (3) sides.
- (f) Maximum storage height of fifteen (15) feet.
- (g) Maximum storage volume of twenty thousand (20,000) cubic yards.

- (h) Crushing activity limited to no more than forty-five (45) days in [a] twenty-four-month period.
- (i) Interim use permits issued under Section 31.25 (b) automatically expire after three (3) years. The holder of such a permit must submit a written request to the City Council if they wish to have the permit renewed for an additional three-year period. The City Council reserves the right to modify conditions of the permit if conditions warrant. All concrete demolition storage must be removed within sixty (60) days after a conditional use permit expires. (Ord. No. 06-2079, amended 3-16-2006)

(Ord. No. 93-1327, added 4-15-1993; Ord. No. 96-1588, amended 1-18-1996; Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### **31.30 HEAVY INDUSTRIAL (I-2A)**

#### **31.31 Intent.**

#### **31.32 Permitted uses.**

#### **31.33 Accessory uses.**

#### **31.34 Conditional uses.**

#### **31.35 Interim uses.**

#### **31.36 Standards.**

#### **31.37 Landscaping.**

#### **31.38 Loading facilities.**

#### **31.39 Storage/refuse facilities.**

#### **31.391 Mechanical/electrical equipment.**

#### **31.392 Architectural control.**

#### **31.393 Standards for transient sales.**

#### **31.394 Standards for crushing of concrete demolition materials.**

#### **31.395 Standards for asphalt processing and recycling facility.**

#### **31.31 Intent.**

The purpose of this district is to provide for the development of heavy industrial uses ranging from small to large scale industry with a need for outdoor uses and related services, including trucking and asphalt plants. This district shall encourage the development of industrial uses accessible to major highways and utilizing City services of sanitary sewer, water, street, and storm drainage. Such heavy industrial areas should be located next to heavy or light industrial and airport districts and shall be free of hazardous or objectionable elements such as noise, odor, dust, smoke, glare, or other pollutants.

(Ord. No. 98-1720, added 5-21-1998; Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### 31.32 Permitted uses.

- (a) Manufacturing uses: manufacturing, compounding, processing, packaging, storage, treatment, or assembly of products and materials within a structure, except for rendering/slaughtering/refining facilities.
- (b) Warehousing with outside parking of trucks, semitrailers, or other vehicles exceeding 10,000 GVW except for busses not exceeding the number of docks and/or bay doors.
- (c) Wholesale businesses.
- (d) Offices—Business and professional.
- (e) Engraving shops.
- (f) Machine shops.
- (g) Printing and publishing.
- (h) Repair services, except for businesses related to passenger vehicles and trucks.
- (i) Service uses of blue-printing, duplicating, mailing, and graphic arts.
- (j) Passenger vehicle service, major repair, including painting, body work and dismantling, exclusive of auto reduction yards. Storage of vehicles shall be screened with one hundred percent (100%) opaqueness. Towing may be included as an incidental use for vehicles that are towed to the site for repair.
- (k) Uses not explicitly enumerated in this section as permitted uses, but closely similar thereto as determined by the Zoning Administrator, provided these uses are not explicitly mentioned as permitted or conditional uses elsewhere in this ordinance.

(Ord. No. 98-1720, added 5-21-1998; Ord. No. [20-2447](http://newwords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### 31.33 Accessory uses.

- (a) Dwelling for watchman (not to exceed five hundred (500) square feet) and limited to one (1) person.
- (b) Signs as regulated in Section 34.07.
- (c) Retail sales, incidental to manufacturing, of products manufactured, assembled, or warehoused on the premises, provided no more than ten percent (10%) of the building is used for retail space.
- (d) Coffee shops/cafeteria for employees.
- (e) Recreational facilities for employees.
- (f) Day care related to employees.
- (g) Short term lodging facilities for truck and transportation terminals ([Section] 31.1984(i)). Limited to a maximum of sixteen (16) beds.

(Ord. No. 98-1720, added 5-21-1998; Ord. No. [20-2447](http://newwords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### 31.34 Conditional uses.

- (a) Commercial nurseries/greenhouses.
- (b) Waste transfer facility.
- (c) Automotive towing businesses with outdoor tow yard.
- (d) Heliports.
- (e) Outdoor storage of materials or equipment other than vehicles. All outside storage areas greater than one (1) acre require additional building standards outlined in Section 31.36(i). (Ord. No. 16-2342, amended 2-18-2016)
- (f) Condominium conversion of building(s).
- (g) Two (2) or more buildings on same lot provided such buildings relate to one (1) permitted or conditional use.
- (h) Contractor yards.
- (i) Truck or transportation terminal or outside parking of trucks or semitrailers exceeding the number of docks and/or bay doors. The minimum building size for a truck terminal, transportation terminal, or cross dock shipping facility shall be fifty thousand (50,000) square feet. (Ord. No. 16-2342, amended 2-18-2016)
- (j) Self storage facility, indoor.
- (k) Commercial kennels.
- (l) Public transportation terminal-public or privately owned.
- (m) Tractor, trailer, farm implement, or marine assembly, manufacturing, sales, repair, or rental with or without a number of trucks or trailers stored outside exceeding the number of dock and/or bay doors.
- (n) Equipment rental.
- (o) Building over fifty (50) feet from ground level.
- (p) Automobile reduction/automobile reduction yards.
- (q) Zero lot line with shared access and/or shared parking.
- (r) Online purchase pickup location.
- (s) Adult Uses-Principal. As defined and licensed under Article VI - Blaine Municipal Code.
- (t) Yard waste drop-off facility.
- (u) Ground mounted solar as an accessory use. (Ord. No. <http://newords.municode.com/readordinance.aspx?ordinanceid=1091733&datasource=ordbank> web="yes">21-2474 </ulink>, 6-21-2021)

(Ord. No. <http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank> web="yes">20-2447 </ulink>, 7-20-2020; Ord. No. <http://newords.municode.com/readordinance.aspx?ordinanceid=1091733&datasource=ordbank> web="yes">21-2474 </ulink>, 6-21-2021)

### 31.35 Interim uses.

- (a) Transient sales, meeting standards outlined in Section 31.393.
- (b) Crushing of concrete demolition materials meeting standards of Section 31.394.
- (c) Asphalt processing and recycling facility meeting standards of Section 31.395. (Ord. No. 98-1760, amended 12-17-1998)

(Ord. No. 98-1720, added 5-21-1998; Ord. No. <http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank> web="yes">20-2447 </ulink>, 7-20-2020; Ord. No. <http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank> web="yes">20-2447 </ulink>, 7-20-2020)

### 31.36 Standards.

- (a) Minimum lot size—One (1) acre.
- (b) Minimum lot width—One hundred fifty (150) feet.
- (c) Minimum lot depth—One hundred fifty (150) feet.
- (d) Front yard building setback—Forty (40) feet.
- (e) Corner side yard building setback—Forty (40) feet.
- (f) Side yard building setback—Fifteen (15) feet.
- (g) Rear yard building setback—Twenty (20) feet.
- (h) Building height—Fifty (50) feet from ground level unless authorized by a conditional use permit and subject to FAA regulations.
- (i) Minimum building size—Five thousand (5,000) square feet. A site with an outside storage area greater than one (1) acre in size requires a minimum building size of twenty thousand (20,000) square feet. (Ord. No. 16-2342, amended 2-18-2016)
- (j) Parking and driveways may be constructed to within the following minimum setbacks of property line:
  - (1) Front yard/corner side yard—Twenty-five (25) feet.
  - (2) Side yard—Ten (10) feet.
  - (3) Rear yard—Ten (10) feet.

If rear yard or side yard parking setback is adjacent a residential district, the parking setback shall be twenty-five (25) feet. Such setback shall be opaquely screened with berms, shrubs, trees, fence or a combination thereof.

- (k) When a heavy industrial district is adjacent to any residential district, building setbacks shall be one hundred (100) feet along any side adjacent to a residential district.
  - (1) A reduction in the required building setback buffer may be requested by following the requirements in Section 33.20 Buffer Yard Flexibility.
- (l) Notwithstanding performance standards in Section 33.00, all activities within this district must comply with all Minnesota Pollution Control Agency regulations. In addition, no vibration shall be permitted

which is discernible beyond the property line to the human sense of feeling for three (3) minutes or more duration in any one (1) hour, and any vibration producing an acceleration of more than 0.1g, or shall result in any combination of amplitudes and frequencies beyond the "safe" range of Table 7, U.S. Bureau of Mines, Bulletin "Quarry Blasting" on any structure.

- (m) Common areas for condominiums. The developer may provide parking, common walls, driveways and waiting areas in an area common to all units of the building. Common areas shall be deeded to and held in the name of an owner's association created by the developer and including all owners of property in the project. Declarations, in form and substance acceptable to the City Attorney, governing the usage and maintenance of such common areas shall be adopted and filed by the developer.

(Ord. No. 98-1720, added 5-21-1998; Ord. No. [20-2447](http://newwords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### **31.37 Landscaping.**

- (a) All landscaping requirements shall meet the provisions of Section 33.07, including the following:
  - (1) Underground irrigation shall be required for all front yards and corner side yards. Such irrigation shall extend to include public boulevard except along I-35W and into general parking islands, except natural areas to be preserved.
  - (2) Traffic safety islands and/or general parking islands where deemed appropriate shall be landscaped.

(Ord. No. 98-1720, added 5-21-1998; Ord. No. [20-2447](http://newwords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### **31.38 Loading facilities.**

Loading facilities shall be in the side or rear yards. When adjacent to and/or visible from any public street, such facilities must be screened with one hundred percent (100%) opaqueness. When visible only to another lot, such facilities must be screened with fifty percent (50%) opaqueness. Screening can be accomplished using berms, shrubs, trees, fencing, architectural design or a combination thereof. For additional information and requirements, refer to Section 33.14.

(Ord. No. 98-1720, added 5-21-1998; Ord. No. [20-2447](http://newwords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### **31.39 Storage/refuse facilities.**

- (a) Outdoor storage shall be allowed within this district meeting all conditions imposed under a conditional use permit. All outdoor storage shall be located in the rear yard.
- (b) Refuse facilities, except for individual containers for public use, shall be located only in the side yards or rear yards. Such facilities shall be constructed of masonry materials such as brick or textured block in colors compatible with the principal structure. Such facilities shall have solid gates.

- (c) There shall be no detached silos, storage tanks, storage bin containers or similar detached structures within this district. Above ground fuel tanks are exempt from this requirement with Zoning Administrator approval of placement, screening and issuance of Building and Fire Department permits.
- (d) All attached silos, storage tanks, storage bin containers or similar attached structures shall have screening approved by the (Community Development Director) Zoning Administrator. Attached structures include structures immediately adjacent to the building, subject to Zoning Administrator approval.

(Ord. No. 98-1720, added 5-21-1998; Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### **31.391 Mechanical/electrical equipment.**

All mechanical/electrical equipment on the ground or roof, such as heating, air conditioning, transformers, shall be screened on all sides so as not to be visible from public streets or adjoining property. Such screening shall be designed and constructed of material(s) that is compatible with the principal building(s).

(Ord. No. 98-1720, added 5-21-1998; Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### **31.392 Architectural control.**

- (a) All buildings erected shall be a type of construction as defined in the Uniform Building Code. (Ord. No. 00-1876, amended 10-19-2000; Ord. No. 00-1835, amended 3-16-2000)
- (b) Any building shall be constructed so that all exterior sides shall be surfaced equivalent to the front building elevation as determined by the Zoning Administrator.
- (c) Exterior wall surfaces of all buildings shall be primarily faced with brick, stone, pre-cast panel, cast-in-place panel, architectural concrete in combination with glass or other permitted materials. Based on building size, height, location and/or special use, the Zoning Administrator may approve the use of modern metal paneling materials or its equivalent for exterior wall surfaces provided such materials are used in conjunction with other materials listed above. Use of modern metal paneling materials or its equivalent shall not exceed seventy percent (70%) of the cumulative area of all building walls. Modern metal paneling shall be used primarily on the rear wall and secondarily on the side and/or front wall.
- (d) The building design should exhibit architectural control which seeks to be creative and maximize building lines, shades, and angles to maximize architectural uniqueness.
- (e) All building design and exterior wall surface materials shall be reviewed and approved by the Zoning Administrator.
- (f) All buildings shall contain a concrete floor. (Ord. No. 00-1876, amended 10-19-2000)



(Ord. No. 98-1720, added 5-21-1998; Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### **31.393 Standards for transient sales.**

- (a) Location of the sale shall have a minimum one-hundred-fifty-foot setback from any intersection.
- (b) No sales shall be located within or upon any public right-of-way, landscaped area, required front and side yard setbacks when the side yard abuts a street, fire lane, or designated drive aisle.
- (c) The space used for transient sales, including off-street parking in connection with the transient sales, shall not exceed the space needed for any existing business at the site.
- (d) Merchandise offered for sale shall not occupy more than one hundred (100) square feet.
- (e) Adequate off-street parking must be available to serve both the principal use of the property and the use of the property for transient sales.
- (f) Use of the property for transient sales shall not exceed eight (8) days within a maximum period of six (6) months.
- (g) Transient sales shall not take place between the hours of 6:00 p.m. and 10:00 a.m.
- (h) No overnight storage of transient merchant equipment or merchandise shall be allowed. Transient merchant equipment or merchandise shall be permitted on the premises only between the hours of 8:00 a.m. and 8:00 p.m. on a day transient sales are to take place.
- (i) Signs shall be subject to the requirements of Chapter 34 of the Blaine Zoning **Ordinance**.
- (j) The use of any horn, bell, or any loud or unusual noise to call attention to a transient sale is prohibited.
- (k) A license shall be issued pursuant to Sections 15-20 through 15-22 of the Blaine Code.
- (l) The license required by Minnesota Statutes Section 329.11 shall be filed with the City Clerk and shall be conspicuously posted in the transient merchant's place of business.
- (m) Written permission to occupy the property shall be filed with the City Clerk and shall be conspicuously posted in the transient merchant's place of business.

(Ord. No. 98-1720, added 5-21-1998; Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### **31.394 Standards for crushing of concrete demolition materials.**

- (a) Minimum lot size of ten (10) acres.
- (b) Crushing and storage located in rear yard only.
- (c) Storage of demolition materials to meet the following setbacks:
  - (1) Ten (10) feet against I-2 zoned uses.
  - (2) Fifty (50) feet against I-1 zoned uses.
  - (3) One hundred (100) feet against all other zoning districts.

(d) Recycling (crushing) of concrete demolition materials to meet the following setbacks:

- (1) Fifty (50) feet against I-2 zoned uses.
- (2) One hundred (100) feet against all other zoning districts.

(e) Storage bunkered on three (3) sides.

(f) Maximum storage height of fifteen (15) feet.

(g) Maximum storage volume of twenty thousand (20,000) cubic yards.

(h) Crushing activity limited to no more than forty-five (45) days in twenty-four-month period.

(i) Interim use permits issued under Section 31.1984(t) automatically expire after three (3) years. The holder of such a permit must submit a written request to the City Council if they wish to have the permit renewed for an additional three-year period. The City Council reserves the right to modify conditions of the permit if conditions warrant. All concrete demolition storage must be removed within sixty (60) days after a conditional use permit expires. (Ord. No. 06-2079, amended 03-16-2006)

(Ord. No. 98-1720, added 5-21-1998; Ord. No. <http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank> web="yes">20-2447 </ulink>, 7-20-2020)

### **31.395 Standards for asphalt processing and recycling facility.**

(a) Minimum lot size of twenty (20) acres.

(b) Recycling and outside storage of materials in rear yard only.

(c) Outside storage of asphalt materials or asphalt processing facility to meet the following setbacks:

- (1) Fifty (50) feet against I-2 (Heavy Industrial) and I-2A (Heavy Industrial) zoned uses.
- (2) Fifty (50) feet against I-1 (Light Industrial) uses or airport property.
- (3) One hundred (100) feet against all other zoning districts or public right-of-way.

(d) Maximum outside storage height of thirty (30) feet.

(e) Maximum outside storage volume of one hundred fifty thousand (150,000) cubic yards.

(f) Facility must prepare for City approval a Pollution Prevention Plan which would identify the type of wastes generated, procedures for spill containment, and disposal methods.

(g) The facility must be operated in such a manner as to minimize the potential for spills or discharge of any pollution.

(h) The applicant to obtain and adhere to all other required agency (MPCA, Anoka County) permits and standards.

(i) Facility to conduct and provide written report to the City of annual soil and water quality tests through an independent and recognized testing company.

(j) Applicant to prepare for City approval a facility closure plan that provides a financial guarantee in an amount to be determined by the City to ensure that site remediation and abatement measures can be successfully implemented.

(k) Other standards as recommended and required by the City Council through the issuance of a Interim Use Permit.

(Ord. No. 98-1720, added 5-21-1998; Ord No. 98-1760, amended 12-17-1998; Ord. No. [class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank" web="yes">20-2447 </ulink>](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

## **Chapter 32 OVERLAY DISTRICTS**

32.00 - FLOODPLAIN OVERLAY DISTRICTS (FP)

32.50 - HIGHWAY 65 OVERLAY DISTRICT (HOD)

### **32.00 FLOODPLAIN OVERLAY DISTRICTS (FP) \***

--- (ZON\_2) ---

**Editor's note**— Editor's note— Ord. No. 15-2327, adopted Oct. 15, 2015, repealed Ch. 32.00, §§ 32.01—32.13, and enacted a new Ch. 32.00 as set out herein. The former Ch. 32.00 pertained to similar subject matter.

32.01 Statutory authorization and purpose.

32.02 General provisions.

32.03 Establishment of zoning districts.

32.04 Floodway district (FW).

32.05 Flood fringe district (FF).

32.06 General floodplain district (GF).

32.07 Land development standards.

32.08 Public utilities, railroads, roads, and bridges.

32.09 Manufactured homes, manufactured home parts, and recreational vehicles.

32.10 Administration.

32.11 Nonconformities.

32.12 Penalties and enforcement.

32.13 Amendments.

<sup>133</sup>**32.01 Statutory authorization and purpose.**

(a) *Statutory Authorization.* The legislature of the State of Minnesota has, in **Minnesota Statutes Chapter 103F and Chapter 462** delegated the responsibility to local government units to adopt regulations designed to minimize flood losses. ~~Therefore, the City Council of Blaine, Minnesota, does ordain as follows:~~

(b) *Purpose.*

- (1) This **ordinance** regulates development in the flood hazard areas of Blaine, Minnesota. 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 **ordinance** to promote the public health, safety, and general welfare by minimizing these losses and disruptions.
- (2) National Flood Insurance Program Compliance. This **ordinance** is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 Code of Federal Regulations Parts 59—78, as amended, so as to maintain the community's eligibility in the National Flood Insurance Program.
- (3) This **ordinance** is also intended to preserve the natural characteristics and functions of watercourses and floodplains in order to moderate flood and stormwater impacts, improve water quality, reduce soil erosion, protect aquatic and riparian habitat, provide recreational opportunities, provide aesthetic benefits and enhance community and economic development.

(Ord. No. 15-2327 , 10-15-2015; Ord. No. [ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank" web="yes">20-2447 </ulink>](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

**32.02 General provisions.**

- (a) This **ordinance** adopts the floodplain maps applicable to Blaine and includes three floodplain districts: Floodway, Flood Fringe, and General Floodplain.
- (1) Where Floodway and Flood Fringe districts are delineated on the floodplain maps, the standards in Sections 32.04 or 32.05 will apply, depending on the location of a property.
  - (2) Locations where Floodway and Flood Fringe districts are not delineated on the floodplain maps are considered to fall within the General Floodplain district. Within the General Floodplain district, the Floodway District standards in Section 32.04 apply unless the floodway boundary is determined, according to the process outlined in Section 32.06. Once the floodway boundary is determined, the Flood Fringe District standards in Section 32.05 may apply outside the floodway.
- (b) This **ordinance** applies to all lands within the jurisdiction of the City of Blaine shown on the Official Zoning Map and/or the attachments to the map as being located within the boundaries of the Floodway, Flood Fringe, or General Floodplain Districts.
- (1) The Floodway, Flood Fringe and General Floodplain Districts are overlay districts that are superimposed on all existing zoning districts. The standards imposed in the overlay districts are

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<sup>133</sup> **32.01 Statutory authorization and purpose.** Superfluous language should be stricken as shown and statute citations conformed to a consistent style.

in addition to any other requirements in this ordinance. In case of a conflict, the more restrictive standards will apply.

- (c) *Incorporation of Maps by Reference.* The following maps together with all attached material are hereby adopted by reference and declared to be a part of the Official Zoning Map and this ordinance. The attached material includes the Flood Insurance Study for Anoka County, Minnesota, and Incorporated Areas and the Flood Insurance Rate Map panels enumerated below, all dated December 16, 2015 and Letters of Map Revision issued by the Federal Emergency Management Agency effective July 1, 2016, all prepared by the Federal Emergency Management Agency. These materials are on file in the Office of the Blaine City Clerk and the City of Blaine Engineering Department.

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- (d) *Regulatory Flood Protection Elevation.* The regulatory flood protection elevation (RFPE) is an elevation no lower than two feet above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway. In an AO Zone, the Regulatory Flood Protection Elevation shall be an elevation no lower than three feet above the highest adjacent grade of an existing structure and no lower than three feet above the highest adjacent grade for a proposed addition to an existing structure.

- (e) *Interpretation.* The boundaries of the zoning districts are determined by scaling distances on the Flood Insurance Rate Map.

- (1) Where a conflict exists between the floodplain limits illustrated on the official zoning map and actual field conditions, the flood elevations shall be the governing factor. The Zoning Administrator must interpret the boundary location based on the ground elevations that existed on the site on the date of the first National Flood Insurance Program map showing the area within the regulatory floodplain, and other available technical data.

- (2) Persons contesting the location of the district boundaries will be given a reasonable opportunity to present their case to the Board of Appeals and Adjustment and to submit technical evidence.
- (f) *Abrogation and Greater Restrictions.* It is not intended by this ordinance to repeal, abrogate, or impair any existing easements, covenants, or other private agreements. However, where this ordinance imposes greater restrictions, the provisions of this ordinance prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.
- (g) *Warning and Disclaimer of Liability.* This ordinance does not imply that areas outside the floodplain districts or land uses permitted within such districts will be free from flooding or flood damages. This ordinance does not create liability on the part of the City of Blaine or its officers or employees for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.
- <sup>134</sup>~~(h) *Severability.* If any section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of law, the remainder of this ordinance shall not be affected and shall remain in full force.~~
- (i) *Definitions.* Unless specifically defined below, words or phrases used in this ordinance must be interpreted according to common usage and so as to give this ordinance its most reasonable application. See also Section 25.02 Definitions.
- (1) *Base Flood Elevation.* The elevation of the "regional flood." The term "base flood elevation" is used in the flood insurance survey.
- (2) *Critical Facilities.* Facilities necessary to a community's public health and safety, those that store or produce highly volatile, toxic or water-reactive materials, and those that house occupants that may be insufficiently mobile to avoid loss of life or injury. Examples of critical facilities include hospitals, correctional facilities, schools, daycare facilities, nursing homes, fire and police stations, wastewater treatment facilities, public electric utilities, water plants, fuel storage facilities, and waste handling and storage facilities.
- (3) *Development.* Any manmade change to improved or unimproved real estate, including buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.
- (4) *Flood Prone Area.* Any land susceptible to being inundated by water from any source (see "Flood").
- (5) *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.
- (6) *One-Hundred-Year Floodplain.* Lands inundated by the "Regional Flood" (see definition).
- (7) *Reach.* A hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or manmade obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.
- (8) *Recreational Vehicle.* A vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. For the purposes

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<sup>134</sup> **32.02 General provisions.** Provisions duplicative of chapter 1 general provisions should be stricken as indicated.

of this **ordinance**, the term recreational vehicle is synonymous with the term "travel trailer/travel vehicle."

- (9) *Repetitive Loss*. Flood related damages sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event on the average equals or exceeds 25% of the market value of the structure before the damage occurred.
- (10) *Special Flood Hazard Area*. A term used for flood insurance purposes synonymous with "One Hundred Year Floodplain."
- (11) *Substantial Damage*. Damage of any origin sustained by a structure where the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
- (12) *Substantial Improvement*. Within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:
  - (aa) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.
  - (bb) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure." For the purpose of this **ordinance**, "historic structure" is as defined in 44 Code of Federal Regulations, Part 59.1.
- (j) *Annexations*. The Flood Insurance Rate Map panels adopted by reference into Section 2.3 above may include floodplain areas that lie outside of the corporate boundaries of the City of Blaine at the time of adoption of this **ordinance**. If any of these floodplain land areas are annexed into the City after the date of adoption of this **ordinance**, the newly annexed floodplain lands will be subject to the provisions of this **ordinance** immediately upon the date of annexation.

(Ord. No. 15-2327 , 10-15-2015; Ord. No. 16-2361 , 8-18-2016; Ord. No. [ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank" web="yes">20-2447 </ulink>](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### 32.03 Establishment of zoning districts.

#### (a) *Districts*:

- (1) *Floodway District*. The Floodway District includes those areas designated as floodway on the Flood Insurance Rate Map adopted in Section 32.02(c). For lakes, wetlands and other basins, the Floodway District includes those areas designated as Zone A and Zone AE without a floodway on the Flood Insurance Rate Map that are at or below the ordinary high water level as defined in Minnesota Statutes, Section 103G.005, subdivision 14.
- (2) *Flood Fringe District*. The Flood Fringe District includes those areas designated as floodway fringe on the Flood Insurance Rate Map adopted in Section 32.02(c), as being within Zone AE and Zone AO but being located outside of the floodway. For lakes, wetlands and other basins (that do not



have a floodway designated), the Flood Fringe District includes those areas designated as Zone A or AE on the Flood Insurance Rate Map panels adopted in Section 32.02(c) that are below the 1% annual chance (100-year) flood elevation but above the ordinary high water level as defined in Minnesota Statutes, Section 103G.005, subdivision 14.

- (3) *General Floodplain District.* The General Floodplain District includes those areas designated as Zone A or Zone AE without a floodway on the Flood Insurance Rate Map adopted in Section 32.02(c), but not subject to the criteria in Sections 32.03(a)(1) and 32.03(a)(2) above.
- (b) *Compliance.* Within the floodplain districts established in this ordinance, the use of any land, the use, size, type and location of structures on lots, the installation and maintenance of transportation, utility, water supply and waste treatment facilities, and the subdivision of land must comply with the terms of this ordinance and other applicable regulations. All uses not listed as permitted uses or conditional uses in Sections 32.04, 32.05 and 32.06, respectively, are prohibited.

In addition, a caution is provided here that:

- (1) New and replacement manufactured homes and certain recreational vehicles are subject to the general provisions of this ordinance and specifically Section 32.09.
- (2) Modifications, additions, structural alterations, normal maintenance and repair, or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of this ordinance and specifically Section 32.11.
- (3) All structures must be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- (4) As-built elevations for elevated or floodproofed structures must be certified by ground surveys and flood-proofing techniques must be designed and certified by a registered professional engineer or architect as specified in the general provisions of this ordinance and specifically as stated in Section 32.10 of this ordinance.
- (5) Critical facilities, as defined in Section 32.02(i)(2), are prohibited in all floodplain districts.

(Ord. No. 15-2327 , 10-15-2015; Ord. No. <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank" web="yes">20-2447 </ulink>, 7-20-2020)

#### **32.04 Floodway district (FW).**

- (a) *Permitted Uses.* The following uses, subject to the standards set forth in Section 32.04(b), are permitted uses if otherwise allowed in the underlying zoning district or any applicable overlay district:
- (1) General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.
  - (2) Industrial-commercial loading areas, parking areas, and airport landing strips.
  - (3) Open space uses, including but not limited to private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, hunting and fishing areas, and single or multiple purpose recreational trails.



- (4) Residential lawns, gardens, parking areas, and play areas.
- (5) Railroads, streets, bridges, utility transmission lines and pipelines, provided that the Department of Natural Resources' Area Hydrologist is notified at least ten days prior to issuance of any permit, and that the standards in Sections 32.04(d)(1), 32.04(d)(3)(aa) and 32.04(d)(7) of this **ordinance** are met.

(b) *Standards for Floodway Permitted Uses.*

- (1) The use must have a low flood damage potential.
- (2) With the exception of the uses listed in Section 32.04(a)(5), the use must not obstruct flood flows or increase flood elevations and must not involve structures, fill, obstructions, excavations or storage of materials or equipment.
- (3) Any facility that will be used by employees or the general public must be designed with a flood warning system that provides adequate time for evacuation if the area is inundated to a depth and velocity such that the depth (in feet) multiplied by the velocity (in feet per second) would exceed a product of four upon occurrence of the regional (1% chance) flood.

(c) *Conditional Uses.* The following uses may be allowed as conditional uses following the standards and procedures set forth in Section 32.10(d) of this **ordinance** and further subject to the standards set forth in Section 32.04(d), if otherwise allowed in the underlying zoning district or any applicable overlay district.

- (1) Structures accessory to the uses listed in 32.04(a) above and the uses listed in 32.04(c)(2)—32.04(c)(7) below.
- (2) Extraction and storage of sand, gravel, and other materials.
- (3) Marinas, boat rentals, docks, piers, wharves, and water control structures.
- (4) Storage yards for equipment, machinery, or materials.
- (5) Placement of fill or construction of fences that obstruct flood flows. Farm fences, as defined in Section 25.02, are permitted uses.
- (6) Travel-ready recreational vehicles meeting the exception standards in Section 32.09.
- (7) Levees or dikes intended to protect agricultural crops for a frequency flood event equal to or less than the 10-year frequency flood event.

(d) *Standards for Floodway Conditional Uses.*

- (1) All Uses. A conditional use must not cause any increase in the stage of the 1% chance or regional flood or cause an increase in flood damages in the reach or reaches affected.
- (2) Fill; Storage of Materials and Equipment:
  - (aa) The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.
  - (bb) Fill, dredge spoil, and other similar materials deposited or stored in the floodplain must be protected from erosion by vegetative cover, mulching, riprap or other acceptable method. Permanent sand and gravel operations and similar uses must be covered by a long-term site development plan.
  - (cc) Temporary placement of fill, other materials, or equipment which would cause an increase to the stage of the 1% percent chance or regional flood may only be allowed if the City

Council has approved a plan that assures removal of the materials from the floodway based upon the flood warning time available.

(3) Accessory Structures:

- (aa) Accessory structures must not be designed for human habitation.
  - (bb) Accessory structures, if permitted, must be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters:
    - Whenever possible, structures must be constructed with the longitudinal axis parallel to the direction of flood flow; and
    - So far as practicable, structures must be placed approximately on the same flood flow lines as those of adjoining structures.
  - (cc) Accessory structures must be elevated on fill or structurally dry floodproofed in accordance with the FP-1 or FP-2 floodproofing classifications in the State Building Code. All floodproofed accessory structures must meet the following additional standards:
    - The structure must be adequately anchored to prevent flotation, collapse or lateral movement and designed to equalize hydrostatic flood forces on exterior walls; and
    - Any mechanical and utility equipment in the structure must be elevated to or above the regulatory flood protection elevation or properly floodproofed.
- (4) As an alternative, an accessory structure may be internally/wet floodproofed to the FP-3 or FP-4 floodproofing classifications in the State Building Code, provided the accessory structure constitutes a minimal investment and does not exceed 576 square feet in size. A detached garage may only be used for parking of vehicles and limited storage. All structures must meet the following standards:
- (aa) To allow for the equalization of hydrostatic pressure, there must be a minimum of two "automatic" openings in the outside walls of the structure, with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and
  - (bb) There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.
- (5) Structural works for flood control that will change the course, current or cross section of protected wetlands or public waters are subject to the provisions of Minnesota Statutes, Section 103G.245.
- (6) A levee, dike or floodwall constructed in the floodway must not cause an increase to the 1% chance or regional flood. The technical analysis must assume equal conveyance or storage loss on both sides of a stream.
- (7) Floodway developments must not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system.

(Ord. No. 15-2327 , 10-15-2015; Ord. No. [oridbank](http://newords.municode.com/readordinance.aspx?oridinanceid=1031180&datasource=ordbank) print="yes" url="http://newords.municode.com/readordinance.aspx?oridinanceid=1031180&datasource=ordbank" web="yes">20-2447 </a>, 7-20-2020)

### 32.05 Flood fringe district (FF).

(a) *Permitted Uses.* Permitted uses are those uses of land or structures allowed in the underlying zoning district(s) that comply with the standards in Sections 32.05(b). If no pre-existing, underlying zoning districts exist, then any residential or nonresidential structure or use of a structure or land is a permitted use provided it does not constitute a public nuisance.

(b) *Standards for Flood Fringe Permitted Uses.*

- (1) All structures, including accessory structures, must be elevated on fill so that the lowest floor, as defined, is at or above the regulatory flood protection elevation. The finished fill elevation for structures must be no lower than one foot below the regulatory flood protection elevation and the fill must extend at the same elevation at least 15 feet beyond the outside limits of the structure.
  - a. All service utilities, including ductwork, must be elevated or water-tight to prevent infiltration of floodwaters.
  - b. As an alternative to elevation on fill, an accessory structure that constitutes a minimal investment and that does not exceed 576 square feet in size may be internally floodproofed in accordance with Section 32.04(d)(3).
- (2) The cumulative placement of fill or similar material on a parcel must not exceed 1,000 cubic yards, unless the fill is specifically intended to elevate a structure in accordance with Section 32.05(b)(1) of this **ordinance**, or if allowed as a conditional use under Section 32.05(c)(3) below.
- (3) The storage of any materials or equipment must be elevated on fill to the regulatory flood protection elevation.
- (4) The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.
- (5) Fill must be properly compacted and the slopes must be properly protected by the use of riprap, vegetative cover or other acceptable method.
- (6) All new principal structures must have vehicular access at or above an elevation not more than two feet below the regulatory flood protection elevation, or must have a flood warning /emergency evacuation plan acceptable to the City Council.
- (7) Accessory uses such as yards, railroad tracks, and parking lots may be at an elevation lower than the regulatory flood protection elevation. However, any facilities used by employees or the general public must be designed with a flood warning system that provides adequate time for evacuation if the area is inundated to a depth and velocity such that the depth (in feet) multiplied by the velocity (in feet per second) would exceed a product of four upon occurrence of the regional (1% chance) flood.
- (8) Interference with normal manufacturing/industrial plant operations must be minimized, especially along streams having protracted flood durations. In considering permit applications, due consideration must be given to the needs of industries with operations that require a floodplain location.
- (9) Flood fringe developments must not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system.
- (10) Manufactured homes and recreational vehicles must meet the standards of Section 32.09 of this **ordinance**.

(c) *Conditional Uses.* The following uses and activities may be allowed as conditional uses, if allowed in the underlying zoning district(s) or any applicable overlay district, following the procedures in Section 32.10(d) of this ordinance. Conditional uses must meet the standards in Sections 32.05(d) through 32.05(b)(4)—32.05(b)(10) and Section 5.4.

- (1) Any structure that is not elevated on fill or floodproofed in accordance with Section 32.05(b)(1) of this ordinance.
- (2) Storage of any material or equipment below the regulatory flood protection elevation.
- (3) The cumulative placement of more than 1,000 cubic yards of fill when the fill is not being used to elevate a structure in accordance with Section 32.05(b)(1) of this ordinance.

(d) *Standards for Flood Fringe Conditional Uses.*

- (1) The standards listed in Sections 32.05(b)(4) through 32.05(b)(10) apply to all conditional uses.
- (2) Basements, as defined by Section 25.02 of this ordinance, are subject to the following:
  - (aa) Residential basement construction is not allowed below the regulatory flood protection elevation.
  - (bb) Non-residential basements may be allowed below the regulatory flood protection elevation provided the basement is structurally dry floodproofed in accordance with Section 32.05(d)(3) of this ordinance.
- (3) All areas of nonresidential structures, including basements, to be placed below the regulatory flood protection elevation must be floodproofed in accordance with the structurally dry floodproofing classifications in the State Building Code. Structurally dry floodproofing must meet the FP-1 or FP-2 floodproofing classification in the State Building Code, which requires making the structure watertight with the walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Structures wet floodproofed to the FP-3 or FP-4 classification are not permitted.
- (4) The placement of more than 1,000 cubic yards of fill or other similar material on a parcel (other than for the purpose of elevating a structure to the regulatory flood protection elevation) must comply with an approved erosion/sedimentation control plan.
  - (aa) The plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the regional (1% chance) flood event.
  - (bb) The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the City Council.
  - (cc) The plan may incorporate alternative procedures for removal of the material from the floodplain if adequate flood warning time exists.
- (5) Storage of materials and equipment below the regulatory flood protection elevation must comply with an approved emergency plan providing for removal of such materials within the time available after a flood warning.
- (6) Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the regulatory flood protection elevation. These alternative methods may include the use of stilts, pilings, parallel walls, etc., or above-grade, enclosed areas such as crawl spaces or tuck under garages. The base or floor of an enclosed area shall be considered above-grade and not a structure's basement or lowest floor if: 1) the enclosed area is above-grade on at least one side of the structure; 2) it is designed to internally flood and is constructed with flood

resistant materials; and 3) it is used solely for parking of vehicles, building access or storage. The above-noted alternative elevation methods are subject to the following additional standards.

- (aa) Design and Certification. The structure's design and as-built condition must be certified by a registered professional engineer or architect as being in compliance with the general design standards of the State Building Code and, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities must be at or above the regulatory flood protection elevation or be designed to prevent flood water from entering or accumulating within these components during times of flooding.
- (bb) Specific Standards for Above-grade, Enclosed Areas. Above-grade, fully enclosed areas such as crawl spaces or tuck under garages must be designed to internally flood and the design plans must stipulate:
  - The minimum area of openings in the walls where internal flooding is to be used as a floodproofing technique. There shall be a minimum of two openings on at least two sides of the structure and the bottom of all openings shall be no higher than one foot above grade. The automatic openings shall have a minimum net area of not less than one square inch for every square foot of enclosed area subject to flooding unless a registered professional engineer or architect certifies that a smaller net area would suffice. The automatic openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters without any form of human intervention; and
  - That the enclosed area will be designed of flood resistant materials in accordance with the FP-3 or FP-4 classifications in the State Building Code and shall be used solely for building access, parking of vehicles or storage.

(7) 5.47 Standards for AO Zones

- (aa) All new construction of residential structures and improvements to these structures shall have the lowest floor (including basement) elevated to at least the Regulatory Flood Protection Elevation.
- (bb) All new construction of nonresidential structures and improvements to these structures shall have (1) the lowest floor (including basement) elevated to at least the Regulatory Flood Protection Elevation; or (2) together with all related utility and sanitary facilities be completely floodproofed to that level, meeting the standards specified in Section 32.05(d)(3).
- (cc) All new construction and improvements to all structures shall include adequate drainage paths around structures on slopes, to guide floodwaters around and away from proposed structures or improvements.

(Ord. No. 15-2327 , 10-15-2015; Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank) </a>, 7-20-2020)

**32.06 General floodplain district (GF).**

*(a) Permitted Uses.*

- (1) The uses listed in Section 32.04(a) of this **ordinance**, Floodway District Permitted Uses, are permitted uses.

- (2) All other uses are subject to the floodway/flood fringe evaluation criteria specified in Section 32.06(b) below. Section 32.04 applies if the proposed use is determined to be in the Floodway District. Section 32.05 applies if the proposed use is determined to be in the Flood Fringe District.

*(b) Procedures for Floodway and Flood Fringe Determinations.*

- (1) Upon receipt of an application for a permit or other approval within the General Floodplain District, the Zoning Administrator must obtain, review and reasonably utilize any regional flood elevation and floodway data available from a federal, state, or other source.
- (2) If regional flood elevation and floodway data are not readily available, the applicant must furnish additional information, as needed, to determine the regulatory flood protection elevation and whether the proposed use would fall within the Floodway or Flood Fringe District. Information must be consistent with accepted hydrological and hydraulic engineering standards and the standards in 32.06(b)(3) below.
- (3) The determination of floodway and flood fringe must include the following components, as applicable:
  - (aa) Estimate the peak discharge of the regional (1% chance) flood.
  - (bb) Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.
  - (cc) Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than one-half (0.5) foot. A lesser stage increase than 0.5 foot is required if, as a result of the stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach must be assumed in computing floodway boundaries.
- (4) The Zoning Administrator will review the submitted information and assess the technical evaluation and the recommended Floodway and/or Flood Fringe District boundary. The assessment must include the cumulative effects of previous floodway encroachments. The Zoning Administrator may seek technical assistance from a designated engineer or other expert person or agency, including the Department of Natural Resources. Based on this assessment, the Zoning Administrator may approve or deny the application.
- (5) Once the Floodway and Flood Fringe District boundaries have been determined, the Zoning Administrator must process the permit application consistent with the applicable provisions of Section 32.04 and 32.05 of this **ordinance**.

(Ord. No. 15-2327 , 10-15-2015; Ord. No. [ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank" web="yes">20-2447 </ulink>](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

**32.07 Land development standards.**

- (a) *In General.* Recognizing that flood prone areas may exist outside of the designated floodplain districts, the requirements of this section apply to all land within the City of Blaine.
- (b) *Subdivisions.* No land may be subdivided which is unsuitable for reasons of flooding or inadequate drainage, water supply or sewage treatment facilities. Manufactured home parks and recreational vehicle parks or campgrounds are considered subdivisions under this **ordinance**.

- (1) All lots within the floodplain districts must be able to contain a building site outside of the Floodway District at or above the regulatory flood protection elevation.
- (2) All subdivisions must have road access both to the subdivision and to the individual building sites no lower than two feet below the regulatory flood protection elevation, unless a flood warning emergency plan for the safe evacuation of all vehicles and people during the regional (1% chance) flood has been approved by the City Council. The plan must be prepared by a registered engineer or other qualified individual, and must demonstrate that adequate time and personnel exist to carry out the evacuation.
- (3) For all subdivisions in the floodplain, the Floodway and Flood Fringe District boundaries, the regulatory flood protection elevation and the required elevation of all access roads must be clearly labeled on all required subdivision drawings and platting documents.
- (4) In the General Floodplain District, applicants must provide the information required in Section 32.06(b) of this **ordinance** to determine the regional flood elevation, the Floodway and Flood Fringe District boundaries and the regulatory flood protection elevation for the subdivision site.
- (5) If a subdivision proposal or other proposed new development is in a flood prone area, any such proposal must be reviewed to assure that:
  - (aa) All such proposals are consistent with the need to minimize flood damage within the flood prone area,
  - (bb) All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage, and
  - (cc) Adequate drainage is provided to reduce exposure of flood hazard.
- (c) *Building Sites.* If a proposed building site is in a flood prone area, all new construction and substantial improvements (including the placement of manufactured homes) must be:
  - (1) Designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
  - (2) Constructed with materials and utility equipment resistant to flood damage;
  - (3) Constructed by methods and practices that minimize flood damage; and
  - (4) Constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(Ord. No. 15-2327 , 10-15-2015; Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank) , 7-20-2020)

### **32.08 Public utilities, railroads, roads, and bridges.**

- (a) *Public Utilities.* All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the floodplain must be floodproofed in accordance with the State Building Code or elevated to the regulatory flood protection elevation.
- (b) *Public Transportation Facilities.* Railroad tracks, roads, and bridges to be located within the floodplain must comply with Sections 32.04 and 32.05 of this **ordinance**. These transportation facilities must be



elevated to the regulatory flood protection elevation where failure or interruption of these facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.

- (c) *On-site Water Supply and Sewage Treatment Systems.* Where public utilities are not provided: 1) On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems; and 2) New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and they must not be subject to impairment or contamination during times of flooding. Any sewage treatment system designed in accordance with the state's current statewide standards for on-site sewage treatment systems is considered to be in compliance with this Section.

(Ord. No. 15-2327 , 10-15-2015; Ord. No. [ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank" web="yes">20-2447 </ulink>](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### **32.09 Manufactured homes, manufactured home parts, and recreational vehicles.**

- (a) *Manufactured Homes.* New manufactured home parks and expansions to existing manufactured home parks are prohibited in any floodplain district. For existing manufactured home parks or lots of record, the following requirements apply:

- (1) Placement or replacement of manufactured home units is prohibited in the Floodway District.
- (2) If allowed in the Flood Fringe District, placement or replacement of manufactured home units is subject to the requirements of Section 5 of this **ordinance** and the following standards.
  - (aa) New and replacement manufactured homes must be elevated in compliance with Section 32.05 of this **ordinance** and must be securely anchored to an adequately anchored foundation 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. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.
  - (bb) New or replacement manufactured homes in existing manufactured home parks must meet the vehicular access requirements for subdivisions in Section 32.07(b)(2).

- (b) *Recreational Vehicles.* New recreational vehicle parks or campgrounds and expansions to existing recreational vehicle parks or campgrounds are prohibited in any floodplain district. Placement of recreational vehicles in existing recreational vehicle parks or campgrounds in the floodplain must meet the exemption criteria below or be treated as new structures meeting the requirements of this **ordinance**.

- (1) Recreational vehicles are exempt from the provisions of this **ordinance** if they are placed in any of the following areas and meet the criteria listed in Section 32.09(b)(2):
  - (aa) Individual lots or parcels of record.
  - (bb) Existing commercial recreational vehicle parks or campgrounds.
  - (cc) Existing condominium-type associations.
- (2) Criteria for Exempt Recreational Vehicles:
  - (aa) The vehicle must have a current license required for highway use.



- (bb) The vehicle must be highway ready, meaning on wheels or the internal jacking system, attached to the site only by quick disconnect type utilities commonly used in campgrounds and recreational vehicle parks.
  - (cc) No permanent structural type additions may be attached to the vehicle.
  - (dd) The vehicle and associated use must be permissible in any pre-existing, underlying zoning district.
  - (ee) Accessory structures are not permitted within the Floodway District. Any accessory structure in the Flood Fringe District must be constructed of flood-resistant materials and be securely anchored, meeting the requirements applicable to manufactured homes in Section 32.09(b)(2).
  - (ff) An accessory structure must constitute a minimal investment.
- (3) Recreational vehicles that are exempt in Section 32.09(b)(2) lose this exemption when development occurs on the site that exceeds a minimal investment for an accessory structure such as a garage or storage building. The recreational vehicle and all accessory structures will then be treated as new structures subject to the elevation and floodproofing requirements of Section 32.05 of this ordinance. No development or improvement on the parcel or attachment to the recreational vehicle is allowed that would hinder the removal of the vehicle should flooding occur.

(Ord. No. 15-2327 , 10-15-2015; Ord. No. [ulink class="ordbank" print="yes" url="http://newwords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank" web="yes">20-2447 </ulink>](http://newwords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### 32.10 Administration.

- (a) *Zoning Administrator.* A Zoning Administrator or other official designated by the City Council must administer and enforce this ordinance.
- (b) *Permit Requirements.*
  - (1) *Permit Required.* A permit must be obtained from the Zoning Administrator prior to conducting the following activities:
    - (aa) The erection, addition, modification, rehabilitation, or alteration of any building, structure, or portion thereof. Normal maintenance and repair also requires a permit if such work, separately or in conjunction with other planned work, constitutes a substantial improvement as defined in this ordinance.
    - (bb) The use or change of use of a building, structure, or land.
    - (cc) The construction of a dam, fence, or on-site septic system, although a permit is not required for a farm fence as defined in this ordinance.
    - (dd) The change or extension of a nonconforming use.
    - (ee) The repair of a structure that has been damaged by flood, fire, tornado, or any other source.
    - (ff) The placement of fill, excavation of materials, or the storage of materials or equipment within the floodplain.
    - (gg) Relocation or alteration of a watercourse - including new or replacement culverts and bridges), unless a public waters work permit has been applied for.

- (hh) Any other type of "development" as defined in Section 32.02 of this ordinance.
- (2) *Application for Permit.* Permit applications must be submitted to the Zoning Administrator on forms provided by the Zoning Administrator. The permit application must include the following as applicable:
- (aa) A site plan showing all pertinent dimensions, existing or proposed buildings, structures, and significant natural features having an influence on the permit.
  - (bb) Location of fill or storage of materials in relation to the stream channel.
  - (cc) Copies of any required municipal, county, state or federal permits or approvals.
  - (dd) Other relevant information requested by the Zoning Administrator as necessary to properly evaluate the permit application.
- (3) *Certificate of Occupancy for a New, Altered, or Nonconforming Use.* No building, land or structure may be occupied or used in any manner until a certificate of occupancy has been issued by the Building Official stating that the use of the building or land conforms to the requirements of this ordinance.
- (4) *Certification.* The applicant is required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this ordinance. Floodproofing measures must be certified by a registered professional engineer or registered architect.
- (5) *Record of First Floor Elevation.* The Building Official must maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the floodplain. The Building Official must also maintain a record of the elevation to which structures and alterations or additions to structures are floodproofed.
- (6) *Notifications for Watercourse Alterations.* Before authorizing any alteration or relocation of a river or stream, the Zoning Administrator must notify adjacent communities. If the applicant has applied for a permit to work in public waters pursuant to Minnesota Statutes, Section 103G.245, this will suffice as adequate notice. A copy of the notification must also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).
- (7) *Notification to FEMA When Physical Changes Increase or Decrease Base Flood Elevations.* As soon as is practicable, but not later than six months after the date such supporting information becomes available, the Zoning Administrator must notify the Chicago Regional Office of FEMA of the changes by submitting a copy of the relevant technical or scientific data.
- (c) *Variances.*
- (1) *Variance Applications.* An application for a variance to the provisions of this ordinance will be processed and reviewed in accordance with applicable state statutes and Section 27.05 of the Zoning Ordinance.
  - (2) *Adherence to State Floodplain Management Standards.* A variance must not allow a use, that is not allowed in that district, permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area, or permit standards lower than those required by state law.
  - (3) *Additional Variance Criteria.* The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:

- (aa) Variances must not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
  - (bb) Variances may only be issued by a community upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
  - (cc) Variances may only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (4) *Flood Insurance Notice.* The Zoning Administrator must notify the applicant for a variance that:
- (aa) 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 \$25.00 for \$100.00 of insurance coverage; and 2) Such construction below the base or regional flood level increases risks to life and property. Such notification must be maintained with a record of all variance actions.
- (5) *General Considerations.* The community may consider the following factors in granting variances and imposing conditions on variances and conditional uses in floodplains:
- (aa) The potential danger to life and property due to increased flood heights or velocities caused by encroachments;
  - (bb) The danger that materials may be swept onto other lands or downstream to the injury of others;
  - (cc) The proposed water supply and sanitation systems, if any, and the ability of these systems to minimize the potential for disease, contamination and unsanitary conditions;
  - (dd) The susceptibility of any proposed use and its contents to flood damage and the effect of such damage on the individual owner;
  - (ee) The importance of the services to be provided by the proposed use to the community;
  - (ff) The requirements of the facility for a waterfront location;
  - (gg) The availability of viable alternative locations for the proposed use that are not subject to flooding;
  - (hh) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;
  - (ii) The relationship of the proposed use to the Comprehensive Land Use Plan and floodplain management program for the area;
  - (jj) The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - (kk) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site.
- (6) *Submittal of Hearing Notices to the Department of Natural Resources (DNR).* The Zoning Administrator must submit hearing notices for proposed variances to the DNR sufficiently in advance to provide at least ten days' notice of the hearing. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

- (7) *Submittal of Final Decisions to the DNR.* A copy of all decisions granting variances must be forwarded to the DNR within ten days of such action. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.
- (8) *Record-Keeping.* The Zoning Administrator must maintain a record of all variance actions, including justification for their issuance, and must report such variances in an annual or biennial report to the Administrator of the National Flood Insurance Program, when requested by the Federal Emergency Management Agency.

(d) *Conditional Uses.*

- (1) *Administrative Review.* An application for a conditional use permit under the provisions of this **ordinance** will be processed and reviewed in accordance with Section 27.04 of the Zoning Ordinance.
- (2) *Factors Used in Decision-Making.* In passing upon conditional use applications, the City Council must consider all relevant factors specified in other sections of this **ordinance**, and those factors identified in Section 32.10(c)(5) of this **ordinance**.
- (3) *Conditions Attached to Conditional Use Permits.* The City Council may attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this **ordinance**. Such conditions may include, but are not limited to, the following:
  - (aa) Modification of waste treatment and water supply facilities.
  - (bb) Limitations on period of use, occupancy, and operation.
  - (cc) Imposition of operational controls, sureties, and deed restrictions.
  - (dd) Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.
  - (ee) Floodproofing measures, in accordance with the State Building Code and this **ordinance**. The applicant must submit a plan or document certified by a registered professional engineer or architect that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.
- (4) *Submittal of Hearing Notices to the Department of Natural Resources (DNR).* The Zoning Administrator must submit hearing notices for proposed conditional uses to the DNR sufficiently in advance to provide at least ten days' notice of the hearing. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.
- (5) *Submittal of Final Decisions to the DNR.* A copy of all decisions granting conditional uses must be forwarded to the DNR within ten days of such action. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

(Ord. No. 15-2327 , 10-15-2015; Ord. No. [ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank" web="yes">20-2447 </ulink>](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### 32.11 Nonconformities.

- (a) *Continuance of Nonconformities.* A use, structure, or occupancy of land which was lawful before the passage or amendment of this **ordinance** but which is not in conformity with the provisions of this **ordinance** may be continued subject to the following conditions. Historic structures, as defined in 44

Code of Federal Regulations, Part 59.1, are subject to the provisions of Sections 32.11(a)(1)—32.11(a)(6) of this **ordinance**.

- (1) A nonconforming use, structure, or occupancy must not be expanded, changed, enlarged, or altered in a way that increases its flood damage potential or degree of obstruction to flood flows except as provided in 32.11(a)(2) below. Expansion or enlargement of uses, structures or occupancies within the Floodway District is prohibited.
- (2) Any addition or structural alteration to a nonconforming structure or nonconforming use that would result in increasing its flood damage potential must be protected to the regulatory flood protection elevation in accordance with any of the elevation on fill or floodproofing techniques (i.e., FP-1 thru FP-4 floodproofing classifications) allowable in the State Building Code, except as further restricted in 32.11(a)(3) and 32.11(a)(7) below.
- (3) If the cost of all previous and proposed alterations and additions exceeds 50 percent of the market value of any nonconforming structure, then the entire structure must meet the standards of Section 32.04 or 32.05 of this **ordinance** for new structures depending upon whether the structure is in the Floodway or Flood Fringe District, respectively. The cost of all structural alterations and additions must include all costs such as construction materials and a reasonable cost placed on all manpower or labor.
- (4) If any nonconforming use, or any use of a nonconforming structure, is discontinued for more than one year, any future use of the premises must conform to this **ordinance**. The Assessor must notify the Zoning Administrator in writing of instances of nonconformities that have been discontinued for a period of more than one year.
- (5) If any nonconformity is substantially damaged, as defined in Section 32.02 of this **ordinance**, it may not be reconstructed except in conformity with the provisions of this **ordinance**. The applicable provisions for establishing new uses or new structures in Sections 32.04 or 32.05 will apply depending upon whether the use or structure is in the Floodway or Flood Fringe, respectively.
- (6) If any nonconforming use or structure experiences a repetitive loss, as defined in Section 26.06 of this **ordinance**, it must not be reconstructed except in conformity with the provisions of this **ordinance**.
- (7) Any substantial improvement, as defined in Section 32.02 of this **ordinance**, to a nonconforming structure requires that the existing structure and any additions must meet the requirements of Section 32.04 or 32.05 of this **ordinance** for new structures, depending upon whether the structure is in the Floodway or Flood Fringe District.

(Ord. No. 15-2327 , 10-15-2015; Ord. No. [ordbank](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank) print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank" web="yes">20-2447 </a>, 7-20-2020)

### **32.12 Penalties and enforcement.**

- (a) *Violation Constitutes a Misdemeanor.* Violation of the provisions of this **ordinance** or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) constitute a misdemeanor and will be punishable as defined by law.

- (b) *Other Lawful Action.* Nothing in this **ordinance** restricts the City from taking such other lawful action as is necessary to prevent or remedy any violation. If the responsible party does not appropriately respond to the Zoning Administrator within the specified period of time, each additional day that lapses will constitute an additional violation of this **ordinance** and will be prosecuted accordingly.
- (c) *Enforcement.* In responding to a suspected **ordinance** violation, the Zoning Administrator and City Council may utilize the full array of enforcement actions available to it including but not limited to prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The City 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.
- (1) When a violation is either discovered by or brought to the attention of the Zoning Administrator, the Zoning Administrator shall immediately investigate the situation and document the nature and extent of the violation of the official control. As soon as it is reasonably possible, this information will be submitted to the appropriate State Department of Natural Resources and Federal Emergency Management Agency regional office along with the city's plan of action to correct the violation to the degree possible.
- (2) The Zoning Administrator shall notify the suspected party of the requirements of this chapter and all other official controls and the nature and extent of the suspected violation of these controls. If the structure and/or use is under construction or development, the Zoning Administrator may order the construction or development immediately halted until a proper permit or approval is granted by the city. If the construction or development is already completed, the Zoning Administrator may either: 1) issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance with the official controls; or 2) notify the responsible party to apply for an after the fact permit/development approval within a specified period of time not to exceed 30 days.

(Ord. No. 15-2327 , 10-15-2015; Ord. No. [ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank" web="yes">20-2447 </ulink>](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### 32.13 Amendments.

- (a) *Floodplain Designation—Restrictions on Removal.* The floodplain designation on the Official Zoning Map must not be removed from floodplain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regulatory flood protection elevation and is contiguous to lands outside the floodplain. Special exceptions to this rule may be permitted by the Commissioner of the Department of Natural Resources (DNR) if the Commissioner determines that, through other measures, lands are adequately protected for the intended use.
- (b) *Amendments Require DNR Approval.* All amendments to this **ordinance** must be submitted to and approved by the Commissioner of the Department of Natural Resources (DNR) prior to adoption. The Commissioner must approve the amendment prior to community approval.
- (c) *Map Revisions Require **Ordinance** Amendments.* The floodplain district regulations must be amended to incorporate any revisions by the Federal Emergency Management Agency to the floodplain maps adopted in Section 32.03(c) of this **ordinance**.



(Ord. No. 15-2327 , 10-15-2015; Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

## **32.50 HIGHWAY 65 OVERLAY DISTRICT (HOD)**

### [32.51 Intent.](#)

### [32.52 Scope of application.](#)

### [32.53 Prohibited uses.](#)

### [32.54 Standards.](#)

### [32.55 R-3B \(medium density multi-family\) and R-3C \(high density multi-family\) residential.](#)

### [32.56 Standards for mini-storage facilities.](#)

### **32.51 Intent.**

The purpose of this overlay district is to establish minimum standards for exterior architecture, design, landscaping, and signage of buildings that contribute to a community image of quality, visual aesthetics, permanence, and stability which are in the best interest of the citizens of the City.

These standards are further intended to ensure coordinated design of building exteriors, additions and accessory structure exteriors in order to prevent visual disharmony; minimize adverse impacts on adjacent properties from buildings which are or may become unsightly, and buildings that detract from the character and appearance of the area. It is not the intent of this **ordinance** to unduly restrict design freedom when reviewing and approving project architecture in relationship to the proposed land use, site characteristics and interior building layout.

(Ord. No. 98-1746, added 10-15-1998; Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### **32.52 Scope of application.**

This overlay district shall apply to all properties which are zoned B-2 (Community Commercial), B-3 (Regional Commercial), B-4 (Office Park), PBD (Planned Business District), I-1 (Light Industrial), I-2 (Heavy Industrial) R-3B (Medium Density Multi-Family) and R-3C (High Density Multi-Family), which are located within seven hundred fifty (750) feet of the centerline of the right-of-way of Highway 65. Where only a portion of a parcel lies within seven hundred fifty (750) feet of the Highway 65 centerline, the **ordinance** shall apply to the entire parcel. (Ord. No. 98-1746, added 10-15-1998)

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### 32.53 Prohibited uses.

The following uses are prohibited within the Highway 65 Overlay District:

- Outside display area for boat sales or recreational vehicles.
- Small equipment rental yards.

(Ord. No. 98-1746, added 10-15-1998; Ord. No. 07-2139, amended 8-2-2007; Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### 32.54 Standards.

For development of properties within the Highway 65 Overlay District, the following standards shall be applied:

#### (a) *Construction materials.*

- (1) At least fifty percent (50%) of all exterior wall finishes on any building shall be comprised of a combination of at least three (3) of the following materials:
  - Brick.
  - Natural or cultured stone.
  - Glass.
  - Masonry stucco or EIFS.
  - Cementitious siding.
  - Architectural metal.
  - Integrally colored rock faced block.
  - Other comparable or superior material as approved by the Zoning Administrator.
- (2) The remaining fifty percent (50%) of all exterior wall finishes shall be comprised of any combination of decorative or rock face concrete block and textured concrete panels or other comparable or superior materials as approved by the Zoning Administrator. All building materials subject to approval of the Zoning Administrator. (Ord. No. 99-1807, amended 8-19-1999)
- (3) Buildings may be constructed of primarily one (1) of the materials listed in subsection (1), if the design exceeds the intent of the **ordinance**.

#### (b) *Architectural design.*

- (1) Each building design will be reviewed for at least the following considerations:
  - Appropriate location of structures on the site with relationship to other site amenities, restrictions, adjacent land usage, etc.



- General massing, roof treatments, proportion and quantity of exterior openings.
- Use of exterior materials as they relate to adjacent structures, and their impact on the quality and character of the immediate area.
- Screening of mechanical equipment, tanks, loading docks, refuse handling, ancillary equipment, etc., whether on the roof or on the site.

(c) *Landscaping.*

- (1) Applicable landscaping requirements set forth in Section 33.07 shall be increased by 1.5 times, which shall include at least twenty-five percent (25%) of the number of ornamental, conifer and overstory trees exceeding minimum size requirements in the front yard adjacent to Highway 65 or the service drive adjacent to Highway 65.

(d) *Signage.*

- (1) All wall signs shall be comprised of individual letters.
- (2) All monument signs shall incorporate materials and architectural design consistent with the principal building.

(e) *Truck Parking.* Truck parking shall not be permitted in any yard adjacent to Highway 65. Sites where it can be anticipated that there will be a need or occasion for parking of trucks shall provide space for semi-tractor/trailer parking. Such parking shall be located in a yard not adjacent to Highway 65 and shall be effectively screened from Highway 65 by principal or accessory buildings, landscaping, berming, etc.

(f) *Gasoline Sales Standards.* Each Conditional Use Permit for gasoline sales will be reviewed. (Ord. No. 98-1746, added 10-15-1998)

(Ord. No. [20-2447](http://newwords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank) [7-20-2020](http://newwords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank))

**32.55 R-3B (medium density multi-family) and R-3C (high density multi-family) residential.**

- (a) *Landscaping.* Applicable landscaping requirements set forth in Section 33.07 shall be increased by 1.5 times, which shall include at least twenty-five percent (25%) of the number of ornamental, conifer and overstory trees exceeding minimum size requirements in the front yard adjacent to Highway 65 or the service drive adjacent to Highway 65.
- (b) An opaque buffer screen along Highway 65 shall be established comprised of a combination of berming, fencing and landscaping as approved by the Zoning Administrator. Degree of opaqueness based on landscape plantings providing coverage four (4) years after planting.

(Ord. No. 98-1746, added 10-15-1998; Ord. No. [20-2447](http://newwords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank) [7-20-2020](http://newwords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank))

### **32.56 Standards for mini-storage facilities.**

Existing legal non-conforming self-storage facilities shall be required to follow the standards of Section 32.54 for any portion of a building that lies within two hundred (200) feet of a public right-of-way. Those buildings beyond two hundred (200) feet may be constructed of decorative masonry block designed architecturally compatible with Section 32.54 as approved by the Zoning Administrator. All other sections of Section 32.50 shall apply to mini-storage facilities.

(Ord. 99-1807, added 8-19-1999; Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

## **Chapter 33 PERFORMANCE STANDARDS**

33.01 Intent.

33.02 Lighting.

33.03 Nuisances.

33.04 Land reclamation/earth removal.

33.05 Lot provisions.

33.06 Site plans.

33.07 Landscaping.

33.08 Fences.

33.09 Tree preservation.

33.10 Home occupations.

33.11 Permitted encroachments—yards.

33.12 Traffic control.

33.13 Parking.

33.14 Overhead doors and loading spaces.

33.15 Soil erosion and sedimentation control.

33.16 Preservation of natural drainage ways.

33.17 Height limitations.

33.18 Building relocation.

33.19 Curbing.

33.20 Buffer yard flexibility.

33.21 Noise abatement standards.

33.22 Standards for rear yard chickens.

33.23 Roof top equipment.

33.24 Donation drop-off boxes.

### 33.01 Intent.

These performance standards are designed to encourage a high standard of development by providing assurance that neighboring land uses will be compatible. These standards are also designed to preserve the quality of development and reduce negative impacts on surrounding properties. All future development in all districts shall be required to meet these standards. These standards shall also apply to existing developments where stated.

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### 33.02 Lighting.

- (a) In all commercial, industrial, or multi-family zoning districts, any lighting used to illuminate off-street parking and driving areas, signs, or structures shall, except as permitted under [Section] 33.02(e), consist of downcast style fixtures with a concealed or shielded light source to prevent glare or spill to adjacent right-of-way or properties.
- (b) Pole-mounted lighting in commercial, industrial, or multi-family residential zoning districts shall not have pole heights exceeding twenty (20) feet. Pole heights exceeding twenty (20) feet for larger commercial or industrial parking areas (exceeding one hundred twenty (120) parking stalls or sites with developed area greater than 2.5 acres), or outdoor recreational facilities in all zoning districts may be considered with review and issuance of a Conditional Use Permit.
- (c) No light or combination of lights, including illuminated signs, that cast light upon a public street shall exceed one (1) foot-candle meter reading as measured at the edge of roadway. No light or combination of lights that cast light upon a residentially-zoned property shall exceed .4 foot-candle meter reading as measured at the residential property line. All measurements shall be made after dark at the property line or edge of roadway. The City may limit the hours of operation of outdoor lighting if it is deemed necessary by the City to reduce impacts on the surrounding neighborhood.
- (d) Direct or sky-reflected glare, whether from floodlights or from high-temperature processes, such as combustion or welding, shall not be directed into any adjoining property. No flickering or flashing lights shall be allowed. Lighting shall not be placed on a site if the light source or its reflected image can be viewed directly from a location off the site.
- (e) Direct view ornamental fixtures shall only be approved when the developer can demonstrate that undesirable off-site impacts stemming from direct or reflected views of the light source are eliminated by reducing light intensity, fixture design, or location of the lighting fixture. City approval of direct view ornamental light fixtures shall be by City Council action in the form of either a Conditional Use Permit or subdivision approval.
- (f) The City shall require submission of a light distribution plan to ensure compliance with the intent of this **Ordinance** for all new commercial, industrial, or multi-family residential developments, commercial,

industrial, or multi-family residential redevelopment or additions which exceed twenty percent (20%) of the floor area of the principal structure, and any modifications to lighting, including conversion to LED lighting. This plan shall include the type, arrangement of proposed lighting, and proposed lighting levels in foot-candles at all locations on the site including its property boundaries and edge of all adjacent roadways.

(Ord. No. 98-1732, amended 7-9-1998; Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### 33.03 Nuisances.

No noise, odors, vibration, smoke, air pollution, liquid or solid wastes, heat, glare, dust, or other adverse influences shall be permitted that will in any way have an objectionable effect upon adjacent or nearby property.

(a) *Noise*. Noises emanating from any use shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Regulation Noise Pollution Control Rules, and Section 11-70 of the **Blaine Code of Ordinances**. (Ord. No. 97-1640, amended 3-6-1997)

(b) *Emission of Smoke*.

(1) No person owning, or in charge of, or operating any fuel burning, refuse burning, combustant, or process equipment, process device, portable boiler, stacks, vents or premises, shall cause, suffer, or allow emission or discharge of smoke from any single such source into the atmosphere, the appearance, density, or shade of which is darker than number one and one-half (1½) of the Ringleman Chart.

(c) *Emission of particular matter*.

(1) No person shall cause or allow the emission of particulate matter from any process, including any material handling or storage activity, that is visible beyond the property line of the emission source.

(d) *Toxic and noxious matter*.

(1) No use shall discharge across the boundaries of the lot where it is located, toxic, odorous or noxious matter in such concentrations as to be detrimental to or endanger the public health, safety, comfort or welfare, or cause appreciable injury or damage to property or business.

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### 33.04 Land reclamation/earth removal.

(a) Earth removal, land reclamation, material storage of filling, shall be permitted in all zoning districts, on any lot or parcel except that it shall be unlawful for any person to remove, store, excavate, or place as fill any rock, sand, dirt, gravel, clay, or other like material within the City, in excess of one hundred (100) cubic yards without first having applied for and having obtained a permit from the City. When five thousand (5,000) or more cubic yards of material is to be removed or deposited on any lot or parcel, an interim use permit shall be required.

- (b) The City Council may incorporate and attach, to the interim use permit, any conditions or restrictions that it deems necessary for the preservation of health, welfare, and safety of the citizens.

(Ord. No. 90-1190, amended 4-19-1990; Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### 33.05 Lot provisions.

- (a) Any lot of record existing upon the effective date of this **ordinance** in a residential district, which does meet the minimum requirements of this **ordinance** as to area or dimensions, may be utilized for residential dwelling purposes, provided the area and lot dimensions are within seventy-five percent (75%) of the requirements of this **ordinance**, but said lot of record shall not be more intensely developed unless combined with one (1) or more abutting lots or portions thereof, so as to create a lot meeting the requirements of this **ordinance**.
- (b) If in a group of contiguous existing lots under single ownership, any individual lot does not meet the minimum requirements of this **ordinance**, such individual lot cannot be considered as a separate parcel of land for purposes of sale or development, but must be combined with adjacent lots and/or parcels under the same ownership so that the combination of lots will equal one (1) or more parcels of land, meeting the minimum requirements of this **ordinance**. No building permit will be issued for a lot that does not comply with this paragraph.
- (c) Except in the case of Residential Flex Districts, Development Flex Districts or conditional Use Permits issued for multiple buildings, no more than one (1) principal building shall be located on a lot.
- (d) On a corner lot, both street lines shall be front lines for applying the yard and parking requirements of this **ordinance**, except where specific standards are outlined for corner sideyards in single-family and two-family districts. (Ord. No. 97-1672, amended 9-4-1997)
- (e) The required front yard of a corner lot shall not contain any wall, fence, or other structure, tree, shrub, or other growth, which may cause danger to traffic on a street or public road by obscuring the view. On corner lots, in any district, no structure or planting in excess of thirty (30) inches above the curb line shall be permitted within the intersection sight distance triangle.
- (f) All specified setbacks within the specific zoning districts shall be measured from a minimum distance of sixty (60) feet from the centerline of rural section County roads and fifty (50) feet from the centerline of urban section County roads. Structures lawfully existing prior to the enactment of this section are exempt from these provisions. (Ord. No. 00-1840, added 4-20-2000)

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### 33.06 Site plans.

- (a) All applications for commercial, industrial, or institutional development, apartments, attached townhomes, or detached townhomes must secure site plan approval in addition to required building permits whenever a new structure or addition to a structure is proposed. Site plan approval is also required for site improvements to commercial, industrial, institutional, and multifamily properties.

Building permits shall not be issued prior to approval of site plan by the Zoning Administrator or his or her designee. All applications shall be accompanied by the following materials:

- (1) *Certificate of Survey*. The survey shall be drawn to an established scale indicated on the survey and indicate all existing structures and site improvements.
- (2) *Site plan*. The site plan shall include the location of all proposed buildings and their proposed uses; location of driveways and parking areas; front, side and rear setbacks; location, size, and purpose of all easements; location and size of existing buildings and structures on site and within the distance of 100 feet from the property; location of refuse areas; location of outdoor storage areas.
- (3) *Tree preservation plan*. Plan shall include all requirements of 33.09.
- (4) *Landscape plan*. Plan shall include all requirements of 33.07.
- (5) *Grading and drainage plan*. Grading and drainage plan shall contain existing and proposed grades with a minimum of two-foot contour intervals to a known datum. All proposed stormwater management facilities, roadway gradients, flood hazard zones, and spot elevations on parking lots and curb lines must also be shown on the grading plan. The grading and drainage plan must also comply with the requirements of Section 33.165(h), Submittal Components.
- (6) *Utilities plan*. Utilities plan shall indicate the location of existing and proposed water and sanitary sewer lateral and service locations and size of pipe. Other utilities information required as requested by the city engineer.
- (7) *Lighting and photometric plan*. The lighting plan shall include detail drawings for all proposed lighting fixtures and a photometric plan depicting the extent of lighting within and beyond the property lines.
- (8) *Floor plans*. Floor plans shall indicate the square footage and dimensions of all proposed rooms and areas identifying the proposed uses.
- (9) *Elevations*. Elevations shall include specification of colors and materials to be used. A material board including samples of the proposed materials shall be submitted upon request of the zoning administrator.

All plans to be drawn to an established engineering scale and prepared by a registered architect, engineer, landscape architect, or surveyor.

- (b) *Procedure*. All building permits shall be issued by the Building Official following review and approval by the Zoning Administrator of the site plan for conformity with the city's present development code and Comprehensive Land Use Plan. The zoning administrator may submit the application to the Administrative Review Committee for review.

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### **33.07 Landscaping.**

- (a) All building construction in the R-3A, R-3B, R-3C, RF, DF, B-1, B-2, B-3, B-4, I-1, I-1A, I-2, I-2A, PBD, RR, and POD zoning districts shall be accompanied by a complete landscape plan. The landscape plan should be developed in accordance with the site plan submitted for approval.
- (b) Detailed landscape plans shall include the following information:

- (1) General. Name and address of developer/owner, name and address of architect/designer, date of plan preparation, date and description of all revisions, name of project or development, scale of plan, north point indication.
  - (2) Site analysis. Boundary lines of property line with dimensions based upon certified survey, name and alignment of proposed and existing adjacent on-site streets, location of all proposed utility easements and right-of-way, location of existing and proposed buildings, topographic contours at two-foot contour intervals, location of parking areas, water bodies proposed sidewalks, and percent of site not covered by structures.
  - (3) Landscape data. A planting schedule table shall contain the following information including symbols, quantities, common names, botanical names, size of plant materials, root specifications, and special planting instructions.
  - (4) Typical sections and details of fences, retaining walls, berms and other landscape improvements.
  - (5) Typical sections of landscape islands and planter beds with identification of materials used.
  - (6) Details of planting beds and foundation plantings.
  - (7) Delineation of both sodded and seeded areas indicated in square footage.
  - (8) Where landscape or manmade materials are used to provide required screening from adjacent and neighboring properties, a cross section shall be provided at a legible scale illustrating the prospective of the site from the neighboring property and property line elevation.
- (c) Number of plant materials required. In order to achieve an appropriate and complete quality landscaping of a site, the following minimum number of plant materials shall be provided as indicated below:
- (1) One (1) overstory deciduous shade tree for every two thousand (2,000) square feet of total building floor area or one (1) tree for every one hundred (100) feet of site perimeter, whichever is greater.
  - (2) One (1) coniferous tree for every two thousand (2,000) square feet of building or one (1) coniferous tree for every two hundred (200) feet of site perimeter, whichever is greater.
  - (3) One (1) understory shrub for every three hundred (300) square feet of building or one (1) shrub for every thirty (30) feet of site perimeter, whichever is greater. (Ord. No. 86-956, amended 7-10-1986)
  - (4) One (1) ornamental tree for every two thousand (2,000) square feet of building or one (1) ornamental tree for every two hundred (200) feet of site perimeter, whichever is greater.
  - (5) The number of plant materials required in (d)(1)—(4) may be reduced by fifteen percent (15%) in each category in the Light Industrial (I-1 and I-1A) and Heavy Industrial (I-2 and I-2A) zoning districts. (Ord. No. 89-1177, added 12-21-1989)
- (d) Minimum size of plantings:
- (1) Overstory deciduous—Two and one-half-inch caliper.
  - (2) Coniferous—Six (6) feet in height.
  - (3) Shrubs—Twenty-four-inch (pot).
  - (4) Ornamental trees—Two-inch caliper.

In the event a site plan layout does not have adequate open space to accommodate plant quantities as per Section 33.07(d) , such quantities per species can be combined into less

quantities per species, provided total required height or caliper is maintained. (Ord. No. 86-956, amended 7-10-1986)

- (e) Trees planted in accordance with a required landscape plan shall not be removed without the approval of the Zoning Administrator.
- (f) Sodding and ground cover. All open areas of any site not occupied by building, parking, or storage, shall be sodded over four (4) inches of topsoil. Exceptions to this are as follows: (Ord. No. 86-972, amended 8-21-1986)
  - (1) Seeding over four (4) inches of topsoil of future expansion areas as shown on approved plans. (Ord. No. 86-972, amended 8-21-1986)
  - (2) Undisturbed areas containing existing natural vegetation which can be maintained free of foreign and noxious materials.
  - (3) Areas designated as open space for future expansion area properly planted and maintained with grass.
- (g) Slopes and berms:
  - (1) Final slope grade steeper than the ratio of 3:1 will not be permitted without special approval or treatment, such as terracing or retaining walls.
  - (2) Berming used to provide required screening of parking lots and other open areas shall not have a slope to exceed 3:1.
- (h) Tree Preservation and Credit Policy: (Ord. No. 93-1337, amended 6-3-1993)
  - (1) It is the policy of the City with respect to specific site development to retain, as far as practical, existing trees which should be incorporated into the site. Credit for retention of existing trees which are of the acceptable minimum size, species, and location, may be given to satisfy the minimum number of requirements. Replacement trees required by a tree preservation plan will be credited to the landscape requirements.
- (i) Use of Landscaping for Screening:
  - (1) Where natural materials, such as trees are approved in lieu of the required screening by means of walls or fences, density and species of planting shall be such to achieve opaqueness year round.
- (j) Maintenance Policy:
  - (1) It is the responsibility of the property owner to insure that the landscaping is maintained in an attractive condition. The owner shall replace any damaged or dead trees, shrubs, ground covers, and sodding.
- (k) Erosion Control:
  - (1) All open disturbed areas of any site shall be seeded as an erosion control measure in accordance with the provisions of Section 33.15.
- (l) Preservation of Shoreland, Wetland, and Marsh Areas:
  - (1) A protective buffer strip of natural vegetation at least 15 feet (25 feet average width) shall surround all wetlands.
- (m) Landscaping may be permitted in utility and drainage easements or road right-of-way with the approval of the Zoning Administrator. (Ord. No. 86-972, amended 8-21-1986)



- (n) For the purpose of aesthetically enhancing a site the Zoning Administrator may approve exchanging up to fifty percent (50%) between categories of plant materials and sizes as set forth in Section 33.07 (d) and (e) or a landscape plan signed by a registered landscape architect which meets the intent of [Section] 33.08 but varies quantities and sizes of plant materials. (Ord. No. 89-1177, added 12-21-1989).

(Ord. No. <http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank> web="yes">20-2447 </a>, 7-20-2020)

### **33.08 Fences.**

- (a) *Purpose.* The purpose of this section is to promote a pleasant physical environment and to protect the public and private property within the City by regulating the location, height, type of construction, and maintenance of all fences.
- (b) *Definitions.* [The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:]
- (1) *Fence:* A fence is defined, for the purpose of this **ordinance**, as any partition, structure, wall, or gate erected as a divider marker, barrier or enclosure and located along the boundary, or within the required yard. For the purpose of this section, a fence shall not include naturally growing shrubs, trees or other foliage.
  - (2) *A Boundary Fence:* A boundary fence is any fence parallel to the property line.
  - (3) *Privacy Fence:* A privacy fence is any fence used for screening of outdoor living areas and for enclosures where restricted visibility or protection is desired.
  - (4) *Farm Fence:* A fence located on a property zoned FR or AG and constructed to contain livestock and located a minimum of 300 feet from any residentially zoned property.
- (c) *Permit Required:*
- (1) No fence shall be erected or substantially altered without securing a permit from the Building Inspector. All such permits shall be issued upon a written application which shall set forth the type of fence to be constructed, the material to be used, height, and exact location of the fence. A fee shall be paid with each application. (Ord. No. 90-1184, amended 2-1-1990)
- (d) *Location of Fences:*
- (1) Fences, when constructed to enclose any lot or tract of land, shall be located in such a way that the entire fence shall be on the property of the owner. Posts and framework shall be placed within the property lines of the owner and the actual fencing material, such as wire, lumber, pickets, etc., shall be placed on the side of the fence which faces the street or the adjacent property.
  - (2) No fences shall be allowed or constructed on street rights-of-way. Fences may, by permit, be placed on public utility easements so long as the structures do not interfere in any way with existing underground or over ground utilities. Further, the City or any utility company having authority to use such easements, shall not be liable for repair or replacement of such fences in the event they are moved, damaged or destroyed by virtue of the lawful use of said easement.
- (e) *Construction and Maintenance:*

- (1) Every fence shall be constructed in a workmanlike manner and of substantial material reasonably suited to the purpose for which the fence is to be used. Every fence shall be maintained in a condition of reasonable repair and shall not be allowed to become and remain in a condition which would constitute a public nuisance or a dangerous condition. If such a fence is allowed to become and remain in such condition, the Building Inspector is authorized to notify the owner or owners of such fences of the condition and allow owner or owners ten (10) days in which to repair or demolish the fence.
  - (2) Link fences, wherever permitted, shall be constructed in such a manner that the barbed end is at the bottom of the fence.
  - (3) No barbed wire or barbed wire fences shall be allowed on private property in residential zones, except for farm fences as described in 33.08(j). No barbed wire or barbed wire fences shall be allowed on private property in business or industrial zones where the property lines of such property abut lots or parcels adjacent to residential districts.
  - (4) All fences shall be constructed in conformity with the wind, stress, foundation, structural and other requirements of the Minnesota Building Code.
- (f) In all single and two-family residential districts, fences, except as allowed for Special Purpose Fences, shall have the following setbacks and height limitations: (Ord. No. 97-1672, amended 9-4-1997; Ord. No. 08-2164, amended 8-7-2008)
- (1) Front yard—Maximum height of four (4) feet above ground level in front of the front face of the residential structure.
  - (2) Corner sideyard:
    - (a) Maximum height of four (4) feet above ground level when placed at the property line.
    - (b) Maximum height of six (6) feet above ground level when placed with a minimum setback of one (1) foot. (Ord. No. 98-1725, amended 6-25-1998)
  - (3) Sideyard along interior lot line(s)—Maximum height of six (6) feet above ground level.
  - (4) Rear yard:
    - (a) Maximum height of six (6) feet above ground level for fences along rear yards not adjacent or fronting on public right-of-way.
    - (b) Fences adjacent or fronting on public right-of-way shall have a maximum height of four (4) feet above ground level when placed at the property line.
    - (c) Fences adjacent or fronting on public right-of-way that are placed with a minimum setback of one (1) foot shall have a maximum height of six (6) feet above ground level. (Ord. No. 98-1725, amended 6-25-1998)
  - (5) The required front yard of a corner lot shall not contain any fence which may cause danger to traffic on a street or public road, by obscuring the view. On corner lots, no fence shall be permitted within the intersection sight distance triangle.
- (g) Commercial and Industrial Fences:
- (1) In business and industrial zones, fences may not exceed seven (7) feet in height above the ground level, and the use of barbed wire is prohibited, except that the top one (1) foot of any fence along side or rear lot lines in these zones may be constructed of barbed wire. Barbed wire is also permitted for the top one (1) foot of fences in industrial zones when fronting a public street and

placed no closer than the parking setback. Barbed wire shall not be permitted adjacent to any residential district. (Ord. No. 95-1572, amended 9-21-1995)

(h) Special Purpose Fences:

- (1) Fences for special purpose and fences differing in construction, heights, or location, may be permitted in any commercial or industrial district in the city, only by issuance of a conditional use permit approved by the City Council after a recommendation by the Planning Commission, and upon evidence that such special purpose fence is necessary to protect, buffer, or improve the premises for which such fence is intended.
- (2) Residential fences, higher than 6 (six) feet and up to 10 (ten) feet in height, built for screening and noise attenuation, that are placed on private property adjacent to county, state or federally designated roadways, shall be allowed in the rear and corner side yards, only by issuance of a conditional use permit. (Ord. No. 08-2164, added 8-7-2007)
- (3) The approval of special purpose fences may include stipulations as to the material, height, construction detail, or location of such special purpose fences. (Ord. No. 08-2164, amended 8-7-2008)

(i) Non-conforming fences:

- (1) All existing fences, at the time of the adoption of this section, which are not in violation of this section and are not located within a public right-of-way or easement, but which violate other sections of this code, may be continued to be maintained and to exist but may not be replaced, if destroyed or removed, to the extent that the violations be continued.

(j) Farm Fences:

- (1) Fences which are constructed for the purpose of containing livestock in any Farm Residence or Agricultural District may be electrified with no more than twelve (12) volts DC. Such electrification shall be installed so as to not have current going through said fence except on an intermittent basis. Current shall not remain on longer than three (3) seconds.
- (2) No fence shall be located closer than three hundred (300) feet from any residentially zoned property and shall be clearly designated as an electrified fence by the installation of one (1) by one (1) foot square sign stating "this fence is electrified".
- (3) Farm fences with a maximum height of 4 feet may use barbed wire.

(Ord. No. <http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank> web="yes">20-2447 </a>, 7-20-2020)

### 33.09 Tree preservation.

(a) *Standards of Preservation During Construction or Grading.*

- (1) *Intent.* Developments, structures, utilities, and all other site activities must be designed, installed, and constructed so that the maximum number of trees are preserved on all lots or parcels. Flexibility of city standards shall be considered when possible to ensure the preservation of the maximum number of trees.
- (2) *Tree Preservation Plan Required.* To minimize tree loss and to mitigate tree removal on wooded lots or parcels with trees, a tree preservation plan must be submitted for approval along with

application for any excavation permit, grading permit, building permit, Conditional Use Permit, site plan or plat approval. All site activity associated with the proposed permit or plat must be in compliance with the approved tree preservation plan.

(3) *Replacement:*

- (aa) *General.* All significant trees removed or damaged through activities described in (a) and (b) must be replaced on-site with approval of the Zoning Administrator, or in the form of payment of a fee to the city reforestation fund in an amount established by the City Council. Additional replacement trees shall be required as determined by the Zoning Administrator when trees of any size are removed in violation of this ordinance, or when trees have been impacted by failing to comply with the Tree Preservation Plan. Trees required by the approved landscape plan will be credited to replacement tree requirements if all the requirements of this ordinance have been fulfilled. This requirement may be waived by the Zoning Administrator upon determination that the maximum tree replacement requirement shall apply.
- (bb) *Nonresidentially Zoned Property.* In nonresidentially zoned districts the total number of replacement trees shall not exceed eight (8) trees per acre. The removal of trees on public right-of-way in commercial or industrial zoning districts; conducted by or on behalf of a governmental agency in pursuance of its lawful activities or functions, will be exempt from this replacement.
- (cc) *On Residentially Zoned Lots.* On public right-of-way in residential zoning districts and on residentially zoned lots exceeding one (1) acre in size the total number of replacement trees shall not exceed eight (8) trees per acre of upland. On residentially zoned lots less than one (1) acre in size a one (1) to one (1) replacement of all trees will be required for the first seven trees removed from the lot.

(4) *The Tree Preservation Plan.* The tree preservation plan must be prepared by a registered architect, landscape architect or forester. The plan must include a scaled drawing or survey including the following information:

- (aa) A tree inventory indicating size, species, location and condition of all significant trees and clumps of non-significant trees within the limits of the proposed activity; also location of existing and proposed structures, improvements, utilities and existing and proposed contours.
- (bb) Specific disease control, if applicable, and protection techniques that will be utilized to minimize disturbance to all trees remaining on site.
- (cc) A reforestation plan indicating size, species, location, and planting specifications of all street and yard trees and all replacement trees.
  - (1) The reforestation plan shall utilize a variety of tree species with emphasis on native species when possible.
  - (2) Replacement trees shall be a minimum two and one-half (2½) inches in diameter if deciduous, or six (6) feet in height if coniferous.
- (dd) *Financial Guarantee.* All installations of trees required by the tree preservation plan or as a penalty for failing to comply with the tree preservation ordinance or plan must be completed at the time of request for a Certificate of Occupancy if issued between May 15th and October 15th, unless dates have been modified by the Zoning Administrator to accommodate unseasonable weather. A Certificate of Occupancy requested after October 15th and before

May 15th may be issued with a cash deposit submitted by the builder in an amount required by the Zoning Administrator to guarantee installation of landscaping. Property owners/contractors/developers required to install replacement trees because of unauthorized removal or disturbance of existing trees on undeveloped parcels must submit a cash deposit in an amount required by the Zoning Administrator to guarantee installation of landscaping. (Ord. No. 99-1771, amended 3-4-1999)

(5) *[Approval.]* Tree preservation plans must receive approval of the Zoning Administrator.

(6) *Inspection and Enforcement.* Prior to commencement of site grading or excavation, the site shall be staked and fenced for tree protection per the approved tree preservation plan. Construction activities shall cease until compliance with the tree preservation plan has been achieved. Violations of this ordinance and/or Tree Preservation or Forestry management plan are considered a misdemeanor. Each day is considered a separate offense.

(b) *Tree Removal on Lots without Construction or Grading Permits.*

(1) The number of trees removed from privately owned land shall be limited to two (2) significant trees per year, unless an approved Forest Management Plan has been obtained. Trees removed because they are an obstruction to traffic or power lines, or trees removed because they pose a hazard to structures or sewer systems, shall be excluded from these requirements.

(2) Forest Management Plan. An approved Forest Management Plan will be required if more than two (2) significant trees per year are removed. At a minimum, the plan must include the following information:

(aa) A scaled map designating all forested areas and existing and proposed uses of such areas.

(bb) Location of all existing structures, roads, utilities, and driveways on the site.

(cc) A written narrative describing specific activities and reasons for developing the plan, and how these actions and activities will affect the forest. Specific examples include, but are not limited to: better forest management (thinning or removal of dead or diseased trees), improved wildlife habitat, recreational use, outdoor education, and trails.

(dd) Tree Replacement may also be required as part of the Forest Management Plan. Tree replacement, as outlined in Section 33.09 (a)(3), shall be required if trees are removed without obtaining an approved approval for a Forest Management Plan.

(ee) Forest Management Plans must be approved by the Zoning Administrator.

(Ord. No. 93-1337, amended 6-3-1993; Ord. No. 97-1653, amended 4-17-1997; Ord. No. 99-1785, amended 4-15-1999)

(Ord. No. <http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank> web="yes">20-2447 </a>, 7-20-2020)

### **33.10 Home occupations.**

(a) *Intent.* In order to provide peace, quiet, and domestic tranquility within all residential neighborhoods, within the City, and in order to guarantee to all residents freedom from excessive noise, excessive traffic, nuisance, fire hazard and other possible effects of commercial uses being conducted in residential areas.

(b) *Definitions.*

- (1) A *home occupation* is defined as any business, occupation, profession, or commercial activity that is conducted or petitioned to be conducted from property that is zoned for residential use. General farming and gardening activities are not considered home occupations and are not regulated by this **ordinance**. (Ord. No. 87-1007, amended 2-19-1987)
  - (2) A *home occupation conditional use permit* is a permit authorized by the City Council only after a public hearing by the Planning Commission. (Ord. No. 87-1007, amended 2-19-1987)
- (c) All home occupations which conform to the following standards may be conducted without a conditional use under this **ordinance**: (Ord. No. 87-1007, amended 2-19-1987)
- (1) Permitted home occupations shall not be conducted in any building on the premises other than the building which is used by the occupant as the private dwelling and, furthermore, that not more than one (1) room may be used for such purposes. (Ord. No. 87-1007, amended 2-19-1987)
  - (2) Home occupation may have one (1) wall sign per dwelling which may not exceed 2.5 square feet. (Ord. No. 87-1007, amended 2-19-1987)
  - (3) There shall be no exterior, garage or accessory building storage of any materials including business equipment, merchandise, inventory or heavy equipment. Motor vehicles used in the home occupation must be stored inside. (Ord. No. 87-1007, amended 2-19-1987)
  - (4) The area set aside for home occupations shall not exceed twenty percent (20%) of the total floor area of such residence. (Ord. No. 87-1007, amended 2-19-1987)
  - (5) Permitted home occupations shall not include the employment of any persons not residing on the premises in the performance of the occupation. (Ord. No. 87-1007, amended 2-19-1987)
  - (6) The use of mechanical equipment other than is usual for purely domestic or hobby purposes is prohibited. (Ord. No. 87-1007, amended 2-19-1987)
  - (7) Off-street loading and off-street parking requirements of Sections 33.14 and 33.15 must be provided. (Ord. No. 87-1007, amended 2-19-1987)
  - (8) Merchandise shall not be regularly or openly displayed or offered for sale within the residence. (Ord. No. 87-1007, amended 2-19-1987)
  - (9) The operation of any wholesale or retail business, unless it is conducted entirely by mail or by occasional home invitation. (Ord. No. 87-1007, amended 2-19-1987)
  - (10) Any home occupation or activity which produces noise or obnoxious odors, vibrations, glare, fumes, fire hazard, or electric interference detectable to normal sensory perception beyond the property line is prohibited. (Ord. No. 87-1007, amended 2-19-1987)
  - (11) Trucks shall not be stored, operated, or maintained in residential districts. (Ord. No. 87-1007, amended 2-19-1987)
  - (12) A home occupation must normally involve fewer than four (4) customers entering daily. (Ord. No. 87-1007, amended 2-19-1987)
  - (13) Home occupation is served by delivery trucks no larger than 20,000 GVW.

(d) *Conditional Use Permits:*

- (1) All home occupations which do not conform to the standards contained in Section 33.11(c) shall only be conducted with a home occupation conditional use permit. Conditional Use Permit applications shall be made and considered in accordance with 27.04 of this code.

- (2) Conditional use permits, once granted, may be revoked by the City Council for cause after hearing before the City Council. Complaints seeking the revocation of such permit shall be filed with the Director of Community Development and may be initiated by the Planning Commission or any three (3) residents of the block (both sides where the home occupation is being conducted). All such revocation hearings shall be conducted in accordance with Section 27.07 of this **ordinance**. Publication and notice requirements shall be the same as for home occupation conditional use permit application hearings.
- (e) Garage sales or sales of household items are permitted without special permit provided they meet the following standards: (Ord. No. 87-1007, amended 2-19-1987)
- (1) Garage sales last no longer than three (3) days and sales of individual household items last no longer than fifteen (15) days. (Ord. No. 87-1007, amended 2-19-1987)
  - (2) Sales are held no more than twice yearly. (Ord. No. 87-1007, amended 2-19-1987)
  - (3) Sales are conducted on the owner's property. Multiple family sales are permitted if they are held on the property of one (1) of the participants. (Ord. No. 87-1007, amended 2-19-1987)
  - (4) No goods purchased for resale may be offered for sale. (Ord. No. 87-1007, amended 2-19-1987)
  - (5) No consignment goods may be offered for sale. (Ord. No. 87-1007, amended 2-19-1987)
  - (6) All directional and advertising signs shall be freestanding and removed after completion of the sale. (Ord. No. 87-1007, amended 2-19-1987)
  - (7) All directional and advertising signs shall be placed on private property and shall have the owner's permission. (Ord. No. 87-1007, amended 2-19-1987)
  - (8) No directional or advertising sign may be larger than two (2) feet by three (3) feet. (Ord. No. 87-1007, amended 2-19-1987)

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### 33.11 Permitted encroachments—yards.

For the purpose of this **ordinance**, the following shall be considered as permitted encroachments within the yards indicated:

- (a) Decks; patios; balconies; open terraces; marques; flues; sills; lintels; pilasters; cornices; gutters; open canopies; open porches not enclosed by walls, screens, windows, or doors; and awnings; are permitted to encroach by up to 25% of the required setbacks in the front, side, and rear yard.
- (b) Yard lights and name plate signs in residential districts, provided such lights and signs are three (3) feet or more from all lot lines. Lights for illuminating parking and loading areas or yards for safety and security purposes may be provided where necessary, provided that the glare is not visible from public right-of-way or adjacent residential property.
- (c) Unenclosed gazebos, covered shelters, pools, and pool patios located in the rear yard are permitted with a minimum 10 foot setback from the side and rear lot lines.
- (d) Recreation equipment, picnic tables, arbors, trellises, pergolas, outdoor living rooms, outdoor eating facilities, and laundry drying equipment are permitted in the rear yard with a minimum 5 foot setback from the side and rear lot lines.

- (e) Chimneys, flag poles, sidewalks, fences, landscaping, posts and similar amenities are permitted encroachments in any location
- (f) Cantilevers may encroach by up to 2 feet of the required setback in the front, rear, and side yards.
- (g) Window wells are permitted encroachments with a minimum 2 foot setback from the side and rear property lines.
- (h) Encroachments in any yard that abut a public or private street, shall be considered as permitted encroachments, as outlined above, except that no encroachment shall be permitted within present or proposed street right-of-way lines.
- (i) On corner lots, in any district, encroachments are not permitted in excess of thirty (30) inches above the curb line in the intersection sight distance triangle.

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### 33.12 Traffic control.

The traffic generated by any use shall be channeled and controlled in a manner that will avoid: congestion on public streets, traffic hazards, and excessive traffic through residential areas, particularly truck traffic.

- (a) Internal traffic shall be so regulated as to insure its safe and orderly flow. Traffic into and out of commercial and industrial areas shall, to the extent possible, be forward moving with no backing into streets. On corner lots, no structure or other materials shall be placed within the intersection sight distance triangle between the height of two and one-half (2½) and ten (10) feet above the center line grade of the intersecting street.
- (b) Access Drives and Access:
  - (1) A number and type of access drives onto arterial or collector streets may be controlled and limited in the interest of public safety and efficient traffic flow.
  - (2) Access drives onto county and state highways shall require a review by the county or state engineer who shall determine the appropriate location, size, and design of such access drives and may limit the number of access drives in the interest of public safety and efficient traffic flow.
  - (3) Access drives to principal structures which traverse wooded, steep, or open fields, shall be constructed and maintained to a width and base material depth sufficient to support access by emergency vehicles.
  - (4) All lots or parcels shall have an approved direct access for emergency service vehicles along the frontage of the lot or parcel from a publicly dedicated street. (Ord. No. 89-1173, amended 12-21-1989)
- (c) Vacated Streets.
  - (1) Whenever any street, alley, easement or public way is vacated by official action, the zoning district abutting the center line of said vacated area shall not be affected by such proceedings.



(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### 33.13 Parking.

- (a) Any off-street parking space in connection with existing buildings or structures, on the effective date of this ordinance, shall not be removed, enlarged or altered, except in conformance with the requirements of this ordinance.

In connection with any building or structure which is to be erected or substantially altered and which required off-street parking spaces, off-street parking spaces shall be provided in accordance with the following regulations. No change in use is permitted until the required number of parking stalls are furnished.

The following requirements are designed to provide adequate off-street parking space for passenger automobiles of patrons, occupants or employees.

- (b) *Size.* (Ord. No. 86-956, amended 7-10-1986; Ord. No. 07-2148, amended 9-6-2007)

- (1) Stall and aisle dimensions shall be constructed to the following minimum specifications listed below. Parallel parking subject to Zoning Administrator Approval.

Parking Angle	Stall Width Including Striping	Stall Length	Aisle Width
90 degrees	9 feet	20 feet	24 feet
60 degrees	9 feet	23 feet	15 feet
45 degrees	9 feet	27 feet	12 feet
Parallel	9 feet	23 feet	12 feet

The stall length can be reduced by the amount of the curb overhang up to a maximum of two (2) feet.

Accessible parking spaces shall meet the dimensional requirements of the Minnesota Accessibility Code.

- (2) All off-street parking areas shall be striped between stalls. Directional arrows shall be used on one-way traffic lanes.
- (3) Painted or curbed traffic safety islands shall be installed at the ends of each parking tier. Additional traffic safety islands may be required to maintain a safe and orderly flow of traffic within the parking lot and/or driveways.

- (c) *Access.*

- (1) Each required off-street parking space shall open directly upon an aisle or driveway of such width and design as to provide safe and efficient means of vehicular access to parking spaces.

- (2) All off-street parking facilities shall be provided with appropriate means of vehicular access to a street, alley, or a driveway, in a manner which will least interfere with traffic movements.
- (3) All parking areas shall have vehicular access to it by a street or driveway, containing all-weather, hard-surfaced pavement. No driveway access across public property shall have a width exceeding twenty-four (24) feet for single family residential lots with less than seventy (70) feet of frontage, thirty (30) feet for lots with seventy (70) or more feet of frontage and multi-family developments, or thirty-six (36) feet for commercial/industrial, exclusive of curb returns. (Ord. No. 89-1163, amended 10-19-1989)

(d) *Yards.*

- (1) Off-street parking and driveways shall not be permitted within any front yard, corner side yard, side yard, or rear yard minimum setbacks established for parking and driveways. (Ord. No. 85-898, amended 8-15-1985)
- (2) Parking spaces required for single or two family dwelling units shall be located on the same lot as the dwelling served.

(e) *Computation of Parking Spaces.* When determination of the number of parking spaces required by ordinance results in a requirement of a fractional space, any fraction of one-half ( $\frac{1}{2}$ ) or less may be dropped, while a fraction in excess of one-half ( $\frac{1}{2}$ ) shall be counted as one (1) parking space.

(f) *Collective Parking Provisions for Non-residential Uses.* Off-street parking facilities for separate uses may be provided collectively if the total number of spaces so provided is not less than the sum of the separate requirements of each use and if all regulations governing the location of accessory parking spaces in relation to the use served are observed. But no parking space, or portion thereof, shall serve as a required space for more than one (1) use unless otherwise authorized in this ordinance.

(g) *Repair and Service.*

- (1) No motor vehicle repair work of any kind shall be permitted in parking lots.
- (2) No merchandise shall be sold in conjunction with any parking facilities unless such facilities are located within a completely enclosed building.

(h) *Design, Maintenance, and Installation.*

- (1) All open off-street parking areas or areas traveled by vehicles shall be of four-inch MnDOT Class 5 base and a minimum two-inch bituminous surface.
- (2) All open automobile parking areas, in commercial and industrial districts, containing more than four (4) parking spaces shall be effectively screened on each side adjoining or fronting on any residential property by a wall or fence that conforms with existing ordinances.
- (3) Illumination of an off-street parking area shall be arranged so as not to project or reflect rays of light into adjacent and residential districts, and so as not to create a traffic hazard on adjacent streets.

(i) *Required Parking Spaces.* Off-street parking spaces accessory to designated uses shall be provided as follows:

- (1) *Single family dwellings:* At least one (1) parking space for each dwelling, plus one (1) additional parking space for each two (2) roomers or lodgers accommodated, but no more than four (4) parking spaces for each single family dwelling.
- (2) *Two family dwellings:* Two (2) for each dwelling unit.

- (3) *Apartments*: 2 spaces per apartment unit, a minimum of one of which must be underground.
- (4) *Townhouses*: Two garage spaces per unit plus 1 space for each three units for guest parking. Guest parking may include on street parking spaces on private roads.
- (5) *Automobile Repair*: Four (4) parking spaces, plus two (2) parking spaces per service bay.
- (6) *Banks*: At least one (1) parking space for each four hundred (400) square feet of floor area.
- (7) *Boarding and Rooming Houses*: At least two (2) parking spaces, plus one (1) parking space for each three (3) persons for whom living accommodations are provided.
- (8) *Bowling alleys*: At least five (5) parking spaces for each alley, plus one (1) space for every four hundred (400) square feet of area not used as a bowling alley. (Ord. No. 06-2099, amended 6-1-2006)
- (9) *Business and professional offices or public administration buildings*: At least one (1) parking space for each two hundred (200) square feet of floor area.
- (10) *Childcare facility, not including group family daycare*: At least one (1) parking space for each three hundred (300) square feet of floor area.
- (11) *Churches and synagogues*: At least one (1) parking space for each four (4) seats in accordance with design capacity of the main auditorium.
- (12) *Establishments handling the sale and consumption of food and refreshment on the premises including event centers*: At least one (1) parking space for each one hundred (100) square feet of floor area, excluding bar area and kitchen area, one (1) parking space for each forty (40) square feet of bar area and one (1) parking space for each two hundred square feet of kitchen area.
- (13) *Fitness Centers*: 1 space for each three hundred (300) square feet of floor area.
- (14) *Furniture and appliance stores, motor vehicle sales, stores for repair of household equipment, or furniture*: At least one (1) parking space for each six hundred (600) square feet of floor area.
- (15) *Hospitals*: At least two (2) parking spaces per bed.
- (16) *Hotels*: At least one (1) space for each guest room.
- (17) *Libraries and museums*: At least one (1) parking space for each five hundred (500) square feet of floor area.
- (18) *Manufacturing, fabricating, general industrial building, and processing plants not engaged in retail trade*: Six (6) off-street parking spaces plus one (1) for each five hundred (500) square feet of floor area. (Ord. No. 88-1071, amended 2-18-1988)
- (19) *Medical and dental clinics*: At least one (1) space for each one hundred fifty (150) square feet of floor area.
- (20) *Motels*: At least one (1) parking space for each dwelling unit, plus one (1) space per employee.
- (21) *Private clubs and lodge*: One (1) parking space for each sixteen (16) square feet of assembly area or one (1) parking space for every two and one-half (2½) seats, whichever is greater.
- (22) *Recreational buildings or community centers*: Spaces in adequate number as determined by the Zoning Administrator.
- (23) *Schools, elementary, junior high, public or private*: At least three (3) parking spaces per classroom, plus necessary spaces for student drop off. May be reduced at Zoning Administrator discretion.

- (24) *Schools, high school, public or private*: At least two (2) parking spaces per student, plus necessary spaces for student drop off. May be reduced at Zoning Administrator discretion.
  - (25) *Self Storage Facility*: Minimum of five (5) spaces
  - (26) *Supermarkets, discount houses, mail order outlets, retail stores and other stores with high customer volume*: At least one (1) parking space for each two hundred (200) square feet of floor area.
  - (27) *Theaters*: At least one (1) parking space for each four (4) seats in the theater.
  - (28) *Undertaking establishments and funeral homes*: At least one (1) space for every twenty-eight (28) square feet of area devoted to funeral services or display area plus one (1) parking space per employee. (Ord. No. 03-1990, amended 8-21-2003)
  - (29) *Warehouse and storage establishments and freight terminals*: At least one (1) off-street parking space for each two thousand (2,000) square feet of floor area or one (1) parking space for every two (2) employees, whichever is greater.
  - (30) *Other uses*: Parking spaces on the same basis as required for the most similar use.
- (j) *Residential (R-1, R-1A, R-1AA, R-1B, R-2, DF, RF) on-site parking requirements*. (Ord. No. 91-1243, added 1-17-1991; Ord. No. 01-1889, amended 1-18-2001)
- (1) Parking and storage shall be limited to operable vehicles registered and licensed to the occupants of the dwelling unit and their guests only.
  - (2) Parking or storage of vehicles shall be permitted in the front and corner side yard on paved driveways only. Total combined area of paved driveways shall not exceed forty-five percent (45%) of the combined areas of the front yard and corner side yard, except that in no case shall the width of a paved driveway beyond the public right-of-way, exceed thirty-six (36) feet for homes with garages thirty-six (36) feet in width or less or forty-five (45) feet for homes with garages in excess of 36 feet in width, with the exception that a paved driveway may extend, into the front yard, a maximum of ten (10) feet beyond the width of a garage for a length of not to exceed twenty (20) feet from the front face of the garage. (Ord. No. 05-2062, amended 10-20-2005)
  - (3) Provided area has an access drive, storage of vehicles shall be permitted in the side yard subject to required driveway setback.
  - (4) Parking in the rear yard is limited to:
    - (aa) Passenger vehicles parked on paved driveways extending to a detached garage located in the rear yard which serves as the sole garage for the residence;
    - (bb) Recreational vehicles, boats, truck toppers, and trailers parked in the rear yard on paved or unpaved surfaces subject to the driveway setbacks;
    - (cc) Collector vehicles parked on paved or unpaved surface for a maximum of two years bearing collector vehicles license plates appearing operable, and screened from all four sides by a six foot high solid fence installed with the required fence permit from the city. The two year time frame will commence as soon as a collector vehicle has been observed and documented and will not be extended even if the vehicle is removed from the rear yard for consecutive days or if the vehicle is replaced with another collector vehicle.

- (5) All existing parking and storage of vehicles not in compliance with the provisions of this ordinance shall be brought into compliance within one (1) year of the date of its adoption, except those lots which did not have a paved driveway at the time of adoption shall not be required to pave.
- (6) For the purpose of this section, these standards shall apply to all detached single-family residential lots approved under the City's DF (Development Flex) and RF (Residential Flex) zoning districts. (Ord. No. 01-1889, added 1-18-2001)

~~Cross-reference—Blaine Code of Ordinances Part II—chapter 82—Traffic and Vehicles.~~

(Ord. No. <http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank> web="yes">20-2447 </a>, 7-20-2020)

### <sup>135</sup>**33.14 Overhead doors and loading spaces.**

- (a) *Overhead doors.* In connection with any building or structure there is often the need for passenger vehicle and/or trucks the ability to enter a building for the purposes not limited to loading, unloading, service, maintenance and general storage.

*Commercial District.*

#### *(1) Location:*

- (aa) Overhead doors shall attempt to be placed primarily in the designated rear yard, and secondarily in the designated side yard.
  - (bb) An overhead door may be placed in the front yard and face a public right-of-way when additional screening/buffer is provided as outlined in the screening/buffer standards section. When more than one (1) frontage exists, the Zoning Administrator shall determine the frontage with the least significant impact which an overhead door may be directed.
- (2) *Size:* Overhead doors shall not be larger than ten-feet-wide by twelve-feet-high. If an overhead door is to exceed these dimensions a written statement explaining the reason shall be submitted to the Planning Department for review.
  - (3) *Screening/Buffer Standards:* The intent of screening/buffer standards is to provide an emphasis on reducing the visual impact overhead doors may have when located facing **right-of-ways** or residential zoning districts. This screening/buffer may consist of a combination of fencing, and/or earth berming and landscaping. The quantity and quality of these materials will depend on the overhead door location and how the site is designed to accommodate these spaces. This screening/buffer plan shall be approved by the Planning Department.
  - (4) *Access:* Each required overhead door shall be designed with appropriate means of vehicular access to/from a street or drive aisle in a manner which will least interfere with traffic circulation. Overhead door access shall be subject to approval by the City Engineer.
  - (5) *Architecture:* Overhead doors should be designed to be compatible with the principal structure. Architectural techniques are encouraged to reduce the visual impacts an overhead door may have on adjacent properties or roadways.

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<sup>135</sup> **33.14 Overhead doors and loading spaces.** The term “right-of-ways” appears throughout this Code and should be corrected in all instances to “rights-of-way”.

- (b) *Loading spaces.* In connection with any building or structure, which requires the receipt or distribution of materials or merchandise by trucks or other similar vehicles, there shall be off-street loading spaces provided. These spaces shall be provided according to the following guidelines.

*Industrial Districts:*

(a) *Location:*

- (1) All required loading spaces shall be located on the same lot as the use to be served and no portion of any vehicle shall, while occupying or servicing any loading space, project into a street or drive aisle.
- (2) All required loading spaces shall be located primarily in the designated rear yard and secondarily in the designated side yard.
- (3) When loading spaces are adjacent to a residential district, additional screening shall be used as outlined in the screening/buffer standards section.
- (4) The only time a loading space may be located in the front yard is when there exists more than one (1) frontage on a public right-of-way, as determined by the Zoning Administrator, with the least impact. Additional landscaping and earth berming will be required as set forth in the screening/buffer standards to reduce the visual impact of the loading space.
- (5) No above grade loading spaces shall be located facing a public right-of-way.

- (b) *Screening/Buffer Standards:* The intent of these screening/buffer standards is to provide an emphasis on reducing the visual impact loading spaces may have when located facing rights-of-ways or residential zoning districts. This screening/buffer may consist of a combination of fencing, and/or earth berming and landscaping. The quantity and quality of these materials will depend on the loading space location and how the site is designed to accommodate these spaces. This screening/buffer plan shall be approved by the Planning Department.
- (c) *Access:* Each required off-street loading space shall be designed with appropriate means of vehicular access to/from a street in a manner which will least interfere with traffic circulation. These spaces shall be subject to approval by the City Engineer.
- (d) *Architecture:* Loading spaces should be designed to be compatible with the principal structure. Architectural techniques are encouraged to reduce the visual impacts a loading space may have on adjacent properties or roadways.

(Ord. No. 89-1132, amended 4-20-1989; Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### **33.15 Soil erosion and sedimentation control.**

(a) *Findings of Fact.* It is hereby determined that:

- (1) Land development projects and associated increases in impervious cover alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, and sediment transport and deposition;
- (2) This stormwater runoff contributes to increased quantities of water-borne pollutants, and;

- (3) Stormwater runoff, soil erosion and non-point source pollution can be controlled and minimized through the regulation of stormwater runoff from development sites.

Therefore, the **City of Blaine** establishes this set of water quality and quantity policies applicable to all surface waters to provide reasonable guidance for the regulation of stormwater runoff for the purpose of protecting local water resources from degradation. It is determined that the regulation of stormwater runoff discharges from land development projects and other construction activities in order to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, and non-point source pollution associated with stormwater runoff is in the public interest and will prevent threats to public health and safety. All new development and redevelopment shall conform to Blaine engineering specifications for site work and the natural limitations as presented by the topography and soil to create the best potential for preventing soil erosion.

- (b) *Purpose.* The purpose of this **ordinance** is to control and eliminate, to the greatest extent possible, stormwater pollution and soil erosion and sedimentation in order to protect and safeguard the general health, safety, and welfare of the public. It establishes standards and specifications for development and conservation practices and planning activities designed to:

- (1) Minimize increases in stormwater runoff from any new development or redevelopment in order to reduce flooding, siltation, streambank erosion and maintain the integrity of stream and ditch channels;
- (2) Minimize increases in non-point source pollution caused by stormwater runoff from new development or redevelopment which would otherwise degrade local water quality;
- (3) Minimize the total annual volume of surface water runoff which flows from any specific site during and following development to not exceed the pre-development hydrologic regime to the maximum extent practicable.
- (4) Reduce stormwater runoff rates and volumes, soil erosion and non-point source pollution, wherever possible, through stormwater management controls and to ensure that these management controls are properly maintained and pose no threat to public safety.

- (c) *Scope.* In order to achieve compliance with the Municipal Separate Storm Sewer System (MS4) permit coverage extended to the City by the Minnesota Pollution Control Agency (MPCA), and to be consistent with the Local Surface Water Management Plan adopted by the City of Blaine, all public and private development and redevelopment projects, alterations, or improvements shall meet the requirements of this **ordinance**, the NPDES Construction Stormwater Permit (if applicable) and the rules of whichever Water Management Organization has jurisdiction on the subject property. Except where a variance is granted or **ordinance** does not require, any person, firm, sole proprietorship, partnership, corporation, state agency, or political subdivision proposing a land disturbance activity within the city shall apply to the city for project approval which shall include one (1) or more of the following:

- (1) Grading, Erosion and Sediment Control Plan;
- (2) Stormwater Pollution Prevention Plan (SWPPP); and
- (3) Stormwater Management Plan.

No land shall be disturbed until the project is approved by the city, has received a watershed district permit, any other applicable permits, and conforms to the standards set forth herein. Chapter 34, Article V, Divisions 1 and 2, Sections 34.131 to 34.155 and Chapter 74, Article III, Section 74.81 of the Blaine City Code of **Ordinances**, Section 33.06 of the Blaine City Zoning **Ordinance** and other pertinent sections of Code shall also be applied.

(d) *Abrogation and Greater Restrictions.* This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.

<sup>136</sup>~~(e) *Severability.* The provisions of this ordinance are severable, and if any provision of this ordinance, or application of any provision of this ordinance to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this ordinance must not be affected thereby.~~

(f) *Definitions.* Unless specifically defined below, words or phrases used in this Section shall be interpreted so as to give them the same meaning as they have in common usage and to give this Section its most reasonable application. ~~For the purpose of this Section, the words "must" and "shall" are mandatory and not permissive.~~ All distances, unless otherwise specified, shall be measured horizontally. As used in this Section, the following words and terms shall have the meanings ascribed to them in this Section:

*Bench* is a relatively level step excavated into earth material on which fill is to be placed.

*Best Management Practices (BMP)* are erosion control, sediment control and water quality management practices that are most effective and practicable for means of controlling, preventing and reducing the degradation of surface water as published by state or designated area-wide planning agencies.

*Borrow* is soil or other earth materials acquired from an off-site location for use in grading or filling on a site.

*Buffer* means land that is used to protect adjacent lands and waters from development and more intensive land uses. The land is kept in a natural state of trees, shrubs, and low ground cover and understory of plants and functions to filter runoff, control sediment and nutrient movement, and protect fish and wildlife habitat. In areas of agricultural use, the land may be used for less intensive agricultural purposes provided its function as a buffer remains intact.

*Channel* means a natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

*Clearing and grubbing* is the cutting and removal of trees, shrubs, bushes, windfalls and other vegetation including removal of stumps, roots and other remains in the designated areas.

*Common Plan of Development or Sale* is a contiguous area where multiple separate and distinct land disturbing activities may be taking place at different times, or on different schedules, but under one (1) proposed plan. This item is broadly defined to include design, permit application, advertisement or physical demarcation indicating that land-disturbing activities may occur.

*Detention facility* is a temporary or permanent natural or manmade structure that provides for the temporary storage of stormwater runoff.

*Discharge* is the release, conveyance, channeling, runoff or drainage of stormwater, including snowmelt, from a construction or development site.

*Disturbed ground* is any clearing, grading, excavating or other activity that removes vegetation and/or exposes or loosens the soil making it susceptible to erosion by wind, water, vehicular traffic or manmade activity.

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<sup>136</sup> **33.15 Soil erosion and sedimentation control.** Provisions duplicative of chapter 1 general provisions should be stricken.



*Erosion* is any process that wears away the surface of land by the action of wind, water, ice, gravity, nature or manmade activities.

*Erosion control* refers to methods employed to prevent erosion. Examples include soil stabilization practices, horizontal slope grading, temporary or permanent cover, and construction phasing.

*Exposed soil* areas are areas of the construction site where the vegetation (trees, shrubs, brush, grasses, etc.) or impervious surfaces have been removed, thus rendering the soil more prone to erosion. This includes topsoil stockpile areas; borrow areas and disposal areas within the construction site. It does not include temporary stockpiles or surcharge areas of clean sand, gravel, concrete or bituminous, which have less stringent protection requirements. Once soil is exposed, it is considered "exposed soil", until it meets the definition of "final stabilization".

*Fill* is a deposit of soil or other earth materials placed by artificial means.

*Filter strip* is a vegetated section of land designed to treat runoff as overland sheet flow. It may be designed in any natural vegetated form from a grassy meadow to a small forest. The dense vegetated cover facilitates pollutant removal, reduces erosion and promotes infiltration.

*Floodplain* [means] the channel or beds proper and the areas adjoining a wetland, lake or watercourse that have been or hereafter may be covered by the regional flood.

*Final Stabilization* requires that all soil disturbing activities at the site have been completed and all soils must be stabilized by a uniform perennial vegetative cover with a minimum density of seventy percent (70%) over the entire pervious surface area, or other equivalent means necessary to prevent soil failure under erosive conditions.

*High water level* is the expected elevation the water in a stormwater pond will rise to a 100-year rain event as calculated by the pond design.

*Hydric soils* are soils that are saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper soil horizon.

*Hydrologic Soil Group (HSG)* means a Natural Resource Conservation Service classification system in which soils are categorized into four (4) runoff potential groups. The groups range from A soils, with high permeability and little runoff production, to D soils, which have low permeability rates and produce much more runoff.

*Impaired Waters* are water bodies that do not meet water quality standards and designated uses because of pollutant(s), pollution, or unknown causes of impairment.

*Impervious surface* is a constructed hard surface that either prevents or retards the entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than existed prior to development. Examples include rooftops, sidewalks, patios, driveways, parking lots, storage areas, and concrete, asphalt, or gravel roads. Class 5 gravel surfaces are considered to be impervious surfaces.

*Land disturbance activity* is any land change that may result in soil erosion from water or wind and the movement of sediments into or upon waters or lands within this government's jurisdiction, including but not limited to construction, clearing and grubbing, grading, excavating, transporting and filling of land. Within the context of this ordinance, land disturbance activity does not mean:

- (1) Minor land disturbance activities including, but not limited to, underground utility repairs, home gardens, home landscaping, minor repairs and maintenance work which do not disturb more than two thousand (2,000) square feet of land or exceed one hundred (100) cubic yards of earthwork

provided work does not obstruct or modify a watercourse or storm sewer system and is not located in a floodplain;

- (2) Installation and maintenance of fences, signs, posts, poles, electric, telephone, cable television, utility lines or individual service connections to these utilities; or
- (3) General farming practices; or
- (4) Emergency work to protect life, limb, or property and emergency repairs, unless the land disturbing activity would have otherwise required an approved erosion and sediment control plan, except for the emergency. If such a plan would have been required, then the disturbed land area shall be shaped and stabilized in accordance with the city's requirements as soon as possible.

*Native vegetation* is the pre-settlement (already existing in Minnesota at the time of statehood in 1858) group of plant species native to the local region, that were not introduced as a result of European settlement or subsequent human introduction.

*Normal water level* refers to the permanent pool of water retained in a stormwater pond. By design, this is the water level below the invert elevation of the pond outlet with a depth not to exceed eight (8) feet.

*Ordinary high-water level* means the boundary of water basins, watercourses, public waters, and public waters wetlands, and:

- (1) The ordinary high-water level is an elevation delineating the highest water level that has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly the point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial;
- (2) For watercourses, the ordinary high-water level is the elevation of the top of the bank of the channel; and
- (3) For reservoirs and flowages, the ordinary high-water level is the operating elevation of the normal summer pool.

*Outfall* is the point of discharge to any watercourse from a public or private stormwater drainage system.

*Permanent cover* means "final stabilization". Examples include grass, gravel, asphalt and concrete. See also the definition of "final stabilization".

*Public Waters* are waters of the state as defined in Minnesota Statutes, Section 103G.005, Subdivision 15.

*Retention facility* is a temporary or permanent natural or manmade structure that provides for the storage of stormwater runoff by means of a permanent pool of water.

*Runoff* is rainfall, snowmelt, dewatering discharge, irrigation or any man-made sources of water flowing over the ground surface.

*Sediment* is the product of an erosion process; solid material both mineral and organic, which is in suspension, is being transported, or has been moved by water, wind, or ice and has come to rest on the earth's surface either above or below water level.

*Slope* is the incline of a ground surface expressed as a ratio of horizontal distance to vertical distance.

*Special Water* [means] surface water or receiving water that is of a high quality or is deemed worthy to receive extra protection.

*Stormwater*. Under Minnesota Rule 7077.0105, Subpart 41b), stormwater, "means precipitation runoff, stormwater runoff, snow melt runoff and any other surface runoff and drainage". According to the Code of Federal Regulations (CFR), under 40 CFR 122.26 [b][13], "Stormwater means stormwater runoff, snow melt runoff and surface and drainage". Stormwater does not include construction site dewatering.

*Storm sewer system* includes, but is not limited to, the combination of roadway gutters, roadway section ditches, culverts, storm sewer piping, overflow channels, infiltration trenches, detention and retention water quality treatment basins and other methods or devices used for capturing, conveying, controlling and treating stormwater and snow melt runoff.

*Stormwater Pollution Prevention Plan* is joint stormwater, erosion prevention and sediment control plan that is a document containing the requirements of Section I. When implemented, the plan will define the methods to be used to reduce soil erosion on a parcel of land and off-site non-point pollution. The plan involves both temporary and permanent controls.

*Stormwater pond* (also referred to as wet sedimentation basin, wet retention basin, or simply wet pond) is a manmade or modified natural basin constructed to capture and retain stormwater runoff for the purpose of removing pollutants and mitigating downstream water quantity impacts.

*Surface Waters* means all streams, ponds, lakes, marshes, wetlands, reservoirs, springs, rivers, drainage systems, waterways, watercourses, and irrigation systems, whether natural or artificial, public or private.

*Surveyor* is a person duly registered or authorized to practice land surveying in the State of Minnesota.

*Temporary Erosion Protection* means short-term methods installed to prevent erosion. Examples include silt fence, straw mulch, wood fiber blanket, wood chips and erosion netting.

*Vegetated (Grassy) swale* is a vegetated earthen channel that conveys stormwater while treating the stormwater by biofiltration. Such swales aid in the removal of pollutants by both filtration and infiltration.

*Waters of the State* as defined in [Minnesota Statutes Section 115.01](#), Subdivision 22, the term, "... waters of the state means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof". Commentary: According to Minnesota Rules 7050.0130, Subpart A, disposal systems or treatment works operated under either a Minnesota Pollution Control Agency (MPCA) permit or an agency certificate of compliance are not considered "waters of the state." Under Minnesota Rules 7050.0130, Subpart F, constructed wetlands designed for wastewater treatment are not "waters of the state." Also see the definition of "Wetlands".

*Wetlands* means lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this definition, wetlands must have the following three (3) attributes:

- (1) Have a predominance of hydric soils;
- (2) Are inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and

- (3) Under normal circumstances support a prevalence of such vegetation. (Minnesota Statutes Section 103.G.005)
- (g) *General Criteria.* The Grading, Erosion and Sediment Control plan shall be required for any land disturbance activity or project disturbing more than twenty thousand (20,000) square feet and shall minimize exposed soil and unstable soil conditions in area and duration, disturbance of natural soil cover and vegetation, work in and adjacent to water bodies and wetlands, off-site sediment transport by trucks and equipment, and disturbance to the surrounding soils, root systems and trunks of trees adjacent to site activity that are intended to be left standing. The Plan shall also protect receiving water bodies, wetlands, storm sewer inlets and adjacent properties from sediment deposition. It shall provide a plan for minimal compaction of site soils.
- (h) *Submittal Components.* An acceptable application for construction will include the following requirements and contain the components detailed in the following sections.
- (1) *Grading and Erosion and Sediment Control Plans.* The Grading/Erosion Control Checklist and Approval Form should be used as a reference. These can be obtained from the City of Blaine Engineering Department. All grading and erosion and sediment control plans shall include the following items:
- (aa) Plans for existing and proposed conditions. A complete site plan and specifications, signed by the person who designed the plan shall be in compliance with Blaine Zoning Ordinance [Section] 33.07, shall be clearly labeled with a north arrow and a date of preparation, and shall include, at a minimum, the following information:
- (i) Project map indicating site boundaries and existing elevations, property lines and lot dimensions in relation to surrounding roads, buildings and other structures, and other significant geographic features.
- (ii) Identification of all surface waters, on and adjacent to the site and within one-half (½) mile of project boundary, including, but not limited to lakes, ponds, streams (including intermittent streams), wetlands, natural or artificial water diversion or detention areas, public and private ditches, subsurface drainage facility (including drain tiles), stormwater conveyance, and storm sewer catch basins. Show ordinary high-water marks of all navigable waters, 100-year flood elevations, normal and high water elevations of ponds, and delineated wetland boundaries, if any. If not available, appropriate flood zone determination or wetland delineation, or both, may be required at the applicant's expense.
- (iii) For projects that have a discharge point on the project that is within one (1) mile of, and flows to, an impaired water, the applicant must identify the impaired water(s) in the SWPPP, and whether there is a USEPA approved TMDL for the pollutant(s) or stressor(s) identified in this part. Unless otherwise notified by the MPCA in writing, the applicants identification of impaired waters must be based on the most recent USEPA approved section 303(d) Clean Water Act list of impaired waters and USEPA approved TMDLs at the time a complete permit application is submitted. The applicants identification must include those TMDLs applicable to the project's stormwater discharge that were approved at any time prior to permit application submittal and are still in effect.
- (iv) Map of watershed drainage areas showing direction of flow for pre and post construction drainage, soil types, infiltration rates, and depth to seasonal high water table.

- (v) Existing and proposed grades showing drainage on and adjacent to the site using two-foot contours or less.
  - (vi) Existing and proposed impervious surfaces.
  - (vii) Steep slopes of twelve percent (12%) or more existing over a distance for fifty (50) feet or more.
  - (viii) Location of all areas not to be disturbed during construction including trees, vegetation, and designated areas for infiltration.
  - (ix) Proposed grading or other land-disturbing activity; areas of soil or earth material storage; quantities of soil or earth material to be removed, placed, stored or otherwise moved on site, and delineated limits of disturbance.
  - (x) Locations of proposed runoff control, temporary and permanent erosion and sediment control, and temporary and permanent soil stabilization measures.
  - (xi) If more than ten (10) acres are disturbed and drained to a single point of discharge temporary sediment basins must be installed, however, if the site has special waters as defined by the NPDES Construction Permit requirements, then temporary sediment basins must be installed where five (5) or more acres are disturbed. When site restrictions do not allow for a temporary sediment basin, equivalent measures as approved by the City may be used.
  - (xii) Any mitigation measures required as a result of any review conducted for the project (e.g. wetland mitigation, etc.).
- (bb) A Stormwater Pollution Prevention Plan (SWPPP) specific to the conditions and requirements of the site. (See Chapter I)
- (i) *SWPPP Design Components.* All SWPPPs shall be reviewed by the city for effectiveness of erosion and sediment control measures in the context of the site topography and drainage, proposed design, suggested location and phased implementation of effective practicable stormwater pollution prevention measures.
- (1) *General Criteria.* Design, engineering and implementation of these measures shall use the following performance standards, BMPs, and design criteria:
- (aa) Project Compliance. Statement of how the project will comply with all requirements of the NPDES Phase II regulations.
  - (bb) Description. Explanation of the project and associated construction activity.
  - (cc) Contact information for the on-site individual responsible for implementation of the SWPPP; and for the project manager and contractor.
  - (dd) Training. The applicant must identify a person knowledgeable and experienced in the application of erosion prevention and sediment control BMPs who will oversee the implementation of the SWPPP, and the installation, inspection and maintenance of the erosion prevention and sediment control BMPs before and during construction.
  - (ee) Runoff easements. If a stormwater management plan involves directing some or all runoff from the site, the applicant shall obtain from adjacent property owners any necessary easements or other property interests concerning flowage of water.
  - (ff) Scheduling site activities. The applicant shall schedule site activities to lessen their impact on erosion and sediment creation. A detailed schedule indicating dates and sequence of land

alteration activities; implementation, maintenance and removal of erosion and sedimentation control measures; and permanent site stabilization measures shall be provided.

- (2) *Best Management Practice Implementation.* All erosion and sediment control and water quality BMPs must be constructed and or installed prior to the commencement of land disturbing activities. These measures shall be coordinated with the different stages of development.
- (3) *Monitoring and inspection.* The trained person identified in the SWPPP or their assigned designee must routinely inspect the entire construction site at least once every seven (7) days during active construction and within twenty-four (24) hours after a rainfall event greater than 0.5 inches in twenty-four (24) hours. Following an inspection which occurs within twenty-four (24) hours after a rainfall event, the next inspection must be conducted within seven (7) days after that. All inspections and maintenance conducted during construction must be recorded in writing and these records must be retained with the SWPPP in accordance with the NPDES Construction Site Permit.
- (4) *Other information.* The city will require additional or modified information as warranted.
  - (aa) The city may require soil borings or other site investigation to be conducted and may require submission of a soils engineering or geology report. The report shall include information as requested by the city.
  - (bb) The City may require a stormwater runoff volume and rate analysis report or other hydrologic, water quality and hydraulic computations to be submitted.
  - (cc) The SWPPP shall be modified when there is a change in design, operation, maintenance, weather or seasonal conditions that have a significant effect on discharge and/or inspections indicate that the plan is not effective and existing BMPs are not controlling pollutants and discharges from the site.
- (5) *Contractor/Owner inspections and maintenance.* The contractor or owner shall be responsible for inspections and maintenance on the site.
  - (aa) Inspections and maintenance must be documented and readily available for review on-site. Inspections are required as follows:
    - (i) Once every seven (7) days on exposed soil areas.
    - (ii) Within twenty-four (24) hours after a one-half-inch rain event over twenty-four (24) hours.
    - (iii) Once every thirty (30) days on stabilized areas.
    - (iv) As soon as runoff occurs or prior to resuming construction on frozen ground.
  - (bb) Maintenance is required as follows:
    - (i) When sediment reaches one-third (  $\frac{1}{3}$  ) the height of the BMP on perimeter control devices, sediment must be removed within twenty-four (24) hours.
    - (ii) If the perimeter control device is not functional it must be repaired or replaced within twenty-four (24) hours.
    - (iii) Temporary sediment basins shall be maintained when sediment reaches one-half ( $\frac{1}{2}$ ) the outlet height or one-half ( $\frac{1}{2}$ ) the basin storage volume. Basin must be drained or sediment removed within seventy-two (72) hours.

- (iv) Sediment tracked from construction site vehicle entrance and exit locations must be removed from paved surfaces within twenty-four (24) hours of discovery.
- (v) Inlet protection devices must be cleaned weekly or more frequently as necessary. Sediment and other debris captured in these devices must be deposited in appropriate locations or containers.

(j) *SWPPP Implementation Components.*

- (1) *Minimize exposed soil.* Land shall be developed in increments of workable size such that adequate erosion and sedimentation control can be provided as construction progresses. At no time shall more than twenty (20) acres be exposed. Special consideration shall be given to the stabilization of steep slopes. Development shall be carefully reviewed to insure adequate measures have been taken to prevent erosion, sedimentation and structural damage.
- (2) *Restabilization.* The area exposed shall be covered by an approved ground cover within fourteen (14) days after work is completed. When construction work is completed, a minimum depth of four (4) inches of topsoil meeting current MnDOT specifications shall be spread over the developed area and turf establishment started.
- (3) *Reduce Compaction.* To reduce soil compaction and enhance vegetation establishment all compacted soil shall be tilled to a depth of at least six (6) inches before revegetation.
- (4) *Perimeter sediment controls.* Perimeter sediment control measures shall be properly installed before construction activity begins. These control measures shall be designed to contain sediment on site and control the quality and quantity of stormwater leaving a site before, during, and after construction. Control measures may include sit fence, compost logs, berms, or other approved methods.
- (5) *Channel protection.* Channels shall be diverted around disturbed areas if practical, or other channel protection measures will be required. The normal wetted perimeter of any temporary or permanent drainage channel must be stabilized within two hundred (200) lineal feet of the property edge, or from a point of discharge to any surface water. Stabilization must be completed within twenty-four (24) hours of connecting to surface water. Sediment control is required along channel edges to reduce sediment reaching the channel. Stabilization of all waterways and outlets shall conform with the stipulations of this ordinance.
- (6) *Outlet Protection.* Pipe outlets must have approved energy dissipation measures installed within twenty-four (24) hours of connection to a surface water.
- (7) *Slope Protection.* The following control measures shall be taken to control erosion during construction.
  - (aa) No exposed slopes shall be steeper in grade than four (4) feet horizontal to one (1) foot vertical.
  - (bb) Exposed slopes steeper than ten (10) feet horizontal to one (1) foot vertical shall be stabilized to minimize erosion.
  - (cc) At the foot of exposed slopes or slopes with long runs a channel and berm may be required to be constructed to control erosion. The channeled water shall be diverted to the sedimentation basin (debris basin, sediment basin, or silt trap) before being allowed to enter the natural drainage system.
  - (dd) Along the top of exposed slopes or slopes with long runs a berm may be required to be constructed to prevent runoff from flowing over the edge of the slope. Where runoff

collecting behind said berm cannot be diverted elsewhere and must be directed down the slope, appropriate measures shall be taken to prevent erosion. These methods shall be approved by the City Engineering Department. At the base of the slope, an energy dissipater shall be installed to prevent erosion.

- (ee) Exposed slopes shall be protected by whatever means will effectively prevent erosion considering the degree of slope, soils materials, and expected length of exposure. Slope protection shall consist of mulch, burlap, jute netting, sod blankets, fast growing seeds or temporary plantings or annual grasses. A mulch shall consist of hay, straw, or other approved protective materials. Mulch must be anchored to the slopes by an approved method to provide additional slope stability.
  - (ff) 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 effectively protect exposed slopes and are approved by the Engineering Department.
  - (gg) Wind Erosion. Snow fences or other wind reducing means shall be employed during construction on-site to reduce wind erosion of the soil. These measures shall be employed as soon as construction has started on-site and shall be extended as needed throughout the development.
  - (hh) All exposed soil areas with a continuous positive slope that are within two hundred (200) lineal feet of any surface water, or any conveyance (curb, gutter, storm sewer inlet, drainage ditch, etc.) to a surface water, must have temporary or permanent cover year round. The area shall be stabilized if it has not been worked for seven (7) days on slopes greater than three (3) feet horizontal to one (1) foot vertical (3:1), fourteen (14) days on slopes ranging from 3:1 to 10:1 and twenty-one (21) days for flatter slopes. On sensitive sites or sites with special waters, exposed soil areas with a greater than three (3) feet horizontal to one (1) foot vertical (3:1) must be stabilized within three (3) days and slopes flatter than 3:1 must be stabilized within seven (7) days. All exposed soil areas must have temporary erosion protection or permanent cover no later than November 1 regardless of the stabilization requirements listed above. All exposed soils from construction activities taking place after November 1 must provide temporary erosion protection or permanent cover by the end of the work day if conditions warrant.
  - (ii) If more than ten (10) acres are disturbed and drained to a single point of discharge temporary sediment basins must be installed. When site restrictions do not allow for a temporary sediment basin, equivalent measures such as smaller basins, check dams, and vegetated buffer strips can be included.
  - (jj) For disturbed areas less than ten (10) acres, temporary sedimentation basins are encouraged, but not required. The applicant shall install erosion and sediment controls at locations that result in maximum protection and sediment capture. Minimum requirements include silt fences, rock check dams, or other equivalent control measures along slopes. Silt fences, rock check dams, etc. must be regularly inspected and maintained.
- (8) *Silt fence.* Silt fence shall be properly installed by being trenched and buried at least six (6) inches into the soil. Generally, sufficient silt fence will be required to contain sheet flow runoff generated at an individual site. This method is used to prevent sediment damage to adjacent properties and sensitive environmental areas such as water bodies, plant communities, rare, threatened and/or endangered species habitat, wildlife corridors, greenways, wetlands, etc. Provide that all silt fences used for erosion and sedimentation control and all other temporary controls shall not be



removed until the city and other permitting agencies have determined that the site has been permanently stabilized and shall be removed within thirty (30) days thereafter.

- (9) *Soil stockpiling.* Temporary stockpiling of one hundred (100) cubic yards or more of excess soil on any lot or other vacant area will not be allowed without issuance of a permit for the earth moving activity in question. Stockpiles of soil or other materials subject to erosion by wind or water shall be covered, vegetated, enclosed, fenced on the down gradient side or otherwise effectively protected from erosion in accordance with the amount of time the material will be on site and the manner of its proposed use. No stockpiling is allowed in the street.
  - (10) *Stockpile protections.* For soil stockpiles greater than ten (10) cubic yards the toe of the pile must be more than twenty-five (25) feet from a road, drainage channel or stormwater inlet. If left for more than seven (7) days, they must be stabilized with mulch, vegetation, tarps or other means. If left for less than seven (7) days, erosion from stockpiles must be controlled with perimeter control devices such as silt fence. If for any reason a soil stockpile is located closer than twenty-five (25) feet to a road, drainage channel or stormwater inlet, it must be covered with tarps or a more permanent protection and controlled with perimeter control devices immediately.
  - (11) *Vehicle exits/entrances.* Vehicle tracking of sediment from the construction site must be minimized by BMPs such as stone pads, concrete or steel wash racks, or equivalent systems. Street sweeping must be used if such BMPs are not adequate to prevent sediment from being tracked onto the street. The exit must be at least fifty (50) feet long (fifteen-foot minimum on single family residential sites), and the exit must be graded so runoff does not enter the adjacent street. Place a geotextile fabric under a layer of aggregate at least six (6) inches thick. The aggregate size must be a minimum of one (1) to three (3) inches or an approved equal. Direction should be given to use the designated construction exits.
  - (12) *Street cleaning.* Streets and outlying roads shall be cleaned and swept within twenty-four (24) hours whenever tracking of sediments occurs and before sites are left idle for weekends and holidays.
  - (13) *Dewatering treatment required.* Sediment laden water that is being removed from the site by pumping or trenching shall be treated to remove a minimum of eighty percent (80%) of suspended solids before discharge. Water may not be discharged in a manner that causes erosion to receiving channels or flooding of the discharge site.
  - (14) *Storm drain protection.* All storm drain inlets shall be protected during construction with control measures as approved by the city. These devices shall remain in place until final stabilization of the site. A regular inspection and maintenance plan shall be developed and implemented to assure these devices are operational at all times, providing protection of storm sewer infrastructure from sediment loading/plugging. Silt fence fabric under catch basin grates will not be considered appropriate protection. Protective devices shall be removed prior to freeze up and replaced when temperature permits.
  - (15) *Waste Containment.* Appropriate on-site containment must be provided for all trash, solid waste, construction debris, floating debris, and hazardous materials. Disposal of collected sediment shall be deposited only in approved locations.
  - (16) *Special Precautions.* Extra precautions must be taken to contain sediment when working in or crossing water bodies.
- (k) *Review.* The city shall complete a review of the SWPPP concurrent with other submittals. City approval is contingent on issuance of all other permits required by other agencies having jurisdiction on the

project. There shall be no work on the site until the requirements are met and approval has been granted.

- (1) *Compliance.* A SWPPP will be considered compliant when the City determines that the SWPPP meets the requirements of this ordinance and all other requirements for project approval. Compliance assumes implementation and maintenance of the SWPPP components.
  - (2) *Noncompliance.* If the City determines that the SWPPP does not meet the requirements of this ordinance the City shall not issue approval for the land disturbance activity. The SWPPP must be resubmitted for approval before the land disturbance activity begins.
  - (3) *City inspections and enforcement.* Inspections are required before any land disturbing activity begins, at the completion of the project and prior to the release of financial securities. The City shall also conduct inspections on a regular basis during the course of construction to ensure that erosion and sediment control measures are properly installed and maintained. In all cases the inspectors will attempt to work with the applicant to maintain proper erosion and sediment control at all sites. In cases where cooperation is withheld or applicant fails to achieve compliance, enforcement proceedings will be applied as outlined in subsection (o)(4) below. An inspection must be conducted before any work is allowed to restart.
- (l) *Modification of Plan.* The applicant must amend the SWPPP as necessary to include additional requirements such as additional or modified BMPs designed to correct problems identified or address situations whenever:
- (1) A change in design, construction, operation, maintenance, weather, or seasonal conditions that has a significant effect on the discharge of pollutants to surface waters or underground waters.
  - (2) Inspections indicate the SWPPP is not effective in eliminating or significantly minimizing the discharge of pollutants to surface waters or underground waters or that the discharges are causing water quality standard exceedances.
  - (3) The SWPPP is not achieving the general objectives of controlling pollutants and sediments or is not consistent with the terms and conditions of the approved project plans.
- (m) *Financial Securities.* The applicant shall be subject to the financial security provisions of the City of Blaine Development Agreement and/or Site Improvement Performance Agreement.
- (n) *Emergency Action.* If circumstances exist such that non-compliance with this ordinance poses an immediate danger to the public health, safety and welfare, as determined by the city, the city may take emergency preventative action. The city shall also take every reasonable action possible to contact and direct the applicant to take any necessary action. Any cost to the city may be recovered from the applicant's financial security.
- (o) *Notification of Failure of the SWPPP.* The city shall notify the project contact of the failure of the SWPPP's measures.
- (1) *Initial contact.* The initial contact will be to the party or parties listed on the application and/or the SWPPP as contacts. Except during an emergency action, forty-eight (48) hours after notification by the city or seventy-two (72) hours after the failure of erosion control measures, whichever is less, the city at its discretion, may begin corrective work. Such notification should be in writing, but if it is verbal, a written notification should follow as quickly as practical. If after making a good faith effort to notify the responsible party or parties, the city has been unable to establish contact, the city may proceed with corrective work. If there are conditions when time is of the essence in controlling erosion, the city may take immediate action, and then notify the applicant

as soon as possible. Any cost incurred by the City may be recovered from the applicants financial security.

- (2) *Erosion off-site.* If erosion breaches the perimeter of the site, the applicant shall immediately develop a cleanup and restoration plan, obtain the right-of entry from the adjoining property owner, and implement the cleanup and restoration plan within forty-eight (48) hours of obtaining the adjoining property owner's permission. In no case, unless written approval is received from the city, may more than seven (7) calendar days go by without corrective action being taken. If in the discretion of the city, the permit holder does not repair the damage caused by the erosion, the City may do the remedial work required. Any cost incurred by the City may be recovered from the applicants financial security. When restoration to wetlands and other resources are required, the applicant will be required to work with the appropriate agency to ensure that the work is done properly.
- (3) *Erosion into streets, wetlands or water bodies.* If eroded soils (including' tracked soils from construction activities) enter or appear likely to enter streets, wetlands, or other water bodies, cleanup and repair shall be immediate. The applicant shall provide all traffic control and flagging required to protect the traveling public during the cleanup operations.
- (4) *Failure to do corrective work.* When an applicant fails to conform to any provision of this policy within the time stipulated, the city may take one (1) or more of the following actions:
  - (aa) Issue a stop work order, withhold the scheduling of inspections, and/or the issuance of a Certificate of Occupancy
  - (bb) Correct the deficiency or hire a contractor to correct the deficiency. Project approval constitutes a right-of-entry for the city or its contractor to enter upon the construction site for the purpose of correcting deficiencies in erosion control.
  - (cc) Require reimbursement to the city for all costs incurred in correcting stormwater pollution control deficiencies. If payment is not made within thirty (30) days after costs are incurred by the city, payment will be made from the applicant's financial securities.

(p) *Right of Entry and Inspection.*

- (1) *Powers.* The applicant shall allow the City and their authorized representatives, upon presentation of credentials, to:
  - (aa) Enter upon the permitted site for the purpose of obtaining information, examination of records, conducting investigations or surveys.
  - (bb) Bring such equipment upon the permitted development as is necessary to conduct such surveys and investigations.
  - (cc) Examine and copy any books, papers, records, or memoranda pertaining to activities or records required to be kept under the terms and conditions of this permitted site.
  - (dd) Inspect the stormwater pollution control measures.
  - (ee) Sample and monitor any items or activities pertaining to stormwater pollution control measures.

(Ord. No. 10-2203, amended 5-20-2010; Ord. No. <http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank> web="yes">20-2447 </a>, 7-20-2020)

### 33.16 Preservation of natural drainage ways.

#### (a) *Waterways.*

- (1) The natural drainage system shall be used as far as is feasible for storage and flow of runoff. Stormwater drainage shall be discharged to marshlands, swamps, retention basins or other treatment facilities. Diversion of stormwater to marshlands or swamps shall be considered for existing or planned surface drainage provided such diversion is in compliance with state law and all necessary easements have been obtained. Marshlands and swamps used for stormwater shall provide for natural or artificial water level control. Temporary storage areas or retention basins scattered throughout developed areas shall be encouraged to reduce peak flow, erosion damage, and construction cost. Pretreatment of runoff and dewatering operations must be provided before discharging to any surface water. (Ord. No. 10-2203, amended 5-20-2010)
- (2) The widths of a constructed waterway shall be sufficiently large to adequately channel runoff from a ten-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 a permanent vegetation.
- (5) The banks of the waterway should not exceed five (5) feet horizontal to one (1) foot vertical in gradient.
- (6) The gradient of the waterway bed should not exceed a grade that will result in a velocity that will cause erosion of the banks of the waterway.
- (7) The bed of the waterway should be protected with turf, sod, or rip-rap. If turf or sod will not function properly, rip-rap shall be used. Rip-rap, in conformity with engineering specifications, shall consist of MnDOT 3601 material Class A with filter blanket Type 1.
- (8) If the flow velocity in the waterway is such that erosion of the turn side wall will occur and said velocity cannot be decreased by velocity control structures, then rip-rap shall replace turf on the side walls.

#### (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 shall be constructed according to standard details per plan requirements. Such structures would serve as temporary sediment control features during the construction stage of development. Development of housing and other structures shall be restricted from the area on either side of the waterway required to channel a 100-year storm. (Ord. No. 10-2203, amended 5-20-2010)
- (3) Permanent impervious sediment control structures consist of sediment basins (debris basins, desilting basins, or silt traps) and shall be utilized to remove sediment from runoff prior to its disposal in any permanent body of water or stream.

(Ord. No. [ordbank](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank) print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank" web="yes">20-2447 </a>, 7-20-2020)

### 33.17 Height limitations.

- (a) Height Limitations, as set forth in this ordinance, shall not apply to church spires, flag poles, and municipal water towers and attachments, including antennae. Any structure over fifty (50) feet in height from ground level shall require a conditional use permit. Communication antennae over fifty (50) in height shall also be regulated by the standards outlined in Section 33.17(b). Any structure over one hundred fifty (150) feet in height from ground level shall not be permitted, unless specifically permitted in another section of the zoning ordinance. (Ord. No. 97-1673, amended 9-4-1997; Ord. No. 98-1761, amended 12-17-1998)
- (b) Standards for communication antennae, except those located on municipal water towers, are as follows: (Ord. No. 97-1673, amended 9-4-1997; Ord. No. 98-1761, amended 12-17-1998)
- (1) The applicant must hold an FCC license to operate the proposed communication system.
  - (2) The applicant submit a study which demonstrates that existing municipal water tower sites are not technically feasible.
  - (3) That all structures must be mono-pole.
  - (4) That all structures must be constructed for co-location at market rate.
  - (5) That the applicant must provide proof that the construction and operation of the facilities will not interfere with reception and transmission of radio or television services enjoyed by neighboring residential and non-residential properties.
  - (6) That the structures have no lighting other than what is required by the FAA, FCC, or other governmental bodies.
  - (7) That the structures have no signage except as required by state and federal regulations.
  - (8) That the structures not be multi-colored and the color be of minimal visibility unless the architectural design or materials that are used, as determined by the City, suggest otherwise. (Ord. No. 08-2166, amended 10-16-2008)
  - (9) That the structures not be located in the designated front yard of a property.
  - (10) That the structure not be within three hundred fifty (350) feet of any residentially-zoned property which is intended for residential dwellings. (Ord. No. 98-1761, amended 12-17-1998; Ord. No. 08-2166, amended 10-16-2008; Ord. No. 11-2221, amended 3-17-2011)
  - (11) That the height of any structure does not exceed one hundred fifty (150) feet.
  - (12) That the structures be placed with a minimum setback from all lot lines equal to the height of the proposed structure.
  - (13) That the owner agrees to remove the structure within twelve (12) months after terminating transmission from the facility.

(Ord. No. 96-1613, amended 10-3-1996; Ord. No. <http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank> web="yes">20-2447 </a>, 7-20-2020)

### 33.18 Building relocation.

To maintain a high standard of residential development in the City of Blaine and to protect residential areas from deleterious effects through insuring that both new and relocated buildings from within the city limits or from other areas outside of the city, building relocation shall meet specified requirements.

- (a) Each relocation of a residence or residential accessory building shall require a conditional use permit from the City Council and all such buildings shall conform with and be situated in a properly zoned area in accordance with all of the provisions of this ordinance and the City building code. Commercial and industrial buildings shall not be moved.
- (b) Application for a permit to move a building shall be accompanied by a written consent and approval of at least fifty percent (50%) of the property owners within the said three hundred fifty (350) feet of said lot.
- (c) The application may be granted or rejected by the City Council after a public hearing before the Planning Commission.

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### 33.19 Curbing.

- (a) All driving areas and parking areas which are accessory to multiple family, commercial, planned commercial, planned industrial business park, or high use institutional developments, shall be bounded by a B6-12 concrete curb and gutter. "High use institutional development" shall include hospitals, schools, public buildings, and similar uses. (Ord. No. 87-1016, amended 4-1-1987)
- (b) All driving areas and parking areas which are accessory to industrial or low use institutional developments shall contain a B6-12 concrete curb and gutter on the portions of such areas which front on a public right-of-way extending back to the building wall. Concrete curb and gutter or curb only may be required on the perimeter of any other driving or parking areas where necessary for drainage or traffic control. "Low use institutional developments" shall include churches, parks, private clubs, and similar uses.
- (c) The City may exempt curbing:
  - (1) Where the parking lot directly abuts a sidewalk which is sufficiently higher than the grade of the parking lot to substitute for the curbing requirements; or
  - (2) Where the City has approved future expansion of the parking lot.
- (d) Curbing shall be required around islands in pavement.
- (e) Curb cuts and ramps for the handicapped shall be installed as required by State Law.
- (f) Construction shall be in accordance with curbing specifications on file in the office of the City Engineer.

(Ord. No. 85-898, amended 8-15-1985; Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### **33.20 Buffer yard flexibility.**

If a reduction to the setback buffer is requested, the Director of Community Development may consider a reduction in five-foot increments down to twenty-five (25) feet, provided the applicant agrees to provide additional plant materials in the setback area using the following standards for each five-foot increment.

Required plant units/one hundred (100) lineal feet.

.3 overstory deciduous trees (minimum size two and one-half-inch caliper b&b)

.6 ornamental trees (minimum size one and one-half-inch caliper b&b)

2.0 shrubs (minimum size twenty-four-inch pot)

1.1 evergreens/conifers (minimum size six-foot b&b)

Also there shall be seven-foot-high solid fence constructed of maintenance free materials required along the lot line, all mechanical equipment shall be roof mounted (screened from view), no wall fans, no flood lighting or directional security lighting will be allowed to create glare or spill over onto adjacent properties.

(Ord. No. 86-937, amended 4-3-1986; Ord. No. [ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank" web="yes">20-2447 </ulink>](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### **33.21 Noise abatement standards.**

Homes constructed southeast and northeast of the Anoka County airport, and within five hundred (500) feet of any minor and principal arterial roadways as defined by the City of Blaine Transportation Plan, shall incorporate the following standards for construction:

- (a) Use of two-inch by six-inch studs or better for all exterior wall cavity construction to be shown on building plans.
- (b) All exterior building elements shall meet the following minimum STC (Sound Transmission Class) values: Walls (40 STC), Roof (40 STC), Windows (30 STC), Doors (20 STC). Manufacturers STC Rating for each window, door, and skylight shall be attached to the building plans. Upon approval of the building official, typical two-inch by six-inch walls and truss roofs constructed in accordance with the Minnesota Building Code and the Minnesota Model Energy Code shall be considered as conforming with this requirement.
- (c) All homes shall incorporate the following acoustical design features which shall be shown on the building plans.
  - (1) A mechanical ventilation system shall be installed that will provide the minimum air circulation and fresh-air supply requirements as required in the Minnesota Building Code for the proposed occupancy without the need to open any exterior doors or windows.
  - (2) The perimeter of all exterior windows and door frames shall be sealed airtight to the exterior wall construction.

- (3) Fireplaces shall be equipped with well-fitted chimney cap devices.
- (4) All ventilation ducts, except range hoods, connecting interior space to outdoors shall be provided with a bend such that no direct line of sight exists from exterior to interior through the vent duct.
- (5) Doors and windows shall be constructed so that they are close fitting. Weather stripping seals shall be incorporated to eliminate all edge gaps.
- (6) All penetrations through exterior walls by pipes, ducts, conduits and the like shall be caulked airtight to the exterior construction.

(Ord. No. 94-1543, added 2-16-1995; Ord. No. 05-2053, amended 10-18-2005; Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### **33.22 Standards for rear yard chickens.**

- (a) All chicken operations must be registered by the property owner with the City prior to placement. The City Council will establish a fee for the one-time registration.
- (b) Registration process consists of a site and building plan with location and specifics of coop, pen or run, and coop setbacks.
- (c) Not more than six (6) hens are allowed. No roosters are allowed.
- (d) Coop (and covered run) is limited to not more than sixty (60) square feet.
- (e) Shelters or coops shall be in the rear yard only and located at least five (5) feet from side or rear lot lines.
- (f) Shelters or coops shall be at least thirty (30) feet from all homes on adjacent properties.
- (g) All runs must be fenced unless the entire rear yard is fenced. Chickens are not allowed to run free.
- (h) Chicken waste must be removed from the coop so as to not cause a nuisance and be properly disposed of or composted.
- (i) Slaughtering and processing of the chickens must be done off-site.
- (j) Failure to comply with these standards will result in need for removal of birds and structure.
- (k) Structure must be removed and site restored if keeping of chickens is discontinued for more than twelve (12) months.
- (l) If the home is within a managed community and has a home ownership association the association management must also sign off on the placement of the chickens. Note: Many neighborhood associations may prohibit the keeping of chickens or have more stringent standards.

(Ord. No. 15-2320, added 8-6-2015; Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)



### **33.23 Roof top equipment.**

All roof top facilities shall either be:

- (1) Screened from the eye level view of adjoining properties by use of exterior wall(s); or
- (2) Painted to match or complement the building structure; or
- (3) Incorporated into an architectural design, as approved by the Zoning Administrator.

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### **33.24 Donation drop-off boxes.**

Donation drop-off boxes are allowed in all commercial and industrial districts and at institutional uses in residential districts, subject to the following standards:

- (1) Boxes to be located in rear or side yards.
- (2) Boxes must be screened from three sides by an enclosure constructed of materials consistent with the principal building(s).

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

## **Chapter 34 SIGNS**

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**34.01 Intent.**

The purpose of this section is to protect and promote the public health, safety, and general welfare of the citizens of the City of Blaine through the establishment of a comprehensive and impartial set of regulations governing the erection, display, and use of signs serving as a visual media to persons on public or private properties within the City of Blaine. (Ord. No. 85-877, amended 5-16-1985)

These regulations are intended to:

- (a) Preserve and protect property values and civic beauty, and not allow signs which detract from this objective due to excess size, height, number, visual impact, undesirable location, maintenance (or lack thereof), spacing, or illumination. (Ord. No. 85-877, amended 5-16-1985)
- (b) Provide for signs which are compatible with their surroundings and appropriate to the type of activity to which they pertain. (Ord. No. 85-877, amended 5-16-1985)
- (c) Control signs which invade privacy, constitute a public nuisance, or increase the likelihood of accidents by distracting attention or obstructing vision. (Ord. No. 85-877, amended 5-16-1985)
- (d) Establish standards which will permit businesses a reasonable and equitable opportunity for effective communication, but will avoid excessive and unreasonable visual competition among sign displays. (Ord. No. 85-877, amended 5-16-1985)
- (e) Allow a reasonable freedom of choice, while promoting a concern for the visual amenities on those persons designing, displaying, erecting, or utilizing signs in the City of Blaine. (Ord. No. 85-877, amended 5-16-1985)
- (f) Assure that the public health, safety, and general welfare of the citizens of the City of Blaine is preserved. (Ord. No. 85-877, amended 5-16-1985)

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

**34.02 Definitions.**

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

*Billboards:* A sign located on premises other than where the establishment, product, service, or activity is located, manufactured, or sold, offered, displayed or conducted.

*Canopy:* A roof-like structure projecting from and attached to a building.

*Display window:* A window in a business establishment used to display wares or services.

*Establishment:* Any of the following definitions may apply: A distinct business entity situated in a single building; a distinct business entity located in a structure attached to other similar structures by common walls and ceilings or floors, or attached by means of an enclosed arcade; a distinct business entity contained within a single structure and not separated by walls or other physical barrier, but distinct because of its existence as a single lease space and operation by a separate entrepreneur, or by its singularity of purpose carried on by a single or separate proprietors.

*Highway 65/Main Street Interchange District:* A district for purposes of allowing additional signage in a specified area, described as all commercially zoned property located within one thousand two hundred (1,200) feet of the Centerline of Highway 65 and between six hundred (600) feet south of the Centerline of 121st Avenue and six hundred (600) feet north of the Centerline of 129th Avenue. (Ord. No. 07-2119, added 5-17-2007; Ord. No. 08-2174, amended 12-18-2008)

*Major shopping center commercial complex:* A retail area or commercial complex including sports or entertainment facilities which comprise at least one hundred thousand (100,000) square feet of occupied building area or complex area. The square footage will be based only on facility space utilized by occupants or patrons.

*Nonconforming sign:* A sign which lawfully existed at the time of the adoption of this ordinance, which does not conform to the requirements hereof.

*Regional recreation complex:* A defined group of adjacent and related athletic and recreation facilities within the Regional Recreation zone with a combined area of at least one hundred (100) acres.

*Regional shopping center/commercial complex:* A retail area or commercial complex including sports or entertainment facilities which comprise at least five hundred thousand (500,000) square feet of occupied building area or complex area. The square footage will be based only on facility space utilized by occupants or patrons. (Ord. No. 99-1822, added 11-18-1999)

*Roof Line:* In structures with a flat roof, the top line of the coping; in structures with pitched roofs, the intersection of the outside wall with the roof.

*Sign, abandoned:* A sign which no longer correctly advertises a bona fide business, lessor, lessee, owner, activity, use, product, or service available on the premises where the sign is displayed for a continuous period of three (3) months. (Ord. No. 86-934, amended 6-5-1986)

*Sign:* Any letters, words, symbols, poster, picture, device reading matter, or representation in the nature of a message, announcement, visual communication, or advertisement whether printed, painted, posted, affixed, constructed, or displayed for the purpose of information or communication. This definition includes sign structural supports, uprights, bracing and framework. The term sign shall specifically include architectural or graphic features which are intrinsically associated with a particular product, good, service, business, firm corporation, or profession. (Ord. No. 86-934, amended 6-5-1986)

*Sign, banner:* A flexible piece of cloth, nylon, canvas, plastic, or similar material upon which copy, images, branding, colors and the like may be located.

*Sign, changeable copy:* A sign designed to permit an immediate change of copy which may be other than the name of the business such as readerboards and billboards. (Ord. No. 86-934, amended 6-5-1986)

*Sign, directional:* A sign, the primary function of which is to provide location directions.

*Signs, electronic readerboard:* A sign which uses artificial lights as an integral part of the message. The message is changed by electronic means, not manually. (Ord. No. 86-934, amended 6-5-1986)

*Sign, feather:* A freestanding temporary sign consisting of a piece of flexible cloth, plastic or other similar material that is attached lengthwise to a single pole and designed to flutter/wave in the wind.

*Sign, flashing:* Any illuminated sign that has artificial light or color which is not maintained at a constant intensity or color when such sign is in use. A flashing sign shall not include electronic readerboard signs providing the sign is in compliance with Section 34.07(3). (Ord. No. 86-934, amended 6-5-1986)

*Sign, freestanding:* A sign that is supported by upright braces or posts placed in the ground, rather than affixed to any part of the building.

*Sign, gross surface area of:* That physical area of the sign constituted as the face upon which the advertisement is borne. The gross surface area shall be that area enclosed within the smallest regular geometric figure needed to encompass completely all letters, insignias or symbols of the sign, including horizontal spacing between letters, insignias or symbols, and including the physical area constituting the face of the sign. This shall be determined using one (1) side of a double-faced sign. Architectural columns or significant architectural features constructed on the front of a building as determined by the Zoning Administrator may be subtracted from the area calculated for allowable square footage for a permitted sign. (Ord. No. 00-1870, amended 9-21-2000; Ord. No. 86-934, amended 6-5-1986)

*Sign, identification:* Any sign, the primary function of which is to identify an establishment located upon the premises where such is located, or to which such sign is affixed.

*Sign, illuminated:* Any sign that is lighted by artificial means. (Ord. No. 86-934, amended 6-5-1986)

*Sign, monument style:* A freestanding sign that contains a solid or enclosed base and where the sign support post(s) is/are not visible. Base shall be constructed of materials that are consistent with and complementary to the building. Width of base to be a minimum of two-thirds ( 2/3 ) the width of sign face. (Ord. No. 94-1502, amended 2-19-1994)

*Sign, noncommercial:* A sign not bearing a message advertising a business, profession, commodity, service, or entertainment. Noncommercial signs include, but are not limited to, signs bearing messages concerning political, religious, social, ideological, public service, and informational topics.

*Sign, portable:* A sign so designed as to be movable from one (1) location to another and not permanently attached to the ground or to any immobile structure.

*Sign, projecting:* A sign which is affixed perpendicular to the wall of a building or other structure and extends outward from that building wall or structure more than eighteen (18) inches. (Ord. No. 86-934, amended 6-5-1986)

*Sign, roof:* A sign erected or attached in whole or in part upon the roof of a building, or a non-freestanding sign which projects above the roof line of a respective building.

*Sign, structure:* The supports, uprights, bracing and framework for a sign, including the sign surface itself. In the case of a wall sign, the sign surface constitutes the sign structure. In the case of a sign structure consisting of two (2) or more signs, where the interior angle formed between any of the sides exceeds fifteen (15) degrees, each side shall be considered a separate sign structure.

*Sign, temporary:* A sign which is erected or displayed for a limited period of time.

*Sign, wall:* A sign which is affixed upon and parallel to the wall of a building.

*Wall graphic:* Visual artistic representations, symbols, and affiliations with state, federal, or international organizations. (Ord. No. 97-1637, amended 2-6-1997)

(Ord. No. 88-1078, amended 4-21-1988; Ord. No. <http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank> web="yes">20-2447 </a>, 7-20-2020)

### 34.03 Nonconforming signs.

- (a) The Zoning Administrator shall order the removal of any sign erected or maintained in violation of the law as it existed prior to the date of adoption of this **ordinance**, except as provided herein. Removal shall be in accordance with Section 34.12.
- (b) Whenever the use of a nonconforming sign or an abandoned sign has been discontinued for a period of twelve (12) months, such use shall not thereafter be resumed unless in conformance with this **ordinance**.
- (c) All nonconforming signs not otherwise prohibited by the provisions of this chapter shall be removed or shall be altered to conform to the provisions of this chapter (a) when the nature of the business conducted on the premises changes and the sign is changed or modified either in shape, size, or legend excluding the legend on changeable copy signs, or (b) when the name of the business changes or the sign is changed or modified either in shape, size, or legend, or (c) the sign is moved, enlarged or altered in a way which would increase its nonconformity, or (d) when the sign is damaged by any means to an extent of more than fifty percent (50%) of its replacement cost at time of damage, unless a sign permit application has been applied for within one hundred eighty (180) days of when the property was damaged, it shall not be reconstructed except in conformity with the provisions of this chapter.
- (e) Permanent signs which lawfully existed and which do not meet the monument sign requirements of this Chapter shall be allowed to continue in use unless required to be modified by site plan improvements or conditional use permit requirements. (Ord. No. 94-1502, amended 2-17-1994)

(Ord. No. 86-934, amended 6-5-1986; Ord. No. <http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank> web="yes">20-2447 </a>, 7-20-2020)

### 34.04 Prohibited signs.

- (a) Signs that, by reason of position, shape or color, would interfere with the proper function of a traffic sign or signal.
- (b) Signs within a public right-of-way , except for signs installed by governmental subdivisions.
- (c) Signs within an easement, except for signs installed by governmental subdivisions or approved by the holder of the easement.
- (d) Signs that resemble any official marker erected by a governmental agency or that displays such words as "Stop" or "Danger", which are not erected by legal authority.
- (e) Flashing signs, including indoor signs, which are visible from the public streets.
- (f) With the exception of search lights, which may be approved in conjunction with an administrative permit as provided in Section 34.13 of this **ordinance**, no rotating beam, beacon of flashing illumination shall be used in conjunction with any display.
- (g) Sign or sign structures that obstruct any window, door, fire escape, stairway or opening intended to provide ingress or egress for any building structure. (Ord. No. 86-934, amended 6-5-1986)
- (h) Banners, balloons, and stringers, unless approved in conjunction with an administrative permit, as provided in Section 34.13 of this **ordinance**. (Ord. No. 86-934, amended 6-5-1986)
- (i) Sign posters, that are tacked or posted on trees, fences, utility posts, or other such supports.

- (j) Portable signs, except as provided in Section 34.06, unless approved in conjunction with an administrative permit, as provided in Section 34.13 of this ordinance.
- (k) Roof signs, except for individual channel letters, up to three (3) feet in height, on single story flat roofed buildings without visible supports. (Ord. No. 86-934, amended 6-5-1986)
- (l) Billboards, except as provided in Section 34.08.
- (m) All other signs not expressly permitted by this ordinance.
- (n) Projecting signs. (Ord. No. 86-934, amended 6-5-1986)
- (o) Abandoned signs. (Ord. No. 86-934, amended 6-5-1986)
- (p) Signs with rotating or moving parts. (Ord. No. 86-934, amended 6-5-1986)
- (q) Signs placed on or affixed to vehicles and/or trailers which are parked on a public right-of-way, public property, or private property so as to be visible from a public right-of-way where the apparent purpose is to advertise a product or direct people to a business or activity located on the same or nearby property. (Ord. No. 86-934, amended 6-5-1986)
- (r) Signs which have become rotted, unsafe or unsightly. (Ord. No. 86-934, amended 6-5-1986)
- (s) Signs for citywide community events, sponsored by government or non-profit organizations unless approved in conjunction with an administrative permit, as provided in Section 34.13 of this ordinance. (Ord. No. 90-1232, amended 10-18-1990)

(Ord. No. [20-2447](http://newwords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

#### **34.05 General requirements and standards for permitted signs.**

- (a) Where a sign is illuminated, the beam of light shall not shine directly upon any part of a residence or into the street.
- (b) No part of any freestanding sign shall be closer than ten (10) feet from any lot line, or from the public right-of-way.
- (c) When electrical signs are installed, their installation shall be subject to inspection by the Department of Labor and Industry.
- (d) It shall be the responsibility of the lessee, licensee, owner, or agent of the owner of the property to keep the ground under and adjacent to the sign free of weeds and litter.
- (e) The construction of all permitted signs shall be in conformance with the provisions of the Minnesota Building Code. All monument signs taller than ten (10) feet require a building permit in addition to a sign permit.
- (f) A sign and/or its structural components shall not move as a result of wind pressure.
- (g) The design and color of all signs shall be compatible with the design and color of the building.
- (h) The sign height shall be measured from the normal grade of the lot as approved by the Zoning Administrator. (Ord. No. 94-1502, amended 2-17-1994)
- (i) The owner of a freestanding sign, who intends to sell portions or otherwise condominiumize a freestanding sign, shall first notify the City of the owner's intent to do so and secondly, receive written

verification from the City (Zoning Administrator) that the sign conforms to current sign standards prior to conveying or condominiumizing said sign. (Ord. No. 96-1609, amended 6-20-1996)

- (j) All temporary signs must be maintained and shall be removed if material shows signs of wear, including but not limited to fraying, fading, chipping, or physical damage to the sign structure.

(Ord. No. 86-934, amended 6-5-1986; Ord. No. [ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank" web="yes">20-2447 </ulink>](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

#### **34.06 Permitted signs—no permit required.**

- (a) Identification signs for one- and two-family dwellings, provided that such signs are less than two (2) square feet in area, address numbers exempted. (Ord. No. 86-934, amended 6-5-1986)
- (b) Pedestrian, vehicular-traffic, and parking directional signs in parking lots, provided such signs are less than eight (8) square feet in area and less than five (5) feet in height, unless located on the building, provided such sign does not constitute traffic hazard. (Ord. No. 86-934, amended 6-5-1986)
- (c) Traffic control signs, non-commercial governmental signs, local notices, railroad crossing signs, and temporary non-advertising safety or emergency signs.
- (d) Signs denoting the architect, engineer, contractor, or owner when placed upon a work site, which do not exceed an aggregate of thirty-two (32) square feet in area. Such signs must be removed ten (10) days after completion of construction. (Ord. No. 86-934, amended 6-5-1986)
- (e) Copy of message changing on permitted changeable copy signs including billboards. (Ord. No. 86-934, amended 6-5-1986)
- (f) Non-commercial signs of any size and number may be posted on private property with the permission of the property owner beginning 46 days before the state primary in a state general election year until 10 days following the state general election. (Ord. No. 97-1656, amended 5-1-1997)
- (g) Signs or posters painted on or attached to the inside of a display window occupying less than twenty-five (25%) of the display window area. This shall include illuminated signs, but not flashing signs. (Ord. No. 86-934, amended 6-5-1986)
- (h) (1) Non-commercial flags.
  - (2) Corporate flags or other commercial flags provided the flag meets the following criteria:
    - (aa) Flags must be mounted or flown from a ground or roof mounted pole and not affixed to the building wall surface.
    - (bb) Flagpoles must be located on the lot occupied by the business for which the flag identifies.
    - (cc) Flagpoles shall be placed with a minimum setback of fifteen (15) feet from any property line.
    - (dd) Flag heights shall not exceed forty (40) feet in height to the highest point of the flag.
    - (ee) Flags shall not exceed thirty-two (32) square feet in area.
    - (ff) Multiple flagpoles may be located on a lot with each pole supporting one (1) corporate flag. The number of flagpoles allowed on each site is based on front footage of the lot (address side) divided by fifty (50) feet. (Ord. No. 00-1884, added 12-21-2000)

- (i) Temporary displays which are erected to celebrate, commemorate or observe a civil or religious holiday, provided such displays are removed within thirty (30) days after the event or holiday. (Ord. No. 86-934, amended 6-5-1986)
- (j) Wall graphics are allowed provided they are not used for advertising and provided the approval of the Zoning Administrator has been granted. (Ord. No. 86-934, amended 6-5-1986)
- (k) Real estate signs as follows:
  - (1) Temporary signs for the purpose of selling or leasing individual lots or buildings provided that such signs are less than ten (10) square feet for residential property and thirty-two (32) square feet for other property, have a maximum height of ten (10) feet, unless located on the building, and provided that only one (1) sign is permitted for each property. The signs must be removed within ten (10) days following the lease or sale. (Ord. No. 86-934, amended 6-5-1986)
  - (2) One (1) sign per building for the purpose of leasing dwelling units or office space in building containing two (2) or more units, provided such signs are limited to five (5) square feet in area. (Ord. No. 86-934, amended 6-5-1986)
  - (3) One (1) sign for the purpose of announcing or promoting a residential, commercial, or industrial development shall be allowed subject to the following conditions. Each residential project must contain at least six (6) dwellings or lots. The sign must be located at least one hundred thirty (130) feet from any pre-existing home. The sign must be removed within two (2) years of issuance of a first building permit in the development or when the particular development is ninety percent (90%) sold or rented, whichever is sooner. Each sign shall not exceed the following size limitations; project area under ten (10) acres - thirty-two (32) square feet; project area over ten (10) acres - one hundred forty (140) square feet. (Ord. No. 86-934, amended 6-5-1986)
- (l) One (1) feather sign with a maximum width of 3.5 feet and a maximum height of 18 feet or a banner with a maximum area of thirty two (32) square feet is permitted without an administrative permit.
- (m) Interim banner signs for new establishments installed in the location of lawfully existing freestanding or wall signs not to exceed the size of the existing signs. Interim banner signs permitted for new establishments until permanent signs are installed or 60 days, whichever is less.

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### **34.07 Permitted signs—permit required.**

- (a) Commercial (B-2, B-3, B-4, PBD, PBD-A, DF with commercial land uses) and Industrial (I-1, I-1A, I-2, I-2A, DF with industrial land uses) Districts. (Ord. No. 94-1502, amended 2-17-1994)
  - (1) *Wall Signs—Commercial (B-2, B-3, B-4, PBD, PBD-A, DF with commercial land uses) and Industrial (I-1, I-1A, I-2, I-2A, DF with industrial land uses) Districts.*
  - (aa) Single tenant buildings. There shall not be more than one (1) wall sign for each principal building except that where the building abuts two (2) or more streets, one (1) oriented to each abutting street, shall be permitted, provided that the design of which is approved by the Zoning Administrator. The gross surface area of a wall sign shall not exceed ten percent (10%) of the area of the building wall, including doors and windows, to which the sign is to be affixed or two hundred (200) square feet, whichever is smaller.



- (bb) Multi-tenant buildings shall have wall signs of similar design. Each tenant is allowed one (1) wall sign in accordance with 34.07(1)(aa), except that a tenant space which has its only entrance on a side of the building not abutting a public street shall be allowed one (1) sign meeting the size requirements of 34.07(1)(aa) and located on the same wall as the tenant's only entrance. No signage is permitted for tenant entrances immediately adjacent to residentially-zoned property. Future wall sign permits on multi-tenant buildings, including shopping centers, shall be issued only after the building owners have submitted a comprehensive sign plan approved by the Zoning Administrator. The Comprehensive Sign Plan shall include similar design standards involving sign material, color, style, spacing, and size. (Ord. No. 98-1747, amended 10-15-1998)
  - (cc) For those buildings that are allowed multiple wall signs, the Zoning Administrator has the authority to allow individual wall signs that are larger than two hundred (200) square feet in exchange for reducing or removing other wall signage normally allowed by Subsection (aa) and (bb). In no case shall any individual wall sign occupy more than ten percent (10%) of that particular building wall area. (Ord. No. 90-1180, added 1-18-1990)
  - (dd) Wall signage elements that are proposed on building elevations that have been designed with significant and material architectural enhancements, above those typically required by the Zoning Ordinance as determined by the Zoning Administrator, can be measured as separate areas for calculating gross surface area of the sign. (Ord. No. 00-1870, added 9-21-2000)
- (2) *Freestanding signs—Commercial (B-2, B-3, B-4, PBD, PBD-A, and DF with commercial land use).* (Ord. No. 94-1502, amended 2-17-1994)
- (aa) Single tenant buildings and multi-tenant buildings may have one (1) monument sign up to a maximum of one hundred forty (140) square feet in surface area. Monument signs shall not exceed fourteen (14) feet in height.
  - (bb) In the event that a multi-tenant building is not a major shopping center/commercial complex but has a lineal frontage of at least four hundred (400) feet and abuts a street which is at least an arterial street, one (1) additional monument sign is allowed providing that the area of the additional sign does not exceed one hundred forty (140) square feet and the height does not exceed fourteen (14) feet. If the second sign is to be located on the same street frontage as the primary sign, the two (2) signs shall be placed no less than one hundred fifty (150) feet apart. (Ord. No. 13-2271, amended 08-15-2013)
  - (cc) Major shopping centers/commercial complex are allowed a monument sign up to a maximum of one hundred eighty (180) square feet in area and a maximum height of twenty-five (25) feet. Major shopping center complexes are allowed one (1) additional monument sign per arterial street upon which they front. The width of the base may be reduced to fifty percent (50%) of the width of the sign with the Zoning Administrator's approval.
  - (dd) Businesses on adjoining commercial lots may, subject to the approval of the Zoning Administrator, request one (1) freestanding sign with multiple business identification in exchange for eliminating or relinquishing the rights, by restrictive covenant, to have individual free-standing sign(s) on their own separate lot(s). Collaborative signage constructed under this Section shall be monument style, with a maximum area of one hundred eighty (180) square feet and a maximum height of eighteen (18) feet. (Ord. No. 96-1594, amended 4-18-1996)
  - (ee) Multiple buildings on one parcel that have been granted a Conditional Use Permit may be allowed one (1) monument sign for each building constructed on an area which, if platted,

would meet all the lot requirements of the Zoning **Ordinance**. One monument sign is allowed up to a maximum of one-hundred forty (140) square feet. All signs thereafter are allowed up to a maximum of ninety (90) square feet. Monument signs shall not exceed fourteen (14) feet in height. (Ord. No. 00-1865, added 8-17-2000)

(ff) Permitted freestanding signs under previous Sections (aa-ee), and located within the Highway 65/Main Street Interchange District as defined by this **ordinance**, shall be allowed to a height of not more than fifty (50) feet and an area of not greater than one-hundred eighty (180) square feet. Signs permitted under this section shall have a monument style base constructed of materials that are consistent with the principal building to a minimum height of six (6) feet. Monument base to be a minimum of 2/3 of the width of the sign. (Ord. No. 07-2119, added 5-17-2007)

(gg) Restaurants providing a drive through, take-out service may have additional drive-thru signs adjacent to the drive-thru lanes providing that the maximum height of the sign is ten (10) feet and the maximum area is fifty (50) square feet.

(hh) Readerboards.

(i) Signs included within this section must meet all the requirements of this **ordinance**.

(ii) A minimum display time of four (4) seconds for each message within the frame of the sign is required.

(iii) All displays must include and utilize an automatic dimming mechanism that allows the display to adjust brightness to accommodate a brighter light intensity during daylight and dimmer light intensity after dusk. (Ord. No. 06-2095, amended 5-04-2006)

(3) *Freestanding Signs—Industrial (I-1, I-1A, I-2, I-2A, DF with industrial land uses).*

(aa) Individual structures and multi-tenant buildings are limited to one (1) monument sign up to a maximum of eighty (80) square feet in surface area and have a maximum height of ten (10) feet.

(bb) Readerboards. (Ord. No. 06-2095, amended 5-4-2006)

(i) Signs included within this section must meet all the requirements of this **ordinance**.

(ii) A minimum display time of four (4) seconds for each message within the frame of the sign is required.

(iii) All displays must include and utilize an automatic dimming mechanism that allows the display to adjust the brightness to accommodate a brighter light intensity during daylight and dimmer light intensity after dusk.

(b) *Neighborhood Business District (B-1).* (Ord. No. 87-1045, amended 12-17-1987)

(1) *Wall signs.* There shall not be more than one (1) wall sign for each principal building except that where the building abuts two (2) or more streets, one (1) oriented to each abutting street, shall be permitted, provided that the design of which is approved by the Zoning Administrator. The gross surface area of a wall sign shall not exceed ten percent (10%) of the area of the building wall, including doors and windows, to which the sign is to be affixed or sixty-four (64) square feet, whichever is smaller. (Ord. No. 97-1637, amended 2-6-1997)

(2) *Freestanding signs.* Each establishment may have one (1) monument sign with a maximum area of one-hundred forty (140) square feet. These signs shall not extend more than fourteen (14) feet above ground level. (Ord. No. 97-1637, amended 2-6-1997)

(c) *Residential Districts*—(R-1, R-1B, R-1A, R-1AA, R-2, R-3, R-4, RF, AG, FR, RE, and DF properties with residential land uses). (Ord. No. 90-1212, amended 7-19-1990; Ord. No. 95-1574, amended 9-21-1995)

(1) The following zoning districts are allowed one (1) sign per household for a home occupation:

(aa) R-1, R-1A, R-1AA, R-1B, R-E, R-4, R-2, RF and DF properties with residential land uses—  
One (1) wall sign not to exceed 2.5 square feet.

(bb) FR, AG—One (1) wall sign not to exceed 2.5 square feet or one (1) freestanding sign not exceeding 2.5 square feet in area nor exceeding four (4) feet in height.

(2) Churches, synagogues, temples and other public places, and residential subdivisions or multi-family complexes may have one (1) non-illuminated monument sign with a maximum area of thirty-six (36) square feet. Such signs shall not be located more than ten (10) feet above ground level.

(3) Churches, schools and similar public facilities in residential zoning districts may have an electronic readerboard provided the requirements of [Section] 34.07(a) (2) have been met and a Conditional Use Permit has been obtained. Sign compatibility with the neighborhood will be required for approval of the Conditional Use Permit. (Ord. No. 91-1253, amended 6-20-1991)

(4) Churches, schools, fire stations, golf courses or other public buildings may have one (1) wall sign. Said sign shall consist of non-illuminated block letters with a maximum area of eighty (80) square feet. (Ord. No. 92-1281, amended 3-5-1992)

(5) Golf courses, golf driving ranges, commercial stables, nurseries, garden supply stores and general farming or garden operations in the FR (Farm Residential) zoning district may have one (1) monument style freestanding sign with a maximum area of thirty-six (36) square feet and a maximum height of ten (10) feet above ground level. (Ord. No. 95-1574, amended 9-21-1995; Ord. No. 98-1727, amended 6-25-1998)

(d) *Area Identification Signs.*

(1) Signs erected for the sole purpose of identifying the name of a recognized commercial or industrial area (not shopping center) shall be permitted in all commercial or industrial districts. Area identification signs are subject to the approval of the Zoning Administrator, provided that the monument sign does not exceed fifty (50) square feet in area and fourteen (14) feet in height. An accompanying landscape plan is required with this permit. A written statement must also be submitted indicating the party responsible for the maintenance of the sign.

(e) *Planned Office District (POD).* (Ord. No. 92-1282, amended 3-5-1992; Ord. No. 08-2168, amended 11-6-2008)

(1) *Monument Signs.* One (1) monument sign shall be permitted per lot.

(aa) Said sign shall be no greater than fifty (50) square feet in size and stand no higher than ten (10) feet nor longer than fourteen (14) feet.

(bb) Said sign shall be constructed of the same exterior material as the front of the building and be architecturally compatible with the building.

(cc) Said sign may be illuminated internally or by ground lighting only.

(dd) Lots occupied and having at least four hundred (400) feet frontage on a second public street may be allowed an additional freestanding monument sign along its second public street frontage.

(2) *Wall Signs.* One (1) wall sign shall be permitted per building.

(aa) Said signs shall not be greater than fifty (50) square feet in size.

(bb) Said signs may be illuminated, if illumination is achieved through shielded illumination, shielded silhouette lighting, or shielded spot lighting, but not any lighting where the light source is visible or exposed on the face or sides of the characters.

No other signs shall be permitted except building safety, address and traffic signs which must be approved by the City on the site plan.

(f) *Regional Recreation.* (Ord. No. 98-1755, amended 11-19-1998)

(1) *Wall signs.*

(aa) There shall not be more than one (1) wall sign for each principal building except that where the building abuts two (2) or more streets, one (1) oriented to each abutting street, shall be permitted, provided that the design of which is approved by the Zoning Administrator. The gross surface area of a wall sign shall not exceed ten percent (10%) of the area of the building wall, including doors and window, to which the sign is to be affixed or two hundred (200) square feet, whichever is smaller.

(bb) For those buildings that are allowed multiple wall signs, the Zoning Administrator has the authority to allow individual wall signs that are larger than two hundred (200) square feet in exchange for reducing or removing other wall signage normally allowed by Subsection (aa). In no case shall any individual wall sign occupy more than ten percent (10%) of that particular building wall area.

(cc) Sponsor boards which advertise products or businesses not connected with the site or building on which they are located shall be permitted on Regional Recreation (RR) zoned property. This signage shall meet the requirements of subsections (aa) and (bb).

(2) *Freestanding Signs.*

(aa) Each outdoor athletic field and each parking lot is allowed one freestanding sign with a maximum height of eight (8) feet and a maximum area of thirty-two (32) square feet.

(bb) Each entrance to a regional recreation complex from a public road is permitted one freestanding sign with a maximum height of eight (8) feet and a maximum area of eight (8) square feet.

(cc) Each intersection of two public roads is permitted one freestanding sign with a maximum height of eight (8) feet and a maximum area of forty (40) square feet.

(dd) Regional Recreation Complexes are allowed a monument sign up to a maximum of one hundred eighty (180) square feet in area and a maximum height of twenty-five (25) feet. Regional Recreational Facilities area allowed one (1) additional monument sign per arterial street upon which they front. The width of the base may be reduced to fifty (50) percent of the width of the sign with the Zoning Administrators approval.

(Ord. No. 86-934, amended 6-5-1986; Ord. No. <http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank> web="yes">20-2447 </a>, 7-20-2020)

### **34.08 Billboards.**

- (a) Outdoor advertising structures and billboards which advertise products or businesses not connected with the site or building on which they are located shall be permitted only on property which is zoned Light Industrial (I-1, I-1A), Heavy Industrial, (I-2, I-2A), Planned Business District (PBD), Community Commercial (B-2) or Regional Commercial (B-3). (Ord. No. 10-2204, amended 6-17-2010).
- (b) Billboards shall be restricted to property adjoining Interstate Highway 35W and U.S. Highway No. 10. (Ord. No. 85-877, amended 5-16-1985; Ord. No. 10-2204, amended 6-17-2010).
- (c) Size.
  - (1) The maximum gross surface area of a billboard shall be seven hundred (700) square feet. Two (2) facings per structure shall be the maximum permitted, and double faced signs shall be attached back to back with the internal structure or framework concealed. Temporary extensions can extend from the top or sides of the sign to not more than twenty-five percent (25%) of the total area of the primary sign face. (Ord. No. 85-877, amended 5-16-1985; Ord. No. 86-934, amended 6-5-1986; Ord. No. 10-2204, amended 6-17-2010)
  - (2) The billboard shall have a maximum height of fifty (50) feet above the elevation grade of the road to be read to, except that a sign between fifty (50) feet and sixty-five (65) feet in height may be allowed by Conditional Use Permit, to enable the proposed sign to be fully seen over man made structures, such as MnDOT sound walls, bridges, etc. (Ord. No. 10-2204, amended 6-17-2010)
- (d) Location.
  - (1) The minimum lineal distance between billboards on the same side of the highway shall be five hundred fifty (550) feet. (Ord. No. 85-877, amended 5-16-1985; Ord. No. 10-2204, amended 6-17-2010)
  - (2) The minimum setback from any property line shall be twenty (20) feet. (Ord. No. 85-877, amended 5-16-1985; Ord. No. 10-2204, amended 6-17-2010)
  - (3) The minimum setback at any intersection shall be one hundred (100) feet. (Ord. No. 85-877, amended 5-16-1985; Ord. No. 10-2204, amended 6-17-2010)
  - (4) No billboard or structure shall be located within one hundred (100) feet of a residential district. (Ord. No. 85-877, amended 5-16-1985; Ord. No. 10-2204, amended 6-17-2010)
- (e) Design Requirements—General.
  - (1) All visible sign support columns shall be concealed with approved architectural embellishments.
  - (2) The materials used in the sign support embellishments shall be primarily natural stone, brick, approved masonry panels, stucco, or architectural metal. All sign materials and architectural design shall be consistent with the quality and appearance standards suggested by the City's Highway 65 Overlay.
  - (3) All sign structures shall incorporate the City of Blaine's logo near the top of the sign support in a design and style as approved by the City.
  - (4) A billboard shall require the issuance of a sign permit, pursuant to Section 34.10 of the Zoning Code. (Ord. No. 85-877, amended 5-16-1985; Ord. No. 10-2204, amended 6-17-2010)
- (f) Design Requirement-Dynamic (Electronic) message Signs.
  - (1) Changeable messages must be displayed with minimum time duration of eight (8) seconds. All messages must be complete and cannot carry over or lead into a subsequent message.

- (2) Lighting must be set at the minimum level necessary to provide clear viewing from the right-of-way and must be shielded from side or top view to minimize glare.
- (3) Messages cannot be animated, moving, flashing, scrolling or crawling.
- (4) Dynamic signs must contain a "public service" agreement allowing the City the ability, if the City participates, at no cost to the City, to provide up to eight hundred (800), eight-second public service messages per month.
- (5) Sign must be part of the State of Minnesota's Public Safety Alert System. (Ord. No. 10-2204, amended 6-17-2010)
- (g) Removal of signs. It shall be the responsibility of the billboard owner to send written notification to the Office of Community Development when a billboard has been removed from the City. (Ord. No. 85-877, amended 5-16-1985).
- (h) Other regulations. The Building Inspection Department shall order the removal of any billboard or advertising structure erected or maintained in violation of the law as it exists prior to the effective date of this **ordinance**, as provided in Section 34.14. Other advertising structures or billboards existing on the effective date of this **ordinance** and not conforming to the provisions of this **ordinance**, shall be regarded as non-conforming signs. (Ord. No. 10-2204, amended 6-17-1010)

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

#### **34.09 Off-site directional signs.**

- (a) Off-site directional signs are limited in wording to include only the name of the organization or business, the distance to same, and a directional arrow. Organizations or businesses utilizing offsite directional signage are limited to permitted or conditional uses currently operating within the existing FR (Farm Residential) zoning district.
- (b) Signs shall be limited to property with frontage along Lexington Avenue, Radisson Road, and Main Street (125th Avenue NE) and be placed only on parcels zoned FR (Farm Residential).
- (c) Signs shall be a maximum of fifteen (15) square feet in area and mounted on an approved sign standard. The sign standard shall not exceed eight (8) feet in height.
- (d) No two (2) signs shall be closer together than three hundred (300) feet.
- (e) There shall be not more than one (1) off-site directional sign permitted for each business or organization. (Ord. No. 86-934, amended 6-5-1986)
- (f) A permit will be required for all signs. The permit shall give exact location of sign standard, height of same, and the name of the organization or business to be designated on the sign. The permit must be signed by the applicant and the owner of the property on which the standard is to be located. Not more than one (1) sign is permitted per parcel of record. Signs shall have a minimum ten-foot setback from all property lines. (Ord. No. 86-934, amended 6-5-1986)

(Ord. No. 98-1727, amended 6-25-1998; Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### 34.10 Permits.

- (a) *Sign Permits.* No sign shall hereafter be erected, re-erected or altered, including the replacement of the business message, except permitted changeable copy signs, unless a permit for each sign has been obtained, unless no permit is required pursuant to Section 34.06. In addition, electrical permits shall be obtained for all electric signs. Application for a sign permit shall be made in writing on forms furnished by the Community Development Department. Such application shall contain the location by street and number of the proposed sign structure, the erector, a scale drawing of the sign indicating material copy, and color location. Maintenance of signs including repainting without changing the wording, composition, size, or colors; or minor nonstructural repairs, (except electrical repairs) shall not require a permit.
- (b) *Sign Permit Fees.* Permit fees shall be in accordance with a fee schedule as adopted by City Council. A double fee shall be charged if a sign is erected without first obtaining a permit for such sign.
- (c) *Revocation of Permit.* The Community Development Department is hereby authorized to revoke a sign permit upon failure of the holder thereof to comply with any provision of this Chapter.
- (d) *Expiration of Permit.*
- (1) A permit shall expire if the sign is not erected within one hundred eighty (180) days after issuance and no permit fees or inspection fees for such sign shall be refunded.
  - (2) A permit shall expire if the use of a sign has been discontinued for a period of one hundred eighty (180) days.

(Ord. No. 86-934, amended 6-5-1986; Ord. No. <http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank> web="yes">20-2447 <http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank> web="yes">20-2447, 7-20-2020)

### 34.11 Contractor's license.

No person, firm, or corporation shall engage in the business of erecting, altering, extending, repairing or maintaining signs or sign structures within the City without first having procured a license as required in Section 6-40 of the Blaine Code, except that the owner, lessee or occupant of the property upon which the sign is located may perform the actual work himself provided he had obtained a permit for the sign.

(Ord. No. <http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank> web="yes">20-2447 <http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank> web="yes">20-2447, 7-20-2020)

### 34.12 Removal.

- (a) The Zoning Administrator shall remove any sign immediately and without notice if it reasonably appears that the condition of the sign is such as to present an immediate threat to the safety of the public. Any cost of removal incurred by the City shall be assessed to the owner of the property on which such sign is located or may be collected in appropriate legal proceedings.
- (b) Signs in violation of this ordinance placed on public property or in the public right-of-way are subject to immediate removal.

(Ord. No. 86-934, amended 6-5-1986; Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### 34.13 Administrative permit.

- (a) Where an administrative permit is required by this **ordinance**, application shall be made on forms furnished by the City. The applicant shall set forth his name, address, location of the proposed use and shall submit a drawing of the proposed use and any other information required by the Zoning Administrator, which will enable him to determine whether the proposed use meets the standards of this **ordinance**. An administrative permit, as described in this **ordinance**, is distinct from the sign permit required herein. The fee for religious institutions, schools, non-profit organizations, and government agencies is waived. (Ord. No. 03-1984, added 6-5-2003; Ord. No. 86-934, amended 6-5-1986)
- (b) Permits, for temporary signage, may be issued for a period not to exceed fourteen (14) consecutive days. Four (4) such permits may be allowed each premises per calendar year, with the exception that each new commercial or industrial business, may be allowed one (1) additional fourteen-day permit, to announce the opening of the new business, provided such business has been issued a current Certificate of Occupancy for that business space. Permits may be issued for consecutive fourteen (14) day periods (Ord. 90-1184, amended 2-1-1990; Ord. No. 04-2022, amended 7-15-2004)
- (c) The Zoning Administrator shall be authorized to issue a temporary conditional administrative permit to alleviate hardships associated with public road construction projects. (Ord. No. 92-1279, amended 2-20-1992)

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### 34.14 Enforcement.

- (a) It shall be the responsibility of the Zoning Administrator to administer and enforce the provisions of this section. (Ord. No. 86-934, amended 6-5-1986)
- (b) If any provision of this **ordinance** shall be adjudged void or of no effect, for any reason whatsoever, such decision shall not affect the validity of any of the other provisions of this **ordinance**.
- (c) It shall be unlawful for any person, firm, or corporation, to erect, alter, repair, move, equip, or maintain any sign or sign structure or cause or permit the same to be done in violation of any of the provisions of this **ordinance**.

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### 34.15 Notice of public hearing signs.

- (a) Signs shall be posted on sites which are the subject of certain development proposals and/or zoning amendments to City land use regulations, in addition to other notification procedures in accordance with the following:



- (1) Announcement signs shall be designed, acquired, maintained, installed, and removed by the City. Materials and procedures necessary to implement this Section shall be implemented under the Director of Community Development.
- (b) The sign shall be installed on all sites involving the following: proposed amendment to the zoning classification and applications for preliminary plats.
- (c) Signs required by this section shall be posted on the site to be visible by the general public at least ten (10) calendar days prior to the public hearing. The signs shall be removed following the public hearing.

(Ord. No. 99-1766, added 1-21-1999; Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)

### **34.16 Substitution.**

Signs containing noncommercial speech are permitted anywhere that advertising or business signs are permitted, subject to the same regulations applicable to such signs.

(Ord. No. [20-2447](http://newords.municode.com/readordinance.aspx?ordinanceid=1031180&datasource=ordbank), 7-20-2020)



<sup>137</sup>**APPENDIX A LOCAL ACTS \***

~~\*Cross reference—Administration, ch. 2.~~

ARTICLE I. - HOUSING AND REDEVELOPMENT AUTHORITY

**ARTICLE I. HOUSING AND REDEVELOPMENT AUTHORITY \***

**\*Editor's note**— Printed in this article is ch. 302 of the Laws of Minnesota (1985). Amendments are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, headings and catchlines have been made uniform, and the same system of capitalization, citation to state statutes, and expression of numbers in text as appears in the Code of Ordinances has been used. Additions made for clarity are indicated by brackets.

CHAPTER 302—H.F. No. 384

An act relating to the cities of Minneapolis and Blaine; permitting the establishment of special service districts in the city of Minneapolis and providing taxing and other authority; authorizing Blaine City Council members to serve as a housing and redevelopment authority.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

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Section 8. Blaine housing and redevelopment authority.

Section 9. Local approval; effective date.

[Sections 1—7. Inapplicable to city.]

Section 8. Blaine housing and redevelopment authority.

<sup>138</sup>**Section 8. Blaine housing and redevelopment authority.**

Notwithstanding the limitations on the number of housing and redevelopment commissioners provided by ~~M.S.A. § 469.003, subds. 5 and 6 Minn. Stat. § 462.425, subds. 5 and 6~~, all the members of the governing body of the City of Blaine may serve as commissioners of the Blaine housing and redevelopment authority at the same time.

The Blaine Economic Development Authority (the "EDA") has been duly organized pursuant to Minn. Stat. §§ 469.090 to 469.1082, as amended, (the "EDA Act"), as amended, and has all of the powers

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<sup>137</sup> **Appendix A, Local Acts.** See citation correction below, even though this is a legislative act. All state law citations throughout the code are included in the table of citations, thus correct citation is necessary.

<sup>138</sup> **Section 8. Blaine housing and redevelopment authority.** Citation should be corrected as shown.

and duties of an economic development authority under the EDA Act and of a housing and redevelopment authority under the provisions of Minn. Stat. §§ 469.001 to 469.047 (the "HRA Act").

The legislature of the State of Minnesota has enacted Minn. Stat., ch. 462C (the "Act") to regulate the planning and implementation of single family housing programs and multifamily housing development and has provided for the financing of such programs and developments pursuant to the terms of the Act.

The city desires to authorize the EDA to exercise the powers in Minn. Stat. §§ 462C.01 to 462C.10, to develop and administer programs of making or purchasing mortgage or rehabilitation loans to finance the acquisition, construction or rehabilitation of single family housing by low and moderate income persons and families anywhere within its boundaries, or making or purchasing loans to finance multifamily housing developments, upon certain conditions set forth in the Act.

Accordingly, the EDA is hereby authorized to exercise on behalf of the city, all of the powers conferred by Minn. Stat. §§ 462C.01 to 462C.10.

( <http://newords.municode.com/readordinance.aspx?ordinanceid=790214&datasource=ordbank> web="yes">Ord. No. 16-2365 </a>, 9-15-2016)

#### **Section 9. Local approval; effective date.**

Section 8 is effective the day after compliance with Minn. Stat. § 645.021, subd. 3, by the governing body of the City of Blaine.

Approved June 5, 1985.

<sup>139</sup>**APPENDIX B ANNEXATIONS AND DETACHMENTS \***

**\*Editor's note**— Printed in this appendix are ordinances annexing or detaching property from the city. Amendments are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, headings and catchlines (when present) have been made uniform, and the same system of capitalization, citations to state statutes, and expression of numbers in text as appears in the Code of Ordinances has been used. Additions made for clarity are indicated by brackets.

~~Cross reference—Administration, ch. 2.~~

**State Law reference**— Municipal annexation, Minn. Stat. ch. 414.

Ord. No. 10

An ordinance detaching certain lands from the Village of Blaine, Anoka County, Minnesota;

WHEREAS, the owner of all the property in Lexington third addition according to the plat thereof on file in the Office of the Register of Deeds, Anoka County, Minnesota have petitioned the Village Council of the Village of Blaine to detach the said addition from the Village of Blaine and to the Village of Lexington.

WHEREAS, the Village Council of the Village of Blaine has determined that the detachment will be for the benefit of the village and the land affected.

WHEREAS, the Village of Lexington intends to annex said addition and make it a part of the Village of Lexington.

NOW THEREFORE, the Village Council of the Village of Blaine do ordain as follows that there be detached from the Village of Blaine the following described territory:

Lexington third addition according to the plat thereof on file in the Office of the Register of Deeds, Anoka County, Minnesota.

Ord. No. 34

WHEREAS, the owner of the certain land hereinafter described has petitioned the Village Council of the Village of Blaine to annex said land to the Village of Blaine.

WHEREAS, said land is contiguous to the Village of Blaine and is described as follows:

The North one-half of the Northeast one-quarter of section five, Township 30, Range 23, less property transferred for highway purposes, comprising 118 acres, more or less, according to the map or plat thereof on file in the office of the Register of Deeds, Ramsey County, Minnesota.

WHEREAS, said land is less than 200 acres in area and is properly conditioned for village government, and

WHEREAS, it is deemed to be to the best interests of the village and the territory affected that such land be annexed to the village,

NOW THEREFORE, the Village Council of Blaine do ordain:

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<sup>139</sup> **Appendix B, Annexations and Detachments.** Is this appendix current? Is it necessary or could it be excluded from publication and kept on file in the appropriate city office?

That the Village of Blaine does hereby annex and the Village boundaries are hereby extended to include the following described land:

The North one-half of the Northeast one-quarter of section five, Township 30, Range 23, less property transferred for highway purposes, comprising 118 acres, more or less, according to the map or plat thereof on file in the Office of the Register of Deeds, Ramsey County, Minnesota.

<sup>140</sup>~~APPENDIX C FRANCHISES \*~~

~~\*Charter reference—Franchises, ch. 10.~~

~~Cross reference—Businesses, ch. 22.~~

~~ARTICLE I.—NATURAL GAS FRANCHISE (MINNEGASCO COMPANY)~~

~~ARTICLE II.—CABLE TELEVISION FRANCHISE~~

~~ARTICLE III.—NATURAL GAS FRANCHISE (CITY OF CIRCLE PINES)~~

~~ARTICLE IV.—NATURAL GAS FRANCHISE (NORTHERN STATES POWER COMPANY)~~

~~ARTICLE V.—ELECTRIC DISTRIBUTION SYSTEM AND TRANSMISSION LINES (ANOKA  
ELECTRIC COOPERATIVE)~~

~~ARTICLE VI.—ELECTRIC DISTRIBUTION SYSTEM AND TRANSMISSION LINES (NORTHERN  
STATES POWER COMPANY)~~

**[OMITTED FROM THIS COMPILATION]**

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<sup>140</sup> **Appendix C, Franchises.** Since franchises are not of general interest to the public and are contracts rather than legislation, I recommend that they be excluded from codification to reduce the bulk of the code and the cost of its maintenance.

<sup>141</sup>**APPENDIX D FEE SCHEDULE \***

~~\*Editor's note—<ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=748338&datasource=ordbank" web="yes">Ord. No. 15-2336, adopted December 17, 2015 </ulink>, amended App. D in its entirety, to read as set out herein. Former App. D pertained to similar subject matter, and was derived from <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=694080&datasource=ordbank" web="yes">Ord. No. 14-2302, adopted January 8, 2015 </ulink> and <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=714923&datasource=ordbank" web="yes">Ord. No. 15-2311, adopted April 16, 2015 </ulink>.~~

~~State Law reference—Minn. Stat. § 462.353, subd. 4 and subd. 4(a).~~

**City of Blaine Fee Schedule**

**Effective January 1, 2022**

**[OMITTED FROM THIS COMPILATION]**

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<sup>141</sup> **Appendix D, Fee Schedule.** The schedule from Ord. No. 21-2487 has been omitted from this compilation and does not impact legal review. It still needs to be formally codified. In the future, I recommend eliminating the code section column in that schedule as unnecessary which will reduce the need for update of the schedule as the code is amended from time to time.