

PART I GENERAL ORDINANCES

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Chapter 1 GENERAL PROVISIONS

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Sec. 1-1. How Code designated and cited.

The ordinances embraced in this and the following chapters shall constitute and be designated the "Cass Lake, Minnesota City Code" and may be so cited. Such ordinances may also be cited as the "Cass Lake City Code." The Code consists of parts I and II.

(Code 1983, § 1.08)

State law reference— Codification of ordinances, Minn. Stats. § 415.021.

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

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

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

City. The term "city" means the City of Cass Lake, Minnesota. The term "city" also includes designated representatives of the city.

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City council or council. The term "city council" or "council" means the council of the City of Cass Lake, Minnesota.

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

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

- (1) 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 Cass County, Minnesota.

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

Following. The term "following" means next after.

Gender. Words of one gender include all other genders.

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

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

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

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

Minn. Rules. The abbreviation "Minn. Rules" means the Minnesota Rules, as amended.

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

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

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

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

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

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

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

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

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

Preceding. The term "preceding" means next before.

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

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

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

Real property, real estate, and 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 curblines, or the lateral lines of a roadway where there is no curb, and the adjacent property line, intended for the use of pedestrians. If there is no public area between the lateral lines of the roadway and the abutting property line, then the area immediately abutting the street line shall be construed as the sidewalk.

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

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

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

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

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

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

Will. The term "will" is to be construed as being mandatory and not permissive.

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 1983, §§ 1.02, 1.04, 1.11)

Sec. 1-3. Computation of time.

- (a) When the term "successive weeks" is used in any ordinance providing for the publication of notices, the term "weeks" shall be construed as calendar weeks. The publication upon any day of such weeks shall be sufficient publication for that week, but at least five days shall elapse between each publication. At least the number of weeks specified in "successive weeks" shall elapse between the first publication and the day for the happening of the event for which the publication is made.
- (b) When in any ordinance the lapse of a number of months before or after a certain day is required, such number of months shall be computed by counting the months from such day, excluding the calendar month in which such day occurs, and including the day of the month in which the last month so counted having the same numerical order as the day of the month from which the computation is made, unless there be not so many days in the last month so counted, in which case the period computed shall expire with the last day of the month so counted.
- (c) Where the performance or doing of any act, duty, matter, payment or thing is ordered or directed, and the period of time or duration for the performance or doing thereof is prescribed and fixed by law or ordinance, the time, except as otherwise provided in subsections (a) and (b) of this section, shall be computed so as to exclude the first and include the last day of the prescribed or fixed period or

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duration of time. When the last day of the period falls on a Saturday, Sunday or legal holiday, that day shall be omitted from the computation.

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

State law reference— Similar provisions, Minn. Stats. §§ 645.13—645.151.

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

- (a) The catchlines of the 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 and state law references and other footnote 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 this 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 1983, § 1.10)

State law reference— Similar provisions, Minn. Stats. § 645.49.

Sec. 1-5. Effect of repeal of ordinances.

- (a) Unless specifically provided otherwise, the repeal of an ordinance does not revive any repealed ordinance.
- (b) The repeal or amendment of an ordinance does not affect any punishment or penalty incurred before the repeal takes effect, nor does such repeal or amendment affect any suit, prosecution or proceeding pending at the time of the amendment or repeal.

(Code 1983, § 1.04.1)

State law reference— Similar provisions, Minn. Stats. §§ 645.35, 645.36.

Sec. 1-6. 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 Cass Lake, Minnesota City Code 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 Cass Lake, Minnesota City Code is hereby created to read as follows:...."

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

Sec. 1-7. Supplementation of Code.

- (a) Supplements to this Code shall be prepared and printed whenever authorized or directed by the city. A supplement to this Code shall include all substantive permanent and general parts of ordinances adopted during the period covered by the supplement and all changes made thereby in the Code. The pages of the supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages that have become obsolete or partially obsolete. The new pages shall be so prepared that when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.
- (b) In preparing a supplement to this Code, all portions of the Code that have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.
- (c) When preparing a supplement to this Code, the person authorized to prepare the supplement may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as necessary to do so in order to embody them into a unified code. For example, the person may:
 - (1) Arrange the material into appropriate organizational units.
 - (2) Supply appropriate catchlines, headings and titles for chapters, articles, divisions, subdivisions and sections to be included in the Code and make changes in any such catchlines, headings and titles or in any such catchlines, headings and titles already in the Code.
 - (3) Assign appropriate numbers to chapters, articles, divisions, subdivisions and sections to be added to the Code.
 - (4) Where necessary to accommodate new material, change existing numbers assigned to chapters, articles, divisions, subdivisions or sections.
 - (5) Change the words "this ordinance" or similar words to "this chapter," "this article," "this division," "this subdivision," "this section" or insert section numbers to indicate the sections of the Code that embody the substantive sections of the ordinance incorporated in the Code.
 - (6) Make other nonsubstantive changes necessary to preserve the original meaning of the ordinances inserted in the Code.

Sec. 1-8. 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 or a misdemeanor or a petty misdemeanor by ordinance or by rule or regulation authorized by ordinance.
 - (2) Failure to perform an act that is required to be performed by ordinance or by rule or regulation authorized by ordinance.
 - (3) Failure to perform an act if the failure is prohibited or is made or declared unlawful, an offense, a violation or a misdemeanor or a petty misdemeanor by ordinance or by rule or regulation authorized by ordinance.
 - (4) 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.

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- (c) Except as otherwise provided by law or ordinance, a person convicted of a violation of this Code shall be guilty of an misdemeanor punished by a fine of not more than \$1,000.00, imprisonment for a term not exceeding 90 days, or any combination thereof; provided, however, that if the violation is declared to be a petty misdemeanor the penalty shall be a fine not exceeding \$300.00. In any case, a person convicted of a violation of this Code shall pay the costs of prosecution.
- (d) Except as otherwise provided by law or ordinance:
 - (1) With respect to violations of this Code that are continuous with respect to time, each day that the violation continues is a separate offense.
 - (2) With respect to violations that are not continuous with respect to time, each act is a separate offense.
- (e) The imposition of a penalty does not prevent suspension or revocation of a license, permit or franchise or other administrative sanctions.
- (f) Violations of this Code that are continuous with respect to time are a public nuisance and may be abated by injunctive or other equitable relief. The imposition of a penalty does not prevent injunctive relief.

(Code 1983, §§ 1.02, subs. 12—15, 20, 1.03, 1.04, 1.09)

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

Sec. 1-9. 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 1983, § 1.05)

Sec. 1-10. 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 restatement and continuation thereof and not as new enactments.

Sec. 1-11. Code does not affect prior offenses or rights.

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 the ordinance adopting this Code. Nothing in this Code or the ordinance adopting this Code creates or eliminates any preexisting nonconforming uses.

(Code 1983, § 1.04.1)

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Sec. 1-12. Certain ordinances not affected by Code.

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

- (1) Annexing property into the city.
- (2) Deannexing property or excluding property from the city.
- (3) Providing for salaries or other employee benefits not codified in this Code.
- (4) Promising or guaranteeing the payment of money or authorizing the issuance of bonds or other instruments of indebtedness.
- (5) Authorizing or approving any contract, deed, or agreement.
- (6) Making or approving any appropriation or budget.
- (7) Fixing or establishing any fee or charge.
- (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) Creating a special district.
- (13) Dedicating, establishing, naming, locating, relocating, opening, paving, widening, repairing or vacating any street.
- (14) Establishing the grade of any street or sidewalk.
- (15) Dedicating, accepting or vacating any plat or subdivision.
- (16) Levying, imposing or otherwise relating to taxes not codified in this Code.
- (17) Establishing traffic regulations for specific locations not codified in this Code.
- (18) Rezoning specific property.
- (19) That which is temporary, although general in effect.
- (20) That which is special, although permanent in effect.
- (21) The purpose of which has been accomplished.

Chapter 2 ADMINISTRATION [11](#)

ARTICLE I. - IN GENERAL

ARTICLE II. - CITY COUNCIL

ARTICLE III. - OFFICERS AND EMPLOYEES

ARTICLE IV. - DEPARTMENTS

ARTICLE V. - FINANCE

ARTICLE VI. - ORDINANCE VIOLATIONS

FOOTNOTE(S):

--- (1) ---

State Law reference— Statutory cities, Minn. Stats. ch. 412. [\(Back\)](#)

ARTICLE I. IN GENERAL

[Sec. 2-1. Establishment of fees.](#)

[Sec. 2-2. City seal.](#)

[Secs. 2-3—2-22. Reserved.](#)

Sec. 2-1. Establishment of fees.

Whenever in this Code it is provided that fees and charges are as established or provided by the city or other words of similar effect are used, such language shall be interpreted as meaning that the fee or charge may be established by ordinance or resolution or such other actions of the council as may be authorized by law. Nothing in this section shall allow any fee or charge to be established in a manner contrary to state law or to prevent the city council from lawful delegating to an officer, employee, board or department the power to establish a fee or charge.

Sec. 2-2. City seal.

The official city seal shall be a circular disc having engraved thereupon "City of Cass Lake" and such other words, figures or emblems as the council may, by resolution, designate.

(Code 1983, § 2.05)

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State law reference— Seal authorized, Minn. Stats. § 412.211; city clerk to be custodian of seal, Minn. Stats. § 412.151, subd. 1; seal to be affixed to all contracts, conveyances, licenses, or other written instrument shall be executed on behalf of the city by the mayor and clerk, Minn. Stats. § 452.201.

Secs. 2-3—2-22. Reserved.

ARTICLE II. CITY COUNCIL [\[2\]](#)

[Sec. 2-23. Council meetings—Time and place.](#)

[Secs. 2-24—2-47. Reserved.](#)

Sec. 2-23. Council meetings—Time and place.

Regular meeting of the council shall be held in the council chambers unless posted notice of alternate meeting place is given. Regular council meetings will be held on the second Wednesday of each month at 5:30 p.m. Special and adjourned meetings will be held in the council chambers unless posted notice of alternate meeting place is given. The mayor shall have the discretion of rescheduling any regular meeting should the meeting date fall on a holiday or other conflicting date.

(Res. No. 09-2007, 2-14-2007)

Secs. 2-24—2-47. Reserved.

FOOTNOTE(S):

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State Law reference— City council generally, Minn. Stats. § 412.191 et seq. [\(Back\)](#)

ARTICLE III. OFFICERS AND EMPLOYEES

[Sec. 2-48. Offices of city clerk and city treasurer combined; references to city clerk or city treasurer.](#)

[Sec. 2-49. Workers' compensation.](#)

[Secs. 2-50—2-65. Reserved.](#)

Sec. 2-48. Offices of city clerk and city treasurer combined; references to city clerk or city treasurer.

The offices of city clerk and city treasurer shall be combined in accordance with Minn. Stats. § 412.591. Any reference in an ordinance to a city clerk or a city treasurer shall be construed as a reference to the city clerk-treasurer.

(Ord. No. 09252002, 10-9-2002)

Sec. 2-49. Workers' compensation.

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

(Code 1983, § 2.11)

State law reference— Authority to so provide, Minn. Stats. § 176.011, subd. 9(6).

Secs. 2-50—2-65. Reserved.

ARTICLE IV. DEPARTMENTS

[Sec. 2-66. Appointments of heads and employees.](#)

[Sec. 2-67. Reserved.](#)

[Sec. 2-68. Water department.](#)

[Sec. 2-69. Street department.](#)

[Secs. 2-70—2-88. Reserved.](#)

Sec. 2-66. Appointments of heads and employees.

All department heads and employees shall be appointed by the council. All appointments shall be for an indeterminate term.

(Code 1983, § 2.30)

Sec. 2-67. Reserved.

Editor's note—

Ord. No. 2009-81209, § 1.a., adopted Aug. 12, 2009, repealed § 2-67, which pertained to the police department and derived from Code 1983, § 2.31.

Sec. 2-68. Water department.

A water department is hereby established. The head of this department shall be the water superintendent. All city water facilities, including, but not limited to, pumping, filtration, distribution lines and mains, and connections therewith, shall be under the direct supervision and control of the

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superintendent and he shall be responsible for and have custody and control of all property of such department. The superintendent shall file all reports requested by the council.

(Code 1983, § 2.34)

Sec. 2-69. Street department.

A street department is hereby established. The head of this department shall be the street superintendent. The street superintendent shall file all reports requested by the council.

(Code 1983, § 2.35)

Secs. 2-70—2-88. Reserved.

ARTICLE V. FINANCE ^[3]

[Sec. 2-89. Unclaimed property and excess property.](#)

[Secs. 2-90—2-107. Reserved.](#)

Sec. 2-89. Unclaimed property and excess property.

(a) Disposal of unclaimed property.

- (1) *Definition.* The term "abandoned property" means tangible or intangible property that has lawfully come into the possession of the city in the course of municipal operations, remains unclaimed by the owner, and has been in the possession of the city for at least 60 days and has been declared such by a resolution of the council.
- (2) *Preliminary notice.* If the city clerk-treasurer knows the identity and whereabouts of the owner, he shall serve written notice upon him at least 30 days prior to a declaration of abandonment by the council. If the city acquired possession from a prior holder, the identity and whereabouts of whom are known by the city clerk-treasurer, notice shall also be served upon him. Such notice shall describe the property and state that, unless it is claimed and proof of ownership, or entitlement to possession is established, the matter of declaring it abandoned property will be brought to the attention of the council after the expiration of 30 days from the date of such notice.
- (3) *Notice and sale.* Upon adoption of a resolution declaring certain property to be abandoned property, the city clerk-treasurer shall publish a notice thereof describing the same, together with the names (if known) and addresses (if known) of prior owners and holders thereof, and including a brief description of such property. The text of such notice shall also state the time, place and manner of sale of all such property, except cash and negotiables. Such notice shall be published once in a legal newspaper at least ten days prior to the sale. Sale shall be made to the highest bidder at public auction or sale or by a nonprofit organization with a significant mission of community service in a private sale in the manner authorized by statute.
- (4) *Funds and claims thereon.* Expenses shall be paid from the proceeds of the sale; the balance of the proceeds shall be paid into the general fund of the city if the property was disposed of by a public auction or sale; or in the case of a private sale, to the nonprofit organization authorized to conduct said sale. The former owner, if he makes claim within six months from the date of publication of the notice herein provided, and upon application and satisfactory proof of ownership, may be paid the amount of cash or negotiables or, in the case of property sold, the amount received therefor, less a pro rata share of the expenses of storage, publication of notice, and sale expenses, but without interest.

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(b) *Disposal of excess property.*

- (1) *Declaration of surplus and authorizing sale of property.* The city clerk-treasurer may, from time to time, recommend to the council that certain personal property (chattels) owned by the city is no longer needed for a municipal purpose and should be sold. By action of the council, said property shall be declared surplus, the value estimated and the city clerk-treasurer authorized to dispose of said property in the manner stated herein.
- (2) *Surplus property with a total estimated value of \$500.00 or less.* The city clerk-treasurer may sell surplus property with a total value of \$500.00 or less through negotiated sale, sealed bid or auction, as directed by the council.
- (3) *Surplus property with a total estimated value over \$500.00.* The city clerk-treasurer shall offer for public sale, to the highest bidder, surplus property with a total estimated value over \$500.00. Notice of such public sale shall be given stating time and place of sale and generally describing the property to be sold at least ten days prior to the date of sale by publication once in the official newspaper. Such sale shall be to the person submitted the highest bid.
- (4) *Receipts from sales of surplus property.* All receipts from sales of surplus property under this section shall be placed in the general fund.

(c) *Persons who may not purchase; exception.*

- (1) No employee of the city who is a member of the administrative staff, department head, a member of the council, or an advisor serving the city in a professional capacity, may be a purchaser of property under this section. Other city employees may be purchasers if they are not directly involved in the sale, if they are the highest responsible bidder, and if at least one weeks' published or posted notice of sale is given.
- (2) It is unlawful for any person to be a purchaser of property under this section if such purchase is prohibited by the terms of this section.

(Code 1983, § 2.60)

State law reference— Intangible personal property held by public agencies, Minn. Stats. § 345.38; abandoned vehicles, Minn. Stats. ch. 168B.

Secs. 2-90—2-107. Reserved.

FOOTNOTE(S):

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State Law reference— Municipal taxation and finance generally, Minn. Stats. § 412.241 et seq.; municipal finance and taxation, Minn. Stats. ch. 426; depositories, Minn. Stats. ch. 427. ([Back](#))

ARTICLE VI. ORDINANCE VIOLATIONS

[Sec. 2-108. Purpose.](#)

[Sec. 2-109. Administrative offense defined.](#)

[Sec. 2-110. Notice.](#)

[Sec. 2-111. Payment.](#)

PART I GENERAL ORDINANCES

[Sec. 2-112. Contested case.](#)

[Sec. 2-113. Failure to pay.](#)

[Sec. 2-114. Disposition of penalties.](#)

[Sec. 2-115. Offenses and penalties.](#)

[Sec. 2-116. Subsequent offenses.](#)

Sec. 2-108. Purpose.

Administrative offense procedures established pursuant to this chapter 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 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 may bring criminal charges in accordance with the law. Likewise, the city, in its discretion, may choose not to initiate an administrative offense and may bring criminal charges in the first instance. In the event 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 costs of the administrative offense procedures as part of a subsequent criminal sentence, in the event the party is charged and is adjudicated guilty of the criminal violation.

(Ord. No. 02082006, § 8.01, 3-8-2006)

Sec. 2-109. Administrative offense defined.

An administrative offense is a violation of a provision of this Code and is subject to the administrative penalties set forth in the schedule of offenses and penalties referred to in section 2-115. Notwithstanding anything in this Code to the contrary, administrative offenses do not include violations of Minn. Stats. ch. 169.

(Ord. No. 02082006, § 8.02, 3-8-2006; Ord. No. 2009-81209, § 3, 8-12-2009)

Sec. 2-110. Notice.

Any person employed by the city or authorized by the city council, 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. The notice shall set forth the nature, date and time of the violation, the name of the official issuing the notice and the amount of the scheduled penalty.

(Ord. No. 02082006, § 8.03, 3-8-2006; Ord. No. 2009-81209, § 1.b., 8-12-2009)

Sec. 2-111. Payment.

Once the notice is given, the alleged violator may, within 14 days of the time of issuance of the notice, pay the amount set forth on the schedule of penalties for the violation or notify the city in writing that they contest the violation. The penalty may be paid in person or by mail, and payment shall be deemed to be an admission of the violation.

(Ord. No. 02082006, § 8.04, 3-8-2006)

PART I GENERAL ORDINANCES

Sec. 2-112. Contested case.

Any person contesting an administrative offense shall have the administrative penalty vacated and criminal charges shall be filed in accordance with the law allowing them the opportunity to contest the violation in the court system.

(Ord. No. 02082006, § 8.05, 3-8-2006)

Sec. 2-113. Failure to pay.

In the event a party charged with an administrative offense fails to pay the penalty and does not notify the city that they are contesting the violation, a misdemeanor or petty misdemeanor charge may be brought against the alleged violator in accordance with applicable statutes or, if applicable, the fine may be levied as an assessment against the property owner. If the penalty is paid or if an individual is found to not have committed the administrative offense by the courts, no such charge may be brought by the city for the same violation.

(Ord. No. 02082006, § 8.06, 3-8-2006)

Sec. 2-114. Disposition of penalties.

All penalties collected pursuant to this chapter shall be paid to the city's clerk-treasurer and may be deposited in the city's general fund.

(Ord. No. 02082006, § 8.07, 3-8-2006)

Sec. 2-115. Offenses and penalties.

Offenses which may be charged as administrative offenses and the penalties for such offenses may be established by resolution of the city council from time to time. Copies of such resolutions shall be maintained in the office of the city clerk-treasurer.

(Ord. No. 02082006, § 8.08, 3-8-2006)

Sec. 2-116. Subsequent offenses.

In the event 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 administrative penalty shall be increased by 25 percent above the previous penalty, except as otherwise provided by resolution.

(Ord. No. 02082006, § 8.09, 3-8-2006)

Chapters 3—5 RESERVED

Chapter 6 ALCOHOLIC BEVERAGES [11](#)

ARTICLE I. - IN GENERAL

ARTICLE II. - RETAIL ESTABLISHMENTS

FOOTNOTE(S):

--- (1) ---

State Law reference— Alcoholic beverages, Minn. Stats. ch. 340A; local restrictions on sale and possession of alcoholic beverage authorized, Minn. Stats. § 340A.509. [\(Back\)](#)

ARTICLE I. IN GENERAL

[Sec. 6-1. Definitions.](#)

[Sec. 6-2. Consumption and possession of alcoholic beverages on streets, public property, and private parking lots to which the public has access.](#)

[Secs. 6-3—6-22. Reserved.](#)

Sec. 6-1. Definitions.

The definitions in Minn. Stats. § 340A.101 apply to this chapter. 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:

Applicant means any person making an application for a license under this chapter.

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

License means a document, issued by the city, to an applicant permitting him to carry on and transact the business stated therein.

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

Licensee means an applicant who, pursuant to his approved application, holds a valid, current, unexpired license, which has neither been revoked nor is then under suspension, from the city for carrying on the business stated therein.

Minor means any natural person who has not attained the age of 21 years.

Restaurant means an establishment, other than a hotel, under the control of a single proprietor or manager, where meals are regularly prepared on the premises and served at tables to the general public, and having a minimum seating capacity for at least 25 guests.

PART I GENERAL ORDINANCES

Sale, sell and sold mean all barters and all manners or means of furnishing alcoholic beverages to persons, including such furnishing in violation or evasion of law.

(Code 1983, § 4.01)

Sec. 6-2. Consumption and possession of alcoholic beverages on streets, public property, and private parking lots to which the public has access.

It is unlawful for any person to consume, or possess in an unsealed container, any alcoholic beverage on any city park, street, public property, or private parking lot to which the public has access, except on such premises when and where permission has been specifically granted or licensed by the council. The provisions of this section shall not apply to possession or consumption of any alcoholic beverage in a motor vehicle.

(Code 1983, § 4.15)

Secs. 6-3—6-22. Reserved.

ARTICLE II. RETAIL ESTABLISHMENTS

DIVISION 1. - GENERALLY

DIVISION 2. - LICENSES

DIVISION 3. - 3.2 PERCENT MALT LIQUOR

DIVISION 4. - INTOXICATING LIQUOR

DIVISION 1. GENERALLY

[Sec. 6-23. Inspections.](#)

[Sec. 6-24. Conduct on licensed premises.](#)

[Sec. 6-25. Sale by employee.](#)

[Sec. 6-26. Consumption when sales prohibited; presence of customers when sale prohibited.](#)

[Sec. 6-27. Unlawful acts; other licenses.](#)

[Secs. 6-28—6-57. Reserved.](#)

Sec. 6-23. Inspections.

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

(Code 1983, § 4.11)

Sec. 6-24. Conduct on licensed premises.

Except as herein provided, every licensee under this chapter shall maintain conditions of sobriety and order therein.

(Code 1983, § 4.09)

State law reference— Licensee responsible for conduct on premises, Minn. Stats. § 340A.501.

Sec. 6-25. Sale by employee.

Any sale of an alcoholic beverage in or from any premises licensed under this chapter by any employee authorized to make such sale in or from such place is the act of the employer as well as of the person actually making the sale; and every such employer is liable to all of the penalties provided by law for such sale, equally with the person actually making the sale.

(Code 1983, § 4.10)

State law reference— Acts of employees as acts of licensee, Minn. Stats. § 340A.501.

Sec. 6-26. Consumption when sales prohibited; presence of customers when sale prohibited.

- (a) Consumption. It is unlawful for any person to consume, or any licensee to permit consumption of, 3.2 percent malt liquor, wine or intoxicating liquor on licensed premises more than 30 minutes after the hour when a sale thereof can legally be made.
- (b) Customer presence. It is unlawful for any person, other than a licensee or his bona fide employee actually engaged in the performance of his duties, to be on premises licensed under this chapter more than 30 minutes after the legal time for making licensed sales, unless the licensed establishment is open to the public for serving food.

(Code 1983, § 4.08)

State law reference— Hours of sale, Minn. Stats. § 340A.504.

Sec. 6-27. Unlawful acts; other licenses.

- (a) *Definition.* The following term, when used in this section, shall have the meaning ascribed to it in this subsection, except where the context clearly indicates a different meaning:
Member means any person in good standing according to rules and regulations of the licensed club.
- (b) *Unlawful acts.* The following are in addition to all other unlawful acts set forth in this chapter relating to sales and purchases of beer 3.2 percent malt liquor or intoxicating liquor, as the case may be:
 - (1) It is unlawful for a club licensee to sell intoxicating liquor or 3.2 percent malt liquor to any person not a member of the licensed club, or a bona fide guest of a licensed club.
 - (2) It is unlawful for any club licensee to hinder or prevent a police officer from determining compliance with this section and chapter, and all other laws.
 - (3) It is unlawful for any person to refuse, upon request of a licensee or police officer, to provide information as to whether he is a member, guest or host member, or to give false, fraudulent or misleading information in response to such request.

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- (c) *Other licenses.* An on-sale intoxicating liquor or wine licensee may also be licensed for consumption and display.

(Code 1983, § 4.57)

Secs. 6-28—6-57. Reserved.

DIVISION 2. LICENSES

[Sec. 6-58. Applications.](#)

[Sec. 6-59. Granting, issuance and transfer.](#)

[Sec. 6-60. Delinquent taxes and charges.](#)

[Sec. 6-61. Resident manager or agent.](#)

[Sec. 6-62. Renewal of licenses.](#)

[Sec. 6-63. Duplicate licenses.](#)

[Sec. 6-64. Revocation or suspension.](#)

[Secs. 6-65—6-86. Reserved.](#)

Sec. 6-58. Applications.

- (a) *Generally.* All applications shall be made at the office of the city clerk-treasurer upon forms prescribed by the city, or if by the commissioner, then together with such additional information as the council may desire. Information required may vary with the type of business organization making the application. All questions asked or information required by the application forms shall be answered fully and completely by the applicant.
- (b) *False statements.* It is unlawful for any applicant to intentionally make a false statement or omission upon any application form. Any false statement in such application, or any willful omission to state any information called for on such application form shall, upon discovery of such falsehood, work an automatic refusal of license, or if already issued, shall render any license issued pursuant thereto void and of no effect to protect the applicant from prosecution for violation of this chapter, or any part thereof.
- (c) *Corporate applicants and licensees.* A corporate applicant, at the time of application, shall furnish the city with a list of all persons that have an interest in such corporation, and the extent of such interest. The list shall name all shareholders and show the number of shares held by each, either individually or beneficially for others. It is the duty of each corporate licensee to notify the city clerk-treasurer in writing of any change in legal ownership, or beneficial interest in such corporation or in such shares. Any change in the ownership or beneficial interest in the shares entitled to be voted at a meeting of the shareholders of a corporate licensee, which results in the change of voting control of the corporation by the persons owning the shares therein, shall be deemed equivalent to a transfer of the license issued to the corporation, and any such license shall be revoked 30 days after any such change in ownership or beneficial interest of shares unless the council has been notified of the change in writing and has approved it by appropriate action. The council, or any officer of the city designated by it, may at any reasonable time examine the stock transfer records and minute books of any corporate licensee in order to verify and identify the shareholders, and the council or its designated officer may examine the business records of any other licensee to the extent necessary to disclose the interest which persons other than the licensee have in the licensed business. The council may revoke any license issued upon its determination that a change of ownership of shares in a corporate licensee or any change of ownership of any interest in the business of any other

PART I GENERAL ORDINANCES

licensee has actually resulted in the change of control of the licensed business so as materially to affect the integrity and character of its management and its operation, but no such action shall be taken until after a hearing by the council on notice to the licensee.

(Code 1983, § 4.02, subds. 1, 2, 3(G))

Sec. 6-59. Granting, issuance and transfer.

- (a) *Granting.* The council may approve any application for the period of the remainder of the then current license year or for the entire ensuing license year. All applications including proposed license periods must be consistent with this chapter. Prior to consideration of any application for a license, the applicant shall pay the license fee. Upon rejection of any application for a license, or upon withdrawal of an application before consideration by the council, the license fee shall be refunded to the applicant. Failure to pay any portion of a fee when due shall be cause for revocation.
- (b) *Issuing.* If an application is approved, the city clerk-treasurer shall forthwith issue a license pursuant thereto in the form prescribed by the city or the commissioner, as the case may be, and upon payment of the license fee. All licenses shall be on a calendar year basis unless otherwise specified herein. For licenses issued and which are to become effective other than on the first day of the licensed year, the fee to be paid with the application shall be a pro rata share of the annual license fee. Licenses shall be valid only at one location and on the premises therein described.
- (c) *Transfer.* A license shall be transferable between persons upon consent of the council. No license shall be transferable to a different location without prior consent of the council and payment of the fee for a duplicate license. It is unlawful to make any transfer in violation of this subsection.
- (d) *Refusal and termination.* The council may, in its sole discretion and for any reasonable cause, refuse to grant any application. No license shall be granted to a person of questionable moral character or business reputation. Licenses shall terminate only by expiration or revocation.
- (e) *Public interest.* No license under this chapter may be issued, transferred, or renewed if the results of any investigation show, to the satisfaction of the council, that such issuance, transfer, or renewal would not be in the public interest.

(Code 1983, § 4.02, subd. 3(A), (B), (D), (E), (H))

State law reference— Eligibility requirements for licenses, Minn. Stats. § 340A.402; intoxicating liquor licenses prohibited in certain areas, Minn. Stats. § 340A.412, subd. 4.

Sec. 6-60. Delinquent taxes and charges.

No license under this chapter shall be granted for operation on any premises upon which taxes, assessments, or installments thereof, or other financial claims of the city, are owed and are delinquent and unpaid.

(Code 1983, § 4.04)

State law reference— Local licenses not to be issued if state taxes unpaid, Minn. Stats. § 270C.72.

Sec. 6-61. Resident manager or agent.

Before a license is issued under this chapter to an individual who is a nonresident of the city, to more than one individual whether or not they are residents of the city, or to a corporation, partnership, or association, the applicant shall appoint in writing a natural person who is a resident of the city as its manager or agent. Such resident manager or agent shall, by the terms of his written consent, take full

PART I GENERAL ORDINANCES

responsibility for the conduct of the licensed premises, and, serve as agent for service of notices and other process relating to the license. Such manager or agent must be a person who, by reason of age, character, reputation, and other attributes, could qualify individually as a licensee. If such manager or agent ceases to be a resident of the city or ceases to act in such capacity for the licensee without appointment of a successor, the license issued pursuant to such appointment shall be subject to revocation or suspension.

(Code 1983, § 4.02, subd. 6)

Sec. 6-62. Renewal of licenses.

Applications for renewal of all licenses under this chapter shall be made at least 60 days prior to the date of expiration of the license, and shall contain such information as is required by the city. This time requirement may be waived by the council for good and sufficient cause.

(Code 1983, § 4.03)

Sec. 6-63. Duplicate licenses.

Duplicates of all original licenses under this chapter may be issued by the city clerk-treasurer without action by the council, upon licensee's affidavit that the original has been lost, and upon payment of a fee established by the city for issuance of the duplicate. All duplicate licenses shall be clearly marked "DUPLICATE."

(Code 1983, § 4.02, subd. 4)

Sec. 6-64. Revocation or suspension.

The council shall revoke the license upon conviction of any licensee or agent or employee of a licensee for violating any law relating to the sale or possession of 3.2 percent malt liquor, wine or intoxicating liquor upon premises of the licensee, or if such revocation is mandatory by statute. If it shall be made to appear at the hearing thereon that such violation was not willful, the council may order suspension; provided that revocation shall be ordered upon the third such violation or offense. As additional restrictions or regulations on licensees under this chapter, and in addition to grounds for revocation or suspension stated in the city Code or statute, the following shall also be grounds for such action:

- (1) That the licensee suffered or permitted illegal acts upon licensed premises unrelated to the sale of 3.2 percent malt liquor, wine or intoxicating liquor;
- (2) That the licensee had knowledge of such illegal acts upon licensed premises, but failed to report the same to police;
- (3) That the licensee failed or refused to cooperate fully with police in investigating such alleged illegal acts upon licensed premises; or
- (4) That the activities of the licensee created a serious danger to public health, safety, or welfare.

(Code 1983, § 4.02, subd. 3(F))

State law reference— License revocation or suspension and related sanctions, Minn. Stats. § 340A.415.

Secs. 6-65—6-86. Reserved.

DIVISION 3. 3.2 PERCENT MALT LIQUOR ^[2]

[Sec. 6-87. License.](#)

[Sec. 6-88. Temporary licenses.](#)

[Sec. 6-89. Sale of intoxicating liquor.](#)

[Sec. 6-90. Underage persons; purchase during hours when sale prohibited; inducing others to make illegal sales or purchases.](#)

[Secs. 6-91—6-108. Reserved.](#)

Sec. 6-87. License.

- (a) *Required.* It is unlawful for any person, directly or indirectly, on any pretense or by any device, to sell, barter, keep for sale, or otherwise dispose of 3.2 percent malt liquor, as part of a commercial transaction, without a license therefor from the city. This section shall not apply to sales by manufacturers to wholesalers or to sales by wholesalers to persons holding 3.2 percent malt liquor licenses from the city.
- (b) *Fees.* The annual on-sale 3.2 percent malt liquor license fee is as established by the city. The annual off-sale 3.2 percent malt liquor license fee is as established by the city. The daily temporary on-sale 3.2 percent malt liquor license fee is as established by the city.
- (c) *Location restrictions.* No 3.2 percent malt liquor license shall be granted for any building within 250 feet of any school structure.

(Code 1983, §§ 4.30, 4.31, 4.34, subd. 3)

State law reference— License requirements, Minn. Stats. § 340A.401; license fees for 3.2 percent malt liquor, Minn. Stats. § 340A.408, subds. 1, 3a.

Sec. 6-88. Temporary licenses.

- (a) An application for a temporary 3.2 percent malt liquor license shall state the exact dates and place of proposed temporary sale.
- (b) The council may, but at no time shall it be under any obligation whatsoever to, grant a temporary 3.2 percent malt liquor license on premises owned or controlled by the city. Any such license may be conditioned, qualified or restricted as the council sees fit. If the premises to be licensed are owned or under the control of the city, the applicant shall file with the city, prior to issuance of the license, a certificate of liability insurance coverage in at least the sum of \$50,000.00 for bodily injury to any one person in any one occurrence, \$100,000.00 for bodily injury to two or more persons in any one occurrence, \$10,000.00 for property damage injury to or destruction of property of others in any one occurrence, \$50,000.00 for loss of means of support of any one person in any one occurrence, and \$100,000.00 for loss of means of support of two or more persons in any one occurrence, naming the city as an insured during the license period. Such license shall be issued only on the condition that the applicant will not sell in excess of \$10,000.00 (retail value) worth of beer 3.2 percent malt liquor in any calendar year, and thereupon shall be exempt from proof of financial responsibility as provided for herein.

(Code 1983, § 4.32)

State law reference— Temporary licenses, Minn. Stats. § 340A.403, subd. 2.

Sec. 6-89. Sale of intoxicating liquor.

No licensee shall, during the effective period of such license, be the owner or holder of a federal retail liquor dealer's tax stamp for the sale of intoxicating liquor, unless such owner or holder also holds a liquor license from the city, and ownership or holding thereof shall be grounds for immediate revocation, without a hearing.

(Code 1983, § 4.34, subd. 1)

State law reference— Off-sale intoxicating liquor licenses not to be issued where 3.2 percent malt liquor sold for on premises consumption, Minn. Stats. § 340A.412, subd. 6; combination licenses, Minn. Stats. § 340A.406; holders of on-sale intoxicating liquor licenses authorized to sell 3.2 percent malt liquor, Minn. Stats. § 340A.403, subd. 3.

Sec. 6-90. Underage persons; purchase during hours when sale prohibited; inducing others to make illegal sales or purchases.

It is unlawful for any:

- (1) Person who has not attained the age of 18 years to be employed to sell or serve 3.2 percent malt liquor in any on-sale establishment.
- (2) Person to knowingly induce another to make an illegal sale or purchase of 3.2 percent malt liquor.
- (3) Licensee to fail, where doubt could exist, to require adequate proof of age of a person upon licensed premises.
- (4) Licensee to allow consumption of 3.2 percent malt liquor on licensed premises on any day when sales of 3.2 percent malt liquor are not permitted by law.
- (5) Person to purchase 3.2 percent malt liquor on any day, or during any hour, when sales of 3.2 percent malt liquor are not permitted by law.

(Code 1983, § 4.34, subd. 5(A), (B), (D), (F), (G))

State law reference— Purchase, sale, etc., of alcohol to underage persons, Minn. Stats. § 340A.503; days and hours of sale, Minn. Stats. § 340A.504; sales to obviously intoxicated persons, Minn. Stats. § 340A.502.

Secs. 6-91—6-108. Reserved.

FOOTNOTE(S):

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PART I GENERAL ORDINANCES

State Law reference— 3.2 percent malt liquor licenses generally, Minn. Stats. §§ 340A.403, 349A.411.
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DIVISION 4. INTOXICATING LIQUOR [\[3\]](#)

[Sec. 6-109. License—Generally.](#)

[Sec. 6-110. Same—Required for wine sales; fees; premises eligible.](#)

[Sec. 6-111. Location restrictions.](#)

[Sec. 6-112. Employment of minors.](#)

[Sec. 6-113. Purchase or display during hours when sale prohibited; inducing others to make illegal sales or purchases.](#)

Sec. 6-109. License—Generally.

- (a) It is unlawful for any person, directly or indirectly, on any pretense or by any device, to sell, barter, keep for sale, or otherwise dispose of intoxicating liquor, as part of a commercial transaction, without a license therefor from the city. This section shall not apply to:
- (1) Such potable intoxicating liquors as are intended for therapeutic purposes and not as a beverage;
 - (2) Industrial alcohol and its compounds not prepared or used for beverage purposes;
 - (3) Wine in the possession of a person duly licensed under this chapter as an on-sale wine licensee;
 - (4) Sales by manufacturers to wholesalers duly licensed as such by the commissioner; or
 - (5) Sales by wholesalers to persons holding intoxicating liquor licenses from the city.
- (b) The annual on-sale intoxicating liquor license fee is as established by the city. The annual off-sale intoxicating liquor license fee is as established by the city. The annual club on-sale intoxicating liquor license fee is as established by the city.

(Code 1983, §§ 4.50, 4.51)

State law reference— License requirement, Minn. Stats. § 340A.401; license fees, Minn. Stats. § 340A.408, subds. 2, 3, 3a.

Sec. 6-110. Same—Required for wine sales; fees; premises eligible.

- (a) *License required.* It is unlawful for any person, directly or indirectly, on any pretense or by any device, to sell, barter, keep for sale, or otherwise dispose of wine on-sale, as part of a commercial transaction, without a license therefor from the city. This section shall not apply:
- (1) To sales by manufacturers to wholesalers duly licensed as such by the commissioner;
 - (2) To sales by wholesalers to persons holding on-sale or off-sale intoxicating liquor licenses from the city;
 - (3) To sales by wholesalers to persons holding on-sale wine licenses from the city; or
 - (4) To sales by on-sale intoxicating liquor licensees on days and during hours when on-sale intoxicating liquor sales are permitted.

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- (b) *Fee.* The annual on-sale wine license fee is as established by the city.
- (c) *Premises eligible.* On-sale wine licenses shall be granted only to restaurants; provided, however, for purposes of this division, such restaurant shall have appropriate facilities for seating not less than 25 guests at one time.

(Code 1983, §§ 4.53, 4.54, 4.56, subd. 6)

State law reference— License requirement, Minn. Stats. § 340A.401; wine licenses generally, Minn. Stats. § 340A.404, subd. 5; license fees, Minn. Stats. § 340A.408, subds. 2, 3, 3a.

Sec. 6-111. Location restrictions.

No license shall be granted pursuant to the provisions of this division for any building within 250 feet of any school structure.

(Code 1983, § 4.56, subd. 7)

State law reference— Licenses prohibited in certain areas, Minn. Stats. § 340A.410, subd. 4.

Sec. 6-112. Employment of minors.

No person under 18 years of age may be employed in a place where intoxicating liquor is sold for consumption on the premises, except persons under 18 years of age may be employed as musicians or in bussing or washing dishes in a restaurant or hotel that is licensed to sell intoxicating liquor and may be employed as waiters or waitresses at a restaurant or hotel where only wine is sold, provided that the person under the age of 18 may not serve or sell any wine.

(Code 1983, § 4.56, subd. 5)

State law reference— Employment of underage persons, Minn. Stats. § 340A.412, subd. 10; underage persons on premises, Minn. Stats. § 340A.503, subd. 3.

Sec. 6-113. Purchase or display during hours when sale prohibited; inducing others to make illegal sales or purchases.

It is unlawful for any:

- (1) Licensee to display intoxicating liquor to the public during hours when the sale of intoxicating liquor is prohibited.
- (2) Person to knowingly induce another to make an illegal sale of intoxicating liquor or wine.
- (3) Person to purchase intoxicating liquor or wine on any day, or during any hour, when sales of intoxicating liquor or wine are not permitted by law.

(Code 1983, § 4.56, subd. 10(B), (E), (F))

FOOTNOTE(S):

PART I GENERAL ORDINANCES

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State Law reference— Intoxicating liquor licenses generally, Minn. Stats. §§ 340A.402 et seq., 340A.412. [\(Back\)](#)

Chapters 7—9 RESERVED

Chapter 10 REGULATION OF ANIMALS ⁽¹⁾

[Sec. 10-1. Purpose.](#)

[Sec. 10-2. Definitions.](#)

[Sec. 10-3. Dangerous animals.](#)

[Sec. 10-4. Appeal procedure.](#)

[Sec. 10-5. Notification of new address.](#)

[Sec. 10-6. Dangerous animal requirements.](#)

[Sec. 10-7. Wild and exotic animals.](#)

[Sec. 10-8. Farm animals.](#)

[Sec. 10-9. Running at large prohibited.](#)

[Sec. 10-10. License required; application and fees; tag required.](#)

[Sec. 10-11. Disturbing the peace.](#)

[Sec. 10-12. Nuisances.](#)

[Sec. 10-13. Abandonment/disposition of unclaimed dogs.](#)

[Sec. 10-14. Redemption of impounded dogs.](#)

[Sec. 10-15. Penalty for violation of dog registration and/or control of dangerous dog.](#)

[Sec. 10-16. Control of rabies infected animals.](#)

[Sec. 10-17. Disclaimer; responsibility for deceased and unwanted pets.](#)

[Sec. 10-18. Penalties.](#)

Sec. 10-1. Purpose.

The Cass Lake City Council finds that there are an increasing and recurring number of complaints by residents in the city regarding domestic pets including dogs and cats running at large within the city. These complaints include, among other things, nuisance stray cats either causing damage to property of others or being destructive to populations of birds and other creatures desired in the natural environment and, thereby, disturbing and disruptive to neighboring property owners' peaceful enjoyment of their property. Also of concern are dogs roaming at large, singly and in groups, which could pose a threat to community safety and negatively impact sanitary conditions within the city. Furthermore, the keeping or harboring of large numbers of both cats and/or dogs as pets can negatively impact not only the condition of the property where the animals are kept and harbored, but the condition and value of neighboring property as well. Also of concern is the intentional or accidental introduction of exotic species kept as domestic pets which have, in other parts of the country, had extremely negative impacts on native species and ecosystems. Consequently, the council finds that it is in the best interests of the city and the health, safety and general welfare of the community and its residents to regulate and license cats, dogs, and other domestic pets, and to prohibit these animals running at large in the city, and to regulate the number of such animals that are allowed to be kept, harbored and/or otherwise maintained by the owner or occupant of an individual dwelling or occupancy unit in the city.

(Ord. No. 05-2013, § 1, 10-9-2013)

Sec. 10-2. Definitions.

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

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

- (1) *Domestic animal.* Any animal commonly accepted as a domesticated household pet. Unless otherwise defined, these animals shall include dogs, cats, caged birds including pigeons, gerbils, hamsters, guinea pigs, domesticated rabbits, fish, non-poisonous, non-venomous and non-constricting reptiles or amphibians and other similar animals.
- (2) *Exotic animal.* Any animal not indigenous or commonly present in the local environment or ecosystem either permanently or as a part of an established pattern of migration.
- (3) *Farm animal.* Any animal commonly associated with a farm or performing work in an agricultural setting. Unless otherwise defined, the animals shall include members of the equestrian family (horses, mules), bovine family (cows, bulls), sheep, poultry (chickens, turkeys), fowl (ducks, geese), swine (excluding Vietnamese pot-bellied pigs), goats, bees and other animals associated with a farm, ranch or stable.
- (4) *Wild animal.* Any animal commonly considered to be naturally wild and not naturally trained or domesticated, or which is commonly considered to be inherently dangerous to the health, safety or welfare of people. Unless otherwise defined, the animals shall include:
 - a. Any member of the large cat family (family *felidae*) including lions, tigers, cougars, bobcats, leopards and jaguars, but excluding commonly accepted domesticated house cats;
 - b. Any naturally wild member of the canine family (family *canide*) including wolves, foxes, coyotes, dingoes and jackals, but excluding commonly accepted domesticated dogs;
 - c. Any crossbreeds such as the crossbreed between a wolf and a dog, unless the crossbreed is commonly accepted as a domesticated house pet;
 - d. Any member or relative of the rodent family including any skunk (whether or not descended), raccoon or squirrel, but excluding those members otherwise defined or commonly accepted as domesticated pets;
 - e. Any poisonous, venomous, constricting or inherently dangerous member of the reptile or amphibian families including rattlesnakes, boa constrictors, pit vipers, crocodiles and alligators; and
 - f. Any other animal which is not explicitly listed above but which can be reasonably defined by the terms of this section, including but not limited to, bears, deer, monkeys and game fish.

At large means off the owner's premises and not accompanied by, or under control of, a person, either by leash, cord, chain, or otherwise.

Dangerous animal means any animal that has:

- (1) Without provocation, inflicted substantial bodily harm on a human being on public or private property;
- (2) Injured/killed a domestic animal without provocation while off the owner's property;
- (3) The dog aggressively bites, attacks or endangers the safety of humans or domestic animals;
- (4) Has been used for dog fighting, or is a dog trained for dog fighting;
- (5) Has, when unprovoked, chased or approached a person upon the streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack; provided that such actions are attested to in a sworn statement by one or more persons and dutifully investigated by an

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enforcement officer. An animal shall not be classified as dangerous if the threat, injury, or damage was sustained by a person who, at the time, was unlawfully on the property, or, while lawfully on the property, was tormenting, abusing or assaulting the dog or its owner or a family member. No animal may be classified as dangerous if the animal was protecting or defending a person within the immediate vicinity of the animal from an unjustified attack or assault.

The term dangerous animal shall not apply to dogs used by law enforcement officials for police work.

Dog applies to any canine animal, male or female, sexed or neutered.

Enforcement officer means an animal control, law enforcement, or conservation officer, or any other person as may be authorized by the city to act in that capacity. All city employees and officials may act as an enforcement officer while in the course of performing their official duties.

Hearing officer. The person designated by the city council to hear appeals brought pursuant to this chapter.

Household means a single-family residence or single unit of a townhome, condominium, apartment or comparable structure that is owned, rented, leased or used as a single unit.

Household occupant means any person who ordinarily exercises dominion or possession over a residence, office, store, building, shop or other premises which is generally deemed to be a single unit of occupancy within the city whether as an owner, landlord, tenant or otherwise.

Kennel means the keeping of five or more dogs on the same premises, whether owned by the same person or not and for whatever purpose kept, except that a fresh litter of pups may be kept for a period of four months before such keeping shall be deemed to be a kennel. Kennel does not include a veterinarian licensed to practice in the State of Minnesota who keeps, congregates or confines animal in the normal pursuit of the practice of veterinary medicine. For purposes of this section, kennel does not include the animal impound facility owned and operated by the city or other animal shelter owned and operated by any political subdivision of the state or a facility providing animal sheltering services under contract with any political subdivision of the state.

Owner means any person, firm, corporation, organization, or department possessing, harboring, keeping, having an interest in, or having care, custody, or control of an animal, or permitting any animal to habitually remain on or be lodged or fed within such person's house, yard, or premises. This term shall not apply to veterinarians or kennel operators temporarily maintaining, on the premises, animals owned by others for a period of less than 30 days.

Premises shall mean any building, structure, shelter or land whereupon animals are kept or confined.

(Ord. No. 05-2013, § 1, 10-9-2013)

Sec. 10-3. Dangerous animals.

- (a) *Designation as dangerous animal.* The animal control officer shall have the authority to designate any animal as a dangerous animal upon receiving evidence that the animal meets any of the criteria set forth in the definition of dangerous animal in this chapter.
- (b) *Procedure.* The animal control officer, after having determined that an animal is dangerous, shall proceed in the following manner:
 - (1) Order the animal seized and kept at an animal control facility at owner's expense. The owner shall immediately make the animal available for seizure.
 - (2) The animal control officer shall then determine whether to:
 - a. Order the animal destroyed; or
 - b. Impose the conditions set forth in section 10-6. If conditions are imposed in lieu of destruction, the animal shall remain confined at an animal control facility until the owner

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demonstrates to the animal control officer that all conditions have been fulfilled except that set forth in subsection 10-6(a)(4).

- (3) The animal control officer shall cause an owner of the animal to be notified in writing or in person that the animal has been determined to be dangerous and that the animal is to be destroyed or that the owner must comply with the conditions set forth in section 10-6. The owner shall be notified as to dates, times, places and parties involved that form the basis for the determination and shall be given 14 days to appeal the determination by requesting a hearing in writing before the hearing officer for a review of the determination.
 - a. If no appeal is filed, the orders issued will stand.
 - b. If an owner requests a hearing for determination as to the dangerous nature of the animal, the hearing shall be held before the hearing officer, who shall set a date for hearing not more than three weeks after demand for the hearing. Pending the hearing, the animal shall remain at an animal control facility. A fee, as established by the city council, shall be posted by the owner to cover the administrative costs of scheduling the hearing.
 - c. The records of animal control or the city shall be admissible for consideration by the hearing officer without further foundation.
 - d. After considering all evidence, the hearing officer shall issue a written order rejecting, upholding or amending the determination. The order must be issued within ten days of the hearing and shall be delivered to the owner in person or by registered mail. If the declaration that the animal is dangerous is upheld by the hearing officer, the actual expense of the hearing, including attorney's fees, up to a maximum of \$1,000.00 will be the responsibility of the animal's owner. If the animal is ordered into custody for destruction, the owner shall immediately make the animal available to the animal control officer.
- (c) *Harboring a dangerous animal.* No person shall harbor an animal after it has been found to be dangerous and ordered into custody for destruction.
- (d) *Stopping an attack.* If any police officer or animal control officer is witness to an attack by an animal upon a person or another animal, the officer may take whatever means the officer deems appropriate to bring the attack to an end and prevent further injury to the victim.

(Ord. No. 05-2013, § 1, 10-9-2013)

Sec. 10-4. Appeal procedure.

An order by a hearing officer may be appealed by writ of certiorari to the court of appeals.

(Ord. No. 05-2013, § 1, 10-9-2013)

Sec. 10-5. Notification of new address.

The owner of an animal that has been identified as dangerous must notify the animal control officer in writing if the animal is to be relocated from its current address or given or sold to another person. The notification must be given in writing at least 14 days prior to the relocation or transfer of ownership. The notification must include the current owner's name and address, the relocation address and the name of the new owner, if any.

(Ord. No. 05-2013, § 1, 10-9-2013)

Sec. 10-6. Dangerous animal requirements.

- (a) *Requirements.* If the hearing officer does not order the destruction of an animal that has been declared dangerous, the hearing officer may, as an alternative, order the owner to do any or all of the following:

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- (1) Provide and maintain a proper enclosure for the dangerous animal as defined in this chapter.
 - (2) Post the front and the rear of the premises with clearly visible warning signs, including a warning symbol to inform children, that there is a dangerous animal on the property, as specified in Minn. Stats. § 347.51, as it may be amended from time to time.
 - (3) Provide and show proof annually of public liability insurance in the minimum amount of \$300,000.00. The owner shall have 15 business days from the date of the request to show proof of insurance, except that if the animal is impounded, proof of insurance must be demonstrated prior to the animal's release.
 - (4) If a dog is outside the proper enclosure, muzzle the dog and restrain by a substantial chain or leash (not to exceed six feet in length) and be under the physical restraint of a person 16 years of age or older. The muzzle must be of a design that prevents the dog from biting any person or animal, but will not cause injury to the dog or interfere with its vision or respiration.
 - (5) If a dog, affix to its collar at all times an easily identifiable, standardized tag identifying the dog as dangerous as specified in Minn. Stats. § 347.51, as it may be amended from time to time.
 - (6) If a dog, it must be licensed and up to date on rabies vaccination. If the animal is a cat or ferret, it must be up to date with rabies vaccination.
- (b) *Failure to comply with requirements.*
- (1) If an owner of an animal that has been declared dangerous fails to comply with any of the requirements imposed by the hearing officer, the animal must be seized. Notice shall be provided to the owner of the basis for the seizure and the right to request a hearing before the hearing officer to determine whether conditions were violated. A request for hearing must be made within 14 days of the seizure, and a fee, as established by the city council, shall be posted by the owner to cover administrative costs.
 - (2) If the owner fails to request a hearing within 14 days, the animal control officer may order the animal destroyed in a proper and humane manner and the owner shall pay the costs of confining and destroying the animal.
 - (3) If a hearing is requested, the hearing shall be held not more than three weeks after demand for a hearing was received. The records of animal control and the city shall be admissible for consideration by the city council without further foundation. After considering all evidence, the hearing officer shall issue a written decision within ten days of the hearing and the order shall be delivered to the owner in person or by registered mail.
 - a. If the owner is found to have violated the conditions, the hearing officer may order the animal destroyed in a proper and humane manner and the owner shall pay the costs of confining and destroying the animal. In addition, the owner shall pay the costs of the hearing, if any, including attorney's fees, up to a maximum of \$1,000.00.
 - b. If the owner is found not to have violated the conditions, the owner may reclaim the animal after paying the costs of confining the animal. An animal not reclaimed within 14 days of the owner's receipt of the decision may be destroyed and the owner shall pay all costs of confinement.

(Ord. No. 05-2013, § 1, 10-9-2013)

Sec. 10-7. Wild and exotic animals.

It shall be illegal for any person to own, possess, harbor or offer for sale, any wild or exotic animal as defined in this chapter within the city limits. Any owner of such an animal at the time of adoption of this chapter shall have 30 days in which to remove the animal from the city after which time the city may impound the animal. An exception shall be made to this prohibition for animals specifically trained for and actually providing assistance to the handicapped or disabled, and for those animals brought into the city

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as part of an operating zoo, veterinarian clinic, scientific research laboratory or a licensed show or exhibition.

(Ord. No. 05-2013, § 1, 10-9-2013)

Sec. 10-8. Farm animals.

It is unlawful for any person to keep or harbor any farm animal not in transit, except:

- (1) Animals kept as part of a show licensed under the city Code;
- (2) Animals kept in a laboratory for scientific or experimental purposes; or
- (3) Animals kept in an animal hospital or clinic for treatment by a licensed veterinarian.

(Ord. No. 05-2013, § 1, 10-9-2013)

Sec. 10-9. Running at large prohibited.

- (a) It is unlawful for the owner of any animal to permit such animal to run at large. Any animal shall be deemed to be running at large with the permission of the owner unless it is on a leash and under the control of an accompanying person of suitable age and discretion. Abandoned animals are also not permitted to run at large.
- (b) Any person finding any animal trespassing upon his/her property to his/her injury or annoyance may request an enforcement officer to capture the animal, or may capture it himself or herself by any reasonable and humane means and turn it over to the appropriate enforcement officer, who shall take such animal and return it to its rightful owner, if known. If its rightful owner is unknown, the enforcement officer may seize and impound such animal pursuant to this chapter.
- (c) If an animal is found to be running at large, captured, and is turned over to the appropriate enforcement officer and thereupon returned to its owner, the appropriate enforcement officer involved shall issue a citation to the owner for violation of this chapter.
- (d) Any animal that is known to be rabid or presenting immediate danger to the life of a person may be immediately destroyed by any person if there exists immediate danger to the life of another person. If there is sufficient time to notify the owner(s), however, then an effort to provide such notification shall be made before the animal is destroyed.
- (e) This section shall not apply to guide/service dogs for people with disabilities such as visual or hearing impairment. Whenever a guide/service dog is found to be running at large and is captured, the appropriate enforcement officer shall take such dog and return it to its owner. In such instance, no citation shall be issued and no fine or criminal complaint shall be issued.

(Ord. No. 05-2013, § 1, 10-9-2013)

Sec. 10-10. License required; application and fees; tag required.

- (a) *License required and number of dogs and cats restricted.* No dog or cat shall be kept, harbored or maintained within the boundaries of the city unless it has been registered by the owners with the city, and the registration tag has been affixed to the animal's collar. No person shall attach a registration tag to an animal unless the animal has been properly vaccinated and registered. All dog licenses shall expire on December 31 of each year. All fees for the licensing and impounding of animals shall be fixed and determined by the council, adopted by resolution, and uniformly enforced. A copy of the resolution shall be kept on file in the office of the city clerk-treasurer and open to inspection during regular business hours.
- (b) *Tag required.* All licensed dogs and cats shall wear a collar and have a tag firmly affixed thereto evidencing such license for the current year. A duplicate for a lost tag may be issued by the city upon

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presentation of the receipt showing the payment of the licensee fee for the current year. A charge in the amount established by the city shall be made for each duplicate tag so issued. Tags shall not be transferable, and no refund shall be made on any license fee because of leaving the city or death of the animal before the expiration of the license.

- (c) *Application.* Application for a dog or cat license shall be upon a form supplied by the city and accompanied by a certificate of a veterinarian, duly licensed to practice veterinary medicine within the state. The certificate shall state that the dog or cat for which application for a license is being made has been inoculated against rabies for at least the period for which the license is valid.
- (d) *Restriction on number of dogs and cats.*
 - (1) *Household limitation.* Except for a kennel properly permitted in zoning districts allowing the same and/or as authorized elsewhere in this section, and excepting veterinary hospitals and pet shops, it shall be unlawful for any owner or occupant of a household or other single unit of occupancy within the city to possess, harbor, keep or allow to be kept, or to maintain for any purpose whatsoever, a total number of dogs and/or cats that are over the age of four months and that exceeds the following limits:
 - a. No more than four dogs, where dogs are the animal exclusively kept, harbored or possessed; or
 - b. No more than four cats, where cats are the animal exclusively kept, harbored or possessed; or
 - c. Congregate limit. No more than a combined total of four dogs and cats in any combination.
 - (2) *Limitation prior to effective date.* Any person owning more cats and/or dogs than then the maximum limit defined in subsection (a) above, prior to the effective date of the ordinance from which this chapter derives, shall be permitted to keep the additional animals in excess of the maximum limit provided that the dogs in that household as of the effective date of this chapter were properly licensed, and the cats in the household are licensed within 30 days following the effective date of this chapter. No person affected by this section shall be permitted to acquire any additional cats and/or dogs to replace any cats or dogs in excess of the maximum limits set in this section.
 - (3) *Limitation upon annexation.* Any person who owns cats and/or dogs and who becomes a resident of the city by annexation shall be permitted to keep those animals, provided that the animals are properly licensed within 30 days following approval of the annexation. No person affected by this subsection who owns more than the maximum limit of cats and/or dogs defined in subsection (a) above, shall be permitted to acquire additional cats and/or dogs to replace any cats or dogs in excess of the maximum limit(s), except as specifically authorized by the city council.
 - (4) This section shall not be construed to limit the ability of apartment managers, landlords, townhome associations or other representatives of property owners to impose greater restrictions.
 - (5) *Military deployment/other exceptions.* Owners that possess animals in excess of the limitations set forth above for reason of fostering animals for a deployed armed services member will be exempt from the maximum limits set forth above. Proof of ownership and deployment will be required. Other exceptions due to extraordinary circumstances may be approved by the city council on a case-by-case basis.
 - (6) *Qualified home.* A person may request a permit from the city to keep or harbor up to two dogs or two cats, but not both, as part of a qualified home used by organizations for rescue or sheltering of abandoned or lost animals. (For purposes of this section, a "qualified home" shall mean a home that has received written approval to house abandoned or lost animals by an organization involved in the rescue or sheltering of abandoned or lost animals, which organization has been in existence and operating for at least one year.) The permit shall allow up to two such animals in addition to other dogs or cats already kept at the dwelling pursuant to

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this chapter. The permit shall be for a period of a year and may be renewed annually provided there have been no violations of the provisions of this chapter resulting in an administrative penalty or criminal violation being imposed on the permit holder. The fee for the permit shall be as established in the city's fee schedule.

(Ord. No. 05-2013, § 1, 10-9-2013)

Sec. 10-11. Disturbing the peace.

It is unlawful for any person, as owner or possessor of a dog, to suffer or permit such dog to disturb the peace and quiet of reasonable persons by barking, howling, whining, or making any other loud or unusual noise between the hours of 10:00 p.m. and 6:00 a.m.

(Ord. No. 05-2013, § 1, 10-9-2013)

Sec. 10-12. Nuisances.

(a) For the purpose of this section, the following are declared to be a public nuisance:

- (1) Failure by an animal owner to pick up, remove and properly dispose of feces material deposited by an animal in that person's custody or control. The owner of any animal or person having the custody or control of any animal shall be responsible for cleaning up any feces of the animal and disposing of such feces in a sanitary manner whether on their own property, on the property of others or on public property. The clean-up of feces on the property of others or public property shall be immediate. Failure to properly remove and dispose of feces under this paragraph shall subject the owner to a fine as prescribed by the city council on the fee schedule.
- (2) Keeping, maintaining or harboring any animal that has bitten, scratched, or otherwise caused bodily harm to two or more persons within a period of 12 consecutive months.
- (3) Keeping, maintaining or harboring an animal that has been permitted to run loose or has caused damage to or loss of private property belonging to a person other than the owner thereof and members of his or her household on three or more occasions within a period of 12 consecutive months. The following events are considered violations of this section:
 - a. Conviction under a city ordinance involving the permitting of an animal to run loose;
 - b. Payment of a person by or on behalf of the owner for damages to or destruction of private property or for personal injury;
 - c. An acknowledgement by the owner or keeper of an animal that it has caused such damage or personal injury.
- (4) Any combination of three events described in subsections (a)(2) or (3) of this section, occurring within a period of 12 consecutive months.

(b) A nuisance under subsections (a)(2), (3) or (4) above shall be abated by the owner or keeper of such dog or cat by the disposition of the animal within five days after receipt of notice to the owner or keeper thereof. The term "disposition" shall mean the destruction of the animal or its permanent removal from the city. The notice shall be sent by the city clerk or other authorized person by registered mail. If the owner or keeper of the animal fails to comply within the five-day period, any enforcement officer is authorized and directed to capture and immediately dispose of such animal.

(Ord. No. 05-2013, § 1, 10-9-2013)

Sec. 10-13. Abandonment/disposition of unclaimed dogs.

- (a) *Notice of impounding.* Upon the impounding of any dog, the owner shall be notified, or if the owner is unknown, written notice shall be posted for ten (10) days at the City Hall describing the dog and the place and time of taking.
- (b) *Disposition.* It shall be the duty of the appropriate enforcement officer to keep all dogs impounded under the provisions of this chapter for a period of not less than ten days from the date of posting of notice, unless sooner redeemed or disposed of, pursuant to this chapter. If, at the expiration of ten days from the date of posting notice, said dog is unclaimed, said dog so impounded under this chapter may be given any to any party so requesting said dog, provided such party has the dog inoculated and pays the necessary license fee. If no party requests said dog, the dog may be destroyed in the most humane manner possible. Any dog that appears to be suffering from rabies, mange or other infectious or dangerous disease shall not be released, but may be forthwith destroyed by humane means.

The refusal or failure of the owner of any dog to pay necessary expenses incurred to control and impound the dog within ten days after written notice thereof shall be deemed abandonment of such dog by the owner. Abandoned dogs are subject to destruction as provided in this chapter.

(Ord. No. 05-2013, § 1, 10-9-2013)

Sec. 10-14. Redemption of impounded dogs.

The owner or custodian of an impounded dog may reclaim said dog upon the payment of the penalties, if any, for said dog, and all costs and charges incurred for impounding and maintenance of such dog.

(Ord. No. 05-2013, § 1, 10-9-2013)

Sec. 10-15. Penalty for violation of dog registration and/or control of dangerous dog.

The owner of any dog that is seized while at large, unleashed, and/or found unregistered will pay a fine in accordance with the city's fee schedule. The fine for a first offense for an unregistered dog will be waived if the owner registers the dog within one week, but subsequent offenses will result in penalties.

(Ord. No. 05-2013, § 1, 10-9-2013)

Sec. 10-16. Control of rabies infected animals.

- (a) *Confinement and quarantine of animal.*
 - (1) Any dog known to have bitten a person so as to cause an abrasion of the skin shall be impounded for a period of ten days or as may be recommended by a veterinarian in order to determine whether the dog is infected with rabies.
 - (2) Should the dog exhibit behaviors indicative of rabies infection, an enforcement officer shall deliver the animal or shall order the animal delivered to an isolation facility as soon as possible, but no later than 24 hours after the original order is issued; or the officer may order the animal to be quarantined on the premises of the owner if the animal is immunized currently against rabies as evidenced by a valid certificate of rabies vaccination or other evidence. If the owner fails to confine such dog known to have bitten a person so as to cause abrasion of the skin, or if the owner of such dog is not known, an enforcement officer shall remove the dog to a veterinary hospital or other location and placed under observation.
 - (3) The custodian of an isolation facility or the owner shall keep an animal which is ordered to be quarantined in strict isolation under the supervision of a veterinarian for at least ten days.

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Supervision of a veterinarian includes, at a minimum, examination of the animal on the first day, on the tenth day and on one intervening day. If the observation period is not extended and if the veterinarian certifies that the animal has not exhibited any symptoms of rabies, the animal may be released from quarantine at the end of the ten-day observation period.

- (4) Extended observation may be ordered for an animal not currently immunized against rabies if the animal is suspected to have been in contact with a rabid animal. An officer may order the owner to keep the animal in strict isolation for an additional 170 days, during which time the owner shall have the animal vaccinated against rabies between the 145th and 155th day after the beginning of the original observation period. If a veterinarian certifies that the animal has not exhibited any symptoms of rabies during the extended observation period, the animal may be released from quarantine at the end of that period.
 - (5) All expenses incurred by the isolation facility, including supervision and examination of the animal by veterinarian, preparation of the carcass for laboratory examination and the laboratory examination fee shall be charged to the animal's owner.
- (b) *Area quarantine.* The executive director of the state board of health may impose a quarantine on any portion of the city if he finds such action is necessary to control the spread of diseases including, but not limited to rabies. No dog or any other domestic animals named in the order may be removed from the quarantine area without written permission of the executive director of the state board of health. Owners of animals covered by the order within a quarantine area shall confine them to the owner's premises or maintain them under leash. Quarantine orders shall be published at least once in a local newspaper and posted on roads leading to the quarantine area. The executive director of the state board of health may, on the recommendation of a veterinarian, require the vaccination of any or all domestic animals in the community during the period of quarantine.
- (c) *Destruction of rabid animals; rabies testing.* If a veterinarian observes that an animal exhibits symptoms of rabies during the original or extended observation period, the veterinarian shall notify the owner and the enforcement officer who ordered the animal quarantined and the enforcement officer or veterinarian shall destroy the animal in a humane manner and in a manner which avoids damage to the animal's head. Any animal that is known to have rabies shall immediately be destroyed in a safe, sanitary, and humane manner. If the animal is suspected to have bitten a person, the veterinarian or enforcement officer shall notify the person of the person's physician. Following destruction of the animal, the carcass shall be prepared and delivered to the State Laboratory of Hygiene.

(Ord. No. 05-2013, § 1, 10-9-2013)

Sec. 10-17. Disclaimer; responsibility for deceased and unwanted pets.

Enforcement officers are not responsible for providing medical attention or disposing of unwanted dogs, cats, or other domestic animals. Owners hold financial and physical responsibility for disposing, removing and/or treating deceased, ill, injured, and/or unwanted dogs or domestic pets.

(Ord. No. 05-2013, § 1, 10-9-2013)

Sec. 10-18. Penalties.

- (a) Any person who violates any provision of this chapter shall pay all expenses incurred in enforcing the ordinance against that person.
- (b) Any person who fails to have his or her dog vaccinated for rabies as required under this chapter, or fails to abide by any requirements set forth in section 10-15, shall be subject to a civil fine in accordance with the city's fee schedule.
- (c) A violation of this chapter is a misdemeanor. Each day on which a violation continues shall constitute a separate violation.

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(Ord. No. 05-2013, § 1, 10-9-2013)

FOOTNOTE(S):

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Editor's note— Ord. No. 05-2013, § 1, adopted Oct. 9, 2013, repealed the former ch. 10, §§ 10-1—10-27, and enacted a new ch. 10 as set out herein. The former ch. 10 was entitled "Animals" and derived from: Code 1983, § 7.20, subds. 1—9, 14 and § 7.21; and Ord. No. 12282005, § 5.8, adopted Jan. 25, 2006. ([Back](#))

State Law reference— General authority relative to animals, Minn. Stats. § 412.221, subd. 21; animal health, Minn. Stats. ch. 35; dogs and cats, Minn. Stats. ch. 347; cruelty to animals, Minn. Stats. § 343.20 et seq. ([Back](#))

Chapters 11—13 RESERVED

Chapter 14 ELECTIONS [11](#)
(RESERVED)

FOOTNOTE(S):

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State Law reference— Elections generally, Minn. Stats. chs. 200—211C; municipal elections, Minn. Stats. ch. 205; city elections generally, Minn. Stats. § 412.02. [\(Back\)](#)

Chapters 15—17 RESERVED

Chapter 18 ENVIRONMENT AND NATURAL RESOURCES

[Sec. 18-1. Sealing of certain private wells.](#)

[Sec. 18-2. Storage of solid waste, junk and related items.](#)

[Sec. 18-3. Agricultural and animal wastes.](#)

[Sec. 18-4. Nuisances.](#)

Sec. 18-1. Sealing of certain private wells.

It is unlawful for any person to construct, erect, maintain or use any private well or other private source of water supply (other than that source of supply furnished by the city), and any such private well or other private source of supply shall be permanently sealed by no later than May 30, 2007, within the following area of the city: that area within the city that is south of the railroad tracks, between 3rd Street south and 1st Street south and east of Highway 371. The city is authorized to take steps necessary to locate, identify, facilitate and notify property owners of their responsibility to seal private wells or other private sources of supply within the above area of the city. The city is also authorized to inspect properties for the permanent sealing of private wells or other private sources of supply within this area of the city. In the event that any person does not comply with this section, the city may initiate enforcement actions as provided in other provisions of this chapter.

(Res. No. 14-2006, § 3.30, subd. 5(a), 1-24-2007)

Sec. 18-2. Storage of solid waste, junk and related items.

In all zoning districts, all waste material, debris, discarded or inoperable machines and machinery except as used incidental to farming, or garbage shall be kept in an enclosed building or properly contained in an enclosed building, or properly contained in an enclosed container designed for such purpose. The owner of vacant land shall be responsible for keeping such land free of refuse.

- (1) Any inoperable automobile, truck or similar vehicles or machinery shall be kept in an enclosed building or screened in such a manner as to not be visible from any public road or street. This provision shall be applicable to, but not limited to auto salvage yards, auto wrecking yards, equipment yards, or similar uses.
- (2) Any inoperable automobiles, trucks, implements, or equipment not so screened shall be deemed abandoned and removed by the order of the zoning administrator within 30 days of notifying the landowner of noncompliance with this section. All costs incurred in the removal of any such automobile, truck, implement, or equipment shall be borne by the property owner or assessed against the property.

(Ord. No. 12282005, § 5.7(B), 1-25-2006)

Sec. 18-3. Agricultural and animal wastes.

No wastes from animals kept for agricultural purposes or animal husbandry operations shall be deposited by man at any rate greater than the plant and soil system can absorb the nutrients, nor shall any wastes be allowed to accumulate where the surface water flows directly to a watercourse or public waters.

(Ord. No. 12282005, § 5.7(D), 1-25-2006)

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Sec. 18-4. Nuisances.

- (a) *Compliance required.* This section is intended to provide performance measures for commercial, industrial, and residential land uses to ensure such activities are established and maintained with the proper front streets and adjoining properties and to provide that each such permitted use shall have the smallest possible impact to adjoining properties. The council may require the complaining party to provide for such tests or investigations by an independent testing organization or entity, satisfactory to the council, as is necessary to prove noncompliance with the provisions of this section. This does not preclude the city from conducting investigation and testing when it finds appropriate to determine the compliance with these standards.
- (b) *Vibration.* Any use creating periodic, earth-shaking vibrations shall be prohibited if such vibrations are perceptible beyond boundaries of the property on which the use is located. The standard shall not apply to vibrations created during the process of construction.
- (c) *Glare.* Glare, whether direct or reflected, such as from floodlights, spotlights, or high temperature processes, and is differentiated from general illumination, shall not be visible beyond the site or origin at any property line.
- (d) *Erosion and drainage.*
 - (1) No land shall be developed and no use shall be permitted which results in water runoff causing flooding, erosion, or deposit of sediment on adjacent properties.
 - (2) All storm sewer inlets and drainageways that are functioning during construction shall be protected so that sediment-laden water does not enter the conveyance system without first being filtered or otherwise treated to remove sediment.
 - (3) All on-site stormwater conveyance systems must be designed and constructed to withstand the design volume of stormwater with appropriate stabilization to prevent scour and erosion. Erosion controls must be provided at the outlets of all stormwater pipes or drainageways.
 - (4) All temporary and permanent erosion and sediment controls shall be maintained and repaired to ensure the continued performance of their intended function.
 - (5) All disturbed ground left inactive for seven or more days shall be stabilized by a covering such as seeding, sod, or mulching, or equivalent control measure.
 - (6) All temporary erosion control devices such as silt fences, gravel, hay bales, or other measures shall be removed from the construction site and properly disposed of or recycled. Removal of such devices must occur within 60 days of establishment of vegetative cover on the disturbed area.
 - (7) Any person performing excavation involving the removal of soil shall follow such excavation with backfilling of the soil with clean fill in an equivalent amount to the soil that was removed, along with surface grading of the backfilled soil/fill in such a manner as to control erosion of the backfilled material and promote establishment of revegetation. This provision applies to any excavation involving removal of more than 20 cubic yards of soil. This provision does not apply to actions by a utility or public agency to restore utility services or reopen a public thoroughfare to traffic.
- (e) *Buildings.* No person or organization shall allow a building, mobile home, manufactured home, or other structure to be abandoned and deteriorate or present a safety hazard. All abandoned and deteriorated or unsafe structures shall be removed by the owner. If the owner fails to remove the structure, the city shall do so and assess the cost against the property through the county.

(Ord. No. 12282005, § 5.3, 1-25-2006; Res. No. 13-2006, 1-24-2007)

Chapters 19—21 RESERVED

Chapter 22 FIRE PREVENTION AND PROTECTION ^[1]

ARTICLE I. - IN GENERAL

ARTICLE II. - FIRE CODE

FOOTNOTE(S):

--- (1) ---

State Law reference— General authority relative to fire prevention, Minn. Stats. § 412.221, subd. 17; state fire marshal and fire safety standards, Minn. Stats. ch. 299F; municipal fire prevention, Minn. Stats. ch. 438. ([Back](#))

ARTICLE I. IN GENERAL

[Secs. 22-1-22-20. Reserved.](#)

Secs. 22-1-22-20. Reserved.

ARTICLE II. FIRE CODE ^[2]

[Sec. 22-21. Adoption.](#)

[Sec. 22-22. Enforcement.](#)

[Sec. 22-23. Definitions.](#)

[Sec. 22-24. Permits required.](#)

[Sec. 22-25. Establishment of limits of districts in which certain fire hazards are restricted.](#)

[Sec. 22-26. Appeals.](#)

[Sec. 22-27. Penalties.](#)

Sec. 22-21. Adoption.

The Minnesota Fire Code, as adopted pursuant to Minn. Stats. § 299F.011, is hereby adopted as the fire code for the city for the purpose of prescribing regulations governing conditions hazardous to life or property from fire. The Minnesota Fire Code, except as modified or amended by this section, is hereby adopted by reference and made a part of this section as set forth herein. One copy of this code shall be marked as the official copy and shall be on file in the office of the city clerk-treasurer.

(Code 1983, § 8.03, intro.)

PART I GENERAL ORDINANCES

Sec. 22-22. Enforcement.

- (a) The chief of the fire department serving the city or the chief's representatives are authorized to administer and enforce the provisions of this section.
- (b) The chief of the fire department may detail such members of the fire department as may be necessary to administer and enforce the provisions of this section.

(Code 1983, § 8.03, subd. 1)

Sec. 22-23. 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:

Jurisdiction, as used in the Minnesota Fire Code, means the City of Cass Lake.

This code, as used in the Minnesota Fire Code or this article, means the code adopted pursuant to this section.

(Code 1983, § 8.03, subd. 2)

Sec. 22-24. Permits required.

A permit shall be obtained from the chief of the fire department prior to engaging in any activities, operations, practices, or functions listed in this section. The fees for such permits shall be in an amount established by resolution of the city. A permit is required for all activities as outlined in the Minnesota Fire Code, as well as the installation of fire protections systems.

(Code 1983, § 8.03, subd. 3)

Sec. 22-25. Establishment of limits of districts in which certain fire hazards are restricted.

The limits referred in the Minnesota Fire Code limits in which the storage of flammable cryogenic fluids in stationary containers, the storage of class I and class II liquids in aboveground tanks and/or prohibiting the storage of liquefied petroleum gas are prohibited shall be all territory located in the city.

(Code 1983, § 8.03, subd. 4)

Sec. 22-26. Appeals.

Pursuant to Minn. Stats. § 299F.011, subd. 5a, a board of appeals is hereby established for the city. The board of appeals shall consist of five members appointed by the council and shall include the chief of the fire department, who shall serve as an ex officio member. The board of appeals shall consider issues related to disapproval of an application or permit issuance, claims of misapplication or orders issued under this code. Requests for appeals shall be made within 30 days of the date of the decision of the chief or issuance of orders.

(Code 1983, § 8.03, subd. 6)

Sec. 22-27. Penalties.

- (a) Any person who violates any of the provisions of this code, or builds in violation of any certificate or permit issued under this code, or builds in violation of plans or detailed statement of specifications submitted and approved under this code or violates any order made pursuant to this code, and from which no appeal has been taken, or who fails to timely comply with an order affirmed or modified by

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the appeals board or by a court of competent jurisdiction, for each violation shall severely be guilty of a misdemeanor, punishable by a fine and/or by imprisonment as set forth in other regulations of this jurisdiction. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each day that prohibited conditions are maintained shall constitute a separate offense.

- (b) The application of the penalty established in subsection (a) of this section shall not be held to prevent the enforced removal of prohibited conditions.

(Code 1983, § 8.03, subd. 7)

FOOTNOTE(S):

--- (2) ---

State Law reference— State Fire Code, Minn. Stats. § 299F.011. [\(Back\)](#)

Chapters 23—25 RESERVED

Chapter 26 LICENSES, PERMITS AND MISCELLANEOUS BUSINESS REGULATIONS

ARTICLE I. - IN GENERAL

ARTICLE II. - LICENSE AND PERMITS

ARTICLE III. - ADULT ESTABLISHMENTS

ARTICLE IV. - AMUSEMENTS

ARTICLE V. - DANCES

ARTICLE VI. - KENNELS

ARTICLE VII. - PAWNBROKERS

ARTICLE VIII. - SAUNA PARLORS AND MASSAGE PARLORS

ARTICLE IX. - SOLICITORS

ARTICLE X. - TOBACCO

ARTICLE I. IN GENERAL

[Sec. 26-1. Definitions.](#)

[Secs. 26-2—26-20. Reserved.](#)

Sec. 26-1. 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:

Applicant means any person making an application for a license under this chapter.

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

Bond means a corporate surety document in the form and with the provisions acceptable and specifically approved by the city attorney.

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

License means a document issued by the city to an applicant permitting him to carry on and transact a business.

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

PART I GENERAL ORDINANCES

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

Sale, sell and sold mean all forms of barter and all manner or means of furnishing merchandise to persons.

(Code 1983, § 5.01)

Secs. 26-2—26-20. Reserved.

ARTICLE II. LICENSE AND PERMITS

[Sec. 26-21. Applications.](#)

[Sec. 26-22. Action on application, transfer, termination and duplicate license.](#)

[Sec. 26-23. Fixing license fees.](#)

[Sec. 26-24. Carrying or posting.](#)

[Sec. 26-25. Penalty for property owner.](#)

[Sec. 26-26. Responsibility of license.](#)

[Sec. 26-27. Conditional licenses.](#)

[Sec. 26-28. Renewal of licenses.](#)

[Sec. 26-29. Insurance requirements.](#)

[Sec. 26-30. License denial and fixing rates; hearing.](#)

[Secs. 26-31—26-48. Reserved.](#)

Sec. 26-21. Applications.

All applications shall be made as follows:

- (1) All applications shall be made at the office of the city clerk-treasurer upon forms that have been furnished by the city for such purposes.
- (2) All such applications must be subscribed, sworn to, and include such other information as the council shall deem necessary considering the nature of the business for which license application is made.
- (3) It is unlawful for any applicant to intentionally make a false statement or omission upon any application form. Any false statement in such application, or any willful omission to state any information called for on such application form, shall, upon discovery of such falsehood work an automatic refusal of license, or if already issued, shall render any license or permit issued pursuant thereto void, and of no effect to protect the applicant from prosecution for violation of this chapter, or any part hereof.
- (4) The city clerk-treasurer shall, upon receipt of each application completed in accordance herewith, forthwith investigate the truth of statements made therein and the moral character and business reputation of each applicant for license to such extent as the city clerk-treasurer deems necessary. For such investigation the city clerk-treasurer may enlist the aid of the chief of police. The council shall not consider an application before such investigation has been completed.

PART I GENERAL ORDINANCES

- (5) Applications for renewal licenses may be made in such abbreviated form as the council may by resolution adopt.

(Code 1983, § 5.02)

Sec. 26-22. Action on application, transfer, termination and duplicate license.

- (a) *Granting.* The council may grant any application for the period of the remainder of the then current calendar year or for the entire ensuing license year. All applications, including proposed license periods, must be consistent with this chapter.
- (b) *Issuing.* If an application is approved, the city clerk-treasurer shall forthwith issue a license pursuant thereto in the form prescribed by the council, payment of the appropriate license fee, and approval of the bond or insurance as to form and surety or carrier, if required. All licenses shall be on a calendar year basis unless otherwise specified herein as to particular businesses. Unless otherwise herein specified, license fees shall be pro-rated on the basis of one-twelfth for each calendar month or part thereof remaining in the then current license year. Except as to licenses which are specifically city-wide, licenses shall be valid only at one location and on the premises therein described.
- (c) *Transfer.* A license shall be transferable between persons upon consent of the council. No license shall be transferable to a different location without prior consent of the council and upon payment of the fee for a duplicate license. It is unlawful to make any transfer in violation of this article.
- (d) *Termination.* Licenses shall terminate only by expiration or revocation.
- (e) *Refusal and revocation.* The council may, for any reasonable cause, refuse to grant any application, or revoke any license. No license shall be granted to a person who has been convicted of a crime that directly relates to the occupation for which the license is sought.
- (f) *Duplicate license.* Duplicates of all original licenses may be issued by the city clerk-treasurer, without action by the council, upon licensee's affidavit that the original has been lost, and upon payment of a fee established by the city for issuance of the duplicate. All duplicate licenses shall be clearly marked "DUPLICATE."

(Code 1983, § 5.03)

Sec. 26-23. Fixing license fees.

Except as otherwise herein provided, all fees for licenses under this chapter shall be as established by the city. Such license fees may, from time to time, be amended by the council by resolution.

(Code 1983, § 5.04)

Sec. 26-24. Carrying or posting.

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

(Code 1983, § 5.05)

Sec. 26-25. Penalty for property owner.

It is unlawful for any person to knowingly permit any real property owned or controlled by him to be used, without a license, for any business for which a license is required by this chapter.

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(Code 1983, § 5.06)

Sec. 26-26. Responsibility of 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.

(Code 1983, § 5.07)

Sec. 26-27. Conditional licenses.

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

(Code 1983, § 5.08)

Sec. 26-28. Renewal of licenses.

Applications for renewal of an existing license shall be made at least 30 days prior to the date of expiration of the license, and shall contain such information as is required by the city. This time requirement may be waived by the council for good and sufficient cause.

(Code 1983, § 5.09)

Sec. 26-29. Insurance requirements.

- (a) Whenever insurance is required by a section of this chapter, after approval by the council, but before the license shall issue, the applicant shall file with the city clerk-treasurer a policy or certificate of public liability insurance showing:
- (1) That the limits are at least as high as required;
 - (2) That coverage is effective for at least the license term approved; and
 - (3) That such insurance will not be cancelled or terminated without 30 days' written notice served upon the city clerk-treasurer.
- (b) Cancellation or termination of such coverage shall be grounds for license revocation.

(Code 1983, § 5.10)

Sec. 26-30. License denial and fixing rates; hearing.

- (a) *Right to deny.* The council reserves to itself the right to deny any application for a license to operate any business licensed or regulated under this chapter where such business involves service to the public, rates charged for service, use of public streets or other public property by the applicant or the public, or impacts the public health, safety and convenience. The council may also consider the location of such business in making such determination. Provided, however, that before making such determination, the council shall hold a public hearing thereon pursuant to such notice to interested parties and the public as it may deem necessary or proper in action calling for such hearing.
- (b) *Rates.* Where, under specific provisions of this chapter, the council has reserved to itself the right to fix or approve fees, rates or charges of a licensed or regulated business, such rates shall be uniform for each category or class of service, and no licensee or proprietor of a regulated business shall claim or demand payment in excess thereof.

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

(Code 1983, § 5.11)

Secs. 26-31—26-48. Reserved.

ARTICLE III. ADULT ESTABLISHMENTS [11](#)

DIVISION 1. - GENERALLY

DIVISION 2. - LICENSE

FOOTNOTE(S):

--- (1) ---

State Law reference— Adult establishments, Minn. Stats. § 617.242. [\(Back\)](#)

DIVISION 1. GENERALLY

[Sec. 26-49. Definitions.](#)

[Sec. 26-50. Purpose and findings.](#)

[Sec. 26-51. Sign restrictions.](#)

[Sec. 26-52. Entrances.](#)

[Sec. 26-53. Distance requirement for live adult entertainment.](#)

[Sec. 26-54. Interaction with patrons.](#)

[Sec. 26-55. Gratuity prohibition.](#)

[Secs. 26-56—26-83. Reserved.](#)

Sec. 26-49. 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:

Administrator means the city clerk-treasurer.

Adult body painting studio means an establishment or business that provides the service of applying paint or other substance, whether transparent or non-transparent, to or on the body of a patron when such body is wholly or partially nude in terms of "specified anatomical areas."

Adult bookstore means an establishment, building or business engaging in the barter, rental, or sale of items or merchandise consisting of printed matter, pictures, slides, records, audio tapes, video tapes,

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computer or video disks, motion picture film, or any other similar materials, if such shop is not open to the public generally but only to one or more classes of the public, excluding any minor because of age, if more than 20 percent of the useable floor area of the establishment, building, or business, or if at least 500 square feet, whichever is smaller, has products or materials distinguished or characterized by an emphasis on matters depicting, describing or related to "specified sexual activities" or "specified anatomical areas."

Adult cabaret means an establishment, building or business that provides dancing or other live entertainment if such dancing or live entertainment is distinguished or characterized by an emphasis on the performance or presentation, display, depiction or description of "specified sexual activities" or "specified anatomical areas."

Adult carwash means a wash facility for any type of motor vehicle that allows employees, agents, independent contractors or persons to appear in a state of partial or total nudity in terms of "specified anatomical areas."

Adult companionship establishment means an establishment of business, if such establishment excludes minors because 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."

Adult entertainment facility means a building or space in which an admission is charged for the entrance, or food or non-alcoholic beverages are sold or intended for consumption, and in which may be observed live presentations of entertainment distinguished by an emphasis on matters depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas."

Adult establishment means an establishment, building or business engaging in any of the following activities or which uses any of the following business procedures or practices:

- (1) Any business conducted exclusively for the patronage of adults and about which minors are specifically excluded from patronage either by law or by the operator of such business; or
- (2) Any other business that offers its patrons services, products or entertainment characterized by an emphasis on matters depicting, exposing, describing, discussing or relating to "specified sexual activities" or "specified anatomical areas."

Specifically included in the term, but without limitation, are adult bookstores, adult motion picture theaters, adult mini motion picture theaters, adult massage parlors, adult health clubs, adult saunas, adult companionship establishments, adult health clubs, adult cabarets, adult car washes, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotels or motels and adult body painting studios.

Adult hotel or motel means a hotel or motel from which minors are specifically excluded from patronage and in which material is presented that is distinguished or characterized by an emphasis on matters depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."

Adult massage parlor, health/sport club means a massage parlor or health/sport club that restricts minors because of age or law, which provides the services of massage if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."

Adult mini-motion picture theater means a business, building or establishment in an enclosed building with a capacity for less than 50 persons used for the presenting of visual media material if such business as a prevailing practice excludes minors by virtue of age, or law, or if said material is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas" for observation by patron.

Adult modeling studio means an establishment or business whose major business is the provision to customers of figure models who are provided with the intent of providing sexual stimulation or sexual gratification to such customers who engage in "specified sexual activities" or "specified anatomical areas"

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while being observed, painted, painted upon, sketched, drawn, sculptured, photographed or otherwise depicted by such customers.

Adult motion picture arcade means any building or place to which the public is allowed or invited in which coin or slug operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, computers or other image producing devices that show images to five or fewer persons per machine at once, and characterized by an emphasis on depicting or describing "specified sexual activities" or "specified anatomical areas."

Adult motion picture theater means a business premises within an enclosed building with a capacity of 50 or more persons used for presenting visual media material if said business as prevailing practice excludes minors by virtue of age, or if the material is distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas" for observation by patrons.

Adult novelty business means a business that has as a principal activity the sale of materials or devices that stimulate human genitals or devices designed for sexual stimulation or which depict or which relate to "specified sexual activities" or "specified anatomical areas."

Adult sauna/steam room/bathhouse means a business that excludes minors because of age, or which provided a steam bath or heat bathing room used for bathing, pleasure, relaxation or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by the sauna/steam room/bathhouse is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."

Adult use means adult body painting studios, adult bookstores, adult car washes, adult hotels or motels, adult motion picture theaters, adult mini motion picture theaters, adult massage parlors, adult health/sport clubs, adult sauna/steam room/bathhouses, adult companionship establishments, adult rap/conversation parlors, adult novelty businesses, adult motion picture arcade, adult modeling studios and other premises, enterprises or establishments, businesses, or places open to some or all members of the public at or in which there is an emphasis on the presentation or display, depiction or description of "specified sexual activities" or "specified anatomical areas" which the public could see. This definition does not apply to the practice of medicine, surgery, osteopathy, chiropractic, physical therapy, or podiatry by state licensed or registered persons. Activities classified as obscene as defined by Minn. Stats. § 617.241 are not lawful and are not included in the definitions of adult uses.

Adult use accessory mean the offering of goods and/or services classified as adult uses on a limited scale that are incidental to the primary activity and goods and/or services offered by the establishment. Examples of such items include adult magazines, adult movies, adult novelties, and the like.

Adult use principal means the offering of goods and/or services classified as adult uses as a primary or sole activity of a business or establishment and include, but are not limited to, the following: adult body painting studios, adult bookstores, adult cabarets, adult car washes, adult companionship establishments, adult entertainment facilities, adult hotels or motels, adult massage parlors and health/sports clubs, adult mini-motion pictures theatres, adult modeling studios, adult motion picture arcades and theatres, adult novelty businesses, adult saunas, steam rooms, and bathhouses, and other adult establishments not otherwise listed.

Minor means any person under the age of 18 years.

Nudity means the showing of the human male or female genitals or pubic area with less than fully opaque covering; the showing of the female breast with less than fully opaque covering of any portion thereof below a point immediately above the top of the areola; or the depiction or showing of the coverage male genitals in a discernibly turgid state.

Place of worship means a building or space that is principally used as a place where people of the same faith or religion regularly assemble for worship.

Public library means any library that provides free access to all residents of a city or county without discrimination and is organized under Minn. Stats. ch. 134.

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Public park means a park, reservation, playground, beach, or recreation or community center in the city owned, leased, or used wholly or in part by a city, county, state, school district, or federal government for recreational purposes.

School means a building or space that is principally used as a place where 25 or more persons receive a full course of educational instruction. Any post-secondary or post high school educational building, including any college or any vocational-technical college, shall not be deemed a school for purposes of this article.

Sexually oriented business means adult body painting studios, adult bookstores, adult car washes, adult hotels or adult motels, adult motion picture theaters, adult mini motion picture theaters, adult massage parlors, adult health/sport clubs, adult sauna/steamroom/bathhouses, adult companionship establishments, adult rap/conversation parlors, adult novelty businesses, adult motion picture arcade, adult modeling studios and other premises, enterprises or establishments, businesses, or places open to some or all members of the public at or in which there is an emphasis on the presentation or display, depiction or description of "specified sexual activities" or "specified anatomical areas" which the public could see. This definition does not apply to the practice of medicine, surgery, osteopathy, chiropractic, physical therapy, or podiatry by state license of registered persons. Activities classified as obscene as defined by Minn. Stats. § 617.241 are not lawful and are not included in the definitions of adult uses.

Specified anatomical areas consist of:

- (1) Less than completely and opaquely covering human genitals, pubic region or pubic hair, buttock, anus, or female breast or breast below a point immediately above the top of the areola or any combination of the foregoing; and
- (2) Human genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified sexual activities consist of the following:

- (1) Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation or fondling of unclothed genitals, pubic region, buttock, or female breast, flagellation or torture in a sexual relationship, and any of the following sexually oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, sodomy, zoerasty;
- (2) Human genitals in the state of sexual stimulation, arousal, or tumescence;
- (3) Use or acts of human or animal ejaculation, sexual intercourse, sodomy, oral copulation, coitus or masturbation;
- (4) Fondling or touching of human genitals, pubic regions or pubic hair, buttocks, or female breasts;
- (5) Situations involving a person, any of whom are nude, clad in undergarments or in sexually revealing costumes, 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;
- (7) Human excretion, urination, menstruation, vaginal or anal irrigation; or
- (8) Any combination of the above.

(Ord. No. 03122003, 3-12-2003)

Sec. 26-50. Purpose and findings.

- (a) In the development and adoption of this article, it is recognized that there are "secondary effects" of sexually oriented businesses, which include:
 - (1) Serious objectionable operational characteristics, particularly when located in close proximity to residential neighborhoods, public parks, churches, public buildings, schools, and other facilities.

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- (2) Undermining the stability of other established business and commercial uses in which sexually oriented business activities are located or take place and cause or contribute significantly to the deterioration of such other business and commercial uses, contributing to a decline in such uses, an inhibition on business and commercial growth, and resulting in adverse impact on local government revenues and property values.
 - (3) The deleterious impact upon property values caused by the deterioration of residential neighborhoods.
 - (4) The impairment of character and quality of such neighborhoods and housing thereby inhibiting the proper maintenance and growth of such neighborhoods.
 - (5) The proclivity of adult business uses in becoming places accommodating criminality thereby taxing crime prevention, law enforcement and public health services.
 - (6) The fact that nude dancing and other similar conduct provided by sexually oriented business activities encourages prostitution, increases the frequency of sexual assaults, attracts or encourages other related criminal activity, increases the public health and safety risks associated with sexually oriented business activities, and otherwise causes or contributes significantly to the adverse impacts and secondary effects of sexually oriented business activities on the areas in which such activities are located, or take place.
- (b) These findings are based upon the experiences of other cities where such businesses have located. In making the findings the city relies on the County of Cass Lake's commissioners who have accepted the recommendations of staff that have studied the experiences of other areas with regard to such businesses, including: City of St. Cloud, MN, the Minnesota attorney general, the City of Los Angeles, CA, the City of St Paul, MN, the City of Austin, TX, Adams County, CO, St. Croix County, WS, the City of New York, NY, and various other cities throughout the country that have studied the impact of adult uses and sexually oriented businesses. These studies have concluded that adult uses and sexually oriented businesses have adverse impacts on the surrounding neighborhoods.
 - (c) It is therefore necessary to provide for the special and express regulations of such business establishments or commercial enterprises that operate as adult body painting studios, adult bookstores, adult cabarets, adult car washes, adult companionship establishments, adult hotels or motels, adult massage parlors or health clubs, adult motion picture arcades or theaters, adult modeling studios, adult novelty businesses, adult saunas and similar adult oriented services operating under various names, to protect the public health, safety and welfare, and to guard against inception and transmission of disease.
 - (d) It is further the belief of the city that, just as advertising is designed to stimulate one's appetite for desired goods and services, an overabundance or preoccupation with sexual displays or materials arouses the appetites of those so preoccupied and encourages criminal sexual behavior.
 - (e) In recognition of the protections afforded to the citizens of the United States under the first and fourteenth amendments to the Constitution of the United States, it is neither the intent nor effect of this chapter to inhibit freedom of speech or the press. The provisions herein have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the first amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. This chapter represents a balancing of the legitimate ends of the city by imposing an incidental, content neutral place, time and manner regulation of sexually oriented businesses, without limiting alternative avenues of communication, and at the same time, requiring the business to carry its share of financial law enforcement activities. The special regulations deemed necessary to control the undesirable effects arising from these enterprises are set forth in this chapter.
 - (f) The city council adopts the following land use and permitted regulations, recognizing that it has an interest in the present and future character of the city's residential and commercial neighborhoods. These regulations are to lessen the detrimental and adverse effects adult uses and sexually oriented

PART I GENERAL ORDINANCES

businesses have on adjacent land uses and to protect and promote the health, safety and welfare of residents of the city.

(Ord. No. 03122003, 3-12-2003)

Sec. 26-51. Sign restrictions.

In order to protect children from exposure to lurid signs and materials and in order to preserve the value of property surrounding sexually oriented businesses, the following sign regulations shall apply to all sexually oriented businesses in the city in addition to the provisions of the zoning chapter, provided, however, that in the event of any inconsistencies, this section will govern:

- (1) All adult use and sexually oriented businesses shall prominently display a two-foot square sign at the entrance and located within two feet of the door opening device of the adult use establishment or section of the establishment devoted to adult books or materials which states "This business sells or displays material containing adult themes. Persons under 18 years of age shall not enter."
- (2) All signs shall be flat wall or freestanding signs. No sign shall be located on the roof, or contain any flashing lights, moving elements or electronically or mechanically changing messages.
- (3) No merchandise, photos, or pictures of the products or entertainment on the premises shall be displayed in window areas or any area where they can be viewed from the sidewalk or public right-of-way adjoining the building or structure in which the sexually oriented business is located.
- (4) No portion of the exterior of a sexually oriented business shall utilize or contain any flashing lights, search lights, or spotlights, or any other similar lighting systems, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any manner except to the extent specifically allowed herein. The illumination of the premise's exterior shall be adequate to observe the location and activities of all persons on the exterior premises.

(Ord. No. 03122003, 3-12-2003)

Sec. 26-52. Entrances.

All entrances to the business, with the exception of emergency fire exits, which are useable by patrons to enter the business, shall be visible from a public right-of-way.

(Ord. No. 03122003, 3-12-2003)

Sec. 26-53. Distance requirement for live adult entertainment.

All performers, dancers, and persons providing live entertainment distinguished or characterized by an emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas in the licensed facility or in areas adjoining the licensed facility where such entertainment can be seen by patrons of the licensed facility shall remain at all times a distance of ten feet from all patron, customers, or spectators and shall dance or provide such entertainment on a platform intended for that purpose, which shall be raised at least two feet from the level of the floor on which patrons or spectators are located.

(Ord. No. 03122003, 3-12-2003)

Sec. 26-54. Interaction with patrons.

No dancer, performer, or person providing live entertainment distinguished or characterized by an emphasis on matters depicting, describing, or relating to specified sexual activities or specified

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anatomical areas in the licensed facility or in areas adjoining the licensed facility where such entertainment can be seen by patrons of the licensed facility shall fondle or caress any spectator or patron.

(Ord. No. 03122003, 3-12-2003)

Sec. 26-55. Gratuity prohibition.

No customer, spectator, or patron of a licensed facility shall directly pay or give any gratuity to any dancer or performer and no dancer or performer shall solicit any pay or gratuity from any patron or spectator.

(Ord. No. 03122003, 3-12-2003)

Secs. 26-56—26-83. Reserved.

DIVISION 2. LICENSE

[Sec. 26-84. Required.](#)

[Sec. 26-85. Application.](#)

[Sec. 26-86. Fees.](#)

[Sec. 26-87. Granting of license.](#)

[Sec. 26-88. Persons ineligible for license.](#)

[Sec. 26-89. Places ineligible for license.](#)

[Sec. 26-90. General conditions of license.](#)

[Sec. 26-91. Revocation, suspension, or nonrenewal.](#)

[Secs. 26-92—26-110. Reserved.](#)

Sec. 26-84. Required.

No person shall own or operate an adult use or sexually oriented business in the city without having first secured a license as provided herein.

(Ord. No. 03122003, 3-12-2003)

Sec. 26-85. Application.

- (a) The city shall provide an application for an adult use or sexually oriented business license whether classified as an adult use principal or adult use accessory.
- (b) This application shall include:
 - (1) The name, residence, phone number and birth date of the applicant, if any individual; and, if any corporation, partnership, LLC, or similar entity, the names, residences, phone numbers and birth dates of those owners holding more than five percent of the issued and outstanding stock of the corporation or ownership interest in a partnership, LLC or similar entity;
 - (2) The name, address, phone number and birth date of the operator and manager of such operation, if different from the owners;

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- (3) The address and legal description of the building, establishment or premises where the adult use or sexually oriented business is to be located;
- (4) A statement detailing each gross misdemeanor or felony relating to a sex offense and/or the operation of adult uses and related activities of which the applicant or, for a corporation, the owners of more than five percent of the issued and outstanding stock of the corporation, or ownership interest in a partnership, LLC or similar entity, have been convicted, and whether the applicant has ever applied for or held a license to operate a similar type of business in other cities or counties;
- (5) The activities and type of business to be conducted;
- (6) The hours of operation;
- (7) The provisions made to restrict access by minors;
- (8) A building plan of the premises detailing internal operations and activities;
- (9) A description or building plan that details all proposed interior and exterior changes to an existing building or structure.

(Ord. No. 03122003, 3-12-2003)

Sec. 26-86. Fees.

- (a) Each application for a license shall be accompanied by a fee, as established by the city, for payment in full of the required application and investigative fees for the license as established. All fees shall be paid at the time of the application. License fees shall be considered past due as of January 1 if not paid. Late fees will be assessed on all past due license applications.
- (b) All permits/licenses shall expire on December 31 in each year. The city shall issue each license for one year, except if part of the license year has elapsed when the application is made, the city may issue a license for the remainder of the year for a prorated fee. In computing such fee, the city shall count any expired fraction of a month as one month.
- (c) The annual fee, investigative fee, and late fees for the adult use or sexually oriented business license shall be established by the city.
- (d) No part of any annual fee, investigative fee, and late fee paid as required by this section shall be refunded.
- (e) Each application shall contain a provision on the application in bold print stating that any withholding of information or the providing of false or misleading information will be grounds for the denial or revocation of a license. Any changes in the information provided on the application or provided during the investigation shall be reported to the city council by the applicant or licensee. If said changes take place during the investigation, the data shall be provided to the director in writing, and the administrator shall report the changes to the city council. Failure to report said changes by the applicant or the licensee may result in the denial or revocation of a license.

(Ord. No. 03122003, 3-12-2003)

Sec. 26-87. Granting of license.

- (a) The city shall investigate all facts set out in the application, including comments from the affected township. After the city finishes the investigation, the city shall grant approval of the application if all requirements of this article are met.
- (b) The city shall only issue the license to the applicant. The license shall not be transferred to another holder. The city shall only issue each license for the premises or location described in the application. No license may be transferred to another location or place without the approval of the city council.

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(Ord. No. 03122003, 3-12-2003)

Sec. 26-88. Persons ineligible for license.

The city shall not grant a license to nor may one be held by any person who:

- (1) Is under 21 years of age;
- (2) Has been convicted of a felony;
- (3) Is not the proprietor of the establishment for which the license is issued;
- (4) Has not paid the license and investigative fees required by this article;
- (5) Is not a citizen of the United States or a legal alien;
- (6) Has had an adult use or similar permit or license revoked under an ordinance or statute similar to this article.

(Ord. No. 03122003, 3-12-2003)

Sec. 26-89. Places ineligible for license.

- (a) No license shall be granted for adult uses or sexually oriented business on any premises where a licensee has been convicted of a violation of this article, or where any license hereunder has been revoked for cause until one year has elapsed after such conviction or revocation.
- (b) Except uses lawfully existing at the time of the ordinance from which this article is derived, no license shall be granted for any adult use or sexually oriented business that does not meet all city Code requirements, all building and fire codes requirements, and all provisions of the city.

(Ord. No. 03122003, 3-12-2003)

Sec. 26-90. General conditions of license.

- (a) Every license shall be granted subject to the conditions in the following subdivisions and all other provisions of this article and of any applicable county, state and federal law. No adult use and sexually oriented business' entertainment shall engage in any activity or conduct or permit any other person to engage in any activity or conduct in or about the adult use establishment that is prohibited by any ordinance of the city, and state and federal law. Nothing in this article shall be construed as authorizing or permitting conduct that is prohibited or regulated by other statutes or ordinances prohibiting the exhibition, sale, or distribution of obscene material generally, or the exhibition, sale or distribution of specified materials to minors.
- (b) All licensed premises shall have the license posted in a conspicuous place.
- (c) No minor shall be allowed in or on the premises of an adult use or sexually oriented business.
- (d) Any designated inspection officer or law enforcement officer of the city shall have the right to enter, inspect, and search the premises of a licensee during business hours.
- (e) Every licensee shall be responsible for the conduct of their place of business and shall maintain conditions consistent with this article and city ordinances generally.
- (f) No adult goods, materials or services shall be offered, sold, transferred, conveyed, given, displayed or bartered to any minor.
- (g) Adult use businesses shall not be open between the hours of 1:00 a.m. and 8:00 a.m. on the days of Monday through Saturday, nor between 1:00 a.m. and 12:00 noon on Sunday.

(Ord. No. 03122003, 3-12-2003)

Sec. 26-91. Revocation, suspension, or nonrenewal.

- (a) The director may revoke, suspend or not renew a license upon the recommendation of assigned ESD staff or law enforcement officials that shows that the licensee, its owners, managers, employees, agents or any other interested parties have engaged in any of the following conduct:
 - (1) Fraud, deception or misrepresentation about securing the license.
 - (2) Habitual drunkenness or intemperance in use of drugs defined in Minn. Stats. § 618.01, barbiturates, hallucinogenic drugs, amphetamines, Benzedrine, Dexedrine or other sedatives, depressants, stimulants or tranquilizers.
 - (3) Engaging in conduct involving moral turpitude or permitting or allowing others within their employ or agency to engage in conduct involving moral turpitude, or failing to prevent agents, officers, or employees in engaging in conduct involving moral turpitude.
 - (4) Failure to follow any requirements of the ordinances of the city about sanitary and safety conditions, zoning requirements or ordinances, the violation of which involves moral turpitude, or failure to follow the requirements of this article.
 - (5) Conviction of an offense involving moral turpitude.
 - (6) Conviction of a felony.
- (b) The license holder may appeal such suspension, revocation or nonrenewal to the board of adjustment. The board of adjustment shall consider the appeal at a regularly scheduled public hearing within 30 days from the service of the notice of appeal to the director. At the conclusion of the hearing, the city council may order:
 - (1) That the revocation, suspension or nonrenewal be affirmed;
 - (2) That the revocation, suspension or nonrenewal be lifted and that the license be returned to the certificate holder.
- (c) An appeal must be accompanied by a letter of credit, cashier's check, or cash in the amount established by the city. If the decision of the director is upheld, the city is entitled to recover expenses and return any balance of the amount tendered that may remain. If the decision is overturned, the full amount will be refunded to the license holder.

(Ord. No. 03122003, 3-12-2003; Ord. No. 2009-81209, § 1.c., 8-12-2009)

Secs. 26-92—26-110. Reserved.

ARTICLE IV. AMUSEMENTS [\[2\]](#)

DIVISION 1. - GENERALLY

DIVISION 2. - AMUSEMENT DEVICES

FOOTNOTE(S):

--- (2) ---

State Law reference— General authority relative to amusements, Minn. Stats. § 340A.221, subd. 25.
[\(Back\)](#)

DIVISION 1. GENERALLY

[Secs. 26-111—26-133. Reserved.](#)

Secs. 26-111—26-133. Reserved.

DIVISION 2. AMUSEMENT DEVICES

[Sec. 26-134. Definitions.](#)

[Sec. 26-135. License required; exception.](#)

[Sec. 26-136. Unlawful use and devices.](#)

[Secs. 26-137—26-155. Reserved.](#)

Sec. 26-134. 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 device includes a game of skill, a coin amusement, or a video game, as defined in this division, or any combination thereof.

Arcade means a contiguous area in which more than six amusement devices are kept for use by the public generally.

Coin amusement means any machine which upon the insertion of a coin, token or slug, operates or may be operated and is available to the public generally for entertainment or amusement, which machine emits music, noise or displays motion pictures.

Distributor means the person who places amusement devices on premises not owned by him or under his control, which devices may be played by the public generally for a price paid either directly or indirectly.

Game of skill means any device excepting pool and billiard tables, bowling alleys and shooting lanes, but including miniatures thereof, played by manipulating special equipment and propelling balls or other projectiles across a board or field into respective positions whereby a score is established, which is available to be played by the public generally at a price paid either directly or indirectly for such privilege.

Video game means any electrical device which displays objects on a screen and upon insertion of a coin, token or slug may be played by the public generally for entertainment or amusement.

(Code 1983, § 5.30, subd. 1)

Sec. 26-135. License required; exception.

- (a) It is unlawful for any person to, upon premises owned or controlled by him, have any amusement device or operate an arcade without a license therefor from the city.
- (b) It is unlawful for any person to be a distributor without a license therefor from the city.
- (c) This division shall not apply to video games of chance under the control of the charitable gambling control board.

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(Code 1983, § 5.30, subds. 2, 4)

Sec. 26-136. Unlawful use and devices.

It is unlawful for any person to:

- (1) Sell or maintain a machine or device which is for gambling or contains an automatic pay-off device;
- (2) Give any prize, award, merchandise, gift or thing of value to any person on account of operation of such device;
- (3) Sell or maintain, or permit to be operated in his place of business, any amusement device equipped with an automatic pay-off device;
- (4) Equip any amusement device with an automatic pay-off device;
- (5) Permit persons under the age of 18 years to play or operate any game of skill; or
- (6) Permit the playing of coin amusement machines between the hours of 1:00 a.m. and 6:00 a.m. of any day.

(Code 1983, § 5.30, subd. 3)

Secs. 26-137—26-155. Reserved.

ARTICLE V. DANCES ^[3]

[Sec. 26-156. Definitions.](#)

[Sec. 26-157. License.](#)

[Sec. 26-158. Regulations.](#)

[Secs. 26-159—26-184. Reserved.](#)

Sec. 26-156. 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 dance means any dance wherein the public may participate by payment, directly or indirectly, of an admission fee or price for dancing, which fee may be in the form of a club membership, or payment of money, directly or indirectly.

Public dancing place means any room, place or space open to public patronage in which dancing, wherein the public may participate, is carried on and to which admission may be had by the public by payment, directly or indirectly, of an admission fee or price for dancing.

(Code 1983, § 5.50, subd. 1)

Sec. 26-157. License.

- (a) *Required.* It is unlawful for any person to operate a public dancing place, or hold a public dance, without a license therefor from the city.

PART I GENERAL ORDINANCES

- (b) *License fee.* The license fee shall be fixed and determined by the council at the time the application is approved by it, which fee shall include the cost of any investigation and the fees and expenses of providing attendance of a law enforcement officer.
- (c) *Application and issuance.*
- (1) A verified application for a dance license shall be filed with the city and shall specify the names and addresses of the person, committee or organization that is to hold the dance, time and place thereof, and the area of the dance floor.
 - (2) All applications shall be accompanied by affidavits of two residents showing that the applicant is of good character and reputation in the community in which he lives, that he has not been convicted of a felony, gross misdemeanor or violation of any public dance laws within the past five years. No license shall be issued to any person who has been so convicted.
 - (3) No license shall be granted by the council for any place having so-called "private apartments" or "private rooms" furnished or used for any purposes other than a legitimate business purpose which adjoins such dancing place, or which may be reached by stairs, elevators or passageway leading from such dancing place. Nor shall a license be granted for any place which is not properly ventilated and equipped with necessary toilets, washrooms or lighting facilities.
 - (4) Applications may be referred by the council to the head of the local law enforcement agency for investigation and report prior to being acted upon by the council.
 - (5) The council shall act upon all dance license applications at a regular or special meeting thereof, whether or not they are included in the call or agenda of the meeting.
 - (6) The dance license shall be posted in the public dancing place and shall state the name of the licensee, the amount paid therefor, and the time and place licensed. The license shall also state that the licensee is responsible for the manner of conducting the dance.
 - (7) No license shall be issued to any applicant under the age of 18 years.

(Code 1983, § 5.50, subds. 2—5; Ord. No. 2009-81209, § 1.d., 8-12-2009)

Sec. 26-158. Regulations.

- (a) *Illumination.* Every public dancing place shall be brightly illuminated while in public use, and dancing therein while the lights are extinguished, dimmed or turned low so as to give imperfect illumination is prohibited.
- (b) *Certain persons prohibited.* No licensee shall permit any unmarried person under the age of 16 years, unless said unmarried person is accompanied by his parent or guardian, to remain in a public dancing place. Nor shall any licensee permit any intoxicated person or other person who persists in violating the law, to be or remain in a public dancing place.
- (c) *Hours of dancing.* No public dance shall be held on Sunday between the hours of 1:00 a.m. and 12:00 p.m. No public dance shall be held on any day between the hours of 1:00 a.m. and 6:00 a.m.
- (d) *Officer presence.* At least one officer of the law shall be designated by the local law enforcement agency and employed by the city to be present at every public dance during the entire time said dance is being held. For purposes of this subsection, the term "officer of the law" means any person who is a full-time peace officer, part-time peace officer, or person deputized by the head of the local law enforcement agency. In the discretion of the council or head of the local law enforcement agency more than one such police officer may be required.

(Code 1983, § 5.50, subds. 4(F), 5; Ord. No. 2009-81209, § 1.e., 8-12-2009)

Secs. 26-159—26-184. Reserved.

FOOTNOTE(S):

--- (3) ---

State Law reference— Authority to license and regulate public dances, Minn. Stats. § 412.221, subd. 27. [\(Back\)](#)

ARTICLE VI. KENNELS [\[4\]](#)

[Sec. 26-185. Defined.](#)

[Sec. 26-186. License.](#)

[Secs. 26-187—26-210. Reserved.](#)

Sec. 26-185. Defined.

For the purpose of this article, the term "kennel" means any place, building, tract of land, abode or vehicle, wherein or whereon three or more dogs, over four months of age, are kept, kept for sale or boarded.

(Code 1983, § 5.34, subd. 1)

Sec. 26-186. License.

It is unlawful for any person to operate or maintain a kennel without a license therefor from the city. Hospitals and clinics operated by licensed veterinarians exclusively for the care and treatment of animals are exempt from the provisions of this section.

(Code 1983, § 5.34, subds. 1, 2)

Secs. 26-187—26-210. Reserved.

FOOTNOTE(S):

--- (4) ---

State Law reference— Kennels, Minn. Stats. § 340A.31 et seq. [\(Back\)](#)

ARTICLE VII. PAWNBROKERS [\[5\]](#)

DIVISION 1. - GENERALLY

DIVISION 2. - LICENSE

FOOTNOTE(S):

--- (5) ---

State Law reference— Pawnbrokers, Minn. Stats. ch. 325J; municipal licensing and regulation of pawnbrokers, Minn. Stats. §§ 325J.02, 325J.13. [\(Back\)](#)

DIVISION 1. GENERALLY

[Sec. 26-211. Definitions.](#)

[Sec. 26-212. Reserved.](#)

[Sec. 26-213. Pawn tickets.](#)

[Sec. 26-214. Records; retention.](#)

[Sec. 26-215. Effect of nonredemption.](#)

[Sec. 26-216. Permitted charges.](#)

[Sec. 26-217. Prohibitions.](#)

[Sec. 26-218. Redemption; risk of loss.](#)

[Sec. 26-219. Motor vehicle title pawn transactions; special provisions.](#)

[Secs. 26-220—26-246. Reserved.](#)

Sec. 26-211. 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:

Pawn transaction means any loan on the security of pledged goods or any purchase of pledged goods on the condition that the pledged goods are left with the pawnbroker and may be redeemed or repurchased by the seller for a fixed price within a fixed period of time.

Pawnbroker means a person engaged in whole or in part in the business of lending money on the security of pledged goods left in pawn, or in the business of purchasing tangible personal property to be left in pawn on the condition that it may be redeemed or repurchased by the seller for a fixed price within a fixed period of time.

Pawnshop means the location at which or premises in which a pawnbroker regularly conducts business.

Pledged goods means tangible personal property other than a chose in action, securities, bank drafts or printed evidence of indebtedness that are purchased by, deposited with or otherwise actually delivered into the possession of a pawnbroker in connection with a pawn transaction.

(Code 1983, § 5.55, subd. 1)

State law reference— Similar provisions, Minn. Stats. § 325J.01.

Sec. 26-212. Reserved.

Editor's note—

Ord. No. 04-2013, § 1, adopted Apr. 10, 2013, repealed § 26-212, entitled "Pawnshop location".

Sec. 26-213. Pawn tickets.

- (a) *Entries of pawn tickets.* At the time of making the pawn or purchase transaction, the pawnbroker shall immediately and legibly record in English the following information by using ink or other indelible medium on forms or in a computerized record approved by the city:
- (1) A complete and accurate description of the property, including model and serial number if indicated on the property;
 - (2) The full name, residence address, residence telephone number and date of birth of the pledgor or seller;
 - (3) The date and time of pawn or purchase transaction;
 - (4) The identification number and state of issue from one of the following forms of identification of the seller or pledgor: current valid Minnesota driver's license; current valid Minnesota identification card; or current valid photo identification card issued by another state or province of Canada;
 - (5) Description of the pledgor including approximate height, sex, and race;
 - (6) Amount advanced or paid;
 - (7) The maturity date of the pawn transaction and the amount due; and
 - (8) The monthly and annual interest rates, including all pawn fees and charges.
- (b) *Printed pawn ticket.* The following shall be printed on all pawn tickets:
- (1) The statement that "Any personal property pledged to a pawnbroker within this state is subject to sale or disposal when there has been no payment made on the account for a period of not less than 60 days past the date of the pawn transaction, renewal, or extension; no further notice is necessary. There is no obligation for the pledgor to redeem pledged goods;"
 - (2) The statement that "The pledgor of this item attests that it is not stolen, it has no liens or encumbrances against it, and the pledgor has the right to sell 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 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.

(Code 1983, § 5.55, subd. 6)

State law reference— Similar provisions, Minn. Stats. § 325J.04.

Sec. 26-214. Records; retention.

- (a) The pledgor or seller shall sign a pawn ticket and receive an exact copy of the pawn ticket.

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- (b) The pawnbroker shall maintain on the premises a record of all transactions of pledged or purchased goods for a period of three years. 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 record of pawn items. If the pawnbroker provides the records in a computerized format, they must be provided in the interchange file specification format.
- (c) For the purposes of subsection (b) of this section, the term "interchange file specification format" means the most current version of the Minneapolis automated pawn system interchange file specification format.

(Code 1983, § 5.55, subd. 7)

State law reference— Similar provisions, Minn. Stats. § 325J.05.

Sec. 26-215. Effect of nonredemption.

- (a) A pledgor shall have no obligation to redeem pledged goods or make any payment on a pawn transaction. Pledged goods not redeemed within at least 60 days of the date of the pawn transaction, renewal, or extension shall automatically be forfeited to the pawnbroker, and qualified right, title, and interest in and to the goods shall automatically vest in the pawnbroker.
- (b) The pawnbroker's right, title, and interest in the pledged goods under this section is qualified only by the pledgor's right, while the pledged goods remain in possession of the pawnbroker and not sold to a third party, to redeem the goods by paying the loan plus fees and/or interest accrued up to the date of redemption.
- (c) A pawn transaction that involves holding only the title to property is subject to Minn. Stats. ch. 168A or Minn. Stats. ch. 336.

(Code 1983, § 5.55, subd. 8)

State law reference— Similar provisions, Minn. Stats. § 325J.06.

Sec. 26-216. Permitted charges.

- (a) 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.
- (b) The pawnshop charge allowed under 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.
- (c) 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.
- (d) 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.
- (e) 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 1983, § 5.55, subd. 9)

State law reference— Similar provisions, Minn. Stats. § 325J.07.

Sec. 26-217. Prohibitions.

A pawnbroker and any clerk, agent, or employee of a pawnbroker shall not:

- (1) Make any false entry in the records of pawn transactions;
- (2) Falsify, obliterate, destroy, or remove from the place of business the records, books, or accounts relating to the licensee's pawn transactions;
- (3) Refuse to allow the appropriate law enforcement agency, the attorney general, or any other duly authorized state or federal law enforcement officer to inspect the pawn records or any pawn goods in the person's possession during the ordinary hours of business or other times acceptable to both parties;
- (4) Fail to maintain a record of each pawn transaction for three years;
- (5) Accept a pledge or purchase property from a person under the age of 18 years;
- (6) Make any agreement requiring the personal liability of a pledgor or seller, or waiving any provision of this section, or providing for a maturity date less than one month after the date of the pawn transaction;
- (7) Fail to return pledged goods to a pledgor or seller, or provide compensation as set forth in state statutes, upon payment of the full amount due the pawnbroker unless either the date of redemption is more than 60 days past the date of the pawn transaction, renewal, or extension and the pawnbroker has sold the pledged goods pursuant to state statutes, or the pledged goods have been taken into custody by a court or a law enforcement officer or agency;
- (8) Sell or lease, or agree to sell or lease, pledged or purchased goods back to the pledgor or seller in the same, or a related, transaction;
- (9) Sell or otherwise charge for insurance in connection with a pawn transaction; or
- (10) Remove pledged goods from the pawnshop premises or other storage place approved by the city at any time before unredeemed, pledged goods are sold pursuant to statute.

(Code 1983, § 5.55, subd. 10)

State law reference— Similar provisions, Minn. Stats. § 325J.08.

Sec. 26-218. Redemption; risk of loss.

- (a) Any person to whom the receipt for pledged goods was issued, or any person identified in a written and notarized authorization to redeem the pledged goods identified in the receipt, or any person identified in writing by the pledgor at the time of the initial transaction and signed by the pledgor shall be entitled to redeem or repurchase the pledged goods described on the ticket.
- (b) In the event the goods are lost or damaged while in possession of the pawnbroker, the pawnbroker shall compensate the pledgor, in cash or replacement goods acceptable to the pledgor, for the fair market value of the lost or damaged goods. Proof of compensation shall be a defense to any prosecution or civil action.

(Code 1983, § 5.55, subd. 11)

State law reference— Similar provisions, Minn. Stats. § 325J.09.

Sec. 26-219. Motor vehicle title pawn transactions; special provisions.

- (a) 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. Stats. ch. 168, 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.
- (b) A pawnbroker may not sell a motor vehicle covered by a pawn transaction until 90 days after recovery of the motor vehicle.

(Code 1983, § 5.55, subd. 12)

State law reference— Similar provisions, Minn. Stats. § 325J.05.

(Code 1983, § 5.55)

Secs. 26-220—26-246. Reserved.

DIVISION 2. LICENSE

[Sec. 26-247. General requirements.](#)

[Sec. 26-248. Persons disqualified.](#)

[Sec. 26-249. Unemployment clearance required.](#)

[Sec. 26-250. Change in ownership.](#)

[Secs. 26-251—26-278. Reserved.](#)

Sec. 26-247. General requirements.

- (a) It is unlawful for any person to engage in the business as a pawnbroker unless the person has a valid license authorizing engagement in the business. Any pawn transaction made without benefit of a license is void.
- (b) A separate license is required for each place of business. The city may issue more than one license to a person if that person complies with this section for each license.
- (c) No expiration, revocation, suspension, or surrender of any license shall impair or affect the obligation of any preexisting lawful contract between the licensee and any pledgor. Each license shall remain in full force and effect until surrendered, suspended, revoked, or expired. A license may be suspended or revoked for failure to comply with this article.
- (d) The chief of police shall be notified by the city of any licensee whose license has expired or been surrendered, suspended, or revoked as provided by this section.

(Code 1983, § 5.55, subd. 2)

State law reference— Similar provisions, Minn. Stats. § 325J.02.

PART I GENERAL ORDINANCES

Sec. 26-248. Persons disqualified.

No license under this section may be issued or renewed to a person who is a minor; has been convicted of any crime related to the occupation of pawnbroker as prescribed by Minn. Stats. § 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 article as prescribed by Minn. Stats. § 364.03, subd. 3; or is not of good moral character or repute.

(Code 1983, § 5.55, subd. 3)

Sec. 26-249. Unemployment clearance required.

No license shall be granted, transferred, or renewed and shall be revoked if the commissioner notifies the city that the licensee owes the state delinquent unemployment insurance contributions, reimbursements, or benefit overpayments.

(Code 1983, § 5.55, subd. 4)

Sec. 26-250. Change in ownership.

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.

(Code 1983, § 5.55, subd. 5)

State law reference— Similar provisions, Minn. Stats. § 325J.03.

Secs. 26-251—26-278. Reserved.

ARTICLE VIII. SAUNA PARLORS AND MASSAGE PARLORS

DIVISION 1. - GENERALLY

DIVISION 2. - LICENSE

DIVISION 1. GENERALLY

[Sec. 26-279. Definitions.](#)

[Sec. 26-280. Exception.](#)

[Sec. 26-281. Inspections.](#)

[Sec. 26-282. Construction and maintenance requirements.](#)

[Sec. 26-283. Hours of operation.](#)

[Sec. 26-284. Massage service to persons of opposite sex.](#)

[Sec. 26-285. Discrimination.](#)

[Secs. 26-286—26-303. Reserved.](#)

Sec. 26-279. Definitions.

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

Massage means the practice of rubbing, stroking, kneading, tamping, or rolling of the body with the hands, for the exclusive purposes of relaxation, physical fitness, or beautification, and for no other purpose, by a person not licensed as a medical doctor, chiropractor, osteopath, podiatrist, nurse who works solely under the direction of such person, physical therapist, athletic director and trainer, or beautician and barber who confine their treatment to the scalp, face and neck.

Massage parlor means any room or rooms wherein persons may, for a fee or other consideration paid, either directly or indirectly, receive a massage.

Masseur means a male person who, for compensation, practices massage.

Masseuse means a female person who, for compensation, practices massage.

Sauna means a steam bath used for the purpose of bathing, relaxing, or weight reduction, utilizing steam as the agent therefor.

Sauna parlor means any room or rooms wherein persons may, for a fee or other consideration paid either directly or indirectly, receive a sauna.

(Code 1983, § 5.54, subd. 1)

Sec. 26-280. Exception.

This article shall not apply to a health care facility owned by a municipal corporation organized under the laws of the state; or owned by the state or any of its agencies; or licensed by the state.

(Code 1983, § 5.54, subd. 9)

Sec. 26-281. Inspections.

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

(b) It is unlawful for any licensee, or agent or employee of a licensee, to hinder or prevent a police or health officer from making such inspection.

(Code 1983, § 5.54, subd. 7)

Sec. 26-282. Construction and maintenance requirements.

(a) All sauna rooms and restrooms and bathrooms used in connection therewith shall be constructed of materials which are impervious to moisture, bacteria, mold, and fungus growth. The floor-to-wall and wall-to-wall joists shall be constructed to provide a sanitary cove with a minimum radius of one inch. There shall be no locks on doors of sauna rooms or massage rooms nor on any other room in the licensed premises except on one business office, closets for the storage of supplies, and toilet rooms.

(b) All toilet rooms used in connection with saunas shall be provided with mechanical ventilation with two cfm per square foot of floor area, a minimum of 30 footcandles of illumination, a hand washing sink or sinks equipped with hot and cold running water under pressure, sanitary towels and soap dispenser.

PART I GENERAL ORDINANCES

- (c) Each sauna shall have a janitor's closet which shall be provided for the storage of cleaning supplies. Such closet shall have mechanical ventilation with two cfm per square foot of floor area and a minimum of 30 footcandles of illumination. Such closet shall include a mop sink.
- (d) Floors, walls and equipment in sauna rooms, in restrooms and in bathrooms used in connection therewith must be kept in a state of good repair and clean at all times. Linens and other materials shall be stored at least 12 inches off the floor. Clean towels and wash cloths must be made available to each customer.
- (e) Individual lockers shall be made available for use by patrons. Such lockers shall have separate keys for locking.
- (f) The premises shall contain adequate refuse receptacles, which shall be emptied at least daily.

(Code 1983, § 5.54, subd. 5)

Sec. 26-283. Hours of operation.

It is unlawful for any licensee to be open for business between the hours of 1:00 a.m. and 8:00 a.m. of any day, or to permit any patron to be present upon licensed premises after 2:00 a.m. and before 8:00 a.m. of any day.

(Code 1983, § 5.54, subd. 6)

Sec. 26-284. Massage service to persons of opposite sex.

Only masseurs shall be allowed to massage male customers and only masseuses shall be allowed to massage female customers.

(Code 1983, § 5.54, subd. 4(F))

Sec. 26-285. Discrimination.

No sauna or massage parlor shall discriminate between persons on the basis of race, color, creed, sex or national origin or ancestry.

(Code 1983, § 5.54, subd. 4(G))

Secs. 26-286—26-303. Reserved.

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[Sec. 26-304. Required.](#)

[Sec. 26-305. Application.](#)

[Sec. 26-306. Resident manager or agent.](#)

[Sec. 26-307. Eligibility and revocation.](#)

[Secs. 26-308—26-332. Reserved.](#)

PART I GENERAL ORDINANCES

Sec. 26-304. Required.

It is unlawful for any person to operate a sauna parlor or a massage parlor without a license therefor from the city. It is unlawful for any person to practice massage in any place except upon licensed premises. Only masseurs and masseuses who are licensed by the city shall practice massage.

(Code 1983, § 5.54, subds. 2, 4(E))

Sec. 26-305. Application.

All initial applications for licenses to operate sauna parlors or massage parlors shall be accompanied by a nonreturnable investigation fee. Applicants shall contain the names and addresses of the owners, lessees and operators of the applicant, together with a description and location of the premises. The application shall also include information as to any convictions of any crime or offense committed by the applicant, together with such other information as the council may require before consideration of the application. All applications by corporations shall include the names and addresses of all persons having a beneficial interest therein. An investigation by the building inspector shall be conducted of all premises proposed to be licensed before consideration by the council. The local law enforcement agency shall conduct an investigation of all persons proposed to be licensed before consideration by the council. All applications shall thereafter be considered by the council.

(Code 1983, § 5.54, subd. 3; Ord. No. 2009-81209, § 1.f., 8-12-2009)

Sec. 26-306. Resident manager or agent.

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

(Code 1983, § 5.54, subd. 10)

Sec. 26-307. Eligibility and revocation.

- (a) Licenses shall be granted only for operation upon fixed premises which must be located in a commercial or industrial district as established by the zoning laws of the city.
- (b) Licenses shall be granted only upon a showing of compliance with all laws of sanitation.
- (c) No beer, liquor, narcotic drug or controlled substances, as such terms are defined by state statutes or this Code, shall be permitted on licensed premises.
- (d) Violation of any law or regulation relating to building, safety or health, shall be grounds for revocation of any license.

(Code 1983, § 5.54, subd. 4(A)—(D))

Secs. 26-308—26-332. Reserved.

ARTICLE IX. SOLICITORS ^[6]

DIVISION 1. - GENERALLY

DIVISION 2. - LICENSE

FOOTNOTE(S):

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State Law reference— Authority to license and regulate transient commerce, Minn. Stats. § 340A.221, subd. 19. ([Back](#))

DIVISION 1. GENERALLY

[Sec. 26-333. Definitions.](#)

[Sec. 26-334. Purpose.](#)

[Sec. 26-335. Prohibited solicitation practices.](#)

[Secs. 26-336—26-358. Reserved.](#)

Sec. 26-333. 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:

Business solicitation means an attempt by a solicitor, engaging in transactions of the same kind, to sell or distribute for a consideration any goods or services primarily for personal, family, or household purposes, when either the solicitor or person acting for him contacts the solicitee by telephone or in person, other than at the established place of business of solicitor, except:

- (1) An attempted solicitation in which the solicitee personally knows the identity of the solicitor, the name of the business firm or organization he represents, and the identity or kinds of goods, services or things of value offered;
- (2) An attempted solicitation in which the solicitee has first initiated the contact with the solicitor;
- (3) An attempted solicitation of a newspaper subscription in which the solicitor is a minor child engaged in both the delivery and sale of the newspaper; or
- (4) An attempted solicitation for the sale of products of a farm or garden occupied or cultivated by the solicitor, when facts of such occupancy or cultivation are proven by the solicitor.

Contribution solicitation means an attempt by a solicitor to obtain money from a solicitee for any cause or purpose, when either the solicitor or person acting for him contacts the solicitee by telephone or in person other than at the established place of meeting, business, service, or activity of the organization represented by the solicitor, except:

PART I GENERAL ORDINANCES

- (1) An attempted solicitation in which the solicitee personally knows the identity of the solicitor, the name of the organization he represents, and the identity of the services performed or offered by the organization; or
- (2) An attempted solicitation in which the solicitee has first initiated the contact with the solicitor or the organization represented by him.

Established place means real estate in the city owned, leased on a month-to-month or term-certain longer than 30 days. The term includes a booth, compartment, or area leased or assigned during and for the length of an event or occasion.

Goods means any tangible thing of value, but not including money, things in action or intangible personal property other than merchandise certificates or coupons as herein described. The term "goods" includes such chattels as are furnished or used at the time of sale or subsequently in the modernization, rehabilitation, repair, alteration, improvement or construction of real property so as to become a part thereof whether or not severable therefrom. The term "goods" also includes merchandise certificates or coupons, issued by a retail seller, not redeemable in cash and to be used in their face amount in lieu of cash, in exchange for goods or services sold by such seller.

Services means work, labor, or services of any kind.

Solicitee means the person solicited.

Solicitor means any person making the solicitation, including such common terms as "peddler," "transient merchant," and "canvasser."

(Code 1983, § 5.53, subd. 2)

Sec. 26-334. Purpose.

- (a) This section is not intended to in any way hinder, delay or interfere with legitimate business or organizational activities. The council finds, however, that solicitors have used public streets and their direct contact with residents of the city for the illegitimate solicitation practices of harassment, nuisance, theft, deceit, or menacing, troublesome or unlawful activities. This section is intended to ferret out and control:
 - (1) Businesses and organizations using solicitation as a means of concealing unlawful activities;
 - (2) Businesses and organizations which, though its activities be lawful or even commendable, use such illegitimate practices in solicitation; and,
 - (3) Individual natural persons who, though they represent lawful businesses and organizations, use such illegitimate solicitation practices.
- (b) The council further finds that a large number of the residents of the city are employed as their livelihood and means of support by manufacturing plants and other businesses on shifts rotating between night and day, and to disturb them during their sleeping hours for the purpose of solicitation is a source of nuisance or even harassment and should be subject to control.

(Code 1983, § 5.53, subd. 1)

Sec. 26-335. Prohibited solicitation practices.

- (a) It is unlawful for any solicitor to engage in solicitation for any unlawful business or organizational purpose or activity.
- (b) It is unlawful for any solicitor to practice harassment, nuisance, theft, deceit, or menacing, troublesome or otherwise unlawful activities during the course of solicitation.

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- (c) It is unlawful for any solicitor to enter, or attempt to gain entrance, to residential premises displaying at such entrance a sign with the words "Peddlers and Solicitors Prohibited" or "Solicitors Prohibited" or words of similar import.
 - (d) It is unlawful for any solicitor to refuse to leave business premises when requested by the owner, lessee or person in charge thereof.
 - (e) It is unlawful for any solicitor except for an authorized manufacturer's representative to offer for sale any of the following items:
 - (1) Infant formula or other food intended primarily for consumption by a child under the age of two years;
 - (2) Over-the-counter drugs, medical devices and cosmetics.
- (Code 1983, § 5.53, subd. 3)

Secs. 26-336—26-358. Reserved.

DIVISION 2. LICENSE

[Sec. 26-359. Required.](#)

[Sec. 26-360. Application.](#)

[Sec. 26-361. Investigation, approval or disapproval.](#)

[Sec. 26-362. Duration of contribution solicitation registration.](#)

[Secs. 26-363—26-382. Reserved.](#)

Sec. 26-359. Required.

- (a) It is unlawful for any person to engage in contribution solicitation without completion of licensing or registration as herein provided.
 - (b) It is unlawful for any person to engage in business solicitation without a license as herein provided.
- (Code 1983, § 5.53, subd. 3)

Sec. 26-360. Application.

Applications for licensing or registration shall contain the name and address of the solicitor, the name and address of the business or organization for which solicitations are sought and such other information as may reasonably be required by the council as a condition to registration or licensing or to permit investigation into the applicant's background and past solicitation practices.

(Code 1983, § 5.53, subd. 4)

Sec. 26-361. Investigation, approval or disapproval.

- (a) All applications for licensing or registration shall be immediately referred to the local law enforcement agency and investigated as to the truth thereof. The agency shall have five business days within which to investigate and make a recommendation thereon.
- (b) If the agency finds no past history of the applicant indicating violations similar to those declared unlawful in this section, it shall recommend issuing a license or approving registration, as the case

PART I GENERAL ORDINANCES

may be, and the city clerk-treasurer shall forthwith advise the applicant. The city clerk-treasurer shall issue a license, upon payment of the fee therefore, to the approved applicant for business solicitation, and shall approve the completion of registration by the applicant for a contribution solicitor.

- (c) If the agency finds a past history of the applicant indicating violations similar to those declared unlawful in this section, it shall recommend denial of the license or registration. In all matters of recommended denial the applicant shall be forthwith advised thereof, and the application shall be referred to the council and considered by it at its next regular or special meeting occurring more than ten days thereafter. The applicant shall be afforded an opportunity to be heard at such meeting.

(Code 1983, § 5.53, subd. 5; Ord. No. 2009-81209, § 1.g., 8-12-2009)

Sec. 26-362. Duration of contribution solicitation registration.

Registration of contribution solicitation shall expire 60 days after registration is approved.

(Code 1983, § 5.53, subd. 6)

Secs. 26-363—26-382. Reserved.

ARTICLE X. TOBACCO [\[i\]](#)

DIVISION 1. - GENERALLY

DIVISION 2. - LICENSE

FOOTNOTE(S):

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State Law reference— Municipal tobacco licenses, Minn. Stats. § 461.12. [\(Back\)](#)

DIVISION 1. GENERALLY

[Sec. 26-383. Definitions.](#)

[Sec. 26-384. Purpose.](#)

[Sec. 26-385. Violations.](#)

[Sec. 26-386. Penalties.](#)

[Sec. 26-387. Responsibility.](#)

[Sec. 26-388. Compliance checks and inspections.](#)

[Sec. 26-389. Prohibited sales.](#)

[Sec. 26-390. Vending machine sales unlawful if minors not prohibited from establishment.](#)

[Sec. 26-391. Self-service sales.](#)

[Secs. 26-392—26-410. Reserved.](#)

Sec. 26-383. Definitions.

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

Compliance 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 section. Compliance checks shall involve the use of minors as authorized by this section. The term "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 are not 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 containers as described in this section shall not be considered individually packaged.

Loosies means the common term used to refer to a single or individually packed cigarette.

Minor means any natural person who has not yet reached the age of 18 years.

Movable place of business refers to 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 or tobacco products means any substance or item containing tobacco leaf, including, but not limited to, cigarettes; cigars; pipe tobacco; snuff, fine cut or other chewing tobacco; cheroots; stogies; perique; granulated, plug cut, crimp cut, ready-rubbed, and other smoking tobacco; snuff flower; cavendish; shorts, plug and twist tobacco; dipping tobacco; refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco leaf prepared in such a manner as to be suitable for chewing, sniffing, or smoking.

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

Vending machine 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.

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(Code 1983, § 5.33, subd. 2)

Sec. 26-384. Purpose.

Because the city recognizes that many persons under the age of 18 years purchase or otherwise obtain, possess and use tobacco, tobacco products and tobacco-related devices, and such sales, possession and use are violations of both state and federal laws; and because studies, which the city hereby accepts and adopts, have shown that most smokers begin smoking before they have reached the age of 18 years and that those persons who reach the age of 18 years without having started smoking are significantly less likely to begin smoking; and because smoking has been shown to be the cause of several serious health problems which subsequently place a financial burden on all levels of government; this section shall be intended to regulate the sale, possession and use of tobacco, tobacco products and tobacco-related devices for the purpose of enforcing and furthering existing laws, to protect minors against the serious effects associated with the illegal use of tobacco, tobacco products and tobacco-related devices, and to further the official public policy of the state in regard to preventing young people from starting to smoke as stated in Minn. Stats. § 144.391.

(Code 1983, § 5.33, subd. 1; Ord. No. 2009-81209, § 2.b., 8-12-2009)

Sec. 26-385. Violations.

- (a) *Notice.* Upon discovery of a suspected violation, the alleged violator shall be issued, either personally or by mail, a citation that sets forth the alleged violation and which shall inform the alleged violator of his right to be heard on the accusation.
- (b) *Hearings.* If a person accused of violating this section so requests, a hearing shall be scheduled, the time and place of which shall be published and provided to the accused violator.
- (c) *Hearing officer.* The council or a person designated by the council shall serve as the hearing officer.
- (d) *Decision.* If the hearing officer determines that a violation of this section did occur, that decision, along with the hearing officer's reasons for finding a violation and the penalty to be imposed under section 26-386, shall be recorded in writing, a copy of which shall be provided to the accused violator. Likewise, if the hearing officer finds that no violation occurred or finds grounds for not imposing any penalty, such findings shall be recorded and a copy provided to the acquitted accused violator.
- (e) *Appeals.* Appeals of any decision made by the hearing officer shall be filed in the district court for the city in which the alleged violation occurred.
- (f) *Misdemeanor prosecution.* Nothing in this section shall prohibit the city from seeking prosecution as a misdemeanor for any alleged violation of this section. If the city elects to seek misdemeanor prosecution, no administrative penalty shall be imposed.
- (g) *Continued violation.* Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense.

(Code 1983, § 5.33, subd. 11)

Sec. 26-386. Penalties.

- (a) *Licensees.* Any licensee found to have violated this section, or whose employee shall have violated this section, shall be charged an administrative fine of \$75.00 for a first violation of this section; \$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.

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- (b) *Other individuals.* Other individuals found to be in violation of this section shall be charged an administrative fee of \$50.00.
- (c) *Misdemeanor.* Nothing in this section shall prohibit the city from seeking prosecution as a misdemeanor for any violation of this section.

(Code 1983, § 5.33, subd. 12)

Sec. 26-387. 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 licensed 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 section, state or federal law or other applicable law or regulation.

(Code 1983, § 5.33, subd. 9)

Sec. 26-388. Compliance checks and inspections.

All licensed premises shall be open to inspection by the local law enforcement agency or 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 not be guilty of unlawful possession of tobacco, tobacco products or tobacco-related devices when such items are obtained as part of the compliance check. No minor used in compliance checks shall attempt to use a false identification or theatrical makeup misrepresenting the minor's age. All minors lawfully engaged in a compliance check shall answer all questions about the minor's age asked by the licensee and shall produce any identification for which he is asked. The minor shall be accompanied by local law enforcement officers or an authorized city official to the location of the compliance check. 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 1983, § 5.33, subd. 10; Ord. No. 2009-81209, § 1.h., 8-12-2009)

Sec. 26-389. Prohibited sales.

It is a violation of this section 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.
- (2) By means of any type of vending machine, except as may otherwise be provided in this section.
- (3) By means of self-service methods whereby the customer does not need to make verbal or written request to an employee of the licensed premises in order to receive the tobacco, tobacco-related 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.
- (4) By means of loosies, as defined in section 26-383
- (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.

PART I GENERAL ORDINANCES

- (6) By any other means, or to any other person, or in any other manner or form prohibited by the provisions of this Code, federal, state or other local law or other regulations.

(Code 1983, § 5.33, subd. 6)

Sec. 26-390. Vending machine sales unlawful if minors not prohibited from establishment.

It is unlawful for any person licensed under this section 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 1983, § 5.33, subd. 7)

Sec. 26-391. Self-service sales.

It is unlawful for a licensee under this section 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. Licensees which prohibit individuals less than 18 years of age from entering the premises and which derive at least 90 percent of their revenue from tobacco and tobacco-related products are exempt from this division.

(Code 1983, § 5.33, subd. 8)

Secs. 26-392—26-410. Reserved.

DIVISION 2. LICENSE

[Sec. 26-411. General requirements.](#)

[Sec. 26-412. Fees.](#)

[Sec. 26-413. Basis for denial of license.](#)

Sec. 26-411. General requirements.

- (a) *License required.* It is unlawful for any person to sell or offer to sell any tobacco, tobacco products or tobacco-related device without first having obtained a license to do so from the city.
- (b) *Application.* An application for a license to sell tobacco, tobacco products or tobacco-related devices shall be made on a form provided by the city. The application shall contain the full name of the applicant, the applicant's residential and business addresses and telephone numbers, the name of the business for which the license is sought, and any additional information the city deems necessary. Upon receipt of a completed application, the city clerk-treasurer shall forward the application to the council for action at its next regularly scheduled council meeting. If the city clerk-treasurer shall determine that an application is incomplete, he shall return the application to the applicant with notice of the information necessary to make the application complete.
- (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

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applicant it deems necessary. If the council shall approve the license, the city clerk-treasurer 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) *Term.* All licenses issued under this section shall be valid for one calendar year from the date of issue.
- (e) *Revocation or suspension.* Any license issued under this section may be revoked or suspended as provided in the violations and penalties sections herein.
- (f) *Transfers.* All licenses issued under this section shall be valid only on the premises for which the license was issued and only for the person to whom the license was issued. No transfer of any license to another location or person shall be valid without the prior approval of the council.
- (g) *Movable place of business.* No license shall be issued to a movable place of business. Only fixed location businesses shall be eligible to be licensed under this section.
- (h) *Displays.* 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 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. The issuance of a license issued under this section shall be considered a privilege and not an absolute right of the applicant and shall not entitle the holder to an automatic renewal of the license.

(Code 1983, § 5.33, subd. 3)

Sec. 26-412. Fees.

No license shall be issued under this section until the appropriate license fee has been paid in full.

(Code 1983, § 5.33, subd. 4)

Sec. 26-413. Basis for denial of license.

The following shall be grounds for denying the issuance or renewal of a license under this section; however, except as may otherwise be provided by law, the existence of any particular ground for denial does not mean that the city must deny the license. If a license is mistakenly issued or renewed to a person, it shall be revoked upon the discovery that the person was ineligible for the license under this section.

- (1) The applicant is under the age of 18 years.
- (2) The applicant has been convicted within the past five years of any violation of a federal, state or local law or provision of this Code, 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, provision of this Code, or other regulation from holding such a license.

(Code 1983, § 5.33, subd. 5)

Chapters 27—29 RESERVED

Chapter 30 OFFENSES AND MISCELLANEOUS PROVISIONS

[Sec. 30-1. Disorderly conduct—General prohibition of unlawful acts.](#)

[Sec. 30-2. Same—Noisy parties.](#)

[Sec. 30-3. Curfew.](#)

[Sec. 30-4. Open burning of leaves.](#)

[Sec. 30-5. Possession, use, and procurement of tobacco for minors unlawful.](#)

Sec. 30-1. Disorderly conduct—General prohibition of unlawful acts.

It is unlawful for any person in a public or private place, knowing, or having reasonable grounds to know, that it will, or will tend to, alarm, anger or disturb others or provoke any assault or breach of the peace, to do the following:

- (1) Whether or not posted with signs so prohibiting, voluntarily enter the waters of any river or public swimming pool at any time when said waters are not properly supervised by trained life-saving personnel in attendance for that purpose, or enter such waters without being garbed in a bathing suit sufficient to cover his person and equal to the standards generally adopted and accepted by the public;
- (2) Urinate or defecate in a place other than:
 - a. If on public property, then in a plumbing fixture provided for that purpose;
 - b. If on the private property of another, then in a plumbing fixture provided for that purpose;
 - c. If on private property not owned or controlled by another, then within a building;
- (3) Use a flash or spotlight in a manner so as to annoy or endanger others;
- (4) Strew, scatter, litter, throw, dispose of or deposit any refuse, garbage, or rubbish unto any premises except into receptacles provided for such purpose; or
- (5) Enter any motor vehicle of another without the consent of the owner or operator.

(Code 1983, § 7.04)

Sec. 30-2. Same—Noisy parties.

- (a) It is unlawful for any person to congregate on any private lands because of, or participate in, any party or gathering of people from which noise emanates of a sufficient volume or of such nature as to disturb the peace, quiet or repose of reasonable persons. Any owner or person in lawful possession or control of such private lands who has knowledge of the disturbance and fails to immediately abate said disturbance shall be guilty of a violation of this section.
- (b) It is unlawful for any person to congregate on any private lands of another because of, or participate in, any party or gathering of people in the absence of the owner of said private lands without first having obtained written permission from said landowner. Such written permission shall at all times be in the possession of one or more persons at the site of such congregation. The document containing the written permission must bear the signature of the landowner and date of the permitted use. Failure to display written permission upon request shall be considered prima facie evidence of an absence of permission from the owner.

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- (c) A violation of subsections (a) or (b) of this section shall give a police officer the authority to order all persons present, other than persons identifying themselves as the owner or person in lawful possession or control of such land, to immediately disperse. Any person who shall refuse to leave after being ordered to do so by a police officer shall be guilty of a violation of this section.

(Code 1983, § 7.07)

Sec. 30-3. Curfew.

- (a) *Definition.* As used in this section, the term "minor" means a person under the age of 18 years.
- (b) *Unlawful acts.*
 - (1) It is unlawful for any minor person to be or loiter upon the streets or public places between the hours of 10:00 p.m. and 5:00 a.m. of the day following.
 - (2) It is unlawful for any parent, legal guardian, or other person having the legal care or custody of any minor to allow or permit such minor person to be or loiter upon the streets or public places in violation of this section unless such minor is accompanied by a parent or legal guardian or other person having the legal care or custody of such minor person.
 - (3) It is unlawful for any person operating or in charge of any place of amusement, entertainment or refreshment, or other place of business, to allow or permit any minor to be or loiter in such place in violation of this section, unless such minor is accompanied by a parent or guardian having such minor in charge. This subsection shall not be construed to permit the presence, at any time, of any person under age in any place where his presence is otherwise prohibited by law.
- (c) *Exceptions.* It is a defense to prosecution under subsection (b) of this section that the minor was:
 - (1) Accompanied by the minor's parent or guardian or an adult designated by the minor's parent or guardian;
 - (2) On an errand at the direction of the minor's parent or guardian or an adult designated by the minor's parent or guardian, without any detour or stop;
 - (3) In a motor vehicle involved in interstate travel;
 - (4) Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;
 - (5) Involved in an emergency. In this subsection the term "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, or automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life;
 - (6) Attending an official school, religious, or other recreational activity supervised by adults and sponsored by township, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the city, a civic organization, or another similar entity that takes responsibility for the minor;
 - (7) Exercising first amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; or
 - (8) Married or had been married, or had disabilities of minority removed in accordance with law.

Sec. 30-4. Open burning of leaves.

- (a) *Burning permitted.* Subject to the provisions of Minn. Stats. §§ 88.16, 88.17 and 88.22, the open burning of dried leaves between September 15 and December 1 is hereby permitted.
- (b) *Limits and conditions.*

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- (1) Burning shall be during daylight hours only.
- (2) No burning is permitted in streets.
- (3) All such fires shall be attended, at all times, by a person of suitable age and discretion.
- (4) No burning shall take place during an air pollution alert, warning or emergency declared by the pollution control agency.

(Code 1983, § 7.33)

Sec. 30-5. Possession, use, and procurement of tobacco for minors unlawful.

- (a) In this section, the term "minor" means any natural person who has not yet reached the age of 18 years.
- (b) It is unlawful for any minor to have in his possession any tobacco, tobacco product, or tobacco-related device. This subsection shall not apply to minors lawfully involved in a compliance check on behalf of the city.
- (c) It is unlawful for any minor to smoke, chew, sniff, or otherwise use any tobacco, tobacco product, or tobacco-related device.
- (d) It is unlawful:
 - (1) For any person to purchase or otherwise obtain such items on behalf of a minor;
 - (2) 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.

(Code 1983, § 7.35)

Chapters 31—33 RESERVED

Chapter 34 SOLID WASTE ^[1]

[Sec. 34-1. Definitions.](#)

[Sec. 34-2. Nuisance abatement.](#)

[Sec. 34-3. Storage.](#)

[Sec. 34-4. Fire danger.](#)

Sec. 34-1. 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:

Commercial establishment means any premises where a commercial or industrial enterprise of any kind is carried on, and shall include restaurants, clubs, churches, and schools where food is prepared or served.

Multiple dwelling means any building used for residential purposes consisting of more than four dwelling units with individual kitchen facilities for each.

Refuse includes all organic material resulting from the manufacture, preparation or serving of food or food products, and spoiled, decayed or waste foods from any source, bottles, cans, glassware, paper or paper products, crockery, ashes, rags, and discarded clothing, tree or lawn clippings, leaves, weeds and other waste products, except human waste or waste resulting from building construction or demolition.

Residential dwelling means any single building consisting of one through four dwelling units with individual kitchen facilities for each.

(Code 1983, § 7.01, subd. 1)

Sec. 34-2. Nuisance abatement.

Any violation of this section is declared to be a nuisance and upon seven days written notice to the owner, as shown by the records in the office of the county auditor, of private premises on which such refuse is found, the city may remove the same and cause the cost to become a part of the sewer and water billing, and if that service is not provided by the city, cost of refuse removal may be certified as any other special assessment.

(Code 1983, § 7.01, subd. 6)

Sec. 34-3. Storage.

- (a) It is unlawful for any person to store refuse on residential dwelling premises for more than one week. All such storage shall be in five to 30 gallon metal or plastic containers with tight-fitting covers, which shall be maintained in a clean and sanitary condition; provided, that tree leaves, weeds and grass clippings may be stored in plastic bags and tree limbs must be stored in bundles weighing no more than 75 pounds and no longer than four feet.
- (b) It is unlawful for any person to store refuse on multiple dwelling premises for more than one week. Such storage shall be in containers as for residential dwelling premises, except that so-called "dumpsters" with close-fitting covers may be substituted.

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- (c) It is unlawful for any person to store refuse on commercial establishment premises for more than 48 hours. Such storage shall be in containers as for residential dwelling premises, except that so-called "dumpsters" with close-fitting covers may be substituted.
- (d) It is unlawful to store organic refuse unless it is drained and wrapped.
- (e) Nothing in this section prevents composting that is conducted in a manner not to create a nuisance.

(Code 1983, § 7.01, subd. 2)

Sec. 34-4. Fire danger.

It is unlawful for any person to store, deposit or dispose of any refuse which is in flames or heated to the point where it could cause danger of fire in other refuse.

(Code 1983, § 7.01, subd. 4)

FOOTNOTE(S):

--- (1) ---

State Law reference— Waste Management Act, Minn. Stats. ch. 115A; power to prevent depositing solid waste in city, Minn. Stats. § 412.221, subd. 22(a)(2). [\(Back\)](#)

Chapters 35—37 RESERVED

Chapter 38 SPECIAL ASSESSMENTS [\[1\]](#)

ARTICLE I. - IN GENERAL

ARTICLE II. - CURRENT SERVICES

FOOTNOTE(S):

--- (1) ---

State Law reference— Special assessments, Minn. Stats. ch. 429. [\(Back\)](#)

ARTICLE I. IN GENERAL

[Secs. 38-1—38-18. Reserved.](#)

Secs. 38-1—38-18. Reserved.

ARTICLE II. CURRENT SERVICES [\[2\]](#)

[Sec. 38-19. Definition.](#)

[Sec. 38-20. Snow, ice, dirt and rubbish.](#)

[Sec. 38-21. Public health and safety hazards.](#)

[Sec. 38-22. Personal liability.](#)

[Sec. 38-23. Assessment.](#)

Sec. 38-19. Definition.

The following word, when used in this article, shall have the meaning ascribed to it in this section, except where the context clearly indicates a different meaning:

Current services means one or more of the following: snow, ice, dirt or rubbish removal from sidewalks, and removal or elimination of public health or safety hazards from private property, excluding any hazardous building included in Minn. Stats. § 463.15. The term "downtown designated snow removal area" means that portion of the downtown area which is shown on a map on file in the city clerk-treasurer's office.

(Code 1983, § 2.63, subd. 1)

Sec. 38-20. Snow, ice, dirt and rubbish.

- (a) *Duty of owners and occupants.* Owners and occupants of any property within the city that is adjacent to a public sidewalk shall not allow dirt or rubbish to remain on the sidewalk longer than 24 hours after its deposit thereon.
- (b) *Removal by city.* The street superintendent may remove from such public sidewalks all snow, ice, dirt and rubbish as soon as possible beginning 12 hours after any such matter has been deposited thereon or after the snow has ceased to fall. He shall keep a record showing the cost of such removal adjacent to each separate lot and parcel and shall deliver such information to the city clerk-treasurer.

(Code 1983, § 2.63, subd. 2)

Sec. 38-21. Public health and safety hazards.

When the city removes or eliminates public health or safety hazards from private property under this Code, the administrative officer responsible for doing the work shall keep a record of the cost of such removal or elimination against each parcel of property affected and annually deliver such information to the city clerk-treasurer. This section does not apply to hazardous buildings under the hazardous building law, Minn. Stats. §§ 463.15—463.26.

(Code 1983, § 2.63, subd. 3)

Sec. 38-22. Personal liability.

The owner of property on which or adjacent to which a current service has been performed shall be personally liable for the cost of such service. As soon as the service has been completed and the cost determined, the city clerk-treasurer, or other designated official, shall prepare a bill and mail it to the owner and thereupon the amount shall be immediately due and payable at the office of the city clerk-treasurer.

(Code 1983, § 2.63, subd. 4)

Sec. 38-23. Assessment.

If the snow, ice, dirt and rubbish are remaining on the public sidewalk after 24 hours, the city may remove the same and cause the cost to become a part of the sewer and water billing, and if that service is not provided by the city, the cost of removal of snow, ice, dirt and rubbish will be certified as any other special assessment to the owner of the property as shown in the records in the office of the county auditor.

(Code 1983, § 2.63, subd. 5)

FOOTNOTE(S):

--- (2) ---

State Law reference— Authority to collect certain unpaid special charges by special assessment, Minn. Stats. § 429.101. [\(Back\)](#)

Chapters 39—41 RESERVED

Chapter 42 STREETS, SIDEWALKS AND OTHER PUBLIC PLACES [11](#)

ARTICLE I. - IN GENERAL

ARTICLE II. - CONSTRUCTION AND RECONSTRUCTION

ARTICLE III. - EXCAVATIONS

ARTICLE. - IV. STREET LIGHTING

ARTICLE V. - VEGETATION

FOOTNOTE(S):

--- (1) ---

State Law reference— General powers relative to streets and public places, Minn. Stats. § 340A.221, subs. 6—9, 18, 34; roads generally, Minn. Stats. ch. 160. [\(Back\)](#)

ARTICLE I. IN GENERAL

[Sec. 42-1. Obstructions in streets.](#)

[Sec. 42-2. Obstructions on public property.](#)

[Sec. 42-3. Prohibited use and interference.](#)

[Sec. 42-4. Authority to grant obstruction permits.](#)

[Sec. 42-5. Snow removal.](#)

[Secs. 42-6—42-28. Reserved.](#)

Sec. 42-1. Obstructions in streets.

- (a) *Generally.* Except as otherwise provided in this section, no person shall conduct any activity that obstructs, impedes, or blocks the customary use or travel of traffic or pedestrians upon any city street, sidewalk, alley or parking lot, or which interferes with the city's use of a right-of-way.
- (b) *Placing snow or ice on a roadway or on a sidewalk.*
 - (1) It is a misdemeanor for any person, not acting under a specific contract with the city or without special permission from the city, to remove snow or ice from private property and place the same in any roadway or on a sidewalk.
 - (2) Where permission is granted by the city, the person to whom such permission is granted shall be initially responsible for payment of all direct and indirect costs of removing the snow or ice

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from the street or sidewalk. If not paid, collection shall be by civil action or assessment against the benefited property as any other special assessment.

- (c) *Recreational activities.*
 - (1) Activities, sports, contests or games which create a reasonably foreseeable threat to the safety of any participant and/or other person traveling within a right-of-way or upon other city property shall not be permitted.
 - (2) Basketball hoops, backboards, goals, ramps, toys and other recreational equipment or activities of any kind will not be permitted on or near any city street, alley or right-of-way.
 - (3) Bicycles, skateboards and scooters are not permitted on sidewalks in the city's town center commercial district. Persons using bicycles, skateboards and scooters must follow all applicable state statutes.
- (d) *Condition.* Before granting any permit under any of the provisions of this section, the council may impose such insurance or bonding conditions thereon as it, considering the projected danger to public or private property or to persons, deems proper for safeguarding such persons and property. Such insurance or bond shall also protect the city from any suit, action or cause of action arising by reason of such obstruction.
- (e) *Penalty.*
 - (1) Any person found in violation of this section may be fined \$25.00 for a first offense, \$50.00 for a second offense, and up to \$500.00 for a third or subsequent offense.
 - (2) For any violation of this section involving the use of a skateboard, ball or other piece of recreational equipment, such device may be confiscated by a police officer or other city official. The confiscated device shall be held for a maximum of 60 days, after which it may be sold at auction or destroyed. The individual who owns any such confiscated device shall have the right to repossess the device upon proof of payment of any fine and other costs for which the individual is responsible as a result of the violation.

(Code 1983, § 6.06; Res. No. 19-2007, § 1, 9-12-2007)

Sec. 42-2. Obstructions on public property.

- (a) *Permit required.* It is unlawful for any person to place, deposit, display or offer for sale, any fence, goods or other obstructions upon, over, across or under any public property without first having obtained a written permit from the council, and then only in compliance in all respects with the terms and conditions of such permit, and taking precautionary measures for the protection of the public. An electrical cord or device of any kind is hereby included, but not by way of limitation, within the definition of an obstruction.
- (b) *Fires.* It is unlawful for any person to build or maintain a fire upon public property.
- (c) *Dumping on public property.* It is a violation of this section to place or store any building materials or waste resulting from building construction or demolition on public property without first having obtained a written permit from the council.
- (d) *Signs and other structures.* It is unlawful for any person to place or maintain a sign, advertisement, or other structure on public property without first having obtained a written permit from the council.
- (e) *Snow or ice on public property.* It is unlawful for any person not acting under a contract with the city to dump snow or ice on public property.
- (f) *Continuing violation.* Each day that any person continues in violation of this section shall be a separate offense and punishable as such.
- (g) *Insurance or bonding conditions.* Before granting any permit under any of the provisions of this section, the council may impose such insurance or bonding conditions thereon as it, considering the

PART I GENERAL ORDINANCES

projected danger to public or private property or to persons, deems proper for safeguarding such persons and property. Such insurance or bond shall also protect the city from any suit, action or cause of action arising by reason of such obstruction.

(Code 1983, § 7.02)

Sec. 42-3. Prohibited use and interference.

Unless authorized pursuant to specific provisions of the code, no person shall:

- (1) Obstruct or interfere in any manner with the intended use of any street, sidewalk, alley, public land, or public building.
- (2) Construct any drain, ditch, or bridge over or upon any street, alley, public land, or public building without approval of the council.
- (3) Place for immediate receipt or delivery any goods, wares, or merchandise upon any public sidewalk unless he has provided space upon the sidewalk not less than six feet in width for safe public passage. In no event shall the goods, wares, or merchandise remain upon any sidewalk for more than 24 hours.
- (4) Cause any crowd or collection of persons to form which in any manner interferes with the passage of the public upon any street or sidewalk. This provision specifically includes, but is not limited to, licensed auctioneers.
- (5) No person shall rollerblade, skateboard or bicycle upon any sidewalks.

(Ord. No. 0312203, § 1, 4-9-2003)

Sec. 42-4. Authority to grant obstruction permits.

In any case where a building or premises abutting any public street or public land is being constructed or repaired, or where other improvements are being made on such premises, the council may grant a permit to the person constructing the building or making the repairs or improvements to occupy an area up to but not exceeding one-third of the street or one-half of the sidewalk or both abutting the premises while the construction, repair, or improvement is being made. The city council may revoke the permit at any time.

(Ord. No. 0312203, § 2, 4-9-2003)

Sec. 42-5. Snow removal.

It is hereby made the duty of every occupant of property and every owner of unoccupied property abutting on a city sidewalk to keep the sidewalk clear of snow and ice. Any owner or occupant who fails or refuses to remove snow from the sidewalk within 24 hours after notification to do so by the police or director of public works shall be guilty of a petty misdemeanor.

(Ord. No. 0312203, § 3, 4-9-2003)

Secs. 42-6—42-28. Reserved.

ARTICLE II. CONSTRUCTION AND RECONSTRUCTION

[Sec. 42-29. Roadway surfacing, sidewalk, curb and gutter requirements.](#)

[Sec. 42-30. Requirement of sewer and water main service lateral installation; waiver.](#)

[Secs. 42-31—42-49. Reserved.](#)

Sec. 42-29. Roadway surfacing, sidewalk, curb and gutter requirements.

(a) *Methods of procedure.*

(1) Abutting or affected property owners may contract for, construct or reconstruct roadway surfacing, sidewalk or curb and gutter in accordance with this section if advance payment is made therefor or arrangements for payment considered adequate by the city are completed in advance.

(2) With or without petition by the methods set forth in Minn. Stats. ch. 429.

(b) *Permit required.* It is a misdemeanor to construct or reconstruct a sidewalk, curb and gutter, driveway, or roadway surfacing in any street or other public property in the city without a permit in writing from the city clerk-treasurer. Application for such permit shall be made on forms approved and provided by the city and shall sufficiently describe the contemplated improvements, the contemplated date of beginning of work, and the length of time required to complete the same, provided, that no permit shall be required for any such improvement ordered installed by the council. All applications shall be referred by the city clerk-treasurer to the street superintendent and no permit shall be issued until approval has been received from the street superintendent. All such applications shall contain an agreement by the applicant to be bound by this chapter and plans; specifications consistent with the provisions of this chapter and good engineering practices shall also accompany the application. A permit from the city shall not relieve the holder from damages to the person or property of another caused by such work.

(c) *Specifications and standards.* All construction and reconstruction of roadway surfacing, sidewalk and curb and gutter improvements, including curb cuts, shall be strictly in accordance with specifications and standards on file in the office of the city clerk-treasurer and open to inspection and copying there.

(d) *Inspection.* The street superintendent shall inspect such improvements as deemed necessary or advisable. Any work not done according to the applicable specifications and standards shall be removed and corrected at the expense of the permit holder. Any work done hereunder may be stopped by the street superintendent if found to be unsatisfactory or not in accordance with the specifications and standards, but this shall not place a continuing burden upon the city to inspect or supervise such work.

(Code 1983, § 6.05)

Sec. 42-30. Requirement of sewer and water main service lateral installation; waiver.

(a) *Requirement of sewer and water laterals.* No petition for the improvement of a street shall be considered by the council if such petition contemplates constructing therein any part of a pavement or stabilized base, or curb and gutter, unless all sewer and water main installations have been made therein, including the installation of service laterals to the curb, if the area along such street will be served by such utilities installed in the street.

(b) *Sewer system service and water main service laterals.* No sewer system shall be hereafter constructed or extended unless service laterals to platted lots and frontage facing thereon shall be extended simultaneously with construction of mains.

(c) *Waiver.* The council may waive the requirements of this section only if it finds the effects thereof are burdensome and upon such notice and hearing as the council may deem necessary or proper.

(Code 1983, § 6.11)

Secs. 42-31—42-49. Reserved.

ARTICLE III. EXCAVATIONS

[Sec. 42-50. Permit.](#)

[Sec. 42-51. Protection of the city and the public.](#)

[Sec. 42-52. Repairs.](#)

[Sec. 42-53. Cost adjustment.](#)

[Sec. 42-54. Alternate method of charging.](#)

[Secs. 42-55—42-81. Reserved.](#)

Sec. 42-50. Permit.

- (a) *Required.* It is a misdemeanor for any person, except a city employee acting within the course and scope of his employment or a contractor acting within the course and scope of a contract with the city, to make any excavation, opening or tunnel in, over, across or upon a street or other public property without first having obtained a written permit from the city clerk-treasurer as herein provided.
- (b) *Application.* Application for a permit to make a street excavation shall describe with reasonable particularity the name and address of the applicant, the place, purpose and size of the excavation, and such other information as may be necessary or desirable to facilitate the investigation hereinafter provided for, and shall be filed with the city clerk-treasurer.
- (c) *Investigation and payment of estimated costs.* Upon receipt of such application, the city clerk-treasurer shall cause such investigation to be made as he may deem necessary to determine estimated cost of repair, such as backfilling, compacting, resurfacing and replacement, and the conditions as to the time of commencement of work, manner of procedure and time limitation upon such excavation. The foregoing estimated costs shall include permanent and temporary repairs due to weather or other conditions, and the cost of such investigation shall be included in such estimate.
- (d) *Issuance.* The city clerk-treasurer shall issue such permit after:
 - (1) Completion of such investigation;
 - (2) Payment by the applicant in advance of all estimated costs as aforesaid;
 - (3) Agreement by the applicant to the conditions of time and manner as aforesaid;
 - (4) Agreement in writing by the applicant to pay all actual cost of repairs over and above such estimate, including cost of such investigation; and,
 - (5) Agreement in writing by the applicant to be bound by all of the provisions of this section.

(Code 1983, § 6.07, intro., subds. 1, 2, 4)

Sec. 42-51. Protection of the city and the public.

- (a) *Noncompletion or abandonment.* Work shall progress expeditiously to completion in accordance with any time limitation placed thereon so as to avoid unnecessary inconvenience to the public. In the event that work is not performed in accordance therewith, or shall cease or be abandoned without due cause, the city may, after six hours notice in writing to the holder of the permit of its intention to do so, correct the work, fill the excavation and repair the public property, and the cost thereof shall be paid by the person holding the permit.

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- (b) *Insurance.* Prior to commencement of the work described in the application, the applicant shall furnish the city satisfactory evidence in writing that the applicant will keep in effect public liability insurance of not less than \$100,000.00 for any person, \$300,000.00 for any occurrence and property damage insurance of not less than \$25,000.00, issued by an insurance company authorized to do business in the state on which the city is named as a co-insured.
- (c) *Indemnification.* Before issuance of a permit, the applicant shall, in writing, agree to indemnify and hold the city harmless from any liability for injury or damage arising out of the action of the applicant in performance of the work, or any expense whatsoever incurred by the city incident to a claim or action brought or commenced by any person arising therefrom.

(Code 1983, § 6.07, subd. 3)

Sec. 42-52. Repairs.

All temporary and permanent repairs, including backfilling, compacting and resurfacing shall be made, or contracted for, by the city permittee in a manner prescribed by the city clerk-treasurer and an accurate account of costs thereof shall be kept.

(Code 1983, § 6.07, subd. 5)

Sec. 42-53. Cost adjustment.

Within 60 days following completion of such permanent repairs, the city clerk-treasurer shall determine actual costs of repairs, including cost of investigation, and prepare and furnish to such permit holder an itemized statement thereof and claim additional payment from, or make refund (without interest) to, the permit holder, as the case may be.

(Code 1983, § 6.07, subd. 6)

Sec. 42-54. Alternate method of charging.

In lieu of the above provisions relating to cost and cost adjustment for street openings, the city may charge on the basis of surface square feet removed, excavated cubic feet, or a combination of surface square feet and excavated cubic feet, on an established unit price uniformly charged.

(Code 1983, § 6.07, subd. 7)

Secs. 42-55—42-81. Reserved.

ARTICLE. IV. STREET LIGHTING [\[2\]](#)

[Sec. 42-82. Purpose and intent.](#)

[Sec. 42-83. No city liability.](#)

[Sec. 42-84. Fees.](#)

[Sec. 42-85. Payment of charges.](#)

[Sec. 42-86. Tax lien for nonpayment.](#)

[Secs. 42-87—42-115. Reserved.](#)

Sec. 42-82. Purpose and intent.

It is the intent of this article to establish a municipal street lighting fee for the purpose of paying electrical charges to maintain the existing street lighting system. The purpose of the street lighting system is to protect the health, safety and welfare of the city's citizens, visitors, and the general public by casting adequate lighting on municipal streets so as to promote safe travel for vehicles and pedestrians. The municipal street lighting system is not intended to act as security lighting for private properties.

(Ord. No. 11122003, § 1, 12-10-2003)

Sec. 42-83. No city liability.

The city shall not be liable for injury or damage to persons or property caused by any deficiency or failure in supply of electricity for the street lighting system whether occasioned by shutting off system for purpose of making repairs of connections, weather related incidents, or from any other cause whatsoever.

(Ord. No. 11122003, § 4, 12-10-2003)

Sec. 42-84. Fees.

- (a) The municipal street lighting fee shall be calculated as a flat rate and the cost of operating the streetlight system will be charged to all property owners within city limits.
- (b) As all classes of property derive the same benefit, all classes of property will pay the same rate.
- (c) The city council shall adopt a resolution, which may be amended from time to time that sets the municipal street lighting fee at a rate sufficient to meet the electrical charges for the system.

(Ord. No. 11122003, § 2, 12-10-2003)

Sec. 42-85. Payment of charges.

- (a) The municipal street lighting fee will appear monthly as a line item on the utility bill for each property as determined by the city council. The amount due and payable with the utility billing policy, provided that the amount due for the entire month shall be due on the first of a month regardless of actual ownership or occupancy for the remainder of the month.
- (b) Any prepayment or overpayment of charges may be retained by the city and applied to subsequent monthly charges.

(Ord. No. 11122003, § 5, 12-10-2003)

Sec. 42-86. Tax lien for nonpayment.

It is hereby approved, adopted and established that if payment of the municipal street lighting fee, established by this article, is not paid in full by October 15 of each year, said delinquent municipal street lighting fee, plus penalties, shall be deemed to be a charge against the owner 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.

(Ord. No. 11122003, § 6, 12-10-2003)

Secs. 42-87—42-115. Reserved.

FOOTNOTE(S):

--- (2) ---

State Law reference— Authority to provide for street lighting, Minn. Stats. § 412.221, subd. 7. [\(Back\)](#)

ARTICLE V. VEGETATION

[Sec. 42-116. City to control tree planting standards.](#)

[Sec. 42-117. Permit required.](#)

[Sec. 42-118. Duty of property owners to cut grass and weeds and maintain trees and shrubs.](#)

[Sec. 42-119. City may order work done.](#)

[Sec. 42-120. Assessment.](#)

Sec. 42-116. City to control tree planting standards.

The city shall have control and supervision of planting shrubs and trees upon, or overhanging, all the streets or other public property. The city may establish and enforce uniform standards relating to the kinds and types of trees to be planted and the placement thereof. Such standards shall be kept on file in the office of the city clerk-treasurer and may be revised from time to time by action of the council upon the recommendation of the city clerk-treasurer.

(Code 1983, § 6.08, subd. 1)

Sec. 42-117. Permit required.

It is unlawful for any person to plant, spray, trim or remove trees or other plants which are upon city property, including rights-of-way, without first procuring from the city a permit in writing to do so.

(Code 1983, § 6.08, subd. 2)

Sec. 42-118. Duty of property owners to cut grass and weeds and maintain trees and shrubs.

Every owner of property abutting on any street shall cause the grass and weeds to be cut from the line of such property nearest to such street to the center of such street, if the grass or weeds in such a place attain a height in excess of six inches. Every owner of property abutting on any street shall, subject to the provision herein requiring a permit therefor, trim, cut and otherwise maintain all trees and shrubs from the line of such property nearest to such street to the center of such street.

(Code 1983, § 6.08, subd. 3)

PART I GENERAL ORDINANCES

Sec. 42-119. City may order work done.

The city may, in cases of failure to comply with this section, perform such work with employees of the city, keeping an accurate account of the cost thereof for each lot, piece or parcel of land abutting upon such street.

(Code 1983, § 6.08, subd. 4)

Sec. 42-120. Assessment.

If such maintenance work is performed by the city as set forth in the foregoing subdivision, the city clerk-treasurer shall forthwith upon completion thereof ascertain the cost attributable to each lot, piece or parcel of abutting land. The city clerk-treasurer shall, at the next regular city council meeting, present such certificate to the council and obtain its approval thereof. When such certificate has been approved, it shall be extended as to the cost therein stated as a special assessment against such abutting land and such special assessment and, at the time of certifying taxes to the county auditor, be certified for collection as other special assessments are certified and collected.

(Code 1983, § 6.08, subd. 5)

Chapters 43—45 RESERVED

Chapter 46 TRAFFIC AND VEHICLES ⁽¹⁾

ARTICLE I. - IN GENERAL

ARTICLE II. - STOPPING, STANDING AND PARKING

ARTICLE III. - RECREATIONAL MOTOR VEHICLES

FOOTNOTE(S):

--- (1) ---

State Law reference— Traffic generally, Minn. Stats. ch. 169; powers of local authorities, Minn. Stats. § 169.04. [\(Back\)](#)

ARTICLE I. IN GENERAL

[Sec. 46-1. Definitions.](#)

[Sec. 46-2. Violation a misdemeanor or petty misdemeanor.](#)

[Sec. 46-3. Traffic and parking control.](#)

[Sec. 46-4. Motorized vehicles prohibited on sidewalks.](#)

[Sec. 46-5. Exhibition driving.](#)

[Secs. 46-6—46-28. Reserved.](#)

Sec. 46-1. Definitions.

Except as otherwise defined in this Code, or where the context clearly indicates a contrary intent, the words and terms defined in Minn. Stats. ch. 169 shall be applicable to this chapter.

(Code 1983, § 6.01)

Sec. 46-2. Violation a misdemeanor or petty misdemeanor.

Every person violates a section, subdivision, paragraph or provision of this chapter when he performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as follows:

- (1) Where the specific section, subdivision, paragraph or provision specifically makes violation a misdemeanor, he shall be punished as for a misdemeanor; where a violation is committed in a manner or under circumstances so as to endanger or be likely to endanger any person or property, he shall be punished as for a misdemeanor; where he stands convicted of violation of any provision of this chapter, exclusive of violations relating to the standing or parking of an

PART I GENERAL ORDINANCES

unattended vehicle, within the immediate preceding 12-month period for the third or subsequent time, he shall be punished as for a misdemeanor.

- (2) As to any violations not constituting a misdemeanor under the provisions of subsection (1) of this section, the violator shall be punished as for a petty misdemeanor.

(Code 1983, § 6.99)

State law reference— Penalties for violations of traffic ordinances, Minn. Stats. § 169.022.

Sec. 46-3. Traffic and parking control.

- (a) *Council action.* No device, sign or signal shall be erected or maintained for traffic or parking control unless the council shall first have approved and directed the same, except as otherwise provided in this section; provided, that when traffic and parking control is marked or sign-posted, such marking or sign-posting shall attest to council action thereon.
- (b) *Temporary restrictions.* The city, acting through the local law enforcement agency, may temporarily restrict traffic or parking for any private, public or experimental purpose. It is the duty of the local law enforcement agency to so restrict traffic or parking when a hazardous condition arises or is observed.
- (c) *Parking restrictions and prohibitions.* It is unlawful for any person to park a vehicle, except an emergency vehicle, contrary to lane restrictions or prohibitions painted on any curb, or contrary to sign-posted, fenced or barricaded restrictions or prohibitions.

(Code 1983, § 6.04; Ord. No. 2009-81209, § 1.i., 8-12-2009)

State law reference— Obedience to traffic signs, etc., Minn. Stats. § 169.06, subd. 4; authority to install traffic control devices, Minn. Stats. § 169.06, subd. 3.

Sec. 46-4. Motorized vehicles prohibited on sidewalks.

It is unlawful for any person to drive or operate a motorized vehicle on any public sidewalk or public property designated for use as a pedestrian walkway or bicycle trail, except when crossing the same for ingress and egress to private property lying on the other side thereof.

(Code 1983, § 6.12)

Sec. 46-5. Exhibition driving.

- (a) *Prima facie evidence.* It is prima facie evidence of exhibition driving when a motor vehicle stops, starts, accelerates, decelerates or turns at an unnecessary rate of speed so as to cause tires to squeal, gears to grind, soil to be thrown, engine backfire, fishtailing or skidding, or, as to two-wheeled or three-wheeled motor vehicles, the front wheel to lose contact with the ground or roadway surface.
- (b) *Unlawful act.* It is a misdemeanor for any person to do any exhibition driving on any street, parking lot or other public or private property, except when an emergency creates necessity for such operation to prevent injury to persons or damage to property; provided, that this section shall not apply to driving on a racetrack. For purposes of this section, the term "racetrack" means any track or premises whereon motorized vehicles, horses, dogs or other animals or fowl legally compete in a race or timed contest for an audience, the members of which have directly or indirectly paid a consideration for admission.

(Code 1983, § 6.21)

Secs. 46-6—46-28. Reserved.

ARTICLE II. STOPPING, STANDING AND PARKING ^[2]

[Sec. 46-29. Presumption.](#)

[Sec. 46-30. General parking prohibitions.](#)

[Sec. 46-31. Recreational camping trailer parking.](#)

[Sec. 46-32. Fire lanes or heavy traffic areas.](#)

[Sec. 46-33. Winter parking regulations.](#)

[Secs. 46-34—46-54. Reserved.](#)

Sec. 46-29. Presumption.

As to any vehicle parking in violation of this chapter when the driver thereof is not present, it shall be presumed that the owner parked the same, or that the driver was acting as the agent of the driver.

(Code 1983, § 6.40)

Sec. 46-30. General parking prohibitions.

It is unlawful for any person to stop, stand or park a vehicle except where 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) In an alley, except for such loading or unloading, and then only so long as reasonably necessary for such loading and unloading to or from adjacent premises; or
- (2) On any boulevard that has been curbed.

(Code 1983, § 6.41)

State law reference— Parking in certain places prohibited, Minn. Stats. § 169.34.

Sec. 46-31. Recreational camping trailer parking.

(a) *Definition.* The term "recreational camping vehicle," when used in this section, means any of the following:

- (1) A travel trailer, which is a vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational and vacation uses, and is permanently identified as a travel trailer by its manufacturer.
- (2) A pick-up coach, which is a structure designed to be mounted on a truck chassis for use as temporary dwelling for travel, recreation and vacation.
- (3) A motor home, which is a portable, temporary building to be used for travel, recreation and vacation, constructed as an integral part of a self-propelled vehicle.
- (4) A camping trailer, which is a folding structure, mounted on wheels and designed for travel, recreation and vacation uses.

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- (b) *Unlawful act.* It is unlawful for any person to leave or park a recreational camping vehicle on or within the limits of any street or right-of-way for a continuous period in excess of two hours, except where signs are erected designating the place as a campsite or in a mobile home park; provided, however, that during such two-hour period, such vehicle shall not be occupied as living quarters.

(Code 1983, § 6.42)

Sec. 46-32. Fire lanes or heavy traffic areas.

It is unlawful for any person to stop, park, or leave standing a motor vehicle:

- (1) In a sign-posted fire lane at any time; or
- (2) In lanes where, and during such hours as, parking is prohibited to accommodate heavy traffic during morning and afternoon rush hours.

(Code 1983, § 6.46)

Sec. 46-33. Winter parking regulations.

For the purpose of snow removal, between November 1 and May 2 each year, it is unlawful for any person to leave or park a vehicle or part of a vehicle, truck, trailer, recreational vehicle or camper on any street or avenue within the city for a period exceeding 48 hours.

(Code 1983, § 6.47)

Secs. 46-34—46-54. Reserved.

FOOTNOTE(S):

--- (2) ---

State Law reference— Stopping and parking, Minn. Stats. § 169.32 et seq.; authority to regulate parking, Minn. Stats. § 169.04(a)(1). ([Back](#))

ARTICLE III. RECREATIONAL MOTOR VEHICLES ¹³

[Sec. 46-55. Definitions.](#)

[Sec. 46-56. Purpose and intent.](#)

[Sec. 46-57. Certain statutes adopted.](#)

[Sec. 46-58. Emergency use.](#)

[Sec. 46-59. Other traffic ordinances.](#)

[Sec. 46-60. Unlawful operation.](#)

[Sec. 46-61. Special orders.](#)

[Sec. 46-62. Direct crossings.](#)

[Sec. 46-63. Equipment.](#)

PART I GENERAL ORDINANCES

[Sec. 46-64. Security requirements.](#)

[Sec. 46-65. Animals.](#)

[Sec. 46-66. Signal from officer to stop.](#)

[Sec. 46-67. Hours of operation.](#)

Sec. 46-55. 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:

All-terrain vehicle (ATV) means a motorized flotation-tired vehicle of between three and six low-pressure tires, which is limited in engine displacement of less than 800 cubic centimeters and which has a total dry weight of less than 900 pounds.

Deadman throttle or safety throttle means a device which, when pressure is removed from the engine accelerator or throttle, causes the motor to be disengaged from the driving mechanism.

Designated snowmobile trails means those trails, on public or private property, that are marked and maintained for the purpose of recreational use by snowmobiles.

Natural terrain means areas other than roadways, driveways, public and private parking lots, and other areas the surface of which has been intentionally modified for motor vehicle operation thereon.

Non-daylight hours means the period from one-half hour after sunset to one-half hour before sunrise, as well as any other time when there is not sufficient light to render clearly discernible persons and vehicles at a distance of 500 feet.

Operate means to ride in or on and control the operation of a recreational motor vehicle.

Operator means every person who operates or is in actual physical control of a recreational motor vehicle.

Owner means a person, other than a lienholder, having the property in or title to a recreational motor vehicle, entitled to the use or possession thereof.

Recreational motor vehicle means any self-propelled vehicle and any vehicle propelled or drawn by a self-propelled vehicle used for recreational purposes, including, but not limited to, snowmobiles, trail bikes or other all-terrain vehicles, hovercrafts, or vehicles registered as a motor vehicle under Minn. Stats. ch. 168 which is being used for off-road recreational purposes.

Right-of-way means the entire strip of land traversed by a highway or street in which the public owns a fee or an easement for roadway purposes.

Roadway means that portion of a highway or street improved, designed or ordinarily used for vehicle travel.

Sidewalk means the portion of a street between the curblines, or the lateral lines of a roadway and the adjacent property lines intended for use by pedestrians.

Snowmobile means a self-propelled vehicle designed for travel on snow or ice, steered by skis or runners.

Street means a public thoroughfare, roadway, alley or trail used for motor vehicle traffic which is not an interstate, trunk, county state-aid or county highway.

(Res. No. 20-2007, § 6.22, subd. 2, 9-12-2007)

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Sec. 46-56. Purpose and intent.

The purpose of this section is to provide reasonable regulations for the use of recreational motor vehicles, including snowmobiles and all-terrain vehicles, on public and private property in the city.

(Res. No. 20-2007, § 6.22, subd. 1, 9-12-2007)

Sec. 46-57. Certain statutes adopted.

Minn. Stats. §§ 84.81—84.929, together with rules and regulations promulgated thereunder, are hereby adopted by reference, incorporated herein, and made a part hereof, except as otherwise provided herein.

(Res. No. 20-2007, § 6.22, subd. 15, 9-12-2007)

Sec. 46-58. Emergency use.

Notwithstanding any prohibition in this section, a recreational motor vehicle may be operated on a public thoroughfare in an emergency during the period of time when, and at locations where, snow upon the roadway renders travel by automobile impractical.

(Res. No. 20-2007, § 6.22, subd. 10, 9-12-2007)

Sec. 46-59. Other traffic ordinances.

All city traffic ordinances shall apply to the operation of recreational motor vehicles upon streets and highways, except those ordinances relating to required equipment, and except those ordinances which by their nature have no application.

(Res. No. 20-2007, § 6.22, subd. 3, 9-12-2007)

Sec. 46-60. Unlawful operation.

Except as otherwise herein permitted, and except for a vehicle registered as a motor vehicle under Minn. Stats. ch. 168, it is unlawful for any person to operate a recreational motor vehicle within the limits of the city as follows:

- (1) On the portion of any right-of-way of any public highway, street, road, trail or alley used for motor vehicle travel other than U.S. 371 and State Road 2, except when making a direct crossing as provided in section 46-62, or in an emergency as provided in section 46-62, under which circumstances it is unlawful to operate a recreational motor vehicle on any such public highway, street, road, trail or alley at a speed greater than 15 miles per hour, or at a rate of speed greater than reasonable or proper under all surrounding circumstances. A snowmobile may also be operated upon the ditch bottom or the outside bank of trunk, county state-aid and county highways where such highways are so configured within the corporate limits.
- (2) On a sidewalk or boulevard, except that a direct crossing may be made in the same manner as provided for the direct crossing of a city street.
- (3) On privately owned property, except where the operator has written permission from the property owner in his possession, and except where the property owner has posted a clearly visible notice stating "recreational motor vehicles allowed" or words substantially similar.
- (4) At any place, and at any time, in a careless, reckless or negligent manner or heedlessly in disregard of the rights or safety of others, or in a manner so as to endanger or be likely to endanger or cause injury or damage to any person or property.

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- (5) So as to tow any person or thing except through use of a rigid tow bar attached to the rear of the vehicle.
- (6) At any place, and at any time, while under the influence of alcohol or a controlled substance as defined in Minn. Stats. §§ 152.01, subd. 4, and 152.02, which are hereby incorporated by reference.
- (7) Within 150 feet of any skating rink or sliding area, or in any other area where such operation would conflict with use or endanger other persons or property, except on streets as provided in this section, which may pass within less than 150 feet of such area.
- (8) On playgrounds, school grounds, or within city parks.
- (9) In a manner so as to create a loud, unnecessary or unusual noise which disturbs, annoys, or interferes with the peace and quiet of other persons.
- (10) With more than two people riding the vehicle at the same time.
- (11) In a manner that simulates a race, or that creates or causes unnecessary engine noise or the squealing of tires, or that causes tires to spin or slide upon the acceleration or stopping of such vehicle, or that causes said vehicle to turn with unnecessary abruptness or to sway from side to side.

(Res. No. 20-2007, § 6.22, subd. 4, 9-12-2007)

Sec. 46-61. Special orders.

In addition to the regulations provided in section 46-60, it is unlawful to operate a recreational motor vehicle in any public place where prohibited by order of the city. Such areas shall be appropriately sign-posted before such order shall become effective.

(Res. No. 20-2007, § 6.22, subd. 5, 9-12-2007)

Sec. 46-62. Direct crossings.

A recreational motor vehicle may make a direct crossing of a street or highway, except an interstate highway or freeway, provided:

- (1) The crossing is made at an angle of approximately 90 degrees to the direction of the street or highway and at a place where no obstruction prevents a quick and safe crossing.
- (2) The vehicle is brought to a complete stop before crossing the shoulder or main traveled way.
- (3) The operator yields the right-of-way to any vehicles or pedestrians at the intersection, or so close to the intersection as to constitute an immediate hazard.
- (4) In crossing a divided street or highway, the crossing is made only at an intersection of such street or highway with another public street or highway.
- (5) If the crossing is made during non-daylight hours, only if both front and rear lights are on.

(Res. No. 20-2007, § 6.22, subd. 6, 9-12-2007)

Sec. 46-63. Equipment.

It is unlawful for any person to operate a recreational motor vehicle not licensed for highway use, or licensed for highway use when operating on natural terrain within the limits of the city, unless it is equipped with the following:

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- (1) Standard mufflers which are properly attached and which reduce the noise of operation of the motor to the minimum necessary for operation. No person shall use a muffler cut-out, by-pass, straight pipe or similar device on a vehicle muffler.
- (2) Brakes adequate to control the movement of and to stop and hold the vehicle under any condition of operation.
- (3) A safety or so-called "deadman" throttle in operating condition.
- (4) When operated during non-daylight hours, at least one clear lamp attached to the front, with sufficient intensity to reveal persons and vehicles at a distance of at least 100 feet ahead during the hours of darkness and under normal atmospheric conditions. Such head lamp shall be so aimed that glaring rays are not projected into the eyes of an oncoming vehicle operator. The vehicle shall also be equipped with at least one red light plainly visible from a distance of 500 feet to the rear during the hours of darkness under normal atmospheric conditions.
- (5) Reflective material at least 16 inches on each side, forward of the handlebars or steering device of the vehicle, and at the highest practical point on any towed object, as to reflect light at a 90 degree angle.
- (6) A pennant flag of red or blaze material, of a size not less than 12 inches by 12 inches by nine inches, at a height of not less than six feet from the ground level at any time when the vehicle is operated on public streets.

(Res. No. 20-2007, § 6.22, subd. 8, 9-12-2007)

Sec. 46-64. Security requirements.

It is unlawful for any person to leave a recreational motor vehicle at a public space without locking the ignition, removing the key and taking the same with him.

(Res. No. 20-2007, § 6.22, subd. 9, 9-12-2007)

Sec. 46-65. Animals.

It is unlawful to intentionally drive, chase, run over or kill any animal with a recreational motor vehicle.

(Res. No. 20-2007, § 6.22, subd. 11, 9-12-2007)

Sec. 46-66. Signal from officer to stop.

It is unlawful for the operator of a recreational motor vehicle, after having received a visible or audible signal from any law enforcement officer to come to a stop, to:

- (1) Operate the vehicle in wanton or willful disregard of such signal,
- (2) Interfere with or endanger the law enforcement officer or any other person or vehicle, or
- (3) Increase his speed or attempt to flee or elude the officer.

(Res. No. 20-2007, § 6.22, subd. 12, 9-12-2007)

Sec. 46-67. Hours of operation.

It is unlawful to operate a recreational motor vehicle at any place in the city between the hours of 11:00 p.m. and 8:00 a.m.; provided, however, that it is permissible to operate such a vehicle between the hours of 11:00 p.m. on Friday and 1:00 a.m. on Saturday.

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(Res. No. 20-2007, § 6.22, subd. 13, 9-12-2007)

FOOTNOTE(S):

--- (3) ---

State Law reference— Off-highway vehicles, Minn. Stats. § 84.771 et seq.; off-highway motorcycles, Minn. Stats. § 84.787 et seq.; off-road vehicles, Minn. Stats. § 84.797 et seq.; snowmobiles, Minn. Stats. § 84.81 et seq.; all-terrain vehicles, Minn. Stats. § 84.92 et seq. ([Back](#))

Chapters 47—49 RESERVED

Chapter 50 UTILITIES ⁽¹⁾

ARTICLE I. - IN GENERAL

ARTICLE II. - MUNICIPAL UTILITIES IN GENERAL

ARTICLE III. - WATER SYSTEM

ARTICLE IV. - SEWERS AND SEWAGE DISPOSAL

ARTICLE V. - CROSS CONNECTION CONTROL

FOOTNOTE(S):

--- (1) ---

State Law reference— Municipal utilities, Minn. Stats. § 412.321 et seq. [\(Back\)](#)

ARTICLE I. IN GENERAL

[Sec. 50-1. Definitions.](#)

[Sec. 50-2. Fixing rates and charges for public utilities.](#)

[Secs. 50-3—50-22. Reserved.](#)

Sec. 50-1. 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:

Company, grantee, and franchisee mean any public utility system to which a franchise has been granted by the city.

Consumer and customer mean any user of a utility.

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

Service means providing a particular utility to a customer or consumer.

Utility means all utility services, whether the same be public city-owned facilities or furnished by public utility companies.

(Code 1983, § 3.01)

Sec. 50-2. Fixing rates and charges for public utilities.

All rates and charges for public utility franchisees, not regulated by an agency of the state, and except as otherwise provided by franchise ordinance or contract, shall be fixed and determined by the council and adopted by ordinance. Public utility company rates and charges may be fixed and determined by the respective franchisees in compliance with this section, as follows:

- (1) No rate or charge involving an increase thereof shall become effective until approved by the council. To request such increase the franchisee shall prepare its written petition setting forth the then current and proposed rates and charges, the effective date of the proposed increases (which may not be within 90 days of filing the petition), and the reason necessitating the proposed increase. Such petition shall be filed with the council by serving the same on the city clerk-treasurer in person or by certified mail, return receipt requested.
- (2) Within 30 days of such filing the council shall adopt a resolution and serve the same upon the resident superintendent of the franchisee in like manner as the petition may be served either approving the proposed increases or ordering a hearing thereon to be held within 60 days thereof. If no such action is taken by the council, such increase shall take effect on the date stated in the franchisee's petition as though approved by the council.
- (3) Prior to the hearing date, the franchisee shall, without delay, comply with the city's reasonable requests for examination and copying of all books, records, documents and other information, relating to the subject matter of the petition. Should the franchisee unreasonably delay, fail or refuse such requests, the same shall be grounds for a continuance of the hearing date.
- (4) Notice of hearing shall be in the form and manner stated in the resolution. At the hearing all persons wishing to be heard thereon shall be afforded a reasonable opportunity. Findings and a decision shall be made by the council within 15 days after the hearing and served upon the franchisee.

(Code 1983, § 3.03)

Secs. 50-3—50-22. Reserved.

ARTICLE II. MUNICIPAL UTILITIES IN GENERAL

DIVISION 1. - GENERALLY

DIVISION 2. - RATES AND CHARGES

DIVISION 1. GENERALLY

[Sec. 50-23. Contractual contents.](#)

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Sec. 50-23. Contractual contents.

Provisions of this chapter relating to municipal utilities shall constitute portions of the contract between the city and all consumers of municipal utility services, and every such consumer shall be deemed to assent to the same. All contracts between franchisees and consumers of utility services other than municipal shall be in strict accord with the provisions of this chapter.

(Code 1983, § 3.04)

Sec. 50-24. Ownership of municipal utilities.

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

(Code 1983, § 3.05, subd. 4)

Sec. 50-25. Municipal utility service outside the city.

The city is hereby authorized to furnish municipal utility service to consumers outside the city, provided, that such consumers specifically agree to all of the terms of this Code, including, but not limited to, rules, regulations and rates adopted thereunder and the right to specially assess delinquent services, charges and penalties.

(Code 1983, § 3.05, subd. 10)

Sec. 50-26. Right of entry.

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

(Code 1983, § 3.05, subd. 5)

Sec. 50-27. Application, connection and sale of service.

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

(Code 1983, § 3.05, subd. 2)

Sec. 50-28. Discontinuance of service.

All municipal utilities may be shut off or discontinued whenever it is found that:

- (1) The owner or occupant of the premises served, or any person working on any connection with the municipal utility systems, has violated any requirement of the city Code relative thereto, or any connection therewith;
- (2) Any charge for a municipal utility service, or any other financial obligation imposed on the present owner or occupant of the premises served, is unpaid after due notice thereof; or

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- (3) There is fraud or misrepresentation by the owner or occupant in connection with any application for service or delivery or charges therefor.

(Code 1983, § 3.05, subd. 3)

Sec. 50-29. Unlawful acts.

- (a) Connection with municipal utility system. It is unlawful for any person to make any connection with, opening into, use, or alter in any way any municipal utility system without first having applied for and received written permission to do so from the city.
- (b) Connecting or turning on disconnected utility. It is unlawful for any person to turn on or connect a utility when the same has been turned off or disconnected by the city for nonpayment of a bill, or for any other reason, without first having obtained a permit to do so from the city.
- (c) Circumvention of meters and unlawful use of utilities. It is unlawful for any person to jumper or by any means or device fully or partially circumvent a municipal utility meter, or to knowingly use or consume unmetered utilities or use the services of any utility system, the use of which the proper billing authorities have no knowledge.

(Code 1983, § 3.05, subd. 7)

Secs. 50-30—50-46. Reserved.

DIVISION 2. RATES AND CHARGES

[Sec. 50-47. Fixing rates and charges for municipal utilities.](#)

[Sec. 50-48. Service charges.](#)

[Sec. 50-49. Water meters.](#)

[Sec. 50-50. Meter test.](#)

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[Sec. 50-52. Billing, payment and delinquency.](#)

[Sec. 50-53. Municipal utility services and charges; a lien upon premises for services.](#)

[Secs. 50-54—50-79. Reserved.](#)

Sec. 50-47. Fixing rates and charges for municipal utilities.

All rates and charges for municipal utilities, including, but not by way of limitation, rates for service, permit fees, deposit, connection and meter testing fees, disconnection fees, reconnection fees including penalties for nonpayment if any, shall be fixed, determined and amended by the council and adopted by resolution. No such resolution shall be adopted before a public hearing has been held thereon. Notice of such public hearing shall be published once at least ten days prior thereto. Such resolution, containing the effective date thereof, shall be kept on file and open to inspection in the office of the city clerk-treasurer and shall be uniformly enforced. For the purpose of fixing such rates and charges, the council may categorize and classify under the various types of service, provided that such categorization and classification shall be included in the resolution authorized by this section.

(Code 1983, § 3.02)

Sec. 50-48. Service charges.

- (a) *Generally.* It is the intent of this section that the sewer service charges shall cover the cost of operating and maintaining the system. The superintendent shall maintain records suitable for determining the operation and maintenance costs for the sewage treatment works and shall furnish the council with an annual report of such costs. This review shall provide information so that the council may determine whether or not the sewer service charges are providing sufficient funds for the operation and maintenance costs and shall make recommendations regarding surcharges where it appears that existing surcharges do not adequately compensate the city for the costs of treating industrial wastes. The council shall annually review the above annual report of the operation and maintenance costs of the sewage treatment works and shall make such adjustments in the user charge system to:
- (1) Maintain the proportionate distribution of operating and maintenance costs among users and user classes;
 - (2) Generate sufficient revenue to pay the total operation, maintenance and replacement costs necessary for the proper operation and maintenance of the treatment works; and
 - (3) Apply excess revenues collected from a class of users to the costs of operation and maintenance attributable to that class for the next year.
- (b) *Bills.* An account for services will be kept for each user and a separate account for separate premises. Each user will be liable for service to his premises. Bills for service will be rendered every three months and will be due within ten days of their date, but failure of the city to render a bill or of user to receive a bill will not excuse payment. Bills will be mailed to users at the addresses shown on applications on the day of their date. The charge for sewer service may be included on the water bill, but if so shall be separately stated thereon. The city clerk-treasurer will keep accounts and render bills; he will receive payment of bills.
- (c) *Sewer fund and payment.* All sewer service charges, when collected, and all monies received from the sale of any sewer facilities or equipment or any byproducts of sewage treatment or disposal, shall be placed in a separate fund and shall be used first to pay the normal, reasonable and current costs of operation, maintenance, and replacement of the facility, and the balance shall be used as the council may direct and as provided by law.
- (d) *Sewer service charges lien against property.* All sewer service charges are hereby made a lien against the property served. The lien shall be valid against third parties after written notice of the lien, certified by the clerk-treasurer, is recorded in the office of the county recorder. The city may also pursue any other remedies at law available to it for collection of the delinquent charges.
- (e) *Rates.* The basic sewer service rate and charge as of the date of this section shall be \$5.00 per month per equivalent dwelling unit, for all equivalent dwelling units other than those located on Tract 33 and other units subscribed to by the Leech Lake Reservation business committee. The basic sewer service rate and charge as of the date of this section for all equivalent dwelling units covered by Subscriber Leech Lake Reservation business committee shall be \$3.25 per month. Such rate shall continue until altered or changed by the council and shall be based upon the cost of operating, maintaining and replacing the system and any extension thereof shall be as established by the city.
- (f) *Surcharge rate.* The surcharge rate for all users other than residential shall be as established by the city.
- (g) *Audit.* The city shall cause to be performed biannually an independent audit of the operation, maintenance and replacement costs and expenses of the system and the user charges received during said period.
- (h) *Penalty.* All user accounts which are in arrears more than 30 days will be charged interest at the then legally prevailing interest rate.
- (i) *Notification of costs.* The council shall cause to be published annually in the newspaper in the city or such other paper having comparable circulation in the Cass Lake area, a notification of the costs of

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operating, maintaining, and replacing the system along with the user charge fees received from said system.

- (j) *Appeal.* Any user of the system who wishes to contest the user charge attributable to such user may appeal the same to the council and if such appeal is denied by the council to an arbitration board of three persons, with one arbitrator to be selected by the council, one by the user and the third by the first two arbitrators chosen.

(Code 1983, § 3.40, subd. 7)

Sec. 50-49. Water meters.

All water meters exceeding one inch in size shall be purchased and maintained by the property owner. All repairs of water meters not resulting from normal usage shall be the responsibility of the property owner, as shall any maintenance and repair of meters which are not of the remote reading type. Any meter 20 years old or older, or in need of replacement, shall be replaced with a remote type which shall be purchased by the city and shall be the maintenance responsibility of the city. All water meters shall be installed and controlled by the city. Any remote type meter in need of replacement by reason of normal usage shall be furnished by the city, installed at the expense of the city, and the city shall thereafter own such meter.

(Code 1983, § 3.30, subd. 10)

Sec. 50-50. Meter test.

Whenever a consumer shall request the city to test any utility meter in use by him, such a request shall be accompanied by a cash deposit for each meter to be tested. If any such meter is found to be inaccurate the same shall be replaced with an accurate meter and the deposit thereon refunded. If the meter shall be found to be accurate in its recordings or calculations it shall be reinstalled and the deposit shall be retained by the city to defray the cost of such test.

(Code 1983, § 3.05, subd. 6)

Sec. 50-51. Unmetered service.

Unmetered service may be provided for construction, flooding skating rinks, and any other purpose. Such service shall be at a duly adopted rate. Where it is difficult or impossible to accurately measure the amount of water taken, unmetered service may be provided and the unmetered rate applied; provided, however, that by acceptance thereof the consumer agrees to have the city estimate the water used. In so estimating the city shall consider the use to which the water is put and the length of time of unmetered service.

(Code 1983, § 3.30, subd. 9)

Sec. 50-52. Billing, payment and delinquency.

All municipal utilities shall be billed monthly and a utilities statement shall be mailed to each consumer. All utility charges shall be delinquent if they are unpaid within ten days after the date of the bill. Payments received by mail postmarked on or before the tenth day shall be deemed paid within said period. A penalty shall be added to, and become part of, all delinquent utility bills. If service is suspended due to delinquency it shall not be restored at that location until a reconnection charge has been paid for each utility reconnected in addition to amounts owed for service and penalties.

(Code 1983, § 3.05, subd. 1)

Sec. 50-53. Municipal utility services and charges; a lien upon premises for services.

- (a) Payment for all municipal utility services and charges shall be the primary responsibility of the fee owner of the premises served and shall be billed to such owner unless otherwise contracted for and authorized in writing by the fee owner and any other person (such as a tenant, contract purchaser, manager, etc.), as agent for the fee owner, and consented to by the city. If the utility services and charges are for a single metered multi-unit rental residential building, the owner of said building shall be the customer of record and this responsibility shall not be waived by contract or otherwise. The city may collect the same in a civil action or, in the alternative and at the option of the city, as otherwise provided in this division.
- (b) Each such account is hereby made a lien upon the premises served. All such accounts which are more than 45 days past due may, when authorized by resolution of the council, be certified by the city clerk-treasurer of the city, to the county auditor, and the city clerk-treasurer in so certifying shall specify the amount thereof, the description of the premises served, and the name of the owner thereof. The amount so certified shall be extended by the auditor on the tax rolls against such premises in the same manner as other taxes, collected by the county treasurer, and paid to the city along with other taxes.

(Code 1983, § 3.05, subd. 9)

Secs. 50-54—50-79. Reserved.

ARTICLE III. WATER SYSTEM

[Sec. 50-80. Additional rules and regulations.](#)

[Sec. 50-81. Code requirement.](#)

[Sec. 50-82. Location of operable curb stop requirement.](#)

[Sec. 50-83. Repair of leaks.](#)

[Sec. 50-84. Abandoned services penalties.](#)

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[Sec. 50-86. Prohibited uses or restricted hours.](#)

[Sec. 50-87. Private fire hose connections.](#)

[Sec. 50-88. Opening hydrants.](#)

[Sec. 50-89. Connections required.](#)

[Secs. 50-90—50-106. Reserved.](#)

Sec. 50-80. Additional rules and regulations.

The council may, by resolution, adopt such additional rules and regulations relating to placement, size and type of equipment as it, in its discretion, deems necessary or desirable. Copies of such additional rules and regulations shall be kept on file in the office of the city clerk-treasurer, and uniformly enforced.

(Code 1983, § 3.30, subd. 12)

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Sec. 50-81. Code requirement.

All piping, connections and appurtenances shall be installed and performed strictly in accordance with the state plumbing code. Failure to install or maintain the same in accordance therewith, or failure to have or permit required inspections shall, upon discovery by the city, be an additional ground for termination of water service to any consumer.

(Code 1983, § 3.30, subd. 11)

Sec. 50-82. Location of operable curb stop requirement.

Each property shall have an operable curb stop (water shut-off valve) for each service pipe connected to a city main. It is unlawful for any person to receive title to any improved lot or parcel of property located within the city without showing proof by affidavit, sworn to by the grantor and grantee of the subject property, affirmatively stating the location of an operable curb stop (water shut-off valve) servicing the subject property. In lieu of such affidavit, an affidavit of a licensed plumber may be submitted affirmatively stating the information required above. It is unlawful for any person to intentionally make a false statement in any affidavit. Such affidavits shall be filed in the office of the city clerk-treasurer concurrently with the property transfer.

(Code 1983, § 3.31)

Sec. 50-83. Repair of leaks.

It is the responsibility of the consumer or owner of abutting premises to maintain the service pipe from the main. In case of failure upon the part of any consumer or owner to repair any leak occurring in his service pipe within 24 hours after oral or written notice has been given the owner or occupant of the premises, the water may be shut off and will not be turned on until a reconnection charge has been paid and the water service has been repaired. When the waste of water is great or when damage is likely to result from the leak, the water will be turned off if the repair is not proceeded with immediately.

(Code 1983, § 3.30, subd. 3)

Sec. 50-84. Abandoned services penalties.

All service installations connected to the water system that have been abandoned or, for any reason, have become useless for further service shall be disconnected at the main. The owner of the premises served by this service shall pay the cost of the excavation. The city shall perform the actual disconnection and all pipe and appurtenances removed from the street right-of-way shall become the property of the city. When new buildings are erected on the site of old ones, and it is desired to increase the old water service, a new permit shall be taken out and the regular tapping charge shall be made as if this were a new service. It is unlawful for any person to cause or allow any service pipe to be hammered or squeezed together at the ends to stop the flow of water, or to save expense in improperly removing such pipe from the main. Also, such improper disposition thereof shall be corrected by the city and the cost incurred shall be borne by the person causing or allowing such work to be performed.

(Code 1983, § 3.30, subd. 3)

Sec. 50-85. Service pipes.

Every service pipe must be laid in such manner as to prevent rupture by settlement. The service pipe shall be placed not less than seven feet below the surface in all cases so arranged as to prevent rupture and stoppage by freezing. Frozen service pipes between the main and the building shall be the responsibility of the owner. Service pipes must extend from the main to the inside of the building; or if not taken into a building then to the hydrant or other fixtures which they are intended to supply. A valve, the

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same size as the service pipe, shall be placed close to the inside wall of the building, ahead of the meter and well protected from freezing. Joints on copper tubing shall be flared and kept to a minimum. Not more than one joint shall be used for a service up to 70 feet in length. All joints shall be left uncovered until inspected. Minimum size connection with the water mains shall be three-fourths of an inch in diameter.

(Code 1983, § 3.30, subd. 4)

Sec. 50-86. Prohibited uses or restricted hours.

Whenever the city shall determine that a shortage of water threatens the city, it may entirely prohibit water use or limit the times and hours during which water may be used from the city water system for lawn and garden sprinkling, irrigation, car washing, air conditioning, and other uses, or either or any of them. It is unlawful for any water consumer to cause or permit water to be used in violation of such determination after public announcement thereof has been made through the news media specifically indicating the restrictions thereof.

(Code 1983, § 3.30, subd. 6)

Sec. 50-87. Private fire hose connections.

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

(Code 1983, § 3.30, subd. 7)

Sec. 50-88. Opening hydrants.

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

(Code 1983, § 3.30, subd. 8)

Sec. 50-89. Connections required.

All new and existing structures shall be connected to the municipal water supply as soon as made available.

(Ord. No. 12282005, § 5.7(E), 1-25-2006)

Secs. 50-90—50-106. Reserved.

ARTICLE IV. SEWERS AND SEWAGE DISPOSAL

[Sec. 50-107. Definitions.](#)

[Sec. 50-108. Notice of violation.](#)

[Sec. 50-109. Powers and authority of inspectors.](#)

[Sec. 50-110. Use of municipal sewer system required.](#)

[Sec. 50-111. Building sewer and connections and street excavations relating thereto.](#)

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[Sec. 50-112. Use of the public sewers.](#)

[Secs. 50-113—50-137. Reserved.](#)

Sec. 50-107. 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:

BOD or *biochemical oxygen demand* means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees, expressed in milligrams per liter.

Building drain means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet (1.5 meters) outside the inner face of the building wall.

Building sewer means the extension from the building drain to the public sewer or other place of disposal.

Combined sewer means a sewer receiving both surface runoff and sewage.

Debt service charge means that charge resulting from the capital costs of the initial construction of the sanitary treatment system and plant.

Garbage means solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sale of produce.

Industrial wastes means the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

Natural outlet means any outlet into a watercourse, pond, ditch, lake or other body of surface water or groundwater.

Normal domestic sewage means that sewage normally produced by one residential equivalent dwelling unit.

Notice means a notice in writing directed to the owner or other person affected for the time specified by this section stating briefly the condition which is the reason for the notice and the consequences which would result upon failure to comply with the terms of the notice. A notice shall be deemed given when either it is personally served on the person to whom it is directed or is mailed to him at his last known address. If the owner cannot be reached by mail so addressed, service may be made upon the occupant.

NPDES permit or *National Pollutant Discharge Elimination System permit* means the system for issuing, conditioning and denying permits for the discharge of pollutants from point sources into the navigable waters, the contiguous zone, and the oceans by the Environmental Protection Agency pursuant to the Federal Water Pollution Control Act of 1972, sections 402 and 405.

Operation and maintenance means those items and costs incurred in conjunction with the sanitary sewage treatment system which are necessary to operate and maintain such system in accordance with its designed perimeters.

pH means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

Properly shredded garbage means the wastes from the preparation, cooking, and dispensing of food that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch (1.27 centimeters) in any dimension.

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Public sewer means a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

Replacement means that part of the operating and maintenance costs of the sanitary sewage treatment system which are attributable to replacement of certain specified items such as lift pumps.

Sanitary sewer means a sewer which carries sewage and to which stormwaters, surface waters and groundwaters are not intentionally admitted.

Sewage means a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such groundwaters, surface waters, and stormwaters as may be present.

Sewage treatment plant means any arrangement of devices and structures used for treating sewage.

Sewage works means all facilities for collecting, pumping, treating, and disposing of sewage.

Sewer means a pipe or conduit for carrying wastes.

Sewer service charge means that charge made to users for the privilege of using the sanitary sewage treatment facilities in order to cover the cost of operation, maintenance, and replacement of such system.

Slug means any discharge of water, sewage or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average 24 hour concentration or flows during normal operation.

Storm drain or *storm sewer* means a sewer which carries stormwaters and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

Superintendent means the superintendent of utilities for the city or his authorized deputy, agent, or representative.

Suspended solids means solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.

User charge system means that system developed to apportion the charges to all users in an equitable and proportionate manner.

User classes refers to the different types and classifications of different users of the sanitary sewage treatment system and such classes under the terms of this section shall be as follows:

- (1) *Residential* means a single-family private dwelling unit.
- (2) *Commercial* means those users whose premises are owned and operated primarily for commercial purposes as opposed to a private residential dwelling unit and who would not be included under the industrial, governmental or institutional users set forth below.
- (3) *Industrial* means those users whose premises are owned and operated primarily for industrial purposes including manufacturing, assembly, and other commonly recognized industrial activities.
- (4) *Governmental* and *institutional* mean those users whose premises are owned and operated by a federal, state or municipal government, or any subdivision thereof, or those premises operated privately but as an institution offering care or other services to the general public or to a specific group thereof.

Watercourse means a channel in which a flow of water occurs, either continuously or intermittently.

(Code 1983, § 3.40, subd. 1)

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Sec. 50-108. Notice of violation.

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

(Code 1983, § 3.40, subd. 8)

Sec. 50-109. Powers and authority of inspectors.

- (a) The superintendent and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this section. The superintendent or his representative shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.
- (b) While performing necessary work on private properties, the superintendent or duly authorized employees of the city shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the city employees and the city shall indemnify the company against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in section 50-112(h).
- (c) The superintendent and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all private properties through which the city holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, of said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

(Code 1983, § 3.40, subd. 6)

Sec. 50-110. Use of municipal sewer system required.

- (a) It is unlawful for any person to place or deposit or permit to be deposited in an unsanitary manner upon public or private property within the city, or in any area under its jurisdiction, any sewage or industrial wastes.
- (b) It is unlawful to discharge to any natural outlet within the city or any area under its jurisdiction any sewage or industrial waste unless it has been suitably treated as provided hereinafter.
- (c) Except as provided in subsection (e) of this section, it is unlawful to construct or maintain any privy, septic tank, cesspool or such facility intended or used for the disposal of sewage. Any prior ordinance of the city relating to construction or maintenance of any privy, septic tank, cesspool or similar facility, to the extent inconsistent herewith, is hereby superseded.
- (d) The owner of every residence, business, or industrial building abutting upon any street or alley in which public sewer and water mains are maintained shall, at his own expense, install a toilet in the building and connect it with the public sewer and water mains within 30 days after notice to do so, provided the public sewer and the public water main is within 100 feet of the property line. If such owner fails to provide for such toilet after notice to do so, the city shall provide for the installation of such toilet and charge the cost against the property as a special assessment.

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- (e) So long as a public sewer and a water main is not available under subsection (d) of this section, the building sewer shall be connected to a private disposal system complying with other city Code provisions and with all requirements of the state pollution control agency. At such time as a public sewer becomes available to the property, the building sewer shall be connected to it and use of any septic tank, cesspool or other private sewage disposal facility shall cease.
- (f) Any privy, septic tank, cesspool or other such facility intended or used for the disposal of sewage which is constructed or maintained in violation of any of the provisions of this section is declared to be a public nuisance and the city may abate the same in the manner provided by law.
- (g) Notwithstanding any other provisions herein to the contrary, no new connections to the sanitary sewer system shall be allowed unless and until it has been determined by the council that sufficient capacity is available in all downstream facilities for such connection, including, but not limited to capacity for flow, BOD₅, and suspended solids.

(Code 1983, § 3.40, subd. 2)

Sec. 50-111. Building sewer and connections and street excavations relating thereto.

- (a) No building sewer shall be built, repaired, extended or connected with the public sewer without a permit.
- (b) No building sewer shall be built, repaired, extended or connected with the public sewer except by a qualified person, a permit shall be issued only to the person doing the work.
- (c) All applications for sewer permits shall be made to the city clerk-treasurer by the person employed to do the work. The application shall be accompanied by a plan and drawings showing the proposed work.
- (d) Before a permit is given on the application, the city may inspect the premises and the proposed installation to ascertain if the installation is proper and in compliance with the local and state laws, city Code provisions and regulations, and that the statements in the application are true. All plumbing installations shall comply with the state plumbing code. After the application has been approved by the council, and the applicant has paid to the city clerk-treasurer such permit fee as the council may set by resolution from time to time, the clerk-treasurer shall issue the permit.
- (e) Upon issuance of the permit, the person to whom it is granted may proceed with the work in accordance with the permit granted. The applicant shall notify the city clerk-treasurer of the progress of the work at such stages during the construction as the city may direct and in particular shall notify the clerk-treasurer when the building sewer is complete and ready for connection with the public sewer. The city shall be given an opportunity to inspect the work after it is completed and shall require the work to be done satisfactorily and in compliance with law before excavations are filled.
- (f) All connections with the public sewer shall be made with cast iron, vitrified stoneware, PVC or ABS plastic pipe, and shall comply with all current state plumbing code standards. All joints and connections shall be gastight and watertight. The size, slope and depth of the building sewer shall be subject to the approval of the city, but in no event shall the internal diameter be less than four inches, and a slope of one-fourth inch to the foot shall be used wherever practical. Pipes shall be inspected by the city before being laid and be subject to its approval. The connections of the building sewer with the public sewer shall be made at the "Y" or riser branch designated for the property, if suitable; any other locations for the connection shall be only as directed by the city.
- (g) Every building shall be separately and independently connected with the public sewer.
- (h) The council may from time to time by resolution adopt regulations not inconsistent with this section governing construction of the building sewers and connections to the public sewer.
- (i) All excavations for building sewer installations shall be adequately guarded with barricades and lights and other appropriate warning devices so as to protect the public from hazard. Streets, alleys,

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sidewalks and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city.

- (j) The applicant shall indemnify and save harmless the city from any claims of injury, loss or damage to third parties arising out of the construction work; this provision is a condition to the issuance of the permit. The city may, as a condition to issuance of the permit, require the applicant to file a corporate surety bond for faithful performance of the work and to indemnify and save harmless the city from any negligence in performance, the bond to be for a period of two years.

(Code 1983, § 3.40, subd. 3)

Sec. 50-112. Use of the public sewers.

- (a) It is unlawful for any person to discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer.
- (b) Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the superintendent. Industrial cooling water or unpolluted process waters may be discharged, on approval of the superintendent, to a storm sewer, combined sewer, or natural outlet.
- (c) It is unlawful for any person to discharge or cause to be discharged any of the following described waters or wastes to any public sewers:
 - (1) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas.
 - (2) Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including, but not limited to, cyanides in excess of 0.25 mg/l as CN in the wastes as discharged to the public sewer.
 - (3) Any waters or wastes having a pH lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.
 - (4) Solid or viscous substances in quantities of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
- (d) It is unlawful for any person to cause to be discharged the following described substances, material waters, or wastes if it appears likely in the opinion of the superintendent that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances prohibited are:
 - (1) Any liquid or vapor having a temperature higher than 150 degrees Fahrenheit (65 degrees Celsius).
 - (2) Any waters or wastes containing fats, wax, grease, or oils, whether emulsified or not, in excess of 100 mg/l or containing substances which may solidify or become viscous at temperatures between 32 and 150 degrees Fahrenheit (0 and 65 degrees Celsius).

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- (3) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-quarters horsepower (0.76 hp. metric) or greater shall be subject to review and approval of the superintendent.
 - (4) Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions, whether neutralized or not.
 - (5) Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the superintendent for such materials.
 - (6) Any waters or wastes containing phenols or other taste- or odor-producing substances, in such concentrations exceeding limits which may be established by the superintendent as necessary, after treatment of the composite sewage, to meet the requirements of the state, federal, or other public agencies of jurisdiction for such discharge to the receiving waters.
 - (7) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the superintendent in compliance with applicable state or federal regulations.
 - (8) Any waters or wastes having a pH in excess of 9.5.
 - (9) Materials which exert or cause:
 - a. Unusual concentrations of inert suspended solids such as, but not limited to, Fullers earth, lime slurries, and lime residues or of dissolved solids such as, but not limited to, sodium chloride and sodium sulfate;
 - b. Excessive discoloration such as, but not limited to, dye wastes and vegetable tanning solution;
 - c. Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works; or
 - d. Unusual volume of flow or concentration of wastes constituting "slugs" as defined in section 50-107
 - (10) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amendable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
 - (11) Any waters or wastes which have characteristics lighter than the following limits:
 - a. BOD not greater than 250 milligram per liter.
 - b. Containing not more than 250 milligram per liter of suspended solids.
- (e) If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in subsection (d) of this section, and which, in the judgment of the superintendent, may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the superintendent may:
- (1) Reject the wastes,
 - (2) Require pretreatment to an acceptable condition for discharge to public sewers as set forth in 40 CFR 403,
 - (3) Require control over the quantities and rates of discharge, and/or
 - (4) Require payment of a surcharge to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of subsection (j) of this section; said surcharge shall be based on the BOD strength of the wastes; suspended solid content of

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wastes and/or volume of discharge, whichever factor may be controlling, in the extra loading imposed on the city's treatment works.

- (f) If the superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the superintendent, and subject to the requirements of all applicable codes, city Code provisions, and laws.
- (g) Grease, oil, and sand interceptors shall be provided when, in the opinion of the superintendent, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the superintendent and shall be located as to be readily and easily accessible for cleaning and inspection.
- (h) Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.
- (i) When required by the superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the superintendent. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times.
- (j) All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this section shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater", published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb and property.
- (k) No statement contained in this section shall be construed as preventing any special agreement or arrangement between the city and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the city for treatment, subject to payment therefor, by the industrial concern.
- (l) Pursuant to NPDES Permit #MNL049981, the effluent flow of 65,335,000 gallons per year permitted from the sewer treatment system shall be disposed of by irrigations on 200 acres of land with a fecal coliform count of less than 200 MPN per 100 ML.

(Code 1983, § 3.40, subd. 4)

Secs. 50-113—50-137. Reserved.

ARTICLE V. CROSS CONNECTION CONTROL

[Sec. 50-138. Cross connection—Defined.](#)

[Sec. 50-139. Same—Prohibitions.](#)

[Sec. 50-140. Inspections.](#)

[Sec. 50-141. Right to entry.](#)

[Sec. 50-142. Discontinuance of water service.](#)

[Sec. 50-143. Public endangerment.](#)

[Sec. 50-144. Copy on file.](#)

Sec. 50-138. Cross connection—Defined.

A cross connection shall be defined as any physical connection or arrangement between two otherwise separate systems, one of which contains potable water from the city water system, and the other, water from a private source, water of unknown or questionable safety or steam, gases, or chemicals, whereby there may be a differential between the two systems.

(Code 1983, § 3.32, subd. 1)

Sec. 50-139. Same—Prohibitions.

It is unlawful for any person, firm or corporation to establish or permit to be established or maintain or permit to be maintained any cross connection. No interconnection shall be established whereby potable water from a private, auxiliary or emergency water supply other than the regular public water supply of the city may enter the supply or distribution system of said city, unless such private, auxiliary or emergency water supply and the method of connection and use of such supply shall have been approved by the city and by the state department of health in accordance with the state plumbing code.

(Code 1983, § 3.32, subd. 2)

Sec. 50-140. Inspections.

It shall be the duty of the city to cause inspections to be made of all properties served by the public water system as deemed possible. The frequency of inspections and re-inspections based on potential health hazards involved shall be as established by the city and as approved by the state department of health.

(Code 1983, § 3.32, subd. 3)

Sec. 50-141. Right to entry.

Upon presentation of credentials, the representative of the city shall have the right to request entry at any reasonable time to examine any property served by a connection to the public water system of the city for cross connections. On request, the owner, lessee or occupant of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system on such property.

(Code 1983, § 3.32, subd. 4)

Sec. 50-142. Discontinuance of water service.

The city is hereby authorized and directed to discontinue water service to any property wherein any connection in violation of this section exists, and to take such other precautionary measures deemed necessary to eliminate any danger of contamination of the public water system. Water service to such property shall not be restored until the cross connection has been eliminated in compliance with the provisions of this section.

(Code 1983, § 3.32, subd. 5)

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Sec. 50-143. Public endangerment.

If it is determined by the city that a cross connection or an emergency endangers public health, safety or welfare and requires immediate action, and a written finding to that effect is filed with the city clerk-treasurer and delivered to the customer's premises, service may be immediately discontinued.

(Code 1983, § 3.32, subd. 6)

Sec. 50-144. Copy on file.

A complete copy of the rules and regulations protecting the city's potable water supply is on file in the office of the city administrator and open to inspection and use by the public.

(Code 1983, § 3.32, subd. 7)

Chapters 51—100 RESERVED