

# **CITY OF SAUK CENTRE, MINNESOTA**

## **CODE OF ORDINANCES**

*2017 S-8 Supplement contains:*

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**SAUK CENTRE, MINNESOTA**

**CITY OFFICIALS**

Warren Stone  
Vicki Willer

Mayor  
City Administrator/Clerk

**CITY COUNCIL**

David Thomas  
Keith Johnson  
Heidi Leach  
Diane Kelly

Councilmember  
Councilmember  
Councilmember  
Councilmember

**ORDINANCE NO. 664**

**AN ORDINANCE ENACTING A CODE OF ORDINANCES FOR THE CITY OF SAUK CENTRE, COUNTY OF STEARNS, STATE OF MINNESOTA, AMENDING, RESTATING, REVISING, UPDATING, CODIFYING AND COMPILING CERTAIN ORDINANCES OF THE CITY DEALING WITH THE SUBJECTS EMBRACED IN THE CODE OF ORDINANCES, AND PROVIDING PENALTIES FOR THE VIOLATION OF THE CODE OF ORDINANCES**

WHEREAS Minnesota Statutes §§ 415.02 and 415.021, as they may be amended from time to time, authorize the city to cause its ordinances to be codified and printed in a book;

NOW THEREFORE the City Council of the City of Sauk Centre, Minnesota, ordains:

- Section 1. The general ordinances of the city as amended, restated, revised, updated, codified and compiled in book form, including penalties for the violations of various provisions thereof, are hereby adopted and shall constitute the “Code of Ordinances of the City of Sauk Centre.” This Code of Ordinances also adopts by reference certain statutes and administrative rules of the State of Minnesota as named in the Code of Ordinances.
- Section 2. The Code of Ordinances as adopted in Section 1 above shall consist of the following titles:
- Administration
  - Public Works
  - Traffic Code
  - General Regulations
  - Business Regulations
  - General Offenses
  - Land Usage
  - Table of Special Ordinances
  - Parallel References
- Section 3. All prior ordinances, pertaining to the subjects treated in the Code of Ordinances, shall be deemed repealed from and after the effective date of this ordinance, except as they are included and re-ordained in whole or in part of the Code of Ordinances; provided, this repeal shall not affect any offense committed, penalty incurred or any right established prior to the effective date of this ordinance, nor shall this repeal affect the provisions of ordinances levying taxes, appropriating money, annexing or detaching territory, establishing franchises or granting special rights to certain persons, authorizing public improvements, authorizing the issuance of bonds or borrowing money, authorizing the purchase or sale of real or personal property, granting or accepting easements, plat or dedication of land to public use, vacating or setting the boundaries of streets or other public places; nor shall this repeal affect any other ordinance of a temporary or special nature or pertaining to subjects not contained in or covered by the Code of Ordinances. All fees established in prior ordinances codified in this Code shall remain in effect unless amended in this

Code or until an ordinance adopting a fee schedule is adopted or amended.

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**Sauk Centre - Adopting Ordinance**

- Section 4. This ordinance adopting the Code of Ordinances shall be sufficient publication of any ordinance included in it and not previously published in the city's official newspaper. The City Administrator shall cause a substantial quantity of the Code of Ordinances to be printed for general distribution to the public at actual cost and shall mail a copy of the Code of Ordinances to the County Law Library or its designated depository. The official copy of this Code of Ordinances shall be marked and kept in the office of the City Administrator.
- Section 5. The Code of Ordinances is declared to be prima facie evidence of the law of the city and shall be received in evidence as provided by Minnesota Statutes by the Courts of the State of Minnesota.
- Section 6. This ordinance adopting the Code of Ordinances, and the Code of Ordinances itself, shall take effect upon the publication of this ordinance in the city's official newspaper.

The foregoing ordinance was duly passed and adopted by the Council of the City of Sauk Centre, Minnesota at its regular meeting on the 7th day of November, 2007.

Brad A. Kirckof /s/  
Brad A. Kirckof  
Mayor

Vicki M. Willer /s/  
Vicki M. Willer  
City Administrator

INSTRUMENT DRAFTED BY:  
City Administrator  
320 Oak Street South  
Sauk Centre, MN 56378

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### **§ 10.01 TITLE OF CODE.**

(A) All ordinances of a permanent and general nature of the city, as revised, codified, rearranged, renumbered and consolidated into component codes, titles, chapters and sections, shall be known and designated as the “city code,” for which designation “code of ordinances,” “codified ordinances” or “code” may be substituted.

## Sauk Centre - General Provisions

(B) Code title, chapter and section headings do not constitute any part of the law as contained in the code. All references to codes, titles, chapters and sections are to the components of the code unless otherwise specified.

(C) Any component code may be referred to and cited by its name, such as the “Traffic Code.” Sections may be referred to and cited by the designation “§” followed by the number, such as “§ 10.01.”

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

### § 10.02 RULES OF INTERPRETATION.

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

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

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

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

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

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

### § 10.03 APPLICATION TO FUTURE ORDINANCES.

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



**§ 10.04 CAPTIONS.**

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

**§ 10.05 DEFINITIONS.**

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

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

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

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

**COUNTY.** Stearns County.

**MAY.** The act referred to is permissive.

**MONTH.** A calendar month.

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

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

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

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

**SHALL.** The act referred to is mandatory.

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

**STATE.** The State of Minnesota.

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

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

**YEAR.** A calendar year, unless otherwise expressed.

#### **§ 10.06 SEVERABILITY.**

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

#### **§ 10.07 REFERENCE TO OTHER SECTIONS.**

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

#### **§ 10.08 REFERENCE TO OFFICES.**

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

#### **§ 10.09 ERRORS AND OMISSIONS.**

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

(B) No alteration shall be made or permitted if any question exists regarding the nature or extent of the error.

**§ 10.10 OFFICIAL TIME.**

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

**§ 10.11 REASONABLE TIME.**

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

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

**§ 10.12 ORDINANCES REPEALED.**

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

**§ 10.13 ORDINANCES UNAFFECTED.**

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

**§ 10.14 EFFECTIVE DATE OF ORDINANCES.**

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

**§ 10.15 REPEAL OR MODIFICATION OF ORDINANCE.**

(A) Whenever any ordinance or part of an ordinance shall be repealed or modified by a subsequent ordinance, the ordinance or part of an ordinance thus repealed or modified shall continue in force until

the publication of the ordinance repealing or modifying it when publication is required to give effect to it, unless otherwise expressly provided.

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

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

#### **§ 10.16 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE.**

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

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

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

(A) All offenses committed under laws in force prior to the effective date of this code shall be prosecuted and remain punishable as provided by those laws.

(B) This code does not affect any rights or liabilities accrued, penalties incurred or proceedings begun prior to the effective date of this code.

(C) The liabilities, proceedings and rights are continued; punishments, penalties or forfeitures shall be enforced and imposed as if this code had not been enacted.

(D) In particular, any agreement granting permission to utilize highway rights-of-way, contracts entered into or franchises granted, the acceptance, establishment or vacation of any highway, and the election of corporate officers shall remain valid in all respects, as if this code had not been enacted.

#### **§ 10.18 COPIES OF CODE.**

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

**§ 10.19 ADOPTION OF STATUTES AND RULES BY REFERENCE.**

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

**§ 10.20 ENFORCEMENT.**

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

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

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

(D) (1) If the licensee, owner, resident or other person in control of a premises objects to the inspection of or entrance to the property, the Clerk/Administrator, peace officer or any employee or official charged with the duty of enforcing the provisions of this code may, upon a showing that probable cause exists for the issuance of a valid search warrant from a court of competent jurisdiction, petition and obtain a search warrant before conducting the inspection or otherwise entering the property.

(2) This warrant shall be only to determine whether the provisions of this code enacted to protect the health, safety and welfare of the people are being complied with and to enforce these provisions only, and no criminal charges shall be made as a result of the warrant.

(3) No warrant shall be issued unless there be probable cause to issue the warrant. Probable cause occurs if the search is reasonable. Probable cause does not depend on specific knowledge of the condition of a particular property.

(E) (1) Every licensee, owner, resident or other person in control of property within the city shall permit at reasonable times inspections of or entrance to the property by the Clerk/Administrator or any other authorized city officer or employee only to determine whether the provisions of this code enacted to protect the health, safety and welfare of the people are being complied with and to enforce these provisions.

(2) Unreasonable refusal to permit the inspection of or entrance to the property shall be grounds for termination of any and all permits, licenses or city service to the property.

(3) Mailed notice shall be given to the licensee, owner, resident or other person in control of the property, stating the grounds for the termination, and the licensee, owner, resident or other person in control of the property shall be given an opportunity to appear before the Clerk/Administrator to object to the termination before it occurs, subject to appeal of the Clerk/Administrator's decision to the City Council at a regularly scheduled or special meeting.

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

### § 10.21 HEARINGS.

(A) *General.* Unless otherwise provided in this code, or by law, every public hearing required by law, ordinance or resolution to be held on any legislative or administrative matter shall be conducted in accordance with this section.

(B) *Notice.*

(1) Every hearing shall be preceded by 10 days mailed notice to all persons entitled thereto by law, ordinance or regulation unless only published notice is required.

(2) The notice shall state the time, place and purpose of the hearing.

(3) Failure to file the notice or defects in it shall not invalidate the proceedings if a good faith effort has been made to comply with this division.

(C) *Conduct of hearing.*

(1) At the hearing, each party in interest shall have an opportunity to be heard and to present evidence as is relevant to the proceeding.

(2) The Council may adopt rules governing the conduct of hearings, records to be made and other matters as it deems necessary.

(D) *Record.* Upon the disposition of any matter after hearing, the Council shall have prepared a written summary of its findings and decisions and enter the summary in the official Council minutes.

(1985 Code, § 101.05)

**§ 10.22 ENFORCING ADMINISTRATIVE OFFENSE.**

(A) *Purpose and intent.*

(1) Administrative offense procedures established pursuant to this section are intended to provide the public and the City of Sauk Centre with an informal, cost effective and expeditious alternative to traditional criminal charges for violations of certain city code provisions.

(2) The procedures are intended to be voluntary on the part of those who have been charged with administrative offenses.

(3) At any time prior to the payment of the administrative penalty as is provided for thereafter, the individual may withdraw from participation in the procedures, in which event the city may bring criminal charges in accordance to law.

(4) Likewise, the City of Sauk Centre in its discretion may choose not to initiate an administrative offense and may bring criminal charges in the first instance.

(5) In the event a party participates in the administrative offense procedures, but does not pay the monetary penalty, which may be imposed, the City of Sauk Centre will seek to collect the costs of administrative offense procedures as part of a subsequent criminal sentence, in the event the party is charged and is adjudicated guilty of a criminal violation.

(B) *Administrative offense defined.* For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

**ADMINISTRATIVE OFFENSE.** A violation of a provision of the city code; is subject to the administrative penalties set forth in the schedule of offenses and penalties referred to in division (H) below.

(C) *Notice.*

(1) Any officer of the City of Sauk Centre Police Department or any other person employed by the city, authorized in writing by the Sauk Centre City Council, and having authority to enforce the city 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.

(2) 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.

(D) *Payment:*

(1) Once a notice is given, the alleged violator may, within 15 days of the time of issuance of the notice, pay the amount set forth on the schedule of penalties for the violation, or may request a court summons to appear in accordance to the law.

(2) The penalty may be paid in person or by mail, and payment shall be deemed to be an admission of the violation.

(E) *Hearing.* Any person contesting an administrative offense pursuant to this section may, within 15 days of the time of issuance of the notice request a court summons to appear in accordance to law.

(F) *Failure to pay.*

(1) In the event a party charged with an administrative offense fails to pay the penalty, a misdemeanor or petty misdemeanor charge may be brought against the alleged violator in accordance with applicable statutes.

(2) If the penalty is paid, no charge may be brought by the City of Sauk Centre for the same violation.

(G) *Disposition of penalties.* All the penalties collected pursuant to this section shall be paid to the City of Sauk Centre and deposited in the general fund.

(H) *Offenses and penalties.*

(1) Offenses which may be charged as administrative offenses and the penalties for offenses shall be established by resolution of the City Council from time to time.

(2) Copies of the resolution shall be maintained in the office of the City Clerk/Administrator.  
(Ord. 632, passed 9-24-2003)

#### **§ 10.98 SUPPLEMENTAL ADMINISTRATIVE PENALTIES.**

(A) (1) In addition to those administrative penalties established in this code and the enforcement powers granted in § 10.20 above, the City Council is authorized to create by resolution, adopted by a majority of the members of the Council, supplemental administrative penalties.

(2) The resolution may be in the form established in Appendix I of this chapter.

(B) These administrative penalty procedures in this section 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 of this code. The procedures are intended to be voluntary on the part of those who have been charged with those offenses.

(C) (1) Administrative penalties for violations of various provisions of the code, other than those penalties established in the code or in statutes that are adopted by reference, may be established from time to time by resolution of a majority of the members of the City Council.



(2) In order to be effective, an administrative penalty for a particular violation must be established before the violation occurred.

(D) (1) In the discretion of the peace officer, Clerk/Administrator or other person giving notice of an alleged violation of a provision of this code, in a written notice of an alleged violation, sent by first class mail to the person who is alleged to have violated the code, the person giving notice may request the payment of a voluntary administrative penalty for the violation directly to the City Treasurer within 14 days of the notice of the violation.

(2) A sample notice is contained in Appendix II of this chapter. In the sole discretion of the person giving the notice of the alleged violation, the time for payment may be extended an additional 14 days, whether or not requested by the person to whom the notice has been given.

(3) In addition to the administrative penalty, the person giving notice may request in the notice to the alleged violator to adopt a compliance plan to correct the situation resulting in the alleged violation and may provide that if the alleged violator corrects the situation resulting in the alleged violation within the time specified in the notice, that the payment of the administrative penalty will be waived.

(E) At any time before the payment of the administrative penalty is due, the person who has been given notice of an alleged violation may request to appear before the City Council to contest the request for payment of the penalty. After a hearing before the Council, the Council may determine to withdraw the request for payment or to renew the request for payment. Because the payment of the administrative penalty is voluntary, there shall be no appeal from the decision of the Council.

(F) (1) At any time after the date the payment of the administrative penalty is due, if the administrative penalty remains unpaid or the situation creating the alleged violation remains uncorrected, the city, through its Attorney, may bring criminal charges in accordance with state law and this code.

(2) Likewise, the city, in its discretion, may bring criminal charges in the first instance, rather than requesting the payment of an administrative penalty, even if a penalty for the particular violation has been established by Council resolution. If the administrative penalty is paid, or if any requested correction of the situation resulting in the violation is completed, no criminal charges shall be initiated by the city for the alleged violation.

**§ 10.99 GENERAL PENALTY.**

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

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

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

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

(E) In addition to any penalties provided for in this section or in § 10.98, if any person, firm or corporation fails to comply with any provision of this code, the Council or any city official designated by it, may institute appropriate proceedings at law or at equity to restrain, correct or abate the violation.

APPENDIX I

RESOLUTION TO ADOPT THE PROVISIONS OF § 10.98 AND A SCHEDULE OF OFFENSES AND VOLUNTARY ADMINISTRATIVE PENALTIES

WHEREAS, the City Council wishes to adopt the provisions of § 10.98, establishing a procedure for requesting the voluntary payment of administrative penalties for certain violations of the code; and

WHEREAS, the provisions of § 10.98 authorize the City Council, by a resolution adopted by a majority of its members, to identify administrative offenses and establish penalties for these offenses;

NOW THEREFORE, be it resolved by the City Council as follows:

The City Council hereby adopts the provisions of § 10.98 and adopts the following administrative penalties:

<i>Offense</i>	<i>Code Section</i>	<i>Amount of Administrative Penalty</i>
All offenses for which an administrative penalty may be established under this code, other than those specified below:		\$75.00

EFFECTIVE DATE: The effective date of the resolution is the date of its passage by a majority of the members of the City Council. Passage of this resolution implements the provisions of city code § 10.98.

Mayor: \_\_\_\_\_

Attest: \_\_\_\_\_  
Clerk/Administrator



**APPENDIX II**

**NOTICE OF CODE VIOLATION**

To: (Name and address of person who is alleged to have violated the code)

From: (Name and title of city official giving the notice)

Re: Alleged violation of Section \_\_\_\_\_ of the city code, relating to (give title of section)

Date: (Date of notice)

I hereby allege that on (date of violation) you violated § \_\_\_\_\_ of the city code relating to \_\_\_\_\_.

The City Council has by resolution established an administrative penalty in the amount of \$\_\_\_\_ for this violation.

Payment of this administrative penalty is voluntary, but if you do not pay it the city may initiate criminal proceedings for this alleged violation.

Payment is due within 14 days of the date of this notice. Before the due date, you may request an additional 14-day extension of the time to pay the administrative penalty.

As an alternative to the payment of this administrative penalty, if the situation that gave rise to this alleged violation is corrected by \_\_\_\_\_ (establish date), then the payment of the administrative penalty will be waived.

Even if the administrative penalty is paid, the city reserves the right to institute appropriate proceedings at law or at equity to restrain, correct or abate the violation.

Before the due date, you may request to appear before the City Council to contest the request for payment of the penalty. After a hearing before the Council, the Council may determine to withdraw the request for payment or to renew the request for payment. Because the payment of the administrative penalty is voluntary, there shall be no appeal from the decision of the Council.

If you pay the administrative penalty, the city will not initiate criminal proceedings for this alleged violation. However, the Council, or any city official designated by it, may institute appropriate proceedings at law or at equity to restrain, correct or abate the violation.

Payment of the administrative penalty may be made by check, cash or money order to the City Treasurer.

Signed: \_\_\_\_\_  
(Name and Title of Person Giving Notice)

## **TITLE III: ADMINISTRATION**

Chapter

**30. CITY COUNCIL AND ADMINISTRATION**

**31. DEFENSE AND EMERGENCIES**

**32. CITY ORGANIZATIONS**

**33. ESCROW DEPOSITS**

**34. UNCLAIMED PROPERTY**







## **CHAPTER 30: CITY COUNCIL AND ADMINISTRATION**

### Section

- 30.01 Composition
- 30.02 Special meetings
- 30.03 Attendance
- 30.04 Vacancies
- 30.05 Mayor
- 30.06 Secretary of Council
- 30.07 Publication of Council proceedings
- 30.08 Fees and charges
- 30.09 City Administrator/Clerk

### **§ 30.01 COMPOSITION.**

(A) The Sauk Centre City Council shall consist of a Mayor and 4 Council persons all of whom shall be qualified electors of the City of Sauk Centre and who shall be elected at large.

(B) The Mayor and the Council persons shall serve for a term of 4 years and until their successors are elected and qualified.

(C) A majority of the Council members shall constitute a quorum although a smaller number may adjourn from time to time.

(1985 Code, § 201.01)

### **§ 30.02 SPECIAL MEETINGS.**

(A) Regular meetings of the Council shall be held at times and places as may be prescribed by its rules. Special meetings may be called by the Mayor or by any 2 members of the Council by writing filed with the City Administrator/Clerk who shall then mail a notice to all members of the time and place of meeting at least 1 day before the meeting.

(B) The notice of a special meeting shall be delivered personally to each member or shall be left at his or her usual place of residence with some responsible person. A copy of the notice of special meeting shall also be posted at the City Hall.



(C) The Mayor or, in the Mayor's absence, the acting Mayor, shall preside at all Council meetings. All meetings of the Council shall be open to the public. The Council shall have the authority to regulate its own procedures.  
(1985 Code, § 201.02)

### **§ 30.03 ATTENDANCE.**

(A) In the event a quorum is not present for a regularly scheduled meeting or a special meeting, the members present may compel the absent members to attend, pursuant to the following procedure: the members present must notify the absent members in person, by messenger, or by telephone that their presence is required at the meeting.

(B) Any member, who, without good cause fails to appear at the meeting within a reasonable time after receiving this notice, shall forfeit to the city \$50 for each absence to be deducted from his or her salary as a member of the Council. The imposition of this penalty shall not preclude a finding that the member has failed to perform his or her duties, for purposes of determining a vacancy exists.  
(1985 Code, § 201.03)

### **§ 30.04 VACANCIES.**

(A) An elective office becomes vacant when the person elected or appointed thereto dies before taking office or fails to qualify, or the incumbent dies, resigns in writing filed with the City Administrator/Clerk, is convicted of a felony, ceases to reside in the city, or is adjudged incompetent by a court of competent jurisdiction.

(B) In that case the Council shall by resolution declare the vacancy to exist and shall forthwith appoint an eligible person to fill the vacancy for the remainder of the expired term.  
(1985 Code, § 201.04)

### **§ 30.05 MAYOR.**

(A) The Mayor shall preside at meetings of the Council and shall have a vote as a member. The Council shall choose from its members a President Pro Tem who shall hold office at the pleasure of the Council.

(B) That person shall serve as President in the Mayor's absence and as Mayor in the case of the Mayor's disability or absence from the city. The Mayor shall be recognized as head of the city government for all ceremonial purposes, by the courts for the purpose of serving civil

process, and by the governor for purposes of marshal law, but shall have no administrative duties.  
(1985 Code, § 201.05)

**§ 30.06 SECRETARY OF COUNCIL.**

(A) The City Administrator/Clerk shall act as Secretary of the Council.

(B) He or she shall keep a journal of Council proceedings and perform other duties as the state statutes or the Council may require.

(C) In the City Administrator/Clerk's absence the Council may designate any other city official or employee, except a member of the Council, to act as Secretary of the Council.  
(1985 Code, § 201.06)

**§ 30.07 PUBLICATION OF COUNCIL PROCEEDINGS.**

(A) The Council, after every regular or special meeting, shall publish the official Council proceedings, a summary in conformity with the M.S. § 331A.01, subdivision 10, as it may be amended from time to time, or a condensed version of the official minutes which shall include actions on motions, resolutions, ordinances and other official proceedings.

(B) As an alternative to publication, the Council may mail, at city expense, a copy of the proceedings to any resident upon request. The publication shall occur within 30 days of the meeting to which the proceedings relate.  
(1985 Code, § 201.07)

**§ 30.08 FEES AND CHARGES.**

The City Council may enact an ordinance establishing those fees and charges that are authorized by this code. Until that ordinance becomes effective, all fees and charges established by ordinance or resolution prior to the adoption of this code shall remain in effect. All fees and charges established by the ordinance establishing fees and charges may be amended from time to time by amendment of that ordinance.  
(1985 Code, § 211.01)

**§ 30.09 CITY ADMINISTRATOR/CLERK.**

(A) There is hereby established and created the officer position in the government of City of Sauk Centre of and titled "City Administrator/Clerk."

(B) The City Administrator/Clerk shall have and is hereby charged with all functions duties, and responsibilities of a Minnesota Statutory Optional Plan A City of City Clerk and of City

Treasurer, as provided in M.S. §§ 412.151 and 412.141, as they may be amended from time to time, respectively.

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(C) The City Administrator/Clerk shall also have other and additional functions, duties and responsibilities as from time to time lawfully determined and imposed by the Sauk Centre City Council by contract or otherwise.

(D) The City Council of the City of Sauk Centre shall have all discretion and authority to select and appoint, and from time to time, re-appoint, or change, the person who shall serve in the capacity of City Administrator/Clerk.

(E) All City of Sauk Centre department heads shall take direction from and report to the City Administrator/Clerk.

(F) All references in the Sauk Centre city code to "Clerk," "Treasurer" or "Clerk-treasurer" shall henceforth be deemed to mean the City Administrator/Clerk as herein established; and the Sauk Centre city code is, to the extent of any inconsistency with this section, modified and amended.

(Ord. 645, passed 9-21-2005)



## **CHAPTER 31: DEFENSE AND EMERGENCIES**

### Section

- 31.01 Policy and purpose
- 31.02 Definitions
- 31.03 Establishment of emergency management organization
- 31.04 Powers and duties of Director
- 31.05 Local emergencies
- 31.06 Emergency regulations
- 31.07 Emergency management a government function
- 31.08 Participation in labor disputes or politics

### **§ 31.01 POLICY AND PURPOSE.**

Because of the existing possibility of the occurrence of disasters of unprecedented size and destruction resulting from fire, flood, tornado, blizzard, destructive winds or other natural causes, or from sabotage, hostile action or from hazardous material mishaps of catastrophic measure; and in order to ensure that preparations of this city will be adequate to deal with those disasters, and generally, to provide for the common defense and to protect the public peace, health and safety and to preserve the lives and property of the people of this city, it is hereby found and declared to be necessary:

(A) To establish a city emergency management organization responsible for city planning and preparation for emergency government operations in time of disasters;

(B) To provide for the exercise of necessary powers during emergencies and disasters;

(C) To provide for the rendering of mutual aid between this city and other political subdivisions of this state and of other states with respect to the carrying out of emergency-preparedness functions; and

(D) To comply with the provisions of M.S. § 12.25, as it may be amended from time to time, which requires that each political subdivision of the state shall establish a local organization for emergency management.

### **§ 31.02 DEFINITIONS.**

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

***DISASTER.*** A situation which creates an immediate and serious impairment to the health and safety of any person, or a situation which has resulted in or is likely to result in catastrophic loss to property, and for which traditional sources of relief and assistance within the affected area are unable to repair or prevent the injury or loss.

***EMERGENCY.*** An unforeseen combination of circumstances which calls for immediate action to prevent from developing or occurring.

***EMERGENCY MANAGEMENT.*** The preparation for and the carrying out of all emergency functions, other than functions for which military forces are primarily responsible, to prevent, minimize and repair injury and damage resulting from disasters caused by fire, flood, tornado and other acts of nature, or from sabotage, hostile action or from industrial hazardous material mishaps. These functions include, without limitation, firefighting services, police services, emergency medical services, engineering, warning services, communications, radiological and chemical, evacuation, congregate care, emergency transportation, existing or properly assigned functions of plant protection, temporary restoration of public utility services and other functions related to civil protection, together with all other activities necessary or incidental for carrying out the foregoing functions. ***EMERGENCY MANAGEMENT*** includes those activities sometimes referred to as “civil defense” functions.

***EMERGENCY MANAGEMENT FORCES.*** The total personnel resources engaged in city-level emergency management functions in accordance with the provisions of this chapter or any rule or order thereunder. This includes personnel from city departments, authorized volunteers and private organizations and agencies.

***EMERGENCY MANAGEMENT ORGANIZATION.*** The staff responsible for coordinating city-level planning and preparation for disaster response. This organization provides city liaison and coordination with federal, state and local jurisdictions relative to disaster preparedness activities and assures implementation of federal and state program requirements.

### **§ 31.03 ESTABLISHMENT OF EMERGENCY MANAGEMENT ORGANIZATION.**

There is hereby created within the city government an emergency management organization which shall be under the supervision and control of the City Emergency Management Director, called the Director. The Director shall be appointed by the City Council for an indefinite term and may be removed by the Council at any time. The Director shall serve with a salary as established by the City Council and shall be paid his or her necessary expenses. The Director shall have direct responsibility for the organization, administration and operation of the emergency preparedness organization, subject to the direction and control of the Council.

**§ 31.04 POWERS AND DUTIES OF DIRECTOR.**

(A) The Director shall represent the city on any regional or state conference for emergency management. The Director shall develop proposed mutual aid agreements with other political

subdivisions of the state for reciprocal emergency management aid and assistance in an emergency too great to be dealt with unassisted, and shall present these agreements to the Council for its action. These arrangements shall be consistent with the state emergency plan.

(B) The Director shall make studies and surveys of the human resources, industries, resources and facilities of the city as deemed necessary to determine their adequacy for emergency management and to plan for their most efficient use in time of an emergency or disaster. The Director shall establish the economic stabilization systems and measures, service staffs, boards and sub-boards required, in accordance with state and federal plans and directions subject to the approval of the Mayor.

(C) The Director shall prepare a comprehensive emergency plan for the emergency preparedness of the city and shall present the plan to the Council for its approval. When the Council has approved the plan, it shall be the duty of all city agencies and all emergency preparedness forces of the city to perform the duties and functions assigned by the plan as approved. The plan may be modified in like manner from time to time. The Director shall coordinate the emergency management activities of the city to the end that they shall be consistent and fully integrated with the emergency plans of the federal government and the state and correlated with emergency plans of the county and other political subdivisions within the state.

(D) In accordance with the state and city emergency plan, the Director shall institute training programs, public information programs and conduct practice warning alerts and emergency exercises as may be necessary to assure prompt and effective operation of the city emergency plan when a disaster occurs.

(E) The Director shall utilize the personnel, services, equipment, supplies and facilities of existing departments and agencies of the city to the maximum extent practicable. The officers and personnel of all city departments and agencies shall, to the maximum extent practicable, cooperate with and extend services and facilities to the city's emergency management organization and to the Governor upon request. The head of each department or agency in cooperation with the Director shall be responsible for the planning and programming of those emergency activities as will involve the utilization of the facilities of the department or agency.

(F) The Director shall, in cooperation with those city departments and agencies affected, assist in the organizing, recruiting and training of emergency management personnel, which may be required on a volunteer basis to carry out the emergency plans of the city and state. To the extent that emergency personnel are recruited to augment a regular city department or agency for emergencies, they shall be assigned to the departments or agencies and shall be under the administration and control of the department or agency.

(G) Consistent with the state emergency services law, the Director shall coordinate the

activity of municipal emergency management organizations within the city and assist in establishing and conducting training programs as required to assure emergency operational capability in the several services as provided by M.S. § 12.25, as it may be amended from time to time.

(H) The Director shall carry out all orders, rules and regulations issued by the Governor with reference to emergency management.

(I) The Director shall prepare and submit reports on emergency preparedness activities when requested by the Mayor.

### **§ 31.05 LOCAL EMERGENCIES.**

(A) A local emergency may be declared only by the Mayor or his or her legal successor. It shall not be continued for a period in excess of 3 days except by or with the consent of the Council. Any order, or proclamation declaring, continuing or terminating a local emergency shall be given prompt and general publicity and shall be filed in the office of the City Administrator/Clerk.

(B) A declaration of a local emergency shall invoke necessary portions of the response and recovery aspects of applicable local or inter-jurisdictional disaster plans, and may authorize aid and assistance thereunder.

(C) No jurisdictional agency or official may declare a local emergency unless expressly authorized by the agreement under which the agency functions. However, an inter-jurisdictional disaster agency shall provide aid and services in accordance with the agreement under which it functions.

Penalty, see § 10.99

### **§ 31.06 EMERGENCY REGULATIONS.**

(A) Whenever necessary, to meet a declared emergency or to prepare for an emergency for which adequate regulations have not been adopted by the Governor or the Council, the Council may by resolution promulgate regulations, consistent with applicable federal or state law or regulation, respecting: the conduct of persons and the use of property during emergencies; the repair, maintenance and safeguarding of essential public services, emergency health, fire and safety regulations, drills or practice periods required for preliminary training and all other matters which are required to protect public safety, health and welfare in declared emergencies.

(B) Every resolution of emergency regulations shall be in writing; shall be dated; shall refer to the particular emergency to which it pertains, if so limited and shall be filed in the office of the City Administrator/Clerk. A copy shall be kept posted and available for public inspection during business hours. Notice of the existence of these regulations and their availability for inspection at the City Administrator/Clerk's office shall be conspicuously posted at the front of the city hall or other headquarters of the city or at other places in the affected area as the Council shall designate

in the resolution. By resolution, the Council may modify or rescind a regulation.

(C) The Council may rescind any regulation by resolution at any time. If not sooner rescinded, every regulation shall expire at the end of 30 days after its effective date or at the end of the emergency to which it relates, whichever comes first. Any resolution, rule or regulation inconsistent with an



emergency regulation promulgated by the Council shall be suspended during the period of time and to the extent conflict exists.

(D) During a declared emergency, the city is, under the provisions of M.S. § 12.31, as it may be amended from time to time and notwithstanding any statutory or Charter provision to the contrary, empowered, through its Council, acting within or without the corporate limits of the city, to enter into contracts and incur obligations necessary to combat the disaster by protecting the health and safety of persons and property and providing emergency assistance to the victims of a disaster. The city may exercise these powers in the light of the exigencies of the disaster without compliance with the time-consuming procedures and formalities prescribed by law pertaining to the performance of public work, entering rental equipment agreements, purchase of supplies and materials, limitations upon tax levies and the appropriation and expenditure of public funds, including, but not limited to, publication of resolutions, publication of calls for bids, provisions of personnel laws and rules, provisions relating to low bids and requirement for bids.

Penalty, see § 10.99

**§ 31.07 EMERGENCY MANAGEMENT A GOVERNMENT FUNCTION.**

All functions and activities relating to emergency management are hereby declared to be governmental functions. The provisions of this section shall not affect the right of any person to receive benefits to which he would otherwise be entitled under this resolution or under the worker's compensation law, or under any pension law, nor the right of any person to receive any benefits or compensation under any act of Congress.

**§ 31.08 PARTICIPATION IN LABOR DISPUTES OR POLITICS.**

The emergency management organization shall not participate in any form of political activity, nor shall it be employed directly or indirectly for political purposes, nor shall it be employed in a labor dispute.



## CHAPTER 32: CITY ORGANIZATIONS

### Section

#### *General Organizations*

- 32.01 General requirements
- 32.02 Libraries
- 32.03 Senior Center Board
- 32.04 Economic Development Authority
- 32.05 Airport Commission

#### *Fire Department*

- 32.20 Establishment
- 32.21 Outside service
- 32.22 False alarm
- 32.23 Authorized personnel

#### *Hospital Board*

- 32.35 Establishment
- 32.36 Organization
- 32.37 Powers and duties
- 32.38 Contracts
- 32.39 Real estate
- 32.40 Council power
- 32.41 Reports
- 32.42 Removal of Board members
- 32.43 Meetings

#### *Public Utility Commission*

- 32.55 Establishment
- 32.56 Composition and appointments
- 32.57 Rules and officers
- 32.58 Powers and duties
- 32.59 Rates and charges
- 32.60 Sale or abandonment



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***Park and Recreation Board***

- 32.70 Establishment
- 32.71 Membership
- 32.72 Officers
- 32.73 Meetings
- 32.74 Compensation
- 32.75 Powers and duties
- 32.76 Fund
- 32.77 Budget
- 32.78 Reports

***GENERAL ORGANIZATIONS***

**§ 32.01 GENERAL REQUIREMENTS.**

All membership positions of the city's committees, commissions and boards must be filled with persons who are residents of the city and eligible to vote in its general and special elections; provided, however, that residency and voting eligibility requirements may be waived upon due consideration of the City Council in cases involving lack of interest or availability of potential appointees who meet residency and voting eligibility requirements.  
(Ord. 642, passed 4-6-2005)

**§ 32.02 LIBRARIES.**

(A) *Establishment.*

(1) A public library is hereby established.

(2) The library shall be maintained and operated in accordance with the terms and conditions of the gift by Andrew Carnegie for the construction of the library board.

(B) *Board.*

(1) The library shall be operated in accordance with M.S. Ch. 134 as it may be amended from time to time.

(2) The library shall be governed by a Board of 5 members, appointed by the Council for 3-year terms.

(3) The expiration dates of the terms shall continue to be staggered so that in each 3-year period beginning in 1951, 2 members' terms shall expire in the first year, 2 in the second year and 1 in the third year.

(4) Terms shall expire on the second Tuesday in January of the appropriate year.

(C) *Appointment.*

(1) The Mayor, with the approval of the City Council, shall appoint the Library Board members. Three members shall be selected from and shall be residents of the City of Sauk Centre.

(2) The remaining 2 members may be city residents or may reside in the county, provided that the county and the city are participating in a regional public library system, and further provided that members from the county shall reside within Independent School District No. 743 boundaries.

(3) The Council may also select 1 of its members to fill a membership position, provided, that no more than 1 Council member shall at any time be a member of the Library Board.

(1985 Code, §§ 204.01, 204.02)

**§ 32.03 SENIOR CENTER BOARD.**

(A) *Establishment.* There is hereby established the Senior Center Board.

(B) *Membership.*

(1) The Senior Center Board shall consist of 5 to 15 members who shall be appointed by the City Council for 3-year terms. Two-thirds of the appointed members shall be citizens of the City of Sauk Centre and 1/3 of the appointed members shall be residents of the greater Sauk Centre area.

(2) Appointment shall be made at the second regular Council meeting in December of each year. Members shall serve until their respective successors have been appointed and qualified.

(3) Vacancies shall be filled by appointment of the City Council for any unexpired terms. Appointments to fill vacancies on the Board shall be made by the Council without undue delay.

(4) Any member may be removed from the Board by a 4/5 vote of the Council for misconduct or neglect of, or inattention to his or her duties.

(C) *Officers.*

(1) Officers of the Board shall be a Chairperson, Vice Chairperson and Secretary to be elected annually by the Board from its members at its regular meeting in March of each calendar year.



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(2) The terms of officers elected shall be for 1 year.

(3) The Chairperson shall preside at all meetings of the Board. In his or her absence or disability, the Vice Chairperson shall perform the Chairperson's duties.

(4) The Secretary shall keep, or cause to be kept, a complete record of each meeting and of all proceedings of the Board and shall cause a copy of the record to be filed in the office of the City Administrator/Clerk within 30 days after the meeting.

(D) *Meetings.*

(1) Regular meetings of the Board shall be held monthly on the day set by resolution of the Board at its March meeting.

(2) The Chairperson may call a special meeting at his or her discretion and shall call a special meeting upon written request by any 3 members of the Board, by request of the Mayor of the City of Sauk Centre or by request of 2 Council persons.

(3) For purposes of conducting a meeting 3 members shall constitute a quorum.

(4) All meetings of the Board shall be subject to, and shall comply with, all provisions of the Open Meeting Law, being M.S. Chapter 13D.

(E) *Compensation.* All members of the Board shall serve with compensation as shall be determined by the Council.

(F) *Powers and duties.* The Board shall have the following powers and duties:

(1) To recommend policies regarding short and long-term planning relative to the Senior Center, to include its program offerings and facility management;

(2) Subject to Council approval, to prepare and adopt rules and regulations regarding the day to day use and operation of the Senior Center;

(3) To advise the Council concerning cooperative agreements with other public or private agencies or organizations or individuals using the Senior Center; and

(4) To assist the Council by providing advice and recommendations concerning the hiring or staffing of the Senior Center, to include its employees, supervisors and caretakers.

(G) *Senior fund.*

(1) A senior fund is hereby established into which shall be deposited all gifts, bequests, endowments, donations or grants from persons, corporations or government agencies for the Senior Center, and all fees and charges for use of the Senior Center.

(2) The Board shall advise the Council regarding disbursements from this fund. No disbursement or expenditure from the funds shall be made unless approved by the City Council.

(H) *Budget.* The Board shall, on or before December 1 of each year, submit to the Council a proposed operating budget for the Senior Center for the following year.

(I) *Report.* The Board shall submit to the Council regular or special reports and shall make investigations as are deemed advisable and as are requested by the Council.  
(1985 Code, §§ 213.01, 213.02, 213.03, 213.04, 213.05, 213.06, 213.07, 213.08, 213.09) (Am. Ord. 670, passed 11-5-2008)

**§ 32.04 ECONOMIC DEVELOPMENT AUTHORITY.**

(A) The Sauk Centre Economic Development Authority shall consist of 5 members appointed by the Mayor with the approval of the City Council.

(1) Two members shall be members of the City Council.

(2) One member shall be a member of the Sauk Centre Opportunities Board, 1 member shall be a member of the Sauk Centre Chamber of Commerce Board and 1 shall be an at large member with or without affiliation of any group or non-profit organization.

(3) Members from the Sauk Centre Opportunities Board and the Sauk Centre Chamber of Commerce Board shall be nominated by their respective boards.

(B) All EDA board members may be residents of the city.  
(Am. Ord. 642, passed 4-6-2005)

**§ 32.05 AIRPORT COMMISSION.**

(A) *Establishment of Airport Commission.*

(1) An Airport Commission is hereby established.

(2) All matters relating to the airport are under the jurisdiction of this Commission.

(3) This Commission shall act as an advisory body and make recommendation to the Sauk Centre City Council.

(B) *Composition.*

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(1) The City Airport Commission shall consist of 5 members all of which shall be appointed by the City Council.

(2) One member of the Commission shall be a member of the Sauk Centre City Council, 3 members may be residents of the City of Sauk Centre, eligible to vote in its general and special elections and 1 member shall be a staff person of Sauk Centre Public Works Department.

(3) Each of the members shall be appointed for a 3-year term, except that the initial appointments shall be as follows: 1 flying club member and 1 resident shall be appointed for 1 year; 1 Councilperson and 1 flying club member shall be appointed for 2 years; and 1 staff member for 3 years.

(4) Appointments to the Airport Commission shall be made at the second regular Council meeting in December of each calendar year.

(5) The terms of the Commissioners shall correspond to their respective official tenures. Vacancies shall be filled by the Council for the unexpired portion of any term.

(6) For purposes of transacting business, 3 members shall constitute a quorum. Any member may be removed by a 3/5 vote of the City Council.

(7) Compensation for members shall be determined by the City Council, except that the Council members and staff person shall serve without compensation.

*(C) Organization.*

(1) The Commission shall elect a Chairperson from among its appointed members for a term of 1 year; and the Commission may create and fill other positions as it may determine.

(2) The City Administrator/Clerk or his or her appointee(s) shall act as Staff Liaison and Secretary for the Airport Commission.

*(D) Meetings.*

(1) The Commission shall hold at least 1 regular meeting each 2 months. It shall adopt rules for the transaction of business and it shall keep a record of its resolutions, transactions and findings, which record shall be a public record.

(2) Special meetings may be called by written notice to each member.

(3) Special meetings shall be called by the Chairperson or 2 members of the

Commission with 24 hours' written notice.

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(4) On or before the January 1 of each year, the Commission shall submit to the Council a report of its work during the preceding year.

(5) Expenditures of the Commission shall be within the amounts appropriated for the purpose by the City Council.

(E) *Powers and duties.*

(1) The Airport Commission shall have all powers and duties to administer and enforce airport zoning regulations.

(2) From time to time they shall also make recommendations to the City Council for adoption and amendment to the airport zoning regulations.

(3) All proposed regulations shall be adopted in accordance with the provisions of applicable state law.

(4) It shall be the function and duty of the Airport Commission to plan for continued physical development of the airport property through coordination with MNDOT Aeronautical Division.

(5) The Commission shall recommend policy for the operation and maintenance of the airport facility. The Commission shall annually review the fees charged and make recommendations for amendments to the airport hangar fees and rentals.  
(Ord. 605, passed 3-7-2001; Am. Ord. 641, passed 12-15-2004; Am. Ord. 642, passed 4-6-2005; Am. Ord. 670, passed 11-5-2008)

***FIRE DEPARTMENT***

**§ 32.20 ESTABLISHMENT.**

(A) The City of Sauk Centre shall continue to be served by the Sauk Centre Volunteer Fire Department which Department shall appoint its officers and members and prescribe their duties.

(B) The City Council shall have the power to purchase all fire apparatus which may be required for the extinguishment of fires.  
(1985 Code, § 203.01)

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**§ 32.21 OUTSIDE SERVICE.**

(A) The Fire Department is hereby authorized to attend and serve at fires outside of the city limits, as provided by M.S. § 438.08, as it may be amended from time to time.

(B) This section should not create a duty to respond to fires outside of the city limits, except as may be provided by contracts with other individuals or municipalities, which contracts shall be approved by the Sauk Centre City Council.

(1985 Code, § 203.02)

**§ 32.22 FALSE ALARM.**

No person shall sound or in any way give alarm of a fire unless that person has probable cause to believe that a fire exists that endangers persons or property.

(1985 Code, § 203.03) Penalty, see § 10.99

**§ 32.23 AUTHORIZED PERSONNEL.**

(A) No person except members of the Volunteer Fire Department, or other persons authorized by the Council or Fire Chief, shall enter or be in the room or area where the city's fire apparatus is stored.

(B) No person, except members of the Volunteer Fire Department or other persons authorized by the Council or Fire Chief, shall drive or ride upon any fire engine or apparatus.

(C) No persons shall meddle with or commit any act which impairs or interferes with the usefulness or the efficiency of any fire engine or apparatus.

(1985 Code, § 203.04) Penalty, see § 10.99

***HOSPITAL BOARD*****§ 32.35 ESTABLISHMENT.**

(A) There is hereby established a Hospital Board to be known as "St. Michael's Hospital and Nursing Home Board," which shall consist of 5 members, all of whom may be residents of the city.

(B) The members of the Board shall be appointed by the City Council for a term of 5 years

commencing January 1.

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(C) Members shall serve until their respective officers have been appointed and have qualified. Vacancies shall be filled for the unexpired portion of the term by the Council.

(D) Regular appointments to the Board shall be made by the Council at its second regular Council meeting in December of each year. Appointments to fill vacancies on the Board shall be made by the Council without undue delay.

(E) All members appointed to the Board shall file their acceptance with the Administrator/Clerk within 5 days after notice from the Administrator/Clerk of their appointment.

(F) No more than 1 member of any 1 business shall be appointed as a member of the Board at any time.

(G) All members of the Board shall serve with compensation as shall be determined by the Council.

(Ord. 642, passed 4-6-2005; Am. Ord. 670, passed 11-5-2008)

**§ 32.36 ORGANIZATION.**

(A) The Board shall conduct an annual meeting to organize and elect its officers which shall consist of a Chairperson, Vice Chairperson and Secretary.

(B) All of the Board's officers shall be chosen from the appointed members of the Board. The Board, in its by-laws, will prescribe and establish the powers and duties of its officers which shall be consistent with the provisions set forth in this section.

(C) Vacancies in any offices shall be filled for the unexpired term of the vacating officer. Each officer shall be elected for a term of 1 year.  
(1985 Code, § 205.02)

**§ 32.37 POWERS AND DUTIES.**

(A) Except as provided in §§ 32.38 through 32.40 below, the Board shall have charge, control and management of the hospital and nursing home and the hospital and nursing home property now or hereafter owned by the city.

(B) The Board shall make and adopt rules and regulations for their own guidance and management as they deem proper and which shall be consistent with provisions of this section.

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(C) The Board shall collect all monies due and paid to the hospital and nursing home and the funds shall be deposited in a separate fund known as "St. Michael Hospital and Nursing Home fund." Monies in this fund shall be used only for the expenses and upkeep of the hospital and nursing home or its equipment, or to retire any indebtedness which may have been incurred relative to the acquisition and additions to the hospital and nursing home, or any improvements, betterment or equipment which may be needed.

(D) Any surplus funds not necessary for current expenses or improvements shall be turned over to the general fund of the city. The Board shall have control of all like money collected.

(E) Disbursements of the hospital funds shall be made only in the manner set forth in the governing Board by-laws, which by-laws and any amendments thereto shall be approved by the Council.

(F) The Boards shall have the power to appoint and employ an administrator of the hospital and nursing home and necessary nurses, attendants, employees and assistants as they deem advisable, and to fix their compensation and to remove appointments at will.

(G) The Board shall, in general, have charge of the hospital, nursing home, building, equipment and grounds.

(H) The Board shall also have charge of the admission of the patients in the hospital and the fees and charges for the use of any of the hospital and nursing home facilities and equipment.

(1985 Code, § 205.03)

### **§ 32.38 CONTRACTS.**

(A) The Board may make expenditures and enter into contracts for repairs, equipment and improvements which do not exceed the amount at which competitive bidding is required pursuant to M.S. § 471.345, as it may be amended from time to time.

(B) Any proposal for repairs, equipment, improvements or any other contract for which competitive bidding is required, shall first be submitted to the Council, and if approved by the Council, shall be let by competitive bidding.

(1985 Code, § 205.04)

### **§ 32.39 REAL ESTATE.**

The Board shall not enter into any contract for the purchase, sale or leasing of real estate without the prior approval of the Council.  
(1985 Code, § 205.05)

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**§ 32.40 COUNCIL POWER.**

The Council shall have the power and authority to change, alter or modify any decision or act of the Hospital Board by majority vote of its members, with the exception of those powers granted under § 32.37(F), which section shall remain under the exclusive control of the Board. (1985 Code, § 205.06) (Am. Ord. 670, passed 11-5-2008)

**§ 32.41 REPORTS.**

The Hospital Board shall prepare and file with the City Administrator/Clerk, each month, a monthly operation statement showing total receipts, disbursements and balance on hand remaining at the end of each month and other data as may be requested by the Council. (1985 Code, § 205.07)

**§ 32.42 REMOVAL OF BOARD MEMBERS.**

The Council shall have the power and authority to remove any member of the Board for misconduct, neglect or inattention to his or her duties or for any cause. A removal must be accomplished by a 4/5 vote of the Council. (1985 Code, § 205.08)

**§ 32.43 MEETINGS.**

The Board shall conduct a monthly meeting and other special meetings as may from time to time be called. Rules and procedures governing the meeting shall be established in the governing Board's by-laws. (1985 Code, § 205.09)

***PUBLIC UTILITY COMMISSION***

**§ 32.55 ESTABLISHMENT.**

(A) There is hereby created the Sauk Centre Public Utility Commission, which shall be responsible for the development, production, purchase and distribution of all electricity and water, and the construction, maintenance and administration of the sanitary sewer system, used by the City of Sauk Centre, private customers and other governmental agencies.

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(B) The Utility Commission expressly accepts the provisions of the M.S. §§ 412.331 to 412.391, as they may be amended from time to time.  
(1985 Code, § 212.01)

### **§ 32.56 COMPOSITION AND APPOINTMENTS.**

(A) The Commission shall consist of 5 Board members who shall be appointed by the Council. The Council shall appoint the members at the second regular Council meeting in December for each calendar year.

(B) Each newly appointed Commissioner shall take the oath of office prescribed by law and before assuming his or her duties, and the Commissioner shall continue in office until his or her successor has been appointed and qualified.

(C) Vacancies shall be filled by Council's appointment for any unexpired term.

(D) No vacancy in the Commission shall impair the right of the remaining Commissioners to exercise all of the powers of the Commission. No more than 1 member may be chosen from the City Council membership.  
(1985 Code, § 212.02) (Am. Ord. 670, passed 11-5-2008)

### **§ 32.57 RULES AND OFFICERS.**

(A) The Commission shall adopt rules for its own proceedings which shall provide among other things, for at least 1 regular meeting by the Commission each month. The Commission shall annually choose a president from among its own members and shall also appoint a Secretary for an indefinite term.

(B) The Secretary need not be a member of the Utility Commission and may be the City Administrator/Clerk. No member of the Commission shall receive a salary except as fixed by the City Council. The Secretary shall receive a salary which shall be fixed by the Commission.  
(1985 Code, § 212.03)

### **§ 32.58 POWERS AND DUTIES.**

(A) The Commission shall have full and exclusive control of, and power over the water, light, power and sewer plant or plants, and all parts, attachments and appurtenances thereto, and all apparatus and material used in operating the plants, including all necessary public buildings.

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(B) The Commission shall possess all powers and duties necessary to construct, expand and operate the light, water and sewer utilities, and to do any and all acts or things that are necessary, convenient or desirable in order to operate, maintain, enlarge, preserve and promote an orderly, economic and business-like administration of the water, light and sewer utility systems.

(C) If the exercise of those powers requires the issuance of bonds, then in that event, the Commission shall make application to the Council for the issuance of the bonds deemed necessary, subject to provisions of Minnesota Statutes. The Commission shall have specifically all powers enumerated in M.S. § 412.361, as it may be amended from time to time.  
(1985 Code, § 212.04)

**§ 32.59 RATES AND CHARGES.**

The Commission shall fix rates for electrical, water, sewer and other utilities services sold and rendered by the Commission. The Commission shall prescribe the time and manner of payment for any services, shall make other regulations as may be necessary, and prescribe penalties for violation of the regulations.  
(1985 Code, § 212.07)

**§ 32.60 SALE OR ABANDONMENT.**

The city and the Commission shall not have authority to cease to operate, or to sell, lease, abandon or in any way dispose of any public utility owned or operated by it without the approval of 2/3 of the registered voters of the City of Sauk Centre voting thereon at a general or special election. Any sale, lease or abandonment of the water, electrical or sewage plant or facilities shall be subject to the requirements of state law.  
(1985 Code, § 212.09)

***PARK AND RECREATION BOARD***

**§ 32.70 ESTABLISHMENT.**

There is hereby established the Sauk Centre Park and Recreation Board.  
(1985 Code, § 206.01)

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**§ 32.71 MEMBERSHIP.**

(A) *Appointments.* The Park and Recreation Board shall consist of 5 members, appointed by the Council for 2-year terms. Appointments shall be made at the second regular Council meeting in December of each year. Three members shall be appointed in each even numbered year and 2 members shall be appointed in each odd numbered year. All members may be residents of the city.

(B) *Removals and vacancies.* Vacancies shall be filled by appointment by the Council for the unexpired term. Any member may be removed from the Board by a 4/5 vote of the Council, for misconduct of neglect of or inattention to his or her duties.  
(1985 Code, § 206.02) (Am. Ord. 642, passed 4-6-2005; Am. Ord. 670, passed 11-5-2008)

**§ 32.72 OFFICERS.**

Officers of the Board shall be a Chairperson, Vice Chairperson and Secretary, to be elected annually by the Board from its members at its regular meeting on the second Tuesday of January. The term of the officers shall be 1 year.  
(1985 Code, § 206.03)

**§ 32.73 MEETINGS.**

(A) Regular meetings of the Board shall be held monthly, on a day set by resolution of the Board at its January meeting. (B) The Chairperson may call a special meeting at his or her discretion, and shall call a special meeting upon written request by 3 members, by the Mayor, or by the Council. Three members shall constitute a quorum.  
(1985 Code, § 206.04)

**§ 32.74 COMPENSATION.**

Members of the Board shall be compensated as determined by the Council.  
(1985 Code, § 206.05)

**§ 32.75 POWERS AND DUTIES.**

The Board shall have the following powers and duties:

(A) To recommend policies regarding short and long range planning, acquisition, development and use of park lands and recreational facilities;

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(B) Subject to Council approval, to prepare and adopt rules and regulations regarding use of city parks and recreational facilities;

(C) To advise the Council regarding cooperative agreements with other public or private agencies, organizations or individuals;

(D) Subject to Council approval, to hire recreational staff as needed for the efficient administration and development of the city's recreational system; and

(E) To make recommendations to the Council concerning the hiring or maintenance supervisors and caretakers.  
(1985 Code, § 206.06)

**§ 32.76 FUND.**

(A) A park and recreation fund is established into which shall be deposited all gifts, bequests, endowments, donations or grants from persons, corporations or government agencies for park and recreation purposes, and all fees and charges for recreational services or facilities; provided that proceeds from real estate taxes shall not be deposited into the park and recreation fund.

(B) The Board may advise the Council regarding disbursements from the fund. No disbursement or expenditure from the fund shall be made unless approved by the Council.  
(1985 Code, § 206.07)

**§ 32.77 BUDGET.**

The Board shall, on or before September 1 of each year, submit to the Council a proposed operating budget for the following year.  
(1985 Code, § 206.08)

**§ 32.78 REPORTS.**

The Board shall submit to the Council regular or special reports and shall make investigations as are deemed advisable or are requested by the Council.  
(1985 Code, § 206.09)

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## CHAPTER 33: ESCROW DEPOSITS

### Section

- 33.01 Intent
- 33.02 Escrow deposit required
- 33.03 Fee schedule
- 33.04 Individual fees
- 33.05 Enforcement
- 33.06 Refund

### **§ 33.01 INTENT.**

(A) Certain licensed and permitted activities carried on in the city require the assistance of the City Engineer, City Attorney or other city personnel.

(B) As these activities primarily benefit private persons rather than the city as a whole, it is appropriate that the cost of these services be borne by those benefitting thereby.

(C) This chapter is intended to provide a method whereby this end will be furthered.  
(1985 Code, § 208.01)

### **§ 33.02 ESCROW DEPOSIT REQUIRED.**

(A) Applications for subdivision approval, rezoning, conditional use permits, planned unit developments, zoning variances, sewer connection permits, liquor licenses and building permits shall be accompanied by a cash deposit which shall be placed in an applicant's escrow fund in an amount sufficient to pay all engineering and legal fees incurred by the city and other costs as may be by ordinance made the applicant's responsibility, in connection with the application and the supervision, inspection and investigation of the permitted activity.

(B) The deposit shall be held in the fund and shall be credited to the applicant making the deposit.

(C) All engineering and legal fees, and other costs as may be by ordinance made the applicant's responsibility incurred in connection with an application, shall be charged to the applicant's escrow account and credited to the city.

(1985 Code, § 208.02)

**§ 33.03 FEE SCHEDULE.**

(A) The Council shall, by resolution, promulgate rules and establish fees for services rendered by the City Attorney, City Engineer or other city personnel.

(B) The rules and fee schedule shall be provided to all persons making applications listed in § 33.02 above.  
(1985 Code, § 208.03)

**§ 33.04 INDIVIDUAL FEES.**

(A) Based on the fee schedule adopted pursuant to § 33.03, the City Administrator/Clerk shall determine the amount of the escrow deposit required after consultation with the City Attorney, City Engineer or other city personnel whose services may be required.

(B) All time, services and materials to be billed to an escrow account shall be itemized.  
(1985 Code, § 208.04)

**§ 33.05 ENFORCEMENT.**

(A) *Application.* The application listed in § 33.02 above shall not be accepted or processed by the city unless accompanied by an escrow deposit as provided in this chapter.

(B) *Deficits.*

(1) If, at any time, it appears that a deficit will occur in any escrow account, the City Administrator/Clerk shall report this to the City Council and shall recommend the amount, if any, of additional deposits necessary to cover further legal, engineering or other expenses for which the applicant is by ordinance made responsible.

(2) The Council may then require an additional deposit in the escrow account sufficient to cover the additional expenses.

(3) Failure to make additional deposits, or to pay to the city money owed for legal, engineering or other services for which the applicant is by ordinance made responsible in connection with an application listed in § 33.02, shall be grounds for denial or revocation of the permit or license.

(4) The permit or license shall be revoked only after a hearing preceded by 10 days'

written notice.  
(1985 Code, § 208.05)

**§ 33.06 REFUND.**

Any money remaining in an applicant's escrow after payment of all required engineering, legal and other fees shall be returned to the applicant.  
(1985 Code, § 208.06)



## CHAPTER 34: UNCLAIMED PROPERTY

### Section

- 34.01 Definition
- 34.02 Procedure
- 34.03 Found property
- 34.04 Perishable or dangerous property
- 34.05 Money
- 34.06 Property seized as evidence
- 34.07 Disposal

### § 34.01 DEFINITION.

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

***UNCLAIMED PROPERTY.*** Any money or personal property, except animals and motor vehicles, lawfully coming into the possession of the city and remaining unclaimed by the owner. (1985 Code, § 209.01)

### § 34.02 PROCEDURE.

(A) *General.* The Chief of Police shall make a reasonable and diligent effort to find the owner of any unclaimed property and restore the same to him or her.

(B) *Motor vehicles.* Abandoned motor vehicles shall be disposed of as provided by M.S. Ch. 168B, as it may be amended from time to time.

(C) *Animals.* Abandoned animals shall be disposed of as provided by Chapter 93 of this code. (1985 Code, § 209.02)

### § 34.03 FOUND PROPERTY.

(A) A receipt shall be issued to any person who finds lost or abandoned property or money



and delivers it to the custody of the city.

(B) The person may indicate in writing that he or she wished to assert a claim to the property or money as a finder.

(C) If the finder so indicates, and the property or money remains unclaimed by the owner for 90 days, the property or money shall be delivered to the finder.  
(1985 Code, § 209.03)

#### **§ 34.04 PERISHABLE OR DANGEROUS PROPERTY.**

Any unclaimed property which is perishable, or which would lose the greater part of its value by being retained for 90 days, or which is determined by the Chief of Police to be dangerous, shall be disposed of at the discretion of the Chief of Police in the manner deemed appropriate by him or her.  
(1985 Code, § 209.04)

#### **§ 34.05 MONEY.**

Any money which is not claimed by the owner within 90 days or by a finder pursuant to § 34.03 above, or which was seized for illegal gambling, shall be deposited in the city's general fund.  
(1985 Code, § 209.05)

#### **§ 34.06 PROPERTY SEIZED AS EVIDENCE.**

Any property seized as evidence shall, when no longer needed as evidence, be returned to the owner, unless otherwise subject to lawful detention. The property which is otherwise subject to lawful detention shall be destroyed or otherwise disposed of as directed, by the court.  
(1985 Code, § 209.06)

#### **§ 34.07 DISPOSAL.**

(A) *City use.* Any unclaimed property for which no other manner of disposal is provided by §§ 34.01 through 34.06 and which is not claimed by the owner within 90 days may be appropriated to city use upon approval of appropriation by the Council.

(B) *Sale.* Any property described in division (A) above which is not appropriated to city use shall be sold by the Chief of Police to the highest bidder at public auction. Notice shall be published for 2 successive weeks of the time, place and manner of sale. The notice shall also

describe the property to be sold.

(C) *Proceeds*. The proceeds from a sale of unclaimed property shall be deposited in the city general fund. A record shall be made of the sale price of each item sold, and the sale price shall be paid to the former owner, if claim is made within 6 months of the sale and satisfactory proof of ownership is presented.

(D) *Unsold property*. Any unclaimed property remaining unsold after public auction shall be disposed of as directed by the Council.  
(1985 Code, § 209.07)



**TITLE V: PUBLIC WORKS**

Chapter

**50. WATER AND SEWER**

**51. ELECTRICITY**

**52. REFUSE**

**53. STORMWATER UTILITY**







## CHAPTER 50: WATER AND SEWER

### Section

- 50.01 Transferring administration of the Sewer Department
- 50.02 Water system

### **§ 50.01 TRANSFERRING ADMINISTRATION OF THE SEWER DEPARTMENT.**

(A) The Sauk Centre City Council does hereby transfer the full and exclusive administration, control of, and power over, the City of Sauk Centre's Sewer Department to the Sauk Centre Public Utility Commission. This transfer shall include its facilities, equipment, all apparatus, inventory of materials, lines and current personnel.

(B) There shall also be transferred from the Sauk Centre City Administrator/Clerk to the Sauk Centre Public Utilities Commission, all funds presently held in city accounts relating to the Sewer Department's operations, including reserves and sinking funds.

(C) The transfer of personnel shall be subject to existing wage, seniority and benefit schedules, and shall also be subject to existing union contracts which the Sauk Centre Public Utilities Commission shall honor until a new union election and/or contract shall be settled.

(D) The transfer of the Sewer Department shall take effect on January 1, 1997.

(E) Violation of any regulations adopted by the Sauk Centre Public Utility Commission concerning the operation of the Sewer Department and related systems and facilities shall be a violation of this code and shall be punished accordingly.

(Am. Ord. 569, passed 10-16-1996; Am. Ord. 606, passed 3-21-2001) Penalty, see § 10.99

### **§ 50.02 WATER SYSTEM.**

The city, by Charter has delegated the Water, Light and Power Commission to regulate and charge for the operation of a municipal water system. Violation of any regulations adopted by the Water, Light and Power Commission concerning the operation of the system is a violation of this code and may be punished accordingly.

(1985 Code, § 402.01)



## CHAPTER 51: ELECTRICITY

Section

### *Utility Franchise Fee*

- 51.01 Grant of franchise
- 51.02 Right of city to issue and renew franchise
- 51.03 Effective date
- 51.04 Franchise not exclusive
- 51.05 Franchise fee
- 51.06 Payment
- 51.07 Aggregation of retail customer demand response
- 51.08 Ancillary services provided by demand response resources

### *UTILITY FRANCHISE FEE*

#### **§ 51.01 GRANT OF FRANCHISE.**

(A) The Sauk Centre Public Utility Commission is hereby granted from the date hereof a franchise and right and privilege to construct, reconstruct, operate and maintain an electrical distribution system within their current service area.

(B) For purposes of this subchapter, **FRANCHISE AREA** shall be defined as the current service territory of the Sauk Centre Public Utilities Commission as well as any other areas within the corporate limits of the City of Sauk Centre.  
(1985 Code, § 608.01)

#### **§ 51.02 RIGHT OF CITY TO ISSUE AND RENEW FRANCHISE.**

The Sauk Centre Public Utility Commission acknowledges and accepts the right of the City of Sauk Centre to issue and/or renew the franchise and the Utility Commission agrees that it shall not now or at any time hereafter challenge any lawful exercise of this right by the City of Sauk Centre in any local, state or federal court.  
(1985 Code, § 608.02)

**§ 51.03 EFFECTIVE DATE.**

(A) This grant of franchise shall be effective and shall be co-terminus with the existence of the Sauk Centre Public Utility Commission.

(B) The grant shall continue in perpetuity and shall not be subject to any formal renewal purposes. (1985 Code, § 608.03)

**§ 51.04 FRANCHISE NOT EXCLUSIVE.**

The franchise herein granted shall not be construed as limiting the right of the City of Sauk Centre to grant other franchises similar to or containing rights, privileges or authority different from the rights, privilege or authority herein set forth, in the franchise area, provided, that the City of Sauk Centre shall not grant franchise authority within the current service area of the Sauk Centre Public Utility Commission.

(1985 Code, § 608.04)

**§ 51.05 FRANCHISE FEE.**

(A) The franchise fee shall apply to the sale of electricity only.

(B) The franchise fee for any electric utility selling kilowatt-hours within the franchise area (the present service territory of the Sauk Centre Public Utility Commission as well as the area within the corporate limits of the City of Sauk Centre) shall be calculated on a mils per kilowatt hour rate for retail sales to customers at the equivalent rate of 3% of the residential rate. The mils per kilowatt hour to be adjusted to satisfy the 3% requirement on an annual basis. At the adoption of this section the franchise fee will be 2.4 mils based upon \$.08 per kw rate.

(C) For purposes of this section, the fee to be paid by the Sauk Centre Public Utility Commission shall be the amount generated by application of the stated formula.

(Am. Ord. 623, passed 6-26-2002; Am. Ord. 765, passed 12-16-2015)

**§ 51.06 PAYMENT.**

(A) The annual franchise fee shall be paid in 12 monthly installments based on the previous year's kilowatt hours of retail sales.

(B) At the end of January in each calendar year, the Utility Commission shall submit a report in a form as the City of Sauk Centre may reasonably request showing the computation of the franchise fee for the preceding 12 months and the report shall have other relevant facts as may be required by the City of Sauk Centre.

## **Electricity**

(C) Adjustments, whether positive, or negative, for the preceding 12 months, shall be made in addition to or subtracted from the January payment.

(Am. Ord. 623, passed 6-26-2002)

### **§ 51.07 AGGREGATION OF RETAIL CUSTOMER DEMAND RESPONSE.**

(A) The Sauk Centre Public Utility, or its authorized designee, is the sole entity permitted to bid demand response on behalf of retail customers served by the Utility directly into any Commission-approved independent system operator's or regional transmission organization's organized electric markets.

(B) Retail customers served by the Sauk Centre Public Utility wishing to bid their demand response into a Commission-approved independent system operator's or regional transmission organization's organized electric markets may do so by participating in the program established by the Sauk Centre Public Utility or its authorized designee. Retail customers are not permitted to participate in the demand response program of any other entity without the express prior authorization of the Sauk Centre Public Utility.

(Ord. 678, passed 5-20-2009)

### **§ 51.08 ANCILLARY SERVICES PROVIDED BY DEMAND RESPONSE RESOURCES.**

(A) The Sauk Centre Public Utility, or its authorized designee, is the sole entity permitted to bid demand response on behalf of retail customers served by the Sauk Centre Public Utility directly into any Commission-approved independent system operator's or regional transmission organization's organized markets for energy imbalance, spinning reserves, supplemental reserves, reactive power and voltage control, or regulation and frequency response ancillary services (or its functional equivalent in the Commission-approved independent system operator's or regional transmission organization's tariff).

(B) Retail customers served by the Sauk Centre Utility wishing to bid their demand response into a Commission-approved independent system operator's or regional transmission organization's organized markets for energy imbalance, spinning reserves, supplemental reserves, reactive power and voltage control, or regulation and frequency response ancillary services (or its functional equivalent in the Commission-approved independent system operator's or regional transmission organization's tariff) may do so by participating in the program established by the Sauk Centre Public Utility or its authorized designee. Retail customers are not permitted to participate in the demand response program of any other entity without the express prior authorization of the Sauk Centre Public Utility.

(Ord. 678, passed 5-20-2009)



## CHAPTER 52: REFUSE

### Section

52.01	Definitions
52.02	Disposal required
52.03	Garbage
52.04	Rubbish
52.05	Paper
52.06	Storage
52.07	Reports

### § 52.01 DEFINITIONS.

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

**GARBAGE.** All organic refuse resulting from the preparation of food and decayed and spoiled food from all sources.

**PAPER.** Newspapers, magazines, cardboard, paper cartons and other waste paper and paper products.

**REFUSE.** All garbage, rubbish and paper as hereinbefore defined.

**RUBBISH.** All inorganic refuse matter such as tin cans, glass, ashes, sweepings, leaves, grass and other debris.  
(1985 Code, § 507.01)

### § 52.02 DISPOSAL REQUIRED.

Every person owning or occupying premises shall provide for the sanitary handling, storage and disposal of waste generated from the premises, by contracting with a licensed refuse hauler or otherwise.

(1985 Code, § 507.02) Penalty, see § 10.99

**§ 52.03 GARBAGE.**

(A) Every householder or occupant of any residence, boarding house, restaurant or other place of business or place producing garbage, who does not otherwise provide for the disposal of garbage in a sanitary manner, shall provide himself or herself with 1 or more strong sound metal cans sufficient to receive all garbage which may accumulate between the times of collection or disposal.

(B) Each can shall have a capacity of not to exceed 30 gallons and shall be provided with a bail or handles and a snug fitting cover which will keep out flies.

(C) All garbage accumulated between the times of collection or disposal shall be placed in the cans with all surplus water drained from garbage.

(D) The Council may require that garbage be wrapped or placed in waterproof bags if the Council deems it necessary.

(1985 Code, § 507.03) Penalty, see § 10.99

**§ 52.04 RUBBISH.**

(A) All rubbish shall be placed in covered cans or covered boxes that are easily accessible to the collector.

(B) Rubbish shall not be placed in cans where garbage is kept.

(1985 Code, § 507.04) Penalty, see § 10.99

**§ 52.05 PAPER.**

All paper shall either be bundled and tied or placed in cartons and tied, so as to prevent scattering.  
(1985 Code, § 507.05) Penalty, see § 10.99

**§ 52.06 STORAGE.**

(A) All refuse shall be kept at or near the back door of the building producing it, or at the rear of the premises at the alley, if there is an alley.

(B) All refuse shall be easily accessible to the collector at all reasonable times.

(1985 Code, § 507.06) Penalty, see § 10.99



## **Refuse**

### **§ 52.07 REPORTS.**

The Council may require the owner or occupant of any premises not regularly served by a licensed collector to provide a written report to the officer as to the manner and place of keeping waste and of disposing of the same.

(1985 Code, § 507.07)



## CHAPTER 53: STORMWATER UTILITY

### Section

- 53.01 Utility established
- 53.02 Findings and purpose
- 53.03 Definitions
- 53.04 Rates and charges
- 53.05 Stormwater utility fee adjustments
- 53.06 Credits
- 53.07 Collections and penalties
- 53.08 Disposition of revenues

### § 53.01 UTILITY ESTABLISHED.

A municipal stormwater utility is hereby established and shall be operated as a public utility pursuant to M.S. § 444.075 from which revenues will be derived subject to the provisions of this new Chapter 53 of the Sauk Centre Municipal Code and Minnesota Statutes.  
(Ord. 717, passed 4-4-2012)

### § 53.02 FINDINGS AND PURPOSE.

(A) The purpose of this chapter is for the efficient, economic and safe operation of a stormwater system for the protection of the health, safety and general welfare of the residents of the City of Sauk Centre.

(B) The system, as constructed heretofore, has been financed and paid for through the imposition of special assessments and ad valorem taxes. In addition to these funding sources, it is now necessary and desirable to provide an alternative method of recovering some or all of the futures costs of improving, establishing, enlarging, replacing, repairing, maintaining and operating the system through the imposition of charges as provided in this chapter. Fees may be used for the following purposes:

(1) The administration, planning, analysis, installation, operation, maintenance and replacement of public drainage systems. Maintenance shall include equipment purchases necessary for maintenance of the system.

(2) The administration, planning, implementation, construction and maintenance of stormwater Best Management Practices (BMPs) to reduce the introduction of sediment and other pollutants into local water resources.

(3) Other education, engineering, inspection, monitoring, testing and enforcement activities as necessary to maintain compliance with local, state, and federal stormwater requirements.

(4) Activities necessary to maintain compliance with the National Pollution Discharge Elimination System (NPDES) Municipal Separate Storm Sewer Systems (MS4) Permit requirements established by the Minnesota Pollution Control Agency, including preparation, implementation and management of a Stormwater Pollution Prevention Plan (SWPPP) to address the following control measures:

- (a) Public education and outreach on stormwater impacts;
- (b) Public involvement/participation;
- (c) Illicit discharge detection and elimination;
- (d) Construction site stormwater runoff control;
- (e) Post-construction runoff control in new development and redevelopment;
- (f) Pollution prevention for municipal operations.

(Ord. 717, passed 4-4-2012)

### § 53.03 DEFINITIONS.

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

**RESIDENTIAL EQUIVALENCY FACTOR (REF)** (also referred to as the Runoff Equivalency Factor). The unit charge for the use and availability of the system. For the purposes of this section, one **REF** is equivalent to the volume of surface water runoff generated on an average 13,939 sf residential lot with 28% impervious surface or 3,903 sf.

**RESIDENTIAL EQUIVALENCY UNIT (REU)**. The number of REFs per parcel calculated by (Parcel Area X % Impervious)/REF.

**STORMWATER UTILITY RATE**. The monthly rate charged for one REU which may be amended from time to time by the City Council.

**SINGLE-FAMILY RESIDENTIAL**. Defined as the land use classification of parcels with 1 living unit.

**MULTIPLE-FAMILY RESIDENTIAL**. The land use classification of parcels with 2 or more living units.

## Stormwater Utility

**NONRESIDENTIAL PROPERTY.** Any developed property that is not classified as single-family or multiple-family residential by the definitions above. Property that is a mixture of commercial and residential shall be considered commercial.

**IMPERVIOUS AREA.** Areas on a property that prevent or impede the infiltration of stormwater into the soil at the same rate as natural or pre-developed conditions. Common **IMPERVIOUS AREAS** may include, but are not limited to rooftops, sidewalks, walkways, patios, driveways, parking lots, storage areas, compacted gravel or soil surfaces and any other surface or impedes the natural infiltration of stormwater runoff.

**DEVELOPED LAND.** Property altered from a natural state by construction or installation of more than 500 square feet of impervious surfaces as defined in this section.  
(Ord. 717, passed 4-4-2012)

### § 53.04 RATES AND CHARGES.

(A) *Minimum or maximum fees.* The City Council may set minimum or maximum monthly fees per property.

(B) *Estimated charges.* If, for any reason, precise information related to the use, development or impervious area of a premise is not available; the Stormwater Utility Charges for such premise shall be estimated and billed based upon information then available to the city.

(C) The following lands are exempt from the stormwater utility fees:

- (1) Public streets and rights-of-way;
- (2) Wetlands and public waters as defined by state law;
- (3) Undeveloped properties;
- (4) Municipally owned properties;

(D) Each developed single-family residential parcel shall pay 1 REU at \$5. Each multi-family or commercially developed property shall pay a rate of \$5 per REU for the first 10 REUs and then \$1.25 for each subsequent REU on a parcel of land. This rate may be amended from time to time by the City Council.

(Ord. 717, passed 4-4-2012; Am. Ord. 736, passed 2-20-2013; Am. Ord. 761, passed 10-21-2015)

**§ 53.05 STORMWATER UTILITY FEE ADJUSTMENTS.**

(A) Stormwater utility fees may be adjusted under the conditions stated below. It shall be the responsibility of the property owner to provide justification for the fee adjustment.

(B) Any person liable for the payment of the stormwater utility fees on a property may appeal to the City Council by filing written notice of appeal with the City Administrator for an adjustment if the person believes the utility fee to be incorrect. The request for adjustment shall be made in writing and shall state, in detail, the grounds upon which relief is sought. The City Council may require the applicant to submit, at applicant's expense, supplemental information including, but not limited to, survey data certified by a registered land surveyor and engineering reports by a registered professional engineer. The City Council may grant an adjustment if it is found that:

(1) A substantial error was made in the calculation of the impervious area on a nonresidential property.

(2) The land use designation used to calculate the stormwater fee is inaccurate.

(C) The City Council shall hear the appeal and affirm, modify or deny the adjustments, applying the standards for granting adjustments set forth in this section. No adjustments shall be made retroactively, except for initial appeals filed within one year of the effective date of this chapter. (Ord. 717, passed 4-4-2012)

**§ 53.06 CREDITS.**

The City Council may upon proper notice and action implement a process to grant Stormwater credits through the installation of Best Management Practices (BMPs). (Ord. 717, passed 4-4-2012)

**§ 53.07 COLLECTIONS AND PENALTIES.**

(A) *Billing schedule.* The city shall render invoices for stormwater fees on a monthly basis in conjunction with other utilities effective June 1, 2012 for billings due on or about August 1, 2012.

(B) *Accounts in name of owner and/or occupant.* All accounts shall be in the name of the owner of the premises connected to the water and sewer service and/or the occupant of the premises if the owner is not directly paying for the services. Billings for multiple family dwellings or apartments on a single parcel of land shall be to the owner.

(C) *Penalty for late payments.* All charges for stormwater fees shall be due on the date specified by the city for the respective account. Penalty for past due bills shall be 10% of the total bill.

## **Stormwater Utility**

(D) *Delinquent accounts.* All charge for stormwater utility fees shall be due on the date specified by the city. The city shall endeavor to collect delinquent accounts promptly. When satisfactory arrangements for payment have not been made, accounts may be certified against the property for payment with property taxes through a special assessment or may be certified for collection with the State of Minnesota Revenue Recapture Program. Neither option shall prohibit the city from attempting to collect the debt through legal action or the use of a collection agency.

(Ord. 717, passed 4-4-2012)

### **§ 53.08 DISPOSITION OF REVENUES.**

All revenues from charges imposed under this chapter shall be respectively credited to the City Stormwater Special Revenue Fund subject to the withholding of a reasonable billing administration fee.

(Ord. 717, passed 4-4-2012)





**TITLE VII: TRAFFIC CODE**

Chapter

**70. VEHICLE OPERATION**

**71. PARKING REGULATIONS**

**72. TRAFFIC SCHEDULES**

**73. PARKING SCHEDULES**



## CHAPTER 70: VEHICLE OPERATION

### Section

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- 70.02 Turning
- 70.03 Stops
- 70.04 One-way streets
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### ***GENERAL REGULATIONS***

#### **§ 70.01 ADOPTION BY REFERENCE.**

The regulatory provisions and definitions of M.S. Ch. 168, 169 and 171, as may be amended from time to time, are adopted by reference. Any term used in this chapter and defined by M.S. § 169.01, as it may be amended from time to time, has the meaning given to it by that section.  
(1985 Code, § 801.01)

#### **§ 70.02 TURNING.**

(A) The Council, by resolution may, whenever necessary to preserve a free flow of traffic or prevent accidents, designate any intersection as one where the turning of vehicles to the left or to the right or both is to be restricted at all times or during specified hours.

(B) The Council shall cause any intersection so designated to be marked by appropriate signs.

(C) No intersection on a trunk highway shall be so designated until the consent of the Commissioner of Transportation is first obtained.

(D) No person shall turn a vehicle at any like intersection contrary to the directions on the signs.  
(1985 Code, § 801.02(1)) Penalty, see § 10.99

**§ 70.03 STOPS.**

The Council may, by resolution, designate additional street stops. The Council shall cause those stops to be marked by appropriate signs.  
(1985 Code, § 801.03)

**§ 70.04 ONE-WAY STREETS.**

The Council may, by resolution, designate any street or portion of a street as a 1-way street. The Council shall cause any street so designated to be marked with appropriate signs. No trunk highway shall be so designated without the consent of the Commissioner of Transportation.  
(1985 Code, § 801.04)

**§ 70.05 LOADING ZONES.**

Loading zones may be established in which no vehicle shall be stopped or parked except for the purpose of receiving or discharging passengers or freight and then only during the period necessary for the receipt or discharge of passengers or freight, during the time when the loading zones are marked by appropriate signs in accordance with direction of the Chief of Police of the city, and no person shall place any like signs unless so directed.  
(1985 Code, § 801.05) Penalty, see § 10.99

**§ 70.06 TAXICAB STANDS.**

Zones may be established as taxicab stands and no vehicle excepting taxicabs which afford service to the public as so, shall park or stand therein, and in case of any dispute or difference as to which taxicabs can stand therein or any other differences, the taxicabs shall use the zones only as directed by the city police.  
(1985 Code, § 801.06) Penalty, see § 10.99

**§ 70.07 BUS STOPS.**

Zones of places may be designated and established as bus stops and no vehicle shall stand or be parked therein except busses engaged in intercity traffic, as may be authorized so to do in the manner hereinafter provided, by the Council.  
(1985 Code, § 801.07) Penalty, see § 10.99

**§ 70.08 WEIGHT RESTRICTIONS.***(A) Permanent.*

(1) The Council, by resolution, may designate streets on which travel by commercial vehicles in excess of a specified gross weight is prohibited.

(2) The City Engineer shall erect appropriate signs on those streets.

(3) No person shall operate a commercial vehicle on those posted streets in violation of the restrictions stated.

*(B) Seasonal.*

(1) The Council may, by resolution, prohibit the operation of vehicles upon any street or impose weight restrictions on vehicles to be operated on the street whenever the street by reason of deterioration, rain, snow or other climatic conditions, will be seriously damaged unless the use of vehicles on the street is prohibited or the permissible weights thereof reduced.

(2) The Council shall cause signs plainly indicating the prohibition or restriction to be erected at each end of the portion of the street affected. No person shall operate a vehicle on a posted street in violation of the prohibition or restriction.

(1985 Code, § 801.08) Penalty, see § 10.99

**§ 70.09 EXHIBITION DRIVING.**

(A) No person shall turn, accelerate, decelerate or otherwise operate a motor vehicle within the city in a manner which causes unnecessary engine noise or backfire, squealing tires, skidding, sliding, swaying, throwing of sand or gravel or in a manner simulating a race.

(B) Unreasonable squealing or screeching sounds emitted by tires, or the unreasonable throwing of sand or gravel by the tires is prima facie evidence of a violation of this section. Violation of this section is a petty misdemeanor.

(1985 Code, § 801.09) Penalty, see § 10.99

**§ 70.10 PROHIBITING EXCESSIVE VEHICLE NOISE.**

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

***ABNORMAL OR EXCESSIVE NOISE.*** Shall mean:

- (a) Distinct and loudly audible noise that unreasonably annoys, disturbs, injures or endangers the comfort and repose of any person or precludes his or her enjoyment of property or affects his or her property's value;
- (b) Noise in excess of that permitted by M.S. § 169.69, as it may be amended from time to time, which requires every motor vehicle to be equipped with a muffler in good working order; or
- (c) Noise in excess of that permitted by M.S. § 169.693 and Minn. Rules parts 7030.1000 through 7030.1050, as this statute and these rules may be amended from time to time, which establish motor vehicle noise standards.

***ENGINE RETARDING BRAKE.*** A Dynamic Brake, Jake Brake, Jacobs Brake, C-Brake, Paccar Brake, transmission brake or other similar engine retarding brake system which alters the normal compression of the engine and subsequently releases that compression.

(B) *Discharge of exhaust.* It shall be unlawful for any person to discharge the exhaust or permit the discharge of the exhaust from any motor vehicle except through a muffler that effectively prevents abnormal or excessive noise and complies with all applicable state laws and regulations.

(C) *Use of engine brake.* It shall be unlawful for the operator of any truck to intentionally use an engine retarding brake on any public highway, street, parking lot or alley within the city which causes abnormal or excessive noise from the engine because of an illegally modified or defective exhaust system, except in an emergency.

(D) *State statutes.* Minnesota Statutes §§ 169.69 and 169.693 (motor vehicle noise limits), as may be amended from time to time, and Minn. Rules parts 7030.1000 through 7030.1050, as these statutes and rules may be amended from time to time, are hereby adopted by reference.

(E) *Signs.* Signs stating "Vehicle Noise Laws Enforced" may be installed at locations deemed appropriate by the City Council to advise motorists of the prohibitions contained in this section, except that no sign stating "Vehicle Noise Laws Enforced" shall be installed on a state highway without a permit from the Minnesota Department of Transportation. The provisions of this section are in full force and effect even if no signs are installed.

(F) *Intention.* It is the intention of the City Council that all future amendments to any statutes and rules referenced or adopted by reference in this section are also referenced or adopted by reference as if they had been in existence at the time this section was adopted.

(G) *Penalty.* Any person, firm or corporation who violates any provision of this section shall, upon conviction, be guilty of a petty misdemeanor and punished by a fine of not more than \$300. (Ord. 674, passed 1-21-2009) Penalty, see § 10.99

## ***SPECIFIC REGULATIONS***

### **§ 70.20 OBSTRUCTION OF TRAFFIC.**

(A) No person shall stop, slow or impede traffic on the streets and highways of the city, by obstructing the highway with any equipment, signs or debris, or by standing on the highway soliciting business or stopping vehicles, in any manner, unless authorized by a law enforcement officer, or in the case of an emergency.

(B) This section shall not apply to pedestrians crossing the streets or highways at street intersections. (1985 Code, § 801.10) Penalty, see § 10.99

### **§ 70.21 SLEDS.**

(A) No hand sled, toboggan, sliding bob or similar contrivance shall be trailed, attached to or drawn behind any vehicle operated, driven or propelled upon the streets of the city; except for those devices specifically designed for that purpose.

(B) No person riding upon skis, snow shoes or similar contrivances shall ride upon the same upon the streets while trailing behind any vehicle or while being propelled or drawn by a vehicle.

(C) No person shall ride upon a hand sled, toboggan, sliding bob or similar contrivance upon the streets of the city when the same is being used in violation of this section. (1985 Code, § 801.11) Penalty, see § 10.99

### **§ 70.22 POLICE.**

(A) Police officers are authorized to direct all traffic within the city, either in person or by means of visible or audible signal, in conformity with this chapter and state law.

(B) During a fire or other emergency or to expedite traffic or safeguard pedestrians, city police officers may direct traffic as conditions require notwithstanding the provisions of this chapter and state traffic laws.

(C) City firefighters may direct traffic or assist the police in directing traffic at the scene of a fire or in the immediate vicinity. (1985 Code, § 801.12)



**§ 70.23 SNOWMOBILES.**

(A) *General.* Every person operating a snowmobile within the city shall comply with all applicable state laws, and with divisions (B) through (F) below.

(B) *Intersections.* Every snowmobile shall stop at every street intersection before crossing a street, and then may cross at a slow, reasonable speed, as quietly as possible.

(C) *Where prohibited.* No snowmobile shall cross Main Street at the intersection of Sinclair Lewis Avenue, or at the intersection of Fourth Street South or at the intersection of Fifth Street South.

(D) *Groups.* When a group of 2 or more snowmobiles are in operation on any public street, they shall proceed in single file, and shall maintain a distance of at least 25 feet between each other.

(E) *Hours.* No snowmobile shall be used or operated in the city between 12:00 a.m. and 7:00 a.m.

(F) *Sidewalks.* No snowmobile shall be operated or parked on any public sidewalk within the city. Crossing a sidewalk at a 90 degree angle is permitted for the purpose of getting access to a roadway.

(1985 Code, § 803.01) Penalty, see § 10.99

**§ 70.24 BICYCLES.**

(A) *Riding double.* No person shall ride a bicycle on a street with another person on the handlebars or in any position in front of the operator.

(B) *Speed.* No bicycle shall be ridden faster than is reasonable and proper, but every bicycle shall be operated with reasonable speed in regard to the safety of the operator and other persons upon the streets.

(C) *Signs.* Persons riding bicycles shall observe all traffic signs and signals.

(D) *Lights.*

(1) No bicycle shall be permitted on any street between 30 minutes after sunset and 30 minutes before sunrise, without a headlight visible under normal atmospheric conditions from the front thereof for not less than 300 feet indicating the approach or presence of the bicycle, firmly attached to the bicycle and properly lighted, or without a yellow or red light reflector attached to and visible from 200 feet from the rear thereof.

(2) The headlight shall give a clear white light.

(E) *Two abreast.* No person shall ride or propel a bicycle upon any street abreast another person riding or propelling a bicycle.

(F) *Traffic laws.* Every person riding or propelling a bicycle upon any street shall observe all traffic rules and regulations applicable thereto, and shall turn only at intersections, signal for all turns, ride at the right hand side of the street or highway, pass to the left when passing overtaken vehicles and individuals that are slower moving and shall pass vehicles to the right when meeting.

(G) *Signal.* Every bicycle shall be equipped with a horn or bell which shall be used by the driver for warning purposes when overtaking pedestrians.

(H) *Sidewalks.* No person shall ride a bicycle upon any sidewalk located along or within the congested district as defined in § 71.06.  
(1985 Code, §§ 804.01, 804.02, 804.03)

## **§ 70.25 REGULATING THE USE OF SKATEBOARDS AND INLINE SKATES WITHIN THE CITY.**

(A) *Skateboards and inline skates on public property.*

(1) *Acrobatics.* No skateboarders or inline skaters shall perform acrobatics upon any street, sidewalk or public way except upon public trails and within designated skate park areas. Acrobatics include, but are not limited to, jumps, grinds and blocks. All skaters shall act in an orderly, safe and considerate manner while skating on public property.

(2) *Hours.* No skateboarding or inline skating shall be permitted on any street between 30 minutes after sunset and 30 minutes before sunrise. Proper reflective apparel shall be worn during permitted dawn and dusk hours.

(3) *Traffic laws.* Every person skateboarding or inline skating upon any street or public way including alleys, streets, boulevards, trails and parks shall observe all traffic rules and regulations applicable thereto, and shall turn only at intersections, signal for all turns, ride at the right hand side of the street or highway, pass to the left when passing vehicles and individuals that are slower moving and shall pass vehicles to the right when meeting.

(4) *Sidewalks.* Skating is prohibited upon any sidewalk within the following designated area:

- (a) Main Street South between Park Road and Fifth Street South;
- (b) Sinclair Lewis Avenue between Pine Street and Oak Street; and
- (c) Oak Street between Second Street and Fourth Street.

(B) *Skateboards and inline skates on private property.* Skating is prohibited upon private property at all times unless expressly permitted by the property owner.

(C) *Penalty.* Any person who violates any provision of this section shall, upon conviction, be guilty of a petty misdemeanor and punished by a fine of not more than \$300.  
(Ord. 676, passed 1-21-2009)

8D

**Sauk Centre - Traffic Code**

***PARADE PERMITS***

**§ 70.35 PARADE DEFINED.**

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

***PARADE.*** Any movement of vehicles, persons or animals, or any combination thereof, which either moves together and as a body so as to in some way impede or affect the free and unobstructed flow of vehicular or pedestrian traffic, or which moves so that some part thereof is in violation of 1 or more traffic laws or regulations, if those movements are without a permit hereunder.  
(1985 Code, § 805.01)

**§ 70.36 PERMIT REQUIRED.**

(A) It is a petty misdemeanor to sponsor or participate in a parade or special event for which no permit has been obtained from the City of Sauk Centre, and it is also a petty misdemeanor to obtain a parade permit and not conduct the same in accordance with the permit granted by the City of Sauk Centre.

(B) Application for a permit shall be made to the City Administrator/Clerk at least 45 days in advance of the date on which it is to occur and shall state the sponsoring organization or individual, the route or location, the length, the estimated time of commencement and termination, general composition and the application shall be executed by the individuals applying therefor or the duly authorized agent or representative of the sponsoring organization.  
(1985 Code, § 805.02) Penalty, see § 10.99

**§ 70.37 INVESTIGATION.**

(A) The City Administrator/Clerk shall forthwith refer all applications for parades to the Police Chief for his or her consideration which shall not take longer than 10 days to complete.

(B) If any state trunk highways are in the route, the Police Chief shall make all necessary arrangements with the Minnesota Department of Public Safety for alternative routes or whatever may be necessary.

(C) If the Police Chief finds that a parade will not cause a hazard to persons or property, and will not cause great inconvenience to the public, and if he or she is able to make arrangements for necessary direction and control of traffic, he or she shall endorse his or her acceptance and return the application to the City Administrator/Clerk.

(D) If the Police Chief finds the parade described in the application to be a hazard, a substantial inconvenience, or if he or she is unable to make adequate arrangements for direction or control of traffic, he or she shall return the same to the City Administrator/Clerk with his or her written findings.

(1985 Code, § 805.03)

#### **§ 70.38 COUNCIL ACTION.**

(A) The City Administrator/Clerk shall refer the application and results of the investigation of the Police Chief to the City Council at its next regular meeting.

(B) The Council may either:

(1) Deny the permit;

(2) Grant the permit; or

(3) Grant the permit on condition that a date, time or route are acceptable to the applicant which differ from what was stated in the application.

(C) The applicant shall have 3 days within which to communicate his or her acceptance to the City Administrator/Clerk.

(1985 Code, § 805.04)

#### **§ 70.39 UNLAWFUL ACTS.**

(A) It is unlawful for any person to hamper, impede or interfere with any parade, parade assembly, or any person, animal or vehicle participating in the parade.

(B) It shall be unlawful for any person to drive a vehicle between the vehicles or persons comprising a parade when the parade is in motion, except by direction of police officers directing traffic.

(C) It is unlawful for any person to enter into a parade without prior authorization from the Parade Chairperson.

(1985 Code, § 805.05) Penalty, see § 10.99

#### **§ 70.40 EXCEPTIONS.**

This subchapter shall not apply to:

(A) Funeral processions; or

(B) A governmental agency acting within the scope of its functions.  
(1985 Code, § 805.06)

**§ 70.41 INSURANCE AND PAYMENT OF EXPENSES.**

(A) The applicant shall furnish to the City Administrator/Clerk a certificate of insurance in an amount to be determined by the City Council and shall pay all extraordinary expenses incurred by the city for policing, traffic control and enforcement of this subchapter.

(B) The City Council may, as a condition of approval of the permit, require that the applicant deposit money with the City Administrator/Clerk in a sum equal to the estimated expenses to be incurred by the city.  
(1985 Code, § 805.07)

**§ 70.42 PERMIT FEES.**

All permits shall be issued only upon payment in full of permit fees and other costs fixed and determined by the City Council.  
(1985 Code, § 805.08)

***MOTORIZED GOLF CARTS***

**§ 70.55 PURPOSE.**

(A) Pursuant to M.S. § 169.045, subdivision 1, as it may be amended from time to time, a municipality may by ordinance authorize and control the operation of motorized golf carts on designated roadways or portions thereof under their jurisdiction.

(B) For purposes of this subchapter, the terms used within shall be defined under M.S. § 169.045, as it may be amended from time to time, which is hereby made a part of this subchapter as completely as if it were fully set out herein.  
(Ord. 620, passed 6-5-2002)

**§ 70.56 DEFINITIONS.**

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

**MOTORIZED GOLF CARTS.** A gas or electric 3 or 4-wheel vehicle commonly used to transport golfers and their golfing equipment while playing the sport of golf.

**PHYSICALLY DISABLED PERSON.** A person who fits the definition of physically disabled under M.S. § 169.345, subdivision 2, as it may be amended from time to time.

**ROADWAY.** A public roadway is defined as the entire right-of-way including the paved portion as well as all banks, ditches, shoulders and medians.  
(Ord. 620, passed 6-5-2002)

#### **§ 70.57 AUTHORIZED OPERATION.**

(A) Motorized golf carts shall be driven, operated or controlled on the roadways within the City of Sauk Centre only by those persons having a valid permit issued by the City of Sauk Centre.

(B) This subchapter does not regulate the use of power wheel chairs and power scooters that are commonly used for the mobility of persons with physical disabilities.  
(Ord. 620, passed 6-5-2002) Penalty, see § 10.99

#### **§ 70.58 PERMITS.**

No motorized golf cart shall be driven, operated or controlled on the roadways within the City of Sauk Centre unless the driver, operator or person in control has in his or her actual physical possession a valid, current and unrevoked permit of the City of Sauk Centre for driving, operation or control of the motorized golf cart.  
(Ord. 620, passed 6-5-2002) Penalty, see § 10.99

#### **§ 70.59 PERMIT ISSUANCE.**

Permits shall be issued by the City Administrator/Clerk and/or Chief of Police, or their authorized designee, upon compliance with this section.

(A) *Individual permit.*

(1) An application for an individual permit shall include the full name and address of the applicant; the applicant's date of birth; the state of issuance of the applicant's current drivers license, if any; the number of the drivers license; the date of application and the applicant's signature; the name of the applicant's insurance company; the number of the applicant's insurance policy; the date of expiration of insurance coverage for the vehicle to be driven; and description of the applicant's disability. Only physically disabled persons shall be authorized to obtain a permit for the driving and operation of a motorized golf cart.



(2) As a condition to obtaining an individual permit, the City Administrator/Clerk and/or Chief of Police may require an applicant to submit a certificate signed by a physician to the effect that the applicant is able to safely operate a motorized golf cart on the roadways within the City of Sauk Centre.

(B) *Revocation of permit.*

(1) An individual permit may be revoked by the City Administrator/Clerk and/or Chief of Police if there is any material misrepresentation made in the permit application; if liability insurance is no longer in effect; or if there is evidence that the permittee cannot safely operate the vehicle.

(2) The City Administrator and/or Chief of Police shall issue a notice of revocation of a permit in writing and either hand deliver the notice to the permit holder or send the notice by certified mail to the address on the application. The revocation shall be effective immediately after personal service or 3 days after mailing.

(C) *Permit expiration.* Permits shall be issued for and shall be effective for a period of 1 year. (Ord. 620, passed 6-5-2002)

**§ 70.60 FEES.**

An individual applicant shall pay a fee to the City of Sauk Centre for issuance of the permit. The fees shall be established by the city at its annual organizational meeting. The amount of the fee shall appear on the application and the fee shall be refunded if the permit applied for is not granted. (Ord. 620, passed 6-5-2002)

**§ 70.61 AREAS OF OPERATION.**

(A) Individuals having a valid permit shall be allowed to operate a motorized golf cart on all roadways within the City of Sauk Centre except those portions of the city roadways located within the central business district.

(B) In addition, vehicles shall not operate on Highway 71, Sinclair Lewis Avenue, Belt Line Road, Twelfth Street and Ash Street excepting that an operator may cross an intersection of 1 of the above-described roadways for purposes of obtaining access to an authorized roadway.

(Ord. 620, passed 6-5-2002) Penalty, see § 10.99

**§ 70.62 HOURS OF OPERATION.**

(A) No motorized golf cart shall be operated between the hours of sunset and sunrise.

(B) Vehicles shall not be operated in inclement weather or when visibility is impaired by weather, smoke, fog or other conditions, or at any time when there is insufficient light to clearly see persons or vehicles on the roadway at a distance of 500 feet.  
(Ord. 620, passed 6-5-2002) Penalty, see § 10.99

### **§ 70.63 TRAFFIC LAWS.**

Every person operating a motorized golf cart under permit on designated roadways has all of the rights and duties applicable to the driver of any other vehicle under the provisions of Minnesota Statutes, except when those provisions cannot reasonably be applied to motorized golf carts and except as otherwise specifically provided in Minnesota Statutes.  
(Ord. 620, passed 6-5-2002)

### **§ 70.64 INSURANCE.**

(A) Any person operating a motorized golf cart under this subchapter shall have in their possession evidence of liability insurance complying with the provisions of M.S. § 65B.48, subdivision 5, as it may be amended from time to time.

(B) In the event a person operating a like vehicle cannot obtain liability insurance in the private market, that person shall be allowed to purchase automobile insurance including no-fault coverage from the Minnesota Automobile Assigned Risk Plan at a rate to be determined by the Commissioner of Commerce.  
(Ord. 620, passed 6-5-2002) Penalty, see § 10.99

### **§ 70.65 UNLAWFUL ACTS.**

No motorized golf cart shall be driven, operated or controlled on the roadways within the City of Sauk Centre:

(A) Between sunset and sunrise;

(B) In inclement weather, when visibility is reduced or impaired by weather, smoke, fog or other conditions or at any time when there is insufficient light clearly to see a person or vehicle on a roadway at a distance of 500 feet;

(C) Without prominent display of a slow-moving vehicle emblem provided in M.S. § 169.522, as it may be amended from time to time, on the rear of a like vehicle;

(D) Without a mirror so located as to reflect to the driver, operator or controller, a view of the roadway for a distance of at least 200 feet to the rear of the vehicle;

(E) Without liability insurance coverage;

(F) Contrary to traffic laws of the City of Sauk Centre or the State of Minnesota except those which cannot readily be applied to motorized golf carts or are not applied by reason of M.S. § 169.045, subdivision 7, as it may be amended from time to time;

(G) By a person under the age of 18 years; or

(H) Without their permit number being displayed in a conspicuous place on the front and rear of the vehicle in 3-inch letters and numbers.  
(Ord. 620, passed 6-5-2002) Penalty, see § 10.99

**§ 70.66 DESIGNATED CARTWAYS.**

Motorized golf carts may not be operated on designated walking and bike paths within the City of Sauk Centre unless otherwise authorized.  
(Ord. 620, passed 6-5-2002)

**§ 70.67 LIMITATIONS OF LIABILITY.**

Nothing in this subchapter shall be construed as an assumption of liability by the city for any injuries to persons or property which may result from the operation of a motorized golf cart by a permit holder or the failure of the city to revoke the permit.  
(Ord. 620, passed 6-5-2002)



## CHAPTER 71: PARKING REGULATIONS

### Section

- 71.01 No parking, stopping or standing zones
- 71.02 Time limit zones
- 71.03 Parking spaces
- 71.04 Narrow streets
- 71.05 Time
- 71.06 Congested district
- 71.07 Travel, recreational and camping trailers
- 71.08 Truck/trailer parking
- 71.09 City parking lots
- 71.10 Vehicle repairs
- 71.11 Abandoned vehicles
- 71.12 Peddling
- 71.13 Impoundment
- 71.14 Prima facie evidence
- 71.15 Violations

### **§ 71.01 NO PARKING, STOPPING OR STANDING ZONES.**

(A) The Council may, by resolution, designate certain streets or portions of streets as no parking zones, or no stopping or standing zones, or as zoned for parking by physically handicapped persons and may limit the hours in which the restrictions apply.

(B) The Council shall cause those zones to be marked by appropriate signs. Except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or a traffic control device, no person shall stop or park a vehicle in an established no stopping or standing zone when stopping or standing is prohibited.

(C) No vehicle shall be parked in a no parking zone during hours when parking is prohibited, except as permitted by state law and except that a vehicle may be parked temporarily in the zone for the purpose of forming a funeral procession and a truck may be parked temporarily between the hours of 8:00 a.m. and 5:00 p.m. of any business day for the purpose of loading or unloading where access to the premises is not otherwise available.

(1985 Code, § 802.01) Penalty, see § 10.99

**§ 71.02 TIME LIMIT ZONES.**

(A) The Council may, by resolution, designate certain areas where the right to park is limited during specified hours. The Council shall cause those zones to be marked by appropriate signs.

(B) During the specified hours, no person shall park a vehicle in the zone for longer than the period specified.

(1985 Code, § 802.02) Penalty, see § 10.99

**§ 71.03 PARKING SPACES.**

Lines or markings may be painted upon the curb or street designating the parking spaces. No person shall park any vehicle across any like line or markings, or park a vehicle in such a position that it shall not be entirely within the space designated by lines or markings.

(1985 Code, § 802.03) Penalty, see § 10.99

**§ 71.04 NARROW STREETS.**

No vehicle shall be parked on any street which is less than 35 feet in width and which is so marked by appropriate signs except for the purpose of and during the time reasonably needed to receive or discharge passengers or freight.

(1985 Code, § 802.04) Penalty, see § 10.99

**§ 71.05 TIME.**

No vehicle shall be parked on any street in any 1 place for a continuous period of more than 48 hours; except as provided in § 71.06 and Ch. 73, Sch. I.

(1985 Code, § 802.05) Penalty, see § 10.99

**§ 71.06 CONGESTED DISTRICT.**

(A) *Designation.* The following area is designated as the congested district: Main Street South between Second Street South and Fifth Street South, and Third Street South between Main Street and Oak Street. The regulations of divisions (B) through (D) below shall apply within the congested district.

(B) *Truck parking.* No commercial vehicle of more than ½ ton capacity shall be parked in the congested district except during the time necessary to continuously load or unload goods, articles or produce to or from the premises abutting on the congested district and at like places where loading or unloading is otherwise permitted by this chapter.

(C) *Loading.*

(1) No commercial vehicle and no vehicle designed and used for the delivery of goods, articles or produce shall be loaded or unloaded in whole or in part in the congested district where access to the premises is available from or by any other street or alley than those so designated as the congested district.

(2) At places where access by other streets or alleys is not available, a vehicle may stop or park, during the time necessary to continuously load or unload goods, articles or produce to or from the premises abutting on the congested district.

(D) *Parking.* Except as otherwise herein provided, no vehicle shall be parked or stopped in the congested district on any day except Sunday for a continuous period of more than 2 hours between the hours of 8:00 a.m. and 6:00 p.m., nor between the hours of 6:00 p.m. and 11:00 p.m. on any Saturday.

(E) *Residential use.* Residential uses shall not be allowed on the street level in the district. (1985 Code, § 802.06) (Am. Ord. 705, passed 4-20-2011) Penalty, see § 10.99

**§ 71.07 TRAVEL, RECREATIONAL AND CAMPING TRAILERS.**

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

**CAMPING TRAILER.** A folding structure, mounted on wheels and designed for travel, recreational and vacation uses.

**MOTOR HOME.** A portable, temporary building to be used for travel, recreational and vacation uses, constructed as an integral part of self-propelled vehicle.

**OTHER TRAILER.** A vehicle which is not self-propelled regardless of the number of wheels with which it is equipped, which is designed to be drawn by a motor vehicle for transporting any soil, material or other object including, but not limited to, boats, snowmobiles and cargo, but not including semi-trailers and truck tractors.

**PICK-UP COACH.** A structure designed to be mounted on a truck chassis for use as temporary dwelling for travel, recreational and vacation uses.

**RECREATIONAL VEHICLE.** A boat or snowmobile.

**TRAVEL TRAILER.** A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational and vacation uses.

(B) *Trailer parking-time.* It shall be unlawful for any person to leave or park a travel trailer, pick-up coach, motor home, capping trailer, recreational vehicle or other trailer as defined herein on or within the limits of any street, right-of-way or city owned parking lot within the City of Sauk Centre for a continuous period in excess of 48 hours, except where signs are erected designating the place as a camp site or in a mobile home park.

(1985 Code, § 802.07) Penalty, see § 10.99

#### **§ 71.08 TRUCK/TRAILER PARKING.**

(A) It shall be unlawful to park a detached semi-trailer upon any street, alley, city-owned parking lot or other public property except as those that are specifically designated by the Sauk Centre City Council by resolution and sign posting.

(B) It shall be unlawful to park a truck (other than a truck of 10,000 gross vehicle weight or less), truck trailer, tractor-trailer or truck-tractor within an area zoned as R-1 (1 and 2-family residential districts) except for the purpose of loading or unloading the same, and then only during those times as are reasonably necessary for the activity.

(1985 Code, § 802.08) Penalty, see § 10.99

#### **§ 71.09 CITY PARKING LOTS.**

(A) In city owned parking lots, the Council may limit the size and types of motor vehicles to be parked thereon, hours of parking and prescribed method of parking, provided that the limitations and restrictions are marked or sign-posted thereon.

(B) It shall be unlawful to park any vehicle in any city owned parking lot contrary to the restrictions or limitations marked or sign-posted thereon.

(1985 Code, § 802.09) Penalty, see § 10.99

#### **§ 71.10 VEHICLE REPAIRS.**

It shall be unlawful for any person to service, repair, assemble or disassemble any motor vehicle parked upon a street, alley or city owned parking lot, or attempt to do so, except to service a vehicle with gasoline or oil, or to provide emergency repairs thereon, but in no event for more than 24 hours.

(1985 Code, § 802.10) Penalty, see § 10.99



**§ 71.11 ABANDONED VEHICLES.**

It shall be a misdemeanor to park or abandon a motor vehicle on the property of another, or upon an area developed as an off-street parking facility, without the consent of the owner, lessee or person in charge of any like property or facility.

(1985 Code, § 802.11) Penalty, see § 10.99

**§ 71.12 PEDDLING.**

(A) No person shall park a vehicle on any street, alley or on city owned parking lot, for the purpose of selling and delivering in or on the street, alley or city owned parking lot, any goods, wares, merchandise, fruits, vegetables or other produce or articles of any kind.

(B) No person shall sell produce or articles from a vehicle parked on a street, alley or city owned parking lot, in violation of this chapter.

(C) This chapter shall not be constructed to prohibit the use of a vehicle in peddling from house to house or door to door which is otherwise in compliance with this code, or casual, isolated sales and deliveries on streets and alleys from vehicles parked thereon.

(1985 Code, § 802.12) Penalty, see § 10.99

**§ 71.13 IMPOUNDMENT.**

(A) When any peace officer finds a vehicle standing upon a street, alley or city owned parking lot, in violation of any parking regulations, the officer is hereby authorized to require the driver or other person in charge of the vehicle to remove the same to a position in compliance with this code.

(B) When any police officer finds a vehicle unattended upon any street, alley or city owned parking lot, in violation of any parking regulation, the officer is hereby authorized to impound the unlawfully parked vehicle and to provide for the removal thereof, and to remove the same to a convenient garage or other facility or place of safety, provided, that if any charge shall be placed against the vehicle for cost of removal or storage, or both, by anyone called upon to assist therewith, the same shall be paid prior to removal from the place of storage or safe keeping.

(1985 Code, § 802.14)

**§ 71.14 PRIMA FACIE EVIDENCE.**

The presence of any motor vehicle on any street, alley, or city owned parking lot, when standing or parked in violation of this chapter is prima facie evidence that the registered owner of the vehicle committed or authorized the commission of the violation.

(1985 Code, § 802.15) Penalty, see § 10.99

**§ 71.15 VIOLATIONS.**

Any person violating the sections of this chapter (except § 71.11), shall be guilty of a petty misdemeanor.

(1985 Code, § 802.16) Penalty, see § 10.99

**CHAPTER 72: TRAFFIC SCHEDULES**

Schedule

I. U-turns

**SCHEDULE I. U-TURNS.**

<i>Street</i>	<i>Between</i>
Main Street	The North lines of Third and Fourth Streets South
Third Street South	The East lines of Main Street and Oak Street

(A) No person shall turn a vehicle so as to reverse its direction on the above.

(B) The Council may, by resolution, designate additional areas where U-turns are prohibited. The Council shall cause all areas so designated to be marked by appropriate signs.  
(1985 Code, § 801.02(2)) Penalty, see § 10.99



## CHAPTER 73: PARKING SCHEDULES

Schedule

### I. Winter parking

#### **SCHEDULE I. WINTER PARKING.**

(A) The Mayor, Police Chief or other designated official of the city may declare a snow emergency in the city. The emergency shall continue in effect for a period of 24 hours or until the snow has been removed from the city's streets or until the snow emergency has been rescinded by action of the Mayor, Police Chief or other designated officer.

(B) Notice of the declaration of a snow emergency shall be given by notifying the local news media; however, the notification shall be a service aid only and not a duty on the part of city or its officials.

(C) (1) During a declared snow emergency, no motor vehicle, mobile home, accessory unit, trailer or implement of any type (vehicle) shall be left parked on any street or public way in the city except for the areas so designated as the "2:00 a.m. to 7:00 a.m. no parking zone" where no parking is allowed any time during the year during the specified time period.

(2) The 2:00 a.m. to 7:00 a.m. no parking areas include the following:

<i>Street</i>	<i>From</i>	<i>To</i>
Sinclair Lewis Avenue	Pine Street South	Oak Street South
Pine Street South	Sinclair Lewis Avenue	Fourth Street South
Fourth Street South	Pine Street South	Oak Street South
Oak Street South	Fourth Street South	Second Street South
Second Street South	Oak Street South	Pine Street South
Highway 71 (Main Street South)	First Street South	Fifth Street South

(D) During a declared snow emergency, any police officer of city who finds a vehicle parked in violation of this schedule is authorized to have the vehicle towed and impounded at the owner's expense any time more than 2 hours after attachment of the notice of violation required in subsection (G)(1) of

this schedule to the vehicle, in accordance with M.S. §§ 169.041 and 168B.04, as it may be amended from time to time, and this schedule.

(E) The presence of any vehicle on any street in violation of this schedule is prima facie evidence that the registered owner of the vehicle committed or authorized the commission of the violation. Any vehicle so parked is the act of the registered owner as well as the act of the person actually parking the vehicle. For the purposes of this division, registered owner is defined to include vehicle renewal or leasing agencies or corporate owners. It shall be a defense to any violation that the registered owner shows that on the date of the offense the title has been transferred to another.

(F) A violation of this schedule shall result in the imposition of a penalty of \$100. The procedure of divisions (G) and (H) of this schedule shall be applicable in the administration of this schedule. A violation of this schedule is a petty misdemeanor, punishable by a fine of up to \$300, as defined in M.S. § 609.02, Subd. 4a, as it may be amended from time to time.

(G) This division is intended to provide an informal, cost effective, and expeditious alternative to traditional court proceedings for violations of this schedule.

(1) *Notice of violation.* Any police officer or any other person employed by the city with authority to enforce this schedule shall, upon determining that there has been a violation, attach notice of violation to the vehicle, and notify the registered owner of the vehicle, if that person can be found. The notice shall identify the vehicle, state the nature, date, and time of the violation, the name of the official issuing the notice, the amount of the penalty and any applicable charges.

(2) *Payment.* Once a notice of violation under subsection (1) is given, the person responsible for the violation may, within 10 days after the notice is issued, pay the penalty amount of \$100 for the violation, or may request a hearing in writing, as is provided for hereafter. The penalty may be paid in person or by mail, and payment shall be deemed to be an admission of the violation.

(3) *Contested violations.* Any person contesting the penalty pursuant to this schedule may, within 10 days of the time of issuance of the notice, request a citation or a criminal complaint to the County District Court. This will afford the defendant all due process rights afforded by the court.

(4) *Failure to pay.* If a violator fails to pay the penalty imposed by this schedule, the city may seek imposition of a penalty by bringing a petty misdemeanor charge against the violator according to this schedule and applicable law. If the violator pays the penalty, the city shall not bring a court charge for the same violation.

(5) *Disposition of penalties.* All penalties collected under this schedule shall be paid to the city for deposit in its general fund, and the city shall issue a receipt therefore.

(6) *Option to withdraw; city's option.* The administrative offense procedure under this schedule is intended to be voluntary on the part of those who have been charged with a violation. At any time before paying the penalty as is provided in this schedule, the individual may withdraw from participation in the procedures whereupon the city may bring petty misdemeanor court charges according to the city

code and state law. Likewise, nothing in this schedule shall prohibit the city, in its discretion, to initiate court charges in lieu of collection of the penalty.

(H) Any vehicle parked in violation of this schedule is hereby declared to be a public nuisance and may at any time more than 2 hours following the attachment of the notice of violation described in division (G)(1) of this schedule to the vehicle be summarily removed without further notice to the owner or operator thereof. The vehicle may be towed to and stored in any parking lot garage designated by the Police Department. The vehicle so towed under this schedule cannot be redeemed by any person until the penalty imposed by this schedule, and all costs of removing, towing, and storage of the vehicle are paid.

(1) *Notice of impoundment.* Whenever the Police Department has impounded a vehicle pursuant to this schedule, a notice of the impoundment and the storage of the vehicle shall be mailed to the last registered owner of the vehicle, if the name and address of the owner can be ascertained with reasonable diligence. The notice shall state that if the owner fails to reclaim the vehicle within 60 days from the date of the mailing, title to the vehicle will be sold at public auction to be held not sooner than 30 days after the expiration of the 60-day period contained in the notice. This notice shall be mailed within 48 hours, excluding weekends and holidays, after impounding and storage of the vehicle.

(2) *Impoundment hearing.*

(a) As to any vehicle impounded pursuant to this schedule, a person who has a legal entitlement to possession of the vehicle has a right to a post-seizure administrative hearing to determine whether there was probable cause to impound the vehicle; if the person files a written demand for a hearing with the city within 10 days after the person has learned the vehicle has been impounded or within 10 days after the mailing date of the notice of impoundment required in subsection (1) of this division, whichever occurs first. A hearing shall be conducted before a hearing officer designated by the City Administrator/Clerk within 48 hours of receipt of a written demand therefore from the person seeking the hearing unless the person waives the right to a speedy hearing. Saturdays, Sundays, and city holidays are to be excluded from the calculation of the 48-hour period. The hearing officer shall be some person designated by the city but shall not be a person theretofore involved in any decision relating to the impounding and storage of the vehicle. The sole issue before the hearing officer shall be whether there was probable cause to impound the vehicle in question. "Probable cause to impound" shall mean a state of facts as would lead a person of ordinary care and prudence to believe that there was sufficient breach of law to grant legal authority for the removal of the vehicle. The hearing officer shall conduct the hearing in an informal manner and the party seeking possession shall carry the burden of establishing that person has the right to possession of the vehicle. The Police Department shall carry the burden of establishing that there was probable cause to impound the vehicle in question. At the conclusion of the hearing, the hearing officer shall prepare a written decision. A copy of the decision shall be provided to the Police Department, the person demanding the hearing and the registered owner of the vehicle (if not the person requesting the hearing). The hearing officer's decision in no way affects any charges or court proceeding arising from or relating to the facts underlying the imposition of the administrative penalty or the impoundment. Any charges or court proceeding may only be challenged in the appropriate court. The decision of the hearing officer is final. Failure of the registered or legal owner, or their agent to request or attend a scheduled post-seizure hearing shall be deemed a waiver of the right to the hearing.

The hearing officer shall only determine that as to the vehicle in issue either there was or was not probable cause to impound the vehicle. In the event that the hearing officer determines that there was no probable cause, the hearing officer shall prepare and date a certificate of no probable cause, copies of which shall be given to the possessor of the vehicle and the Police Department. Upon receipt of the possessor's copy of the certificate, the pound or authorized garage having custody of the vehicle shall release the vehicle to its possessor. Upon a finding of no probable cause, towing and storage fees shall be paid by the city in accordance with arrangements made between the city and the pound or authorized garage. If the possessor fails to present a certificate to the pound or authorized garage having custody of the vehicle within 24 hours of its receipt, excluding days when the pound or authorized garage is not open for business, the possessor shall assume liability for all subsequent storage charges. The certificate shall advise the possessor of the requirement.

(Am. Ord. 638, passed 9-1-2004; Am. Ord. 650, passed 12-20-2006)



**TITLE IX: GENERAL REGULATIONS**

Chapter

**90. PUBLIC PARKS AND GROUNDS**

**91. TREES**

**92. DAM REGULATIONS**

**93. ANIMALS**

**94. FIRE PROTECTION**

**95. NUISANCES**

**96. STREETS AND SIDEWALKS**

**97. VACANT BUILDINGS**



## CHAPTER 90: PUBLIC PARKS AND GROUNDS

### Section

- 90.01 Definitions
- 90.02 General regulations
- 90.03 Sinclair Lewis Park and campground
- 90.04 Towerview and Jaycee ball fields
- 90.05 City parks

### § 90.01 DEFINITIONS.

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

***FIREARM.*** Includes any rifle, shotgun, pistol, B-B gun, pellet gun, sling shot, air rifle and bow and arrow.

***PUBLIC PARKS AND GROUNDS.*** Any real property owned or leased by the city.

***VEHICLE.*** Any vehicle or conveyance, whether motor-powered, animal-drawn or self-propelled, and includes any trailer of any size, kind or description. ***VEHICLE*** shall not include baby carriages or vehicles in the service of the city.  
(1985 Code, § 306.01)

### § 90.02 GENERAL REGULATIONS.

The following shall apply to all public parks and grounds.

(A) *Removing, defacing or destroying property.* No person shall remove, deface, destroy, diminish or impair the value of public property located on or within any public park or public grounds, including buildings, structures, trees, shrubs, grass, vegetation, signs, tables, benches, fireplaces, trash receptacles, notices or placards, boundary markers or fences or any other public property either real or personal.

(B) *Littering.* No person shall litter or cast or allow to remain any rubbish or trash of any kind or nature in or about any public park or public grounds.

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(C) *Alcoholic beverages.* No person shall display or consume any intoxicating liquor on any road or street within the City of Sauk Centre.

(D) *Vehicle traffic.* Vehicles shall be driven or parked only in designated areas and roadways in public parks or public grounds and shall be driven therein at a maximum speed of 10 mph. Parking in designated areas shall be allowed only by vehicles whose owners and/or occupants are currently using city public parks and grounds.

(E) *Discharge and carrying of firearms.* No person, except law officers in the discharge of their duties, shall discharge or carry any uncased firearms or unstrung and/or uncased bows on any public park or public grounds at any time.

(F) *Sale of articles.* No person shall sell any articles or solicit for the sale thereof, on any public park or public grounds; except that the foregoing shall not apply to the annual civic celebration commonly known as "Sinclair Lewis Days," on a date approved by the Council annually.

(G) *Posting signs and placards.* No person shall paste, glue, tack or otherwise post any sign, placard, advertisement or inscription, on any public park or public grounds, except by written permit issued by the City Administrator/Clerk, after prior approval by the Council.

(H) *Riding of horses and other animals.* No person shall ride a horse or any other animal on any public park or public grounds except on designated trails or paths.

(I) *Unattended animals.* No person shall allow any animal, of any sort, to go unattended or without physical restraint in any public park or public paths.

(J) *Language, conduct and attire.*

(1) No person shall use abusive, boisterous or obscene language or engage in any abusive, boisterous or obscene behavior in any public park or public grounds.

(2) No person shall place or carry any abusive or obscene placard or sign in any public path or public grounds.

(3) No person shall appear in any public park or public grounds unless clad in attire which meets contemporary community standards of decency.

(4) This section shall not be construed to prohibit any constitutionally protected speech or expression.

(K) *Climbing of trees and on buildings.* No person shall climb any trees or climb on any building or structure in any public park or public grounds.

(L) *Posting of areas.* The Council may, by resolution, determine from time to time the areas of any public park and public grounds, in which other activities and conduct not amenable to efficient operation of the park or public grounds, shall be prohibited and shall post appropriate signs to notify persons thereof.

(M) *Intoxication.* No person shall enter or be upon any public park or public grounds while under the influence of any intoxicating liquor or 3.2% malt liquor or malt liquor.

(N) *Fireworks.* No person shall possess or discharge any fireworks in any public park or public grounds except by written permit issued by the Administrator/Clerk after prior Council approval. (1985 Code, § 306.02) Penalty, see § 10.99

**§ 90.03 SINCLAIR LEWIS PARK AND CAMPGROUND.**

The following regulations shall apply to the Sinclair Lewis Park and Campground.

(A) There shall be no more than 2 motor vehicles per camping site.

(B) Check out from the Sinclair Lewis Campground shall be at 12:00 p.m. Quiet time is designated from 11:00 p.m. to 8:00 a.m. There shall be no unnecessary noises or disturbances during quiet time.

(C) No person shall build a fire in any place, at any time, except in fireplaces or receptacles provided by the city.

(D) There shall be no drain water or other waste water dumping upon campground grounds, except in those locations, if any, as designated by the city.

(E) In an effort to control the spread of the Emerald Ash Borer, campfire wood in public parks shall be provided by MnDNR approved vendors. Firewood may either be brought into the parks with the appropriate seals or purchased from campground staff. (1985 Code, § 306.03) (Am. Ord. 706, passed 4-20-2011; Am. Ord. 708, passed 5-18-2011) Penalty, see § 10.99

**§ 90.04 TOWERVIEW AND JAYCEE BALL FIELDS.**

The following regulations shall apply to the Towerview and Jaycee ball fields:

(A) No person, except authorized city personnel, shall enter or be in or remain upon any field between the hours of 10:30 p.m. and 7:00 a.m. All lights illuminating the playing fields shall be extinguished during those times; and

(B) There shall be no glass bottles or containers allowed at either field.  
(1985 Code, § 306.04) (Am. Ord. 708, passed 5-18-2011)

**§ 90.05 CITY PARKS.**

(A) All public city parks shall close at 10:30 p.m. and open at 7:00 a.m. No person, except authorized city personnel, shall enter or be in or remain upon any park between these hours unless attending a city approved function.

(B) There shall be no glass bottles or containers allowed at any park.  
(Ord. 708, passed 5-18-2011)

## CHAPTER 91: TREES

### Section

- 91.01 Purpose
- 91.02 Definitions
- 91.03 City Tree Board
- 91.04 Boulevard plantings
- 91.05 Recommended tree species
- 91.06 Pruning and clearance
- 91.07 Attachments
- 91.08 Maintenance and removal by city
- 91.09 Stumps
- 91.10 Permit required
- 91.11 Removal prohibited
- 91.12 Licensing requirements; insurance
- 91.13 Diseases declared nuisances
- 91.14 Abatement of diseased trees on public property
- 91.15 Abatement of diseased trees on private property
- 91.16 Collection of assessments
- 91.17 Inspection and investigation
- 91.18 Interference prohibited
- 91.19 Campfire wood in public parks and campgrounds
- 91.20 Violations, claims and appeals

### § 91.01 PURPOSE.

(A) It is the purpose of this chapter to promote and protect the public health, safety and general welfare by providing for the regulation of the planting, maintenance and removal of trees, shrubs and other plants within the City of Sauk Centre to the extent found by the City Council to be necessary, practical and within available financial and staff resources.

(B) This chapter provides full power and authority over all trees, plants and shrubs located within street rights-of-way, parks and public places of the City of Sauk Centre; and to trees, plants and shrubs located on private property that constitute a hazard or threat as described herein.

(Ord. 706, passed 4-20-2011)

**§ 91.02 DEFINITIONS.**

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

***BOULEVARD.*** That portion of a street normally lying between the sidewalk, if there is a sidewalk, and if there is not sidewalk, then the nearest boundary line of the way or place and the curb, if there is a curb, and if there is no curb, then the nearest lateral line of the roadway.

***PARK TREES.*** Any trees, shrubs, bushes and all other woody vegetation growing in public parks and all other areas owned by the City of Sauk Centre except street trees.

***STREET.*** The entire width between boundary lines of every way or place of whatever nature whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, alley, boulevard, land, place or however designated when any part thereof is open to the use of the public as a matter of right, for the purposes of vehicular or pedestrian traffic.

***STREET TREES.*** Any trees, shrubs, bushes and all other woody vegetation growing on either side of all streets, avenues and rights-of-way within the City of Sauk Centre.  
(Ord. 706, passed 4-20-2011)

**§ 91.03 CITY TREE BOARD.**

(A) *Creation and establishment.* There is hereby created and established a City Tree Board for the City of Sauk Centre, State of Minnesota, which shall consist of 5 members, citizens and residents of the City of Sauk Centre, which shall be appointed by the City Council.

(B) *Term of office.* The term of the 5 persons to be appointed by the Mayor shall be 2 years except that the term of 2 of the members appointed to the first Board shall be for only 1 year and the term of 2 members of the first Board shall be for 2 years. In the event that a vacancy shall occur during the first term of any member, his or her successor shall be appointed for the unexpired portion of the term.

(C) *Compensation.* Members of the Board shall serve without compensation.

(D) *Duties and responsibilities.*

(1) It shall be the responsibility of the Board to study, investigate, counsel and develop and/or update annually, and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas.



(2) The plan will be presented annually to the Sauk Centre City Council and upon its acceptance and approval shall constitute the official comprehensive city tree plan for the City of Sauk Centre, State of Minnesota.

(3) The Board, when requested by the City Council, shall consider, investigate, make findings, reports and recommendations upon any special matter of question coming within the scope of its work.

(E) *Operation.* The Board shall choose its own officers, make its own rules and regulations and shall keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business.

(F) *Tree City USA Program.* The city desires to participate in and be a member of the Tree City USA Program. To this end, the purpose of this chapter shall be backed by the expenditure of at least \$2 per capita for tree planting and tree care. In addition, an annual arbor day proclamation and observance shall be initiated and promoted by the City Tree Board.

(G) *Disease control measures.* The city will conduct tree disease control measures using the best management practices (BMPs) as advised by MnDNR, USDA, University of Minnesota, or Minnesota Department of Agriculture.

(H) *Designated official.* The city may designate an employee to act as the City Forester whose official duty shall be to carry out the duties prescribed in this code on behalf of the city and its Tree Board.

(Ord. 706, passed 4-20-2011)

#### **§ 91.04 BOULEVARD PLANTINGS.**

(A) *Tree trunks.* No trees will be planted which measures less than 1¼ inches in diameter of trunk 1 foot above the ground and less than 8 feet in height.

(B) *Traffic hazard.* No trees shall be placed on boulevards so as, in the opinion of the Tree Board, to cause hazard.

(C) *Spacing.* All street trees of whatever species and size will be planted no closer together than 27 feet; except in special plantings designated and approved by the Tree Board. Trees shall not be planted closer than 12 feet from future or existing curb returns at intersections.

(D) *Street intersections and hydrants.* No street tree shall be planted closer than 20 feet from any street intersection, and no street tree shall be planted closer than 12 feet to any existing or planned fire hydrant.

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(E) *Driveways.* No street trees shall be planted closer than 12 feet from any driveway.

(F) *Distance from edge of street or sidewalk.*

(1) Where there is a sidewalk and the boulevard is greater than 12 feet wide, boulevard trees are permitted provided they are planted no closer than 6 feet from the edge of the street or from the back of the curb, and no closer than 3 feet from the edge of the sidewalk.

(2) Where there is a sidewalk and the boulevard is between 6 and 12 feet wide, boulevard trees are permitted provided they are planted on the center line between the curb and the sidewalk edge.

(3) Where there is a sidewalk and the boulevard is less than 6 feet wide, no new boulevard trees may be planted.

(4) *Exception:* Permits may be granted for replacing trees lost within the limits of any street, parkway or boulevard less than 6 feet wide but more than 4½ feet wide.

(5) Where no sidewalk or curb has been constructed, no trees may be planted.

(G) *Overhead utility.* No street trees other than those species listed as small trees or medium trees may be planted under or within 10 lateral feet of any overhead utility service containing 2 or more wires.

(H) *Underground utilities.* No street trees may be planted over or within 5 lateral feet of any underground water line, sewer line, transmission line or other utility line.

(I) No permit will be granted for tree planting within the limits of any street, parkway, or boulevard which has a right-of-way less than 60 feet in width.

(Ord. 706, passed 4-20-2011)

**§ 91.05 RECOMMENDED TREE SPECIES.**

The City of Sauk Centre promotes a diverse urban forest so as to minimize the spread of tree disease. To assist in meeting this goal, the Tree Board has listed recommended trees for planting in city boulevards. Tree species not listed will be considered on a case by case basis.

<i>Common Name</i>	<i>Technical Name</i>
Princeton American Elm	Ulmus americana "Princeton"
American Liberty American Elm	Ulmus americana "American Liberty"
Valley Forge American Elm	Ulmus americana "Valley Forge"
Norway Maple	Acer platanoides

<i>Common Name</i>	<i>Technical Name</i>
Cleveland Norway Maple	Acer platanoides "Cleveland"
Emerald Queen Norway Maple	Acer platanoides "Schwedleri"
Summer Shade Norway Maple	Acer platanoides "Summer Shade"
Red Maple	Acer rubrum
Sugar Maple	Acer saccharum
Autumn Blaze Maple	Acer fremannii "Jeffersred"
Celebration Maple	Acer fremannii "Celzam"
Marmo Maple	Acer fremannii "Marmo"
Sienna Glen Maple	Acer fremannii "Siena"
Northwood Maple	Acer rubrum "Northwood"
Fall Fiesta Maple	Acer saccharum "Fall Fiesta"
Green Mountain Maple	Acer saccharum "Green Mountain"
Legacy Maple	Acer saccharum "Legacy"
White Oak	Quercus alba
Swamp White Oak	Quercus bicolor
Northern Pin Oak	Quercus ellipsoidalis
Pin Oak	Quercus palustris
Northern Red Oak	Quercus rubra
Hackberry	Celtis occidentalis
Imperial Honeylocust	Gledtsia triacanthus "Imperial"
Skyline	Gledtsia triacanthus "Skyline"
Ironwood	Ostrya virginiana
Amur Corktree	Phellodendron amurense
American Linden	Tilla Americana
Littleleaf Linden	Tilla cordata
Greenspire Linden	Tilla cordata "Greenspire"
Redmond Linden	Tilla x ecchiora "Redmond"

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<i>Common Name</i>	<i>Technical Name</i>
Ornamental tree varieties as follows are classified as small or medium trees:	
Amur Maple	Acer ginnala
Autumn Brilliance Serviceberry	Amelanchier x grandiflora
PeeGee Hydranga Tree	Hydranga paniculata "Grandiflora"
Adams Crab	Malus "Adams"
Coralburst Crab	Malus "Coralcole"
Donald Wyman Crab	Malus "Donald Wyman"
Harvest Gold Crab	Malus "Hargozam"
Indian Magic Crab	Malus "Indian Magic"
Indian Summer Crab	Malus "Indian Summer"
Pink Spires Crab	Malus "Pink Spires"
Prairiefire Crab	Malus "Prairiefire"
Profusion Crab	Malus "Profusion"
Radiant Crab	Malus "Radiant"
Red Barron Crab	Malus "Red Barron"
Royalty Crab	Malus "Royalty"
Snowdrift Crab	Malus "Snowdrift"
Spring Snow Crab	Malus "Spring Snow"
Thunderchild Crab	Malus "Thuderchild"
Amur Chokeberry	Prunus maackii
Canada Red Cherry	Prunus virginiana "Shurbert"
Purple Sand Cherry	Prunus x cistena
Dwarf Korean Lilac	Syringa meyeri "Palibin"
Miss Kim	Syringa patula "Miss Kim"
Ivory Silk Lilac - Tree Form	Syringa reticulata
Ivory Silk Lilac	Syringa reticulata

(Ord. 706, passed 4-20-2011)

**§ 91.06 PRUNING AND CLEARANCE.**

(A) The city has the authority to require owners of abutting property to trim or remove any shrubs, evergreens, trees, hedges or other vegetation which overhang or otherwise obstruct a public street, alley or right-of-way, and where such overhang or obstruction may interfere with vehicular or pedestrian traffic and/or visibility. Tree limbs shall not hang lower than 12 feet above the road surface and 8 feet above a walkway.

(B) The owners shall remove any tree or part thereof which are dead, diseased, and dangerous or remove any broken decayed limbs which constitute a menace to the safety of the public and to other trees within the city.

(C) The city shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light or which interferes with the visibility of any traffic control device or sign.

(Ord. 706, passed 4-20-2011)

**§ 91.07 ATTACHMENTS.**

No person shall attach any sign or other materials to a tree within the limits of any street, parkway, or boulevard by nailing or any other methods detrimental to the tree. The person or persons responsible for such acts, whether or not intentional, will be responsible for the repair or replacement of the affected tree or trees.

(Ord. 706, passed 4-20-2011)

**§ 91.08 MAINTENANCE AND REMOVAL BY CITY.**

(A) The City of Sauk Centre shall have the right to plant, maintain and remove trees, plants and shrubs within the right-of-way lines of all streets, alleys, lanes or squares and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of public grounds.

(B) The city shall have the right to require the destruction or cause to be destroyed any tree or trees within the limits of any street, parkway, boulevard or private real property that have been found to be damaged to such an extent that such tree is considered dangerous to people or property. Such tree shall be designated a public nuisance.

(C) The city shall have the right to require the destruction or cause to be destroyed any tree or trees within the limits of any street, parkway, or boulevard or private real property that have been found to be infected by disease or infested by injurious insects when destruction is necessary for the protection

of other trees. No action to remove diseased or infested trees will be taken until positive diagnosis of the disease or identification of the injurious insect has been made. Such tree shall be designated a public nuisance. Diseases declared a public nuisance are identified under §§ 91.13 and 95.002 of this code.

(D) Provisions relating to the inspection and designation of a tree as a public nuisance, and providing for its removal are established in §§ 95.002, 95.022 and 95.023 of this code.

(E) The city has the authority to require owners of contiguous property to remove any tree, shrubs or evergreens planted or established within the right-of-way without first obtaining a permit or that, in the opinion of the city are poorly maintained. Provisions provided for removal are established in §§ 95.002, 95.022 and 95.023 of this code.

(Ord. 706, passed 4-20-2011)

#### **§ 91.09 STUMPS.**

All stumps of street and park trees shall be removed 6 inches below the surface of the ground so that the top of the stump will not project above the surface of the ground.

(Ord. 706, passed 4-20-2011)

#### **§ 91.10 PERMIT REQUIRED.**

(A) *Permit required.* No person shall plant or cause to be planted or change the location of any tree, shrubs, or evergreens within the limits of any street in the City of Sauk Centre without first having obtained a permit.

(B) *Application and issuance.* Any person desiring a permit shall make application in writing to the city on a form prescribed by the city which shall include at a minimum:

- (1) Property owner/applicant name;
- (2) Address of property;
- (3) Contact information of property owner;
- (4) Distances of proposed planting from signs, drives, hydrants, utilities, sidewalks, curbs, existing trees, etc.;
- (5) Species and size of tree;
- (6) Location sketch.

(C) Permits will only be issued to the owner of the contiguous property.

(D) Permits are valid for 1 year from date of issuance.  
(Ord. 706, passed 4-20-2011)

### **§ 91.11 REMOVAL PROHIBITED.**

It is unlawful for any person to remove any tree which is on public property, including rights-of-way, boulevards, and/or easements.  
(Ord. 706, passed 4-20-2011)

### **§ 91.12 LICENSING REQUIREMENTS; INSURANCE.**

(A) *Licensing requirements.*

(1) It shall be unlawful for any individual, partnership or corporation to conduct as a business the cutting, trimming, pruning, removing, spraying or otherwise treating of trees or shrubs in the city without first having secured registration from the city to conduct that business.

(2) Application for registration shall be made through the Tree Board or designee and registration will be granted upon proof that the application meets the following requirements. An annual registration fee shall be set by the Sauk Centre Tree Board and the registration shall expire annually on December 31.

(3) The license fee shall be \$35 annual in advance; provided, however, that no license shall be required of any public service company or city employee doing the work in the pursuit of their public service endeavors. Registration is not transferable. The registration fee must be paid at the time of application and the registration fee will not be prorated.

(B) *Insurance.*

(1) All applicants must file with the City Administrator/Clerk a certificate of insurance showing the applicant has purchased liability and worker's compensation insurance which will remain in effect for the term of the registration and that the insurance will not be canceled without 10 days notice to the City of Sauk Centre.

(2) The policy or policies of public liability insurance shall provide public liability coverage to the applicant in the amount of \$100,000 for bodily injury to or death of 1 person per occurrence, \$300,000 because of bodily injury to or death of more than 1 person or occurrence, and \$100,000 property damage coverage per occurrence and shall name the city as an additional insured.  
(Ord. 706, passed 4-20-2011)

**§ 91.13 DISEASES DECLARED NUISANCES.**

(A) *Declaration of policy.* The city has determined that the health of elm and oak trees is threatened by the fatal disease known as Dutch Elm (DED) and Oak Wilt Diseases. It also has been determined that the health of ash trees is threatened by an insect pest known as the Emerald Ash Borer. It has been further determined that the loss of elm, oak and ash trees growing upon public and private property would substantially depreciate the value of property and impair the safety, good order, general welfare and convenience of the public. It is declared to be the intention of the City of Sauk Centre to control and prevent the spread of these diseases and insect pests; this ordinance is intended for this purpose.

(B) *Shade tree disease program.* It is the intention of the City of Sauk Centre to conduct a program of plant pest control pursuant to authority granted by M.S. § 18G.12. This program is directed specifically at the removal of trees stricken with Dutch Elm, Oak Wilt Disease or Emerald Ash Borer, and is undertaken at the recommendation of the Commissioner of Agriculture and Minnesota State Statutes. The City Forester will act as coordinator for the Commissioner of Agriculture, the City of Sauk Centre, and the Parks Department of the City of Sauk Centre in the conduct of the program.

(C) *Nuisance declared.* The following items are a public nuisance wherever they are found within the city:

(1) Any living or standing elm tree infected to any degree with Dutch Elm Disease fungus, *Ceratocystis ulmi* (Buisman) Mureau, or which harbors any elm bark beetles, *Scolytus multistriatus* (Eich.) or *Hylurgopinus rufipes* (Marsh).

(2) Any living or standing oak tree infected to any degree with Oak Wilt fungus, *Ceratocystis fagacearum*.

(3) Any living or standing ash tree infested to any degree with Emerald Ash Borer, *Agrilus planipennis*.

(4) Any dead elm, ash or oak tree, including logs, branches, stumps, firewood or other material.

(Ord. 706, passed 4-20-2011)

**§ 91.14 ABATEMENT OF DISEASED TREES ON PUBLIC PROPERTY.**

City Forester will cause any nuisance, as defined in §§ 91.13 and 95.002 of this code to be removed from property of the city, including streets, boulevards and alley right-of-ways (from property line to property line) and cause same to be sanitized or otherwise effectively treated so as to destroy and prevent, as fully as possible, the spread of Emerald Ash Borer, Dutch Elm or Oak Wilt Disease fungus.



The abatement procedures will be carried out in accordance with such technical and expert methods and plans as may be designed by the City of Sauk Centre and consistent with the regulations and requirements of the Commissioner of Agriculture of the State of Minnesota. City Forester will establish procedures for tree removal and disposal methods consistent therewith.

(Ord. 706, passed 4-20-2011)

#### **§ 91.15 ABATEMENT OF DISEASED TREES ON PRIVATE PROPERTY.**

Whenever the city finds with reasonable certainty that a nuisance as defined in §§ 91.13 or 95.002 of this code exists on private property, including property controlled by other entities of government and outside any public way or property of the city, within the City of Sauk Centre, the City Forester or his or her authorized representative will notify the owner by mail of the existence of the nuisances and direct that the nuisance be removed and burned or otherwise effectively treated in the approved manner within 15 calendar days after mailing of such notice. The notice will also state that if the nuisance is not abated by the owner within the time provided, that the City of Sauk Centre will abate the nuisance and assess the costs against the property. In the event the owner of any private or public premises upon which such a nuisance is situated fails to comply with the notice, the City Forester, his or her agents or employees assigned to him or her, will proceed to abate the nuisance in the manner prescribed for abatement of such nuisances on city property. Any expenses incurred by the City of Sauk Centre or by approved contractors in so doing will be a charge and a lien upon said property and will be collected as a special assessment in the same manner as other special assessments or as stated in M.S. Chapter 429. (Ord. 706, passed 4-20-2011)

#### **§ 91.16 COLLECTION OF ASSESSMENTS.**

The cost of abatement of any nuisance incurred by the city and not reimbursed by the owner on or before November 1 of each year will be reported to the City Clerk who will process the claim the same as other claims in the city eligible for assessment to property taxes. The Council will assess the levy and cause to be collected the amount of such costs as a special assessment upon and against the premises and property.

(Ord. 706, passed 4-20-2011)

#### **§ 91.17 INSPECTION AND INVESTIGATION.**

(A) The City Forester, his or her agent or employees assigned to him or her, may enter upon private premises for the purpose of carrying out any of the duties assigned in this section, in accordance with § 95.022 of this code.

(B) The City Forester will inspect all premises and places within the City of Sauk Centre as often as practicable to determine whether a nuisance as defined by § 91.13 above exists.  
(Ord. 706, passed 4-20-2011)

#### **§ 91.18 INTERFERENCE PROHIBITED.**

It is unlawful for any person to prevent, delay or interfere with the city or its designee, employees or contractors, while they are engaged in the performance of duties imposed by this chapter.  
(Ord. 706, passed 4-20-2011)

#### **§ 91.19 CAMPFIRE WOOD IN PUBLIC PARKS AND CAMPGROUNDS.**

In an effort to control the spread of the Emerald Ash Borer campfire wood in public parks shall be provided by MnDNR approved vendors. Firewood may be either brought into the parks with the appropriate seals or purchased from campground staff.  
(Ord. 706, passed 4-20-2011)

#### **§ 91.20 VIOLATIONS, CLAIMS AND APPEALS.**

(A) Any person, firm or corporation who violates any provision of this chapter shall be guilty of a misdemeanor. Each day during which any violation of the provisions of this chapter shall occur or continue shall be a separate offense.

(1) If, as the result of the violation of any provision of this chapter, the injury, mutilation or death of a tree, shrub or other plant located on city-owned property is caused, the cost of repair or replacement of the tree, shrub or other plant shall be borne by the party in violation.

(2) The value of trees and shrubs shall be determined in accordance with the latest revision of Tree City USA, as published by the International Society of Arboriculture.

(B) In the event that a nuisance is not abated by the date specified in a notice, the Tree Board is authorized to cause the abatement of the nuisance.

(1) The reasonable cost of abatement shall be filed as a lien against the property on which the nuisance was located.

(2) In addition, the owner of the property upon which the nuisance was located shall be subject to prosecution.

(C) The City Council shall have the right to review the conduct, acts and decisions of the Tree Board. Any person may appeal from any ruling or order of the Tree Board to the City Council who may hear the matter and make a final decision.

(D) It shall be unlawful for any person to prevent, delay or interfere with Tree Board or any of its agents while engaging in and about the planting, cultivating, mulching, pruning, spraying or removing of any street trees park trees or trees on public grounds, as authorized in this chapter and under Chapter 95 of this code.

(Ord. 706, passed 4-20-2011) Penalty, see § 10.99



## CHAPTER 92: DAM REGULATIONS

### Section

- 92.01 Definitions
- 92.02 Restrictions
- 92.03 Exception

### § 92.01 DEFINITIONS.

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

**DAM.** That dam maintained and controlled by the city, located where the Sauk River passes below Main Street.

**DAM STRUCTURE.** That part of the dam which holds back the waters of the Sauk River, the adjacent sidewalks and the walkway immediately above the dam.  
(1985 Code, § 506.01)

### § 92.02 RESTRICTIONS.

No person shall be allowed at any time on or above the dam structure or to the east of the dam structure for a distance of 60 feet. No person shall be allowed on or in the water below the dam for a distance of 60 feet from the dam structure. Violation of this section is a petty misdemeanor.  
(1985 Code, § 506.02) Penalty, see § 10.99

### § 92.03 EXCEPTION.

The provisions of this chapter shall not apply to employees of the city or of the Water, Light and Power Commission while they are in performance of their duties in the operation and maintenance of the dam.  
(1985 Code, § 506.03)



## CHAPTER 93: ANIMALS

### Section

#### *General Regulations*

- 93.01 Definitions
- 93.02 Dogs and cats
- 93.03 Non-domestic animals
- 93.04 Farm animals
- 93.05 Impounding
- 93.06 Kennels
- 93.07 Nuisances
- 93.08 Seizure of animals

#### *Specific Regulations*

- 93.20 Animals presenting a danger to health and safety of city
- 93.21 Diseased animals
- 93.22 Dangerous animals
- 93.23 Requirements/restrictions for dangerous animals
- 93.24 Basic care
- 93.25 Breeding moratorium
- 93.26 Enforcing officer
- 93.27 Pound
- 93.28 Interference with officers
- 93.29 Special impoundment fees
- 93.30 Fees
- 93.31 Violations

#### ***Cross-reference:***

*Public nuisances affecting health, see § 95.016*

*Public nuisances affecting peace and safety, see § 95.018*

**GENERAL REGULATIONS****§ 93.01 DEFINITIONS.**

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

**ANIMAL.**

(1) Any mammal, reptile, fish, bird (including all fowl and poultry) or other member commonly accepted as a part of the animal kingdom.

(2) Animals shall be classified as follows.

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

**FARM ANIMALS.** Those animals commonly associated with a farm or performing work in an agricultural setting. Unless otherwise defined, **FARM ANIMALS** shall include members of the equestrian family (horses, mules), bovine family (cows, bulls), sheep, poultry (chickens, turkeys), fowl (duck, geese), swine (including Vietnamese potbellied pigs), goats, bees and other animals associated with a farm, ranch or stable.

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

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

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

3. Any crossbreeds such as the crossbreed between a wolf and a dog, unless the crossbreed is commonly accepted as a domesticated house pet;

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



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

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

**CAT.** Both the male and female of the felidae species commonly accepted as domesticated household pets.

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

**OWNER.** Any person or persons, firm, association or corporation owning, keeping or harboring an animal.

**RELEASE PERMIT.**

(1) A permit issued by the Animal Control Officer or other person in charge of the pound for the release of any animal that has been taken to the pound.

(2) A release permit may be obtained upon payment of a fee to the Administrator/Clerk in accordance with the regular license requirement if the animal is unlicensed, payment of a release fee, and any maintenance costs incurred in capturing and impounding the animal.

(3) The release fee shall be established from time to time by resolution of the City Council, but not less than \$30 the first time the animal is impounded, \$60 the second time it is impounded and \$90 for the third and each subsequent time the animal is impounded. For the purpose of a release permit, any change in the registered ownership of an animal subsequent to its impoundment and release shall reset the animal's impoundment count to the beginning of the fee schedule.

(Ord. 603, passed 11-1-2000; Am. Ord. 677, passed 3-4-2009)

**§ 93.02 DOGS AND CATS.**

(A) *Running at large prohibited.*

(1) It shall be unlawful for the dog or cat of any person who owns, harbors or keeps a dog or cat, to run at large.

(2) A person, who owns, harbors or keeps a dog or cat which runs at large shall be guilty of a petty misdemeanor.

(3) Dogs or cats on a leash and accompanied by a responsible person or accompanied by and under the control and direction of a responsible person, so as to be effectively restrained by command as by leash, shall be permitted in streets or on public land unless the city has posted an area with signs reading "Dogs or Cats Prohibited."

(B) *License required.*

(1) All dogs over the age of 6 months kept, harbored or maintained by their owners in the city shall be licensed and registered with the city. Dog licenses shall be issued by the City Administrator/Clerk upon payment of the license fees as established by § 93.30 of this code, as it may be amended from time to time.

(2) The owner shall state, at the time application is made for the license and upon forms provided, his or her name and address and the name, breed, color and sex of each dog owned or kept by him or her. No license shall be granted for a dog that has not been vaccinated against distemper and rabies, as evidenced by a certificate by a veterinarian qualified to practice in the state in which the dog is vaccinated. A veterinarian who vaccinates a dog to be licensed in the city shall complete a Certificate of Vaccination. One copy shall be issued to the dog owner for affixing to the license application.

(3) It shall be the duty of each owner of a dog subject to this section to pay to the City Administrator/Clerk the license fee established in § 93.30, as it may be amended from time to time.

(4) Upon payment of the license fee as established by § 93.30 of this code as that ordinance may be amended from time to time, the City Administrator/Clerk shall issue to the owner a license certificate and metallic tag for each dog license. The tag shall have stamped on it the number corresponding with the number of the certificate.

(5) Every owner shall be required to provide each dog with a collar to which the license tag must be affixed, and shall see that the collar and tag are constantly worn. In case a dog tag is lost or destroyed, a duplicate shall be issued by the City Administrator/Clerk. A charge shall be made for each duplicate tag in an amount established in § 93.30, as it may be amended from time to time. Dog tags shall not be transferable from one dog to another and no refunds shall be made on any dog license fee or tag because of death of a dog or the owner's leaving the city before the expiration of the license period.

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

(7) The funds received by the City Administrator/Clerk from all dog licenses and metallic tag fees as established by § 93.30 of this code, as that ordinance may be amended from time to time, shall first be used to defray any costs incidental to the enforcement of this section; including, but not restricted to, the costs of licenses, metallic tags and impounding and maintenance of the dogs.

(C) *Cats.* Cats shall be included as controlled by this division insofar as running at-large, pickup, impounding, boarding, licensing and proof of anti-rabies vaccine is concerned. All other provisions of this section shall also apply to cats unless otherwise provided.

(D) *Vaccination.*

(1) All dogs, ferrets and cats kept, harbored, maintained or transported within the city shall be vaccinated at least once every 3 years by a licensed veterinarian for:

- (a) Rabies; with a live modified vaccine; and
- (b) Distemper.

(2) A certificate of vaccination must be kept on which is stated the date of vaccination, owner's name and address, the animal's name (if applicable), sex, description and weight, the type of vaccine and the veterinarian's signature.

(3) Upon demand made by the City Administrator/Clerk, the Animal Control Officer or a police officer, the owner shall present for examination the required certificate(s) of vaccination for the animal(s).

(4) In cases where certificates are not presented, the owner or keeper of the animal(s) shall have 7 days in which to present the certificate(s) to the City Administrator/Clerk or officer. Failure to do so shall be deemed a violation of this section.

(Ord. 603, passed 11-1-2000; Am. Ord. 677, passed 3-4-2009) Penalty, see § 10.99

**§ 93.03 NON-DOMESTIC ANIMALS.**

(A) It shall be illegal for any person to own, possess, harbor or offer for sale, any non-domestic animal within the city. Any owner of a non-domestic animal at the time of adoption of this code shall have 30 days in which to remove the animal from the city after which time the city may impound the animal as provided for in this section.

(B) An exception shall be made to this prohibition for animals specifically trained for and actually providing assistance to the handicapped or disabled, and for those animals brought into the city as part of an operating zoo, veterinarian clinic, scientific research laboratory or a licensed show or exhibition. (Ord. 603, passed 11-1-2000) Penalty, see §10.99.

**§ 93.04 FARM ANIMALS.**

(A) Farm animals shall only be kept in an agricultural district of the city or on a residential lot of at least 10 acres in size provided that no animal shelter shall be within 300 feet of an adjoining piece of property.

(B) An exception shall be made to this section for those animals brought into the city as part of an operating zoo, veterinarian clinic, scientific research laboratory or a licensed show or exhibition.  
(Ord. 603, passed 11-1-2000)

**§ 93.05 IMPOUNDING.***(A) Running at large.*

(1) Any unlicensed animal running at large is hereby declared a public nuisance. Any Animal Control Officer or police officer may impound any dog or other animal found unlicensed or any animal found running at large and shall give notice of the impounding to the owner of the dog or other animal, if known.

(2) In case the owner is unknown, the officer shall post notice at the city office that if the dog or other animal is not claimed within the time specified in division (C) below, it will be sold or otherwise disposed of. Except as otherwise provided in this section, it shall be unlawful to kill, destroy or otherwise cause injury to any animal, including dogs and cats running at large.

*(B) Biting animals.*

(1) Any animal that has not been inoculated by a live modified rabies vaccine and which has bitten any person, wherein the skin has been punctured or the services of a doctor required, shall be confined in the city pound for a period of not less than 10 days at the expense of the owner.

(2) The animal may be released at the end of the time if healthy and free from symptoms of rabies, and by the payment of all costs by the owner. However, if the owner of the animal shall elect immediately upon receipt of notice of need for the confinement by the officer to voluntarily and immediately confine the animal for the required period of time in a veterinary hospital of the owner's choosing, not outside of the county in which this city is located, and provide immediate proof of confinement in the manner as may be required, the owner may do so.

(3) If, however, the animal has been inoculated with a live modified rabies vaccine and the owner has proof of the vaccination by a certificate from a licensed veterinarian, the owner may confine the dog or other animal to the owner's property.

(C) *Reclaiming.*

(1) All animals conveyed to the pound shall be kept, with humane treatment and sufficient food and water for their comfort, at least 5 regular business days, unless the animal is a dangerous animal as defined under § 93.22, in which case it shall be kept for 7 regular business days or the times specified in § 93.22, and except if the animal is a cruelly-treated animal in which case it shall be kept for 10 regular business days, unless sooner reclaimed by its owners or keepers as provided by this section.

(2) In case the owner or keeper shall desire to claim the animal from the pound, the following shall be required, unless otherwise provided for in this code or established from time to time by resolution of the City Council:

(a) Payment of the release fee and receipt of a release permit as established by § 93.29 of this code, as it may be amended from time to time;

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

(c) If a dog is unlicensed, payment of a regular license fee as established by § 93.30 of this code, as it may be amended from time to time, and valid certificate of vaccination for rabies and distemper shots is required.

(D) *Unclaimed animals.* At the expiration of the times established in division (C) of this section, if the animal has not been reclaimed in accordance with the provisions of this section, the officer appointed to enforce this section may let any person claim the animal by complying with all provisions of this section or cause the animal to be destroyed in a proper and humane manner and shall properly dispose of the remains thereof. Any money collected under this section shall be payable to the City Administrator/Clerk.

(Ord. 603, passed 11-1-2000; Am. Ord. 677, passed 3-4-2009)

**NOTICE OF IMPOUNDED ANIMAL**

Date: \_\_\_\_\_

To whom it may concern,

I have this day taken up and impounded in the pound of the City of Sauk Centre at \_\_\_\_\_, Sauk Centre, Minnesota, an animal answering the following description:

Sex: \_\_\_\_\_ Color: \_\_\_\_\_ Breed: \_\_\_\_\_

Approximate Age: \_\_\_\_\_ Name of Owners: \_\_\_\_\_

Notice is hereby given that unless the animal is claimed and redeemed on or before \_\_\_\_ \_\_. m. on the \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_, the same will be killed or sold as provided by Sauk Centre city ordinance.

Signed:

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Animal Control Officer

(Ord. 603, passed 11-1-2000)

### § 93.06 KENNELS.

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

***KENNEL.*** Keeping of 3 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 3 months before that keeping shall be deemed to be a ***KENNEL.***

(B) *Kennel as a nuisance.* Because the keeping of 3 or more dogs on the same premises could cause discomfort to persons in the area by way of smell, noise, hazard and general aesthetic depreciation, the keeping of 3 or more dogs on the premises is hereby declared to be a nuisance and no person shall keep or maintain a kennel within the city.

(Ord. 603, passed 11-1-2000) Penalty, see § 10.99

### § 93.07 NUISANCES.

(A) *Habitual barking.*

(1) It shall be unlawful for any person to keep or harbor a dog which habitually barks or cries. ***HABITUAL BARKING*** shall be defined as barking for repeated intervals of at least 3 minutes with less than 1 minute of interruption.

(2) The barking must also be audible off of the owner's or caretaker's premises.

(B) *Warrant required.* The Animal Control Officer or police officer shall not enter the property of the owner of an animal described in this section unless the officer has first obtained the permission of the owner to do so or has obtained a warrant issued by a court of competent jurisdiction, as provided for in § 10.20, to search for and seize the animal.

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

(D) *Cleaning up litter.* 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 the feces in a sanitary manner whether on his or her own property, on the property of others or on public property. Any person violating this section shall be punishable by a fine of up to \$10 or 5 hours of public lands fecal clean-up. Any person who is found guilty of subsequent violations of this section shall be punished by a fine of at least \$25 but not more than \$50.

(E) *Other.* Any animals kept contrary to this section are subject to impoundment as provided in § 93.05.

(Ord. 603, passed 11-1-2000; Am. Ord. 677, passed 3-4-2009) Penalty, see § 10.99





**§ 93.08 SEIZURE OF ANIMALS.**

Any police officer or Animal Control Officer may enter upon private property and seize any animal provided that the following exist:

- (A) There is an identified complainant other than the police officer or the Animal Control Officer making a contemporaneous complaint about the animal.
- (B) The officer reasonably believes that the animal meets either the barking dog criteria set out in § 93.07(A); or the criteria for an at large animal set out in § 93.01;
- (C) The officer can demonstrate that there has been at least 1 previous complaint of a barking dog; inhumane treatment of the animal; or that the animal was at large at this address on a prior date.
- (D) The officer has made a reasonable attempt to contact the owner of the dog and the property to be entered and those attempts have either failed or have been ignored.
- (E) The seizure will not involve the forced entry into a private residence. Use of a pass key obtained from a property manager, landlord, innkeeper or other authorized person to have that key shall not be considered unauthorized entry; and
- (F) Written notice of the seizure is left in a conspicuous place if personal contact with the owner of the dog is not possible.  
(Ord. 603, passed 11-1-2000)

***SPECIFIC REGULATIONS***

**§ 93.20 ANIMALS PRESENTING A DANGER TO HEALTH AND SAFETY OF CITY.**

- (A) If, in the reasonable belief of any person or the Animal Control Officer or police officer, an animal presents an immediate danger to the health and safety of any person or the animal is threatening imminent harm to any person or the animal is in the process of attacking any person, the person or officer may destroy the animal in a proper and humane manner. Otherwise, the person or officer may apprehend the animal and deliver it to the pound for confinement under § 93.05.
- (B) If the animal is destroyed, the owner or keeper of the animal so destroyed shall be liable to the city for the cost of maintaining and/or destroying of the animal, plus the costs of any veterinarian examination. If the animal is found not to be a danger to the health and safety of the city, it may be released to the owner or keeper in accordance with § 93.05 (C).  
(Ord. 603, passed 11-1-2000)

**§ 93.21 DISEASED ANIMALS.**

(A) *Running at large.* No person shall keep or allow to be kept on his or her premises or on premises occupied by them, nor permit to run at large in the city, any animal which is diseased so as to be a danger to the health and safety of the city, even though the animal be properly licensed under this section.

(B) *Confinement.*

(1) Any animal reasonably suspected of being diseased and presenting a threat to the health and safety of the public, may be apprehended and confined in the pound by any person, the Animal Control Officer or a police officer.

(2) The officer shall have a qualified veterinarian examine the animal. If the animal is found to be diseased in a manner so as to be a danger to the health and safety of the city, the officer shall cause the animal to be painlessly killed and shall properly dispose of its remains.

(3) The owner or keeper of the animal killed under this section shall be liable to the city for the cost of maintaining and disposing of the animal, plus the cost of any veterinarian examination.

(C) *Release.* If the animal, upon examination, is not found to be diseased, the animal shall be released to the owner or keeper free of charge.

(Ord. 603, passed 11-1-2000) Penalty, see § 10.99

**§ 93.22 DANGEROUS ANIMALS.**

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

(B) *Destruction of dangerous animals.* The Animal Control Officer shall have the authority to order the destruction of dangerous animals in accordance with the terms established by this chapter.

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

***DANGEROUS ANIMAL.*** An animal which has:

- (a) Caused bodily injury or disfigurement to any person on public or private property;
- (b) Engaged in any attack on any person under circumstances which would indicate danger to personal safety;

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

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

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

**POTENTIALLY DANGEROUS ANIMAL.** An animal which has:

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

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

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

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

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

(b) Side walls shall have a minimum height of 5 feet and be constructed of 11-gauge or heavier wire. Openings in the wire shall not exceed 2 inches, support posts shall be 1-1/4 inch or larger steel pipe buried in the ground 18 inches or more. When a concrete floor is not provided, the side walls shall be buried a minimum of 18 inches in the ground;

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

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

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

**Sauk Centre - General Regulations***(D) Designation as potentially dangerous animal.*

(1) The Animal Control Officer shall designate any animal as a potentially dangerous animal upon receiving evidence that the potentially dangerous animal has, when unprovoked, then bitten, attacked or threatened the safety of a person or a domestic animal as stated in division (C)(2).

(2) When an animal is declared potentially dangerous, the Animal Control Officer shall cause the owner of the potentially dangerous animal to be notified in writing that the animal is potentially dangerous.

*(E) Evidence justifying designation.* The Animal Control Officer shall have the authority to designate any animal as a dangerous animal upon receiving evidence of the following:

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

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

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

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

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

*(G) Procedure.*

(1) The Animal Control Officer, after having determined that an animal is dangerous, may proceed in the following manner: the Animal Control Officer shall cause 1 owner of the animal to be notified in writing or in person that the animal is dangerous and may order the animal seized or make orders as deemed proper.

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

(3) If no appeal is filed, the orders issued will stand or the Animal Control Officer may order the animal destroyed.

(4) If an owner requests a hearing for determination as to the dangerous nature of the animal, the hearing shall be held before the City Council, which shall set a date for hearing not more than 14 days after demand for the hearing.

(5) The records of the Animal Control or City Administrator/Clerk's office shall be admissible for consideration by the Animal Control Officer without further foundation. After considering all evidence pertaining to the temperament of the animal, the City Council shall make an order as it deems proper.

(6) The City Council may order that the Animal Control Officer take the animal into custody for destruction, if the animal is ordered into custody for destruction, the owner shall immediately make the animal available to the Animal Control Officer.

(7) No person shall harbor an animal after it has been found to be dangerous and ordered into custody for destruction.

(H) *Stopping an attack.* If any police officer or Animal Control Officer is a 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.

(I) *Notification of new address.* The owner of an animal which has been identified as dangerous or potentially dangerous shall 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 shall be given in writing at least 14 days prior to the relocation or transfer of ownership. The notification shall include the current owner's name and address, the relocation address and the name of the new owner, if any. (Ord. 603, passed 11-1-2000; Am. Ord. 677, passed 3-4-2009) Penalty, see § 10.99

### **§ 93.23 REQUIREMENTS/RESTRICTIONS FOR DANGEROUS ANIMALS.**

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

(1) That the owner provide and maintain a proper enclosure for the dangerous animal as specified in § 93.22;

(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 M.S. § 347.51, as it may be amended from time to time;

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

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

(5) If the animal is a dog, it must have an easily identifiable, standardized tag identifying the dog as dangerous affixed to its collar at all times as specified in M.S. § 347.51, as it may be amended from time to time;

(6) All animals deemed dangerous by the Animal Control Officer shall be registered with the county in which this city is located within 14 days after the date on which the animal is so deemed and provide satisfactory proof thereof to the Animal Control Officer;

(7) If the animal is a dog, the dog must be licensed and up to date on rabies vaccinations. If the animal is a cat or ferret, it must be up to date with rabies vaccinations;

(8) Minnesota Statutes § 347.52, as it may be amended from time to time, states that all dangerous dogs are required to be sterilized. If the owner does not have the animal sterilized within 30 days, Animal Control must seize the dog and have it sterilized. All fees associated with sterilization of the dangerous animal are the responsibility of the owner; and

(9) Minnesota Statutes § 347.52, as it may be amended from time to time, prohibits people that have been convicted of certain crimes from owning dogs. Unless specifically approved by Animal Control, no person in a household may own a dog if any member of the same household is prohibited from owning a dog. Starting 3 years after conviction of the crime that triggered the dog ownership prohibition, the person may annually request that Animal Control review the prohibition. At the review, Animal Control may remove the conditions with limitations, remove the prohibition entirely or establish conditions that must be met before the prohibition is removed. If the prohibition is removed and the person later fails to comply with any limitations imposed by Animal Control, or if the person is convicted of any animal violation involving unprovoked bites or dog attacks, Animal Control may permanently prohibit the person from owning a dog in Minnesota.

(B) *Seizure.*

(1) The Animal Control Officer shall immediately seize any dangerous animal if the owner does not meet each of the above requirements within 14 days after the date notice is sent to the owner that the animal is dangerous.

(2) Seizure may be appealed to District Court by serving a summons and petition upon the city and filing it with the District Court.

*(C) Reclaiming animals.*

(1) A dangerous animal seized under § 93.23 (B), may be reclaimed by the owner of the animal upon payment of impounding and boarding fees and presenting proof to animal control that each of the requirements under § 93.23(A) is fulfilled.

(2) An animal not reclaimed under this section within 14 days may be disposed of as provided under § 93.22(F), and the owner is liable to the city for costs incurred in confining and impounding the animal.

*(D) Subsequent offenses.*

(1) If an owner of an animal has subsequently violated the provisions under § 93.22 with the same animal, the animal must be seized by Animal Control. The owner may request a hearing as defined in § 93.22(G).

(2) If the owner is found to have violated the provisions for which the animal was seized, the Animal Control Officer shall order the animal destroyed in a proper and humane manner, and the owner shall pay the cost of confining the animal.

(3) If the person is found not to have violated the provisions for which the animal was seized, the owner may reclaim the animal under the provisions of § 93.23(C).

(4) If the animal is not yet reclaimed by the owner within 14 days after the date the owner is notified that the animal may be reclaimed, the animal may be disposed of as provided under § 93.22(F) and the owner is liable to Animal Control for the costs incurred in confining, impounding and disposing of the animal.

(Ord. 603, passed 11-1-2000; Am. Ord. 677, passed 3-4-2009)

**§ 93.24 BASIC CARE.**

All animals shall receive from their owners or keepers kind treatment, housing in the winter and sufficient food and water for their comfort. Any person not treating his or her pet in a humane manner will be subject to the penalties provided in this section.

(Ord. 603, passed 11-1-2000) Penalty, see § 10.99

**§ 93.25 BREEDING MORATORIUM.**

(A) Every female dog or female cat in heat shall be confined in a building or other enclosure in a manner that it cannot come into contact with another dog or cat except for planned breeding.

(B) Upon capture and failure to reclaim the animal, every dog or cat shall be neutered or spayed prior to being transferred to a new owner.  
(Ord. 603, passed 11-1-2000)

#### **§ 93.26 ENFORCING OFFICER.**

(A) The Council is hereby authorized to appoint an Animal Control Officer(s) to enforce the provisions of this section.

(B) In the officer's duty of enforcing the provisions of this section, he or she may from time to time, with the consent of the City Council, designate assistants.  
(Ord. 603, passed 11-1-2000)

#### **§ 93.27 POUND.**

Every year the Council shall designate an official pound to which animals found in violation of this chapter shall be taken for safe treatment, and if necessary, for destruction.  
(Ord. 603, passed 11-1-2000)

#### **§ 93.28 INTERFERENCE WITH OFFICERS.**

(A) No person shall in any manner molest, hinder or interfere with any person authorized by the City Council to capture dogs, cats or other animals and convey them to the pound while engaged in that operation.

(B) Nor shall any unauthorized person break open the pound or attempt to do so or take or attempt to take from any agent any animal taken up by him or her in compliance with this chapter or in any other manner to interfere with or hinder the officer in the discharge of his or her duties under this chapter.  
(Ord. 603, passed 11-1-2000) Penalty, see § 10.99

#### **§ 93.29 SPECIAL IMPOUNDMENT FEES.**

Any owner or custodian of an impounded animal desiring to obtain that animal from the Animal Control Officer shall, in addition to payment of the fees required in §§ 93.01 and 10.99, pay the \$30 impounding fee, plus the following penalty fees.

(A) For the first pick up of the animal in the licensing year: \$30;

(B) For the second pick up of the animal in the licensing year: \$60; and



(C) For the third and each subsequent pick up of the animal in the licensing year: \$90.  
(Ord. 677, passed 3-4-2009)

**§ 93.30 FEES.**

(A) *Normal.*

(1) The annual fee for an animal license shall be set by resolution. There shall be no reduction in the fee for a new license issued during the year.

(2) The fee shall not be refunded for any reason, including the animal's death or leaving the city.

(B) *Late fee.* If the fee for a renewal license is not paid on or before May 1, the fee shall be increased by \$1, plus an additional \$0.50 for each month or fraction thereof after June.

(C) *Delinquent fees.* No license shall be issued unless all fees have been paid.  
(Ord. 603, passed 11-1-2000; Am. Ord. 677, passed 3-4-2009)

**§ 93.31 VIOLATIONS.**

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

(B) *Misdemeanor.* Unless otherwise provided, violation of this chapter shall constitute a misdemeanor.

(C) *Violation; petty misdemeanor.* Violations of §§ 93.02, 93.07, 93.24 and 93.25 are petty misdemeanors.  
(Ord. 603, passed 11-1-2000) Penalty, see § 10.99



## CHAPTER 94: FIRE PROTECTION

### Section

- 94.01 Purpose and intent
- 94.02 Definitions
- 94.03 Charges for service
- 94.04 Billing and collecting
- 94.05 Mutual aid agreements
- 94.06 Application of collected fees

### § 94.01 PURPOSE AND INTENT.

(A) The Sauk Centre Volunteer Fire Department is called on a regular basis to provide fire and emergency rescue services within the City of Sauk Centre. These calls result in significant expense to the city for equipment, manpower and supplies.

(B) In order to pay for these increasing costs, the City Council has determined it necessary to impose and collect reasonable charges for fire and/or emergency services.

(C) This chapter is adopted to allow the City of Sauk Centre to charge for all fire and emergency services calls as allowed by M.S. § 366.011, as it may be amended from time to time, which authorizes towns to charge for fire and/or emergency services.

(D) Minnesota Statute § 415.01, as it may be amended from time to time, provides that cities may exercise all of the powers conferred upon towns in M.S. Ch. 365 through 368, as they may be amended from time to time. Therefore, a municipality has the power to bill for the fire and emergency service calls.

(Ord. 627, passed 6-4-2003)

### § 94.02 DEFINITIONS.

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

***FIRE AND/OR EMERGENCY SERVICE CALL.*** Any deployment of firefighting personnel and/or equipment to provide fire suppression, rescue, extrication, extinguishing of a fire, the performance of any preventive measures in an effort to protect or preempt a fire or fire hazard or to protect equipment,

life or property in an area threatened by fire and to provide any other services related to fire and rescue as may occasionally occur.

**PARTY.** Any person or business entity within the corporate limits of the City of Sauk Centre receiving service for any type of fire and/or emergency service call.  
(Ord. 627, passed 6-4-2003)

#### **§ 94.03 CHARGES FOR SERVICE.**

(A) Parties who receive fire and/or emergency services within the City of Sauk Centre shall be charged a reasonable attendance fee based upon the particular circumstance and the time spent in attendance at the fire and/or emergency service call.

(B) These charges will be established by the City Council by resolution on an annual basis and may be amended from time to time as may be appropriate.  
(Ord. 627, passed 6-4-2003)

#### **§ 94.04 BILLING AND COLLECTION.**

(A) Parties receiving fire and/or emergency service will be billed by the City of Sauk Centre within 30 days of the call. If the party receiving the service does not initiate the contract for service, but a fire or other situation exists which at the discretion of the Fire Department personnel requires fire or rescue services, and which otherwise qualifies as a call as defined herein, the affected property owner will be charged for a fire and/or rescue service call.

(B) The Fire Chief for the Sauk Centre Volunteer Fire Department is charged with the duty of providing the City Administrator/Clerk with pertinent information regarding the attendance at any call to which charges required by this chapter should be imposed.

(C) In the report the Chief shall provide the date, time and place of the occurrence, the service provided, the equipment and personnel employed, the time spent and the name and address of the person to whom this service has been provided and any insurance information that may be available which provides coverage to the person and/or property for whom the services were rendered.

(D) Upon receipt of the report the City Administrator/Clerk shall cause a bill to be sent to the appropriate party and/or to an insurance carrier if the party requests that the information be sent to the carrier. The City Administrator/Clerk will use all practical and reasonable legal means to collect for the services rendered. The party or property owner who received the service shall be liable for all of the charges and fees as well as all costs of collection incurred by the City of Sauk Centre including, but not limited to, reasonable attorney's fees and court costs.

(E) If approved by the party receiving services, the City Administrator/Clerk may direct the statement to an appropriate insurance carrier in order to assist the party who received the fire call. Any billed amount not recovered from the party's insurance company will remain the debt and obligation of the party who received services.

(F) False alarms will not be billed as a fire call provided that the false alarm does not include the performance of any of the services described in this chapter.

(G) The City Council shall have the authority to abate charges upon circumstances, which indicate that a lesser price should be billed or that other facts and circumstances, including hardships, exist, which indicate an adjustment should be made.  
(Ord. 627, passed 6-4-2003)

**§ 94.05 MUTUAL AID AGREEMENTS.**

On all fire and/or rescue service calls where the Sauk Centre Volunteer Fire Department provides "mutual aid" to another department, the associated charges relative to that call will be determined by any mutual aid agreement between the departments.  
(Ord. 627, passed 6-4-2003)

**§ 94.06 APPLICATION OF COLLECTED FEES.**

All revenues generated by paid billable fire and/or rescue service calls will be used to offset the expenses of the Sauk Centre Volunteer Fire Department.  
(Ord. 627, passed 6-4-2003)



## CHAPTER 95: NUISANCES

### Section

#### *General Provisions*

- 95.001 Assessable current services
- 95.002 Tree diseases

#### *Nuisances*

- 95.015 Public nuisance
- 95.016 Public nuisances affecting health
- 95.017 Public nuisances affecting morals and decency
- 95.018 Public nuisances affecting peace and safety
- 95.019 Nuisance parking and storage
- 95.020 Inoperable motor vehicles
- 95.021 Building maintenance and appearance
- 95.022 Duties of city officers
- 95.023 Abatement
- 95.024 Recovery of cost

#### *Weeds*

- 95.035 Short title
- 95.036 Jurisdiction
- 95.037 Definitions; exclusions
- 95.038 Owners responsible for trimming, removal and the like
- 95.039 Filing complaint
- 95.040 Notice of violations
- 95.041 Appeals
- 95.042 Abatement by city
- 95.043 Liability

#### *Open Burning*

- 95.060 Definitions
- 95.061 Prohibited materials
- 95.062 Permit required for open burning

## Sauk Centre - General Regulations

- 95.063 Purposes allowed for open burning
- 95.064 Permit application for open burning; permit fees
- 95.065 Permit process for open burning
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- 95.067 Revocation of open burning permit
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- 95.070 Rules and laws adopted by reference

### *Abandoned Vehicles, Appliances and Equipment*

- 95.085 Purpose and intent
- 95.086 Definitions
- 95.087 Nuisance
- 95.088 Public property
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- 95.091 Compliance notice
- 95.092 Notice service
- 95.093 Removal
- 95.094 Variance and appeals
- 95.095 Violations

## **GENERAL PROVISIONS**

### **§ 95.001 ASSESSABLE CURRENT SERVICES.**

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

***CURRENT SERVICE.*** Shall mean 1 or more of the following: snow, ice or rubbish removal from sidewalks; weed elimination from street grass plots adjacent to sidewalks or from private property; removal or elimination of public health or safety hazards from private property, excluding any hazardous building included in M.S. §§ 463.15 through 463.26 as they may amended from time to time; installation or repair of water service lines; street sprinkling, street flushing, light street oiling or other dust treatment of streets; repair of sidewalks and alleys; trimming and care of trees and removal of unsound and insect-infected trees from the public streets or private property; and the operation of a street lighting system.



(B) *Snow, ice, dirt and rubbish.*

(1) *Duty of owners and occupants.* The owner and the occupant of any property adjacent to a public sidewalk shall use diligence to keep the walk safe for pedestrians. No owner or occupant shall allow snow, ice, dirt or rubbish to remain on the walk longer than 24 hours after its deposit thereon. Failure to comply with this section shall constitute a violation.

(2) *Removal by city.*

(a) The Administrator/Clerk or other person designated by the City Council may cause removal from all public sidewalks all snow, ice, dirt and rubbish as soon as possible beginning 24 hours after any matter has been deposited thereon or after the snow has ceased to fall.

(b) The Administrator/Clerk or other designated person shall keep a record showing the cost of removal adjacent to each separate lot and parcel.

(C) *Public health and safety hazards.* When the city removes or eliminates public health or safety hazards from private property under the following provisions of this chapter, the administrative officer responsible for doing the work shall keep a record of the cost of the removal or elimination against each parcel of property affected and annually deliver that information to the Administrator/Clerk.

(D) *Installation and repair of water service lines.* Whenever the city installs or repairs water service lines serving private property under Chapter 52 of this code, the Administrator/Clerk shall keep a record of the total cost of the installation or repair against the property.

(E) *Repair of sidewalks and alleys.*

(1) *Duty of owner.* The owner of any property within the city abutting a public sidewalk or alley shall keep the sidewalk or alley in repair and safe for pedestrians. Repairs shall be made in accordance with the standard specifications approved by the City Council and on file in the office of the City Administrator/Clerk.

(2) *Inspections; notice.*

(a) The City Council or its designee shall make inspections as are necessary to determine that public sidewalks and alleys within the city are kept in repair and safe for pedestrians or vehicles.

(b) If it is found that any sidewalk or alley abutting on private property is unsafe and in need of repairs, the City Council shall cause a notice to be served, by registered or certified mail or by personal service, upon the record owner of the property, ordering the owner to have the sidewalk or alley repaired and made safe within 30 days and stating that if the owner fails to do so, the city will do so and that the expense thereof must be paid by the owner, and if unpaid it will be made a special assessment against the property concerned.

(3) *Repair by city.* If the sidewalk or alley is not repaired within 30 days after receipt of the notice, the City Administrator/Clerk shall report the facts to the City Council and the City Council shall by resolution order the work done by contract in accordance with law. No person shall enter private property to repair a sidewalk, except with the permission of the owner or after obtaining an administrative warrant. The City Administrator/Clerk shall keep a record of the total cost of the repair attributable to each lot or parcel of property.

(F) *Personal liability.*

(1) The owner of property on which or adjacent to which a current service has been performed shall be personally liable for the cost of the service.

(2) As soon as the service has been completed and the cost determined, the City Administrator/Clerk 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 Administrator/Clerk.

(G) *Damage to public property.*

(1) Any person driving any vehicle, equipment, object or contrivance upon any street, road, highway or structure shall be liable for all damages which the surface or structure thereof may sustain as a result of any illegal operation or driving or moving of the vehicle, equipment or object or contrivance; or as a result of operating, driving or moving any vehicle, equipment, object or contrivance weighing in excess of the maximum weight permitted by statute or this code.

(2) When the driver is not the owner of the vehicle, equipment, object or contrivance, but is operating, driving or moving it with the express or implied permission of the owner, then the owner and the driver shall be jointly and severally liable for any damage.

(3) Any person who willfully acts or fails to exercise due care and by that act damages any public property shall be liable for the amount thereof, which amount shall be collectable by action or as a lien under M.S. § 514.67, as it may be amended from time to time.

(H) *Assessment.*

(1) On or before October 31 of each year, the City Administrator/Clerk shall list the total unpaid charges for each type of current service and charges under this section against each separate lot or parcel to which they are attributable under this section.

(2) The City Council may then spread the charges against property benefitted as a special assessment under the authority of M.S. § 429.101 as it may be amended from time to time and other pertinent statutes for certification to the County Auditor and collection along with current taxes the following year or in annual installments, not exceeding 10, as the City Council may determine in each case.

Penalty, see § 10.99

**§ 95.002 TREE DISEASES.**

(A) *Trees constituting nuisance declared.* The following are public nuisances whenever they may be found within the city:

(1) Any living or standing elm tree or part thereof infected to any degree with the Dutch Elm disease fungus *Ceratocystis Ulmi (Buisman) Moreau* or which harbors any of the elm bark beetles *Scolytus Multistriatus (Eichh.)* or *Hylungopinus Rufipes (Marsh)*;

(2) Any dead elm tree or part thereof, including branches, stumps, firewood or other elm material from which the bark has not been removed and burned or sprayed with an effective elm bark beetle insecticide;

(3) Any living or standing oak tree or part thereof infected to any degree with the Oak Wilt fungus *Ceratocystis fagacearum*;

(4) Any dead oak tree or part thereof which in the opinion of the designated officer constitutes a hazard, including but not limited to logs, branches, stumps, roots, firewood or other oak material which has not been stripped of its bark and burned or sprayed with an effective fungicide;

(5) Any living or standing ash tree infested to any degree with Emerald Ash Borer, *Agrilus planipennis*;

(6) Any dead elm, ash or oak tree, including logs, branches, stumps, firewood or other material; and

(7) Any other shade tree with an epidemic disease.

(B) *Abatement of nuisance.* It is unlawful for any person to permit any public nuisance as defined in division (A) of this section to remain on any premises the person owns or controls within the city. The nuisance may be abated as provided in §§ 95.022 and 95.023.

(C) *Record of costs.* The City Administrator/Clerk shall keep a record of the costs of abatement done under this section for all work done for which assessments are to be made, stating and certifying the description of the land, lots, parcels involved and the amount chargeable to each.

(D) *Unpaid charges.*

(1) On or before September 1 of each year, the Administrator/Clerk shall list the total unpaid charges for each abatement against each separate lot or parcel to which they are attributable under this section.

(2) The City Council may then spread the charges or any portion thereof against the property involved as a special assessment as authorized by M.S. § 429.101 as it may be amended from time to time and other pertinent statutes for certification to the County Auditor and collection the following year along with the current taxes.

(Am. Ord. 706, passed 4-20-2011) Penalty, see § 10.99

### *NUISANCES*

#### **§ 95.015 PUBLIC NUISANCE.**

Whoever by his or her act or failure to perform a legal duty intentionally does any of the following is guilty of maintaining a public nuisance, which is a misdemeanor:

(A) Maintains or permits a condition which unreasonably annoys, injures or endangers the safety, health, morals, comfort or repose of any considerable number of members of the public;

(B) Interferes with, obstructs or renders dangerous for passage any public highway or right-of-way or waters used by the public; or

(C) Is guilty of any other act or omission declared by law or §§ 95.016, 95.017 or 95.018 or any other part of this code to be a public nuisance and for which no sentence is specifically provided.  
Penalty, see § 10.99

#### **§ 95.016 PUBLIC NUISANCES AFFECTING HEALTH.**

(A) The following are hereby declared to be nuisances affecting health:

- (1) Exposed accumulation of decayed or unwholesome food or vegetable matter;
- (2) All diseased animals running at large;
- (3) All ponds or pools of stagnant water;
- (4) Carcasses of animals not buried or destroyed within 24 hours after death;
- (5) Accumulations of manure, refuse or other debris;

(6) Privy vaults and garbage cans which are not rodent-free or fly-tight or which are so maintained as to constitute a health hazard or to emit foul and disagreeable odors;

(7) The pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste or other substances;

(8) All noxious weeds and other rank growths of vegetation upon public or private property;

(9) Dense smoke, noxious fumes, gas and soot or cinders, in unreasonable quantities;



(10) All public exposure of people having a contagious disease; and

(11) Any offensive trade or business as defined by statute not operating under local license.

(B) *Lawn fertilizer.*

(1) *Purpose and intent.* No person, firm, corporation, franchise or commercial establishment shall use any lawn fertilizer, liquid or granular, within the City of Sauk Centre that contains any amount of phosphorous or other compound containing phosphorous, such as phosphate.

(2) *Exceptions.* Lawn fertilizers with phosphate content may be used for a new lawn or a soil or tissue test shows a phosphorous need and the application adheres to rates recommended by the University of Minnesota and approved by the Minnesota Department of Agriculture.

(3) *Area of enforcement.* This division (B) shall affect the entire City of Sauk Centre.

(4) *Enforcement and penalties.*

(a) Violating the provisions of this division (B) shall constitute a misdemeanor.

(b) Further, the provisions of this division (B) may be enforced by injunctive relief.  
(Ord. 624, passed 9-4-2002) Penalty, see § 10.99

**§ 95.017 PUBLIC NUISANCES AFFECTING MORALS AND DECENCY.**

The following are hereby declared to be nuisances affecting public morals and decency:

(A) All gambling devices, slot machines and punch boards, except as otherwise authorized by federal, state or local law;

(B) Betting, bookmaking and all apparatus used in those occupations;

(C) All houses kept for the purpose of prostitution or promiscuous sexual intercourse, gambling houses, houses of ill fame and bawdy houses;

(D) All places where intoxicating liquor is manufactured or disposed of in violation of law or where, in violation of law, people are permitted to resort for the purpose of drinking intoxicating liquor or where intoxicating liquor is kept for sale or other disposition in violation of law, and all liquor and other property used for maintaining that place; and

(E) Any vehicle used for the unlawful transportation of intoxicating liquor or for promiscuous sexual intercourse or any other immoral or illegal purpose.  
Penalty, see § 10.99

**§ 95.018 PUBLIC NUISANCES AFFECTING PEACE AND SAFETY.**

The following are declared to be nuisances affecting public peace and safety:

(A) All snow and ice not removed from public sidewalks 24 hours after the snow or other precipitation causing the condition has ceased to fall;

(B) All trees, hedges, billboards or other obstructions which prevent people from having a clear view of all traffic approaching an intersection;

(C) All wires and limbs of trees which are so close to the surface of a sidewalk or street as to constitute a danger to pedestrians or vehicles;

(D) All obnoxious noises in violation of Minn. Rules Ch. 7030, as they may be amended from time to time which are hereby incorporated by reference into this code;

(E) The discharging of the exhaust or permitting the discharging of the exhaust of any stationary internal combustion engine, motor boat, motor vehicle, motorcycle, all terrain vehicle, snowmobile or any recreational device except through a muffler or other device that effectively prevents loud or explosive noises therefrom and complies with all applicable state laws and regulations;

(F) (1) The using or operation or permitting the using or operation of any radio receiving set, musical instrument, phonograph, paging system, machine or other device for producing or reproduction of sound in a distinctly and loudly audible manner so as to disturb the peace, quiet and comfort of any person nearby.

(2) Operation of any device referred to above between the hours of 10:00 p.m. and 7:00 a.m. in a manner so as to be plainly audible at the property line of the structure or building in which it is located or at a distance of 50 feet if the source is located outside a structure or building shall be prima facie evidence of violation of this section;

(G) (1) No person shall participate in any party or other gathering of people giving rise to noise, unreasonably disturbing the peace, quiet or repose of another person.

(2) When a police officer determines that a gathering is creating a noise disturbance, the officer may order all persons present, other than the owner or tenant of the premises where the disturbance is occurring, to disperse immediately.

(3) No person shall refuse to leave after being ordered by a police officer to do so.

(4) Every owner or tenant of the premises who has knowledge of the disturbance shall make every reasonable effort to see that the disturbance is stopped;



- (H) Obstructions and excavations affecting the ordinary public use of streets, alleys, sidewalks or public grounds except under conditions as are permitted by this code or other applicable law;
- (I) Radio aerials or television antennae erected or maintained in a dangerous manner;
- (J) Any use of property abutting on a public street or sidewalk or any use of a public street or sidewalk which causes large crowds of people to gather, obstructing traffic and the free use of the street or sidewalk;
- (K) All hanging signs, awnings and other similar structures over streets and sidewalks, so situated so as to endanger public safety or not constructed and maintained as provided by ordinance;
- (L) The allowing of rain water, ice or snow to fall from any building or structure upon any street or sidewalk or to flow across any sidewalk;
- (M) Any barbed wire fence less than 6 feet above the ground and within 3 feet of a public sidewalk or way;
- (N) All dangerous, unguarded machinery in any public place or so situated or operated on private property as to attract the public;
- (O) Waste water cast upon or permitted to flow upon streets or other public properties;
- (P) Accumulations in the open of discarded or disused machinery, household appliances, automobile bodies or other material in a manner conducive to the harboring of rats, mice, snakes or vermin or the rank growth of vegetation among the items so accumulated or in a manner creating fire, health or safety hazards from accumulation;
- (Q) Any well, hole or similar excavation which is left uncovered or in another condition as to constitute a hazard to any child or other person coming on the premises where it is located;
- (R) Obstruction to the free flow of water in a natural waterway or a public street drain, gutter or ditch with trash or other materials;
- (S) The placing or throwing on any street, sidewalk or other public property of any glass, tacks, nails, bottles or other substance which may injure any person or animal or damage any pneumatic tire when passing over the substance;
- (T) The depositing of garbage or refuse on a public right-of-way or on adjacent private property; and
- (U) Any unsound, dead, damaged, diseased and insect infested tree or tree stump.
- (V) All other conditions or things which are likely to cause injury to the person or property of anyone.

(W) (1) *Noises prohibited.*

(a) *General prohibition.*

1. No person shall make or cause to be made any distinctly and loudly audible noise that unreasonably annoys, disturbs, injures or endangers the comfort, repose, health, peace, safety or welfare of any person or precludes their enjoyment of property or affects their property's value.

2. This general prohibition is not limited by the specific restrictions of this section.

(b) *Defective vehicles or loads.* No person shall use any vehicle so out of repair or so loaded as to create loud and unnecessary grating, grinding, rattling or other noise.

(c) *Loading, unloading, unpacking.* No person shall create loud or excessive noise in loading, unloading or unpacking any vehicle.

(d) *Radios, phonographs, paging systems and the like.*

1. No person shall use or operate or permit the use or operation of any radio receiving set, musical instrument, phonograph, paging system, machine or other device for the production or reproduction of sound in a distinct and loudly audible manner as to unreasonably disturb the peace, quiet and comfort of any person nearby.

2. Operation of any like set, instrument, phonograph, machine or other device between the hours of 10:00 p.m. and 7:00 a.m. in a manner so as to be plainly audible at the property line of the structure or building in which it is located, in the hallway or apartment adjacent or at a distance of 50 feet if the source is located outside a structure or building, shall be prima facie evidence of a violation of this section.

(e) *Schools, churches, hospitals and the like.* No person shall create any excessive noise on a street, alley or public grounds adjacent to any school, institution of learning, church or hospital when the noise unreasonably interferes with the working of the institution or disturbs or unduly annoys its occupants or residents and when conspicuous signs indicate the presence of such institution.

(2) *Hourly restriction of certain operations.*

(a) *Domestic power equipment.*

1. No person shall operate a power lawn mower, power hedge clipper, chain saw, mulcher, garden tiller, edger, drill or other similar domestic power maintenance equipment except between the hours of 7:00 a.m. and 10:00 p.m. on any weekday or between the hours of 9:00 a.m. and 9:00 p.m. on any weekend or holiday.

2. Snow removal equipment is exempt from this provision.

(b) *Refuse hauling.* No person shall collect or remove garbage or refuse in any residential district except between the hours of 6:00 a.m. and 10:00 p.m. on any weekday or between the hours of 9:00 a.m. and 9:00 p.m. on any weekend or holiday.

(c) *Construction activities.* No person shall engage in or permit construction activities involving the use of any kind of electric, diesel or gas-powered machine or other power equipment except between the hours of 7:00 a.m. and 10:00 p.m. on any weekday or between the hours of 9:00 a.m. and 9:00 p.m. on any weekend or holiday.

(3) *Noise impact statements.*

(a) The Council may require any person applying for a change in zoning classification or a permit or license for any structure, operation, process, installation or alteration or project that may be considered a potential noise source to submit a noise impact statement on a form prescribed by the Council.

(b) It shall evaluate each statement and take its evaluation into account in approving or disapproving the license or permit applied for or the zoning change requested.

(X) Reflected glare or light from private exterior lighting exceeding 0.5 footcandles as measured on the property line of the property where the lighting is located when abutting any residential parcel and one footcandle when abutting any commercial or industrial parcel.

(Y) Reflected glare or light from private exterior lighting exceeding 0.5 footcandles as measured on the property line of the property where the lighting is located when abutting any residential parcel and one footcandle when abutting any commercial or industrial parcel.

(Am. Ord. 747, passed 7-16-2014) Penalty, see § 10.99

### **§ 95.019 NUISANCE PARKING AND STORAGE.**

(A) *Declaration of nuisance.* The outside parking and storage on residentially-zoned property of large numbers of vehicles and vehicles, materials, supplies or equipment not customarily used for residential purposes in violation of the requirements set forth below is declared to be a public nuisance because it:

- (1) Obstructs views on streets and private property;
- (2) Creates cluttered and otherwise unsightly areas;
- (3) Prevents the full use of residential streets for residential parking;

(4) Introduces commercial advertising signs into areas where commercial advertising signs are otherwise prohibited;

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(5) Decreases adjoining landowners' and occupants' enjoyment of their property and neighborhood; and/or

(6) Otherwise adversely affects property values and neighborhood patterns.

**(B) *Unlawful parking and storage.***

(1) A person must not place, store or allow the placement or storage of ice fish houses, skateboard ramps, playhouses or other similar non-permanent structures outside continuously for longer than 24 hours in the front-yard area of residential property unless more than 100 feet back from the front property line.

(2) A person must not store, place or allow the placement or storage of pipe, lumber, forms, steel, machinery or similar materials, including all materials used in connection with a business, outside on a residential property.

(3) A person must not cause, undertake, permit or allow the outside parking and storage of vehicles on residential property unless it complies with the following requirements:

(a) No more than 4 vehicles per lawful dwelling unit may be parked or stored anywhere outside on residential property, except as otherwise permitted or required by the city because of nonresidential characteristics of the property. This maximum number does not include vehicles of occasional guests who do not reside on the property;

(b) Vehicles that are parked or stored outside in the front-yard area must be on a paved or graveled parking or driveway area; and

(c) Vehicles, watercraft and other articles stored outside on residential property must be owned by a person who resides on that property. Students who are away at school for periods of time but still claim the property as their legal residence will be considered residents on the property.

(Am. Ord. 747, passed 7-16-2014) Penalty, see § 10.99

**§ 95.020 INOPERABLE MOTOR VEHICLES.**

(A) It shall be unlawful to keep, park, store or abandon any motor vehicle which is not in operating condition, partially dismantled, used for repairs or parts or as a source of repair or replacement parts for other vehicles, kept for scrapping or dismantling or salvage of any kind or which is not properly licensed for operation with the state, pursuant to M.S. § 168B.011 as it may be amended from time to time.

(B) This section does not apply to motor vehicles enclosed in a building.

(C) Any motor vehicles described in this section constitute a hazard to the health and welfare of the residents of the community in that the vehicles can harbor noxious diseases, furnish a shelter and breeding place for vermin and present physical danger to the safety and well-being of children and citizens; and vehicles containing fluids which, if released into the environment, can and do cause significant health risks to the community.

(Am. Ord. 747, passed 7-16-2014) Penalty, see § 10.99

### § 95.021 BUILDING MAINTENANCE AND APPEARANCE.

(A) *Declaration of nuisance.* Buildings, fences and other structures that have been so poorly maintained that their physical condition and appearance detract from the surrounding neighborhood are declared to be public nuisances because they:

- (1) Are unsightly;
- (2) Decrease adjoining landowners and occupants' enjoyment of their property and neighborhood; and
- (3) Adversely affect property values and neighborhood patterns.

(B) *Standards.* A building, fence or other structure is a public nuisance if it does not comply with the following requirements:

- (1) No part of any exterior surface may have deterioration, holes, breaks, gaps, loose or rotting boards or timbers;
- (2) Every exterior surface that has had a surface finish such as paint applied must be maintained to avoid noticeable deterioration of the finish;
- (3) No wall or other exterior surface may have peeling, cracked, chipped or otherwise deteriorated surface finish on more than 20% of:
  - (a) Any 1 wall or other flat surface; or
  - (b) All door and window moldings, eaves, gutters and similar projections on any 1 side or surface.
- (4) No glass, including windows and exterior light fixtures, may be broken or cracked and no screens may be torn or separated from moldings;
- (5) Exterior doors and shutters must be hung properly and have an operable mechanism to keep them securely shut or in place;

(6) Cornices, moldings, lintels, sills, bay or dormer windows and similar projections must be kept in good repair and free from cracks and defects that make them hazardous or unsightly;

(7) Roof surfaces must be tight and have no defects that admit water. All roof drainage systems must be secured and hung properly;

(8) Chimneys, antennae, air vents and other similar projections must be structurally sound and in good repair. These projections must be secured properly, where applicable, to an exterior wall or exterior roof; and

(9) Foundations must be structurally sound and in good repair.  
Penalty, see § 10.99

#### **§ 95.022 DUTIES OF CITY OFFICERS.**

(A) For purposes of §§ 95.022 and 95.023, the Police Department or Sheriff or person designated by the City Council under § 10.20, if the city has at the time no Police Department, may enforce the provisions relating to nuisances.

(B) Any peace officer or designated person shall have the power to inspect private premises and take all reasonable precautions to prevent the commission and maintenance of public nuisances.

(C) Except in emergency situations of imminent danger to human life and safety, no police officer or designated person shall enter private property for the purpose of inspecting or preventing public nuisances without the permission of the owner, resident or other person in control of the property, unless the officer or person designated has obtained a warrant or order from a court of competent jurisdiction authorizing the entry, as provided in § 10.20.

#### **§ 95.023 ABATEMENT.**

(A) *Notice.* Written notice of violation; notice of the time, date, place and subject of any hearing before the City Council; notice of City Council order; and notice of motion for summary enforcement hearing shall be given as set forth in this section.

(1) *Notice of violation.*

(a) Written notice of violation shall be served by a peace officer or designated person on the owner of record or occupant of the premises either in person or by certified or registered mail.

(b) If the premises is not occupied, the owner of record is unknown or the owner of record or occupant refuses to accept notice of violation, notice of violation shall be served by posting it on the premises.

(2) *Notice of City Council hearing.*

(a) Written notice of any City Council hearing to determine or abate a nuisance shall be served on the owner of record and occupant of the premises either in person or by certified or registered mail.

(b) If the premises is not occupied, the owner of record is unknown or the owner of record or occupant refuses to accept notice of the City Council hearing, notice of City Council hearing shall be served by posting it on the premises.

(3) *Notice of City Council order.* Except for those cases determined by the city to require summary enforcement, written notice of any City Council order shall be made as provided in M.S. § 463.17 (Hazardous and Substandard Building Act), as it may be amended from time to time.

(4) *Notice of motion for summary enforcement.* Written notice of any motion for summary enforcement shall be made as provided for in M.S. § 463.17 (Hazardous and Substandard Building Act), as it may be amended from time to time.

(B) *Procedure.*

(1) Whenever a peace officer or designated person determines that a public nuisance is being maintained or exists on the premises in the city, the officer or person designated shall notify in writing the owner of record or occupant of the premises of the fact and order that the nuisance be terminated or abated.

(2) The notice of violation shall specify the steps to be taken to abate the nuisance and the time within which the nuisance is to be abated.

(3) If the notice of violation is not complied with within the time specified, the officer or designated person shall report that fact forthwith to the City Council.

(4) Thereafter, the City Council may, after notice to the owner or occupant and an opportunity to be heard, determine that the condition identified in the notice of violation is a nuisance and further order that if the nuisance is not abated within the time prescribed by the City Council, the city may seek injunctive relief by serving a copy of the City Council order and notice of motion for summary enforcement or obtain an administrative search and seizure warrant and abate the nuisance.

(C) *Emergency procedure; summary enforcement.*

(1) In cases of emergency, where delay in abatement required to complete the notice and procedure requirements set forth in divisions (A) and (B) of this section will permit a continuing nuisance to unreasonably endanger public health safety or welfare, the City Council may order summary enforcement and abate the nuisance.

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(2) To proceed with summary enforcement, the officer or designated person shall determine that a public nuisance exists or is being maintained on premises in the city and that delay in abatement of the nuisance will unreasonably endanger public health, safety or welfare.

(3) The officer or designated person shall notify in writing the occupant or owner of the premises of the nature of the nuisance and of the city's intention to seek summary enforcement and the time and place of the City Council meeting to consider the question of summary enforcement.

(4) The City Council shall determine whether or not the condition identified in the notice to the owner or occupant is a nuisance, whether public health, safety or welfare will be unreasonably endangered by delay in abatement required to complete the procedure set forth in division (A) above and may order that the nuisance be immediately terminated or abated.

(5) If the nuisance is not immediately terminated or abated, the City Council may order summary enforcement and abate the nuisance.

(D) *Immediate abatement.* Nothing in this section shall prevent the city, without notice or other process, from immediately abating any condition which poses an imminent and serious hazard to human life or safety.

Penalty, see § 10.99

**§ 95.024 RECOVERY OF COST.**

(A) *Personal liability.*

(1) The owner of premises on which a nuisance has been abated by the city shall be personally liable for the cost to the city of the abatement, including administrative costs.

(2) As soon as the work has been completed and the cost determined, the Administrator/Clerk or other official shall prepare a bill for the cost and mail it to the owner.

(3) Thereupon the amount shall be immediately due and payable at the office of the Administrator/Clerk.

(B) *Assessment.*

(1) After notice and hearing as provided in M.S. § 429.061, as it may be amended from time to time, if the nuisance is a public health or safety hazard on private property, the accumulation of snow and ice on public sidewalks, the growth of weeds on private property or outside the traveled portion of streets or unsound, dead, damaged, or insect-infested trees, the Administrator/Clerk shall, on or before September 1 next following abatement of the nuisance, list the total unpaid charges along with all other charges as well as other charges for current services to be assessed under M.S. § 429.101, as it may be amended from time to time, against each separate lot or parcel to which the charges are attributable.



(2) The City Council may then spread the charges against the property under that statute and other pertinent statutes for certification to the County Auditor and collection along with current taxes the following year or in annual installments, not exceeding 10, as the City Council may determine in each case.

(Am. Ord. 747, passed 7-16-2014) Penalty, see § 10.99

## ***WEEDS***

### **§ 95.035 SHORT TITLE.**

This subchapter shall be cited as the “Weed Ordinance.”

### **§ 95.036 JURISDICTION.**

This subchapter shall be in addition to any state statute or county ordinance presently in effect, subsequently added, amended or repealed.

### **§ 95.037 DEFINITIONS; EXCLUSIONS.**

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

***DESTRUCTION ORDER.*** The notice served by the City Council or designated city official, in cases of appeal, on the property owner of the ordinance violation.

***PROPERTY OWNER.*** The person occupying the property, the holder of legal title or a person having control over the property of another, such as a right-of-way, easement, license or lease.

***WEEDS, GRASSES and RANK VEGETATION.*** Includes but is not limited to the following:

(1) Noxious weeds and rank vegetation shall include but not be limited to: alum (allium), Buckthorn, Bur Cucumber, Canada Thistle, Corncockle, Cressleaf Groundsel, Curly Dock, Dodder, Field Bindweed, French Weed, Hairy Whitetop, Hedge Bindweed, Hoary Cress, Horsenettle, Johnsongrass, Leafy Spurge, Mile-A-Minute Weed, Musk Thistle, Oxeye Daisy, Perennial Sowthistle, Poison Hemlock, Purple Loosestrife, Quackgrass, Russian Knapweed, Russian Thistle, Serrated Tussock, Shatter Cane, Sorghum, Wild Carrot, Wild Garlic, Wild Mustard, Wild Onion, Wild Parsnip;

(2) Grapevines when growing in groups of 100 or more and not pruned, sprayed, cultivated or otherwise maintained for 2 consecutive years;

(3) Bushes of the species of tall, common or European barberry, further known as *berberis vulgaris* or its horticultural varieties;

(4) Any weeds, grass or plants, other than trees, bushes, flowers or other ornamental plants, growing to a height exceeding 8 inches;

(5) Rank vegetation includes the uncontrolled, uncultivated growth of annuals and perennial plants; and

(6) The term **WEEDS** does not include shrubs, trees, cultivated plants or crops.

(B) In no event shall cultivated plants or crops include plants which have been defined by state statute or administrative rule as being noxious or detrimental plants.

(Am. Ord. 694, passed 7-21-2010)

#### **§ 95.038 OWNERS RESPONSIBLE FOR TRIMMING, REMOVAL AND THE LIKE.**

All property owners shall be responsible for the removal, cutting or disposal and elimination of weeds, grasses and rank vegetation or other uncontrolled plant growth on their property, which at the time of notice, is in excess of 8 inches in height.

(Am. Ord. 694, passed 7-21-2010) Penalty, see § 10.99

#### **§ 95.039 FILING COMPLAINT.**

(A) Any person, including the city, who believes there is property located within the corporate limits of the city which has growing plant matter in violation of this subchapter shall make a written complaint signed, dated and filed with the City Administrator/Clerk.

(B) If the city makes the complaint, an employee, officer or Council member of the city shall file the complaint in all respects as set out above.

#### **§ 95.040 NOTICE OF VIOLATIONS.**

(A) Upon receiving notice of the probable existence of weeds in violation of this subchapter, a person designated by the City Council shall make an inspection and prepare a written report to the City Council regarding the condition.

(1) The City Council, upon concluding that there is a probable belief that this subchapter has been violated, shall forward written notification in the form of a “destruction order” to the property owner or the person occupying the property as that information is contained within the records of the City Administrator/Clerk or any other city agency.

(2) The notice shall be served in writing by certified mail. The notice shall provide that within 7 regular business days after the receipt of the notice that the designated violation shall be removed by the property owner or person occupying the property.

(B) (1) All notices are to be in writing and all filings are to be with the City Administrator/Clerk.

(2) Certified mailing to the City Administrator/Clerk or others is deemed filed on the date of posting to the United States Postal Service.

#### **§ 95.041 APPEALS.**

(A) (1) The property owner may appeal by filing written notice of objections with the City Council within 48 hours of the notice, excluding weekends and holidays, if the property owner contests the finding of the City Council.

(2) It is the property owner's responsibility to demonstrate that the matter in question is shrubs, trees, cultivated plants or crops or is not otherwise in violation of this subchapter and should not be subject to destruction under the subchapter.

(B) An appeal by the property owner shall be brought before the City Council and shall be decided by a majority vote of the Council members in attendance and being at a regularly scheduled or special meeting of the City Council.

#### **§ 95.042 ABATEMENT BY CITY.**

(A) In the event that the property owner shall fail to comply with the "destruction order" within 7 regular business days and has not filed a notice within 48 hours to the City Administrator/Clerk of an intent to appeal, the City Council may employ the services of city employees or outside contractors and remove the weeds to conform to this subchapter by all lawful means.

(B) No person shall enter the property to abate the nuisance, except with the permission of the owner, resident or other person in control of the property.

#### **§ 95.043 LIABILITY.**

(A) The property owner is liable for all costs of removal, cutting or destruction of weeds as defined by this subchapter.

(B) The property owner is responsible for all collection costs associated with weed destruction, including but not limited to court costs, attorney's fees and interest on any unpaid amounts incurred by the city. If the city uses municipal employees, it shall set and assign an appropriate per hour rate for employees, equipment, supplies and chemicals which may be used.

(C) All sums payable by the property owner are to be paid to the City Administrator/Clerk and to be deposited in a general fund as compensation for expenses and costs incurred by the city.

(D) All sums payable by the property owner may be collected as a special assessment as provided by M.S. § 429.101, as it may be amended from time to time.

### ***OPEN BURNING***

#### **§ 95.060 DEFINITIONS.**

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

***FIRE CHIEF, FIRE MARSHAL and ASSISTANT FIRE MARSHALS.*** The Fire Chief, Fire Marshal and Assistant Fire Marshals of the Fire Department which provides fire protection services to the city.

***OPEN BURNING.*** The burning of any matter if the resultant combustion products are emitted directly to the atmosphere without passing through a stack, duct or chimney, except a “recreational fire” as defined herein. Mobile cooking devices such as manufactured hibachis, charcoal grills, wood smokers and propane or natural gas devices are not defined as ***OPEN BURNING***.

***RECREATIONAL FIRE.*** A fire set with approved starter fuel no more than 3 feet in height, contained within the border of a “recreational fire site” using dry, clean wood; producing little detectable smoke, odor or soot beyond the property line; conducted with an adult tending the fire at all times; for recreational, ceremonial, food preparation for social purposes; extinguished completely before quitting the occasion; and respecting weather conditions, neighbors, burning bans and air quality so that nuisance, health or safety hazards will not be created. No more than 1 recreational fire is allowed on any property at 1 time.

#### ***RECREATIONAL FIRE SITE.***

(1) An area of no more than a 3-foot diameter circle (measured from the inside of the fire ring or border); completely surrounded by non-combustible and non-smoke or odor producing material, either of natural rock, cement, brick, tile or blocks or ferrous metal only an which area is depressed below ground, on the ground or on a raised bed.

(2) Included are permanent outdoor wood burning fireplaces. Burning barrels are not a ***RECREATION FIRE SITE*** as defined herein. ***RECREATIONAL FIRE SITES*** shall not be located closer than 25 feet to any structure.

***STARTER FUELS.***

(1) Dry, untreated, unpainted, kindling, branches, cardboard or charcoal fire starter.

(2) Paraffin candles and alcohols are permitted as starter fuels and as aids to ignition only.

(3) Propane gas torches or other clean gas burning devices causing minimal pollution must be used to start an open burn.

***WOOD.***

(1) Dry, clean fuel only such as twigs, branches, limbs, “presto logs,” charcoal, cord wood or untreated dimensional lumber.

(2) The term does not include wood that is green with leaves or needles, rotten, wet, oil soaked or treated with paint, glue or preservatives.

(3) Clean pallets may be used for recreational fires when cut into 3-foot lengths.

**§ 95.061 PROHIBITED MATERIALS.**

(A) No person shall conduct, cause or permit open burning oils, petro fuels, rubber, plastics, chemically treated materials or other materials which produce excessive or noxious smoke such as tires, railroad ties, treated, painted or glued wood composite shingles, tar paper, insulation, composition board, sheet rock, wiring, paint or paint fillers.

(B) No person shall conduct, cause or permit open burning of hazardous waste or salvage operations, open burning of solid waste generated from an industrial or manufacturing process or from a service or commercial establishment or building material generated from demolition of commercial or institutional structures.

(C) No person shall conduct, cause or permit open burning of discarded material resulting from the handling, processing, storage, preparation, serving or consumption of food.

(D) No person shall conduct, cause or permit open burning of any leaves or grass clippings.  
Penalty, see § 10.99

**§ 95.062 PERMIT REQUIRED FOR OPEN BURNING.**

No person shall start or allow any open burning on any property in the city without first having obtained an open burn permit, except that a permit is not required for any fire which is a recreational fire as defined in § 95.060.

Penalty, see § 10.99

**§ 95.063 PURPOSES ALLOWED FOR OPEN BURNING.**

(A) Open burn permits may be issued only for the following purposes:

- (1) Elimination of fire or health hazard that cannot be abated by other practical means;
- (2) Ground thawing for utility repair and construction;
- (3) Disposal of vegetative matter for managing forest, prairie or wildlife habitat and in the development and maintenance of land and rights-of-way where chipping, composting, landspreading or other alternative methods are not practical;
- (4) Disposal of diseased trees generated on-site, diseased or infected nursery stock, diseased bee hives; and
- (5) Disposal of unpainted, untreated, non-glued lumber and wood shakes generated from construction, where recycling, reuse, removal or other alternative disposal methods are not practical.

(B) Fire training permits can only be issued by the Minnesota Department of Natural Resources. Penalty, see § 10.99

**§ 95.064 PERMIT APPLICATION FOR OPEN BURNING; PERMIT FEES.**

(A) Open burning permits shall be obtained by making application on a form prescribed by the Department of Natural Resources (DNR) and adopted by the Fire Department. The permit application shall be presented to the Fire Chief, Fire Marshal and Assistant Fire Marshals for reviewing and processing those applications.

(B) An open burning permit shall require the payment of a fee. Permit fees shall be in the amount established in the Ordinance Establishing Fees and Charges, authorized by § 30.08, as it may be amended from time to time.

Penalty, see § 10.99

**§ 95.065 PERMIT PROCESS FOR OPEN BURNING.**

Upon receipt of the completed open burning permit application and permit fee, the Fire Chief, Fire Marshal or Assistant Fire Marshals shall schedule a preliminary site inspection to locate the proposed burn site, note special conditions and set dates and time of permitted burn and review fire safety considerations.

**§ 95.066 PERMIT HOLDER RESPONSIBILITY.**

(A) Prior to starting an open burn, the permit holder shall be responsible for confirming that no burning ban or air quality alert is in effect.

(1) Every open burn event shall be constantly attended by the permit holder or his or her competent representative.

(2) The open burning site shall have available, appropriate communication and fire suppression equipment as set out in the fire safety plan.

(B) The open burn fire shall be completely extinguished before the permit holder or his or her representative leaves the site.

(1) No fire may be allowed to smolder with no person present.

(2) It is the responsibility of the permit holder to have a valid permit, as required by this subchapter, available for inspection on the site by the Police Department, Fire Department, MPCA representative or DNR forest officer.

(C) The permit holder is responsible for compliance and implementation of all general conditions, special conditions and the burn event safety plan as established in the permit issued. The permit holder shall be responsible for all costs incurred as a result of the burn, including but not limited to fire suppression and administrative fees.

Penalty, see § 10.99

**§ 95.067 REVOCATION OF OPEN BURNING PERMIT.**

(A) The open burning permit is subject to revocation at the discretion of DNR forest officer, the Fire Chief, Fire Marshal or Assistant Fire Marshals.

(B) Reasons for revocation include but are not limited to a fire hazard existing or developing during the course of the burn, any of the conditions of the permit being violated during the course of the burn, pollution or nuisance conditions developing during the course of the burn or a fire smoldering with no flame present.

Penalty, see § 10.99

**§ 95.068 DENIAL OF OPEN BURNING PERMIT.**

If established criteria for the issuance of an open burning permit are not met during review of the application, it is determined that a practical alternative method for disposal of the material exists or a

pollution or nuisance condition would result or if a burn event safety plan cannot be drafted to the satisfaction of the Fire Chief, Fire Marshal or Assistant Fire Marshals, these officers may deny the application for the open burn permit.

#### **§ 95.069 BURNING BAN OR AIR QUALITY ALERT.**

No recreational fire or open burn will be permitted when the city or DNR has officially declared a burning ban due to potential hazardous fire conditions or when the MPCA has declared an Air Quality Alert.

Penalty, see § 10.99

#### **§ 95.070 RULES AND LAWS ADOPTED BY REFERENCE.**

The provisions of M.S. §§ 88.16 to 88.22, as these statutes may be amended from time to time, are hereby adopted by reference and made a part of this subchapter as if fully set forth at this point.

### ***ABANDONED VEHICLES, APPLIANCES AND EQUIPMENT***

#### **§ 95.085 PURPOSE AND INTENT.**

(A) Abandoned motor vehicles, abandoned appliances, junk equipment and discarded furniture constitute:

(1) A hazard to the health and welfare of the people of the City of Sauk Centre in that they can harbor noxious diseases, furnish shelter and breeding places for vermin and present physical dangers to the safety and well-being of children and other citizens;

(b) A blight on the landscape of the city and are therefore detrimental to the environment; and

(3) A waste of a valuable resource of useful metal, in the case of abandoned motor vehicles and appliances.

(B) It is, therefore, in the public interest that the present accumulation of abandoned motor vehicles, abandoned appliances, junk equipment and discarded furniture within the city be eliminated and that the future abandonment thereof be prevented.

(C) This subchapter is designed to protect the character and stability of properties within the City of Sauk Centre and to avoid blight and blighted conditions.



(D) The owners and occupants of properties within the city shall comply with the regulations contained herein.

(Ord. 613, passed 9-5-2001)

#### **§ 95.086 DEFINITIONS.**

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

***ABANDONED MOTOR VEHICLE.*** One or more of the following:

- (1) An unlicensed motor vehicle;
- (2) A motor vehicle lacking vital component parts;
- (3) A motor vehicle which is in an inoperable condition;
- (4) A motor vehicle which has remained for a period of more than 48 hours on public property illegally;
- (5) A motor vehicle which has remained on private property for more than 48 hours without the consent of the person in control of the property; and/or
- (6) A motor vehicle voluntarily surrendered by its owner and accepted by the city.

***ABANDONED APPLIANCE.*** A household appliance lacking 1 or more vital component parts, or which is in an inoperable condition, or which is no longer used for its intended purpose and is stored in the open.

***CITY.*** The City of Sauk Centre, Minnesota.

***DISCARDED FURNITURE.*** An item of furniture originally intended for use within the interior of a building but left or stored out-of-doors.

***JUNK EQUIPMENT.*** Includes equipment such as farm equipment and other machinery all-terrain vehicles, snowmobiles, motorcycles, lawnmowers, snowblowers and all other machinery and equipment powered by a motor, and shall include any part of machinery and equipment, stored in the open, which is not currently licensed or used upon the highways of the State of Minnesota or is not required to be so licensed, and is either unusable or inoperable because of lack of or defects in component parts, or unuseable or inoperable because of damage from collision, deterioration or having been cannibalized, or beyond repair and therefore not intended for future use as an operable vehicle, appliance or equipment, or being retained on the property for possible use as salvageable parts.

**PERSON.** Any natural person, firm, partnership, association, corporation, company or organization of any kind.

**PRIVATE PROPERTY.** Any real property within the city which is privately owned and which is not public property as defined in this section.

**PUBLIC PROPERTY.** Any street, alley, highway, public park or publically owned facility to include the entire width (right-of-way) between the boundary lines of every way publically maintained for the purpose of vehicular travel, and also means any other publically owned property or facility.

**VITAL COMPONENT.** A part of a motor vehicle, appliance or junk equipment, that is essential to its mechanical functioning.  
(Ord. 613, passed 9-5-2001)

#### § 95.087 NUISANCE.

(A) The presence of any abandoned motor vehicle, abandoned appliance, junk equipment, discarded furniture or parts thereof on private or public property is a public nuisance which may be abated as so in accordance with provisions of this code and subchapter.

(B) A motor vehicle shall not be deemed to be an abandoned motor vehicle, an appliance shall not be deemed to be an abandoned appliance, discarded furniture shall not be deemed to be discarded and equipment shall not be deemed junk equipment, as defined in this section when kept:

(1) In an enclosed garage or storage building;

(2) On the premise of a motor vehicle or appliance repair business when the business is maintained and/or licensed in accordance with Minnesota Statutes or with local zoning ordinances or zoning regulations and, in the case of a repair business, each motor vehicle, appliance or equipment is being actively and consistently worked on and is being maintained or stored in an area screened from public view by an appropriate fence;

(3) In an appropriate storage place or depository maintained in a lawful place and manner in the city or authorized by the city; or

(4) Is outside for the purpose of an auction sale, provided that it is not outside for more than 48 continuous hours.

(Ord. 613, passed 9-5-2001; Am. Ord. 747, passed 7-16-2014)

**Cross-reference:**

*Public nuisances affecting public peace and safety, see § 95.018*

**§ 95.088 PUBLIC PROPERTY.**

(A) No person shall park, store, leave or permit the parking, storing or leaving of any abandoned motor vehicle or parts thereof, abandoned appliance, junk equipment or discarded furniture of any kind whether attended or not, upon any public property within the City of Sauk Centre.

(B) Whenever any police officer finds an abandoned motor vehicle, abandoned appliance, junk equipment or discarded furniture on public property within the city, he or she is authorized to provide the removal thereof to the public impound lot or a place of safety.

(C) Any abandoned motor vehicle, abandoned appliance, junk equipment or discarded furniture which causes an obstruction and hazard to traffic may be removed at any time under the direction of the Police Department.

(Ord. 613, passed 9-5-2001) Penalty, see § 10.99

**§ 95.089 PRIVATE PROPERTY.**

No person owning, in charge of, or in control of any real property within the city, whether as owner, tenant, occupant, lessee or otherwise, shall allow any abandoned motor vehicle, abandoned appliance, junk equipment or discarded furniture of any kind to remain on a property longer than 96 hours.

(Ord. 613, passed 9-5-2001) Penalty, see § 10.99

**§ 95.090 ENFORCEMENT OFFICER.**

The Chief of Police of the City of Sauk Centre, or his or her designee or any other person designated by Sauk Centre City Council resolution shall constitute the enforcement officer, and it is the enforcement officer's duty to enforce the provisions of this subchapter.

(Ord. 613, passed 9-5-2001)

**§ 95.091 COMPLIANCE NOTICE.**

(A) Whenever the enforcement officer or any member of the Sauk Centre Police Department determines that a person has an abandoned motor vehicle, abandoned appliance, junk equipment or discarded furniture on his or her property, a notice in writing shall be served upon that person requesting the removal thereof in the time specified in this subchapter.

(B) The compliance notice and notice of the alleged violation shall include the following:

(1) The notice shall be in writing;

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- (2) The notice shall describe the location and nature of the violations of this subchapter;
- (3) The notice shall establish a time for the correction of the violation, which shall be at least 10 days;
- (4) The notice shall describe the remedy that needs to be taken to correct the violation;
- (5) The notice shall inform the alleged violator of the right to request a variance, appeal or hearing before the City Council and the date by which the appeal must be filed;
- (6) The notice shall describe the penalties the alleged violator could face if the violation is not corrected, including, but not limited to, a fine, jail time and possible abatement costs if the work is performed by the city; and
- (7) The notice shall also state that any costs incurred by the city in abating the nuisance may be assessed against the property.  
(Ord. 613, passed 9-5-2001)

**§ 95.092 NOTICE SERVICE.**

- (A) The compliance notice shall be served upon the alleged violator who can be either the owner or occupant of the property.
- (B) The notice shall be deemed to be properly served upon the alleged violator if a copy thereof is:
  - (1) Served upon the person personally; and/or
  - (2) Sent by registered or certified mail to that person's address or to the property address.
- (C) The owner's property address may be determined by any practical means including by review of the records of the County Auditor which shall be deemed conclusive.  
(Ord. 613, passed 9-5-2001)

**§ 95.093 REMOVAL.**

Upon proper notice, an owner of an abandoned motor vehicle, abandoned appliance, junk equipment or discarded furniture, and the owner or occupant of the private property on which the same is located, shall be responsible for its removal, jointly and severally.  
(Ord. 613, passed 9-5-2001)

**§ 95.094 VARIANCE AND APPEALS.**

(A) Appeals of interpretation or requests for a variance shall be made in writing to the City Council, and shall be filed with the City Administrator's office within 10 days after receipt of the compliance notice.

(B) The City Council, in its discretion, may elect to hear appeals or requests for variance when made more than 10 days after the receipt of the compliance notice, but action by the City Council is completely discretionary, and shall not delay or prevent criminal prosecution or other enforcement actions, unless the City Council grants the appeal or grants the variance prior to the completion of the enforcement activities.

(C) The City Council may grant variances in instances where the strict enforcement of an ordinance would cause a practical difficulty because of circumstances unique to the individual property under consideration and when it is demonstrated that the action will be in keeping with the spirit and intent of this subchapter.

(Ord. 613, passed 9-5-2001; Am. Ord. 747, passed 7-16-2014)

**§ 95.095 VIOLATIONS.**

Violating any provisions of this subchapter and failure to comply with the compliance notice shall constitute a misdemeanor. Every day that the violation is allowed to exist shall constitute a separate offense. Further, the provisions of this subchapter may be enforced by injunctive relief.

(Ord. 613, passed 9-5-2001) Penalty, see § 10.99



## CHAPTER 96: STREETS AND SIDEWALKS

### Section

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- 96.002 Sidewalk sales

#### *Street Openings and Excavation*

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***Cross-reference:***

*Business regulations, see Title XI*

**GENERAL REGULATIONS****§ 96.001 PARADES.**

No person shall exhibit any circus, caravan or show by parading it upon any city street, and no person shall take part in a like parade, without first obtaining permission from the Council.  
(1985 Code, § 504.01) Penalty, see § 10.99

**§ 96.002 SIDEWALK SALES.**

No person shall place, keep or permit to be placed or kept upon any sidewalk, or suspend over any street, any goods, wares or merchandise for sale, display, show, advertising or other purpose except as provided in § 96.065.  
(1985 Code, § 504.02) Penalty, see § 10.99



***STREET OPENINGS AND EXCAVATION*****§ 96.010 DEFINITIONS.**

***CITY STREET.*** Any public thoroughfare, street, avenue and boulevard to the public for public use and street purposes.

***EXCAVATION.*** Any disturbance of the soil for construction purposes or any unearthing of the soil below 1-foot level of the ground surface, including, but not limited to, excavation for footing, basements, grading of lots, sewer and waterline installations.

***PUBLIC UTILITIES.*** All water mains, sanitary sewers, storm sewers, electrical transmission lines, together with appurtenances, including, but not limited to, house service connections, valves, hydrants, man holes, catch basins and outlets.

***PRIVATE UTILITIES.*** All gas mains, cable TV lines and telephone lines together with all appurtenances, including, but not limited to, buried pipe, cable, conduit, wire, valves, man holes, house service connections, poles, overhead wires, cables and conduits.  
(1985 Code, § 301.01)

**§ 96.011 EXCAVATION PERMIT AND FEE.*****(A) Permit required.***

(1) No person shall make any excavation within the city limits without first having secured a permit therefor from the city. Application for a permit shall be made in writing on the form approved by and provided by the city. The application shall be completed by the owner of record of the real property involved, or his or her authorized agent, and shall be submitted to the Administrator/Clerk for approval.

(2) All applications for excavation permits shall be accompanied by the prescribed fee and street opening fee, if necessary. No fee shall be required if the proposed excavation will not disturb the city street surface. The application shall be approved and a permit issued by the Administrator/Clerk, which permit shall be signed by all of the utility department heads listed on the application. The application must be completed in all respects, and the permit must be issued prior to the commencement of any excavation.

***(B) Permit fee.*** Prior to excavation of a permanent type roadbed surface, the permittee shall pay to the city a street opening fee in an amount required under the street opening fee schedule as established from time to time by resolution of the Council. The city may accept an annual payment bond in lieu of permit fee. The street opening fee shall be used to pay the Sauk Centre Street Department for labor

performed and materials used to restore the street surface to its required condition and with any surplus to be returned to the permittee.

(1985 Code, § 301.02) (Am. Ord. 758, passed 4-15-2015)

### § 96.012 NOTICE TO CITY.

A minimum of 24-hour notice (excluding weekends and holidays) shall be given to the Street Superintendent, or his or her representative, before any excavation and/or backfilling shall take place and the Street Superintendent or his or her representative shall be allowed to be present and inspect during the time of the excavation and/or backfilling.

(1985 Code, § 301.03)

### § 96.013 STANDARDS.

#### (A) *Permanent roadbeds.*

(1) All trenches in permanent type roadbed surfaces shall be cut in a straight and squared-off method. This shall be done by use of a jackhammer, saw or other approved means. All trenches in road rights-of-way shall require the removal of curb, gutter and sidewalk to ensure proper compaction.

(2) Trenches shall be backfilled in 1 foot compacted layers of granulated materials, and with the top foot to be backfilled and compacted with Class 5 base material up to the original road grade surface.

(3) All compaction shall be completed by city approved mechanical and/or hand methods. The Sauk Centre Street Department shall replace the blacktop wearing surface, or will contract with a competitive blacktop contractor for the replacement of permanent surface.

(4) If excavation causes any other disturbance or damage to adjoining public rights-of-way, such as, but not limited to, sidewalks, curbs, grass, trees and shrubs, the permittee shall restore the affected areas to their original condition within 30 days after the completion of excavation.

(5) The permittee shall also pay all costs and expenses incurred in making this restoration.

#### (B) *Non-permanent roadbeds.*

(1) All trenches in streets without permanent type roadbed shall be backfilled to 1 foot compacted layers, and with the top foot to be backfilled and compacted city Class 5 base material up to the original road grade surface.

(2) Trenches in road rights-of-way shall require removal of curb, gutter and sidewalk to ensure proper compaction.

(3) All compaction methods shall be by city approved mechanical and/or hand methods.  
(Am. Ord. 583, passed 4-15-1998)

**§ 96.014 DAMAGE TO ADJOINING PROPERTY.**

(A) If the excavation causes any other disturbance or damage to adjoining rights-of-way, such as, but not limited to, sidewalks, curbs, grass, trees and shrubs, the permittee shall restore the affected area to its original condition within 30 days after completion of the excavation.

(B) The permittee shall pay all costs and expenses related to the work.

(C) The city may apply any remaining balance of the street opening fee obtained under this chapter to the cost of the restoration and no refund will be made to the permittee until all restoration work is complete.

(1985 Code, § 301.05)

**§ 96.015 TIME OF EXCAVATION.**

The Sauk Centre Administrator/Clerk shall not issue any excavation permits for street openings from October 20 through April 1 unless an emergency exists as determined by the Administrator/Clerk with concurrence from utility departments.

(Am. Ord. 583, passed 4-15-1998)

**§ 96.016 CHARGES TO PUBLIC UTILITIES.**

(A) Public utility agencies requiring street openings shall bear the cost of the blacktop and any other materials used in repair of the street opening.

(B) The application for the permit must be made in writing at the Administrator/Clerk's office but no permit fee or street opening fee shall be required of the public utility agency if a waiver thereof is approved by the Council.

(1985 Code, § 301.07)

**§ 96.017 PROTECTION OF EXISTING IMPROVEMENTS.**

(A) Before commencing an excavation, the permittee shall determine what improvements exist within the limits of the construction area and shall make detailed arrangements with the owners thereof for the protection or replacement of the improvements and shall include in the application a description of the plans.

(B) All catch basin grates and curb openings shall be covered to prevent debris from entering openings.

(C) The permittee shall bear full responsibility for any damage to improvements resulting from operations conducted under the issued permit and shall either repair or replace the same within 30 days or pay all costs and expenses related to the repair or replacement.

(D) The Administrator/Clerk may require an additional fee, with the amount to be determined by the Administrator/Clerk, to be held by the city to be applied towards the costs and expenses incurred by the permittee in protecting existing improvements.  
(Am. Ord. 583, passed 4-15-1998)

#### **§ 96.018 BLASTING.**

(A) No blasting shall be undertaken unless the permittee has received the written approval of the Council.

(B) Approval may be granted only when the Council has determined there is a need, and the permittee has submitted satisfactory evidence of proper qualifications, experience, knowledge of current codes and safety procedure, and insurance coverage.

(C) Permittee shall assume full responsibility for any damage caused by blasting and shall repair or replace any damage caused by the blasting within 30 days or pay all costs and expenses related to repair or replacement. The Administrator/Clerk may require an additional fees be paid, to be held by the city and applied to costs and expenses, in an amount determined by the Administrator/Clerk.  
(1985 Code, § 301.09)

#### **§ 96.019 OTHER UTILITIES OF GOVERNMENTAL SUBDIVISION.**

The issuance of a permit under this chapter in no way relieved the permittee from obtaining permits and approvals from other individuals, agencies or units of government having jurisdiction over the affected area.  
(1985 Code, § 301.10)

### ***CURRENT SERVICE ASSESSMENTS***

#### **§ 96.030 DEFINITION.**

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

**CURRENT SERVICE.** One or more of the following: weed elimination from street grass plots adjacent to sidewalks, or from private property; street flushing; light street oiling, or other dust treatment of streets; repair of sidewalks; trimming and care of trees and removal of unsound trees from the public streets; abatement of health or safety nuisances pursuant to Chapter 95 above; water and/or sewer and/or electrical services provided by the Sauk Centre Public Utility Commission. (Am. Ord. 607, passed 3-21-2001)

**§ 96.031 WEED ELIMINATION.**

On or before June 1 of each year, the Administrator/Clerk shall publish once in the official newspaper a notice directing owners and occupants of property within the city to destroy all weeds defined to be a nuisance by Chapter 95 above. In the event that any owner or occupant shall fail to abate a weed nuisance after published notice, the city may cause the nuisance to be abated pursuant to Chapter 95 above. (1985 Code, § 302.02)

**§ 96.032 SIDEWALK REPAIR.**

(A) *Owner responsibility.* The owner of any property in the city abutting a public sidewalk shall keep the sidewalk in repair and safe for pedestrians. Repairs shall be made in accordance with standard specifications approved by the Council and filed with the Administrator/Clerk.

(B) *Enforcement.*

(1) The Administrator/Clerk or another person as the Council may designate, may inspect sidewalks to determine if they are in good repair and safe for pedestrians.

(2) If he or she finds that any sidewalk is in need of repair, he or she shall cause a notice to be served, by registered or certified mail, by personal service upon the owner of the property and the occupant if the owner does not reside in the city or cannot be found therein, ordering the owner to have the sidewalk repaired and made safe within 30 days, and stating that if the owner fails to do so, the repairs will be made by the city, that the expenses thereof must be paid by the owner, and that if unpaid it will be made a special assessment against the property concerned.

(C) *Repair.*

(1) If the sidewalk is not repaired within 30 days after receipt of the notice, the Administrator/Clerk shall report that fact to the Council.

(2) The Council shall, by resolution, order the Street Department to repair the sidewalk, or order the work done by contract.

(3) The Administrator/Clerk shall keep a record of the total cost of repair attributable to each lot or parcel of property.  
(1985 Code, § 302.03)

### **§ 96.033 STREET SPRINKLING, FLUSHING, TREE CARE AND THE LIKE.**

(A) *Notice.*

(1) The Council shall each year determine what streets and alleys shall be sprinkled, flushed, oiled or given other dust treatment during the year, and the kind of work to be done on each.

(2) The Council shall also determine from time to time the streets on which trees shall be trimmed and cared for and what unsound trees shall be removed.

(3) Before any work is done, the Administrator/Clerk shall, under the Council's direction, publish notice that the Council will meet to consider the projects.

(4) The notice shall be published in the official newspaper at least once, no less than 2 weeks prior to the meeting, the streets affected and the particular projects proposed, and the estimated cost of each project, either in total or on the basis of the proposed assessment per front foot or otherwise.

(B) *Hearing.*

(1) At a hearing or any adjournment thereof, the Council shall hear property owners with reference to the scope and desirability of the proposed projects.

(2) The Council shall thereupon adapt a resolution confirming the original projects with modification as it deems desirable, and shall provide for the doing of the work by day labor through the Street Department or by contract.

(3) The Administrator/Clerk shall keep a record of the cost and the portion of the cost properly attributable to each lot and parcel of property abutting on the street or alley on which the work is done.  
(1985 Code, § 302.04)

### **§ 96.034 PERSONAL LIABILITY.**

(A) The owner of property on or adjacent to which a current service had been performed shall be personally liable for the cost of the service.

(B) As soon as the service is completed and the cost determined, the Administrator/Clerk shall prepare a bill and mail it to the owner. Thereupon, the amount shall be immediately due and payable at the Administrator/Clerk's office.

(C) For purposes of water, sewer or electrical service, the owner of the real estate which receives the service shall be liable for unpaid and/or delinquent service charges and those which may ultimately result in a special assessment against the affected property.  
(Am. Ord. 607, passed 3-21-2001)

**§ 96.035 ASSESSMENT.**

(A) On or before September 1 of each year, the Administrator/Clerk shall list the total unpaid charges for each type of current service against each separate lot or parcel to which they are attributable under this chapter.

(B) After notice and hearing as provided in M.S. § 429.061, as it may be amended from time to time, the Council may spread the charges against the property benefited as a special assessment pursuant to M.S. § 429.101, as it may be amended from time to time, and other pertinent statutes for certification to the County Auditor and collection along with current taxes for the following year, or in annual installments, not exceeding 10, as the Council may determine in each case.  
(1985 Code, § 302.06)

***SIDEWALK OPENINGS AND STEPS***

**§ 96.050 GENERAL REGULATIONS.**

No person shall erect, construct or maintain any opening in the sidewalks on the public streets of the city whether the opening is covered by grates, doors or otherwise, without first obtaining a permit therefor, nor shall any person erect, construct or maintain any steps, stairways or other obstruction on the sidewalks without obtaining a permit as hereafter provided.  
(1985 Code, § 303.01) Penalty, see § 10.99

**§ 96.051 APPLICATION FOR PERMIT.**

Every person desiring to construct or maintain any opening in the sidewalks, or to construct or maintain any steps, or stairs thereon, shall make written application to the Council for permit to erect and maintain the same, which application shall specify in detail the location and kind of improvement desired and shall be accompanied by a detailed plan and specifications of the same.  
(1985 Code, § 303.02)

**§ 96.052 PERMIT ISSUANCE.**

If the Council, in its discretion, deems the opening in the sidewalk, or other structures, necessary and one which will not unduly interfere with the use of the sidewalk by the public, and that the safety of the public will not be endangered, it may grant a permit for the construction and maintenance of the same, in accordance with the plans and specifications so submitted and, as a prerequisite to the issuance of a permit, may require that a bond in a sum as it shall deem necessary, be given for the protection of the city and any person injured by the construction or maintenance.

(1985 Code, § 303.03)

**§ 96.053 DURATION.**

All permits granted shall terminate on June 1 of the year next following their issuance, and if construction is not completed, a new permit must be applied for.

(1985 Code, § 303.04)

**§ 96.054 CELLAR.**

No person, firm or corporation, shall construct or maintain, or suffer to be constructed or maintained, any cellar doorway, excavation or any structure upon his or her own property and adjacent to a public street unless the same is so constructed and maintained in a way so as to prevent injury to any person by reason thereof.

(1985 Code, § 303.05) Penalty, see § 10.99

***STREET VENDORS AND OBSTRUCTIONS*****§ 96.065 VENDING IN RIGHT-OF-WAY.**

No sale of goods, wares or merchandise of any type may be made from a stationary location, stand or vehicle on public streets or public street right-of-way, nor may a stationary location, stand or vehicle be used for the purpose of buying goods, wares or merchandise of any type on public streets or public street right-of-way.

(1985 Code, § 304.01) Penalty, see § 10.99

**§ 96.066 ENCUMBERING PUBLIC WAYS.**

No person shall encumber, block or otherwise obstruct any street, sidewalk or public alley within the city by the placement of themselves, another person or any other item.

(1985 Code, § 304.02) Penalty, see § 10.99



**§ 96.067 EXCEPTIONS.**

The foregoing shall not apply to a maximum of 3 annual civic celebrations, 2 of which will be sponsored by the Sauk Centre Chamber of Commerce and will commonly be known as "Crazy Days," and 1 of which will be an event held during the celebration commonly known as "Sinclair Lewis Days" and 1 celebration to be held every fifth year commonly known as the "All School Reunion." The dates of the celebrations as established by the Sauk Centre Chamber of Commerce and the organization promoting Sinclair Lewis Days and the organization promoting the All School Reunion shall be submitted to the City Council for approval.

(1985 Code, § 304.03) (Am. Ord. 687, passed 1-6-2010)

**§ 96.068 PERMITS; TEMPORARY PLACEMENT OF CONTAINERS IN RIGHTS-OF-WAY.**

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

**CONTAINER.** A dumpster, collection bin, tub, roll-off container or any other receptacle used to store construction, remodeling or demolition debris.

(B) *Permit procedure:* No person shall place a container on any public right-of-way without first obtaining a permit from the city.

(C) *Permit application:* An applicant shall provide the following information:

- (1) The name and address of the applicant;
- (2) The location of the project to be undertaken;
- (3) The length of time for which the permit is needed; and
- (4) The type of debris that will be deposited in the container.

(D) *Insurance.* The company owning the container must provide proof of insurance to protect the city from defense cost and claims for damage for bodily injury, personal injury, including accidental death, and claims for property damage.

(E) *Condition of container.*

(1) Containers must be well maintained and in good working condition, displaying the name and telephone number of the owner of the container, and be suitably supported at each contact point to prevent damage to paved surfaces.

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(2) Containers must be covered when materials inside are easily airborne, pose a hazard, emit an odor or are otherwise offensive.

(3) Debris generated by the project must be placed inside the container and may not be placed on the public right-of-way or in any location where debris interferes with the use of the public-right-way.

(F) *Warning required; minimum standards.*

(1) The container must be reflectorized at all times.

(2) Reflectorized orange on white material shall be 6 inches in height and a minimum of 36 inches in length with the slash marks towards the traveled portion of the roadway.

(3) It shall be affixed to that part of the container so that approaching traffic can see the obstruction in the public right-of-way.

(4) Where traffic may approach from either side, the container should be reflectorized on both sides.

(5) Alternate to installation on containers: Type I or Type II Barricade in accordance with Part VI of the *Minnesota Manual on Uniform Traffic Control Devices*.

(G) *Duration of permit.*

(1) No permit shall be issued for more than a period of 10 days. An extension to the permit shall require another application and additional permit fee.

(2) No container shall be placed in the road right-of-way from November 1 to April 1 of any year.

(H) *Permit fee.* The permit fee shall be in an amount as the City Council may from time to time establish by resolution in accordance with the provisions of the city code.

(I) *Denied and conditional permits.* The City Council or their designated person may deny a permit or place conditions upon issuance of a permit if the denial or conditions are required due to traffic, width, public health or safety or other considerations.

(J) *Revocation of permits.* The City Council or their designated person may revoke a permit if the permit holder violates any provisions of this section or any other applicable law, ordinance, rule or regulation.

(K) *Major disaster provision.* In the event of a major disaster or emergency situation, the Emergency Management Director is hereby authorized to take steps deemed necessary to expedite the provisions of this section while preserving its intent.

(L) *Violation of this section.*

(1) The city may remove or have a container removed from the public right-of-way, if the container is in violation of this section.

(2) The owner of the container or the person placing it in the public right-of-way shall pay all costs, fees, penalties or other expenses incurred by the city in removal, storage fees and disposal of any container and its contents.

(3) If the container is not claimed within 30 days by its owner or person responsible for placing it in the public right-of-way, it may be disposed of as abandoned property, but disposal shall not diminish the responsibility of the owner or the person responsible for placing the container in the public right-of-way to pay all amounts due.

(4) The city shall not release a container from storage until all amounts due under this section have been paid.

(Am. Ord. 639, passed 9-1-2004) Penalty, see § 10.99

**VACATION OF STREETS**

**§ 96.080 PETITION.**

(A) On petition signed by 25% of the owners of land abutting on any street or alley or any part thereof in the city, which petition shall be filed with the Administrator/Clerk and presented to the Council, the Council shall fix the time and place for considering the matter and shall cause notice thereof to be given by publication in the official paper of the city at least 10 days prior to the time fixed for the hearing.

(B) This notice shall briefly describe the street or alley or portion of same to be vacated or discontinued and shall state the time and place of hearing. The cost of publishing the notice shall be paid by the petitioner.

(1985 Code, § 305.01)

**§ 96.081 COUNCIL INITIATION.**

The Council may, by unanimous vote of all of its members, initiate proceedings without a petition.  
(1985 Code, § 305.02)

**§ 96.082 HEARING.**

At the hearing, the Council shall hear all interested parties and shall consider the petition. If it deems the vacation or discontinuance of a street or alley or portion thereof to be for the best interests of the public, it shall enact an ordinance vacating the same.  
(1985 Code, § 305.03)

**§ 96.083 CONDITIONS.**

As a condition of the vacation of a street or alley or portion thereof, the Council may, in its discretion, require any interested party to pay any damage occasioned by the vacation or discontinuance, or if the damage cannot be definitely ascertained, may require a satisfactory bond and agreement to indemnify the city against any damage which may be thereafter adjudicated against it by reason of the vacation or discontinuance of any street or alley or portion thereof.  
(1985 Code, § 305.04)

***NUMBERING STRUCTURES AND DWELLINGS*****§ 96.095 PURPOSE.**

It is the purpose of this chapter to establish a uniform system for numbering all dwellings and structures in the City of Sauk Centre.  
(Ord. 528, passed 7-21-1993)

**§ 96.096 NUMBERING REQUIRED.**

All dwellings and structures used for residential and/or business purposes, including schools, places of meetings and churches, which are included within the City of Sauk Centre boundary lines, shall be numbered at or near the main entrance thereto, and shall at all times keep and maintain a number in conformity with the terms hereof.  
(Ord. 528, passed 7-21-1993) Penalty, see § 10.99

**§ 96.097 APPLICATION OF NUMBERS.**

All structures required to be numbered hereunder shall bear the number of the unit of numbering street frontage of the premises upon which the structure or the greater part thereof is situated. The number to be applied shall be assigned by the City Administrator/Clerk of the City of Sauk Centre.  
(Ord. 528, passed 7-21-1993) Penalty, see § 10.99

**§ 96.098 NUMBERS.**

All figures used in numbering the structure location shall be clear, concise, accurate and permanent. The figures and numbers shall be not less than 4 inches in height and easily legible from the street upon which the structure is situated.

(Ord. 528, passed 7-21-1993) Penalty, see § 10.99

**§ 96.099 VIOLATIONS.**

Any person failing to comply with the provisions of this subchapter may be found guilty of a petty misdemeanor offense and upon conviction shall be subject to a fine of not more than \$200.

(Ord. 528, passed 7-21-1993) Penalty, see § 10.99



## CHAPTER 97: VACANT BUILDINGS

### Section

- 97.01 Definitions
- 97.02 Securing vacant buildings
- 97.03 Responding to the notice
- 97.04 Emergency securing of vacant buildings
- 97.05 Collection of costs

### § 97.01 DEFINITIONS.

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

**CITY.** The City of Sauk Centre, County of Stearns, State of Minnesota.

**SECURE.** Includes, but is not limited to, installing locks, repairing windows and doors, boarding windows and doors, posting "no-trespassing" signs, installing exterior lighting or motion-detecting lights, fencing the property, and installing a monitored alarm or other security system consistent with M.S. § 463.251.

**UNOCCUPIED BUILDING.** A building which is not being used for a legal occupancy.

**UNSECURED BUILDING.** A building or a portion of a building that is open to entry by unauthorized persons without the use of tools.

**VACANT BUILDING.** A building or a portion of a building that meets 1 or more of the following conditions:

- (1) Unoccupied and foreclosed upon as identified by the county.
- (2) Unoccupied and windows or entrances to the premises are boarded up or closed off, or multiple window panes are broken and unrepaired.
- (3) Unoccupied and doors to the premises are smashed through, broken off, unhinged, or continuously unlocked.
- (4) Unoccupied and gas, electric, or water service to the premises has been terminated.

(5) Unoccupied and rubbish, trash, or debris has accumulated on the mortgaged premises.

(6) Unoccupied and the police or sheriff's office has received at least 2 reports of trespassers on the premises, or of vandalism or other illegal acts being committed on the premises.

(7) Unoccupied and the premises are deteriorating and are either below or are in imminent danger of falling below minimum community standards for public safety and sanitation.

(Ord. 739, passed 7-17-13)

#### **§ 97.02 SECURING VACANT BUILDINGS.**

(A) In general, if any building becomes vacant or unoccupied and is deemed hazardous due to the fact that the building is open to trespass and has not been secured, and the building could be made safe by securing the building, the City Council may order the building secured and shall cause notice of the order to be served consistent with M.S. § 463.251, subdivision 2. The notice must be served upon the owner of record of the premises or the owner's agent, the taxpayer identified in the property tax records for the parcel, the holder of the mortgage or sheriff's certificate, and any neighborhood association for the neighborhood in which the building is located that has requested notice. The notice is served by delivery or mail. The notice must be in writing and must include, at a minimum, a statement that:

(1) Informs the owner and the holder of any mortgage or sheriff's certificate of the requirements found in M.S. § 463.251, subdivision 3 that the owner or holder of the certificate has 6 days to comply with the order or provide the Council with a reasonable plan and schedule to comply with the order and that costs may be assessed against the property if the person does not secure the building.

(2) Informs the owner and the holder of any mortgage or sheriff's certificate that, within 6 days of the ordering being served, the person may request a hearing before the governing body challenging the governing body's determination that the property is vacant or unoccupied and hazardous.

(3) Notifies the holder of any sheriff's certificate of the holder's duty under M.S. § 582.031, subdivision 1(b), to enter the premises to protect the premises from waste and trespass if the order is not challenged or set aside and there is prima facie evidence of abandonment of the property as described in M.S. § 582.032, subdivision 7.

(B) Service by mail is completed upon mailing a copy of the order to the owner by first class mail at the last known address.

(Ord. 739, passed 7-17-13)



**§ 97.03 RESPONDING TO THE NOTICE.**

(A) The owner of the building or the holder of the sheriff's certificate of sale has 6 days after the order is served to do 1 of the following:

- (1) Comply with the order;
- (2) Provide the Council with a reasonable plan and schedule to comply with an the order; or
- (3) Request a hearing before the City Council to challenge the Council's determination that the property is vacant or unoccupied and hazardous.

(B) If the owner or holder of the sheriff's certificate fails to take 1 of these actions within the allotted time, the City Council must have the building properly secured.  
(Ord. 739, passed 7-17-13)

**§ 97.04 EMERGENCY SECURING OF VACANT BUILDINGS.**

Pursuant to M.S. § 463.251, subdivision 4, when the City Building Official, Police Chief, or Fire Chief determines that an emergency exists with respect to the health or safety of persons in the community and immediate boarding and securing of a building is required, and where immediate danger will exist to children, transients, or other members of the community without the immediate boarding or securing of the building, the Building Official, Police Chief, or Fire Chief may waive all notice requirements herein and immediately board or otherwise secure the building, provided that:

(A) The conditions showing the existence of an emergency are documented in writing by the Building Official, Police Chief, Fire Chief, or their designees.

(B) Notice is mailed immediately by the department invoking this section to the owner of record of the premises, the taxpayer identified in the property tax records for the parcel, the holder of the mortgage or sheriff's certificate, and any neighborhood association for the neighborhood in which the building is located that has requested notice.  
(Ord. 739, passed 7-17-13)

**§ 97.05 COLLECTION OF COSTS.**

All costs incurred by the city for securing a vacant building under this chapter may be charged against the real property as a special assessment pursuant to M.S. §§ 463.251, 463.21, and 463.151.  
(Ord. 739, passed 7-17-13)



**TITLE XI: BUSINESS REGULATIONS**

Chapter

**PROCEDURES**

**110.GENERAL LICENSING AND BUSINESS**

**111.TOBACCO**

**112.LODGING**

**113.ALCOHOLIC BEVERAGES**

**114.REFUSE HAULERS**

**115.PAWNBROKERS**

**116.TAXICABS**

**SOLICITORS**

**117.TRANSIENT MERCHANTS, PEDDLERS AND**

**118.BUSINESS REGISTRATION PROGRAM**



## CHAPTER 110: GENERAL LICENSING AND BUSINESS PROCEDURES

Section

### *General Procedures*

- 110.01 Purpose and scope
- 110.02 Applications
- 110.03 Fees
- 110.04 Term
- 110.05 Prior convictions
- 110.06 Suspension or revocation
- 110.07 Where allowed
- 110.08 Display
- 110.09 Transfers

### *General Business Regulations*

- 110.20 Bowling alleys; license required
- 110.21 Transfer of bowling alley license
- 110.22 Raw milk

## **GENERAL PROCEDURES**

### **§ 110.01 PURPOSE AND SCOPE.**

The purpose of this subchapter is to establish uniform procedures for the administration, issuance and revocation of business licenses. The provisions of this section through § 110.09 shall apply to all licenses issued pursuant to this chapter.

(1985 Code, § 601.01)

### **§ 110.02 APPLICATIONS.**

(A) Every application for a license shall be made to the Administrator/Clerk on forms supplied by the city, and shall state the applicant's name and address, the name of the business, if different, the address of the premises on or from which the business is to be operated and any other business operated

from or on the same premises, the applicant's social security number, his or her Minnesota business identification number and other information as may be required by this code or by the Council.

(B) All applications shall be accompanied by payment of the license fee. The license fee shall be refunded if the license is denied unless otherwise specifically provided by this chapter.  
(1985 Code, § 601.02)

### **§ 110.03 FEES.**

(A) Each applicant shall pay the license fee as set by resolution. When a license is issued for a term of less than 1 year, the fee shall be prorated at the rate of 1/12 of the annual fee for each month or fraction of a month remaining in the license year.

(B) Refund of the license fee shall be made in the event the license is surrendered or revoked or suspended before its expiration by discretion of the Council.  
(1985 Code, § 601.03)

### **§ 110.04 TERM.**

Unless otherwise provided by this chapter, each license shall expire on July 1 of each year, and after the initial year shall be issued for a term of 1 year.  
(1985 Code, § 601.04)

### **§ 110.05 PRIOR CONVICTIONS.**

No person shall be denied a license because of a prior conviction unless that conviction has been determined by the Council to be directly related to the business for which a license is sought, as provided by M.S. Ch. 364, as it may be amended from time to time. No person shall be denied a license because of an arrest or arrests not followed by conviction.  
(1985 Code, § 601.05)

### **§ 110.06 SUSPENSION OR REVOCATION.**

(A) The Council may suspend for a period of not to exceed 60 days or revoke any license for violation of any provision of this chapter or any applicable state law or regulation.

(B) Except as provided below, no license shall be suspended unless the licensee has been given 10 days written notice and a hearing.

(C) The notice shall state the time and place of the hearing, and the nature of the charges against the licensee.

## **General Licensing and Business Procedures**

(D) The Council may, without any advance notice or hearing, suspend any license for up to 15 days pending a hearing on revocation.  
(1985 Code, § 601.06)

### **§ 110.07 WHERE ALLOWED.**

No license shall be issued for any premises unless located in an area where the business for which the license is sought is permitted under the zoning regulations.  
(1985 Code, § 601.07)

### **§ 110.08 DISPLAY.**

Except as otherwise specifically provided by this code, every license shall be kept conspicuously posted on the premises on or from which the business is operated, and shall be exhibited to any person upon request.  
(1985 Code, § 601.08) Penalty, see § 10.99

### **§ 110.09 TRANSFERS.**

No license shall be transferable unless specifically provided by this code.  
(1985 Code, § 601.09)

## ***GENERAL BUSINESS REGULATIONS***

### **§ 110.20 BOWLING ALLEYS; LICENSE REQUIRED**

No person shall maintain or operate a bowling alley for use by the public without first having obtained a bowling alley license.  
(1985 Code, § 604.01) Penalty, see § 10.99

### **§ 110.21 TRANSFER OF BOWLING ALLEY LICENSE.**

A bowling alley license may be transferred with Council approval. A person to whom a license is transferred shall make application to the Council, furnishing all of the information requested under § 110.02.  
(1985 Code, § 604.02)

**§ 110.22 RAW MILK.**

No person shall distribute, sell or offer for sale any unpasteurized or raw milk or milk products within the city.

(1985 Code, § 508.01) Penalty, see § 10.99



## CHAPTER 111: TOBACCO

### Section

- 111.01 Purpose
- 111.02 Definitions
- 111.03 License
- 111.04 Fees
- 111.05 Basis for denial of license
- 111.06 Prohibited sales
- 111.07 Vending machines
- 111.08 Self-service sales
- 111.09 Responsibility
- 111.10 Compliance checks and inspections
- 111.11 Other illegal acts
- 111.12 Violations
- 111.13 Exceptions and defenses

### § 111.01 PURPOSE.

The purpose of this chapter is 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 of Minnesota in regard to preventing young people from starting to smoke as stated in M.S. § 144.391, as it may be amended from time to time.

(Ord. 580, passed 6-17-1998)

### § 111.02 DEFINITIONS.

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

#### *COMPLIANCE CHECKS.*

(1) 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 chapter.

(2) **COMPLIANCE CHECKS** shall involve the use of minors as authorized by this chapter.

(3) **COMPLIANCE CHECKS** shall also mean the user 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.

(4) **COMPLIANCE CHECKS** may also be conducted by other units of government for the purpose of enforcing appropriate federal, state and local laws and regulations relating to tobacco, tobacco products and tobacco related devices.

**INDIVIDUALLY PACKAGED.**

(1) The practice of selling any tobacco or tobacco products wrapped individually for sale, individually wrapped tobacco and tobacco products shall include, but not be limited to, single cigarette packs, single bags or cans of loose tobacco in any form, and single cans or other packaging of snuff or chewing tobacco.

(2) Cartons or other packaging containing more than a single pack or other container as described in this definition shall not be considered **INDIVIDUALLY PACKAGED**.

**LOOSIES.** The common term used to refer to a single or individually packaged cigarette.

**MINOR.** Any natural person who has not yet reached 18 years of age.

**MOVABLE PLACE OF BUSINESS.** Any form of business operated out of 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.**

(1) Any place of business where tobacco, tobacco products or tobacco related devices are available for sale to the general public.

(2) **RETAIL ESTABLISHMENTS** shall include, but not be limited to, grocery stores, convenience stores and restaurants.

**SALE.** Any transfer of goods for money, trade, barter or other consideration.

**SELF-SERVING MERCHANDISING.**

(1) 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.

## **Tobacco**

(2) The assistance or intervention shall entail the actual physical exchange of the tobacco, tobacco products or tobacco related devices between the customer and licensee or employee.

(3) ***SELF-SERVICE MERCHANDISING*** shall not include vending machines.

***TOBACCO or TOBACCO PRODUCTS.*** 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 flowers; cavendish; shorts; plug and twist tobaccos; dipping tobaccos; refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco leaf prepared in a manner so as to be suitable for chewing, sniffing or smoking.

***TOBACCO RELATED DEVICES.*** 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 products.

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

(Ord. 580, passed 6-17-1998)

### **§ 111.03 LICENSE.**

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

(B) *Application.*

(1) An application for a license shall be made on a form provided by the city.

(2) 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.

(3) Upon receipt of a completed application, the Administrator/Clerk shall forward the application to the Council for action.

(4) If the Administrator/Clerk determines that an application is incomplete, it shall be returned to the applicant with notice of the information necessary to make the application complete.

(5) The Council may require a background investigation prior to taking action on the application.

(C) *Action.*

(1) The Council may either approve or deny the license, or delay action for a reasonable period of time as necessary to complete any investigation of the application or the applicant as deemed necessary.

(2) If the Council approves the license, the Administrator/Clerk shall issue the license to the applicant.

(3) 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 decision.

(D) *Term.* Unless otherwise provided by the Council, a license or renewal license issued is effective at a the date of its issuance and expires on December 31 of the year of issuance.

(E) *Revocation or suspension.* Any license issued may be revoked or suspended as provided in §§ 111.12 and 10.99.

(F) *Transfers.*

(1) All licenses issued under this chapter shall be valid only on the premises for which the license was issued and only for the person to whom the license was issued.

(2) No transfer of any license to another location or person shall be allowed.

(G) *Moveable place of business.* No license shall be issued to a moveable place of business. Only fixed location businesses shall be eligible to be licensed.

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

(I) *Renewals.*

(1) The renewal of a license shall be handled in the same manner as the original application.

(2) The request for a renewal shall be made at least 2 weeks but no more than 30 days before the expiration of the current license.

(3) The issuance 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.

(Ord. 580, passed 6-17-1998)

## **Tobacco**

### **§ 111.04 FEES.**

No license shall be issued until the appropriate license fee is paid in full. License fees are set by the Council.

(Ord. 580, passed 6-17-1998)

### **§ 111.05 BASIS FOR DENIAL OF LICENSE.**

(A) The following shall be grounds for denying the issuance or renewal of a license:

(1) The applicant is under 18 years of age;

(2) The applicant has been convicted within the past 5 years of any violation of a federal, state or local law, ordinance provision or other regulation relating to tobacco or tobacco products or tobacco related devices;

(3) The applicant has had a license to sell tobacco, tobacco products or tobacco related devices revoked within the preceding 12 months of the date of application;

(4) The applicant fails to provide the information required on the application, or provides false or misleading information; or

(5) The applicant is prohibited by federal, state or other local law, ordinance or other regulation, from holding a like license.

(B) 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.

(Ord. 580, passed 6-17-1998)

### **§ 111.06 PROHIBITED SALES.**

It shall be a violation of this chapter for any person to sell or offer to sell any tobacco, tobacco products or tobacco related devices as follows:

(A) To any person under 18 years of age;

(B) By means of any type of vending machine, except as may otherwise be provided in this chapter;

(C) By means of self-service methods where the customer does not need to make a verbal or written request to an employee of the licensed premise in order to receive the tobacco, tobacco products or tobacco related devices and where there is not a physical exchange of the tobacco, tobacco products or tobacco related devices between the licensee or the licensee's employee and the customer;

(D) By means of loosies as defined in § 111.02;

(E) Containing opium, morphine, jimson weed, bella donna, strychnos, cocaine, marijuana or other deleterious, hallucinogenic, toxic or controlled substances except nicotine and other substances found naturally in tobacco or added as part of an otherwise lawful manufacturing process; or

(F) By any means, to any person, or in any other manner or form prohibited by federal, state or other local law, ordinance provision or other regulation.  
(Ord. 580, passed 6-17-1998) Penalty, see § 10.99

#### **§ 111.07 VENDING MACHINES.**

It shall be unlawful for any person licensed under this chapter 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 premises.

(Ord. 580, passed 6-17-1998) Penalty, see § 10.99

#### **§ 111.08 SELF-SERVICE SALES.**

(A) It shall be unlawful for a licensee under this chapter to allow the sale of tobacco, tobacco products or tobacco related devices by any means where the customer may have access to those items without having to request the item from the licensee or the licensee's employee and where there is not a physical exchange of the tobacco, tobacco products or the tobacco related devices between the licensee or licensee's employee and the customer.

(B) All tobacco, tobacco products and tobacco related devices shall either be stored behind a counter or other area not freely accessible to customers, or in a case or other storage unit not left open and accessible to the general public. Any retailer selling tobacco, tobacco products or tobacco related devices at the time this chapter is adopted shall comply with this section within 60 days following the effective date of this chapter.

(Ord. 580, passed 6-17-1998) Penalty, see § 10.99

#### **§ 111.09 RESPONSIBILITY.**

(A) All licensees 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 a like item by an employee shall be considered a sale by the license holder.

(B) Nothing in this section shall be construed as prohibiting the city from also subjecting the licensee's employee to whatever penalties are appropriate under this chapter, state or federal law, or other applicable law or regulation.

(Ord. 580, passed 6-17-1998)

## **Tobacco**

### **§ 111.10 COMPLIANCE CHECKS AND INSPECTIONS.**

(A) (1) All licensed premises shall be open to inspection by the local law enforcement or other authorized city official during regular business hours.

(2) 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 15 years of age but less than 18 years of age, to enter the licensed premise to attempt to purchase tobacco, tobacco products or tobacco related devices.

(B) (1) Minors used for the purpose of compliance checks shall be supervised by designated law enforcement officers or other designated city personnel.

(2) Minors used for compliance checks shall not be guilty of the unlawful purchase or attempted purchase, nor the unlawful possession of tobacco, tobacco products or tobacco related devices when those items are obtained or attempted to be obtained as a part of the compliance check.

(C) No minor used in compliance checks shall attempt to use a false identification misrepresenting the minor's age and all minors lawfully engaged in a compliance check shall answer all questions about the minor's age asked by the licensee or the licensee's employee and shall produce any identification, if any exists, for which requested.

(D) 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.

(Ord. 580, passed 6-17-1998)

### **§ 111.11 OTHER ILLEGAL ACTS.**

Unless otherwise provided, the following acts shall be a violation of this chapter:

(A) For any person to sell or otherwise provide any tobacco, tobacco products or tobacco related devices to any minor;

(B) For any minor to have in possession any tobacco, tobacco products or tobacco related devices. This shall not apply to minors lawfully involved in a compliance check;

(C) For any minor to smoke, chew, sniff or otherwise use any tobacco, tobacco products or tobacco related devices;

(D) (1) For any minor to purchase or attempt to purchase or otherwise obtain any tobacco, tobacco products or tobacco related devices, and for any person to purchase or otherwise obtain those items on behalf of a minor.

(2) It shall also be a violation for any persons to coerce or attempt to coerce a minor to illegally purchase or otherwise obtain or use any tobacco, tobacco products or tobacco related devices. This shall not apply to minors lawfully involved in a compliance check; and

(E) For any minor to attempt to disguise true age by the use of a false form of identification, whether the identification is that of another person or one on which the age of the person has been modified or tampered with to represent an age older than the actual age of the person.  
(Ord. 580, passed 6-17-1998) Penalty, see § 10.99

### § 111.12 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 the right to be heard on the accusation.

(B) *Hearings.* If a person accused of violating this chapter 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 City Council shall serve as the Hearing Officer.

(D) *Decision.* If the Hearing Officer determines that a violation of this chapter did occur, that decision, along with the Hearing Officer's reasons for finding a violation and the penalty to be imposed under § 10.99, shall be recorded in writing, a copy of which shall be provided to the accused violator. If the Hearing Officer finds that no violation occurred or finds grounds for not imposing any penalty, those 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 jurisdiction of the city in which the alleged violation occurred.

(F) *Gross misdemeanor and misdemeanor prosecutions.* Nothing in this section shall prohibit the city from seeking prosecution under the provisions of M.S. § 609.685, as it may be amended from time to time, for any alleged violation of this chapter.

(G) *Continued violation.* Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense.  
(Ord. 580, passed 6-17-1998) Penalty, see § 10.99

### § 111.13 EXCEPTIONS AND DEFENSES.

(A) *Religious exception.* Nothing in this chapter shall prevent the providing of tobacco, tobacco products or tobacco related devices to a minor as part of a lawfully recognized religious, spiritual or cultural ceremony.



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(B) *Affirmative defense.* It shall be an affirmative defense to the violation of this chapter for a person to have reasonably relied on proof of age as described by state law.  
(Ord. 580, passed 6-17-1998)



## CHAPTER 112: LODGING

### Section

- 112.01 Definitions
- 112.02 Imposition of tax
- 112.03 Collections
- 112.04 Exemptions
- 112.05 Advertising no tax
- 112.06 Payments and returns
- 112.07 Examination of return, adjustments, notices and demands
- 112.08 Refunds
- 112.09 Failure to file a return
- 112.10 Penalties
- 112.11 Administration of tax
- 112.12 Examine records
- 112.13 Violations
- 112.14 Use of proceeds
- 112.15 Convention and Visitors Bureau (CVB)
- 112.16 Appeals

### § 112.01 DEFINITIONS.

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

**LODGER.** The person obtaining lodging from an operator.

**LODGING.** The furnishing for a consideration of lodging at a hotel, motel, rooming house, tourist court, municipal campground, resort or bed and breakfast, other than the renting or leasing of it for a continuous period of 30 days or more.

**OPERATOR.** Any person who has charge, care, or control of a building in the city, or part thereof, in which dwelling units or rooming units are let.

**RENT.** The total consideration valued in money charged for lodging whether paid in money or otherwise, but shall not include any charges for services rendered in connection with furnishing lodging other than the room charge itself.  
(Ord. 656, passed 5-16-2007)

#### **§ 112.02 IMPOSITION OF TAX.**

Pursuant to M.S. Chapter 469.190, as it may be amended from time to time, there is hereby imposed a tax of 3% on the rent charged by an operator for providing lodging to any person. The tax shall be stated and charged separately and shall be collected by the operator from the lodger. The tax collected by the operator shall be a debt owed by the operator to the city and shall be extinguished only by payment to the city. In no case shall the tax imposed by this section upon an operator exceed the amount of tax which the operator is authorized and required by this chapter to collect from a lodger.  
(Ord. 656, passed 5-16-2007)

#### **§ 112.03 COLLECTIONS.**

Each operator shall collect the tax imposed by this section at the time the rent is paid. The tax collection shall be deemed to be held in trust by the operator for the city. The amount of tax shall be separately stated from the rent charged for the lodging and those persons paying the tax shall receive a receipt of payment from the operator.  
(Ord. 656, passed 5-16-2007)

#### **§ 112.04 EXEMPTIONS.**

An exemption shall be granted to any person as to whom or whose occupancy it is beyond the power of the city to tax. No exemption shall be granted except upon a claim therefore made at the time the rent is collected and such a claim shall be made in writing and under penalty of perjury on forms provided by the city. All claims shall be forwarded to the city when the returns and collections are submitted as required by this chapter.  
(Ord. 656, passed 5-16-2007)

#### **§ 112.05 ADVERTISING NO TAX.**

It shall be unlawful for any operator to advertise or hold out or state to the public or any customer, directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator, or that it will not be added to the rent or that, if added, it or any part thereof will be refunded. In computing the tax to be collected, amounts of tax less than \$.01 shall be considered an additional \$.01.  
(Ord. 656, passed 5-16-2007) Penalty, see § 10.99

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### **§ 112.06 PAYMENTS AND RETURNS.**

(A) The taxes imposed by this chapter shall be paid by the operator to the city monthly not later than 20 days after the end of the month in which the taxes were collected. At the time of payment, the operator shall submit a return upon such forms and continuing such information as the city may require. The return shall contain the following minimum information:

- (1) The total amount of rent collected for lodging during the period covered by the return.
- (2) The amount of tax required to be collected and due for the period.
- (3) The signature of the person filing the return or that of his or her agent duly authorized in writing.
- (4) The period covered by the return.
- (5) The amount of uncollectible rental charges subject to the lodging tax.

(B) The operator may offset against the taxes payable with respect to any reporting period, the amount of taxes imposed by this ordinance previously paid as a result of any transaction the consideration for which became uncollectible.  
(Ord. 656, passed 5-16-2007)

### **§ 112.07 EXAMINATION OF RETURN, ADJUSTMENTS, NOTICES, AND DEMANDS.**

The city shall, after a return is filed, examine the same and make any investigation or examination of the records and accounts of the person making the return deemed necessary for determining its correctness. The tax computed on the basis of the examination shall be the tax to be paid. If the tax due is found to be greater than that paid, the excess shall be paid to the city within 10 days after receipt of a notice thereof given either personally or sent by registered mail to the address shown on the return. If the tax paid is greater than the tax found to be due, the excess shall be refunded to the person who paid the tax to the city within 10 days after determination of the refund.  
(Ord. 656, passed 5-16-2007)

### **§ 112.08 REFUNDS.**

Any person may apply to the city for a refund of taxes paid for a prescribed period in excess of the amount legally due for that period, provided that no application for refund shall be considered unless filed within 1 year after the tax was paid, or within 1 year from the filing of the return, whichever period is the longer. The city shall examine the claim and make and file written findings whereon denying or allowing the claim in whole or in part and shall mail a notice thereof by registered mail to the person at the address stated upon the return. If the claim is allowed in whole or in part, the city shall credit the

amount of the allowance against any taxes due under this chapter from the claimant and the balance of the allowance, if any, shall be paid by the city to the claimant.

(Ord. 656, passed 5-16-2007)

#### **§ 112.09 FAILURE TO FILE A RETURN.**

(A) If any operator required by this chapter to file a return shall fail to do so within the time prescribed or shall make, willfully or otherwise, an incorrect, false, or fraudulent return, the operator shall, upon written notice and demand, file the return or corrected return within 10 days of receipt of such written notice and shall at the same time pay any tax due on the basis thereof. If the person shall fail to file the return or corrected return, the city shall make a return or corrected return for the person based upon the knowledge and information as the city can obtain, and assess a tax on the basis thereof, which tax (less any payments theretofore made on account of the tax for the taxable period covered by such return) shall be paid within 10 days of the receipt of written notice and demand for the payment. Any return or assessment made by the city shall be prima facie correct and valid, and the burden of proving to the contrary rests with any person in any action or proceeding in respect thereto.

(B) If any portion of a tax imposed by this chapter, including penalties thereon, is not paid within 30 days after it is required to be paid, the city may institute legal action as may be necessary to cover the amount due plus interest, penalties, the costs and disbursements of any action.

(C) Upon a showing of good cause, the city may grant an operator one 30-day extension of time within which to file a return and make payment of taxes as required by this chapter provided that interest during the period of extension shall be added to the taxes due at the rate of 8% per annum.  
(Ord. 656, passed 5-16-2007)

#### **§ 112.10 PENALTIES.**

(A) If any tax imposed by this chapter is not paid within the time herein specified for the payment, or an extension thereof, there shall be added thereto a specific penalty equal to 10% of the amount remaining unpaid.

(B) In case of any failure to make and file a return within the time prescribed by this chapter, unless it is shown that the failure is not due to willful neglect, there shall be added to the tax in addition to the penalty provided in division (A) above, a penalty of 5% for each 30-day period or fraction thereof during which such failure continues, not exceeding 25% in the aggregate. There shall be a minimum penalty assessed of \$10 if penalties in the aggregate do not exceed that amount. The amount so added to any tax shall be collected at the same time and in the same manner and as part of the tax unless the tax has been paid before the discovery of the negligence, in which case the amount so added shall be collected in the same manner as the tax.

(C) If any person willfully fails to file any return or makes any payment required by this chapter, or willfully files a false or fraudulent return or willfully attempts in any manner to evade or defeat any

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tax or payment thereof, there shall also be imposed as a penalty an amount equal to 50% of any tax (less any amounts paid on the basis of false or fraudulent return) found due for the period to which such return related. The penalty imposed by this section shall be collected as part of the tax, and shall be in addition to any other penalties provided by this chapter.

(D) All payments received shall be credited first to penalties, next to interest, and then to the tax due.

(E) The amount of tax not timely paid, together with any penalty provided by this section, shall bear interest at the rate of 8% per annum from the time the tax should have been paid until payment is made. Any interest and penalty shall be added to the tax and be collected as part thereof.  
(Ord. 656, passed 5-16-2007)

### **§ 112.11 ADMINISTRATION OF TAX.**

The city shall administer and enforce the assessment and collection of the taxes imposed by this chapter. The city shall cause to be prepared, blank forms for the returns and other documents required by this chapter and shall distribute the same throughout the city. Failure to receive or secure the forms and documents shall not relieve any person from any obligation required of him or her under this chapter.

(Ord. 656, passed 5-16-2007)

### **§ 112.12 EXAMINE RECORDS.**

Persons acting on behalf of the city and authorized in writing by the city may examine the books, papers, and records of any operator in order to verify the accuracy of any return made, or if no return was made, to ascertain the tax as provided in this chapter. Every operator is directed and required to give to the city the means, facilities, and opportunity for examinations and investigations as are hereby authorized.

(Ord. 656, passed 5-16-2007)

### **§ 112.13 VIOLATIONS.**

Any person who shall willfully fail to make a return by this chapter, or who shall fail to pay the tax after written demand for payment, or who shall fail to remit the taxes collected or any penalty or interest imposed by this chapter after written demand for such payment, or who shall refuse to permit the city's authorized agents to examine the books, records, and papers under his or her control, or who shall willfully make any incomplete, false, or fraudulent return shall be guilty of a misdemeanor.

(Ord. 656, passed 5-16-2007) Penalty, see § 10.99

**§ 112.14 USE OF PROCEEDS.**

Ninety-five percent of the proceeds obtained from the collection of taxes pursuant to this chapter shall be used in accordance with M.S. § 469.190, as it may be amended from time to time, to fund a Convention and Visitors Bureau for the purpose of marketing and promoting the city as a tourist center. The city may use up to 5% of the proceeds obtained hereunder to defray the costs and expenses of collection and administration of the tax.

(Ord. 656, passed 5-16-2007)

**§ 112.15 CONVENTION AND VISITORS BUREAU (CVB).***(A) Appointment of members.*

(1) The Mayor, with approval of the City Council, shall appoint 8 members to serve on the Convention and Visitors Bureau, 5 of whom shall be representatives of the lodging and/or hospitality industry in the city, 1 of whom shall be a representative of the Chamber of Commerce, 1 from the city who will represent the City Council and 1 member at large. In the event the city enters into any joint powers agreements with any other political subdivisions for the collection, administration and disposition of a lodging tax imposed by such entities pursuant to M.S. § 469.190, as it may be amended from time to time, the political subdivisions party to joint powers agreements with the city, may recommend a ninth individual as their representative. Convention and Visitors Bureau members shall be appointed for 3-year terms. A member of the Convention and Visitors Bureau shall not be eligible for reappointment after having served 3 consecutive 3-year terms until after a lapse of 1 term except that the Council, at its discretion, may appoint 1 of its Alderpersons to the Bureau and the Alderperson shall be eligible for reappointment as long as he or she remains on the Council. All present members of the Convention and Visitors Bureau shall continue to serve until their current term or reappointment expires. First term appointments for members shall be as follows: 3 members shall be appointed for a 1-year term; 3 members shall be appointed for a 2-year term and 2 members shall be appointed for a 3-year term. They shall elect their own Chairperson and serve without compensation.

(2) The Convention and Visitors Bureau shall be responsible for marketing and promoting tourism in the city and, in the event the city associates with a township through a joint powers agreement, tourism in that township.

*(B) Joint powers agreements.* The city is authorized to enter into joint powers agreements pursuant to M.S. § 471.59, as it may be amended from time to time, for the collection, administration or disposition of the proceeds of any lodging tax imposed by a resolution of a separate political subdivision provided the collection, administration or disposition does not violate the terms of this chapter.

(Ord. 665, passed 5-21-2008; Am. Ord. 750, passed 11-5-2014)



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### **§ 112.16 APPEALS.**

(A) Any operator aggrieved by any notice, order, or determination made by the city under this chapter may file a petition for review of such notice, order, or determination. The petition shall contain the name of petitioner, the petitioner's address, and the location of the lodging subject to the notice, order, or determination.

(B) The petition for review shall be filed with the city within 10 days after the notice, order, or determination for which review is sought has been mailed to or served upon the person requesting review.

(C) Upon receipt of the petition, the City Administrator/Clerk shall set a date for a hearing and give the petitioner at least 10 days prior written notice of the date, time, and place of the hearing.

(D) At the hearing, the petitioner shall be given an opportunity to show cause why the notice, order, or determination should be modified or withdrawn.

(E) The hearing shall be conducted by the City Administrator/Clerk or his or her authorized agent, and he or she shall make written findings of fact and conclusions based upon the applicable section of this chapter and the evidence presented. The person conducting the hearing may affirm, reverse, or modify the notice, order or determination made by the city.

(F) (1) Any decision rendered by the city pursuant to this section may be appealed to the City Council. A petitioner seeking to appeal a decision must file a written notice of appeal with the city within 10 days after the decision has been mailed to the petitioner.

(2) The matter will thereupon be placed on the Council agenda as soon as is practical. The Council shall then review the findings of fact and conclusions to determine whether they were correct. Upon a determination by the Council that the findings and conclusions were incorrect, the Council may modify, reverse, or affirm the decision of the City Administrator/Clerk or authorized agent under the same standards as set forth in § 112.06.

(Ord. 656, passed 5-16-2007)



## CHAPTER 113: ALCOHOLIC BEVERAGES

Section

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**GENERAL PROVISIONS****§ 113.01 DEFINITIONS.**

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

**ALCOHOLIC BEVERAGE.** Any beverage containing more than .5% alcohol by volume, including, but not limited to, beer, wine and liquor as defined in this section.

## Alcoholic Beverages

**APPLICANT.** Any person making an application for a license under this chapter.

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

**BED AND BREAKFAST FACILITY.** When license is not required, a place of lodging that provides not more than 8 rooms for rent to no more than 20 guests at a time; is located on the same property as the owner's personal residence; provides no meals, other than breakfast served to persons who rent rooms; and was originally built and occupied as, or was converted to, a single-family residence prior to being used as a place of lodging.

**BEER.** Malt liquor containing not less than .5% alcohol by volume nor more than 3.2% alcohol by weight. (This definition includes so-called "malt coolers" with the alcoholic content limits stated herein.)

**BREW ON PREMISES STORE.** A facility that provides the ingredients and equipment for a customer to use to brew malt liquor at the store.

**BREWER.** A person who manufactures beer for sale.

### **CLASSES OF LICENSE.**

(1) **CLASS A.** Class A licenses shall be issued only to exclusive liquor stores, and shall permit the sale of intoxicating liquor at on-sale only.

(2) **CLASS B.** Class B licenses shall be issued only to hotels and motels, and shall permit the sale of intoxicating liquor at on-sale only.

(3) **CLASS C.** Class C licenses shall be issued only to restaurants and shall permit the sale of intoxicating liquor at on-sale only.

(4) **CLASS D.** Class D licenses shall be issued only to clubs as herein defined.

(5) **CLASS E.** Class E licenses shall be issued only to hotels, motels, restaurants, or clubs which have facilities for serving at least 30 guests at 1 time and which have a Class B, C, or D license, and shall permit the sale of intoxicating liquor at on-sale on Sundays in conjunction with the serving of food.

(6) **CLASS F.** Class F licenses shall be issued only to restaurants as herein defined, and shall permit only the sale of wine not exceeding 14% alcohol by volume, at on-sale in conjunction with the sale of food.

(7) **CLASS G.** Class G licenses shall be issued only to exclusive liquor stores and shall permit the sale of intoxicating liquor at off-sale only.

(8) **CLASS H.** Class H licenses shall be issued only in conjunction with an on-sale license, and shall permit the sale of intoxicating liquor at off-sale only.

**CLUB.** An incorporated organization organized under the laws of the state for civic, fraternal, social, or business purposes, for intellectual improvement, or for the promotion of sports, or a congressionally chartered veterans' organization, which has more than 50 members; has owned or rented a building or space in a building for more than 1 year that is suitable and adequate for the accommodation of its members; is directed by a board of directors, executive committee, or other similar body chosen by the members at a meeting held for that purpose. No member, officer, agent, or employee shall receive any profit from the distribution or sale of beverages to the members of the club, or their guests, beyond a reasonable salary or wages fixed and voted each year by the governing body. The club must have been in existence for at least 15 years and such congressionally chartered veterans' organization must have been in existence for at least 10 years.

**COMMISSIONER.** The Minnesota Commissioner of Public Safety.

**COMMUNITY FESTIVAL.** An event held within the city on an annual or irregularly scheduled basis sponsored by a non-profit organization for the purpose of promoting community pride, tourism, interest in local history or other non-profit objectives.

**COMPACT AND CONTIGUOUS.** Sharing an edge or boundary; touching; neighboring; adjacent; connecting without a break with ingress and egress allowed through a common opening or doorway.

**EXCLUSIVE LIQUOR STORE.** An establishment used exclusively for the sale of liquor except for the incidental sale of ice, tobacco, beer, beverages for mixing with liquor, soft drinks, liqueur-filled candies, food products that contain more than .5% alcohol by volume, cork extraction devices, books and videos on the use of alcoholic beverages, magazines and other publications published primarily for information and education on alcoholic beverages, and the establishment may offer recorded or live entertainment. **EXCLUSIVE LIQUOR STORE** also includes an on-sale (or combination on-sale) or combination on-sale and off-sale liquor establishment, which sells food for on-premise consumption when authorized by the city.

**HOTEL and MOTEL.** An establishment where food and lodging are regularly furnished to transients and which has a dining room serving the general public at tables and having facilities for seating at least 30 guests at 1 time; and at least 10 guest rooms.

**INTOXICATING LIQUOR.** Ethyl alcohol and distilled, fermented, spirituous, vinous and malt beverages containing in excess of 3.2% of alcohol by weight. (This definition includes so-called "wine coolers" and "malt coolers" with the alcoholic content limits stated herein.)

## Alcoholic Beverages

**LICENSE.** A document, issued by the city, to an applicant permitting him/her to carry on and transact the business stated therein.

**LICENSEE.** An applicant who, pursuant to his/her 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.

**LICENSE FEE.** 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.

**LICENSED PREMISES.** The space or structure described in the issued license. In the case of a restaurant or a club licensed for on-sales of alcoholic beverages and located on a golf course, **LICENSED PREMISES** means the entire golf course except for areas where motor vehicles are regularly parked or operated.

**LIQUOR.** Ethyl alcohol and distilled, fermented, spirituous, vinous and malt beverages containing in excess of 3.2% of alcohol by weight. (This definition includes so-called “wine coolers” and “malt coolers” with the alcoholic content limits stated herein.)

**MALT LIQUOR.** Any beer, ale, or other beverage made from malt by fermentation and containing not less than .5% alcohol by volume.

**MANUFACTURER.** Every person who, by any process of manufacture, fermenting, brewing, distilling, refining, rectifying, blending, or by the combination of different materials, prepares or produces alcoholic beverages for sale.

**MINOR.** Any natural person who has not attained the age of 21 years.

**OFF-SALE.** The sale of alcoholic beverages in original packages for consumption off the licensed premises only.

**ON-SALE.** The sale of alcoholic beverages for consumption on the licensed premises only.

**PACKAGE** and **ORIGINAL PACKAGE.** Any container or receptacle holding alcoholic beverages, which container or receptacle is corked, capped or sealed by a manufacturer or wholesaler.

**PREMISES DANCE LICENSE.** A license issued to a holder of a beer, liquor or wine on-sale license permitted entertainment provided by a licensed professional dancer or dancers.

**RESTAURANT.** 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 30 guests and possessing a license from the Commissioner pursuant to M.S. § 157.16.

**SALE, SELL and SOLD.** All barter and all manners or means of furnishing alcoholic beverages to persons, including such furnishing in violation or evasion of law.

**3.2% MALT LIQUOR.** Malt liquor containing not less than .5% alcohol by volume nor more than 3.2% alcohol by weight.

**WHOLESALE.** Any person engaged in the business of selling alcoholic beverages to a licensee from a stock maintained in a warehouse.

**WINE.** The product made from the normal alcoholic fermentation of grapes, including still wine, sparkling and carbonated wine, wine made from condensed grape must, wine made from other agricultural products than sound, ripe grapes, imitation wine, compounds sold as wine, vermouth, cider, Perry and sake. (This definition includes "wine coolers" with the alcoholic content limits stated herein.) For purposes of on-sale wine licenses, **WINE** may contain up to 14% alcohol by volume for consumption with the sale of food. For all other purposes, **WINE** is a product containing not less than .5%, nor more than 24% alcohol by volume for nonindustrial use. (Ord. 640, passed 9-15-2004; Am. Ord. 689, passed 4-7-2010)

## § 113.02 APPLICATIONS AND LICENSES; PROCEDURE AND ADMINISTRATION.

(A) *Application.* All applications shall be made at the office of the City Administrator 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 application. All questions asked, or information required, by the application forms shall be answered fully and completely by the applicant. Every application for the issuance or renewal of an alcoholic beverage license must include a copy of each summons received by the applicant during the preceding year under M.S. § 340A.802, as it may be amended from time to time.

(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 the application, or any willful omission to state any information called for on the application form shall, upon discovery of the 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) *Application and investigation fees.* At the time the initial request for application is made, an applicant for a license under this chapter shall accompany the application with payment of a fee, set by Council resolution, to be considered an application and investigation fee, not refundable to the applicant, to cover the cost of the city in processing the application and the investigation of the applicant. No fee shall be required of an applicant for a temporary beer license.



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### (D) *Action.*

(1) *Hearing.* Prior to granting an initial liquor license, a public hearing shall be held by the Council after notice by at least 1 publication in the official newspaper at least 10 days prior to the hearing. Opportunity shall be given any to person to be heard for or against granting the license. After the hearing, the Council may, in its discretion, grant or refuse the license. A public hearing may be held, but is not required, on renewal liquor licenses and other licenses under this chapter.

(2) *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.

(3) *Issuing.* If an application is approved, the City Administrator 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 1 location and on the premises therein described.

(4) *Transfer of license.* No license shall be transferable between persons for the same location without approval of the City Council. Any transfer of stock of a corporate licensee resulting in a change of ownership control as per division (D)(10) below is deemed to be a transfer of the license. An application to transfer a license shall be treated the same as an application for a new license, and all of the provisions of this code applying to applications for a license shall apply.

(5) *Application for new premises.* If the application is for the issuance of a license for premises at which the licensed business is not currently being conducted, the license shall only be approved by the City Council following a public hearing.

(6) *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.

(7) *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 the issuance, transfer, or renewal would not be in the public interest.

(8) *Revocation or suspension.* For any license granted under the provisions of this chapter, the Council may revoke, suspend for a period not to exceed 60 days, impose a civil fine not to exceed \$2,000, or any combination of these sanctions, for each violation on a finding that the licensee has failed to comply with a statute, regulation or provision of the city code relating to alcoholic beverages. 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 beer, wine or liquor upon premises of the licensee, or if the revocation is mandatory by statute. If it shall be made to appear at the hearing thereon that the violation was not willful, the Council may order suspension; provided that revocation shall be ordered upon the third violation or offense. No suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing before the Council, a committee of the Council, or a hearing under the Administrative Procedures Act, as may be determined and set forth in the Council action calling the hearing. The hearing shall be called by the Council upon written notice to the licensee served in person or by certified mail not less than 15 nor more than 30 days prior to the hearing date, stating the time, place and purpose thereof. 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 action: that the licensee suffered or permitted illegal acts upon licensed premises unrelated to the sale of beer, wine or liquor; that the licensee had knowledge of illegal acts upon licensed premises, but failed to report the same to police; that the licensee failed or refused to cooperate fully with police in investigating the alleged illegal acts upon licensed premises; or that the activities of the licensee created a serious danger to public health, safety, or welfare.

(9) *Waiver of hearing on revocation or suspension.* If, within 5 days after receipt of written notice of hearing on revocation or suspension, the licensee executes and delivers to the City Administrator an unequivocal waiver of hearing thereon, no hearing shall be held and the Council shall, at its next regular or special meeting, revoke or suspend the license on the basis of reports and other information then in its possession. If no waiver is filed with the City Administrator within the time limited, the hearing shall proceed as noticed and all costs and expenses for the hearing, incurred by the city (as well as those incurred by the licensee), shall be paid by the licensee.

(10) *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 Administrator 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 license shall be revoked 30 days after any 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 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 action shall be taken until after a hearing by the Council on notice to the licensee.

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(E) *Duplicate licenses.* Duplicates of all original licenses, under this chapter, may be issued by the City Administrator, without action by the Council, upon the licensee's affidavit that the original has been lost, and upon payment of the fee adopted by resolution of the Council for issuance of the duplicate. All duplicate licenses shall be clearly marked "duplicate".

(F) *Posting.* All licensees shall conspicuously post their licenses in their places of business.

(G) *Manager or agent.* Before a license is issued under this chapter to an individual, to more than 1 individual whether, or to a corporation, partnership, or association, the applicant or applicants shall appoint in writing a natural person as its manager or agent. The manager or agent shall, by the terms of his/her 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. The manager or agent must be a person who, by reason of age, character, reputation, and other attributes, could qualify individually as a licensee. If the manager or agent ceases to act in capacity for the licensee without appointment of a successor, the license issued pursuant to the appointment shall be subject to revocation or suspension.

(H) *Persons disqualified.*

(1) No license under this chapter may be issued, or renewed, to a person who within 5 years of the license application has been convicted of any felony or a willful violation of a federal or state law, or local ordinance governing the manufacture, sale, distribution, or possession for sale or distribution, of alcoholic beverages; a person who has had an alcoholic beverage license revoked within 5 years of the license application, or to any person who at the time of the violation owns any interest, whether as a holder of more than 5% of the capital stock of a corporate licensee, as a partner or otherwise, in the premises or in the business conducted thereon, or to a corporation, partnership, association, enterprise, business, or firm in which any person is in any manner interested; a person under the age of 21 years; or a person not of good moral character and repute.

(2) No person holding a license from the Commissioner as a manufacturer, brewer (except as provided by statute), wholesaler or importer, may have a direct or indirect interest, in whole or in part, in a business holding an alcoholic beverage license from the city.

(Ord. 640, passed 9-15-2004; Am. Ord. 689, passed 4-7-2010) Penalty, see § 113.99

### § 113.03 RENEWAL LICENSE APPLICATIONS.

Applications for renewal of all licenses under this chapter 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. Applications which are not filed with the city at least 30 days prior to expiration, shall be subject to a penalty, as set by the City Council by resolution from time to time.

(Ord. 640, passed 9-15-2004)

**§ 113.04 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 by the applicant and are delinquent and unpaid. For the purpose of this section, “applicant” includes persons and related persons owning at least a 50% beneficial interest in the proposed license or in the entity making the application and at least an undivided ½ interest in the premises proposed to be licensed, or at least a 50% beneficial interest in the entity owning such premises.

(Ord. 640, passed 9-15-2004)

**§ 113.05 CONDITIONAL LICENSES.**

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

(Ord. 640, passed 9-15-2004)

**§ 113.06 PREMISES LICENSED.**

A license issued under the provisions of this chapter shall be valid only for the premises described in the license, and all transactions relating to a sale and/or consumption under the license must take place within such space or structure.

(A) Description shall include the physical address and legal description of the licensed property along with a narrative describing portions of buildings on the property and “compact and contiguous” areas located on the property outside of the building that are included in the premise.

(B) For premises located outside of a building, the premise area shall have clear boundaries whereas any person can clearly identify the limits of the licensed area.

(C) Exists from any outdoor area shall be posted with signage which states “no alcoholic beverages beyond this point.”

(D) Music is not allowed in outdoor premise area unless under a valid permit.

(E) If outdoor premise is intended to allow smoking, the area shall comply with the Clean Indoor Air Act.

(Ord. 640, passed 9-15-2004; Am. Ord. 689, passed 4-7-2010; Am. Ord. 727, passed 6-6-2012)

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### **§ 113.07 UNLAWFUL ACTS.**

(A) *Consumption.* It is unlawful for any person to consume, or any licensee to permit consumption of, alcoholic beverages on licensed premises more than 30 minutes after the hour when a sale thereof can legally be made.

(B) *Closing.* It is unlawful for any person, other than a licensee or his/her bona fide employee actually engaged in the performance of his/her 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.

(Ord. 640, passed 9-15-2004) Penalty see § 113.99

### **§ 113.08 CONDUCT ON LICENSED PREMISES.**

Except as herein provided, every licensee under this chapter shall be responsible for the conduct of his/her place of business and shall maintain conditions of sobriety and order therein.

(Ord. 640, passed 9-15-2004)

### **§ 113.09 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 employer is liable to all of the penalties, except criminal penalties, provided by law for such sale, equally with the person actually making the sale.

(Ord. 640, passed 9-15-2004)

### **§ 113.10 LICENSE CONDITION AND UNLAWFUL ACT.**

(A) 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 the inspection by the officers and without a warrant for searches or seizures.

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

(Ord. 640, passed 9-15-2004) Penalty, see § 113.99

### **§ 113.11 LICENSE FEES; FIXING AND REFUNDMENT.**

(A) *Fixing fees.* Except as otherwise specifically provided, all fees for licenses provided for in this chapter, including, but not by way of limitation, license fees, investigation and administration fees, shall

be fixed and determined by the Council, adopted by resolution, and uniformly enforced. The fees may, from time-to-time, be amended by the Council by resolution. Provided, however, that before any liquor license fee shall be increased, a 30-day notice shall be mailed to all affected licensees and a hearing held thereon. A copy of the resolution shall be kept on file in the office of the City Administrator and open to inspection during regular business hours. For the purpose of fixing the fees, the Council may categorize and classify, provided, that the categorization and classification shall be included in the resolution authorized by this section.

(B) *Refundment.* A pro-rata share of an annual license fee for a license to sell alcoholic beverages, either on-sale or off-sale, shall be refunded to the licensee, or to his/her estate, if the business ceases to operate because of destruction or damage or the licensee dies.  
(Ord. 640, passed 9-15-2004)

### § 113.12 FINANCIAL RESPONSIBILITY OF LICENSEES.

(A) *Proof.* No alcoholic beverage license shall be issued or renewed unless and until the applicant has provided proof of financial responsibility, imposed by statute, by filing with the city:

(1) A certificate that there is in effect an insurance policy or pool providing minimum coverages of \$50,000 because of bodily injury to any 1 person in any 1 occurrence, and, subject to the limit for 1 person, in the amount of \$100,000 because of bodily injury to 2 or more persons in any 1 occurrence, and in the amount of \$10,000 because of injury to or destruction of property of others in any 1 occurrence; and \$50,000 for loss of means of support of any 1 person in any 1 occurrence, and, subject to the limit for 1 person, \$100,000 for loss of means of support of 2 or more persons in any 1 occurrence; an annual aggregate of \$300,000 may be included in the insurance coverage;

(2) A bond of a surety company with minimum coverages as provided in subsection (1); or

(3) A certificate of the State Treasurer that the licensee has deposited with him/her \$100,000 in cash or securities which may legally be purchased by savings banks or for trust funds having a market value of \$100,000.

(B) *Exception.* This section does not apply to on-sale beer licensees with sales of beer of less than \$25,000 for the preceding year, nor to off-sale beer licensees with sales of beer of less than \$50,000 for the preceding year, nor does it apply to holders of on-sale wine licenses with sales of wine of less than \$25,000 for the preceding year. An affidavit of the licensee shall be required to establish the exemption under this division.

(C) *Documents submitted to Commissioner.* All proofs of financial responsibility and exemption affidavits filed with the city under this section shall be submitted by the city to the Commissioner.  
(Ord. 640, passed 9-15-2004)

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### § 113.13 INSURANCE CERTIFICATE REQUIREMENTS.

Whenever an insurance certificate is required by this chapter, the applicant shall file with the City Administrator a certificate of insurance showing that the limits are at least as high as required under M.S. § 340A, as it may be amended from time to time; that coverage is effective for at least the license term approved; and that insurance will not be cancelled or terminated without 30 days' written notice served upon the City Administrator. Cancellation or termination of the coverage shall be grounds for license revocation. Upon receipt of notice of lapsed insurance by the city, the city shall notify the licensee of pending suspension or revocation of license proceedings. The holder of a license who has received notice of lapse of required insurance or of suspension or revocation of a license may request a hearing by the City Council by making a request in writing within 5 days of the notice to the City Administrator. A hearing before the City Council shall be granted within 10 days. The Council may take action to revoke or suspend the license at the hearing or in the event that no hearing has been requested at the next regular City Council meeting.

(Ord. 640, passed 9-15-2004; Am. Ord. 689, passed 4-7-2010)

### § 113.14 MINORS; UNLAWFUL ACTS.

(A) *Consumption.* It is unlawful for any:

(1) Licensee to permit any minor to consume alcoholic beverages or tobacco products on licensed premises.

(2) Minor to consume alcoholic beverages or tobacco products except in the household of the minor's parent or guardian, and then only with the consent of the parent or guardian.

(B) *Purchasing.* It is unlawful for any:

(1) Person to sell, barter, furnish, or give alcoholic beverages or tobacco products to a minor unless the person is the parent or guardian of the minor, and then only for consumption in the household of the parent or guardian.

(2) Minor to purchase or attempt to purchase any alcoholic beverage or tobacco products.

(3) Person to induce a minor to purchase or procure any alcoholic beverage or tobacco products.

(C) *Possession.* It is unlawful for a minor to possess any alcoholic beverage or tobacco products with the intent to consume it at a place other than the household of the minor's parent or guardian. Possession of an alcoholic beverage or tobacco products by a minor at a place other than the household of the parent or guardian is prima facie evidence of intent to consume it at a place other than the household of his or her parent or guardian.

(D) *Entering licensed premises.* It is unlawful for any minor, as defined in this chapter, to enter licensed premises, or the municipal liquor store, for the purpose of purchasing or consuming any alcoholic beverage or tobacco products. It is not unlawful for any person who has attained the age of 18 years to enter licensed premises for the following purposes: to perform work for the establishment, including the serving of alcoholic beverages, unless otherwise prohibited by statute; to consume meals; and to attend social functions that are held in a portion of the establishment where liquor is not sold. It is unlawful for a licensee to permit a person under the age of 18 years to enter licensed premises unless attending a social event at which alcoholic beverages are not served, or in the company of a parent or guardian.

(E) *Misrepresentation of age.* It is unlawful for a minor to misrepresent his/her age for the purpose of purchasing an alcoholic beverage or tobacco products.

(F) *Proof of age.* Proof of age for purchasing or consuming alcoholic beverages or tobacco products may be established only by a valid driver's license or identification card issued by the state, another state, or a province of Canada, and including the photograph and date of birth of the licensed person; or by a valid military identification card issued by the United States Department of Defense; or, in the case of a foreign national, from a nation other than Canada, by a valid passport.  
(Ord. 640, passed 9-15-2004) Penalty, see § 113.99

#### **§ 113.15 GAMBLING PROHIBITED.**

It is unlawful for any licensee to keep, possess, or operate, or permit the keeping, possession, or operation on licensed premises of dice or any other gambling device, or permit raffles to be conducted, except as are authorized by statute or the city code.  
(Ord. 640, passed 9-15-2004) Penalty, see § 113.99

#### **§ 113.16 CONSUMPTION AND POSSESSION OF ALCOHOLIC BEVERAGES ON STREETS, PUBLIC PROPERTY, AND PRIVATE PARKING LOTS TO WHICH THE PUBLIC HAS ACCESS.**

(A) 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 premises when and where permission has been specifically granted or licensed by the Council. Permission to consume or possess alcohol in a city park is hereby granted by the city with the rental of a park shelter for a gathering or during an organized event with the exception of organized youth events. Intent to consume alcohol shall be indicated on the rental agreement. Permission is specifically granted to occupants of Sinclair Lewis Campground during his or her rental period.

(B) Provided, that this section shall not apply to the possession of an unsealed container in a motor vehicle when the container is kept in the trunk of such vehicle if it is equipped with a trunk, or kept in some other area of the vehicle not normally occupied by the driver or passengers, if the motor vehicle is not equipped with a trunk. For the purpose of this section, a utility or glove compartment shall be



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deemed to be within the area occupied by the driver or passengers. Provided, further, that this section shall not apply to a bus operated under a charter, or to a limousine, both as defined by statute. (Ord. 640, passed 9-15-2004; Am. Ord. 722, passed 4-18-2012) Penalty, see § 113.99

### **§ 113.17 ALCOHOLIC BEVERAGES IN CERTAIN BUILDINGS AND GROUNDS.**

It is unlawful for any person to introduce upon, or have in his/her possession upon, or in, any public elementary or secondary school ground, or any public elementary or secondary school building, any alcoholic beverage, except for experiments in laboratories and except for those organizations who have been issued temporary licenses to sell alcoholic beverages, and for any person to possess alcoholic beverages as a result of a purchase from those organizations holding temporary licenses. (Ord. 640, passed 9-15-2004) Penalty, see § 113.99

### **§ 113.18 ALCOHOLIC BEVERAGES; CERTAIN UNLAWFUL ACTS.**

It is unlawful for any:

(A) Person to knowingly induce another to make an illegal sale or purchase of an alcoholic beverage.

(B) Licensee to sell or serve an alcoholic beverage to any person who is obviously intoxicated.

(C) Licensee to fail, where doubt could exist, to require adequate proof of age of a person upon licensed premises.

(D) Licensee to sell an alcoholic beverage on any day, or during any hour, when sales are not permitted by law.

(E) Licensee to allow consumption of an alcoholic beverage on licensed premises on any day, or during any hour, when consumption is not permitted by law.

(F) Person to purchase an alcoholic beverage on any day, or during any hour, when sales are not permitted by law. (Ord. 640, passed 9-15-2004) Penalty, see § 113.99

### **§ 113.19 WORKER'S COMPENSATION.**

No license to operate a business shall be issued by the city until the applicant presents his/her employer's tax identification number and acceptable evidence of compliance with the worker's compensation insurance coverage requirement of Minnesota Statutes by providing the name of the insurance company, the policy number, and dates of coverage, or the permit to self-insure. (Ord. 640, passed 9-15-2004)

**§ 113.20 CONFECTIONS CONTAINING ALCOHOL.**

It is unlawful for any person to sell a confection containing alcohol to any person under the age of 21 years. For purposes of this section, “confection containing alcohol” means a confection containing or bearing not more than 5% alcohol by volume where the alcohol is in a nonliquid form by reason of being mixed with other substances in the manufacture of the confection, does not include “liqueur-filled candy” as herein defined, and may be sold only by an exclusive liquor store licensed under this chapter or a business establishment that derives more than 50% of its gross sales from the sale of confections.

(Ord. 640, passed 9-15-2004) Penalty, see § 113.99

**§ 113.21 LIQUEUR-FILLED CANDY.**

It is unlawful for any person to sell liqueur-filled candy to any person under the age of 21 years. For purposes of this section, “liqueur-filled candy” means any confectionery containing more than .5% alcohol by volume in liquid form that is intended for or capable of beverage use, and may be sold only by an eligible licensee under this chapter.

(Ord. 640, passed 9-15-2004) Penalty, see § 113.99

**§ 113.22 BREW-ON-PREMISES STORE; UNLAWFUL ACTS.**

It is unlawful:

(A) To sell or otherwise provide alcoholic beverages to customers of a brew-on-premises store unless the owner of the brew-on-premises store holds an appropriate liquor license.

(B) For a customer to re-sell malt liquor brewed in a brew-on-premises store or use it for any purpose other than personal use.

(C) For a minor to be a customer of a brew-on-premises store.

(Ord. 640, passed 9-15-2004) Penalty, see § 113.99

**§ 113.23 NOTICE POSTING.**

(A) A premises licensed for the retail sale of alcoholic beverages and a municipal liquor store must post and maintain in a conspicuous place within the licensed premises clearly visible to consumers: 1 sign 14 inches wide by 8 inches high as designed by the Commissioners of Health and Public Safety, which incorporates the following information:

(1) The penalties of driving while under the influence of alcohol;

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(2) Penalties for serving alcoholic beverages to a person who is obviously intoxicated or under 21 years of age; and

(3) A warning statement regarding drinking alcohol when pregnant.

(B) A retail licensee or municipal liquor store may not modify the sign design, but may modify the color.

(Ord. 640, passed 9-15-2004) Penalty, see § 113.99

## ***BEER REGULATIONS***

### **§ 113.40 BEER LICENSE REQUIRED.**

It is unlawful for any person, directly or indirectly, on any pretense or by any device, to sell, barter, keep for sale, charge for possession, or otherwise dispose of beer, 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 beer licenses from the city. Annual on-sale beer licenses may be issued only to drug stores, restaurants, hotels, bowling centers, clubs, and establishments used exclusively for the sale of beer with the incidental sale of tobacco and soft drinks. (Ord. 640, passed 9-15-2004) Penalty, see § 113.99

### **§ 113.41 TEMPORARY BEER LICENSE.**

(A) *Applicant.* A club or charitable, religious, or non-profit organization shall qualify for a temporary on-sale beer license. The organization shall be duly incorporated as a non-profit or religious corporation under the laws of the state and having its registered office and principal place of activity within the city. A license shall be issued subject to such rules and regulations as the Council may prescribe.

(B) *Conditions.*

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

(2) The Council may, but at no time shall it be under any obligation whatsoever to, grant a temporary beer license on premises owned or controlled by the city. Any 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 \$1,000,000 for injury to any 1 person and \$1,000,000 for injury to more than 1 person, and \$1,000,000 for property damage, naming the city as an insured during the license period. The license shall be issued only on the condition that the applicant will not sell in excess of \$10,000 (retail value) worth of beer in any calendar year, and thereupon shall be exempt from proof of financial responsibility as provided for herein.

(C) *Generally.* The applicant shall comply with all other restrictions, limitations and regulations for the sale of beer under the city code and statutes.  
(Ord. 640, passed 9-15-2004)

#### **§ 113.42 HOURS AND DAYS OF BEER SALES.**

No sale of beer shall be made between the hours of 1:00 a.m. and 8:00 a.m. on the days of Monday through Saturday, nor between the hours of 1:00 a.m. and 12:00 p.m. on Sunday.  
(Ord. 640, passed 9-15-2004) Penalty, see § 113.99

### ***LIQUOR REGULATIONS***

#### **§ 113.55 LIQUOR LICENSE REQUIRED.**

It is unlawful for any person, directly or indirectly, on any pretense or by any device, to sell, barter, keep for sale, charge for possession, or otherwise dispose of liquor, as part of a commercial transaction, without a license therefor from the city. This section shall not apply to such potable liquors as are intended for therapeutic purposes and not as a beverage, to industrial alcohol and its compounds not prepared or used for beverage purposes, to wine in the possession of a person duly licensed under this chapter as an on-sale wine licensee, to sales by manufacturers to wholesalers duly licensed as such by the Commissioner, or to sales by wholesalers to persons holding liquor licenses from the city.  
(Ord. 640, passed 9-15-2004) Penalty, see § 113.99

#### **§ 113.56 SUNDAY SALES.**

(A) *License required.* The electorate of the city having heretofore authorized the same at a general or special election, a Sunday on-sale liquor license may be issued to hotels, restaurants, clubs, or bowling centers, in conjunction with the sale of food, which have on-sale liquor licenses and which also have seating capacity for not less than 30 guests at 1 time.

## Alcoholic Beverages

(B) *Hours of sale.* The hours of Sunday on-sale liquor sales shall be from 10:00 a.m. on Sundays to 1:00 a.m. on Mondays, provided that the licensee is in conformance with the Minnesota Clean Air Act.

(Ord. 640, passed 9-15-2004)

### § 113.57 TEMPORARY LIQUOR LICENSE.

(A) *License authorized.* Notwithstanding any provision of the city code to the contrary, the Council may issue a license for the temporary on-sale of liquor in connection with a social event sponsored by the licensee. The license may provide that the licensee may contract with the holder of a full-year on-sale license, issued by the city, for liquor catering services.

(B) *Applicant.* The applicant for a license under this section must be a club or charitable, religious, state university, or other non-profit organization in existence for at least 3 years, or a political committee registered under M.S. § 10A.14, as it may be amended from time to time.

(C) *Terms and conditions of license.*

(1) No temporary license is valid until approved by the Commissioner.

(2) No temporary license shall be issued for more than 4 consecutive days.

(3) No temporary license shall issue until the city is furnished with written proof that the licensee has dram shop coverage in the amount provided for in this chapter, and that the coverage is in force on the premises where liquor is to be served.

(4) All temporary licenses and licensees are subject to all provisions of statutes and the city code relating to liquor sale and licensing, except those relating to financial responsibility and insurance, and except those that by their nature are not applicable.

(5) Temporary licenses may authorize sales on premises other than those owned or permanently occupied by the licensee.

(6) No more than three 4-day, four 3-day, six 2-day or twelve 1-day temporary licenses in any combination not to exceed 12 days per year may be issued to any 1 organization or registered political committee, or for any 1 location within a 12-month period.

(7) No more than 1 temporary license may be issued to any 1 organization or registered political committee or for any 1 location within any 30-day period, except for expenses issued in connection with an event officially designated a community festival by the city.

(Ord. 640, passed 9-15-2004)

**§ 113.58 HOURS AND DAYS OF LIQUOR SALES.**

No sale of liquor shall be made between the hours of 1:00 a.m. and 8:00 a.m. on the days of Monday through Saturday, nor after 1:00 a.m. on Sunday. No off-sale shall be made on Sunday, nor on Thanksgiving Day or Christmas Day, December 25, nor before 8:00 a.m. or after 10:00 p.m. on Monday through Saturday. This section does not prohibit sales during hours when on-sale is permitted on Sunday as stated in the section of this chapter entitled "Sunday Sales".

(Ord. 640, passed 9-15-2004) Penalty, see § 113.99

**§ 113.59 SALE, DISTRIBUTION OR CONSUMPTION OF INTOXICATING LIQUOR AT A SPORTS, CONVENTION OR CULTURAL FACILITY.**

(A) *License required.* No intoxicating liquor shall be sold, distributed or consumed at a Sauk Centre sports, convention or cultural facility except at a function for which a license has been granted pursuant to this section.

(B) *Eligibility for license.* A license may be granted under this section for off-premise distribution of liquor to a vendor holding a current on-sale license with the city in conjunction with a convention or other event and must be in accordance with M.S. § 340A.404, Subd. 4.

(C) *Appeal of denial of license.* Any vendor denied a license under this section shall be entitled to appeal the decision of denial to the City Council.

(D) *Duration of license.* No license shall be granted for a period of more than 3 days.

(E) *Hours of sale.* No intoxicating liquor shall be sold or distributed at the sports, convention or cultural facility except on days and during hours established for sale of on-sale liquor by M.S. § 340A.504.

(F) *Compliance with other laws.* All laws of the state shall be complied with at all times and all ordinances of the city shall be complied with at all times except to the extent that such ordinances conflict with this section, in which case the provisions of this section shall prevail.

(Ord. 689, passed 4-7-2010) Penalty, see § 113.99

**§ 113.60 SERVER TRAINING.**

The city may from time to time offer training commonly known as "server training" to the owners/managers/bartenders of any licensed liquor establishment in the city. Attendance at such a training event is voluntary.

(Ord. 689, passed 4-7-2010)

## **Alcoholic Beverages**

### **§ 113.61 COMMUNITY FESTIVALS.**

(A) The City Council may authorize the holder of an on-sale liquor license to dispense alcoholic beverages on public property outside the licensed premises at a community festival.

(B) The application for authorization to dispense alcoholic beverages on public property at a community festival must include: the name of the applicant and their license number; the date of the community festival and the hours during which alcoholic beverages will be served by the applicant; a site map and description of the area in which alcoholic beverages will be dispensed and consumed; proof of liability insurance to cover the event that names the city as an additional insured; and such other information as the Council may require from time to time.

(C) The application must be in the form prescribed by the city, verified and filed with the city no less than 30 days prior to the event. The City Administrator will refer the application to the Police Chief for review. The City Council will, upon receiving the Police Chief's recommendation, grant or refuse the application.

(D) The authorization to dispense alcoholic beverages on public property at a community festival is subject to the conditions in this section, all other provisions of this chapter, other applicable local ordinances, state law, or regulation, and any conditions and restrictions deemed necessary by the City Council for the protection of the public health, safety, order and general welfare.

(E) All alcohol served on public property under this section shall be served in non-glass containers. The event area shall be contained with fencing with security personnel as determined by the City Council which may include the requirement that a sworn peace officer be on-site at all times. Age limits shall apply the same as if the activity were inside the licensed premises. Hours of operation shall be approved by the Council but in no case will be approved outside the time limits allowed by law.

(F) The dispensing and consumption of alcoholic beverages outside the area or times stated in the authorization is prohibited.

(Ord. 689, passed 4-7-2010) Penalty, § 113.99

### **§ 113.62 TEMPORARY EXTENSION OF PREMISE PERMIT.**

(A) The City Council may authorize the holder of an on-sale liquor license to dispense alcoholic beverages on private property outside the licensed premise area by allowing for the temporary extension of the premise.

(B) The application for authorization of an extension of premise permit to dispense alcoholic beverages must include the name of the applicant and their license number, the date of the event and the hours during which alcoholic beverages will be served by the applicant; a site map and description of

the area in which alcoholic beverages will be dispensed and consumed; proof of liability insurance covering the extended area listing the city as an additional insured; and any other information the Council may require.

(C) The application must be in the form prescribed by the city, verified and filed with the city no less than 30 days prior to the event. The application must be accompanied with payment in full of the application fee. The City Administrator will refer the application to the Police Chief for review. The City Council will, upon receiving the Police Chief's recommendation, grant or refuse the application.

(D) The authorization of an extension of premise permit to dispense alcoholic beverages under this section is subject to the conditions in this section, all other provisions of this chapter, other applicable local ordinances, state law, or regulation, and any conditions and restrictions deemed necessary by the City Council for the protection of the public health, safety, order and general welfare. The following regulations shall generally apply: alcoholic beverages for outdoor consumption shall be dispensed in non-glass containers; event area to be contained by contiguous fencing; age limits shall apply the same as if the activity occurred within the licensed premises; security personnel shall be provided by the applicant; a sworn peace officer is required for events with over 1,000 participants; music or other outdoor noise to cease at 10:30 p.m. on Sunday through Thursday and 12:30 a.m. on Saturdays and Sundays (Friday and Saturday nights).

(E) The dispensing and consumption of alcoholic beverages outside the area or times stated in the authorization is prohibited.

(F) No more than 3 authorizations for an extension of premise permit shall be granted under this section for any 1 licensee within a 12-month period. Each authorization shall be for no longer than 2 consecutive days. The number of authorizations does not include authorizations for community festivals. Authorizations are not transferable.  
(Ord. 689, passed 4-7-2010)

### ***WINE REGULATIONS***

#### **§ 113.70 ON-SALE WINE LICENSE REQUIRED.**

It is unlawful for any person, directly or indirectly, on any pretense or by any device, to sell, barter, keep for sale, charge for possession, 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 to sales by manufacturers to wholesalers duly licensed as such by the Commissioner, to sales by wholesalers to



## **Alcoholic Beverages**

persons holding on-sale or off-sale liquor licenses from the city, to sales by wholesalers to persons holding on-sale wine licenses from the city, or to sales by on-sale liquor licensees on days and during hours when on-sale liquor sales are permitted.

(Ord. 640, passed 9-15-2004) Penalty, see § 113.99

### **§ 113.71 ON-SALE WINE LICENSE NOT REQUIRED FOR BED AND BREAKFAST FACILITY.**

No on-sale wine license is required for a bed and breakfast facility as defined in this chapter and registered with the Commissioner, provided the facility provides no more than 2 glasses per day each containing not more than 4 fluid ounces of wine at no additional charge to a person renting a room at the facility. Wine so furnished may be consumed on the premises of the bed and breakfast facility.

(Ord. 640, passed 9-15-2004)

### **§ 113.72 HOURS AND DAYS OF SALES BY ON-SALE WINE LICENSEES.**

No on-sale of wine shall be made between the hours of 1:00 a.m. and 8:00 a.m. on the days of Monday through Saturday, nor after 1:00 a.m. on Sunday. No off-sale shall be made on Sunday, nor on Thanksgiving Day or Christmas Day, December 25, nor before 8:00 a.m. or after 10:00 p.m. on Monday through Saturday. This section does not prohibit sales during hours when on-sale is permitted on Sunday as stated in the section of this chapter entitled "Sunday Sales."

(Ord. 640, passed 9-15-2004) Penalty, see § 113.99

### **§ 113.73 CONDITIONS BY WHICH RESTAURANTS MAY SELL INTOXICATING MALT LIQUOR AT ON-SALE WITHOUT ADDITIONAL LICENSE.**

Any restaurant that has a current wine license pursuant to this section and a current on-sale license to sell non-intoxicating malt liquor issued pursuant to § 113.40, may also sell intoxicating malt liquor at on-sale without an additional license being issued, provided, at least 60% of the gross receipts of the restaurant are attributable to the sale of food. Liquor liability insurance is required no matter what sales amounts are also the licensee must prove quarterly receipts of sales that show the sale of food and liquor.

(Ord. 689, passed 4-7-2010)

**UNLAWFUL ACTS****§ 113.85 BEER, LIQUOR AND ON-SALE WINE LICENSE RESTRICTIONS, REGULATIONS AND UNLAWFUL ACTS.**

(A) *Bond required.* Prior to issuance of any license, the applicant shall file with the City Administrator a bond with a corporate surety, cash, or United States government bonds in the sum of \$5,000 for an on-sale liquor, beer or wine license and \$3,000 for an off-sale liquor, beer or wine license. A bond filed under this division must be conditional on the licensee obeying all laws governing the business and paying all taxes, fees, penalties, and other charges, and must provide that the bond is forfeited to the city issuing the license on a violation of law. The Commissioner must approve all bonds filed by applicants for an off-sale license.

(B) *Limitations on issuance of licenses to 1 person or place.*

(1) No off-sale liquor, beer or wine license may be issued to any 1 person for more than 1 place in the city. Any person holding an interest in 2 or more licenses in the city shall be deemed to hold more than 1 license.

(2) For the purpose of this division, the term “interest” includes any pecuniary interest in the ownership, operation, management, or profits of a retail liquor establishment, and a person who receives money from time to time directly or indirectly from a licensee, in the absence of consideration and excluding gifts or donations, has a pecuniary interest in the retail business; and does not include loans; rental agreements; open accounts or other obligations held with or without security arising out of the ordinary and regular course of business of selling or leasing merchandise, fixtures, supplies to the establishment; an interest in a corporation owning or operating a hotel but having at least 150 or more rental units holding a liquor license in conjunction therewith; or 10% or less interest in any other corporation holding a license.

(3) In determining whether an “interest” exists, the transaction must have been bona fide and the reasonable value of the goods and things received as consideration for a payment by the licensee and all other facts reasonably tending to prove or disprove the existence of a purposeful scheme or arrangement to evade the restrictions of this division must be considered.

(C) *Licenses in connection with premises of another.* A license may not be issued to a person in connection with the premises of another to whom a license could not be issued under the provisions of this chapter. This division does not prevent the granting of a license to a proper lessee because the person has leased the premises of a minor, a non-citizen who is not a resident alien, or a person who has been convicted of a crime other than a violation of this chapter.

## **Alcoholic Beverages**

(D) *Off-sale licenses where beer is sold.* An exclusive off-sale liquor license may not be issued to a place where beer is sold for consumption on the premises.

(E) *Employment of minors.* No person under 18 years of age may sell or serve liquor, wine or beer on licensed premises.

(F) *Premises eligible.* On-sale wine licenses shall be granted only to restaurants as defined in this chapter. Provided, however, for purposes of this division, the restaurant shall have appropriate facilities for seating not less than 30 guests at 1 time.

(G) *Samples.* It is lawful for an off-sale licensee to provide samples of wine, liqueurs, and cordials which the licensee currently has in stock and is offering for sale to the general public without obtaining an additional license, provided the wine, liqueur, and cordial samples are dispensed at no charge and consumed on the licensed premises during the permitted hours of off-sale in a quantity less than 50 milliliters of wine per variety per customer and 25 milliliters of liqueur or cordial per variety per customer.

(H) *Church and school restriction.* No license shall be granted for any building within 300 feet of any public elementary or secondary school structure or within 100 feet of any church structure.

(I) *Number of licenses.* The Council may issue the number of licenses authorized by statute or restrict such number from time to time, as it may, in its discretion, deem proper.

(J) *Professional dancer license.*

(1) It is unlawful for any beer, liquor or wine licensee to allow any professional dancer to perform without the licensee having a premises dance license.

(2) It is unlawful for any beer, liquor or wine licensee to employ or permit a professional dancer to perform on licensed premises who has within the preceding 5 years been convicted of the violation of any law, including a city ordinance.

(3) This section shall not apply to persons whose participation in a performance is restricted solely to employing either vocal or instrumental musical skills where dance movements are incidental to, and not primary to the performance.

(Ord. 640, passed 9-15-2004) Penalty, see § 113.99

### **§ 113.86 CATERER'S PERMIT.**

Any restaurant that holds an on-sale liquor license issued by the city may also be issued a caterer's permit by the Commissioner. The holder of a caterer's permit may sell liquor as an incidental part of a

food service that serves prepared meals at a place other than the premises for which the holder's on-sale liquor license is issued.

(A) The restrictions and regulations which apply to the sale of liquor and licensed premises also apply to the sale under the authority of a caterer's permit, and any act that is prohibited on the licensed premises is also prohibited when the licensee is operating other than on the licensed premises under a caterer's permit.

(B) Any act which if done on the licensed premises would be grounds for cancellation or suspension of the on-sale license, is grounds for cancellation of both the on-sale and caterer's permit if done when the permittee is operating away from the licensed premises under the authority of the caterer's permit.

(C) The permittee shall notify the Chief of Police where the event will take place 2 weeks prior to the event.

(D) If the primary license ceases to be valid for any reason, the caterer's permit ceases to be valid.

(E) Caterer's permits are subject to all laws and provisions governing the sale of liquor except those laws and provisions, which by their nature are not applicable.  
(Ord. 640, passed 9-15-2004; Am. Ord. 689, passed 4-7-2010)

### § 113.87 CLUB LICENSE RESTRICTIONS AND REGULATIONS, AND UNLAWFUL ACTS.

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

**GUEST.** A person not a member of the club but present on the club licensed premises in the company of a host member.

**HOST MEMBER.** A member who is entertaining a guest who is in the member's company at all times the guest is on the licensed premises.

**MEMBER.** Any person in good standing according to rules and regulations of the licensed club, wherever located, having evidence of current membership upon his/her person.

(B) *Daily register.* In addition to all other general provisions, restrictions and regulations set forth in this chapter, relating to beer or liquor licensees, as the case may be, all club licensees shall keep a daily register showing the names of guests present and the name of the host member. The register shall be open to inspection by police officers at all times.

## **Alcoholic Beverages**

(C) *Unlawful acts.* The following are in addition to all other unlawful acts set forth in this chapter relating to sales and purchases of beer or liquor, as the case may be:

(1) It is unlawful for a club licensee to sell liquor or beer to any person not a member, or a bona fide guest of a member, of the licensed club.

(2) It is unlawful for any club licensee to serve beer or liquor to any non-member of the licensed club unless the non-member is a guest.

(3) It is unlawful for any person who is not a member, or a bona fide guest of a member, of the licensed club to purchase liquor or beer from the club.

(4) 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.

(5) It is unlawful for any person to refuse, upon request of a licensee or police officer, to provide information as to whether he or she is a member, guest or host member, or to give false, fraudulent or misleading information in response to such request.

(Ord. 640, passed 9-15-2004) Penalty, see § 113.99

### **§ 113.88 CONSUMPTION AND DISPLAY.**

(A) *Consumption and display license required.* It is unlawful for any business establishment or club, not holding an on-sale liquor license to directly or indirectly, or on any pretense or by any device, sell, barter, keep for sale, charge for possession, or otherwise dispose of any liquid for the purpose of mixing the same with liquor, or permit its members to bring and keep a personal supply of liquor in lockers assigned to such members, without a license therefor from the city.

(B) *Consumption and display restrictions and regulations.*

(1) *Eligible licensees.* If the applicant is otherwise eligible, licenses may be issued only to persons who have not, within 5 years prior to application, been convicted of a felony or of violating provisions of this chapter or other law relating to the sale or furnishing of alcoholic beverages; a restaurant; a hotel; a beer licensee; a resort as defined by statute; or a club or an unincorporated club otherwise meeting the definition of a club, provided, that no license may be issued to a club holding an on-sale liquor license.

(2) *Unlawful act.* It is unlawful to sell alcoholic beverages on licensed premises.

(3) *License expiration.* In order to coordinate the expiration of a consumption and display license with a state permit, all licenses shall expire on March 31 of each year.

(4) *State permit required.* Licenses shall be issued only to holders of a consumption and display permit from the Commissioner.

(5) *Lockers.* A club to which a license is issued under this section may allow members to bring and keep a personal supply of liquor in lockers on the club's premises. All bottles kept on the premises must have attached labels signed by the member. No minor may keep a supply of liquor on club premises.

(6) *Hours and days.* No licensee may permit a person to consume or display liquor, and no person may consume or display liquor, between 1:00 a.m. and 12:00 p.m. on Sundays, and between 1:00 a.m. and 8:00 a.m. on Monday through Saturday.

(C) *State permit required.* It is unlawful for any person or business establishment, directly or indirectly, or upon any pretense or by any device, to allow the consumption or display of liquor, or the serving of any liquid for the purpose of mixing of liquor, without first having obtained a permit therefor from the state. The state permit shall expire on March 31 of each year.

(Ord. 640, passed 9-15-2004) Penalty, see § 113.99

#### § 113.89 NUDITY OR OBSCENITY PROHIBITED.

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

**NUDITY.** Uncovered, or less than opaquely covered, post-pubertal human genitals, pubic areas, the post-pubertal human female breast below a point immediately above the top of the areola, or the covered human male genitals in a discernibly turgid state. For purposes of this definition, a female breast is considered uncovered if the nipple only or the nipple and the areola only are covered.

**OBSCENE PERFORMANCE.** A play, motion picture, dance, show or other presentation, whether pictured, animated or live, performed before an audience and which in whole or in part depicts or reveals nudity, sexual conduct, sexual excitement or sadomasochistic abuse, or which includes obscenities or explicit verbal descriptions or narrative accounts of sexual conduct.

**OBSCENITIES.** Those slang words currently generally rejected for regular use in mixed society, that are used to refer to genitals, female breasts, sexual conduct or excretory functions or products, either that have no other meaning or that in context are clearly used for their bodily, sexual or excretory meaning.

**SADO-MASOCHISTIC ABUSE.** Flagellation or torture by or upon a person who is nude or clad in undergarments or in revealing or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.

## Alcoholic Beverages

**SEXUAL CONDUCT.** Human masturbation, sexual intercourse, or any touching of the genitals, pubic areas or buttocks of the human male or female, or the breasts of the female, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification.

**SEXUAL EXCITEMENT.** The condition of human male or female genitals or the breasts of the female when in a state of sexual stimulation, or the sensual experiences of humans engaging in or witnessing sexual conduct or nudity.

(B) *Unlawful act.* It is unlawful for any person issued a license provided for in this chapter to permit upon licensed premises any nudity, obscene performance, or continued use of obscenities by any agent, employee, patron or other person.

(Ord. 640, passed 9-15-2004) Penalty, see § 113.99

### § 113.99 PENALTY.

(A) Any person who shall violate any provisions of this chapter for which no other penalty is provided shall, upon conviction, be subject to penalties as set forth in § 10.99 of the City Code.

(B) The City Council may impose a civil penalty of up to \$2,000, or suspend for a period not to exceed 60 days, or revoke any alcoholic beverage license, or impose any combination of these sanctions upon finding that the licensee has failed to comply with an applicable state law, regulation, or ordinance relating to liquor. A suspension or revocation does not take effect until the licensee has been afforded an opportunity for a hearing pursuant to M.S. §§ 14.57 - 14.69, as they may be amended from time to time.

(C) The City Council may adopt a resolution establishing a sliding schedule of administrative penalties pursuant to § 10.98.

(Ord. 689, passed 4-7-2010)





## **CHAPTER 114: REFUSE HAULERS**

### Section

- 114.01 License required
- 114.02 Application
- 114.03 Issuance
- 114.04 Vehicles
- 114.05 Insurance
- 114.06 Frequency of collection
- 114.07 Required service
- 114.08 Reports
- 114.09 Arbitration
- 114.10 Emergency
- 114.11 Fees

### **§ 114.01 LICENSE REQUIRED.**

No person shall collect refuse, garbage or waste of any kind for hire without having obtained a license to do so.

(1985 Code, § 602.01) Penalty, see § 10.99

### **§ 114.02 APPLICATION.**

In addition to the information required under § 110.02 above, application for a refuse hauler's license shall list the equipment the applicant proposes to use, the place or places to which each type of refuse will be hauled, and the manner in which the waste will be disposed of.

(1985 Code, § 602.02)

### **§ 114.03 ISSUANCE.**

(A) No license shall be issued unless the Council determines that the applicant is responsible, and that no nuisance is likely to be created by issuing the license.

(B) The Council may, if it deems the public interest will be served thereby, refuse to issue any license, or limit the total number of licenses, or may limit licenses to only parts of the city, or only 1 or more types of waste.  
(1985 Code, § 602.03)

#### **§ 114.04 VEHICLES.**

(A) Every vehicle used for conveying refuse for disposition by licensed collectors or others shall be so constructed, maintained and equipped that the waste cannot leak, spill or escape from the vehicle.

(B) The vehicle shall be kept clean and as free from offensive odors as possible, and shall not be allowed to stand in any street, alley or public place any longer than is reasonably necessary to make collections.

(C) All waste shall be hauled away and disposed of promptly upon its collection.  
(1985 Code, § 602.04) Penalty, see § 10.99

#### **§ 114.05 INSURANCE.**

All licensed refuse collectors shall have and keep in effect public liability insurance and worker's compensation insurance. Insurance policies shall be submitted to the Council for approval as to form and amount before issuance of a license.  
(1985 Code, § 602.05)

#### **§ 114.06 FREQUENCY OF COLLECTION.**

(A) Licensed refuse haulers shall make collections from November 1 to April 30 of the following year at least weekly from residences; daily from hotels, restaurants, boarding houses, lunch rooms and hospitals; and semi-weekly from other business places.

(B) Collection shall be made at least semi-weekly from residences and daily from hotels, restaurants, hospitals, lunch rooms, grocery stores, boarding houses and other business places from May 1 to October 31 of each year.  
(1985 Code, § 602.06)

#### **§ 114.07 REQUIRED SERVICE.**

All licensed refuse haulers shall remove waste from premises not regularly served by them, upon request of the owner or occupant and for a reasonable fee.  
(1985 Code, § 602.07)

## **Refuse Haulers**

### **§ 114.08 REPORTS.**

Each licensed waste collector shall make a report annually to the Council, showing the number of residential collections made, the number of business collections made, the fees charged and other information as the Council may require.

(1985 Code, § 602.08)

### **§ 114.09 ARBITRATION.**

Upon request of the parties, the Council may act as a Board of Arbitration to adjust any dispute regarding charges or service. When arbitration is requested, the Council shall hear both parties and other testimony as is appropriate, and the Council's decision shall be binding on the parties.

(1985 Code, § 602.09)

### **§ 114.10 EMERGENCY.**

In the event of any emergency or unforeseen or extraordinary conditions, the Council may order collection of refuse at times and in a matter as is deemed appropriate. Licensed refuse haulers shall comply with those orders.

(1985 Code, § 602.10) Penalty, see § 10.99

### **§ 114.11 FEES.**

Fees charged by licensed refuse haulers shall be reasonable in light of the service rendered. In the event a refuse hauler discontinues service to a particular premise for non-payment, the refuse hauler shall notify the Chief of Police and the Council, and if the default is by a tenant or occupant other than the owner, the refuse hauler shall also notify the owner.

(1985 Code, § 602.11)



## CHAPTER 115: PAWNBROKERS

### Section

- 115.01 Purpose and intent
- 115.02 Definitions
- 115.03 License and billable transaction fees
- 115.04 Application required
- 115.05 Bond required
- 115.06 Records required
- 115.07 Daily reports to police
- 115.08 Receipt required
- 115.09 Redemption period
- 115.10 Holding period
- 115.11 Inspection of items
- 115.12 Label required
- 115.13 Prohibited acts
- 115.14 Denial, suspension or revocation
- 115.15 Business at only 1 place

### § 115.01 PURPOSE AND INTENT.

(A) The City Council finds that use of services provided by pawnbrokers provides an opportunity for the commission of crimes and their concealment because pawn businesses have the ability to receive and transfer property stolen by others easily and quickly. The City Council also finds that consumer protection regulation is warranted in transactions involving pawnbrokers. The City Council further finds that pawn shop regulation is needed to effectively and efficiently identify potential criminal activity related to pawn shops. The purpose of this section is to prevent pawn businesses from being used as facilities for the commission of crimes, and to assure that businesses comply with basic consumer protection standards, thereby protecting the public health, safety, and general welfare of the citizens of the city.

(B) To help the Police Department better regulate current and future pawn businesses, decrease and stabilize costs associated with the regulation of the pawn industry, and increase identification of criminal activities in the pawn industry through the timely collection and sharing of pawn transaction information, this chapter provides for the implementation and use of the Automated Property System (APS) formerly Automated Pawn System, if the City Council determines it is necessary for the regulation of any current or future pawn business. Notification of implementation to be made to licenses no later than 60 days prior to license renewal.

(Ord. 651, passed 3-21-2007; Am. Ord. 728, passed 6-20-2012)

**§ 115.02 DEFINITIONS.**

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

***BILLABLE TRANSACTION.*** Every reportable transaction conducted by a pawnbroker is a billable transaction except renewals, redemptions or extensions of existing pawns on items previously reported and continuously in the licensee's possession, voided transactions, and confiscations.

***PAWN SHOP.*** The location at which or premises in which a pawn broker regularly conducts business.

***PAWN TRANSACTION.*** 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 pawn broker and may be redeemed or repurchased by the seller or person for a fixed price within a fixed period of time.

***PAWNBROKER.*** Any natural person, partnership or corporation, either as principal, or agent or employee thereof, who loans money on deposit or pledge of personal property, or other valuable thing, or who deals in the purchasing of personal property, or other valuable thing on condition of selling the same back again at a stipulated price, or who loans money secured by chattel mortgage on personal property, taking possession of the property or any part thereof so mortgaged. To the extent that a pawnbroker's business includes buying personal property previously used, rented or leased, or selling it on consignment, the provisions of this section shall be applicable.

***PLEGGED GOODS.*** Tangible personal property other than choses in action, securities, bank drafts, or printed evidence of indebtedness that are purchased by, deposited with, or otherwise actually delivered into the possession of a pawn broker in connection with a pawn transaction.

***REPORTABLE TRANSACTION.*** Every transaction conducted by a pawnbroker in which merchandise is received through a pawn, purchase, consignment or trade, or in which a pawn is renewed, extended or redeemed, or for which a unique transaction number or identifier is generated by their point-of-sale software, or an item is confiscated by law enforcement, is reportable except:

(1) The bulk purchase or consignment of new or used merchandise from a merchant, manufacturer or wholesaler having an established permanent place of business, and the retail sale of the merchandise, provided the pawnbroker must maintain a record of purchase or consignment which describes each item, and must mark each item in a manner which relates it to that transaction record.

(2) Retail and wholesale sales of merchandise originally received by pawn or purchase, and for which all applicable hold and/or redemption periods have expired.

(Ord. 651, passed 3-21-2007)

## **Pawnbrokers**

### **§ 115.03 LICENSE AND BILLABLE TRANSACTION FEES.**

(A) The annual license fees for licenses issued under this chapter shall be set by resolution of the City Council and shall be reviewed and adjusted, if necessary, annually. Licensees shall be notified in writing 30 days before any adjustment is implemented.

(B) The billable transaction fee shall reflect the cost of processing transactions and other related regulatory expenses as determined by the City Council, and shall be reviewed and adjusted, if necessary, annually. Licensees shall be notified in writing 30 days before any adjustment is implemented.

(C) Billable transaction fees shall be billed quarterly and are due and payable within 30 days. Failure to do so is a violation of this chapter.

(Ord. 651, passed 3-21-2007; Am. Ord. 726, passed 6-6-2012) Penalty, see § 10.99

### **§ 115.04 APPLICATION REQUIRED.**

(A) An application form provided by the city must be completed by every applicant for a new license or for renewal of an existing license. Every new applicant must provide all the following information:

(B) If the applicant is a natural person:

(1) The name, place and date of birth, street resident address, and phone number of applicant.

(2) Whether the applicant is a citizen of the United States or resident alien.

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

(4) The name of the business if it is to be conducted under a designation, name, or style other than the name of the applicant and a certified copy of the certificate as required by M.S. § 333.01, as it may be amended from time to time.

(5) The street address at which the applicant has lived during the preceding 5 years.

(6) The type, name and location of every business or occupation in which the applicant has been engaged during the preceding 5 years and the name(s) and address(es) of the applicant's employer(s) and partner(s), if any, for the preceding 5 years.

(7) Whether the applicant has ever been convicted of a felony, crime, or violation of any ordinance other than a traffic ordinance. If so, the applicant must furnish information as to the time, place, and offense of all such convictions.

(8) The physical description of the applicant.

(9) Applicant's current personal financial statement and true copies of the applicant's federal and state tax returns for the 2 years prior to application.

(10) If the applicant does not manage the business, the name of the manager(s) or other person(s) in charge of the business and all information concerning each of them required in subsections (1) through (10).

(C) If the applicant is a partnership:

(1) The name(s) and address(es) of all general and limited partners and all information concerning each general partner required in division (A) of this section.

(2) The name(s) of the managing partner(s) and the interest of each partner in the licensed business.

(3) A true copy of the partnership agreement shall be submitted with the application. If the partnership is required to file a certificate as to a trade name pursuant to M.S. § 333.01, as it may be amended from time to time, a certified copy of the certificate must be attached to the application.

(4) A true copy of the federal and state tax returns for partnership for the 2 years prior to application.

(5) If the applicant does not manage the business, the name of the manager(s) or other person(s) in charge of the business and all information concerning each of them required in subsections (1) through (10) of division (A).

(D) If the applicant is a corporation, limited liability company, or other organization:

(1) The name of the corporation, limited liability company, or business form, and if incorporated, the state of incorporation.

(2) For corporations a copy of the certificate of incorporation, articles of incorporation and by-laws shall be attached to the application. For limited liability companies, a copy of the certificate of organization, articles of organization and operating agreement shall be attached to the application. If the applicant is a foreign corporation, a certificate of authority as required by M.S. § 203.06, as it may be amended from time to time, must be attached.

(3) The name of the officer(s) and manager(s) or other person(s) in charge of the business and all information concerning each manager, proprietor, or agent required in subsections (1) through (10) of division (A).



## **Pawnbrokers**

(4) A list of all persons who control or own an interest in excess of 5% in the organization or business form or who are officers of the corporation or business form and all information concerning the persons required in division (A). This subsection, however, shall not apply to a corporation whose stock is publicly traded on a stock exchange and is applying for a license to be owned and operated by it.



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(E) For all applicants:

(1) Whether the applicant holds a current pawnbroker, precious metal dealer or secondhand goods dealer license from any other governmental unit.

(2) Whether the applicant has previously been denied, or had revoked or suspended, a pawnbroker, precious metal dealer, or secondhand dealer license from any other governmental unit.

(3) The location of the business premises.

(4) If the applicant does not own the business premises, a true and complete copy of the executed lease.

(5) The legal description of the premises to be licensed.

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

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

(8) Such other information as the City Council or issuing authority may require.

(9) When a licensee places a manager in charge of a business, or if the named manager(s) in charge of a licensed business changes, the licensee must complete and submit the appropriate application within 14 days. The application must include all appropriate information required in this section.

(F) Upon completion of an investigation of a new manager, the applicant must pay an amount equal to the cost of the investigation to assure compliance with this chapter. If the investigation process is conducted solely within the state, the fee shall be \$500. If the investigation is conducted outside the state, the issuing authority may recover the actual investigation costs not exceeding \$10,000.

(1) *Application execution.* All applications for a license under this section must be signed and sworn to under oath or affirmation by the applicant. If the application is that of a natural person, it must be signed and sworn to by such person; if that of a corporation or limited liability company, by an officer or manager thereof; if that of a partnership, by 1 of the general partners; and if that of an unincorporated association, by the manager or managing officer thereof.

(2) *Investigation.* The Police Department must investigate the truthfulness of the statements set forth in the application and shall endorse the findings thereon. The applicant must furnish to the Police Department such evidence as the inspector may reasonably require in support of the statements set forth in the application.

(3) *Public hearing.* The Council member may request a public hearing at Council or in the evening hours at a location in the approximate vicinity of the proposed location.

(4) *Persons ineligible for a license.* No licenses under this chapter will be issued to an applicant who is a natural person, a partnership if the applicant has any general partner or managing partner, a corporation or other organization if the applicant has any manager, proprietor or agent in charge of the business to be licensed, if the applicant:

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

(b) Has been convicted of any crime directly related to the occupation licensed as prescribed by M.S. § 364.03, Subd. 2, as it may be amended from time to time, and has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties of a licensee under this chapter as prescribed by M.S. § 364.03, Subd. 3, as it may be amended from time to time; or

(c) Is not of good moral character or repute.

(5) Any change, directly or beneficiary, in the ownership of any licensed pawn shop shall require the application for a new license and the new owner must satisfy all current eligibility requirements.

(6) When a licensee places a manager in charge of the business, or if the named manager in charge of a license business changes, the licensee must complete and submit an appropriate application to the city within 14 days. The application shall include all appropriate information required for a new applicant. The investigation fee for a new manager shall be established from time to time by resolution of the City Council.

(Ord. 651, passed 3-21-2007)

#### **§ 115.05 BOND REQUIRED.**

Before a license will be issued, every applicant must submit a \$5,000 bond on the forms provided by the licensing authority. All bonds must be conditioned that the principal will observe all laws in relation to pawnbrokers, and will conduct business in conformity thereto, and that the principal will account for and deliver to any person legally entitled any goods which have come into the principal's hand through the principal's business as a pawnbroker, or in lieu thereof, will pay the reasonable value in money to the person. The bond shall contain a provision that no bond may be canceled except upon 30 days written notice to the city, which shall be served upon the licensing authority.

(Ord. 651, passed 3-21-2007)

## Pawnbrokers

### § 115.06 RECORDS REQUIRED.

At the time of any reportable transaction other than renewals, extensions, redemptions or confiscations, every licensee must immediately record in English the following information by using ink or other indelible medium on forms or in a computerized record approved by the Police Department:

(A) A complete and accurate description of each item including, but not limited to, any trademark, identification number, serial number, model number, brand name, or other identifying mark on such an item.

(B) The purchase price, amount of money loaned upon, or pledged therefore.

(C) The maturity date of the transaction and the amount due, including monthly and annual interest rates and all pawn fees and charges.

(D) Date, time and place the item of property was received by the licensee, and the unique alpha and/or numeric transaction identifier that distinguishes it from all other transactions in the licensee's records.

(E) Full name, current residence address, current residence telephone number, date of birth and accurate description of the person from whom the item of the property was received, including: sex, height, weight, race, color of eyes and color of hair.

(F) The identification number and state of issue from any of the following forms of identification of the seller:

(1) Current valid Minnesota driver's license.

(2) Current valid Minnesota identification card.

(3) Current valid photo identification card issued by another state or province of Canada.

(G) The signature of the person identified in the transaction.

(H) Effective 60 days from the date of notification by the Police Department of acceptable video standards the licensee must also take a color photograph or color video recording of:

(1) Each customer involved in a billable transaction.

(2) Every item pawned or sold that does not have a unique serial or identification number permanently engraved or affixed.

(3) If a photograph is taken, it must be at least 2 inches in length by 2 inches in width and must be maintained in a manner that the photograph can be readily matched and correlated with all other records of the transaction to which they relate. The photographs must be available to the Chief of Police,

or the Chief's designee, upon request. The major portion of the photograph must include an identifiable facial image of the person who pawned or sold the item. Items photographed must be accurately depicted. The licensee must inform the person that he or she is being photographed by displaying a sign of sufficient size in a conspicuous place in the premises. If a video photograph is taken, the video camera must focus on the person pawning or selling the item so as to include an identifiable image of that person's face. Items photographed by video must be accurately depicted. Video photographs must be electronically referenced by time and date so they can be readily matched and correlated with all other records of the transaction to which they relate. The licensee must inform the person that he or she is being videotaped by displaying a sign of sufficient size in a conspicuous place on the premises. The licensee must keep the exposed videotape for 3 months.

(I) Effective 60 days from the date of notification by the Police Department, licensees must fulfill the color photograph requirements in division (H) by submitting them as digital images, in a format specified by the issuing authority, electronically cross-referenced to the reportable transaction they are associated with. Notwithstanding, the digital images may be captured from required video recordings, this provision does not alter or amend the requirements in division (H).

(J) For renewals, extensions, redemptions and confiscations, the licensee shall provide the original transaction identifier, the date of the current transaction, and the type of transaction.

(K) The records must at all reasonable times be open to inspection by the Police Department or Department of Licenses and Consumer Services. Data entries shall be retained for at least 3 years from the date of transaction. Entries of required digital images shall be retained a minimum of 90 days.

(L) The record or form shall also include the following statements:

(1) "Any personal property pledged to a pawnbroker within this state is subject to sale or disposal when there has been no payment made on the account for a period of not less than 90 days past the date of the pawn transaction, renewal, or extension; no further notice is necessary. There is no obligation for the pledger to redeem pledged goods.";

(2) "The pledger of this item attests that it is not stolen, it has no liens or encumbrances against it, and the pledger has the right to sell or pawn the item.";

(3) "This item is redeemable only by the pledger 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 pledger at the time of the initial transaction and signed by the pledger. Written authorization for release of property to persons other than the original pledger must be maintained along with the original transaction record."; and

(4) A blank line for the pledger's signature.  
(Ord. 651, passed 3-21-2007)

## Pawnbrokers

### § 115.07 DAILY REPORTS TO POLICE.

Effective no later than 60 days after the Police Department provides licensees with the current version of the automated pawn system interchange file specification, licensees must submit every reportable transaction to the Police Department daily in the following manner:

(A) Licensees must provide to the Police Department all reportable transaction information by transferring it from their computer to the automated pawn system via modem using the current version of the automated pawn system interchange file specification. All required records must be transmitted completely and accurately after the close of business each day in accordance with standards and procedures established by the issuing authority. Any transaction that does not meet the automated pawn system interchange file specification must be corrected and resubmitted the next business day. The licensee must display a sign of sufficient size, in a conspicuous place in the premises, which informs patrons that all transactions are reported to the Police Department daily.

(B) Licensees will be charged for each billable transaction reported to the Police Department.

(C) If a licensee is unable to successfully transfer the required reports by modem, the licensee must provide the Police Department, upon request, printed copies of all reportable transactions along with the video tape(s) for that date, by noon the next business day.

(D) If the problem is determined to be in the licensee's system and is not corrected by the close of the first business day following the failure, the licensee must continue to provide the required reports as detailed in this section, and shall be charged \$20 reporting failure penalty, daily, until the error is corrected.

(E) If the problem is determined to be outside the licensee's system, the licensee must continue to provide the required reports in this section, and resubmit all transactions via modem when the error is corrected.

(F) If a licensee is unable to capture, digitize or transmit the photographs required in § 115.06(I), the licensee must immediately take all required photographs with a still camera, cross-reference the photographs to the correct transaction, and make the pictures available to the Police Department upon request.

(G) Regardless of the cause or origin of the technical problems that prevented the licensee from uploading their reportable transactions, upon correction of the problem, the licensee shall upload every reportable transaction from every business day the problem had existed.

(H) Divisions (A) through (C) notwithstanding, the Police Department may, upon presentation of extenuating circumstances, delay the implementation of the daily reporting penalty.  
(Ord. 651, passed 3-21-2007)

**§ 115.08 RECEIPT REQUIRED.**

(A) Every licensee must provide a receipt to the party identified in every reportable transaction and must maintain a duplicate of that receipt for 3 years.

(B) The receipt must include at least the following information:

- (1) The name, address and telephone number of the licensed business.
- (2) The date and time the item was received by the licensee.
- (3) Whether the item was pawned or sold, or the nature of the transaction.
- (4) An accurate description of each item received including, but not limited to, any trademark, identification number, serial number, model number, brand name, or other identifying mark on such an item.
- (5) The signature or unique identifier of the licensee or employee that conducted the transaction.
- (6) The amount advanced or paid.
- (7) The monthly and annual interest rates, including all pawn fees and charges.
- (8) The last regular day of business by which the item must be redeemed by the pledger without risk that the item will be sold, and the amount necessary to redeem the pawned item on that date.
- (9) The full name, current residence address, current residence telephone number, and date of birth of the pledger or seller.
- (10) The identification number and state of issue from any of the following forms of identification of the seller:
  - (a) Current valid Minnesota driver's license.
  - (b) Current valid Minnesota identification card.
  - (c) Current valid photo driver's license or identification card issued by another state or province of Canada.
- (11) Description of the pledger or seller including approximate sex, height, weight, race, color of eyes and color of hair.
- (12) The signature of the pledger or seller.



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(13) All printed statements as required by M.S. § 325J.04 Subd. 2, as it may be amended from time to time, or any other applicable statutes.  
(Ord. 651, passed 3-21-2007)

### § 115.09 REDEMPTION PERIOD.

Any person pledging, pawning or depositing an item for security must have a minimum of 90 days from the date of that transaction to redeem the item before it may be forfeited and sold. During the 90-day holding period, items may not be removed from the licensed location except as provided in § 115.15. Licensees are prohibited from redeeming any item to anyone other than the person to whom the receipt was issued or, to any person identified in a written and notarized authorization to redeem the property identified in the receipt, or to a person identified in writing by the pledger at the time of the initial transaction and signed by the pledger, or with approval of the Chief of Police, or Chief's designee. Written authorization for release of property to persons other than original pledger must be maintained along with original transaction record in accordance with § 115.06(J).  
(Ord. 651, passed 3-21-2007)

### § 115.10 HOLDING PERIOD.

(A) *Generally.* Any item purchased or accepted in trade by a licensee must not be sold or otherwise transferred for 30 days from the date of the transaction. An individual may redeem an item 72 hours after the item was received on deposit, excluding Sundays and legal holidays.

(B) *Police order to hold property.*

(1) *Investigative hold.* Whenever a law enforcement official from any agency notifies a licensee not to sell an item, the item must not be sold or removed from the premises. The investigative hold shall be confirmed in writing by the originating agency within 72 hours and will remain in effect for 15 days from the date of initial notification, or until the investigative order is canceled, or until an order to hold/confiscate is issued, whichever comes first.

(2) *Order to hold.* Whenever the Chief of Police, or the Chief's designee, notifies a licensee not to sell an item, the item must not be sold or removed from the licensed premises until authorized to be released by the Chief or the Chief's designee. The order to hold shall expire 90 days from the date it is placed unless the Chief of Police or the Chief's designee determines the hold is still necessary and notifies the licensee in writing.

(3) *Order to confiscate.* If an item is identified as stolen or evidence in a criminal case, the Chief of Police or Chief's designee may:

(a) Physically confiscate and remove it from the shop, pursuant to a written order from the Chief of Police or the Chief's designee; or

(b) Place the item on hold or extend the hold as provided in this section, and leave it in the shop. When an item is confiscated, the person doing so shall provide identification upon request of the licensee, and shall provide the licensee the name and phone number of the confiscating agency and investigator, and the case number related to the confiscation. When an order to hold/confiscate is no longer necessary, the Chief of Police, or Chief's designee shall so notify the licensee.  
(Ord. 651, passed 3-21-2007)

#### **§ 115.11 INSPECTION OF ITEMS.**

At all times during the terms of the license, the licensee must allow law enforcement officials to enter the premises where the licensed business is located, including all off-site storage facilities as authorized in § 115.15, during normal business hours, except in an emergency, for the purpose of inspecting the premises and inspecting the items, ware and merchandise and records therein to verify compliance with this chapter or other applicable laws.  
(Ord. 651, passed 3-21-2007)

#### **§ 115.12 LABEL REQUIRED.**

Licensees must attach a label to every item at the time it is pawned, purchased or received in inventory from any reportable transaction. Permanently recorded on this label must be the number or name that identifies the transaction in the shop's records, the transaction date, the name of the item and the description or the model and serial number of the item as reported to the Police Department, whichever is applicable, and the date the item is out of pawn or can be sold, if applicable. Labels shall not be re-used.  
(Ord. 651, passed 3-21-2007)

#### **§ 115.13 PROHIBITED ACTS.**

(A) No person under the age of 18 years may pawn or sell or attempt to pawn or sell goods with any licensee, nor may any licensee receive any goods from a person under the age of 18 years.

(B) No licensee may receive any goods from a person of unsound mind or an intoxicated person.

(C) No licensee may receive any goods, unless the seller presents identification in the form of a valid driver's license, a valid state identification card, or current valid photo driver's license or identification card issued by the state or providence of residency of the person from whom the item was received.

(D) No licensee may receive any item of property that possesses an altered or obliterated serial number or operation identification number or any item of property that has had its serial number removed.

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(E) No person may pawn, pledge, sell, consign, leave, or deposit any article of property not his or her own; nor shall any person pawn, pledge, sell, consign, leave, or deposit the property of another, whether with permission or without; nor shall any person pawn, pledge, sell, consign, leave, or deposit any article of property in which another has a security interest; with any licensee.

(F) No person seeking to pawn, pledge, sell, consign, leave, or deposit any article of property with any licensee shall give a false or fictitious name; nor give a false date of birth; nor give a false or out of date address of residence or telephone number; nor present a false or altered identification, or the identification of another; to any licensee.

(Ord. 651, passed 3-21-2007) Penalty, see § 10.99

### **§ 115.14 DENIAL, SUSPENSION OR REVOCATION.**

Any license under this chapter may be denied, suspended or revoked for 1 or more of the following reasons:

(A) The proposed use does not comply with the any applicable zoning code.

(B) The proposed use does not comply with any health, building, building maintenance or other provisions of this code of ordinances or state law.

(C) The applicant or licensee has failed to comply with 1 or more provisions of this section.

(D) The applicant is not a citizen of the United States or a resident alien, or upon whom it is impractical or impossible to conduct a background or financial investigation due to the unavailability of information.

(E) Fraud, misrepresentation or bribery in securing or renewing a license.

(F) Fraud, misrepresentation or false statements made in the application and investigation for, or in the course of, the applicant's business.

(G) Violation within the preceding 5 years, of any law relating to theft, damage or trespass to property, sale of a controlled substance, or operation of a business.

(H) The owner of the premises licensed or to be licensed would not qualify for a license under the terms of this section.

(Ord. 651, passed 3-21-2007)

### **§ 115.15 BUSINESS AT ONLY 1 PLACE.**

A license under this chapter authorizes the licensee to carry on its business only at the permanent place of business designated in the license. However, upon written request, the Chief of Police, or

Chief's designee, may approve an off-site locked and secured storage facility. The licensee shall permit inspection of the facility in accordance with § 115.11. All provisions of this chapter regarding record keeping and reporting apply to the facility and its contents. Property shall be stored in compliance with all provisions of the city code. The licensee must either own the building in which the business is conducted, and any approved off-site storage facility, or have a lease on the business premise that extends for more than 6 months.

(Ord. 651, passed 3-21-2007)

## CHAPTER 116: TAXICABS

### Section

- 116.01 License required
- 116.02 Application
- 116.03 Insurance
- 116.04 Driver's license
- 116.05 Inspection

### **§ 116.01 LICENSE REQUIRED.**

No person shall operate or cause to be operated upon the public streets of the city any motor vehicle for hire, without first obtaining a license to do so.

(1985 Code, § 607.01) Penalty, see § 10.99

### **§ 116.02 APPLICATION.**

In addition to the information required under § 110.02, each application shall state the type, make and body style and year of each car proposed to be operated as a taxicab or auto delivery.

(1985 Code, § 607.02)

### **§ 116.03 INSURANCE.**

(A) Each application shall be accompanied by proof of public liability insurance providing coverage against loss by accident to any passenger or other person injured through the negligence of the driver or owner of the vehicle.

(B) The insurance policy shall be issued by an insurance company licensed to do business in Minnesota and shall provide minimum limits of \$100,000 per person and \$300,000 per occurrence for injuries to persons and \$50,000 for damage to property.

(C) The term of the policy shall be at least as long as the term of the license.

(1985 Code, § 607.03)

**§ 116.04 DRIVER'S LICENSE.**

No person shall operate a taxicab unless he or she possess the appropriate class of Minnesota driver's license.

(1985 Code, § 607.04) Penalty, see § 10.99

**§ 116.05 INSPECTION.**

(A) Each application shall be accompanied by a certificate signed by a reputable mechanic established in the automobile maintenance and repair business, attesting that he or she has examined the brakes and principal mechanical operating parts of each taxicab listed in the application, and found them to be in safe operating condition.

(B) The Council may require that a succeeding inspection required for renewal of the license be performed by a mechanic other than the one providing the previous certificate.

(C) The Council may require that a succeeding inspection required for renewal of the license be performed by a mechanic other than the one providing the previous certificate. The Council may, at its discretion, designate the mechanic to perform the inspection.

(1985 Code, § 607.05)

## CHAPTER 117: TRANSIENT MERCHANTS, PEDDLERS AND SOLICITORS

### Section

- 117.01 Definitions
- 117.02 License required
- 117.03 Ineligibility for license
- 117.04 Suspension and revocation
- 117.05 Registration
- 117.06 Prohibited activities
- 117.07 Exclusion by placard
- 117.08 Exemptions
  
- 117.99 Penalty

### § 117.01 DEFINITIONS.

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

**PEDDLER.** A person who goes from house to house, door to door, business to business, street to street or any type of place to place, for the purpose of offering for sale, displaying or exposing for sale, selling or attempting to sell, and delivering immediately upon sale, the goods, wares, products, merchandise or other personal property that the person is carrying or otherwise transporting. The term **PEDDLER** shall mean the same as the term **HAWKER**.

**PERSON.** Any individual, group, organization, corporation, partnership, association or other entity.

**REGULAR BUSINESS DAY.** Any day during which the City Administration Office is normally open for the purpose of conducting public business. Holidays defined by state law shall not be counted as **REGULAR BUSINESS DAYS**.

**SOLICITOR.** A person who goes from house to house, door to door, business to business, street to street or any other type of place to place, for the purpose of obtaining or attempting to obtain orders for goods, wares, products, merchandise, other personal property or services, of which he or she may be carrying or transporting samples, or that may be described in a catalog or by other means, and for which

delivery or performance shall occur at a later time. The absence of samples or catalogs shall not remove a person from the scope of this provision if the actual purpose of the person's activity is to obtain or attempt to obtain orders as discussed above. The term shall mean the same as the term *CANVASSER*.

***TRANSIENT MERCHANT.*** Any person selling, or attempting to sell or dispense any goods, products or merchandise, either as principal or agent from a building or lot which he or she occupies as a tenant or under a lease for a shorter term than 6 months, or from a railroad car, truck, trailer, tent, portable trailer, empty store front or vehicle who do not remain or intend to remain in any 1 location for more than 14 consecutive days.

(Ord. 680, passed 10-7-2009)

### **§ 117.02 LICENSE REQUIRED.**

(A) *License required.* No transient merchant, solicitor or peddler shall sell or offer for sale any good, product, merchandise, service or attempt to do any business in this city without obtaining a license from the city as required by M.S. § 329, as it may be amended from time to time, and its amendments.

(B) *Application for license.* Application for a license shall be made to the City Administrator at least 14 days before the applicant desires to conduct business on a form the city provides stating:

- (1) The name of the applicant and all persons associated with him or her in that business;
- (2) The type of business for which the license is desired;
- (3) In the case of transient merchants, the place where the business is to be carried on and written permission of the property owner or property owner's agent;
- (4) The length of time for which the license is desired;
- (5) A general description of the thing or things to be sold;
- (6) Address and telephone number of applicant's permanent residence;
- (7) The applicant's driver's license number or other acceptable form of identification;
- (8) Proof of any county license if needed;
- (9) The applicant's present place of business along with its address and telephone number;
- (10) The applicant's places of residence for the last 5 years;



## **Transient Merchants, Peddlers and Solicitors**

(11) A statement as to whether or not the applicant has been convicted within the last 5 years of any felony, gross misdemeanor or misdemeanor for violation of any state or federal statute or any local ordinance, other than traffic offenses;

(12) A list of the 3 most recent locations where the applicant has conducted business as a peddler or transient merchant; and

(13) Any other information the city requires.

(C) *Fees.* All applications for a license under this chapter shall be accompanied by the fee established by City Council resolution.

(D) *Procedure.* Upon receipt of the completed application and payment of the license fee, the City Administrator, within 2 regular business days of receipt, shall determine if the application is complete and shall inform the applicant of any necessary information which is missing. If the City Administrator determines that the application is incomplete, the City Administrator must inform the applicant of the required necessary information that is missing. If the application is complete, the City Administrator must order any investigation, including background checks, necessary to verify the information provided with the application. Within 20 regular business days of receiving a complete application, the City Administrator must issue the license unless grounds exist for denying the license under § 117.03, in which case the City Administrator must deny the license. If the City Administrator denies the license, the applicant must be notified in writing of the decision, the reason for denial and of the applicant's right to appeal the denial by requesting, within 20 days of receiving notice of rejection, a public hearing before the City Council. The City Council shall hear the appeal within 20 days of the date of the request. The decision of the City Council following the public hearing can be appealed to District Court.

(E) *Duration.* Each license shall be valid only for the period specified in the license and no license may extend beyond December 31 of each year.

(F) *License not transferable.* Licenses issued under this chapter shall be nontransferable. No refunds shall be made on unused portions of licenses except upon resolution of the Council. Each person engaged in the business of vending or peddling goods shall secure a separate license.

(G) *License to be carried.* All licenses issued under this chapter shall be carried by the licensee or conspicuously posted in his or her place of business, and the licensee shall, whenever requested, show the license to any officer or citizen who demands to see the license.

(Ord. 680, passed 10-7-2009)

### **§ 117.03 INELIGIBILITY FOR LICENSE.**

The following shall be grounds for denying a license under this chapter.

(A) The failure of the applicant to obtain and show proof of having obtained any required county license.

(B) The failure of the applicant to truthfully provide any of the information requested by the city as a part of the application, the failure to sign the application or the failure to pay the required fee at the time of the application.

(C) The conviction of the applicant within the past 5 years from the date of application for any violation of any federal or state statute or regulation, or of any local ordinance, which adversely reflects on the person's ability to conduct the business for which the license is being sought in an honest and legal manner or that will not adversely affect the health, safety and welfare of the residents of the city. Such violations shall include, but not be limited, to: burglary, theft, larceny, swindling, fraud, unlawful business practices and any form of actual or threatened physical harm against another person.

(D) The revocation within the past 5 years of any license issued to the applicant for the purpose of conducting business as a peddler, solicitor or transient merchant.

(E) The applicant is determined to have a bad business reputation. Evidence of a bad business reputation shall include, but not be limited to, the existence of more than 3 complaint(s) against the applicant with the Better Business Bureau, the Attorney General's Office or other similar business or consumer rights office or agency, within the preceding 12 months, or 5 such complaints filed against the applicant.

(Ord. 680, passed 10-7-2009)

#### **§ 117.04 SUSPENSION AND REVOCATION.**

(A) *Generally.* The City Council may suspend or revoke in its discretion any license issued under this section for violation of any of the following:

- (1) Fraud, misrepresentation or incorrect statements on the application form;
- (2) Fraud, misrepresentation or false statements made during the course of the licensed activity;
- (3) Conviction of any offense for which granting of a license could have been denied under § 117.03; and
- (4) Violation of any provision of this chapter.

(B) *Multiple persons under 1 license.* The suspension or revocation of any license issued for the purpose of authorizing multiple persons to conduct business as peddlers or transient merchants on behalf of the licensee, shall serve as a suspension or revocation of each such authorized person's authority to conduct business as a peddler or transient merchant on behalf of the licensee whose license is suspended or revoked.

## **Transient Merchants, Peddlers and Solicitors**

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

(D) *Public hearing.* Upon receiving the notice provided in this section, the licensee shall have the right to request a public hearing. If no request for a hearing is received by the City Administrator within 10 regular business days following the service of the notice, the city may proceed with the suspension or revocation. For the purpose of mailed notices, service shall be considered complete as of the date the notice is placed in the mail. If a public hearing is requested within the stated time frame, a hearing shall be scheduled within 20 days from the date of the request. Within 3 regular business days of the hearing, the City Council shall notify the licensee of its decision.

(E) *Emergency.* If in the discretion of the City Council, imminent harm to the health or safety of the public may occur because of the actions of a peddler or transient merchant licensed under this chapter, the Council may immediately suspend the person's license and provide notice of the right to hold a subsequent public hearing as prescribed in this section.

(F) *Appeals.* Any person whose license is suspended or revoked under this section shall have the right to appeal that decision in Court.  
(Ord. 680, passed 10-7-2009)

### **§ 117.05 REGISTRATION.**

All solicitors, and any person exempt from the licensing requirements of this chapter under § 117.08, shall be required to register with the city. Registration shall be made on the same form required for a license application, but no fee shall be required. Immediately upon completion of the registration form, the City Administrator shall issue to the registrant a Certificate of Registration as proof of the registration. Certificates of Registration shall be nontransferable.  
(Ord. 680, passed 10-7-2009)

### **§ 117.06 PROHIBITED ACTIVITIES.**

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

(A) Calling attention to his or her business or items to be sold by means of blowing any horn or whistle, ringing any bell, crying out or by any other noise so as to be unreasonably audible within an enclosed structure;

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

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

(D) Conducting business before 7:00 a.m. or after 9:00 p.m.;

(E) Failing to provide proof of license or registration, and identification, when requested; or using the license or registration of another person;

(F) Making any false or misleading statements about the product or service being sold, including untrue statements of endorsement. No peddler, solicitor or transient merchant shall claim to have the endorsement of the city solely based on the city having issued a license or certificate of registration to that person; and

(G) Remaining on the property of another when requested to leave, or to otherwise conduct business in a manner a reasonable person would find obscene, threatening, intimidating or abusive. (Ord. 680, passed 10-7-2009)

#### **§ 117.07 EXCLUSION BY PLACARD.**

No peddler, solicitor or transient merchant, unless invited to do so by the property owner or tenant, shall enter the property of another for the purpose of conducting business as a peddler, solicitor or transient merchant when the property is marked with a sign or placard at least 3-3/4 inches long and 3-3/4 inches wide with print of at least 48 point in size stating "No Peddlers, Solicitors or Transient Merchants," "Peddlers, Solicitors and Transient Merchants Prohibited" or other comparable statement. No person other than the property owner or tenant shall remove, deface or otherwise tamper with any sign or placard under this section. (Ord. 680, passed 10-7-2009)

#### **§ 117.08 EXEMPTIONS.**

This chapter shall not apply to:

(A) Sales under court order;

(B) Any bona fide auction sale;

(C) A sale at wholesale to a retailer dealer;

## **Transient Merchants, Peddlers and Solicitors**

(D) Sale of farm or garden products by the person producing them;

(E) Any person conducting the type of sales commonly know as garage sales, rummage sales or estate sales;

(F) Any person participating in an organized multi-person bazaar or flea market;

(G) Any person selling or attempting to sell any goods, products or merchandise or personal property at wholesale to a retailer of the items being sold;

(H) Any person who makes initial contacts with others to establish a regular customer delivery route for perishable goods and dairy products or anyone delivering the same;

(I) Any persons engaging in door to door advocacy including door-to-door canvassing and pamphleteering on vehicles for the dissemination of religious, political and other ideas; or

(J) Any person exercising their State and related Constitutional rights, unless it is incidental to a criminal activity.

(Ord. 680, passed 10-7-2009)

### **§ 117.99 PENALTY.**

Any violation of this chapter shall be a petty misdemeanor upon the first offense and a misdemeanor upon the second and subsequent convictions. Each day a violation exists shall be a separate violation.

(Ord. 680, passed 10-7-2009)



## CHAPTER 118: BUSINESS REGISTRATION PROGRAM

### Section

- 118.01 Purpose
- 118.02 Definitions
- 118.03 Business registration requirement
- 118.04 Exceptions from business registration
- 118.05 Fee required
- 118.06 Application procedures
- 118.07 Contents of business registration certificate
- 118.08 Refunds
- 118.09 Rules and regulations
  
- 118.99 Penalties and remedies

### § 118.01 PURPOSE.

The purpose of this chapter is to establish a regulatory mechanism to maintain an accurate record of businesses conducting business in the city in order (1) to develop recommendations on land uses; (2) to better coordinate transportation programs; (3) to assist in zoning compliance and; (4) to gather statistical information for other city purposes. This chapter is not intended to apply to home-based or transitory businesses.

(Ord. 762, passed 11-18-2015)

### § 118.02 DEFINITIONS.

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

**BUSINESS.** Any commercial enterprise, trade, calling, vocation, profession, occupation, or means of livelihood, whether or not carried on for gain or profit.

**BUSINESS REGISTRATION CERTIFICATE.** A written statement issued by the city to a business owner as evidence of registering a business in the city.

**FIXED PLACE OF BUSINESS.** A place of business located in the city boundaries and occupied for the particular purpose of conducting business.

**HOME BASED BUSINESS.** A home occupation as defined in § 156.013.

**PERSON.** Means and includes any business owner, individual, firm, co-partnership, joint venture, association, corporation, estate, business trust, or any other group or combination acting as a unit.

**TRANSITORY BUSINESS.** A business that is carried on for a short duration (such as pumpkin sales, special events, and filming) or a business that does not have a fixed place of business within the city (such as landscaping or construction contractors based in other cities).  
(Ord. 762, passed 11-18-2015)

### **§ 118.03 BUSINESS REGISTRATION REQUIREMENT.**

(A) No person shall conduct any new business in a fixed place of business without first having obtained a business registration certificate, paid the applicable business registration fee and complied with all applicable provisions of this chapter.

(B) The issuance of a business registration certificate under this chapter shall not excuse the business from complying with other applicable code requirements.

(C) A business registration certificate shall not be transferable.  
(Ord. 762, passed 11-18-2015)

### **§ 118.04 EXEMPTIONS FROM BUSINESS REGISTRATION.**

The following types of businesses are exempt from this chapter:

(A) Home-based business; and

(B) Transitory business.  
(Ord. 762, passed 11-18-2015)

### **§ 118.05 FEE REQUIRED.**

(A) Every person engaging in a new business in the city shall pay a business registration fee as prescribed by resolution adopted by the City Council.

(B) The business registration fee is not a revenue raising device, but shall bear a reasonable relationship to the service to be performed by the city and the costs incurred by the city in reviewing, processing and acting upon the application.



## **Business Registration Program**

(C) The City Council shall, from time to time, review the resolution amending the business registration fee and may revoke, modify, adjust, add or determine any amount or rate of such business registration fee.

(D) Businesses in existence at the time of enactment of this chapter are exempt.  
(Ord. 762, passed 11-18-2015)

### **§ 118.06 APPLICATION PROCEDURES.**

Every person operating a new business in the city shall apply to obtain a business registration certificate on a form prescribed by the city. Upon receipt of a completed application and any fee required, the city shall process the application and issue a business registration certificate. The application may be reviewed by other city departments or governmental agencies to determine if the business premises to be occupied meet the requirements of the city code, federal, state, and local laws.  
(Ord. 762, passed 11-18-2015)

### **§ 118.07 CONTENTS OF BUSINESS REGISTRATION CERTIFICATE.**

(A) Upon receipt of a completed application and payment of the prescribed business registration fee, the city shall issue to the applicant a business registration certificate which shall contain the following:

- (1) Name of business;
- (2) Business location;
- (3) Certificate number;
- (4) Such other information as deemed necessary by the city; and
- (5) Certificate shall expire when the business relocates or no longer exists.

(B) A separate certificate shall be obtained for each and every branch establishment or separate place of business in which a business is carried on.  
(Ord. 762, passed 11-18-2015)

### **§ 118.08 REFUNDS.**

No business registration fees or penalties collected shall be refundable.  
(Ord. 762, passed 11-18-2015)

**§ 118.09 RULES AND REGULATIONS.**

The City Administrator may adopt rules and regulations from time to time to implement this chapter. Implementing rules and regulations shall not be inconsistent with the provisions of this chapter.

(Ord. 762, passed 11-18-2015)

**§ 118.99 PENALTIES AND REMEDIES.**

(A) *Penalties for non-compliance.* Any person engaging in a new business in the city that fails to secure a business registration certificate before commencing business in the city shall pay a penalty, in addition to the amount of the license fee. Said penalty will be in an amount to be determined by ordinance or resolution.

(B) *Action to collect.* If a business fails to comply with the fee requirements of this section, the city may refer the matter to a collection agency and/or the City Attorney may file a civil action against any business. Notwithstanding division (A) of this section, should court action be required to collect any business registration fee and/or penalties, an additional penalty shall be charged equal to the cost incurred by the city for court action, including, but not limited to, reasonable attorney fees. All penalties shall be added to the business registration fee and shall become due and payable along with the delinquent business registration fee.

(C) *Remedies cumulative.* All remedies prescribed under this chapter shall be cumulative and the use of one or more remedies by the city shall not bar the use of any other remedy for the purpose of enforcing the provisions of this chapter.

(Ord. 762, passed 11-18-2015)

**TITLE XIII: GENERAL OFFENSES**

Chapter

**130.GENERAL OFFENSES**

**131.FIREARMS AND DANGEROUS WEAPONS**

**132.CURFEW**



## CHAPTER 130: GENERAL OFFENSES

Section

### *Generally*

130.01 Urinating or defecating in public

### *Public Indecency*

130.15 Purpose

130.16 Definitions

130.17 Public indecency

130.18 Indecent exposure

### *Graffiti*

130.30 Purpose

130.31 Definitions

130.32 Prohibited act

130.33 Removal of graffiti

130.34 Abatement and cost recovery proceedings

130.35 Graffiti abatement civil in nature

130.99 Penalty

### *GENERALLY*

#### **§ 130.01 URINATING OR DEFECATING IN PUBLIC.**

(A) *Purpose.* The purpose and governmental interest in enacting this section is to prohibit the acts of urinating or defecating in public places and to protect public morals and societal order, and to eliminate crime associated with the activities banned by this section.

(B) *Urinating in public.* No person shall knowingly and intentionally urinate or defecate on or into any street, sidewalk, lane, alley, parking lot or any other public ground, or upon any private ground exclusive of structures containing toilet facilities within the city.  
(Ord. 658, passed 7-5-2007) Penalty, see § 130.99

### ***PUBLIC INDECENCY***

#### **§ 130.15 PURPOSE.**

The purpose and governmental interest in enacting this chapter is to ban public nudity, to protect public morals and societal order and to eliminate crime associated with the activities banned by this chapter.  
(1985 Code, § 509.01)

#### **§ 130.16 DEFINITIONS.**

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

***NUDITY.*** The showing of the human male or female genitals, pubic area or buttocks with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple or the showing of covered male genitals in a discernible turgid state.

#### ***PUBLIC PLACE.***

(1) Any location frequented by the public, or where the public is present or likely to be present, or where a person may reasonably be expected to be observed by members of the public.

(2) Public places include, but are not limited to, streets, sidewalks, parks, beaches, business and commercial establishments (whether for profit or not-for-profit and whether open to the public at large or where entrance is limited by a cover charge or membership requirement), bottle clubs, hotels, motels, restaurants, night clubs, country clubs, cabarets and meeting facilities utilized by any religious, social, fraternal or similar organizations.

(3) Premises used solely as a private residence whether permanent or temporary in nature shall not be deemed a public place.

(4) ***PUBLIC PLACE*** shall not include enclosed single sex public restrooms, enclosed single sex functional showers, locker and/or dressing room facilities, enclosed motel rooms and hotel rooms designed and intended for sleeping accommodations, doctors' offices, portions of hospitals and similar

places in which nudity or exposure is necessarily and customarily expected outside of the home and sphere of privacy constitutionally protected therein.  
(1985 Code, § 509.02)

**§ 130.17 PUBLIC INDECENCY.**

(A) A person who knowingly and intentionally does any of the following in a public place commits the crime of public indecency:

- (1) Engages in sexual intercourse;
- (2) Engages in deviate sexual conduct;
- (3) Fondles the genitals of himself or herself or another person; or
- (4) Appears in a state of nudity.

(B) A person who knowingly and intentionally, in a public place, appears in a state of nudity commits the crime of public indecency.  
(1985 Code, § 509.03) Penalty, see § 130.99

**§ 130.18 INDECENT EXPOSURE.**

A person who, in a place other than a public place does any of the following, with the intent to be seen by persons other than invitees and occupants of that place where he or she can be seen by persons other than invitees or occupants of that place, commits the crime of indecent exposure:

- (A) Engages in sexual intercourse;
- (B) Engages in deviant sexual behavior;
- (C) Fondles the genitals of himself or herself or another person; or

(D) Appears in a state of nudity;  
(1985 Code, § 509.04) Penalty, see § 130.99

***GRAFFITI*****§ 130.30 PURPOSE.**

(A) The City Council, pursuant to its police powers, hereby enacts this subchapter to help and prevent the spread of graffiti vandalism and to establish a program for the removal of graffiti from public and private property within the city. The city finds that graffiti vandalism is a serious concern and has an adverse affect on the safety, morals and general welfare of the residents of the city and that graffiti vandalism contributes to the spread of gang activity, violence, crime and the deterioration of neighborhoods and that prompt eradication of graffiti vandalism is necessary to promote the public health, safety, morals and general welfare of the residents of the city of.

(B) The City Council further finds that graffiti creates a condition of blight which can result in the deterioration of property values and is consistent with the city's property maintenance goals and esthetic standards. In addition, unless graffiti is quickly removed, other property soon becomes the targets of graffiti.

(C) The City Council hereby declares its intention to minimize and to quickly remove graffiti to limit its adverse impact on city youth and neighborhoods. Graffiti is hereby declared to be a public nuisance and a public health and safety hazard for purposes of M.S. § 429.101, Subd 1(c), as it may be amended from time to time.  
(Ord. 659, passed 7-5-2007)

**§ 130.31 DEFINITIONS.**

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

***GRAFFITI.*** Any un-authorized inscription, word, figure, painting or other defacement that is written, marked, etched, scratched, sprayed, drawn, painted or engraved on or otherwise affixed to any surface of a structure, fixture or object, including but not limited to: buildings, walls, fences, bridges, benches, shelters, sidewalks, hydrants, fountains, pavement, curbs, trees, rocks, signs, railroad cars, vehicles, utility poles or boxes situated on public or private property by any graffiti implement to the extent that the inscription, word, figure, painting or other defacement was not authorized in advance by the owner or the responsible party for the property or, despite advanced authorization is otherwise deemed a public nuisance by the City Council, or the designee thereof.

***GRAFFITI IMPLEMENT.*** An aerosol paint container, a broad tipped marker, gum label, paint stick, graffiti stick, etching equipment, brush or any other device capable of scarring or leaving a visible mark on any natural or hand made surface.

***PUBLIC NUISANCE.*** Any real property within the city containing a condition that defaces it or any permanent structure, fixture, or object situated thereon which in turn causes or tends to cause



depreciation in the enjoyment and use, or in the value of the property and its immediate vicinity or which has the potential to unreasonably annoy, injure or endanger the safety, health, morals or general welfare of ordinary and reasonable members of the public.

**OWNER, PROPERTY OWNER or RESPONSIBLE PARTY.** An owner, legal occupant or an entity or person acting as an agent for an owner by agreement, who has authority over the real property or is responsible for the property's maintenance or management. Irrespective of any arrangement to the contrary with any other party, each property owner shall always be a responsible party for the purposes of this chapter. There may be more than one responsible party for a particular property.  
(Ord. 659, passed 7-5-2007)

### § 130.32 PROHIBITED ACT.

It shall be unlawful for any person to apply graffiti to any natural or man-made surface on any city owned property, or, without the permission of a property owner or responsible party, on any noncity-owned property.

(Ord. 659, passed 7-5-2007) Penalty, see § 130.99

### § 130.33 REMOVAL OF GRAFFITI.

(A) *Removal by the perpetrator.* Any person applying graffiti on public or private property shall have the duty to remove the graffiti within 24 hours after notice by the city or private owner of the property involved. The removal shall be done in a manner prescribed by the Chief of Police, the Director of the Department of Public Works or any additional city department head as authorized by the City Council. Any person applying graffiti shall be responsible for the removal or for the payment of the removal. Failure of any person to remove graffiti or pay for the removal shall constitute an additional violation of this subchapter. Where graffiti is applied by an unemancipated minor, the parents or legal guardians shall also be responsible for removal or for the payment for the removal.

(B) *Removal by property owner or responsible party.* In lieu of the procedure set forth in division (A), the city may order that the graffiti be removed by the property owner and/or responsible party or any person who may be in possession, or who has the right to possess the property pursuant to the nuisance abatement procedures herein. It shall be unlawful for any person to permit property that is defaced with graffiti to remain defaced for a period of 10 days after service by first class mail of notice of the defacement. The notice shall contain the following information:

(1) The street address and legal description of the property sufficient for identification of the property;

(2) A statement that the property is a potential graffiti nuisance property within a concise description of the conditions leading to the findings;

(3) A statement that the graffiti must be removed within 10 days after receipt of the notice and that if the graffiti is not abated within that time the city will declare the property to be a public nuisance subject to the abatement procedures herein set forth; and

(4) An information sheet identifying any graffiti removal assistance programs available through the city or private graffiti removal contractors.

(C) *Exceptions to property owner responsibility.* The removal requirements above shall not apply if the property owner or responsible party can demonstrate that:

(1) The property owner or responsible party lacks the financial ability to remove the defacing graffiti; or

(2) The property owner or responsible party has an active program for the removal of graffiti and has scheduled the removal of the graffiti as part of that program, in which case it shall be unlawful to permit the property to remain defaced with graffiti for a period of 15 days after service by first class mail of notice of defacement.

(D) *Right of city to remove.* Prior to entering upon private property or property owned by a public entity other than the city for the purpose of graffiti removal, the city shall attempt to secure the consent of the property owner or responsible party and a release of the city from liability for property damage or personal injury. If the property owner or responsible party fails to remove the offending graffiti within the time specified by this subchapter, or if the city has requested consent to remove or paint over the offending graffiti and the property owner or responsible party has refused consent for entry on terms acceptable to the city and consistent with the terms of this chapter, the city shall commence abatement and cost recovery proceedings for the graffiti removal according to the provisions specified below. (Ord. 659, passed 7-5-2007)

### **§ 130.34 ABATEMENT AND COST RECOVERY PROCEEDINGS.**

(A) *Notice of hearing.* The City Administrator or designee, serving as a hearing officer, shall provide the property owner or the responsible party for the maintenance of the property, if a person different from the owner, not less than 48 hours notice of the city's intent to hold a due process hearing at which the property owner or responsible party shall be entitled to present evidence and argue that the property does not constitute a public nuisance. Notice shall be served in the same manner as a summons in a civil action. If the owner of record cannot be found after a diligent search, the notice may be served by posting a copy thereof, in a conspicuous place upon the property for a period of 10 days and publication thereof in the official newspaper of the city.

(B) *Determination of hearing officer.* A determination of the hearing officer after the due process hearing shall be final and non appealable. If, after the hearing, regardless of the attendance of the owner or the responsible party or their respective agents, the hearing officer determines that the property contains graffiti viewable from a public or quasi-public place, the hearing officer shall give written notice in an eradication order that, unless the graffiti is removed within 10 days, the city shall enter upon the

property, cause the removal, painting over or such other eradication thereof, as the hearing officer determines appropriate, and shall provide the owner and/or responsible party thereafter within an accounting of the costs of the eradication effort on a full cost recovery basis.

(C) *Irradication effort.* Not sooner than the time specified in the order of the hearing officer, the City Administrator or his/her designee shall implement the eradication order and shall provide an accounting to the owner or the responsible party of the costs thereof.

(D) *Cost hearing.*

(1) The owner or responsible party may request a cost hearing before the hearing officer on the eradication accounting and appropriate due process must be extended to the owner or responsible party. If following the cost hearing, or if no hearing is requested, after the implementation of the eradication order, the hearing officer determines that all or a portion of the costs are appropriately chargeable to the eradication effort, the total amount set forth in the eradication accounting, or in amount thereof determined as appropriate by the hearing officer, shall be due and payable by the owner or responsible party within 30 days. Any amount of the eradication charges assessed by the hearing officer that are less than the total amount set forth in the eradication accounting shall be explained by written letter by the hearing officer to the City Council.

(2) The total cost of the abatement process, including any administrative costs incurred by the city in processing the abatement, and costs incurred by the Police Department in investigating the graffiti shall constitute a tax on the subject real estate. This tax may be assessed against the affected property and collected as provided in M.S. § 429.101, as it may be amended from time to time.

(E) *Restitution.* In the event the person or persons responsible for the graffiti are charged and convicted and the court orders the offenders to pay restitution for the costs of the clean up, and either the city or a property owner has expended funds to clean up the graffiti, the restitution shall be directed to either the city or the private property owner as reimbursement for the cost of the clean up.  
(Ord. 659, passed 7-5-2007)

### **§ 130.35 GRAFFITI ABATEMENT CIVIL IN NATURE.**

A violation of §§ 130.33 and 130.34 relating to the abatement of graffiti shall not be treated as misdemeanors nor shall they be criminal in nature.  
(Ord. 659, passed 7-5-2007)

**§ 130.99 PENALTY.**

Any person violating any provision of this chapter is guilty of a misdemeanor and upon conviction shall be punished not more than the maximum penalty for a misdemeanor as prescribed by the statutes of the State of Minnesota.

(1985 Code, § 509.05) Penalty, see § 10.99

## CHAPTER 131: FIREARMS AND DANGEROUS WEAPONS

### Section

- 131.01 Definitions
- 131.02 Discharge of firearms
- 131.03 Prohibition against dangerous weapons
- 131.04 Seizure and confiscation
- 131.05 Exceptions

### § 131.01 DEFINITIONS.

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

***CONCEALED WEAPON OR FIREARM.*** Whenever the fact that a person is carrying a firearm or weapon is not readily ascertainable upon observing the person.

***DANGEROUS WEAPON.*** Dangerous weapon shall include, but shall not be limited to, clubs, black-jacks, spring guns, brass or metal knuckles, daggers, dirks, bowie knives, razors, throwing stars, nun chaku or any knife with a switch blade which opens automatically under spring pressure with a button or release mechanism or by any other mechanical contrivance.

***FIREARMS.*** Firearms shall include, any gun, pistol, revolver, shot-gun, rifle, wrist rocket, sling shot, air rifle, air gun, B-B gun, spring gun, stun gun, potato gun or any similar device for the propulsion of shot, metal pellets or other projectile by whatever means, and any other dangerous or deadly weapon or instrument.

(Am. Ord. 578, passed 10-1-1997)

### § 131.02 DISCHARGE OF FIREARMS.

(A) Within the City of Sauk Centre, no person shall discharge a firearm or possess a firearm outdoors unless it is:

- (1) Dismantled or broken apart;
- (2) Unloaded and completely contained in a case; or

(3) Unloaded and in a closed trunk of a motor vehicle.

(B) No person shall fire, explode or set off any explosive instrument, substance or material within the City of Sauk Centre.

(Am. Ord. 578, passed 10-1-1997) Penalty, see § 10.99

### **§ 131.03 PROHIBITION AGAINST DANGEROUS WEAPONS.**

No person shall wear under their clothes, conceal about their person, carry in any bag, sack, box, knapsack, purse, display in a threatening manner, sell, offer for sale or carry or use any dangerous weapons.

(Am. Ord. 578, passed 10-1-1997) Penalty, see § 10.99

### **§ 131.04 SEIZURE AND CONFISCATION.**

(A) If any police officer personally observes conduct in violation of §§ 131.02 and 131.03, the firearm or dangerous weapon shall be immediately seized and held in the custody of the Sauk Centre Police Department pending appropriate court action.

(B) If the court determines a violation of §§ 131.02 or 131.03 has occurred, the firearm or dangerous weapon involved in the violations shall be forfeited to and confiscated by the City of Sauk Centre.

(C) In addition to any confiscation and forfeiture, violation of this chapter shall be a misdemeanor.

(Am. Ord. 578, passed 10-1-1997) Penalty, see § 10.99

### **§ 131.05 EXCEPTIONS.**

This chapter shall not apply to:

(A) Law enforcement officers acting in the line of duty, police officers of the City of Sauk Centre, officers of any court whose duty shall be to serve warrants or to make arrests, persons who have obtained from the Sauk Centre Police Department or some other appropriate law enforcement agency a license or permit to handle or have in his or her possession or control any firearm or dangerous weapon.

(B) Actions authorized in writing by the City Council of Sauk Centre or the Sauk Centre Police Chief.

(C) Use of firearms on a rifle, trap or target range which ranges have been lawfully authorized by the Sauk Centre City Council or the county, state or federal government.

(D) Use of firearms while participating in a Department of Natural Resources approved firearms safety program.

(E) Use of firearms or dangerous weapons to resist or prevent an offense which reasonably exposes a person to great bodily harm or death.

(F) Persons in possession of any firearm which is unloaded and properly encased and/or is being stored, transported or displayed within a residence.

(G) Persons in possession or control of any firearm or dangerous weapon for the purpose of the sale of the firearm or dangerous weapon as long as the sale is in the regular course of the person's lawfully authorized business.

(Am. Ord. 578, passed 10-1-1997)





## CHAPTER 132: CURFEW

### Section

- 132.01 Age and time
- 132.02 Exceptions
- 132.03 Responsibility of parent
- 132.04 Responsibility of other persons
- 132.05 Enforcement

### § 132.01 AGE AND TIME.

No person under the age of 18 years, except as provided in § 132.02, shall be on any public street or alley or in any park or other public ground or building, place of amusement, entertainment or refreshment, vacant lot or any other unsupervised public place between the hours of 10:00 p.m. and 5:00 a.m. of the following day.

(Ord. 672, passed 1-21-2009)

### § 132.02 EXCEPTIONS.

The restrictions of § 132.01 do not apply when the minor:

(A) Is accompanied by the minor's parent, guardian or other person having the minor's lawful care, custody or control;

(B) Is returning home by a direct route from and within 30 minutes after school activity or an activity of a religious or other voluntary association when prior notice of the activity and its place and probable time of termination has been given to the Police Department by an adult person authorized by the school or the religious or voluntary association to do so;

(C) Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop; or

(D) Is upon an emergency errand or other legitimate business directed by the minor's parent, guardian or other adult having the lawful custody of the minor.

(Ord. 672, passed 1-21-2009)

**§ 132.03 RESPONSIBILITY OF PARENT.**

No parent or other adult having custody and control of a minor under 18 years of age shall knowingly permit the minor to violate the provisions of § 132.01.

(Ord. 672, passed 1-21-2009)

**§ 132.04 RESPONSIBILITY OF OTHER PERSONS.**

Whenever the owner or person in charge or control of any public place of amusement, entertainment, refreshment or other place of business shall find any person under the age of 18 in such place in violation of § 132.01, he or she shall immediately order that person to leave, and if that person refuses to leave, the owner or person in charge shall immediately inform the Police Department of the violation.

(Ord. 672, passed 1-21-2009)

**§ 132.05 ENFORCEMENT.**

Any person under the age of 18 on a street or other place in violation of § 132.01 shall be ordered to go home immediately. After investigation, if responsible city authorities determine that court action should be initiated, the minor shall be dealt with in accordance with juvenile court law and procedure. Violation is punishable as a petty misdemeanor with a maximum fine of \$300.

(Ord. 672, passed 1-21-2009)

**TITLE XV: LAND USAGE**

Chapter

**150.PLANNING COMMISSION**

**151.SHORELAND OVERLAY DISTRICT**

**152.FLOOD PLAIN; FLOOD PROTECTION**

**153.FIRE ZONE AND LIMITS**

**154.BUILDING REGULATIONS**

**155.SUBDIVISIONS**

**156.ZONING**



## CHAPTER 150: PLANNING COMMISSION

### Section

- 150.01 Establishment
- 150.02 Composition
- 150.03 Organization
- 150.04 Adoption of program of work
- 150.05 Preparation of Land Use Plan
- 150.06 Procedure for adoption of Land Use Plan
- 150.07 Means of executing Land Use Plan
- 150.08 Zoning regulations
- 150.09 Official map of street excavations
- 150.10 Procedure for changes

### **§ 150.01 ESTABLISHMENT.**

A City Planning Commission for the city is hereby continued.  
(1985 Code, § 1003.01)

### **§ 150.02 COMPOSITION.**

(A) The City Planning Commission shall consist of 5 members all of which shall be appointed by the City Council.

(B) One member of the Commission shall come from the ranks of the City Council.

(C) All members shall be residents of the city and eligible to vote in its general and special elections.

(D) Each of the members will be appointed for a 3-year term.

(E) Appointments to the Planning Commission shall be made at the second regular Council meeting in December of each calendar year for service the next calendar year with the exception of the Council Member who shall be appointed the first meeting of January.

(F) Newly appointed members shall take the oath of office prescribed by law before assuming his or her duties. Each member shall continue in office until his or her successor has been appointed and qualified.

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(G) The terms of the Council member shall correspond to his or her respective official tenures.

(H) Vacancies shall be filled by the Council for the unexpired portion of any term.

(I) For purposes of transacting business 3 members will constitute a quorum.

(J) Any member may be removed by a 3/5 vote of the City Council.

(K) Compensation for members will be determined by the City Council except that the Council member shall serve without compensation.

(1985 Code, § 1003.02) (Am. Ord. 742, passed 10-2-2013)

**§ 150.03 ORGANIZATION.**

(A) The Commission shall elect a Chairperson from among its appointed members for a term of 1 year; and the Commission may create and fill other offices as it may determine. The Administrator/Clerk shall act as Secretary of the Planning Commission.

(B) The Commission shall hold at least 1 regular meeting each 2 months. It shall adopt rules for the transaction of business and it shall keep a record of its resolutions, transactions and findings, which record shall be a public record.

(C) Special meetings may be called only by written notice to each member. Special meetings shall be called by the Chairperson or 2 members of the Commission with 24 hours written notice. On or before January 1 of each year, the Commission shall submit to the Council a report of its work during the preceding year.

(D) Expenditures of the Commission shall be within amounts appropriate for the purpose by the Council.

(1985 Code, § 1003.03)

**§ 150.04 ADOPTION OF PROGRAM OF WORK.**

(A) Upon the appointment and organization of the Commission, it shall proceed with the preparation and adoption of resolution of a program of work, outlining activities proposed to be undertaken in the exercise of its power and the performance of its duties.

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(B) A program will include:

- (1) An outline of date and information to be assembled as a basis for the Land Use Plan;
- (2) An outline of subjects to be covered by the Land Use Plan; and
- (3) An outline of types of procedures necessary to make the land use effective.

(C) The Planning Commission may, by resolution, revise its program of work from time to time.  
(1985 Code, § 1003.04)

### **§ 150.05 PREPARATION OF LAND USE PLAN.**

(A) It shall be the function and duty of the Planning Commission to prepare and adopt a comprehensive Land Use Plan for the physical development of the city, including proposed property, public utility services, parks, playgrounds and other similar developments, the density of population and other matters relating to the physical development of the city.

(B) A plan may be prepared in sections, each of which shall relate to a major subject of the plan, as outlined in the Commissions program of work.  
(1985 Code, § 1003.05)

### **§ 150.06 PROCEDURE FOR ADOPTION OF LAND USE PLAN.**

(A) Before adopting the city Land Use Plan or any section of it or any substantial amendment thereof, the Commission shall hold at least 1 public hearing thereon, notice of the time and place of which shall be given by publication in a newspaper of general circulation at least 10 days before the day of the hearing.

(B) The adoption of the city Land Use Plan or of any section or amendment thereof shall be by resolution of the Commission, approved by the affirmative votes of not less than 2/3 of its total membership.

(C) The Commission may, from time to time, amend or add to the city Land Use Plan or section thereof as herein provided for the adoption of the original plan whenever changed conditions or further studies by the Commission indicates that an amendment or addition is necessary.

(D) An attested copy of the plan or of any section, amendment or addition to the city Land Use Plan adopted by the Planning Commission shall be approved by the Council.  
(1985 Code, § 1003.06)

**§ 150.07 MEANS OF EXECUTING LAND USE PLAN.**

(A) Upon the adoption of the Land Use Plan or any section thereof, it shall be the duty of the Planning Commission to recommend to the Council reasonable and practicable means for putting into effect a plan or section thereof in order that the same will serve as a pattern and guide for the orderly physical development of the city and as a basis for the efficient expenditure of the funds thereof relating to the subject of the Land Use Plan.

(B) These means shall consist of a zoning ordinance, subdivision ordinance, a plan of future streets, coordination of the normal public improvements of the city, a long term program of capital expenditures and other matters as will accomplish the purpose of this chapter.  
(1985 Code, § 1003.07)

**§ 150.08 ZONING REGULATIONS.**

(A) The Planning Commission upon its own motion may and upon instructions of the Council shall prepare revised zoning regulations for the city.

(B) Before recommending regulations to the Council, the Planning Commission shall hold at least 1 public hearing thereof after a notice similar to that required by § 150.06.

(C) The same procedure shall apply for the preparation of any plan proposed rights-of-way for future streets or highways, or for the reservation of lands for other public purposes.  
(1985 Code, § 1003.08)

**§ 150.09 OFFICIAL MAP OF STREET EXTENSIONS.**

(A) The Planning Commission, with the assistance of the City Engineer, may and upon instruction by the Council shall, prepare an official map of the platted and unplatted portions of the city and adjoining territory, or portions thereof, indicating upon the map the proposed future extension or widening of streets of the city within the existing platted and developed territory or across unplatted territory.

(B) After the map has been prepared and a hearing on it has been held as provided in § 150.08 above, it shall be submitted to the Council which shall thereupon consider the map and may adopt it or any part of it with amendments as it deems advisable.

(C) Before adoption by the Council, a public hearing shall be held upon the proposal at least 10 days after a notice hereof has been published in a newspaper published in the city.

(D) After the map has been adopted by the Council and filed with the Register of Deeds, whenever an existing street, highway or alley is widened, improved or vacated, or any new street is opened, or lands for other public purpose are acquired by action of the city it shall not be required in the



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proceedings to pay for any building or structure placed without a permit or in violation of conditions of a permit after the filing of the map within the limits of the mapped street or outside of any building line that may have been established upon the existing street, or within any area thus reserved for public purposes.

(1985 Code, § 1003.09)

### **§ 150.10 PROCEDURE FOR CHANGES.**

(A) No change shall be made in the zoning regulations, future street and public lands plan or subdivision regulations unless the proposed change has been referred to the Planning Commission for report thereon and an attested copy of the report has been filed with the Council.

(B) Failure of the Planning Commission to report within 40 days or a longer period as may designated by the Council after that reference shall be deemed to be an approval of the proposed change.

(1985 Code, § 1003.10)



## CHAPTER 151: SHORELAND OVERLAY DISTRICT

### Section

- 151.01 Statutory authorization
- 151.02 General provisions and definitions
- 151.03 Administration
- 151.04 Shoreland classification system and land use districts
- 151.05 Zoning and water supply/sanitary provisions
- 151.06 Nonconformities
- 151.07 Subdivision; platting provisions
- 151.08 Planned Unit Developments (PUD)
- 151.09 Supplemental Shoreland Overlay District

### § 151.01 STATUTORY AUTHORIZATION.

(A) *Statutory authorization.* This shoreland chapter is adopted pursuant to the authorization and policies contained in M.S. Ch. 103F, as it may be amended from time to time, Minn. Regulations, Parts 6120.2500 through 6120.3900 and the planning and zoning enabling legislation in M.S. Ch. 462, as it may be amended from time to time.

(B) *Policy.*

(1) The uncontrolled use of shorelands of Sauk Centre, Minnesota affects the public health, safety and general welfare not only by contributing to pollution of public waters, but also by impairing the local tax base.

(2) Therefore, it is in the best interests of the public health, safety and welfare to provide for the wise subdivision, use and development of shorelands of public waters.

(3) The Legislature of Minnesota has delegated responsibility to local governments of the state to regulate the subdivision, use and development of the shorelands of public waters and thus to preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands and provide for the wise use of waters and related land resources.

(4) This responsibility is hereby recognized by Sauk Centre.  
(1985 Code, § 1004; 1.0)

**§ 151.02 GENERAL PROVISIONS AND DEFINITIONS.***(A) Jurisdiction.*

(1) The provisions of this chapter shall apply to the shorelands of the public water bodies as classified in § 151.04 below.

(2) Pursuant to Minn. Regulations Parts 6120.2500 through 6120.3900, no lake, pond or flowage less than 10 acres in size need to be regulated in a local government's shoreland regulations.

(3) A body of water created by a private user where there was no previous shoreland may, at the discretion of the governing body, be exempt from this chapter.

*(B) Compliance.* The use of any shoreland of public waters; the size and shape of lots; the use, size, type and location of structures on the lots; the installation and maintenance of water supply and waste treatment systems, the grading and filling of any shoreland area; the cutting of shoreland vegetation; and the subdivision of land shall be in full compliance with the terms of this chapter and other applicable regulations.

*(C) Enforcement.*

(1) The Administrator/Clerk is responsible for the administration and enforcement of this chapter.

(2) Any violation of the provisions of this chapter or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) shall constitute a misdemeanor and shall be punishable as defined by law.

(3) Violations of this chapter can occur regardless of whether or not a permit is required for a regulated activity pursuant to § 151.03(A) below.

*(D) Interpretation.* In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by state statutes.

*(E) Severability.* If any section, clause, provision or portion of this chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby.

*(F) Abrogation and greater restriction.*

(1) It is not intended by this chapter to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this chapter imposes greater restrictions, the provisions of this chapter shall prevail.

## Shoreland Overlay District

(2) All other ordinances inconsistent with this chapter are hereby repealed to the extent of this inconsistency only.

### (G) *Definitions.*

(1) Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this chapter its most reasonable application.

(2) For the purpose of this chapter, the words "must" and "shall" are mandatory and not permissive.

(3) All distances, unless otherwise specified, shall be measured horizontally.

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

***ACCESSORY STRUCTURE OR FACILITY.*** Any building or improvement subordinates to a principle use which, because of the nature of its use, can reasonably be located at or greater than normal structure setbacks.

***BLUFF.*** A topographic feature such as a hill, cliff or embankment having the following characteristics (an area with an average slope of less than 18% over a distance of 50 feet or more shall not be considered part of the bluff):

1. Part of all of the feature is located in a shoreland area;
2. The slope rises at least 25 feet above the ordinary high water level of the waterbody;
3. The grade of the slope from the toes of the bluff to a point 25 feet or more above the ordinary high water level averages 30% or greater; and
4. The slope must drain toward the waterbody.

***BLUFF IMPACT ZONE.*** A bluff and land located 20 feet from the top of a bluff.

***BOATHOUSE.*** A structure designed and used solely for the storage of boats or boating equipment.

***BUILDING LINE.*** A line parallel to a lot line or the ordinary high water level at the required setback beyond which a structure may not extend.

**COMMERCIAL PLANNED UNIT DEVELOPMENTS.** Typically uses that provide transient, short-term lodging spaces, rooms or parcels and their operations are essentially service-oriented. For example, hotel/motel accommodations, resorts, recreational vehicle and camping parks and other primarily service-oriented activities are **COMMERCIAL PLANNED UNIT DEVELOPMENTS**.

**COMMERCIAL USE.** The principle use of land or buildings for the sale, lease, rental or trade of products, goods and services.

**COMMISSIONER.** The Commissioner of the Department of Natural Resources.

**CONDITIONAL USE.** A land use or development as defined by ordinance that would not be appropriate generally but may be allowed with appropriate restrictions as provided by official controls upon a finding that certain conditions as detailed in the zoning ordinance exist, the use or development conforms to the comprehensive Land Use Plan of the community, and the use is compatible with the existing neighborhood.

**DECK.** A horizontal, unenclosed platform with or without attached railings, seats, trellises or other features, attached or functionally related to a principle use or site and any point extending more than 3 feet above ground.

**DUPLEX, TRIPLEX AND QUAD.** A dwelling structure on a single lot, having 2, 3 or 4 units, respectively, being attached by common walls and each unit equipped with separate sleeping, cooking, eating, living and sanitation facilities.

**DWELLING SITE.** A designated location for residential use by 1 or more persons using temporary or movable shelter, including camping and recreational vehicle sites.

**DWELLING UNIT.** Any structure or portion of a structure, or other shelter designed as short or long-term living quarters for 1 or more persons, including rental or timeshare accommodations such as motel, hotel and resort rooms and cabins.

**EXTRACTIVE USE.** The use of the land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other nonmetallic minerals and peat bog not regulated under M.S. §§ 93.44 to 93.51, as they may be amended from time to time.

**FEEDLOT.** An enclosure for the feeding of poultry or livestock which is not normally used for pasture or crops and in which animal wastes may accumulate.

**FOREST LAND CONVERSION.** The clear cutting of forested lands to prepare for a new land use other than the reestablishment of a subsequent forest stand.

**HARDSHIP.** The same as that term is defined in M.S. Ch. 462, as it may be amended from time to time.

## Shoreland Overlay District

**HEIGHT OF BUILDING.** The vertical distance between the highest adjoining ground level at the building or 10 feet above the lowest ground level, whichever is lower, and the highest point of a flat roof or average height of the highest gable of a pitched or hipped roof.

**INDUSTRIAL USE.** The use of a land or buildings for the production, manufacture, warehousing, storage or transfer of goods, products, commodities or other wholesale items

**INTENSIVE VEGETATION CLEARING.** The complete removal of trees or shrubs in a continuous patch, strip, row or block.

**LOT.** A parcel of land designated by plat, metes and bounds, registered land survey, auditors plot or other accepted means and separated from other parcels or portions by that description for the purpose of sale, lease or separation.

**LOT WIDTH.** The shortest distance between lot lines measured at the midpoint of the building line.

**NONCONFORMITY.** Any legal use, structure or parcel of land already in existence, recorded or authorized before the adoption of official controls or amendments thereto that would not have been permitted to become established under the terms of the official controls as now written, if the official controls had been in effect prior to the date they were established.

### **ORDINARY HIGH WATER LEVEL.**

1. The boundary of public waters and wetlands, and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominately aquatic to predominately terrestrial.

2. For watercourses, the **ORDINARY HIGH WATER LEVEL** is the elevation of the top of the bank of the channel.

3. For reservoirs and flowage, the **ORDINARY HIGH WATER LEVEL** is the operating elevation of the normal summer pool.

### **PLANNED UNIT DEVELOPMENT.**

1. A type of development characterized by a unified site design for a number of dwelling units or dwelling sites on a parcel, whether for sale, rent or lease, and also usually involving clustering of these units or sites to provide areas of common open space, density increases and a mix of structure types and uses.

2. These developments may be organized and operated as condominiums, time share condominiums, cooperatives, full fee ownership, commercial enterprises or any combination of these, or cluster subdivisions of dwelling units, residential condominiums, townhouses, apartment buildings, campgrounds, recreational vehicle parks, resorts, hotels, motels and conversions of structures and land uses to these uses.

**PUBLIC WATERS.** Any waters as defined in M.S. § 103G.005 subdivision 15 as they may be amended from time to time.

***RESIDENTIAL PLANNED UNITS DEVELOPMENT.***

1. A use where the nature of residency is nontransient and the major or primary focuses of the development is not service-oriented.

2. For example, residential apartments, manufactures home parts, time-share condominiums, townhouses, cooperatives and full fee ownership residences would be considered ***RESIDENTIAL PLANNED UNIT DEVELOPMENTS.***

3. To qualify as a ***RESIDENTIAL PLANNED UNIT DEVELOPMENT,*** a development must contain at least 5 dwelling units or sites.

**SEMIPUBLIC USE.** The use of land by a private nonprofit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization.

**SENSITIVE RESOURCE.** The preservation and management of areas unsuitable for development in their natural state due to constraints such as shallow soils over groundwater or bedrock, highly erosive or expansive soils, steep slopes, susceptibility to flooding or occurrence of flora or fauna in need of special protection.

**SETBACK.** The minimum horizontal distance between a structure, sewage treatment system or other facility and an ordinary high water level, sewage treatment system, road, highway, property line or other facility.

**SEWAGE TREATMENT SYSTEM.** A septic tank and soil absorption system or other individual or cluster type sewage treatment system as described and regulated in § 151.05(H) below.

**SEWER SYSTEM.** Pipelines or conduits, pumping stations and force main, and all other construction devices, appliances or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.

**SHORE IMPACT ZONE.** Land located between the ordinary high water level of public water and a line parallel to it at a setback of 50% of the structure setback.



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**SHORELAND.** Land located within the following distances from public waters: 1,000 feet from the ordinary high water level of a lake, pond or flowage; and 300 feet from a river or stream, or the landward extent of a flood plain designated by ordinance on a river or stream, whichever is greater, the limits of shorelands may be reduced whenever the waters involved are bounded by topographic divides which extend landward from the waters for lesser distances and when approved by the Commissioner.

### ***SIGNIFICANT HISTORIC SITE.***

1. Any archaeological site, standing structure or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites, or is determined to be an unplatted cemetery, that falls under the provisions of M.S. § 307.08, as it may be amended from time to time.

2. A historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the Minnesota state archaeologist or the Director of the Minnesota Historic Society.

3. All unplatted cemeteries are automatically considered to be ***SIGNIFICANT HISTORIC SITES.***

### ***STEEP SLOPE.***

1. Land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and the site's soil characteristics, as mapped and described in available county soil surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of this chapter.

2. Where specific information is not available, ***STEEP SLOPES*** are lands having average slopes over 12%, as measured over horizontal distances of 50 feet or more.

***STRUCTURE.*** Any building or appurtenance, including decks, except aerial or underground utility lines, such as sewer, electric, telephone, telegraph, gas lines, towers, poles and other supporting facilities.

***SUBDIVISION.*** Land that is divided for the purpose of sale, rent or lease.

***SURFACE WATER-ORIENTED COMMERCIAL USE.*** The use of land for commercial purposes, where access to and use of a surface water feature is an integral part of the normal conductance of business. Marinas, resorts and restaurants with transient docking facilities are examples of this use.

***TOE OF THE BLUFF.*** The lower point of a 50-foot segment with an average slope exceeding 18%.

**TOP OF BLUFF.** The higher point of a 50-foot segment with an average slope exceeding 18%.

**VARIANCE.** The same as that term is defined or described in M.S. Ch. 46, as it may be amended from time to time.

**WATER-ORIENTED ACCESSORY STRUCTURE OR FACILITY.**

1. A small, above-ground building or other improvement, except stairways, fences, docks and retaining walls, which, because of the relationship of its use to a surface water feature, reasonably needs to be located closer to public waters than the normal structure setback.

2. Examples of these structures and facilities include boathouses, gazebos, screen houses, fish houses, pump houses and detached decks.

**WETLAND.** A surface water feature classified as a wetland in the United States Fish and Wildlife Service Circular No. 39 (1971 Edition). (1985 Code, § 1004; 2.0)

**§ 151.03 ADMINISTRATION**

*(A) Permits required.*

(1) A permit is required for the construction of buildings or building additions (and including related activities such as construction of decks and signs), the installation and/or alteration of sewage treatment systems and those grading and filling activities not exempted by § 151.05(C) below.

(2) Application for a permit shall be made to the Administrator/Clerk on the forms provided.

(3) The application shall include the necessary information so that the Administrator/Clerk can determine the site's suitability for the intended use and that a compliant sewage treatment system will be provided.

(4) A permit authorizing an addition to an existing structure shall stipulate that an identified nonconforming sewage treatment system, as defined by § 151.05(H), shall be reconstructed or replaced in accordance with the provisions of this chapter.

*(B) Certificate of zoning compliance.*

(1) The Administrator/Clerk shall issue a certificate of zoning compliance for each activity requiring a permit as specified in division (A) above.

(2) This certificate will specify that the use of land conforms to the requirements of this chapter.

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(3) Any use, arrangement or construction at variance with that authorized by permit shall be deemed a violation of this chapter and shall be punishable as provided in § 151.02(C).

### (C) *Variances.*

(1) Variances may only be granted in accordance with M.S. § 462, as it may be amended from time to time, as applicable. A variance may not circumvent the general purpose and intent of this chapter.

(2) No variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located.

(3) Conditions may be imposed in the granting of a variance to ensure compliance and to protect adjacent properties and the public interest.

(4) In considering a variance request, the Board of Adjustment must also consider whether the property owner has reasonable use of the land without the variance, whether the property is used seasonally or year-round, whether the variance is being requested solely on the basis of economic considerations and the characteristics of development on adjacent properties.

(5) The Board of Adjustment shall hear and decide requests for variances in accordance with the rules that it has adopted for the conduct of business.

(6) When a variance is approved after the Department of Natural Resources has formally recommended denial in the hearing record, the notification of the approved variance required in § 151.03(D)(2) below shall also include the Board of Adjustment's summary of the public record or testimony and the findings of facts and conclusions which supported the issuance of the variance.

(7) For existing developments, the application for variance must clearly demonstrate whether a conforming sewage treatment system is present for the intended use of the property.

(8) The variance, if issued, must require reconstruction of a nonconforming sewage treatment system.

### (D) *Notification to the Department of Natural Resources.*

(1) Copies of all notices of any public hearings to consider variances, amendments or conditional uses under local shoreland management controls must be sent to the Commissioner or the Commissioner's designated representative and postmarked at least 10 days before the hearings.

(2) Notice of hearings to consider proposed subdivisions/plats must include copies of the subdivision or plat.

(3) A copy of approved amendments and subdivision/plats, and final decisions granting variances or conditional uses under local shoreland management controls must be sent to the Commissioner or the Commissioner's designated representative and postmarked within 10 days of final action.

(1985 Code, § 1004; 3.0)

#### **§ 151.04 SHORELAND CLASSIFICATION SYSTEM AND LAND USE DISTRICTS.**

(A) *Shoreland classification system.* The public waters of Sauk Centre have been classified below consistent with the criteria found in Minn. Regulations, part 6120.3300, and the protected waters inventory map for Stearns County, Minnesota. The shoreland area for the waterbodies listed in divisions (A)(1) and (2) below shall be defined in § 151.02 and as shown on the official zoning map. The shorelands of the city are hereby designated as Shoreland Overlay District.

(1) *Lakes.* Sauk Lake; general development lake (protected waters inventory I.D. No. 77-150).

(2) *Rivers and streams.*

(a) Sauk River; agricultural river (that portion located downstream of the west half of Section 10, Township 126 North, Range 34 West, Stearns County, Minnesota).

(b) Urban River; (that portion located within the west half of Section 10, Township 126 North, Range 34 West, Stearns County, Minnesota).

(c) Ashley Creek; tributary stream and urban river.

(d) Hoboken Creek; tributary stream and urban river.

(B) *Land use descriptions.*

(1) *Criteria for designation.* The land use districts in division (B)(2) below and the delineation of land use district's boundaries on the official zoning map, must be consistent with the goals, policies and objectives of the Comprehensive Land Use Plan and the following criteria, considerations and objectives:

(a) General considerations and criteria for all land uses:

1. Preservation of natural areas;
2. Present ownership and development of shoreline areas;
3. Shoreline soil types and their engineering capabilities;

## Shoreland Overlay District

4. Topographic characteristics;
5. Vegetative cover;
6. In-water physical characteristics, values and constraints;
7. Recreational use of the surface water;
8. Road and service center accessibility;
9. Socioeconomic development needs and plans as they involve water and related land resources;
10. The land requirements of industry which, by its nature, requires location in shoreline areas; and
11. The necessity to preserve and restore certain areas having significant historical and ecological value.

(b) Factors and criteria for planned unit developments:

1. Existing recreational use of the surface waters and likely increases in use associated with planned unit developments;
2. Physical and aesthetic impacts of increased density;
3. Suitability of lands for the planned unit development approach;
4. Level of current development in the area; and
5. Amounts and types of ownership of undeveloped lands.

(2) *Land use district descriptions.* The land use districts provided in § 156.035, and the allowable land uses therein for the given classifications of waterbodies, shall be properly delineated on the official zoning map for the shorelands of this community. These land use districts are in conformance with the criteria specified in Minn. Regulations Part 6120.3200, Subd. 3. (1985 Code, § 1004; 4.0)

### § 151.05 ZONING AND WATER SUPPLY/SANITARY PROVISIONS.

(A) *Lot area and width standards.* The lot area (in square feet) and lot width standards (in feet) for single, duplex, triplex and quad residential lots created after the date of enactment of this chapter for the lake and river/stream classifications are the following.

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(1) *Unsewered lakes.*

<i>Unsewered Lakes; General Development</i>				
	<i>Riparian Lots</i>		<i>Nonriparian Lots</i>	
	<i>Area</i>	<i>Width</i>	<i>Area</i>	<i>Width</i>
Single	20,000	100	40,000	150
Duplex	40,000	180	80,000	265
Triplex	60,000	260	120,000	375
Quad	80,000	340	160,000	490

(2) *Sewered lakes.*

<i>Sewered Lakes; General Development</i>				
	<i>Riparian Lots</i>		<i>Nonriparian Lots</i>	
	<i>Area</i>	<i>Width</i>	<i>Area</i>	<i>Width</i>
Single	15,000	75	10,5000	175
Duplex	26,000	135	17,500	135
Triplex	38,000	195	25,000	190
Quad	49,000	255	32,500	245

(3) *River/stream lot width standards.*

(a) There is no minimum lot size requirements for rivers and streams.

(b) The lot width standards for single, duplex, triplex and quad residential developments for the 6 river/stream classifications are the following.

	<i>Tributary</i>		
	<i>Agricultural</i>	<i>Sewer</i>	<i>Unsewered</i>
Single	150	75	100
Duplex	225	115	150
Triplex	300	150	200
Quad	375	190	250

## Shoreland Overlay District

(4) *Special provisions.*

(a) Only land above the ordinary high water level of public waters can be used to meet lot area standards, and lot width standards must be met at both the ordinary high water level and at the building line. The sewer lot area dimensions in Division (A)(2) of this section can only be used if publicly owned sewer system service is available on the property.

(b) Lots intended as controlled accesses to public waters or as recreation areas for use by owners of nonriparian lots within subdivisions are permissible and must meet or exceed the following standards:

1. They must meet the width and size requirements for residential lots, and be suitable for the intended uses of controlled access lots;

2. If docking, mooring or over-water storage of more than 6 watercrafts is to be allowed at a controlled access lot, then the width of the lot (keeping the same lot depth) must be increased by the percent of the requirements for riparian residential lots for each watercraft beyond 6, consistent with the following table.

<i>Controlled Access Lot Frontage Requirements</i>	
<i>Ratio of Lake Size to Shore Length (Acres/Mile)</i>	<i>Required Increase in Frontage (Percent)</i>
Less than 100	25
100 to 200	20
201 to 300	15
301 to 400	10
Greater than 400	5

3. They must be jointly owned by all purchasers of lots in the subdivision or by all purchasers of nonriparian lots in the subdivision who are provided access rights on the access lot; and

4. Covenants or other equally effective legal instruments must be developed that specify which lot owners have authority to use the access lot and what activities are allowed. The activities may include watercraft launching, loading, storage, beaching, mooring or docking. They must also include other outdoor recreational activities that do not significantly conflict with general public use of the public water or the enjoyment of normal property rights by adjacent property owners. Examples of the nonsignificant conflict activities include swimming, sunbathing or picnicking. The covenants must limit the total number of watercraft allowed to be continuously moored, docked or stored over water, and must require centralization of all common facilities and activities in the most suitable locations on

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the lot to minimize topographic and vegetation alterations. They must also require all parking areas, storage buildings and other facilities to be screened by vegetation or topography as much as practical from view from the public water, assuming summer, leaf-on conditions.

(B) *Placement, design and height of structures.*

(1) *Placement of structures on lots.* When more than 1 setback applies to a site, structures and facilities must be located to meet all setbacks. Where structures exist on adjoining lots on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining setbacks for the ordinary high water level, provided the proposed building site is not located in a shore impact zone. Structures shall be located as follows:

(a) *Structure and on-site sewage system setbacks (in feet) from ordinary high water level.*

	<i>Structures</i>		<i>Sewage Treatment System</i>
	<i>Unsewered</i>	<i>Sewered</i>	
<b><i>Lakes</i></b>			
General development	75	50	50
<b><i>Rivers</i></b>			
Agriculture and tributary	100	50	75
One water-oriented accessory structure designed in accordance with division (B)(2) below may be set back a minimum distance of 10 feet from the ordinary high water level.			

(b) *Additional structure setbacks.* The following additional structure setbacks apply, regardless of the classification of the waterbody:

<i>Setback From</i>	<i>Setback (In Feet)</i>
Top of bluff	30
Unplatted cemetery	50
Right-of-way line of federal, state or county highway	50
Right-of-way line of town road, public street or other roads or streets not classified	20

(c) *Bluff impact zones.* Structures and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.



(d) *Uses without water-oriented needs.* Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

(2) *Design criteria for structures.*

(a) *High water elevations.* Structures must be placed in accordance with any flood plain regulations applicable to the site. Where these controls do not exist, the elevation to which the lowest floor including basement, is placed must be determined as follows:

1. For lakes, by placing the lowest floor at a level at least 3 feet above the highest known water level, or 3 feet above the ordinary high water level, whichever is greater;
2. For rivers and streams, by placing the lowest floor at least 3 feet above the flood of record, if data is available. If data is not available, by placing the lowest floor at least 3 feet above the ordinary high water level, or by conducting a technical evaluation to determine the effects of proposed construction upon flood stages and flood flows and to establish a flood protection elevation. Under all 3 approaches, technical evaluations must be done by a qualified engineer or hydrologist consistent with Minn. Rules parts 6120.5000 to 6120.6200 governing the management of flood plain areas. If more than 1 approach is used, the highest flood protection elevation determined must be used for placing structures and other facilities; and
3. Water-oriented accessory structures may have the lowest floor placed lower than the elevation determined in this item if the structure is constructed of flood resistant materials to the elevation, electrical and mechanical equipment is placed above the elevation and, if long duration flooding is anticipated, the structure is built to withstand ice action and wind driven waves and debris.

(b) *Water-oriented accessory structures.* Each lot may have 1 water-oriented accessory structure not meeting the normal structure setback in Division (B)(1) of this section if this water-oriented accessory structure complies with the following provisions:

1. The structure or facility must not exceed 10 feet in height, exclusive of safety rails and cannot occupy an area greater than 250 square feet. Detached decks must not exceed 8 feet above grade at any point;
2. The setback of the structure or facility from the ordinary high water level must be at least 10 feet;
3. The structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions;
4. The roof may be used as a deck with safety rails, but must not be enclosed or used as a storage area;

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5. The structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities; and

6. As an alternative for general development waterbodies, water-oriented accessory structures used solely for watercraft storage, and including storage of related boating and water-oriented sporting equipment, may occupy an area up to 400 square feet provided the maximum width of the structure is 20 feet as measured parallel to the configuration of the shoreline.

(c) *Stairways, lifts and landings.* Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts must meet the following design requirements:

1. Stairways and lifts must not exceed 4 feet in width on residential lots. Wider stairways may be used for commercial properties, and public open-space recreational properties;

2. Landings for stairways and lifts on residential lots must not exceed 32 square feet and may be used for commercial properties, and public open-space recreational properties;

3. Canopies or roofs are not allowed on stairways, lifts or landings;

4. Stairways, lifts and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion;

5. Stairways, lifts and landings must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, wherever practical; and

6. Facilities such as ramps, lifts or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of divisions 1. through 5. above are complied with in addition to the requirements of Minn. Regulations Ch. 1340.

(d) *Significant historic sites.* No structure may be placed on a significant historic site in a manner that affects the values of the site unless adequate information about the site has been removed and documented in a public repository.

(e) *Steep slopes.*

1. The Administrator/Clerk must evaluate possible soil erosion impacts and development visibility from public waters before issuing a permit for construction of sewage treatment systems, roads, driveways, structures or other improvements on steep slopes.

2. When determined necessary, conditions must be attached to issued permits, to prevent erosion and to preserve existing vegetation screening of structures, vehicles and other facilities as viewed from the surface of public water, assuming summer, leaf-on vegetation.

(3) *Height of structures.* All structures in residential districts, except churches and nonresidential agricultural structures, must not exceed 25 feet in height.

(C) *Shoreland alterations.* Alteration of vegetation and topography will be regulated to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping and protect fish and wildlife habitat.

(1) *Vegetation alterations.*

(a) Vegetation alteration necessary for the construction of structures and sewage treatment systems and the construction of roads and parking areas regulated by division (D) below are exempt from the vegetation alteration standards that follow.

(b) Removal of vegetation, except agricultural and forest management uses as regulated in divisions (F)(2) and (3) below, respectfully, is allowed subject to the following standards:

1. Intensive vegetation clearing within the shore and bluff impact zone and on steep slopes is not allowed. Intensive vegetation clearing for forest land conversion to another use outside of these areas is allowable as a conditional use if an erosion control and sedimentation plan is developed and approved by the soil and water conservation district in which the property is located;

2. In shore and bluff impact zones and on steep slopes, limited clearing of trees and shrubs and cutting, pruning, and trimming of trees is allowed to provide a view to the water from the principle dwelling unit and to accommodate the placement of stairways and landings, picnic areas, access areas, and permitted water-oriented structures or facilities, provided that:

a. The screening of structures, vehicles or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced;

b. Along rivers, existing shading of water surfaces is preserved; and

c. The above provisions are not applicable to the removal of trees' limbs, or branches that are dead, diseased or pose safety hazards.

(2) *Topographic alterations/grading and filling.*

(a) Grading and filling and excavations necessary for the construction of structures, sewage treatment systems, and these facilities do not require the issuance of a separate grading and filling permit. However, the grading and filling standards in this section must be incorporated into the issuance of permits for construction of structures, sewage treatment systems and driveways.

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(b) Public roads and parking areas are regulated by Division (D) of this section.

(c) Notwithstanding divisions (2)(a) and (b) above, a grading and filling permit will be required for:

1. The movement of more than 10 cubic yards of material on steep slopes or within shore or bluff impact zones; and

2. The movement of more than 50 cubic yards of material outside of steep slopes and shore and bluff impact zones.

(d) The following considerations and conditions must be adhered to during the issuance of construction permits, grading and filling permits, conditional use permits, variances and subdivision approvals:

1. Grading or filling in any type 2, 3, 4, 5, 6, 7 or 8 wetland must be evaluated to determine how extensively the proposed activity would affect the following functional qualities of the wetland:

a. Sediment and pollutant trappings and retention;

b. Storage of surface runoff to prevent or reduce flood damage;

c. Fish and wildlife habitat;

d. Recreational use;

e. Shoreline or bank stabilization; and

f. Noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals or others.

g. This evaluation must also include a determination of whether the wetland alteration being proposed requires permits, reviews or approvals by other local, state or federal agencies such as a watershed district, the Minnesota Department of Natural Resources, or the United States Army Corp of Engineers. The applicant will be so advised.

2. Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible;

3. Mulches or similar materials must be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover must be established as soon as possible;

4. Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used;

5. Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the United States Soil and Conservation Service;
6. Fill or excavated material must not be placed in a manner that creates the unstoppable slope;
7. Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of 30% or greater;
8. Fill or excavated material must not be placed in a bluff impact zone;
9. Any alterations below the ordinary high water level of public waters must first be authorized by the Commissioner under M.S. § 103G.245, as it may be amended from time to time;
10. Alterations of topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties; and
11. Placement of natural rock riprap, including associated grading of the shoreline and placement of filter blanket, is permitted if the finished slope does not exceed 3 feet horizontal to 1 foot vertical, the landward extent of the riprap is within 10 feet of the ordinary high water level, and the height of the riprap above the ordinary high water level does not exceed 3 feet.

(e) Excavations where the intended purpose is connection to a public water, such as boat slips, canals, lagoons and harbors, must be controlled by local shoreland controls. Permission for excavations may be given only after the Commissioner has approved the proposed connection to public water.

(D) *Placement and design of roads, driveways and parking areas.*

(1) (a) Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening view from public waters.

(b) Documentation must be provided by a qualified individual that all roads and parking areas are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical material.

(2) Roads, driveways and parking areas must meet structure setbacks and must not be placed within shore and bluff impact zones, when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas, and must be designed to minimize adverse impacts.

(3) Public and private watercraft access ramps, approach roads and access-related parking areas may be placed within shore impact zones provided the vegetative screening and erosion control conditions of this division are met. For private facilities, the grading and filling provisions of division (C)(2) above must be met.

(E) *Storm water management.* The following general and specific standards shall apply.

(1) *General standards.*

(a) When possible, existing natural drainageways, wetlands and vegetated soil surfaces must be used to convey, store, filter and retain storm water runoff before discharge to public waters.

(b) Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.

(c) When development density, topographic features and soil and vegetation conditions are not sufficient to adequately handle storm water runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways and ponds may be used. Preference must be given to designs using surface drainage, vegetation and infiltration rather than buried pipes and human-made materials and facilities.

(2) *Specific standards.*

(a) Impervious surface coverage of lots must not exceed 25% of lot area.

(b) When constructed facilities are used for storm water management, documentation must be provided by a qualified individual that they are designed and installed consistent with the field office technical guide of the local soil and water conservation district.

(c) New constructed storm water outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

(F) *Special provisions for commercial, industrial, public/semipublic, agricultural, forestry and extractive uses and mining of metallic minerals and peat.*

(1) *Standards for commercial, industrial, public and semipublic uses.*

(a) Surface water-oriented commercial uses and industrial, public or semipublic uses with similar needs to have access to and use of public waters may be located on parcels or lots with frontage on public waters. Those uses with water-oriented needs must meet the following standards:

1. In addition to meeting impervious coverage limits, setbacks and other zoning standards in this chapter, the uses must be designed to incorporate topographic and vegetative screening of parking areas;

2. Uses that require short-term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need; and

3. Uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public, subject to the following general standards:

a. No advertising signs or supporting facilities for signs may be placed in or upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the county sheriff;

b. Signs may be placed, when necessary, within the shore impact zone if they are designed and sized to be the minimum necessary to convey needed information. They must only convey the location and name of the establishment and the general types of goods or services available. The signs must not contain other detailed information such as product brands and prices, must not be located higher than 10 feet above the ground, and must not exceed 32 square feet in size. If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination out across public waters; and

c. Other outside lighting may be located within the shore impact zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters. This does not preclude the use of navigational lights.

(b) Uses without water-oriented needs must be located on lots or parcels without public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming, summer, leaf-on conditions.

(2) *Agriculture use standards.*

(a) General cultivation, farming, grazing, nurseries, horticulture, truck farming, sod farming and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are maintained in permanent vegetation or operated under an approved conservation plan (Resource Management Systems) consistent with the field office technical guides of the local soil and water conservation districts or the United States Soil Conservation Service, as provided by a qualified individual or agency. The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and 50 feet from the ordinary high water level.

(b) Animal feedlots must meet the following standards:

1. New feedlots must not be located in the shoreland of watercourses or in bluff impact zones and must meet a minimum setback of 300 feet from the ordinary high water level of all public water basins; and

2. Modifications or expansions to existing feedlots that are located within 300 feet of the ordinary high water level or within a bluff impact zone are allowed if they do not further encroach into the existing ordinary high water level setback.

(3) *Forest management standards.* The harvesting of timber and associated reforestation must be conducted consistent with the provisions of the Minnesota Nonpoint Source Pollution Assessment-Forestry and the provisions of Water Quality in Forest Management "Best Management Practices in Minnesota."

(4) *Extractive use standards.*

(a) An extractive use site development and restoration plan must be developed, approved and followed over the course of the operation of the site.

(b) The plan must address dust, noise, possible pollutant discharges, hours and duration of operation and anticipated vegetation and topographic alterations.

(c) It must also identify actions to be taken during operation to mitigate adverse environmental impacts, particularly erosion and must clearly explain how the site will be rehabilitated after extractive activities end.

(d) Processing machinery must be located consistent with setback standards for structures from ordinary high water levels of public waters and from bluffs.

(5) *Mining of metallic minerals and peat.* Mining of metallic minerals and peat, as defined in M.S. §§ 93.44 to 93.51, as they may be amended from time to time, shall be a permitted use, provided the provisions of M.S. § 93.44 to 93.51, as they may be amended from time to time, are satisfied.

(G) *Conditional uses.* Conditional uses allowable within shoreland areas shall be subject to the review and approval procedures, and criteria and conditions for review of conditional uses established community wide. The following additional evaluation criteria and conditions apply within shoreland areas.

(1) *Evaluation criteria.* A thorough evaluation of the waterbody and the topographic, vegetation and soils conditions on the site must be made to ensure:

(a) The prevention of soil erosion or other possible pollution of public waters, both during and after construction;

(b) The visibility of structures and other facilities as viewed from public waters is limited;



(c) The site is adequate for water supply and on-site sewage treatment; and

(d) The types, uses and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercraft.

(2) *Conditions attached to conditional use permits.*

(a) The Planning Commission, upon consideration of the criteria listed above and the purposes of this chapter, shall attach the conditions to the issuance of the conditional use permits as it deems necessary to fulfill the purposes of this chapter.

(b) The conditions may include but are not limited to, the following:

1. Increased setbacks from the ordinary high water level;

2. Limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted; and

3. Special provisions for the location, design and use of structures, sewage treatment systems, watercraft launching and docking areas and vehicle parking areas.

(H) *Water supply and sewage treatment.*

(1) *Water supply.* Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the Minnesota Department of Health and the Minnesota Pollution Control Agency.

(2) *Sewage treatment.* Any premises used for human occupancy must be provided with an adequate method of sewage treatment, as follows:

(a) Public-owned sewer systems must be used where available;

(b) All private sewage treatment systems must meet or exceed the Minnesota Pollution Control Agency's standards for individual sewage treatment systems contained in the document titled, *Individual Sewage Treatment Systems Standards*, Chapter 7080, a copy of which is hereby adopted by reference and declared to be a part of this chapter;

(c) On-site sewage treatment systems must be set back from the ordinary high water level in accordance with the setbacks contained in division (E)(2) above;

(d) All proposed sites for individual sewage treatment systems shall be evaluated in accordance with the criteria in divisions 1. through 4. below. If the determination of a site's suitability cannot be made publicly available, existing information, it shall then be the responsibility of the applicant to provide sufficient soil borings and percolation tests from on-site field investigations. Evaluation criteria:

1. Depth to the highest known or calculated ground water table or bedrock;
2. Soil conditions, properties and permeability;
3. Slope; and
4. The existence of lowlands, local surface depressions and rock outcrops.

(e) Nonconforming sewage treatment systems shall be regulated and upgraded in accordance with division (F)(3) above.  
(1985 Code, § 1004; 5.0)

### **§ 151.06 NONCONFORMITIES.**

All legally established nonconformities as of the date of this chapter may continue, but they will be managed according to applicable state statutes and other regulations of this community for the subjects of alterations and additions, repair for the subjects of alterations and additions, repair after damage, discontinuance of use and intensification of use; except that the following standards will also apply in shoreland areas.

*(A) Construction on nonconforming lots of record.*

(1) Lots of record in the office of the County Recorder on the date of enactment of local shoreland controls that do not meet the requirements of § 151.05(A) above may be allowed as building sites without variances from lot size requirements provided the use is permitted in the zoning district, the lot has been in separate ownership from abutting lands at all times since it became substandard, was created compliant with official controls in effect at the time, and sewage treatment and setback requirements of this chapter are met.

(2) A variance from setback requirements must be obtained before any use, sewage treatment system or building permit is issued for a lot.

(3) In evaluating the variance, the Board of Adjustment shall consider sewage treatment and water supply capabilities or constraints of the lot and shall deny the variance if adequate facilities cannot be provided.

(4) If, in a group of 2 or more contiguous lots under the same ownership, any individual lot does not meet the requirements of § 151.05(A) above the lot must not be considered as a separate parcel of land for the purposes of sale or development.

(5) The lot must be combined with the 1 or more contiguous lots so they equal 1 or more parcels of land, each meeting the requirements of § 151.05(A) above as much as possible.

(B) *Additions/expansions to nonconforming structures.*

(1) All additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback, height and other requirements of § 151.05 above. Any deviation from these requirements must be authorized by a variance pursuant to § 151.03(C).

(2) Deck additions may be allowed without a variance to a structure not meeting the required setback from the ordinary high water level if all the following criteria and standards are met:

(a) The structure existed on the date the structure setbacks were established;

(b) A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure;

(c) The deck encroachment toward the ordinary high water level does not exceed 15% of the existing setback of the structure from the ordinary high water level or does not encroach closer than 30 feet, whichever is more restrictive; and

(d) The deck is constructed primarily of wood, and is not roofed or screened.

(C) *Nonconforming sewage treatment systems.*

(1) A sewage treatment system not meeting the requirements of § 151.05(H) above must be upgraded, at a minimum, at any time a permit or variance of any type is required for any improvement on, or use of, the property. For the purpose of this provision, a sewage treatment system shall not be considered nonconforming if the only deficiency is the sewage treatment system's improper setback from the ordinary high water level.

(2) The governing body of Sauk Centre has by formal resolution notified the Commissioner of its program to identify nonconforming sewage treatment systems.

(3) The City of Sauk Centre will require upgrading or replacement of any nonconforming system identified by this program within a reasonable period of time which will not exceed 2 years.

(4) Sewage systems installed according to all applicable local shoreland management standards adopted under M.S. § 103G.2241, as it may be amended from time to time, in effect at the time of installation may be considered as conforming unless they are determined to be failing, except that systems using cesspools, leaching pits, seepage pits or other deep disposal methods, or systems with less soil treatment area separation above groundwater than required by the Minnesota Pollution Control Agency's Chapter 7080 for design of on-site sewage treatment systems, shall be considered nonconforming.

(1985 Code, § 1004; 6.0)

**§ 151.07 SUBDIVISION; PLATTING PROVISIONS.***(A) Land suitability.*

(1) Each lot created through subdivision must be suitable in its natural state for the proposed use with minimal alteration.

(2) Suitability analysis by the local unit of government shall consider susceptibility to flooding, existence of wetlands, soil and rock formations with severe limitations for development, severe erosion potential, steep topography, inadequate water supply or sewage treatment capabilities, near-shore aquatic conditions unsuitable for water-based recreation, important fish and wildlife habitat, presence of significant historic sites or any other feature of the natural land likely to be harmful to the health, safety or welfare of future residents of the proposed subdivision or of the community.

*(B) Consistency with other controls.*

(1) Subdivisions must conform to all official controls of the community. A subdivision will not be approved where a later variance from one or more standards in official controls would be needed to use the lots for their intended purpose.

(2) In areas not served by publicly owned sewer and water systems, a subdivision will not be approved unless domestic water supply is available and a sewage treatment system consistent with § 151.05(B) and (H) above can be provided for every lot.

(3) Each lot shall meet the minimum lot size and dimensional requirements of § 151.05(A) above, including at least a minimum contiguous lawn area, that is free of limiting factors sufficient for the construction of 2 standard soil treatment systems.

(4) Lots that would require use of holding tanks must not be approved.

*(C) Information requirements.*

(1) Sufficient information must be submitted by the applicant for the community to make a determination of land suitability.

(2) The information shall include at least the following:

(a) Topographic contours at 10-foot intervals or less from United States Geological Survey maps or more accurate sources, showing limiting site characteristics;

(b) The surface water features required in M.S. § 505.02 subdivision 1, as it may be amended from time to time, to be shown on plats, obtained from United States Geological Survey quadrangle topographic maps or more accurate sources;

(c) Adequate soils information to determine suitability for building and on-site sewage treatment capabilities for every lot from the most current existing sources or from field investigations such as soil borings, percolation tests or other methods;

(d) Information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographic alterations; near-shore aquatic conditions, including depths, types of bottom sediments and aquatic vegetation; and proposed methods for controlling storm water runoff and erosion, both during and after construction activities;

(e) Location of 100-year flood plain area and floodway districts from existing adopted maps or data; and

(f) A line of contour representing the ordinary high water level, the "toe" and the "top" of bluffs, and the minimum building setback distances from the top of the bluff and the lake or stream.

(D) *Dedications*. When a land or easement dedication is a condition for subdivision approval, the approval must provide easements over natural drainage or ponding areas for management of storm water and significant wetlands.

(E) *Platting*.

(1) All subdivisions that create 5 or more lots or parcels that are 2-1/2 acres or less shall be processed as a plat in accordance with M.S. Ch. 505, as it may be amended from time to time.

(2) No permit for construction of buildings or sewage treatment systems shall be issued for lots created after these official controls were enacted unless the lot was approved as part of a formal subdivision.

(F) *Controlled access or recreational lots*. Lots intended as controlled accesses onto public waters or for recreational use areas for use by nonriparian lots within a subdivision must meet or exceed the sizing criteria in § 151.05(A)(4) above.  
(1985 Code, § 1004; 7.0)

## § 151.08 PLANNED UNIT DEVELOPMENTS (PUD).

(A) *Types of PUD's permissible*. Planned unit developments (PUD's) are allowed for new projects on undeveloped land, redevelopment of previously built sites or conversions of existing buildings and land.

(B) *Processing of PUD's.*

(1) Planned unit developments must be processed as a conditional use, except that an expansion to an existing commercial PUD involving 6 or less new dwelling units or sites since the date of this chapter was adopted is permissible as a permitted use provided the total project density does not exceed the allowable densities calculated in the project density evaluation procedures in § 151.08(E).

(2) Approval cannot occur until the environmental review process (EAW/EIS) is complete.

(C) *Application for a PUD.* The applicant for a PUD must submit the following documents prior to final action being taken on the application request:

(1) (a) A site plan and/or plat for the project showing locations of property boundaries, surface water features, existing and proposed structures and other facilities, land alterations, sewage treatment and water supply systems (where public system will not be provided) and topographic contours at 10-foot intervals or less.

(b) When a PUD is combined commercial and residential development, the site plan and/or plat must indicate and distinguish which buildings and portions of the project are residential, commercial or combination of the 2;

(2) A property owners association agreement (for residential PUD's) with mandatory membership, and all in accordance with the requirements of § 151.08(F) below;

(3) Deed restrictions, covenants, permanent easements or other instruments that:

(a) Properly address future vegetative and topographic alterations, construction of additional buildings, beaching of watercraft and construction of commercial buildings in residential PUD's; and

(b) Ensure the long-term preservation and maintenance of open space in accordance with the criteria and analysis specified in § 151.08(F) below.

(4) When necessary, a master plan/drawing describing the project and the floor plan for all commercial structures to be occupied; and

(5) Those additional documents as requested by the City Council that are necessary to explain how the PUD will be designed and will function.

(D) *Site "suitable area" evaluation.* Proposed new or expansions to existing PUD's must be evaluated using the following procedures and standards to determine the suitable area for the dwelling unit/dwelling site density evaluation in § 151.08(E) below.

(1) The project parcel must be divided into tiers by locating 1 or more lines approximately parallel to a line that identifies the ordinary high water level at the following intervals, proceeding landward.

<i>Shoreland Tier Dimensions</i>		
	<i>Unsewered (Feet)</i>	<i>Sewered (Feet)</i>
Lakes: first tier	200	200
Lakes: second, additional tiers	267	200
Rivers	300	300

(2) The suitable area within each tier is next calculated by excluding from the tier area all wetlands, bluffs or land below the ordinary high water level of public waters. This suitable area and the proposed project are then subjected to either the residential or commercial PUD density evaluation steps to arrive at an allowable number of dwelling units.

(E) *Residential and commercial PUD density evaluations.* The procedures for determining the "base" density of a PUD and density increases multipliers area are as follows: Allowable densities may be transferred from any tier to any other tier further from the waterbody, but must not be transferred to any other tier closer.

(1) *Residential PUD "base" density evaluation.*

(a) The suitable area within each tier is divided by the single residential lot size standard for lakes or, for rivers, the single residential lot width standard times the tire depth, unless the local unit of government has specified an alternative minimum lot size for rivers which shall then be used to yield a base density of swelling units or sites for each tier.

(b) Proposed locations and numbers of dwelling units or sites for the residential PUD's are then compared with the tier, density and suitability analyses herein and the design criteria in § 151.08(F) below.

(2) *Commercial PUD "base" density evaluation.*

(a) Determine the average inside living area size of swelling units or sites within each tier, including both existing and proposed units and sites. Computation of inside living area sizes need not include decks, patios, stoops, steps, garages or porches and basements, unless they are habitable space.

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<i>Average Unit Floor Area (Square Feet)</i>	<i>Sewered Lakes, First Tier Unsewered Lakes, Rivers</i>	<i>Second Tier Unsewered Lakes</i>
200	.040	.020
300	.048	.024
400	.056	.028
500	.065	.032
600	.072	.038
700	.082	.042
800	.091	.046
900	.099	.050
1,000	.108	.054
1,100	.116	.058
1,200	.125	.064
1,300	.133	.068
1,400	.142	.072
1,500	.150	.075
For average unit floor areas less than shown, use the floor area ratios listed for 200 square feet. For areas greater than shown, use the ratios listed for 1,500 square feet. For recreational camping areas, use the ratios listed at 400 square feet. Manufactured home sites in recreational camping areas shall use a ratio equal to the size of the manufactured home, or if unknown, the ratio listed for 1,000 square feet.		

(b) Multiply the suitable area within each tier by the floor area ratio to yield total floor area for each tier allowed to be used for dwelling units or sites.

(c) Divide the total floor area by tier computed in division (b) above by the average inside living area size determined in division (a) above. This yields a base number of dwelling units and sites for each tier.

(d) Proposed locations and numbers of dwelling units or sites for the commercial PUD are then compared with the tier, density and suitability analysis herein and the design criteria in § 151.08(F).

(3) *Density increase multipliers.*

(a) *Increases.* Increases to the dwelling unit of dwelling site base densities previously determined are allowable if the dimensional standards in § 151.05 above are met or exceeded and the



design criteria in § 151.08(F) are satisfied. The allowable density increases in division (3)(b) below will only be allowed if structure setbacks from the ordinary high water level are increased to at least 50% greater than the minimum setback, or the impact on the waterbody is reduced an equivalent amount through vegetative management, topography or additional means acceptable to the local unit of government and the setback is at least 25% greater than the minimum setback.

(b) *Allowable dwelling unit or dwelling site density increases for residential or commercial PUD's.*

<i>Density Evaluation Tiers</i>	<i>Maximum Density Increased Within Each Tier (Percent)</i>
First	50
Second	100
Third	200
Fourth	200
Fifth	200

(F) *Maintenance and design criteria.*

(1) *Maintenance and administration requirements.*

(a) Before final approval of a PUD, adequate provisions must be developed for preservation and maintenance in perpetuity of open spaces and for the continued existence and functioning of the development.

(b) Open space preservation. Deed restrictions, covenants, permanent easements, public dedication and acceptance or other equally effective and permanent means must be provided to ensure long-term preservation and maintenance of open space. The instruments must include all of the following protections:

1. Commercial uses prohibited (for residential PUD's);
2. Vegetation and topographic alterations other than routine maintenance prohibited;
3. Construction of additional buildings or storage of vehicles and other materials prohibited; and
4. Uncontrolled beaching of watercraft prohibited.

(c) Development organization and functioning. Unless an equally effective alternative community framework is established, when applicable, all residential PUD's must use an owners association with the following features:

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1. Membership must be mandatory for each dwelling unit or site purchaser and any successive purchasers;
2. Each member must pay a pro rata share of the association's expenses, and unpaid assessments can become liens on units or sites;
3. Assessments must be adjustable to accommodate changing conditions; and
4. The association must be responsible for insurance, taxes and maintenance of all commonly owned property and facilities.

(2) *Open space requirements.* PUD's must contain open space meeting of all of the following criteria:

- (a) At least 50% of the total project area must be preserved as open space;
- (b) Dwelling units or sites, road rights-of-way or land covered by road surfaces, parking areas or structures, except water-oriented accessory structures or facilities, are developed areas and shall not be included in the computation of minimum open space;
- (c) Open space must include areas with physical characteristics unsuitable for development in their natural state, and areas containing significant historic sites or unplatted cemeteries;
- (d) Open space may include outdoor recreational facilities for use by owners of dwelling units or sites, by guests staying in commercial dwelling units or sites, and by the general public;
- (e) Open space may include subsurface sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems;
- (f) Open space must not include commercial facilities or uses, but may contain water-oriented accessory structures or facilities;
- (g) The appearance of open space areas, including topography, vegetation and allowable uses, must be preserved by use of restrictive deed covenants, permanent easements, public dedication and acceptance or other equally effective and permanent means; and
- (h) The shore impact zone, based on the normal structure setbacks, must be included as open space. For residential PUD's, at least 50% of the shore impact zone area of existing developments or at least 70% of the shore impact zone area of new developments must be preserved in its natural or existing state. For commercial PUD's, at least 50% of the shore impact zone must be preserved in its natural state.

(3) *Erosion control and storm water management.* Erosion control and storm water management plans must be developed and the PUD must:

(a) Be designed, and the construction managed, to minimize the likelihood of serious erosion occurring either during or after construction. This must be accomplished by limiting the amount and length of time of bare ground exposure. Temporary ground covers, sediment entrapment facilities, vegetated buffer strips or other appropriate techniques must be used to minimize erosion impacts on surface water features. Erosion control plans approved by a soil and water conservation district may be required if project size and site physical characteristics warrant; and

(b) Be designed and constructed to effectively manage reasonably expected quantities and qualities of storm water runoff. Impervious surface coverage within any tier must not exceed 25% of the tier area, except that for commercial PUD's 35% impervious surface coverage may be allowed in the first tier of general development lakes with an approved storm water management plan and consistency with § 151.05(C).

(4) *Centralization and design of facilities.* Centralization and design of facilities and structures must be done according to the following standards:

(a) PUD's must be connected to publicly owned water supply and sewer system, if available.

1. On-site water supply and sewage treatment systems must be centralized and designed and installed to meet or exceed applicable standards or rules of the Minnesota Department of Health and §§ 151.05(B) and (H) above.

2. On-site sewage treatment systems must be located on the most suitable areas of the development, and sufficient lawn area free of limiting factors must be provided for a replacement soil treatment system for each sewage system;

(b) Dwelling units or sites must be clustered into 1 or more groups and located on suitable areas of the development.

1. They must be designed and located to meet or exceed the following dimensional standards for the relevant shoreland classification: setback from the ordinary high water level, elevation above the surface water features and maximum height.

2. Setbacks from the ordinary high water level must be increased in accordance with § 151.08(E)(3) above for developments with density increases;

(c) Shore recreation facilities, including but not limited to swimming area, docks and watercraft mooring areas and launching ramps, must include consideration of land slope, waterdepth, vegetation, soils, depth to groundwater and bedrock or other relevant factors.

1. The number of spaces provided for continuous beaching mooring, or docking of watercraft must not exceed 1 for each allowable dwelling unit or site in the first tier (notwithstanding existing mooring sites in an existing commercial used harbor).

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2. Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units or sites located in other tiers.

(d) Structures, parking areas and other facilities must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increase setbacks, color or other means acceptable to the local unit of government, assuming summer leaf-on conditions. Vegetative and topographic screening must be preserved, if existing, or may be required to be provided;

(e) Accessory structures and facilities, except water oriented accessory structures, must meet the required principal structure setback and must be centralized; and

(f) Water-oriented accessory structures and facilities may be allowed if they meet or exceed design standards contained in § 151.05(B) above and are centralized.

(G) *Conversions.* Local governments may allow existing resorts or other land uses and facilities to be converted to residential PUD's if all of the following standards are met:

(1) Proposed conversions must be initially evaluated using the same procedures for residential PUD's involving all new construction. Inconsistencies between existing features of the development and these standards must be identified;

(2) Deficiencies involving water supply and sewage treatment, structure color, impervious coverage, open space and shore recreation facilities must be corrected as part of the conversion or as specified in the conditional use permit; and

(3) Shore and bluff impact zone deficiencies must be evaluated and reasonable improvements made as part of the conversion. These improvements must include, where applicable, the following:

(a) Removal of extraneous buildings, docks or other facilities that no longer need to be located in shore impact zones;

(b) Remedial measures to correct erosion sites and improve vegetative cover and screening of buildings and other facilities as viewed from the water; and

(c) If existing dwelling units are located in shore or bluff impact zones, conditions are attached to approvals of conversions that preclude exterior expansions in any dimension or substantial alterations. The conditions must also provide for future relocation of dwelling units, where feasible, to other locations, meeting all setback and elevation requirements when they are rebuilt or replaced.

(4) Existing dwelling unit or dwelling site densities that exceed standards in § 151.08(E) may be allowed to continue but must not be allowed to be increased, either at the time of conversion or in the future.

(5) Efforts must be made during the conversion to limit impacts of high densities by requiring seasonal use, improving vegetative screening, centralizing shore recreation facilities, installing new storage treatment systems or other means.  
(1985 Code, § 1004; 8.0)

**§ 151.09 SUPPLEMENTAL SHORELAND OVERLAY DISTRICT.**

(A) *Application.* This district shall apply to all lands within 1,000 feet of the ordinary high water mark of Sauk Lake, which are outside the limits of the S-1 District.

(B) *Standards.* All provisions of the underlying zoning district shall apply in the S-2 Overlay District, except that in unsewered areas, the design and installation of sewage treatment systems shall be in conformance with the requirements of the Minnesota Pollution Control Agency Rules 6 MCLAR 4.08040 and the applicable requirements of this chapter.  
(1985 Code, § 1004; 9.0)



## CHAPTER 152: FLOOD PLAIN; FLOOD PROTECTION

### Section

- 152.01 Authorization, fact and purpose
- 152.02 General provisions
- 152.03 Establishment of zoning districts
- 152.04 Floodway District (FW)
- 152.05 Flood Fringe District (FF)
  - 152.055 General flood plain district and zone A lakes
- 152.06 Subdivisions
- 152.07 Public utilities, railroads, roads and bridges
- 152.08 Manufactured homes and manufactured home parks and placement of recreational vehicles
- 152.09 Administration
- 152.10 Nonconforming uses
- 152.11 Violations
- 152.12 Amendments

### § 152.01 AUTHORIZATION, FACT AND PURPOSE.

(A) *Statutory authorization.* The legislature of the State of Minnesota has, in M.S. Ch. 103F and M.S. Ch. 462 delegated the responsibility to local government units to adopt regulations designed to minimize flood losses. Therefore, the City of Sauk Centre, Minnesota does ordain as follows:

(B) *Findings of fact.*

(1) The flood hazard areas of Sauk Centre, Minnesota, are subject to periodic inundation which results in potential loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

(2) Methods used to analyze flood hazards. This chapter is based upon a reasonable method of analyzing flood hazards which is consistent with the standards established by the Minnesota Department of Natural Resources.

(3) National Flood Insurance Program compliance. This chapter is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 Code of Federal Regulations Parts 59 -78, as amended, so as to maintain the community's eligibility in the National Flood Insurance Program.

(C) *Statement of purpose.* It is the purpose of this chapter to promote the public health, safety, and general welfare and to minimize those losses described in § 152.01(B)(1) by provisions contained herein.

(1985 Code, § 1002; 1.0) (Am. Ord. 713, passed 11-16-2011)

## § 152.02 GENERAL PROVISIONS.

(A) *Lands to which ordinance applies.* This chapter shall apply to all lands within the jurisdiction of the City of Sauk Centre, Minnesota shown on the Official Zoning Map and/or the attachments thereto as being located within the boundaries of the Floodway, Flood Fringe, or General Flood Plain Districts.

(B) *Establishment of official zoning map.*

(1) The official zoning map together with all materials attached thereto is hereby adopted by reference and declared to be a part of this chapter.

(2) The attached material shall include the Flood Insurance Study, Stearns County, Minnesota and incorporated areas and Flood Insurance Rate Map Panels therein numbered 27145C0065E, 27145C0255E and 27145C0260E, all dated February 16, 2012 and prepared by the Federal Emergency Management Agency.

(3) The official zoning map shall be on file in the Office of the City Clerk and the Zoning Administrator.

(C) *Regulatory flood protection elevation.* The regulatory flood protection elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.

(D) *Interpretation.*

(1) In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by state statutes.

(2) The boundaries of the zoning districts shall be determined by scaling distances on the official zoning map.

(3) Where interpretation is needed as to the exact location of the boundaries of the district as shown on the official zoning map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions and there is a formal appeal of the decision of the Zoning Administrator, the Board of Adjustment shall make the necessary interpretation.

(4) All decisions will be based on elevations on the regional (100-year) flood profile, the ground elevations that existed on the site at the time the community adopted its initial flood plain ordinance or on the date of the first National Flood Insurance Program map showing the area within the



100-year flood plain if earlier, and other available technical data. Staff is to use the most current and accurate information available at the time of application.

(5) Persons contesting the location of the district boundaries shall be given a reasonable opportunity to present their case to the Board of Adjustment and to submit technical evidence.

(E) *Abrogation and greater restrictions.*

(1) It is not intended by this chapter to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions.

(2) However, where this chapter imposes greater restrictions, the provisions of this chapter shall prevail. All other ordinances inconsistent with this chapter are hereby repealed to the extent of the inconsistency only.

(F) *Warning and disclaimer of liability.*

(1) This chapter does not imply that areas outside the flood plain districts or land uses permitted within such districts will be free from flooding or flood damages.

(2) This chapter shall not create liability on the part of the City of Sauk Centre or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

(G) *Severability.* If any section, clause, provision, or portion of this chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby.

(H) *Definitions.*

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

(2) Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this chapter its most reasonable application.

**ACCESSORY USE OR STRUCTURE.** A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

**BASEMENT.** Any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.

**CONDITIONAL USE.** A specific type of structure or land use listed in the official control that may be allowed but only after an in-depth review procedure and with appropriate conditions or restrictions as provided in the official zoning controls or building codes and upon a finding that:

1. Certain conditions as detailed in the zoning ordinance exist.
2. The structure and/or land use conform to the comprehensive land use plan if one exists and are compatible with the existing neighborhood.

**EQUAL DEGREE OF ENCROACHMENT.** A method of determining the location of floodway boundaries so that flood plain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.

**FLOOD.** A temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.

**FLOOD FREQUENCY.** The frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.

**FLOOD FRINGE.** That portion of the flood plain outside of the floodway. **FLOOD FRINGE** is synonymous with the term **FLOODWAY FRINGE**" used in the Flood Insurance Study, Stearns County, Minnesota and incorporated areas.

**FLOOD PLAIN.** The beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood.

**FLOOD PROOFING.** A combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.

**FLOODWAY.** The bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining flood plain which are reasonably required to carry or store the regional flood discharge.

**LOWEST FLOOR.** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's **LOWEST FLOOR**.

**MANUFACTURED HOME.** A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term **MANUFACTURED HOME** does not include the term "recreational vehicle."

**OBSTRUCTION.** Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill,

structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory flood plain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.

**PRINCIPAL USE OR STRUCTURE.** All uses or structures that are not accessory uses or structures.

**REACH.** A hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.

**RECREATIONAL VEHICLE.** A vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. For the purposes of this chapter, the term recreational vehicle shall be synonymous with the term travel trailer/travel vehicle.

**REGIONAL FLOOD.** A flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval. **REGIONAL FLOOD** is synonymous with the term **BASE FLOOD** used in a flood insurance study.

**REGULATORY FLOOD PROTECTION ELEVATION.** The regulatory flood protection elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.

**STRUCTURE.** Anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, recreational vehicles not meeting the exemption criteria specified in § 152.08(C)(1) of this chapter and other similar items.

**SUBSTANTIAL DAMAGE.** Damage of any origin sustained by a structure where the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

**SUBSTANTIAL IMPROVEMENT.** Within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the “start of construction” of the improvement. This term includes structures that have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.

2. Any alteration of an “historic structure,” provided that the alteration will not preclude the structure’s continued designation as an “historic structure.” For the purpose of this chapter, **HISTORIC STRUCTURE** shall be as defined in 44 Code of Federal Regulations, Part 59.1.

**VARIANCE.** A modification of a specific permitted development standard required in an official control including this chapter to allow an alternative development standard not stated as acceptable in the official control, but only as applied to a particular property for the purpose of alleviating a hardship, practical difficulty or unique circumstance as defined and elaborated upon in a community's respective planning and zoning enabling legislation.

(I) *Annexations.* The Flood Insurance Rate Map panels adopted by reference into § 152.02(B) may include flood plain areas that lie outside of the corporate boundaries of the City of Sauk Centre at the time of adoption of this chapter. If any of these flood plain land areas are annexed into the City of Sauk Centre after the date of adoption of this chapter, the newly annexed flood plain lands shall be subject to the provisions of this chapter immediately upon the date of annexation into the City of Sauk Centre.

(1985 Code, § 1002; 2.0) (Am. Ord. 713, passed 11-16-2011)

### § 152.03 ESTABLISHMENT OF ZONING DISTRICTS.

(A) *Districts.*

(1) *Floodway District.* The Floodway District shall include those areas designated as floodway on the Flood Insurance Rate Map adopted in § 152.02(B). For lakes, the Floodway District shall include those areas designated as Zone AE or Zone A on the Flood Insurance Rate Map panels adopted in § 152.02(B) that are below the ordinary high water level as defined in M.S. § 103G.005 subdivision 14.

(2) *Flood Fringe District.* The Flood Fringe District shall include those areas designated as floodway fringe, which shall include the areas shown on the Flood Insurance Rate Map, adopted in § 152.02(B), as being within Zone AE but being located outside of the floodway. For lakes, the Flood Fringe District shall include those areas designated as Zone AE or Zone A on the Flood Insurance Rate Map panels adopted in § 152.02(B) that are below the 1% annual chance flood elevation (100-year flood elevation) but above the ordinary high water level as defined in M.S. § 103G.005 subdivision 14.

(3) *General Flood Plain District.* The General Flood Plain District shall include those areas designated as Zone A on the Flood Insurance Rate Map adopted in § 152.02(B), which are not subject to criteria mentioned in § 152.03(A)(1) and (A)(2).

(B) *Compliance.*

(1) No new structure or land shall hereafter be used and no structure shall be constructed, located, extended, converted, or structurally altered without full compliance with the terms of this chapter and other applicable regulations which apply to uses within the jurisdiction of this chapter.

(2) Within the Floodway, Flood Fringe and General Flood Plain Districts, all uses not listed as permitted uses or conditional uses in §§ 152.04, 152.05 and 152.055 that follow, respectively, shall be prohibited.

(3) In addition, a caution is provided here that:

(a) New manufactured homes, replacement manufactured homes and certain travel trailers and travel vehicles are subject to the general provisions of this chapter and specifically § 152.08.

(b) Modifications, additions, structural alterations, normal maintenance and repair, or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of this chapter and specifically § 152.10.

(c) As-built elevations for elevated or flood proofed structures must be certified by ground surveys and flood proofing techniques must be designed and certified by a registered professional engineer or architect as specified in the general provisions of this chapter and specifically as stated in § 152.09.

(1985 Code, § 1002; 3.0) (Am. Ord. 713, passed 11-16-2011)

**§ 152.04 FLOODWAY DISTRICT (FW).**

(A) *Permitted uses:*

(1) General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.

(2) Industrial-commercial loading areas, parking areas, and airport landing strips.

(3) Private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, and single or multiple purpose recreational trails.

(4) Residential lawns, gardens, parking areas, and play areas.

(B) *Standards for floodway permitted uses.*

(1) The use shall have a low flood damage potential.

## Sauk Centre - Land Usage

(2) The use shall be permissible in the underlying zoning district if one exists.

(3) The use shall not obstruct flood flows or increase flood elevations and shall not involve structures, fill, obstructions, excavations or storage of materials or equipment.

(C) *Conditional uses.*

(1) Structures accessory to the uses listed in § 152.04(A) and the uses listed in § 152.04(C)(2) through (C)(8).

(2) Extraction and storage of sand, gravel, and other materials.

(3) Marinas, boat rentals, docks, piers, wharves, and water control structures.

(4) Railroads, streets, bridges, utility transmission lines, and pipelines.

(5) Storage yards for equipment, machinery, or materials.

(6) Placement of fill or construction of fences.

(7) Recreational vehicles either on individual lots of record or in existing or new subdivisions or commercial or condominium type campgrounds, subject to the exemptions and provisions of § 152.08(C).

(8) Structural works for flood control such as levees, dikes and floodwalls constructed to any height where the intent is to protect individual structures and levees or dikes where the intent is to protect agricultural crops for a frequency flood event equal to or less than the 100-year frequency flood event.

(D) *Standards for floodway conditional uses.*

(1) *All uses.* No structure (temporary or permanent), fill (including fill for roads and levees), deposit, obstruction, storage of materials or equipment, or other uses may be allowed as a conditional use that will cause any increase in the stage of the 100-year or regional flood or cause an increase in flood damages in the reach or reaches affected.

(2) *Procedures and standards.* All floodway conditional uses shall be subject to the procedures and standards contained in § 152.09(D).

(3) *Underlying district.* The conditional use shall be permissible in the underlying zoning district if one exists.

(4) *Fill.*

(a) Fill, dredge spoil, and all other similar materials deposited or stored in the flood plain shall be protected from erosion by vegetative cover, mulching, riprap or other acceptable method.

(b) Dredge spoil sites and sand and gravel operations shall not be allowed in the floodway unless a long-term site development plan is submitted which includes an erosion/sedimentation prevention element to the plan.

(c) As an alternative, and consistent with § 152.04(D)(4)(b) immediately above, dredge spoil disposal and sand and gravel operations may allow temporary, on-site storage of fill or other materials which would have caused an increase to the stage of the 100-year or regional flood but only after the governing body has received an appropriate plan which assures the removal of the materials from the floodway based upon the flood warning time available. The conditional use permit must be title registered with the property in the Office of the County Recorder.

(5) *Accessory structures.*

(a) Accessory structures shall not be designed for human habitation.

(b) Accessory structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters:

1. Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow; and

2. So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.

(c) Accessory structures shall be elevated on fill or structurally dry flood proofed in accordance with the FP-1 or FP-2 flood proofing classifications in the State Building Code. As an alternative, an accessory structure may be flood proofed to the FP-3 or FP-4 flood proofing classification in the State Building Code provided the accessory structure constitutes a minimal investment, does not exceed 500 square feet in size at its largest projection, and for a detached garage, the detached garage must be used solely for parking of vehicles and limited storage.

(d) All flood proofed accessory structures must meet the following additional standards:

1. The structure must be adequately anchored to prevent flotation, collapse or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls;

2. Any mechanical and utility equipment in a structure must be elevated to or above the regulatory flood protection elevation or properly flood proofed; and

3. To allow for the equalization of hydrostatic pressure, there must be a minimum of 2 “automatic” openings in the outside walls of the structure having a total net area of not less than 1 square inch for every square foot of enclosed area subject to flooding. There must be openings on at least 2 sides of the structure and the bottom of all openings must be no higher than 1 foot above the

lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.

(6) *Storage of materials and equipment.*

(a) The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.

(b) Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the governing body.

(7) *Structural works.* Structural works for flood control that will change the course, current or cross section of protected wetlands or public waters shall be subject to the provisions of M.S. Ch. 103G as it may be amended from time to time. Community-wide structural works for flood control intended to remove areas from the regulatory flood plain shall not be allowed in the floodway.

(8) *Equal conveyance.* A levee, dike or floodwall constructed in the floodway shall not cause an increase to the 100-year or regional flood and the technical analysis must assume equal conveyance or storage loss on both sides of a stream.

(1985 Code, § 1002; 4.0) (Am. Ord. 713, passed 11-16-2011)

**§ 152.05 FLOOD FRINGE DISTRICT (FF).**

(A) *Permitted uses.*

(1) Permitted uses shall be those uses of land or structures listed as permitted uses in the underlying zoning use district(s).

(2) If no pre-existing, underlying zoning use districts exist, then any residential or non residential structure or use of a structure or land shall be a permitted use in the Flood Fringe District provided such use does not constitute a public nuisance.

(3) All permitted uses shall comply with the standards for Flood Fringe District “Permitted Uses” listed in § 152.05(B) and the “Standards for all Flood Fringe Uses” listed in § 152.05(E).

(B) *Standards for flood fringe permitted uses.*

(1) All structures, including accessory structures, must be elevated on fill so that the lowest floor including basement floor is at or above the regulatory flood protection elevation. The finished fill elevation for structures shall be no lower than 1 foot below the regulatory flood protection elevation and the fill shall extend at such elevation at least 15 feet beyond the outside limits of the structure erected thereon.



(2) As an alternative to elevation on fill, accessory structures that constitute a minimal investment and that do not exceed 500 square feet at its largest projection may be internally flood proofed in accordance with § 152.04(D)(5).

(3) The cumulative placement of fill where at any one time in excess of 1,000 cubic yards of fill is located on the parcel shall be allowable only as a conditional use, unless said fill is specifically intended to elevate a structure in accordance with § 152.05(B)(1).

(4) The storage of any materials or equipment shall be elevated on fill to the regulatory flood protection elevation.

(5) The provisions of § 152.05(E) shall apply.

(C) *Conditional uses.* Any structure that is not elevated on fill or flood proofed in accordance with § 152.05(B)(1) and (B)(2) or any use of land that does not comply with the standards in § 152.05(B)(3) and (B)(4) shall only be allowable as a conditional use. An application for a conditional use shall be subject to the standards and criteria and evaluation procedures specified in § 152.05(D) and (E) and in § 152.09(D).

(D) *Standards for flood fringe conditional uses.*

(1) Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the regulatory flood protection elevation. These alternative methods may include the use of stilts, pilings, parallel walls, etc., or above-grade, enclosed areas such as crawl spaces or tuck under garages.

(a) The base or floor of an enclosed area shall be considered above-grade and not a structure's basement or lowest floor if:

1. The enclosed area is above-grade on at least one side of the structure;
2. It is designed to internally flood and is constructed with flood resistant materials;

and

3. It is used solely for parking of vehicles, building access or storage. The above-noted alternative elevation methods are subject to the following additional standards:

(b) *Design and certification.* The structure's design and as-built condition must be certified by a registered professional engineer or architect as being in compliance with the general design standards of the State Building Code and, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities must be at or above the regulatory flood protection elevation or be designed to prevent flood water from entering or accumulating within these components during times of flooding.

(c) Specific standards for above-grade, enclosed areas. Above-grade, fully enclosed areas such as crawl spaces or tuck under garages must be designed to internally flood and the design plans must stipulate:

1. A minimum area of openings in the walls where internal flooding is to be used as a flood proofing technique. There shall be a minimum of 2 openings on at least 2 sides of the structure and the bottom of all openings shall be no higher than 1-foot above grade. The automatic openings shall have a minimum net area of not less than 1 square inch for every square foot of enclosed area subject to flooding unless a registered professional engineer or architect certifies that a smaller net area would suffice. The automatic openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters without any form of human intervention; and

2. That the enclosed area will be designed of flood resistant materials in accordance with the FP-3 or FP-4 classifications in the State Building Code and shall be used solely for building access, parking of vehicles or storage.

(2) Basements, as defined by § 152.02(H) of this chapter, shall be subject to the following:

(a) Residential basement construction shall not be allowed below the regulatory flood protection elevation.

(b) Non-residential basements may be allowed below the regulatory flood protection elevation provided the basement is structurally dry flood proofed in accordance with § 152.05(D)(3).

(3) Flood proofing of non-residential structures:

(a) All areas of non residential structures including basements to be placed below the regulatory flood protection elevation shall be flood proofed in accordance with the structurally dry flood proofing classifications in the State Building Code.

(b) Structurally dry flood proofing must meet the FP-1 or FP-2 flood proofing classification in the State Building Code and this shall require making the structure watertight with the walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Structures flood proofed to the FP-3 or FP-4 classification shall not be permitted.

(4) When at any one time more than 1,000 cubic yards of fill or other similar material is located on a parcel for such activities as on-site storage, landscaping, sand and gravel operations, landfills, roads, dredge spoil disposal or construction of flood control works, an erosion/sedimentation control plan must be submitted unless the community is enforcing a state approved shoreland management ordinance.

(a) In the absence of a state approved shoreland ordinance, the plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the 100-year or regional flood event.

(b) The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the governing body. The plan may incorporate alternative procedures for removal of the material from the flood plain if adequate flood warning time exists.

(5) Storage of materials and equipment:

(a) The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.

(b) Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the governing body.

(6) The provisions of § 152.05(E) of this section shall also apply.

(E) *Standards for all flood fringe uses.*

(1) All new principal structures must have vehicular access at or above an elevation not more than 2 feet below the regulatory flood protection elevation. If a variance to this requirement is granted, the Board of Adjustment must specify limitations on the period of use or occupancy of the structure for times of flooding and only after determining that adequate flood warning time and local flood emergency response procedures exist.

(2) Commercial uses. Accessory land uses, such as yards, railroad tracks, and parking lots may be at elevations lower than the regulatory flood protection elevation. However, a permit for such facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would be inundated to a depth and velocity such that when multiplying the depth (in feet) times velocity (in feet per second) the product number exceeds 4 upon occurrence of the regional flood.

(3) Manufacturing and industrial uses. Measures shall be taken to minimize interference with normal plant operations especially along streams having protracted flood durations. Certain accessory land uses such as yards and parking lots may be at lower elevations subject to requirements set out in § 152.05(E)(2). In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in flood plain areas.

(4) Fill shall be properly compacted and the slopes shall be properly protected by the use of riprap, vegetative cover or other acceptable method. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation - FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot

developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

(5) Flood plain developments shall not adversely affect the hydraulic capacity of the channel and adjoining flood plain of any tributary watercourse or drainage system where a floodway or other encroachment limit has not been specified on the Official Zoning Map.

(6) Standards for recreational vehicles are contained in § 152.08(C).

(7) All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

(1985 Code, § 1002; 5.0) (Am. Ord. 713, passed 11-16-2011)

#### **§ 152.055 GENERAL FLOOD PLAIN DISTRICT AND ZONE A LAKES.**

##### *(A) General Flood Plain District.*

##### *(1) Permissible uses.*

(a) The uses listed in § 152.04(A) shall be permitted uses.

(b) All other uses shall be subject to the 1% annual chance flood (100-Year Flood Elevations) and/or floodway and flood fringe determinations criteria pursuant to § 152.055(A)(2). Section 152.04 shall apply if the proposed use is in the Floodway District and § 152.05 shall apply if the proposed use is in the Flood Fringe District.

(2) Procedures for 1% annual chance flood (100-Year Flood Elevations) and/or floodway and flood fringe determinations for streams located within the General Flood Plain District.

(a) Upon receipt of an application for a permit or other approval within the General Flood Plain District, the applicant shall be required to furnish such of the following information as is deemed necessary by the Zoning Administrator for the determination of the regulatory flood protection elevation and whether the proposed use is within the Floodway or Flood Fringe District.

1. A typical valley cross-section(s) showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development, and high water information.

2. Plan (surface view) showing elevations or contours of the ground, pertinent structure, fill, or storage elevations, the size, location, and spatial arrangement of all proposed and existing structures on the site, and the location and elevations of streets.

3. Photographs showing existing land uses, vegetation upstream and downstream, and soil types.
4. Profile showing the slope of the bottom of the channel or flow line of the stream for at least 500 feet in either direction from the proposed development.

(b) The applicant shall be responsible to submit one copy of the above information to a designated engineer or other expert person or agency for technical assistance in determining the 1% annual chance flood (100-Year Flood Elevations), if not available, whether the proposed use is in the Floodway or Flood Fringe District and to determine the regulatory flood protection elevation. Procedures consistent with Minnesota Regulations 1983, Parts 6120.5000 - 6120.6200 and 44 Code of Federal Regulations Part 65 shall be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the respective Department of Natural Resources' Area Hydrologist prior to commencing the analysis. The designated engineer or expert shall:

1. Estimate the peak discharge of the regional flood.
2. Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.
3. Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than 0.5 foot. A lesser stage increase than 0.5 foot shall be required if, as a result of the additional stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach shall be assumed in computing floodway boundaries.

(c) The Zoning Administrator shall present the technical evaluation and findings of the designated engineer or expert to the governing body. The governing body must formally accept the technical evaluation and the recommended Floodway and/or Flood Fringe District boundary or deny the permit application. The governing body, prior to official action, may submit the application and all supporting data and analyses to the Federal Emergency Management Agency, the Department of Natural Resources or the Planning Commission for review and comment. Once the Floodway and Flood Fringe District Boundaries have been determined, the governing body shall refer the matter back to the Zoning Administrator who shall process the permit application consistent with the applicable provisions of §§ 152.04 and 152.05 of this chapter.

(B) *Zone A lakes.* Procedures for determining 1% annual chance flood elevations (100-year flood elevations) for lakes located in Zone A:

(1) Upon receipt of an application for a permit or other approval within a Zone A, the Zoning Administrator will use the 1% annual chance flood elevation for that basin that has previously been determined in accordance with approved FEMA methods, if available. If the 1% annual chance flood elevation has not been previously determined, the applicant shall be required to furnish all necessary

information as deemed necessary by the Zoning Administrator for the determination for the 1% annual chance flood elevation in accordance with approved FEMA methods.

(2) The applicant shall be responsible to submit one copy of the above information to a designated engineer or other expert person or agency for technical assistance in determining the 1% annual chance flood elevation (100-year flood elevation). Procedures consistent with Minnesota Regulations 1983, Parts 6120.5000 - 6120.6200 and 44 Code of Federal Regulations Part 65 shall be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the respective Department of Natural Resources' Area Hydrologist prior to commencing the analysis.

(3) Once the 1% annual chance flood elevation (100-year flood elevation) has been determined, the Zoning Administrator shall process the permit application consistent with the applicable provisions of §§ 152.04 and 152.05 of this chapter depending on whether the use is in the Floodway District or the Flood Fringe District, respectively, as determined by the criteria in § 152.03(A)(1) and (A)(2) of this chapter.  
(Ord. 713, passed 11-16-2011)

#### **§ 152.06 SUBDIVISIONS.**

*(A) Review criteria.*

(1) No land shall be subdivided which is unsuitable for the reason of flooding, inadequate drainage, water supply or sewage treatment facilities.

(2) All lots within the flood plain districts shall be able to contain a building site outside of the Floodway District at or above the regulatory flood protection elevation.

(3) All subdivisions shall have water and sewage treatment facilities that comply with the provisions of this chapter and have road access both to the subdivision and to the individual building sites no lower than 2 feet below the regulatory flood protection elevation.

(4) For all subdivisions in the flood plain, the Floodway and Flood Fringe District boundaries, the regulatory flood protection elevation and the required elevation of all access roads shall be clearly labeled on all required subdivision drawings and platting documents.

(5) Floodway/flood fringe determinations in the General Flood Plain District and 100 year flood elevation determinations for Zone A lakes. Applicants shall provide the information required in § 152.055 to determine the 100-year flood elevation, the Floodway and Flood Fringe District boundaries and the regulatory flood protection elevation for the subdivision site.

*(B) Removal of special flood hazard area designation.*

(1) The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation.

(2) FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments.

(3) These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

(1985 Code, § 1002; 7.0) (Am. Ord. 713, passed 11-16-2011)

**§ 152.07 PUBLIC UTILITIES, RAILROADS, ROADS AND BRIDGES.**

(A) *Public utilities.* All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the flood plain shall be flood proofed in accordance with the State Building Code or elevated to above the regulatory flood protection elevation.

(B) *Public transportation facilities.*

(1) Railroad tracks, roads, and bridges to be located within the flood plain shall comply with §§ 152.04 and 152.05.

(2) Elevation to the regulatory flood protection elevation shall be provided where failure or interruption of these transportation facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.

(C) *On-site sewage treatment and water supply systems.*

(1) Where public utilities are not provided:

(a) On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems; and

(b) New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and they shall not be subject to impairment or contamination during times of flooding.

(2) Any sewage treatment system designed in accordance with the state's current statewide standards for on-site sewage treatment systems shall be determined to be in compliance with this section.

(1985 Code, § 1002; 8.0) (Am. Ord. 713, passed 11-16-2011)

**§ 152.08 MANUFACTURED HOMES AND MANUFACTURED HOME PARKS AND PLACEMENT OF RECREATIONAL VEHICLES.**

(A) New manufactured home parks and expansions to existing manufactured home parks shall be subject to the provisions placed on subdivisions by § 152.06 of this chapter.

(B) The placement of new or replacement manufactured homes;

(1) In existing manufactured home parks or on individual lots of record that are located in flood plain districts will be treated as a new structure and may be placed only if elevated in compliance with § 152.05 of this chapter.

(2) If vehicular road access for pre-existing manufactured home parks is not provided in accordance with § 152.05(E)(1), then replacement manufactured homes will not be allowed until the property owner(s) develops a flood warning emergency plan acceptable to the governing body.

(3) All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

(C) Recreational vehicles that do not meet the exemption criteria specified in § 152.08(C)(1) shall be subject to the provisions of this chapter and as specifically spelled out in § 152.08(C)(3) and (C)(4).

(1) *Exemption.* Recreational vehicles are exempt from the provisions of this chapter if they are placed in any of the areas listed in § 152.08(C)(2) below and further they meet the following criteria:

(a) Have current licenses required for highway use.

(b) Are highway ready meaning on wheels or the internal jacking system, are attached to the site only by quick disconnect type utilities commonly used in campgrounds and recreational vehicle trailer parks and the recreational vehicle has no permanent structural type additions attached to it.

(c) The recreational vehicle and associated use must be permissible in any pre-existing, underlying zoning use district.

(2) *Areas exempted for placement of recreational vehicles.*

(a) Individual lots or parcels of record.

(b) Existing commercial recreational vehicle parks or campgrounds.

(c) Existing condominium type associations.



(3) Recreational vehicles travel trailers and travel vehicles exempted in § 152.08(C)(1) and (C)(2) lose this exemption when development occurs on the parcel exceeding \$200 for a structural addition to the recreational vehicle or exceeding \$500 for an accessory structure such as a garage or storage building. The recreational vehicle and all additions and accessory structures will then be treated as a new structure and shall be subject to the elevation/flood proofing requirements and the use of land restrictions specified in §§ 152.04 and 152.05 of this chapter. There shall be no development or improvement on the parcel or attachment to the recreational vehicle that hinders the removal of the recreational vehicle to a flood free location should flooding occur.

(4) New commercial recreational vehicle parks or campgrounds and new residential type subdivisions and condominium associations and the expansion of any existing similar use exceeding 5 units or dwelling sites shall be subject to the following:

(a) Any new or replacement recreational vehicle will be allowed in the Floodway or Flood Fringe Districts provided said recreational vehicle and its contents are placed on fill above the regulatory flood protection elevation and proper elevated road access to the site exists in accordance with § 152.05(E)(1) of this chapter. No fill placed in the floodway to meet the requirements of this section shall increase flood stages of the 100-year or regional flood.

(b) All new or replacement recreational vehicles not meeting the criteria of § 152.08(C)(4)(a) may, as an alternative, be allowed as a conditional use if in accordance with the following provisions and the provisions of § 152.09(D) of this chapter. The applicant must submit an emergency plan for the safe evacuation of all vehicles and people during the 100-year flood. Said plan shall be prepared by a registered engineer or other qualified individual, shall demonstrate that adequate time and personnel exist to carry out the evacuation, and shall demonstrate the provisions of § 152.08(C)(1)(a) and (C)(1)(b) of this section will be met. All attendant sewage and water facilities for new or replacement recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding in accordance with § 152.07(C).  
(1985 Code, § 1002; 9.0) (Ord. 713, passed 11-16-2011)

## § 152.09 ADMINISTRATION.

(A) *Zoning Administrator.* A Zoning Administrator or other official designated by the governing body shall administer and enforce this chapter. If the Zoning Administrator finds a violation of the provisions of this chapter the Zoning Administrator shall notify the person responsible for such violation in accordance with the procedures stated in § 152.11 of this chapter.

(B) *Permit requirements.*

(1) *General.* A permit issued by the Zoning Administrator in conformity with the provisions of this chapter shall be secured prior to the erection, addition, modification, rehabilitation (including normal maintenance and repair), or alteration of any building, structure, or portion thereof; prior to the use or change of use of a building, structure, or land; prior to the construction of a dam, fence, or on-site

septic system; prior to the change or extension of a nonconforming use; prior to the repair of a structure that has been damaged by flood, fire, tornado, or any other source; and prior to the placement of fill, excavation of materials, or the storage of materials or equipment within the flood plain.

(2) *Application for permit.* Application for a permit shall be made in duplicate to the Zoning Administrator on forms furnished by the Zoning Administrator and shall include the following where applicable: plans in duplicate drawn to scale, showing the nature, location, dimensions, and elevations of the lot; existing or proposed structures, fill, or storage of materials; and the location of the foregoing in relation to the stream channel.

(3) *State and federal permits.* Prior to granting a permit or processing an application for a conditional use permit or variance, the Zoning Administrator shall determine that the applicant has obtained all necessary state and federal permits.

(4) *Certificate of zoning compliance for a new, altered, or nonconforming use.* It shall be unlawful to use, occupy, or permit the use or occupancy of any building or premises or part thereof hereafter created, erected, changed, converted, altered, or enlarged in its use or structure until a certificate of zoning compliance shall have been issued by the Zoning Administrator stating that the use of the building or land conforms to the requirements of this chapter.

(5) *Construction and use to be as provided on applications, plans, permits, variances and certificates of zoning compliance.* Permits, conditional use permits, or certificates of zoning compliance issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this chapter, and punishable as provided by § 152.11 of this chapter.

(6) *Certification.* The applicant shall be required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this chapter. Flood proofing measures shall be certified by a registered professional engineer or registered architect.

(7) *Record of first floor elevation.* The Zoning Administrator shall maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the flood plain. The Zoning Administrator shall also maintain a record of the elevation to which structures or alterations and additions to structures are flood proofed.

(8) *Notifications for watercourse alterations.* The Zoning Administrator shall notify, in riverine situations, adjacent communities and the Commissioner of the Department of Natural Resources prior to the community authorizing any alteration or relocation of a watercourse. If the applicant has applied for a permit to work in the beds of public waters pursuant to M.S. Ch. 103G, this shall suffice as adequate notice to the Commissioner of Natural Resources. A copy of said notification shall also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).

(9) *Notification to FEMA when physical changes increase or decrease the 100-year flood elevation.* As soon as is practicable, but not later than 6 months after the date such supporting information becomes available, the Zoning Administrator shall notify the Chicago Regional Office of FEMA of the changes by submitting a copy of said technical or scientific data.

(C) *Board of Adjustment:*

(1) *Rules.* The Board of Adjustment shall adopt rules for the conduct of business and may exercise all of the powers conferred on such boards by state law.

(2) *Administrative review.* The Board of Adjustment shall hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement or administration of this chapter.

(3) *Variances.*

(a) The Board of Adjustment may authorize upon appeal in specific cases such relief or variance from the terms of this chapter as will not be contrary to the public interest and only for those circumstances such as hardship, practical difficulties or circumstances unique to the property under consideration, as provided for in the respective enabling legislation for planning and zoning for cities or counties as appropriate.

(b) In the granting of such variance, the Board of Adjustment shall clearly identify in writing the specific conditions that existed consistent with the criteria specified in this chapter, any other zoning regulations in the community, and in the respective enabling legislation that justified the granting of the variance.

(c) No variance shall have the effect of allowing in any district uses prohibited in that district; permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area, or permit standards lower than those required by state law.

(d) The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:

1. Variances shall not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
2. Variances shall only be issued by a community upon:
  - a. A showing of good and sufficient cause;
  - b. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

3. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(4) *Hearings.*

(a) Upon filing with the Board of Adjustment of an appeal from a decision of the Zoning Administrator, or an application for a variance, the Board of Adjustment shall fix a reasonable time for a hearing and give due notice to the parties in interest as specified by law.

(b) The Board of Adjustment shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed variances sufficiently in advance so that the Commissioner will receive at least ten days notice of the hearing.

(5) *Decisions.*

(a) The Board of Adjustment shall arrive at a decision on such appeal or variance within 60 days.

(b) In passing upon an appeal, the Board of Adjustment may, so long as such action is in conformity with the provisions of this chapter, reverse or affirm, wholly or in part, or modify the order, requirement, decision or determination of the Zoning Administrator or other public official.

(c) It shall make its decision in writing setting forth the findings of fact and the reasons for its decisions.

(d) In granting a variance the Board of Adjustment may prescribe appropriate conditions and safeguards such as those specified in § 152.09(D)(7) which are in conformity with the purposes of this chapter. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter punishable under § 152.11 of this chapter.

(e) A copy of all decisions granting variances shall be forwarded by mail to the Commissioner of Natural Resources within 10 days of such action.

(6) *Appeals.* Appeals from any decision of the Board of Adjustment may be made, and as specified in this community's official controls and also by Minnesota Statutes.

(7) *Flood Insurance notice and record keeping.*

(a) The Zoning Administrator shall notify the applicant for a variance that:

1. The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and

2. Such construction below the 100-year or regional flood level increases risks to life and property.

(b) Such notification shall be maintained with a record of all variance actions.

(c) A community shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biennial report submitted to the Administrator of the National Flood Insurance Program.

(D) *Conditional uses.*

(1) *General.* The Planning Commission of the City of Sauk Centre shall hear and decide applications for conditional uses permissible under this chapter.

(2) Applications shall be submitted to the Zoning Administrator/Clerk who shall forward the application to Planning Commission for consideration, together with the required fees.

(3) Any additional written or graphic data reasonable required by the Administrator/Clerk or the Planning Commission.

(4) Procedure.

(a) The Administrator/Clerk shall forward the application to the Planning Commission for consideration at their next regular meeting.

(b) Upon filing with the Planning Commission, the application for the conditional use permit shall also be submitted by mail to the Commissioner of Natural Resources.

(c) The Commissioner of Natural Resources shall receive a copy of the application of the proposed conditional use sufficiently in advance so that the Commissioner will receive at least 10 days notice prior to any scheduled hearing.

(d) The Administrator/Clerk shall also forward 1 copy of the application and related information to a designated engineer or other expert person or agency for technical assistance, where necessary, in evaluating the proposed project in relation to flood heights and velocities, seriousness of flood damage to the use, the adequacy of the plans for protection and other technical matters.

(e) The Planning Commission shall set a date for the official public hearing.

(f) Notice of the hearing shall be published in accordance with state law and notice shall be published at least once in the official newspaper for the city.

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(g) The notice shall describe the particular conditional use and shall contain a brief description thereof.

(h) Notice shall be sent to the affected property owner, however, the failure of a property owner to receive the notice shall not invalidate any proceedings.

(I) Based upon the technical evaluation of the designated engineer or expert, the Planning Commission shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard. Based on this and any additional information the Planning Commission shall make a recommendation to the City Council within 60 days after the first regular meeting at which the application was initially considered.

(j) Upon receiving the report and recommendation from the Planning Commission, the Sauk Centre City Council shall have the option of holding a public hearing if necessary and shall prescribe appropriate conditions and safeguards, in addition to those specified in this section, which are in conformity with the purposes of this chapter.

(k) Approval of a conditional use under this chapter shall require passage by a majority vote of the full Council.

(l) A copy of all decisions granting conditional use permits shall be forwarded by mail to the Commissioner of Natural Resources within 10 days of the action.

(5) *Factor to be considered.* Factors upon which the decision of the Planning Commission shall be based. In passing upon conditional use applications, the Planning Commission shall consider all relevant factors specified in other sections of this chapter, and:

(a) The danger to life and property due to increased flood heights or velocities caused by encroachments.

(b) The danger that materials may be swept onto other lands or downstream to the injury of others or they may block bridges, culverts or other hydraulic structures.

(c) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.

(d) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

(e) The importance of the services provided by the proposed facility to the community.

(f) The requirements of the facility for a waterfront location.

(g) The availability of alternative locations not subject to flooding for the proposed use.

(h) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

(I) The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.

(j) The safety of access to the property in times of flood for ordinary and emergency vehicles.

(k) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.

(l) Such other factors which are relevant to the purposes of this chapter.

(6) *Fees.*

(a) To defray administrative costs of processing requests for conditional use permits under this chapter a fee shall be paid by the applicant. This fee shall be established by the Sauk Centre City Council.

(b) The City of Sauk Centre shall also be reimbursed for any additional costs associated with review of a proposal as set by the Council.

(c) The Sauk Centre City Council shall act on the application within 60 days from receiving the application and recommendation of the Planning Commission and, except that where additional information is required pursuant to this chapter, the City Council shall render a written decision within 60 days of the receipt of the additional information, as defined in M.S. § 15.99.

(7) Conditions attached to conditional use permits.

(a) Upon consideration of the factors listed above and the purpose of this chapter, the Planning Commission shall attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this chapter.

(b) Such conditions may include, but are not limited to, the following:

1. Modification of waste treatment and water supply facilities.
2. Limitations on period of use, occupancy, and operation.
3. Imposition of operational controls, sureties, and deed restrictions.
4. Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.

5. Flood proofing measures, in accordance with the State Building Code and this chapter. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the flood proofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.  
(1985 Code, § 1002; 10.0) (Am. Ord. 713, passed 11-16-2011)

### § 152.10 NONCONFORMING USES.

A structure or the use of a structure or premises which was lawful before the passage or amendment of this chapter but which is not in conformity with the provisions of this chapter may be continued subject to the following conditions. Historic structures, as defined in the definition of "Substantial Improvements" in § 152.02(H) of this chapter, shall be subject to the provisions of § 152.10(A) through (E) of this section.

(A) No such use shall be expanded, changed, enlarged, or altered in a way that increases its nonconformity.

(B) Any structural alteration or addition to a nonconforming structure or nonconforming use which would result in increasing the flood damage potential of that structure or use shall be protected to the Regulatory Flood Protection Elevation in accordance with any of the elevation on fill or flood proofing techniques (i.e., FP-1 thru FP-4 flood proofing classifications) allowable in the State Building Code, except as further restricted in § 152.10(C) and (F).

(C) The cost of all structural alterations or additions to any nonconforming structure over the life of the structure shall not exceed 50% of the market value of the structure unless the conditions of this section are satisfied.

(1) The cost of all structural alterations and additions must include all costs such as construction materials and a reasonable cost placed on all manpower or labor.

(2) If the cost of all previous and proposed alterations and additions exceeds 50% of the market value of the structure, then the structure must meet the standards of §§ 152.04 and 152.05 of this chapter for new structures depending upon whether the structure is in the Floodway or Flood Fringe District, respectively.

(D) Discontinuance of use.

(1) If any nonconforming use is discontinued for 12 consecutive months, any future use of the building premises shall conform to this chapter.

(2) The assessor shall notify the Zoning Administrator in writing of instances of nonconforming uses that have been discontinued for a period of 12 months.



(E) Substantial damage.

(1) If any nonconforming use or structure is substantially damaged, as defined in § 152.02(H) of this chapter, it shall not be reconstructed except in conformity with the provisions of this chapter.

(2) The applicable provisions for establishing new uses or new structures in §§ 152.04, 152.05 and 152.055 will apply depending upon whether the use or structure is in the Floodway, Flood Fringe or General Flood Plain District, respectively.

(F) If a substantial improvement occurs, as defined in § 152.02(H) of this chapter, from any combination of a building addition to the outside dimensions of the existing building or a rehabilitation, reconstruction, alteration, or other improvement to the inside dimensions of an existing nonconforming building, then the building addition and the existing nonconforming building must meet the requirements of §§ 152.04 or 152.05 of this chapter for new structures, depending upon whether the structure is in the Floodway or Flood Fringe District, respectively.

(1985 Code, § 1002; 11.0) (Am. Ord. 713, passed 11-16-2011) Penalty, see § 10.99

### **§ 152.11 VIOLATIONS.**

(A) Violation of the provisions of this chapter or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) shall constitute a misdemeanor and shall be punishable as defined by law.

(B) Nothing herein contained shall prevent the City of Sauk Centre from taking such other lawful action as is necessary to prevent or remedy any violation. Such actions may include but are not limited to:

(1) In responding to a suspected chapter violation, the Zoning Administrator and local government may utilize the full array of enforcement actions available to it including but not limited to prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The community must act in good faith to enforce these official controls and to correct chapter violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.

(2) When a chapter violation is either discovered by or brought to the attention of the Zoning Administrator, the Zoning Administrator shall immediately investigate the situation and document the nature and extent of the violation of the official control. As soon as is reasonably possible, this information will be submitted to the appropriate Department of Natural Resources' and Federal Emergency Management Agency Regional Office along with the community's plan of action to correct the violation to the degree possible.

(3) The Zoning Administrator shall notify the suspected party of the requirements of this chapter and all other official controls and the nature and extent of the suspected violation of these controls. If the structure and/or use is under construction or development, the Zoning Administrator

may order the construction or development immediately halted until a proper permit or approval is granted by the community. If the construction or development is already completed, then the Zoning Administrator may either:

(a) Issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance with the official controls; or

(b) Notify the responsible party to apply for an after-the-fact permit/development approval within a specified period of time not to exceed 30 days.

(4) If the responsible party does not appropriately respond to the Zoning Administrator within the specified period of time, each additional day that lapses shall constitute an additional violation of this chapter and shall be prosecuted accordingly. The Zoning Administrator shall also upon the lapse of the specified response period notify the landowner to restore the land to the condition which existed prior to the violation of this chapter.

(1985 Code, § 1002; 12.0) (Am. Ord. 713, passed 11-16-2011)

#### **§ 152.12 AMENDMENTS.**

(A) (1) The flood plain designation on the Official Zoning Map shall not be removed from flood plain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regulatory flood protection elevation and is contiguous to lands outside the flood plain.

(2) Special exceptions to this rule may be permitted by the Commissioner of Natural Resources if he or she determines that, through other measures, lands are adequately protected for the intended use.

(B) All amendments to this chapter, including amendments to the Official Zoning Map, must be submitted to and approved by the Commissioner of Natural Resources prior to adoption.

(C) Changes in the Official Zoning Map must meet the Federal Emergency Management Agency's (FEMA) Technical Conditions and Criteria and must receive prior FEMA approval before adoption.

(D) The Commissioner of Natural Resources must be given 10 days written notice of all hearings to consider an amendment to this chapter and said notice shall include a draft of the chapter amendment or technical study under consideration.

(1985 Code, § 1002; 13.0) (Am. Ord. 713, passed 11-16-2011)

## **CHAPTER 153: FIRE ZONE AND LIMITS**

### Section

- 153.01 Duty of city
- 153.02 Fire limits
- 153.03 Restrictions
- 153.04 Violations

### **§ 153.01 DUTY OF CITY.**

(A) The city recognizes its duty to protect the health, safety and welfare of the residents of the City of Sauk Centre and their property.

(B) In order to fulfill this responsibility the city does hereby establish the following fire zone or fire limits within the City of Sauk Centre.

(1985 Code, § 1006; 1)

### **§ 153.02 FIRE LIMITS.**

The following shall hereby be known and designated as the fire limits of the City of Sauk Centre: All of Blocks 2, 3, 11, 12, 13, 14, 15, 16, 17 and 18, original townsites of Sauk Centre, Stearns County, Minnesota.

(1985 Code, § 1006; 2)

### **§ 153.03 RESTRICTIONS.**

(A) No person, company, corporation or business entity shall hereafter erect, place or build any commercial, retail, industrial or multiple family building or structure, or any part of the building or structure, within the fire zone of the City of Sauk Centre unless the building or structure, shall be constructed of stone, brick, cement, iron or other incombustible material, with the exterior fire walls which shall rise and extend at least 2 feet above the roof of the building or structure, and the roof thereof shall also be constructed of a material which shall be incombustible and fireproof.

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(B) (1) No person, company, corporation or business entity shall hereafter erect, place or build any commercial, retail, industrial or multiple-family building or structure within the fire zone of the City of Sauk Centre without first obtaining a building permit therefor from the Sauk Centre Planning Commission.

(2) Any person desiring a like permit shall make written application therefor to the Sauk Centre Planning Commission, describing in detail the location and kind of building or structure which is to be built.

(3) If the Sauk Centre Planning Commission determines that the same will not be or become a fire hazard and will not endanger the health and safety of the citizens of the city and property located in the fire zone, it may issue the permit provided other provisions of the zoning and building codes have been complied with.

(C) No person, company, corporation or business entity shall burn any paper, leaves, waste or inflammable material on any property within the fire zone of the City of Sauk Centre.

(D) (1) No wooden building or non-conforming building now standing within the fire zone of the City of Sauk Centre as above described shall be rebuilt or repaired when the same shall have been damaged by the fire or otherwise to the extent of 50% of its value.

(2) The percentage of the damage shall be determined by the Sauk Centre City Council after inspection of the same and the City Council shall give written notice of the determination to the owner of the building within a reasonable time.

(E) In case the owner of a building or structure is not satisfied with the determination of the Council as to the percentage of damage, the owner shall within 10 days from the date of receiving the written notice serve upon the City Council a written notice to the effect and naming in the notice some disinterested person who will act as an appraiser to determine the percentage of damage.

(F) The City Council, upon receiving the notice, shall deliver the same to the Mayor and the officer shall within 10 days of the date of delivery of the notice appoint some disinterested person who shall act as an appraiser of the percentage of damage and the 2 appraisers shall select a third person to act as the third appraiser of the percentage of damage.

(G) The 3 appraisers selected shall appraise the percentage of damage and the agreement and determination of the 2 of the appraisers, if the 3 cannot agree, shall be filed in writing with the Sauk Centre City Council and shall be conclusive as to the percentage of damage.

(H) In case the owner of the building or structure shall neglect or fail to serve the notice upon the City Council, then the initial determination of the City Council as to percentage of damage shall be deemed to have been assented to by the owner of the building or structure and the owner shall be bound thereby.

(1985 Code, § 1006; 3, 4, 5, 6) Penalty, see § 10.99

**§ 153.04 VIOLATIONS.**

Any person, company, corporation or business entity which shall build or repair any building or structure contrary to the provisions of this section, or permit the same to be built or repaired, shall be guilty of a separate offense for each day that the building or structure shall be permitted to stand or remain within the fire zone.

(1985 Code, § 1006; 7) Penalty, see § 10.99



## CHAPTER 154: BUILDING REGULATIONS

### Section

154.01 Accessibility Code

154.02 Adoption of State Building Code

### § 154.01 ACCESSIBILITY CODE.

The Accessibility Code, established pursuant to M.S. § 16B.59 to 16B.75, as it may be amended from time to time, is hereby adopted as the Building Code for Accessibility in the City of Sauk Centre. The Building Code for Accessibility is known as Minn. Rules Ch. 1341. (Ord. 592, passed 6-23-1999)

### § 154.02 ADOPTION OF STATE BUILDING CODE.

#### (A) *Codes adopted by reference.*

(1) The Minnesota State Building Code, as adopted by the Commissioner of Administration pursuant to M.S. §§ 16B.59 to 16B.75, as they may be amended from time to time, including all of the amendments, rules and regulations established, adopted and published from time to time by the Minnesota Commissioner of Administration, through the Building Codes and Standards Division is hereby adopted by reference with the exception of the optional chapters, unless specifically adopted in this section.

(2) The Minnesota State Building Code is hereby incorporated in this section as if fully set out herein.

#### (B) *Application, administration and enforcement.*

(1) The application, administration and enforcement of the code shall be in accordance with Minnesota State Building Code. The code shall be enforced within the extraterritorial limits permitted by M.S. § 16B.62 subdivision 1, as it may be amended from time to time, when so established by this section.

(2) This code shall be enforced by the Minnesota Certified Building Official, designated by this municipality to administer the code (M.S. § 16B.65 subdivision 1, as it may be amended from time to time).

(C) *Permits and fees.*

(1) The issuance of permits and the collection of fees shall be as authorized in M.S. § 16B.62 subdivision 1, as it may be amended from time to time.

(2) Permit fees shall be assessed for work governed by this code in accordance with the fee schedule adopted by the municipality in § 30.08. In addition, a surcharge fee shall be collected on all permits issued for work governed by this code in accordance with M.S. § 16B.70, as it may be amended from time to time.

(D) *Violations.* A violation of the code is a misdemeanor (M.S. § 16B.69, as it may be amended from time to time).

(E) *Building Code optional chapters.* The Minnesota State Building Code, established pursuant to M.S. §§ 16B.59 to 16B.75, as they may be amended from time to time, allows the municipality to adopt by reference and enforce certain optional chapters of the most current edition of the Minnesota State Building Code. The following optional provisions identified in the most current edition of the State Building Code are hereby adopted and incorporated as part of the building code for this municipality. (Ord. 628, passed 5-7-2003) Penalty, see § 10.99



## CHAPTER 155: SUBDIVISIONS

### Section

- 155.01 General provisions
- 155.02 Definitions
- 155.03 Procedure for filing
- 155.04 Design standards
- 155.05 Required improvements and agreements
- 155.06 Minor subdivisions; waiver of subdivision platting requirements
- 155.07 Common interest communities
- 155.08 Premature subdivisions
- 155.09 Variances; amendments
- 155.10 Compliance; enforcement

### § 155.01 GENERAL PROVISIONS.

(A) *Official subdivision ordinance.* The official Subdivision Ordinance regulates and governs the subdivision or platting of land in the City of Sauk Centre, Stearns County, Minnesota.

(B) *Regulations.*

(1) The City of Sauk Centre has adopted a Comprehensive Plan for the future physical development and improvement of the city pursuant to M.S. §§ 462.351 to 432.3535, as they may be amended from time to time, and finds it necessary to regulate the division of land for future development and use.

(2) The city finds that the public health, safety and general welfare require that the division of land into 2 or more parcels requires regulation to assure adequate space, light and air; to provide proper ingress and egress to property; to facilitate adequate provision for water, waste disposal, fire protection, open space, schools, public uses and adequate streets and highways; and to assure uniform monumenting, legal description and conveyance of subdivided land.

(3) The Minnesota Statutes authorize municipalities to so regulate the subdivision and platting of land pursuant to M.S. §§ 412.221 subdivision 32; and 462.358, as they may be amended from time to time.

(C) *Short title.* This chapter shall be known as the "Subdivision Ordinance of the City of Sauk Centre" and is referred to herein as "Subdivision Ordinance."

(D) *Purpose.*

(1) This chapter is adopted in order to safeguard the best interests of the city and to assist the developer in harmonizing the developer's interests with those of the city at large.

(2) Because each new subdivision becomes a permanent unit in the basic structure of the expanding community, and because piecemeal planning of subdivisions will bring on an undesirable, disconnected patchwork or pattern and poor circulation of traffic unless its design and arrangement is correlated to a comprehensive plan of the city aiming at a unified scheme of community interests, all subdivisions of land hereafter submitted for approval to the Planning Commission and the City Council shall, in all respects, fully comply with the regulations hereinafter set forth in this chapter.

(3) It is the purpose of this chapter to make certain regulations and requirements for the platting of land within the city to provide for health, safety and the general welfare and to:

(a) Provide for and guide the orderly, economic and safe development of land and urban services and facilities;

(b) Encourage well planned, efficient and attractive subdivisions by establishing adequate standards for design and construction;

(c) Facilitate adequate provisions for streets, transportation, water, sewer, storm drainage, schools, parks, playgrounds and other public services and facilities;

(d) Assure that a reasonable portion of any proposed subdivision is dedicated to the public or preserved for public use as streets; roads; sewers; electric, gas and water facilities; storm water drainage and holding areas or ponds; and similar utilities and improvements;

(e) Assure that public improvements are constructed to adequate standards;

(f) Place the cost of improvements against those benefitting from their construction;

(g) Secure the rights of the public with respect to public land and waters;

(h) Assure that new subdivisions are consistent with the Comprehensive Plan and overall development objectives of the city;

(I) Achieve a more secure tax base; and

(j) Set the minimum requirements necessary to protect the public health, safety and general welfare of the city.

(E) *Applicability.*

(1) Every division of land for the purpose of lease or sale into 2 or more lots, parcels or tracts within the incorporated area of the City of Sauk Centre or any combination of 2 or more lots shall proceed in compliance with this chapter.

(2) It is the purpose of this chapter to make certain regulations and requirements for the platting of land within the city pursuant to the authority contained in M.S. Ch. 412, 429, 471 and 505, as they may be amended from time to time, which regulations the City Council deems necessary for the health, safety, general welfare, convenience and good order of this community.

(F) *Exceptions.* The provisions of this chapter shall not apply to:

(1) A cemetery or burial plot while used for that purpose;

(2) Any division of land made by testamentary provision, the laws of descent or upon court order;

(3) A parcel which was the subject of a written agreement to convey (such as a purchase agreement), entered into prior to the effective date of this chapter;

(4) Land which the Planning Commission or the Council finds to be unsuitable for land subdivision due to flooding, inadequate drainage, steep slopes, rock formations or other features likely to be harmful to the safety and general health of future residents, or land which could not be adequately served by utilities or other public facilities or public access; that land shall not be subdivided unless adequate methods are provided for overcoming the conditions; or the land is platted as outlots;

(5) In the case of re-subdivision, this chapter shall not apply to any lot or lots forming a part of a subdivision previously recorded with the County Recorder's office prior to the effective date of this chapter, unless the area is being re-platted;

(6) This chapter shall not repeal, annul or in any way impair or interfere with existing provisions of other laws or ordinances except those specifically repealed by or in conflict with this chapter;

(7) This chapter shall not interfere with private restrictions placed upon property by deed, covenant or other private agreement, or with restrictive covenants running with the land to which the city is a party;

(8) Where this chapter imposes a greater restriction upon land than is imposed or required by existing provisions of the law, ordinance, contract or deed, the provisions of this chapter shall control. The owner shall enforce covenants to the best of their ability; the city shall assume no responsibility for the enforcement thereof. Any restrictive covenant shall not conflict or invalidate city ordinances; or

(9) Divisions of land where the division is to permit the adding of a parcel of land to an abutting lot or to create 2 lots and the newly created property line will not cause the land or any structure to be in violation of this chapter or the Zoning Ordinance, provided the regulations of § 155.06 are followed.

(G) *Jurisdiction.* These regulations governing plats and the subdivision of land shall apply to the area within the corporate limits of the City of Sauk Centre.

(H) *Compliance.*

(1) After the adoption of this chapter, no lot in a subdivision shall be sold, no permit shall be issued to alter or erect any building upon land in a subdivision and no building shall be erected in a subdivision unless a subdivision plat has been prepared, approved and acknowledged in the manner prescribed by this chapter; and recorded in the appropriate County Recorder's office; and until the improvements required by the City Council relative to subdivision have been constructed or arranged for, as provided herein.

(2) Any owner or agent of the owner of land who conveys a lot or parcel in violation of the provisions of this division shall forfeit and pay to the municipality a penalty of not less than \$100 for each lot or parcel so conveyed. A municipality may enjoin the conveyance or may recover the penalty by a civil action in any court of competent jurisdiction (MSA 462.358, MSA 505.08, Subd. 3).

(I) *Required approvals of subdivision plats.* Before any plat shall have validity, it shall have been reviewed by the City of Sauk Centre Planning Commission, approved by the City Council and recorded in the Stearns County Recorder's office.

(J) *Conflict.*

(1) *Public provisions.* It is not intended by this chapter to annul or interfere with any official regulations or ordinances of the city provided, however, when there is a difference between minimum standards or dimensions herein and those contained in other official regulations or ordinances of the city, the highest standards shall apply, and the city shall make the determination of which standards are higher.

(2) *Private provisions.*

(a) These regulations are not intended to annul any easement, covenant or any other private agreement or restriction.

(b) Where the provisions of these regulations are more restrictive or impose higher standards or regulations, the requirements of these regulations shall govern.

(c) Where the provisions of the easement, covenant or private agreement or restriction impose duties and obligations more restrictive, or impose higher standards than the requirements of these regulations, then the private provisions shall be operative and supplemental to these regulations. (Ord. 616, passed 11-21-2001)

## § 155.02 DEFINITIONS.

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

**ACCESS WAY.** A public or private right-of-way across a block or within a block to provide non-vehicular access, to be used by the general public.

**ALLEY.** A public right-of-way, other than a street, which is typically 12 feet in width and provides a secondary means of access to abutting property.

**APPLICANT.** The owner of land proposed to be subdivided or the owner's representation. Consent shall be required from the legal owner of the premises.

**ARTERIAL STREET.** A street which provides for the movement of heavy traffic on relatively long trips. It has a secondary function of providing access to abutting land.

**BEST MANAGEMENT PRACTICES (BMPs).** Best management practices as described in current Minnesota Pollution Control Agency's manual and other sources as approved by the city and county.

**BLOCK.** An area of land within a subdivision that is entirely bounded by:

- (1) Streets;
- (2) A combination of streets and cemeteries, railroad rights-of-way and the exterior boundary or boundaries of the subdivision; or
- (3) A combination of the above with a river, lake or park.

**BOULEVARD.** A portion of the street right-of-way between the curb line or improved street and the property line.

**BUILDING.** Any structure built for the support, shelter or enclosure of any use or occupancy.

**BUILDING SETBACK LINE.** A line parallel to the street right-of-way line, and ordinary high water level, if applicable, at its closest point to any story level of a building and representing the minimum distance which all or part of the building is set back from the right-of-way line, or ordinary high water level.

**CALIPER.** The diameter of replacement or new trees measured at a height of 2 feet above the ground level.

**CERTIFICATE OF SURVEY.** A land survey prepared by a land surveyor registered in the State of Minnesota with a certification that the information on the land survey is accurate.

**CITY.** The City of Sauk Centre.

**CITY ENGINEER.** The person or persons, individual or corporate, designated from time to time by the City Council.

**CLUSTER DEVELOPMENT.** The development pattern and technique whereby structures are arranged in closely related groups to make the most efficient use of the natural amenities of the land, while providing a unified network of open space and aesthetically pleasing areas and meeting the overall density regulations of this chapter and the Zoning Ordinance.

**COMMON INTEREST COMMUNITY.** A contiguous or noncontiguous real estate within Minnesota that is subject to an instrument which obligates persons owning a separately described parcel of the real estate, or occupying a part of the real estate pursuant to a proprietary lease, by reason of their ownership or occupancy, to pay for:

- (1) Real estate taxes levied against;
- (2) Insurance premiums payable with respect to;
- (3) Maintenance of; or
- (4) Construction, maintenance, repair or replacement of improvements located on 1 or more parcels or parts of the real estate other than the parcel or part that the person owns or occupies (MSA 515B.1-103).

**COLLECTOR STREET.** A street which collects and distributes traffic within an urban area such as a residential neighborhood or industrial district, between arterial and local streets. It provides access to abutting lands.

**COMPREHENSIVE PLAN.** The City of Sauk Centre Comprehensive Plan.

**CONCEPT PLAN.** A sketch drawing or map which depicts a proposed subdivision by showing proposed lots, streets, uses, relationship to surrounding area, generalized natural features, easements and any requested zoning change and other information required by this chapter for review by the city.

**CONDITIONAL APPROVAL.** An affirmative action by the city indicating that approval will be forthcoming upon satisfaction of certain specified stipulations.

**CONVEYANCE.** The sale, trading, donation or offer of sale or other transfer of land.

**CROSSWAY OR PEDESTRIAN WAY.** A publicly owned right-of-way which crosses a block and furnishes pedestrian access to adjacent streets or properties.

**CUL-DE-SAC.** A local street having 1 end open to traffic and the other end being permanently terminated by a vehicular turn around.

**DESIGN STANDARDS.** The specifications to landowners or developers for the preparation of preliminary plans indicating, among other things, the optimum, minimum or maximum dimensions of features such as rights-of-way, blocks, utilities and the like as set forth in § 155.04 below.

**DEVELOPER.** Any individual, firm, association, syndicate, co-partnership, corporation, trust or other legal entity submitting an application for the purpose of land subdivision as defined herein. The **DEVELOPER** may be the owner or authorized agent of the owner of the land to be subdivided.

**DRAINAGE COURSE.** A watercourse or surface area for the drainage or conveyance of surface water, including channel, creek, ditch, drain, river and stream.

**EASEMENT.** The right to use the land of another owner for a specified use. An easement may be granted for the purpose of constructing and maintaining drives, roadways, walkways, bicycle trails, utilities, including, but not limited to wetlands, ponding areas, sanitary sewers, water mains, electric lines, telephone lines, storm sewer or storm drainage ways, gas lines, pipelines and cable television lines.

**ESCROW.** The deposition of funds in an account maintained by the city for the purpose of ensuring fulfillment of certain obligations pursuant to this chapter.

**FINAL APPROVAL.** Approval of the final plat by the City Council, as indicated by certification of the plat by the mayor of the city, constitutes authorization to record a plat.

**FINAL PLAT.** The final map, drawing or chart, prepared in accordance with MSA Ch. 505, on which the developer's plan of subdivision is presented to the Planning Commission and City Council for approval and which, if approved and properly executed, will be submitted to Stearns County for recording in public records.

**FLOOD PLAIN RELATED:**

**FLOOD.** A temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.

**FLOOD FRINGE.** That portion of the flood plain outside of the floodway. **FLOOD FRINGE** is synonymous with the term **FLOODWAY FRINGE**.

**FLOOD PLAIN.** The beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by regional flood.

**FLOODWAY.** The bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining flood plain which are reasonably required to carry or store the regional flood discharge.

**REGIONAL FLOOD.** A flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval. **REGIONAL FLOOD** is synonymous with the term **BASE FLOOD**.

**REGULATORY FLOOD PROTECTION ELEVATION.** The regulatory flood protection elevation shall be an elevation no lower than 1 foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.

**GRADE.**

- (1) The slope of a road, street or other public way, specified in percentage terms.
- (2) The rise or fall of a street in feet and tenths of a foot for each 100 feet of horizontal distance measured at the centerline of the street.

**HALF-STREET.** A street having only ½ of its intended roadway width developed to accommodate traffic.

**HYDRIC SOIL.** For the purposes of this chapter, hydric soils shall include:

- (1) Hydric soils as shown on the Stearns County Geographic Information System (GIS);
- (2) Land inside the 100-year flood plain area, as determined by the county, using 2-foot contour surveys of relevant areas; or
- (3) A field delineation of the hydric soils by a registered soil scientist following the criteria found in the United States Army Corps of Engineers Wetland Delineation Manual (1987 Manual) or the Natural Resource Conservation Service publication Field Indicators of Hydric Soils in the United States.

**IMPROVEMENTS.** Pavement, curbs, gutters, sidewalks, sewer and water facilities, drainage facilities, street signs, street lighting, plantings and other items for the welfare of property owners and/or the general public.



**LAND DISTURBANCE.** Any area in which movement of earth, alteration in topography, soil compaction, disruption of vegetation, change in soil chemistry or any other change in the natural character of the land occurs as a result of the site preparation, grading, building construction or other construction activity.

**LOCAL STREET.** A street designed for short trips and to provide access to abutting properties and to collector streets.

**LOT.** A tract, plot or portions of a subdivision or other parcel of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership or for building development.

**LOT, AREA.** That area located within the lot lines and not including any portion of the platted lot which is presently being used as or dedicated for street or public right-of-way.

**LOT, CORNER.**

(1) A lot situated at the junction of and abutting on 2 or more intersecting streets.

(2) On a **CORNER LOT**, both streets shall be deemed front lines for the application of this chapter.

**LOT, DEPTH.** The horizontal distance between the street right-of-way line and the opposite rear line of a lot measured in the general direction of the side lot lines.

**LOT, DOUBLE FRONTAGE.** An interior lot having frontage on 2 parallel or approximately parallel streets.

**LOT LINE.** The property line bounding a lot, except that where any portion of a lot extends into the public right-of-way or a proposed public right-of-way wherein the lot line shall be the public right-of-way line.

**LOT LINE, FRONT.** That boundary of a lot which abuts an existing or dedicated public street; and, in the case of a corner lot, it shall be the shortest dimension on a public street, except that a corner lot in a non-residential zone shall be deemed to have frontage on both streets.

**LOT LINE, REAR.**

(1) That boundary of a lot which is opposite the front lot line.

(2) If the **REAR LOT LINE** is less than 10 feet in length or if the lot forms a point in the rear, the **REAR LOT LINE** shall be a line 10 feet in length within the lot, parallel to the front lot line.

**LOT LINE, SIDE.** Any boundary of a lot that is not a front lot line or a rear lot line.

**LOT OF RECORD.** A parcel of land, whether subdivided or otherwise legally described, as of the effective date of this chapter, or approved by the city as a lot subsequent to that date, and which is occupied by or intended for occupancy by 1 principal use, together with any accessory buildings or open spaces as are required by this chapter and having its principal frontage on a street, or a proposed street approved by the Council.

**LOT, WIDTH.**

(1) The horizontal distance between the side lots lines of a lot measured at the building setback line, location of the principal building and, if applicable, ordinary high water level.

(2) For corner lots, **LOT WIDTH** shall be determined by measuring the horizontal distance between a side lot line and the applicable opposite front lot line.

**MAY.** Permissive.

**METES AND BOUNDS DESCRIPTION.** A description of real property which is not described by reference to a lot or block shown on a map, but is described by starting at a known point and describing the bearings and distances of the lines forming the boundaries of the property or delineating a fractional portion of a section, lot or area by describing lines or portions thereof.

**MINOR SUBDIVISION.** The division of a single parcel, lot or tract, into 2 separate parcels, lots or tracts.

**NATURAL WATERWAY.** A natural passageway on the surface of the earth so situated and having a topographical nature so that surface or percolating water flows through it from other areas before reaching a final ponding area.

**OFFICIAL MAP.** The map adopted by the City Council showing the streets, highways, blocks and lots theretofore laid out and adopted by the City Council resulting from the approval of subdivision plats and the subsequent filing of approved plats.

**ORDINARY HIGH WATER LEVEL.**

(1) The boundary of public waters and wetlands, and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial.

(2) For watercourses, the **ORDINARY HIGH WATER LEVEL** is the elevation of the top of the bank of the channel.

(3) For reservoirs and flowage, the **ORDINARY HIGH WATER LEVEL** is the operating elevation of the normal summer pool.

***OUTLOT.***

(1) A parcel of land shown on a subdivision plat as an outlot, and designated alphanumerically, for example: Outlot A.

(2) ***OUTLOTS*** are used to designate 1 of the following:

(a) Land that is part of the subdivision but is to be subdivided into lots and blocks at a later date;

(b) Land that is to be used for a specific purpose as designated in a developer's agreement or other agreement between the city and the developer; or

(c) For a public purpose and for which no building permit shall be issued.

***OWNER.*** Any individual, firm, association, syndicate, co-partnership, corporations, trust, limited liability corporation or any other legal entity having sufficient proprietary interest in the land sought to be subdivided.

***PARKS, PLAYGROUNDS and PUBLIC OPEN SPACE.*** Public lands and local open spaces in the city dedicated and owned by the city to be reserved for recreation or conservation purposes.

***PEDESTRIAN WAY.***

(1) A public or private right-of-way across a block or within a block to provide access to be used by pedestrians and others, which also may be used for the installation of utility lines.

(2) ***PEDESTRIAN WAYS*** include sidewalks and trails for non-motorized and pedestrian traffic.

***PERCENTAGE OF GRADE ON STREET CENTERLINE.*** See ***GRADE.***

***PERSON.*** Any individual, firm association, syndicate or partnership, corporation, trust or any other legal entity.

***PLANNING COMMISSION.*** The Planning Commission of the City of Sauk Centre.

***PLANNED UNIT DEVELOPMENT.*** A tract of land planned and developed to encourage a more creative and efficient development of land, while at the same time meeting the standards and purposes of the Comprehensive Plan for preserving the health, safety and welfare of Sauk Centre, to allow for a mixture of residential units or residential and commercial units in an integrated and well-planned area and to ensure the concentration of open space into more usable areas and preservation of natural resources of the site including wetlands, steep slopes, vegetation and scenic areas.

***PLAT.*** A map or drawing indicating the subdivision or re-subdivision of land intended to be filed for record.

**PRELIMINARY APPROVAL.** Approval of the preliminary plat by the city which constitutes authorization to proceed with final engineering plans and final plat preparation, taking into consideration any conditions for approval.

**PRELIMINARY PLAT.** The preliminary map, drawing or chart indicating the proposed layout of the subdivisions to be submitted to the Planning Commission and Council for their consideration, including required data.

**PROTECTIVE COVENANTS.**

(1) Contracts made between private parties and filed with the Office of the County Recorder as to the manner in which land may be used, with a view to protecting and preserving the physical, social and economic integrity of any given area.

(2) The city will not be responsible for enforcement of **PROTECTIVE COVENANTS**.

**PUBLIC IMPROVEMENT.** Any drainage ditch, roadway, parkway, sidewalk, pedestrian way, tree, lawn, off-street parking area, lot improvement or other facility for which the city may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which local government responsibility is established.

**PUBLICATION.** An official notice as prescribed by Minnesota Statutes.

**RIGHT-OF-WAY.**

(1) Property dedicated to public use and is intended to be occupied or which is occupied by a street, alley, trail, utility lines, oil or gas pipeline, railroad lines, storm sewer or other similar use.

(2) The usage of the term **RIGHT-OF-WAY** for land platting purposes shall mean that every right-of-way hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining the right-of-way and not included within the dimensions or areas of the lots or parcels.

(3) **RIGHT-OF-WAY** intended for streets, water main, sanitary sewers, storm drains or other use involving maintenance by the city of Public Utilities Commission shall be dedicated to public use by the recording of the plat on which the right-of-way is established.

**SETBACK.** The distance between a building and the relevant property line nearest thereto.

**SHALL.** Mandatory.

**SHORELAND.** Land located within the following distances from public waters: 1,000 feet from the ordinary high water level of a lake, pond or flowage and 300 feet from any river or stream or the

landward extent of the flood plain designated in the Sauk Centre Zoning Ordinance on a river or stream, whichever is greater. The limits of the *SHORELANDS* may be reduced whenever the waters involved are bounded by topographical divides, which extend landward from the waters for lesser distances and when approved by the Commissioner of Natural Resources.

***STREET.*** A right-of-way which affords primary access by pedestrians and vehicles to abutting properties or carries traffic from one part of the city to another, whether designated as a street, avenue, highway, road, boulevard, lane or however otherwise designated.

***STREET, ARTERIAL.*** Those streets primarily intended to carry larger volumes of traffic from one part of the city to another and are intended to provide for collection and distribution of traffic between highways and collector streets; hence direct access to property is not intended and regulation is critical.

***STREET, COLLECTOR.***

(1) A street that carries traffic from local streets to arterial streets and highways.

(2) ***COLLECTOR STREETS*** primarily provide principal access to residential neighborhoods, including, the principal entrance streets of a residential development and principal streets for circulation within the development and to a lesser degree direct land access.

***STREET, CUL-DE-SAC.*** A local street with only 1 outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement.

***STREET, DEAD END.*** A street, or a portion thereof, with only 1 vehicular traffic outlet.

***STREET, HALF.*** A street having only ½ of its intended roadway width developed to accommodate traffic.

***STREET, LOCAL STREET.*** Those streets which are used primarily for access to abutting properties and for local traffic movement.

***STREET, PAVEMENT.*** The wearing surface of a street.

***STREET, PRIVATE.*** A street serving as vehicular access to 2 or more parcels of land which is not dedicated to the public and is owned and maintained by 1 or more private parties

***STREET, SERVICE.*** A marginal access street which is generally parallel land adjacent to a major street.

***STREET WIDTH.*** The shortest distance between the lines of lots delineating the right-of-way of a street.

**SUBDIVIDE.** The creation of a subdivision, lot, parcel or tract of land by dividing a lot, parcel or tract into 2 or more parcels, or resulting from court order, or the adjustment of a lot line by the relocation of a common boundary.

**SUBDIVIDER.** Any individual, firm, association, syndicate, co-partnership, corporation, trust or other legal entity having sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the same under this title.

**SUBDIVISION.** A described tract of land which is to be or has been divided into 2 or more lots, outlots or parcels for the purpose of transfer of ownership, or building development, or if a new street is involved, any division of land. The term includes re-subdivision and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided.

**SURVEYOR.** An individual, group, corporation, association or other entity duly licensed as a land surveyor by the State of Minnesota.

**TANGENT.** A straight line that is perpendicular to the radius of a curve at a point on the curve.

**TRACT.** A defined area of land, similar to a lot or parcel, that is occupied or will be occupied by a building and its accessory buildings, together with open spaces as are required under the provisions of the current city zoning regulations, having not less than the minimum area required by the zoning regulations for a building site in the district in which the lot is situated and having its principal frontage on a street.

**TWO-FAMILY DWELLING.** A dwelling designed exclusively for occupancy by 2 families living independently of each other.

**UNIT LOTS.** Lots created from the subdivision of a 2-family dwelling or quadraminium having different minimum lot size requirements than the conventional base lot within the zoning district.

**USED FOR.** Shall include the phrases **ARRANGED FOR**, **DESIGNED FOR**, **INTENDED FOR**, **MAINTAINED FOR** and **OCCUPIED FOR**.

**UTILITIES.** Public or private systems for the distribution or collection of water; gas; sewer (wastewater); storm water; electricity including all transformers, streetlights, telephone; and cable television service and the like.

**VARIANCE.** A relaxation of the terms of this chapter where deviation will not be contrary to the spirit and intent of the Comprehensive Plan and this chapter, the public interest and where owing to physical conditions unique to the individual property and not the result of the actions of the applicant, a literal enforcement of this chapter would result in unnecessary and undue hardship.

**VERTICAL CURVE.** The surface curvature on a street centerline located between lines of different percentage of grades.

**ZONING DISTRICT.** An area as described by the official zoning ordinance of the City of Sauk Centre.

**ZONING ORDINANCE.** The Zoning Ordinance controlling the use of land within the city, as adopted by the City of Sauk Centre, including the official city zoning map. (Ord. 616, passed 11-21-2001)

### § 155.03 PROCEDURES FOR FILING.

(A) *Concept plan.* In order to ensure that all applicants are informed of the procedural requirements and minimum standards of this chapter and the requirements or limitations imposed by other city ordinances or plans, prior to the development of a preliminary plat, all applicants shall present a concept plan to the Zoning Administrator prior to filing a preliminary plat.

(1) *Contents of plans.* Developers shall prepare, for review with the city, subdivision concept plans which shall contain the following information: tract boundaries, north point, streets on and adjacent to the tract, significant topographical and physical features, proposed general street layout, proposed general lot layout, relationship of proposed subdivision to existing community facilities, to neighboring subdivisions and developments and any zoning changes.

(2) *Informal consideration.*

(a) Concept plans will be considered as submitted for informal and confidential discussion between the developer and the city.

(b) Submission of a concept plan shall not constitute formal filing of a plat with the city.

(c) The city shall arrange a pre-application meeting with the developer, the City Engineer, Public Utilities Staff, City Planner and other departments are deemed necessary in order to provide the developer with input on the proposed concept plan.

(d) The Planning Commission and City Council may also review the concept plan and provide advice.

(e) Any advice, comments or recommendations for modifications made by the city or the Planning Commission are advisory only and shall not constitute approval or a commitment to approve.

(3) *Modifications.* As far as may be practical on the basis of a concept plan, the city will informally advise the developer as promptly as possible of the extent to which the proposed subdivision conforms to the design standards of this chapter and will discuss possible plan modifications necessary to secure conformance.

(B) *Build out plan (ghost plat).*

(1) *Applications required.* A build out plan (ghost plat) shall be required for the following subdivision applications:

(a) Whenever a parcel of land is subdivided and the subdivision plat shows 1 or more lots or outlots that may eventually be subdivided into smaller lots;

(b) Whenever a developer or property owner is platting only a portion of the property in which they have title to or a legal interest in and the balance of the unplatted property is adjacent to the subject property, a build out plan of the entire area shall be submitted; and

(c) Cluster subdivisions or open space design subdivisions that preserve open space for future development.

(2) *Design requirements.* The build out plan (ghost plat) shall illustrate the following:

(a) Lot design consistent with the long term planning for the area (Comprehensive Plan);

(b) The layout of future streets. Local streets shall be planned to provide street connections to adjoining parcels, neighborhoods or future development open spaces as a means of discouraging the reliance on county and state roads for local trips;

(c) Easement locations for utilities and storm water drainage;

(d) Locations of building pads on the lots to accommodate future subdivision; and

(e) The build out plan may be required to provide information demonstrating how public utilities may be extended to the subdivision to accommodate future urban development.

(C) *Data required for preliminary plat.* Any owner or his or her agent, trustee or attorney-in-fact (hereinafter called the "developer") desiring to subdivide a piece of land in the city shall submit to the Zoning Administrator 10 large copies of preliminary drawings or prints and one 11-inch by 17-inch reproducible copy, application fee as identified in the city fee schedule and written documents containing the following information:

(1) Identification and description:

(a) The name of the proposed subdivision. The subdivision name shall not duplicate or nearly duplicate the name of any other subdivision in the county, unless the proposed subdivision is an addition to an existing subdivision. The developer shall not change the name of the plat once it has been submitted to the city and its respective agencies and departments for review, unless the city or county determine the proposed plat name is too similar to an existing subdivision name within the county;



(b) The legal description of the land contained within the subdivision including the total acreage of the proposed subdivision;

(c) The names, addresses and telephone numbers of all persons, firms and corporations holding interests in the land;

(d) An indication as to which lands are registered torrens property or abstract property. If land is registered property, a registered land survey shall be required;

(e) The name, address, telephone number and professional license number and seal of the registered land surveyor who made, or under whose supervision was made, the survey of the proposed subdivision;

(f) The date of the survey and revision dates for all subsequent submissions;

(g) North arrow;

(h) A graphic bar scale or plat, not less than 1 inch equal to 200 feet and north arrow;

(i) Existing and proposed covenants, liens or encumbrances;

(j) Elevation benchmarks used for the topographic survey and datum on which they are based;

(k) Reference to the coordinate system use for the survey; and

(l) Results of site evaluation, including percolation tests and soil borings.

(2) Existing conditions:

(a) A vicinity map, at least 4 inches by 4 inches in size on the full size plans, to the Planning Commission showing the relationship of the proposed subdivision to adjacent properties, roads, rights-of-way, and other property and subdivision within 350 of the proposed subdivision, and the relation of the plat to the surrounding zoning districts;

(b) Boundary lines;

(c) Current zoning of land within the proposed subdivision;

(d) All existing survey monuments that have been found;

(e) The location, names and widths of all existing streets, roads and easements within the proposed subdivision and adjacent thereto;

**Sauk Centre - Land Usage**

(f) The approximate boundaries of all areas subject to inundation or storm water overflow, and the location, width and direction of flow of all watercourses;

(g) The approximate location of tree cover and general identification thereof;

(h) The location and, where ascertainable, sizes of all existing structures, wells, overhead and underground utilities, railroad lines, municipal boundaries, section lines, township lines and other important features existing upon, over or under the land proposed to be subdivided;

(I) The location of soil test holes, together with data regarding soil bearing qualities and the like, attesting to the suitability of soils for the specific uses proposed in the subdivision;

(j) Contours existing and proposed, at 2-foot intervals for a 0 to 5% slope: 5-foot intervals for slopes exceeding 5% up to 30%: 10-foot intervals for slopes in excess of 30%; and spot elevations to determine the general slope of the land, and high and low points thereof. U.S.G.S. data shall be used for all topographical mapping where feasible;

(k) Areas in the plat which have been designated as shoreland, wetlands and/or flood plains by the Department of Natural Resources, including the high water mark of all wetlands; and

(l) A delineation of hydric soils within the subdivision. Acreage calculation for buildable land for lots (non-hydric land, non flood plain land and area above the ordinary high water level (OHWL) of lakes, rivers and wetlands, determined using 1 of the following methods:

1. Non-hydric soils as shown on the Stearns County Geographic Information System (GIS);

2. Land outside the 100-year flood plain area, as approved by the Watershed District, using 2-foot contour surveys of relevant areas; or

3. A field delineation of the hydric soils by a registered soil scientist following criteria found in the *United States Army Corps of Engineers Wetland Delineation Manual* (1987 Manual) or the *Natural Resource Conservation Service Publication Field Indicators of Hydric Soils in the United States*.

(3) Proposed conditions:

(a) The boundaries of all blocks and lots within the proposed subdivision, together with the numbers and letters proposed to be assigned each lot and block;

(b) The total number of proposed lots, their minimum, maximum and average size in square footage;

(c) The layout of proposed streets showing rights-of-way widths, centerline grades of streets, highways, alleys, easements, sidewalks and pedestrian ways within and adjacent to the proposed subdivision and their combined square footage;

(d) Proposed street names. Proposed streets obviously in alignment with existing and named streets shall bear the names of the existing streets. In no case shall the name of the proposed street duplicate existing street names, including phonetic similarities;

(e) The location of any improvements which may be required to be constructed beyond the boundaries of the subdivision shall be shown on the preliminary map or on the vicinity map, as appropriate;

(f) Where the developer owns property adjacent to that which is being proposed for subdivision, it shall be required that the developer submit a sketch plan of the remainder of the property so as to show the possible relationships between the proposed subdivision and the future subdivision. In any event, all subdivisions shall be required to relate well with existing or potential adjacent subdivisions;

(g) Minimum front, side and rear setback lines on each lot. When lots are on a curve, the width of the lot at the building setback line shall be shown;

(h) The location, size and proposed improvements for proposed parks, playgrounds and public open spaces; churches or school sites or other special uses of land to be considered for dedication to public use or to be reserved by deed of covenant for the use of all property owners in the subdivision and any conditions of the dedication or reservation;

(I) Proposed right-of-way widths of alleys, if any, pedestrian ways, trails drainage easements and utility easements;

(j) Preliminary utility plan including the proposed sizes and locations of water, sanitary sewer and storm water;

(k) Existing and proposed storm water drainage system including drainage easements; the approximate boundaries of all areas subject to inundation or storm water overflow, and the location, width and direction of flow of all watercourses; and provisions for surface water disposal, ponding, drainage and flood control;

(l) Preliminary grading, drainage and soil erosion/sediment control plan including proposed temporary and permanent erosion control measures;

(m) Landscape plan;

(n) Proposed building pad elevations on each lot; and

(o) Other information as deemed necessary by the Planning Commission or City Council.

(4) Supplemental information: Any or all of the supplementary information requirements set forth in this division shall be submitted when deemed necessary by the city staff, consultants, advisory bodies and/or the City Council.

(a) If zoning changes are contemplated, the proposed zoning plan for the area shall be shown. The proposed zoning plan shall be for information only and shall not vest any rights in the applicant.

(b) Statement of adequacy of existing or proposed utilities to accommodate or serve the proposed development.

(c) Estimated costs of proposed required improvements.

(d) Common interest communities such as condominiums, planned unit developments or cooperatives shall comply with M.S. §§ 515B.1 to 515B.4-118 as it may be amended from time to time.

(D) *Preliminary plat procedure.*

(1) *Procedure for submittal.* Pursuant to M.S. § 15.99, as may be amended, an application for a preliminary plat shall be approved or denied by the City Council within 120 days from the date of its official and complete submission including the submission of all applicable fees, unless notice of extension is provided by the city or a time waiver is granted by the applicant.

(a) *Filing.* Ten full size copies and 1 reproducible 11-inch by 17-inch copy of the preliminary plat prepared by a registered land surveyor shall be filed with the Zoning Administrator at least 20 days prior to the regular Planning Commission meeting, at which time the plat is to be considered by the Commission, together with the filing fee and a list compiled by a certified abstractor showing all property owners within 350 feet of the outer boundary of the proposed subdivision.

(b) *Variances.* Any necessary applications for variances from the provisions of this or other applicable code provisions shall be filed with the Planning and Zoning Departments following the process outlined in the Zoning Ordinance before the preliminary plat will be considered complete and officially filed.

(c) *Financial requests.* Requests for city participation in the funding of the development (i.e. assessment projects) shall be filed with the City Administrator before the preliminary plat will be considered complete and officially filed.

(d) *Filing fee.* The filing fee shall be as set by the City Council, to be used for the expenses of the city in connection with the approval or disapproval of the plans.

(e) *Rezoning.* If the property must be rezoned for the intended use, an application for rezoning, pursuant to the procedure in the Zoning Ordinance, shall be filed prior to or with the preliminary plat.

(f) *Other.* At the time of preliminary plat submittal, the Zoning Administrator shall forward a copy of the plat to the Park Board. The Park Board shall review the proposed preliminary plat and forward their recommendation to the Planning Commission regarding the appropriate park dedication or fee in-lieu of. The developer shall be required to pay the dedication prior to the filing of the final plat.

(2) *Action by the Zoning Administrator:*

(a) Prior to the meeting of the Planning Commission at which the preliminary plat is to be considered, the Zoning Administrator and other appropriate departments shall examine the plat for compliance with this and other ordinances of the city, and shall submit a written report to the Commission.

(b) The Zoning Administrator on behalf of the Planning Commission shall set a date for a public hearing. Notice of the hearing shall be posted and published within the city's official newspaper as provided by state law at least 10 days prior to the date of the hearing. The notice shall also be mailed not less than 10 days to:

1. All property owners of record, as provided by the developer and certified by the abstractor, within 350 feet of the property. The failure to give mailed notice to individual property owners, or defects in the notice shall not invalidate the proceedings, provided a bona fide attempt to comply with this division has been made;
2. The City Engineer;
3. The Commissioner of the Minnesota Department of Transportation if the proposed plat abuts 1-94, a state highway or a county state aid highway and/or the Stearns County Engineer, if the proposed plat abuts or includes a CSAH or county road. (This includes but is not limited to 94, 71, 70, 17, 11, 27, 79, 72, 184, 186, 52, 302 and 28);
4. The local gas, telephone, cable and power utility companies having jurisdiction;
5. If the proposed subdivision is wholly or partially located in the Shoreland and/or Flood Plain District to the Commissioner of Natural Resources; and
6. To the Sauk River Watershed District.

(3) *Action by the Planning Commission.*

(a) The Planning Commission shall consider the preliminary plat together with the reports from city staff and consultants, compliance with the city ordinances and public input. The Planning Commission shall formulate a recommendation concerning the preliminary plat within 30 days, and shall promptly transmit it to the City Council together with 1 copy of the plan and the staff report, or the Council may take action without a recommendation. Notice of the action taken by the Commission will be forwarded to the applicant within 10 days.

(b) The applicant or a duly authorized representative shall attend the Planning Commission meeting at which the proposal is scheduled for consideration.

(c) The Planning Commission shall conduct a public hearing to accept public input on the proposed preliminary plat in accordance with the procedure outlined above.

(d) In considering the preliminary plat, the Planning Commission shall consider the following factors:

1. Consistency with the design standards and other requirements of this chapter;
2. Consistency with the city's Comprehensive Plan or other development plans;
3. Consistency with the Zoning Ordinance;
4. The physical characteristics of the site, including but not limited to, topography, erosion and flooding potential and soil limitations, and the suitability thereof for the type of development or use contemplated;
5. The proposed development will not create a negative fiscal or environmental impact upon the city; and
6. The proposed development may be served by public services and utilities and not cause a negative impact on the systems.

(4) *Additional information.* The Planning Commission and/or city staff shall have the authority to request additional information from the applicant concerning the preliminary plat or to retain expert testimony and/or studies with the consent and at the expense of the applicant concerning the information to be declared necessary to establish compliance with all pertinent sections of this chapter.

(5) *Action by the City Council.*

(a) The recommendation of the Planning Commission on the preliminary plat shall be considered by the City Council, and the City Council shall approve, disapprove or conditionally approve the plat.

(b) If the City Council disapproves the plan, the grounds for any like refusal shall be set forth in the proceedings of the City Council and reported to the applicant.

(c) The City Council shall also act on the approval or disapproval of any variances requested by the applicant and the election by the Council of the method of financing and constructing the required public improvements. Notice of the action(s) taken by the City Council shall be forwarded to the applicant within 10 days.

(6) *Term of approval.*

(a) Approval of the preliminary plat shall be effective for a period of 12 months, unless an extension is granted by the City Council.

(b) The applicant may file a final plat limited to the portion of the preliminary plat as he or she proposes to record and develop at the time, provided that the portion conforms to all requirements of this chapter.

(c) If some portion of the preliminary plat has not been submitted for final plat approval within 1 year, a preliminary plat must again be submitted to the Planning Commission and City Council for approval.

(7) *Preliminary approval.*

(a) Approval of the preliminary plat shall not be construed to be approval of the final plat.

(b) Subsequent approval will be required of the engineering proposals pertaining to water supply, storm drainage, sewage disposal, grading, gradients and roadways widths by the city, Public Utilities Commission, City Engineer and other public officials having jurisdiction prior to the approval of the final plat by the city.

(8) *Plat amendments.*

(a) The amendment of a preliminary plat by the developer, which has already been approved by the City Council, shall be considered a new plat.

(b) Amendments to a preliminary plat that only include items which have been required to be amended, as a part of conditional approval by the City Council, shall not constitute the formation of a new plat.

(9) *Drainage.*

(a) No plat will be approved for a subdivision which is subject to periodic flooding, or which contains poor drainage facilities and which would make adequate drainage to the streets and lots impossible.

(b) However, if the developer agrees to make improvements which will, in the opinion of the City Engineer, make the area completely safe for residential occupancy and provide adequate street and lot drainage and limit 100-year run off to pre-developed conditions, the preliminary plat of the subdivision may be approved.

(c) Plats along lakes and the river should show the floodway, 100-year and 500-year flood plain lines on the preliminary plat.

(E) *Data required for final plat.*

(1) Contents of final plat: When a final plat is approved, it shall include the following:

(a) Name of plat or subdivision;

(b) Scale and north arrow;

(c) Detailed plans and specifications for construction of public utilities including sanitary sewer, municipal and/or community or on-site water supply, drainage and flood control plans, all approved by the City Engineer;

(d) Financial guarantee of cash escrow or letter of credit, as provided for in § 155.05(C) below;

(e) Evidence, through soil borings and percolation tests, that ground water control is at least 5 feet below the level of finished grades or plan for solving ground water problems;

(f) Any supplemental engineering data required by the City Engineer;

(g) Any supplemental data required under regulation of the County Surveyor;

(h) Data required under regulation of the M.S.A. 505: accurate angular and lineal dimensions for all lines, angles and curvatures used to describe boundaries, streets, easements, areas to be reserved for public use and other important features. Dimensions of lot lines shall be shown in feet and hundredths;

(i) All lots and blocks clearly numbered, shown in the center of the block;

(j) Location and width of all easements to be dedicated;

(k) City, county or section lines accurately tied to the lines of the subdivision by distances and angles;

(l) Name and boundary lines of any adjoining platted lands;

(m) Complete curve data, including radii, internal angles, points of curvatures, tangent bearings and lengths of all arcs;

(n) Accurate location of all monuments. A permanent marker shall be deemed to be a steel rod or pipe, extending at least 14 inches below the finished grade. In situations where conditions prohibit the placing of markers in locations prescribed above, offset markers shall be shown on the final plat, together with accurate interior angles, bearing and distances. Monuments shall be placed within 1 year of approval;



(o) Certification by a registered land surveyor to the effect that the plat represents a survey made by him or her and that monuments and markers shown thereon exist as located and that all-dimensional and mathematical calculations relating to their location are correct;

(p) Notarized certification by owner, and by any mortgage holder of record, of the adoption of the plat and the dedication of streets and other public areas;

(q) A statement dedicating all easements, streets, alleys, walkways, parks and public open spaces and other public areas not previously dedicated;

(r) Approval by signature of the Mayor, City Administrator and applicable county and state officials;

(s) Delinquent tax certifications as follows:

No delinquent taxes and transfer entered this \_\_\_\_\_ day of \_\_\_\_\_.

Signed: \_\_\_\_\_  
County Auditor/Treasurer;

(t) Certification that current taxes have been paid:

Signed: \_\_\_\_\_  
County Auditor/Treasurer;

(u) Certification of city approval as follows:

Approved by the City of Sauk Centre, Minnesota, this \_\_\_\_ day of \_\_\_\_\_.

Signed: \_\_\_\_\_  
Mayor

Attested: \_\_\_\_\_  
City Administrator;

(v) A section for filing of the plat and the signature of the recording officer.

(2) *Supplementary documents.* The following shall also be provided to the city:

(a) A complete set of construction plans containing plans and specifications to construct the required public improvements and to make the subdivision suitable for development, which conform to the city requirements. These documents will be prepared by the city for projects following the publicly financed public improvement process;

(b) A certified mylar copy of the plat evidencing filing of the plat with the county within 90 days after approval by the city. No building permits shall be approved for construction of any structure on any lot in the plat until the city has received evidence of the plat being recorded by Stearns County;

(c) Three complete sets of 11-inch by 17-inch reproducible as-built construction drawings for any public improvements constructed in the subdivision shall be furnished to the city for the city files, City Engineer and Public Utilities Commission, within 120 days after the construction is complete and approved by the city. In addition 1 digital GIS formatted copy and 1 scanned copy for imaging shall be submitted to the city;

(d) Copies of any protective or restrictive covenants affecting the subdivision or any part thereof;

(e) Upon adoption and filing of a final plat, the city shall prepare a street address map and distribute it to the applicant, utility companies, Police Department, ambulance, Fire Department, post office and county; and

(f) A disk of the recorded plat in AutoCadd or other approved format for inclusion in the city's base map.

(g) A written and signed attorney's certificate that proper and clear evidence of title has been presented and examined.

(F) *Final plat procedure.*

(1) *Procedure for submittal and review.* The procedure for approval of the final plat shall be as follows:

(a) Ten full size copies and 1 reproducible 11-inch by 17-inch copy of the final plat prepared by a registered land surveyor shall be filed with the Zoning Administrator at least 20 days prior to the regular Planning Commission meeting, along with the written application for approval of the final plat and fee, as established in the city fee schedule.

1. The final plat shall be reviewed separately from the preliminary plat unless the city agrees to review the preliminary and final plats simultaneously.

2. The final plat shall incorporate all changes, modifications and revisions required by the city. Otherwise it shall conform to the preliminary plat.

3. If the final plat is not submitted within 12 months, the approval of the preliminary plat shall be considered void unless time has been extended by the City Council.

(b) All final plats shall comply with the provisions of Minnesota Statutes and requirements outlined in this chapter;

(c) The applicant shall submit with the final plat 1 up-to-date (within 30 days) title insurance or opinion, as the City Attorney or Planning Department may require; and

(d) The applicant shall submit with the final plat, certification to the city that there are no delinquent property taxes, current special assessments, interest and city utility fees due upon the parcel of land to which the subdivision application relates.

(2) *Review of final plat.*

(a) The city shall refer copies of the final plat to the City Engineer, for review of engineering standards and specifications, utility companies and other city staff members as appropriate.

1. The abstract of title, registered property report or other evidence shall be submitted to the City Attorney for examination and report.

2. The developer shall reimburse the city for fees associated with the review of the final plat including, but not limited to review by the City Engineer and City Attorney.

(b) Review by all other appropriate agencies that have jurisdiction within or adjacent to the final plat. Agencies may include, but not be limited to, the DNR, SCWD, Stearns County and MN/DOT.

(c) The Planning Commission's recommendation of approval or disapproval of the final plat will be conveyed to the developer in writing within 10 days after the meeting of the Planning Commission at which the plat was considered. In case the plat is being recommended for disapproval, the developer shall be notified of the reason for the action and what requirements shall be necessary to meet the approval of the Commission.

(d) After a review and recommendation of approval or disapproval of the final plat by the Planning Commission, the final plat, together with the recommendations of the Planning Commission shall be submitted to the Council for approval.

1. If accepted, the final plat shall be approved by resolution, which resolution shall provide for the acceptance of all streets, alleys, easements or other public ways and parks, or other open space dedicated to public purposes pursuant to M.S. § 15.99, as it may be amended from time to time,

an application for a final plat shall be approved or denied by the City Council within 60 days from the date of its official and complete submission unless notice of extension is proved by the city or a time waiver is granted by the applicant.

2. If applicable, procession of the application through required state or federal agencies shall extend the review and decision-making period an additional 60 days, unless this limitation is waived by the applicant.

3. Failure of the Council to act on the application within 60 days shall be deemed as approval. If disapproved, the ground for any refusal to approve a plat shall be set forth in the proceedings of the Council and reported to the person or persons applying for approval.

4. No final plat shall be approved that:

a. Does not conform to the preliminary plat;

b. Does not meet the design standards and engineering specifications set forth in this chapter or design standards which are in effect at the time;

c. Does not have the required documents calling for means to finance the public improvements as well as other required data; and/or

d. Is considered a "premature subdivision" as outlined in § 155.07 below.

(e) If the final plat is approved by the City Council, the developer shall record it with the County Recorder's office within 90 days after the date of approval; otherwise the approval shall be considered void.

(Ord. 616, passed 11-21-2001; Am. Ord. 705, passed 4-20-2011)

#### **§ 155.04 DESIGN STANDARDS.**

All plats shall conform to the design standards set forth in this chapter, except in cases of changes permitted in a planned unit development, by the City Council approval of a waiver of platting requirements, or by specific exceptions designated by this chapter.

(A) *Monuments*. When public improvements and grading are finished, all subdivisions must have block corner monuments replaced. Survey error may not be more than 1 in 7,500.

(1) The monuments shall be as approved by the Stearns County Surveyor's Office for use as judicial monuments and shall be set at each corner or angle on the outside boundary of the final plat or in accordance with a plan as approved by the city. The boundary line of the property to be included with

the plat to be fully dimensioned; all angles of the boundary excepting the closing angle to be indicated; all monuments and surveyor's irons to the indicated, each angle point of the boundary perimeter to be so monumented.

(2) Pipes or steel rods shall be placed at each lot corner. All United States, Minnesota and county or other official bench marks, monuments or triangular stations in or adjacent to the property shall be preserved in precise position and shall be recorded on the plat. All lot and block dimensions shall be shown on the plat and all necessary angles pertaining to the lots and blocks, as an aid to future surveys shall be shown on the plat.

(3) It is the developer's responsibility to ensure that the monuments are in place. In the event that a monument is disturbed or removed throughout the course of construction the city and its agents assume no liability.

(B) *Street improvements.*

(1) *Street locations.*

(a) The street layout of every subdivision shall be in conformity with the Comprehensive Plan or circulation element thereof, and shall provide for the continuation of major streets, which serve property contiguous to the subdivision. Street networks shall provide ready access for fire and other emergency vehicles, and the Planning Commission may require additional access points if they are found to be beneficial or necessary to protect public safety.

(b) Where the plat to be submitted includes only part of the tract owned or intended for development by the developer, a tentative plan of a proposed future street system for the un-subdivided portion shall be prepared and submitted by the developer.

(c) Reserved strips controlling access to streets are prohibited.

(d) The arrangement of streets in a subdivision shall either provide for the continuation of existing streets in surrounding areas or conform to a plan for the neighborhood approved or adopted by the City Council to meet a particular situation where topographical or other conditions make continuance of existing streets impractical.

(e) Residential streets or minor streets shall be so arranged as to discourage their use by through traffic. Subdivisions shall be platted to allow for a collector street where deemed desirable by the city. Direct access onto the collector street shall be discouraged.

(f) Where a subdivision abuts on or contains an arterial street, plantings to screen the property shall be encouraged along the arterial street property lines. Deep lots or other treatment as may be necessary for protection of residential properties. Direct frontage and/or access to arterial streets should be avoided.

(g) Street traffic should be designed to flow toward arterial and collector streets. Streets should fit the contours of the land. Street grades, where feasible, shall not be greater than 10% and not less than 0.5%, as defined in division (B)(5)(f) below.

(2) *Street access.*

(a) No land situated in the city which has been subdivided or laid out into separate tracts shall be sold for use for dwellings unless the tracts of land abut upon a public street or public highway.

(b) This limitation shall not apply to planned unit developments approved by the City Council pursuant to the Zoning Ordinance.

(3) *Classification of streets.* Classification of streets shall be determined with reference to the Comprehensive Plan and official street maps including highway, arterial, collector and local streets.

(a) *Cul-de-sacs/dead end streets.* Cul-de-sacs or dead end streets designed to have 1 end permanently closed or in the form of a cul-de-sac, (turn-around) shall contain a turn-around meeting the specifications outlined in division (B)(6) below, or a Y or T permitting comparable ease of turning. These streets shall not exceed 500 feet in length.

(b) *Curved streets.* The location of all curved streets should be so arranged as to fit the natural topography as closely as possible and to make possible desirable land subdivisions and safe vehicular traffic.

(c) *Half streets.* Half streets shall be prohibited, except where essential to reasonable development of the subdivision, and in conformity with the other requirements of these regulations or where it is found that it will be practical to require the dedication of the other half when the adjoining property is subdivided, or where it becomes necessary to acquire the remaining half by condemnation so that it may be improved in the public interest.

(d) *Local streets.* Local streets shall be designed so their use by through traffic will be discouraged.

(e) *Private streets.* Private streets are prohibited.

(4) *Classification of alleys.*

(a) Alleys shall be prohibited unless special permission is granted by the City Council for their provision.

(b) If permitted, alleys shall have a minimum width of 12 feet and shall be improved to the same standards provided for streets generally.

(c) Dead-end alleys and alleys with sharp changes in direction shall not be permitted.

(5) *Streets.*

(a) *Curb radius.*

1. The minimum curb radii for thoroughfares, collector streets and local streets shall be 14.5 feet.
2. Where required, curbs and gutters shall be installed as per Minnesota Department of Transportation construction specifications Plate B 6-18.

(b) *Reverse curves.* Tangents of at least 100 feet in length shall be introduced between reverse curves on collector streets and 50 feet on lesser streets.

(c) *Reserve strips.* Reserve strips controlling access to streets shall be prohibited except under conditions accepted by the City Council.

(d) *Service streets.*

1. Where a subdivision borders upon a railroad or limited access highway right of way, a street may be required approximately parallel to, and at a distance suitable for, the appropriate use of the intervening land as for park purposes in residential districts or for parking, commercial or industrial purposes in appropriate districts.

2. Distances shall be determined with regard for the requirement of approach grades and possible features grade separations.

(e) *Street alignment.*

1. Connecting street center lines deflecting from each other at any point more than 10 degrees shall be connected by a curve of at least 100-foot radius for collector and local streets, and at least a 300-foot radius for arterial streets.

2. A tangent at least 100 feet long shall be introduced between curves on arterial streets.

(f) *Street grades.* Whenever feasible, street grades shall not exceed the following, with due allowance for reasonable vertical curves.

<i>Street Type or Class</i>	<i>Percent Grade Maximum</i>	<i>Percent Grade Minimum</i>
Arterial	5%	0.4%
Collector	5%	0.4%
Local	8%	0.4%

(g) *City Engineer*. All streets shall be graded in accordance with the specifications of the City Engineer. Grading shall be for the full right-of-way width of the dedicated street.

(h) *Width*. Excess right-of-way widths shall be required wherever, due to topography, additional width is necessary to provide adequate earth slopes.

(I) *Street intersections*.

1. Street intersections shall be as nearly at right angles as is practicable.
2. No street should intersect any other street at less than 80 degrees.
3. Wherever possible, local and collector streets should be designed so as to not intersect with arterial or highways at intersections closer than 500 feet.
4. In general, provisions shall be made at intervals not exceeding ½ mile for through streets (streets running through the subdivision in a fairly direct manner).
5. The cross slopes on all streets, including intersections shall be 3% or less.
6. Intersections shall be designed with a flat grade when practical. In hilly or rolling areas, at the approach to an intersection, a leveling area shall be provided having not greater than a 2% grade at a distance of 50 feet measured from the edge of the roadway surface at the intersecting street.
7. Intersections of more than 4 corners shall be prohibited.
8. Where any street intersection will involve earth banks or existing vegetation inside any lot corner that would create a traffic hazard by limiting visibility, the developer shall cut the ground and/or vegetation (including trees) in connection with the grading of the public right-of-way to the extent deemed necessary to provide an adequate sight distance.
9. Roadways of street intersections shall be rounded by a radius of not less than 14.5 feet for collector and minor streets, 25 for arterials. Corners at the entrances to the turnaround portions of cul-de-sacs shall be rounded by a radius of not less than 14.5 feet.

(j) *Street jogs*. Street jogs with centerline offsets of less than 125 feet shall be prohibited.

(k) *Surfacing*.

1. All streets shall be surfaced for the full roadway or curb-to-curb width as described in this chapter.

2. Surfacing shall consist of a gravel base over a suitable sub-grade and an approved bituminous or concrete surface in accordance with the specifications of the City Engineer.



## Subdivisions

3. Any ditches required for suitable drainage shall be constructed in the unpaved portion of the street and shall be sodded or seeded.

4. Unsuitable soil lying within 1 foot of the subgrade shall be removed and replaced with suitable material.

5. The drop from the centerline of the street to the outer edge of the street shall be a minimum of 1/4-inch per foot of street width.

(1) *Tangents.* A tangent at least 100 feet long must be introduced between reverse curves on collector streets and a tangent of at least 50 feet in length must be introduced between reverse curves and vertical curves on all other streets.

(6) *Minimum street/access standards.*

<i>Class of Street</i>	<i>R/W Width + Feet</i>	<i>Curb Width (Feet)*</i>	<i>Grade (%)</i>	<i>Sidewalk Width (Feet)</i>	<i>Trail ROW</i>
Arterial	100	44	0.5	6	20/8
Collector	66	36	0.5	5	15/8
Local	60	32	0.5	5	15/8
Turn-around (dead end or cul-de-sac)	60-foot radius	45-foot radius	0.5	5	15/8
* The Council may require larger or smaller than minimum widths upon recommendation of the Planning Commission.					

(C) *Public utilities.*

(1) Where sewer and water systems are installed Sauk Centre Public Utility Commission policies shall be consulted; the mains shall be of adequate size to accommodate future growth and utilization.

(2) Stubs shall be provided to each lot from the utility main to the lot line for future connection.

(3) Wherever practical, similar utilities shall be placed in the same general location on streets of the same direction.

(a) *Sanitary sewers.*

1. Sanitary sewers shall be installed to serve all properties in the subdivision where a connection to the city sanitary sewer system is available or where detailed plans and specifications for sanitary sewers to serve the subdivision are available.

2. Sanitary sewer shall be installed as required by standards and specifications approved by the City Council, Public Utilities Commission and the City Engineer.

3. Sanitary sewer lines shall be extended to the edges of the development to facilitate future subdivisions.

4. Where city sanitary sewer is not available for extension into the proposed subdivision, the City Council may authorize individual systems provided they are in compliance with the Minnesota Department of Health and the Minnesota Pollution Control Agency standards.

(b) *Water.*

1. Where a connection to the city water system is presently available, water distribution facilities including pipefittings, hydrants, valves and the like, shall be installed to serve all properties within the subdivision.

2. Public water facilities shall be installed as required by standards and specifications as approved by the City Council and City Engineer.

3. Size of water mains shall conform to the policies of the Public Utilities Commission. Looping of water mains shall be required when feasible.

4. Where city water facilities are not available for extension into the proposed subdivision the City Council may authorize individual wells provided they are in conformance with the Minnesota Department of Health and duly approved.

(c) *Storm water.* All subdivision design shall incorporate adequate provisions for storm water runoff consistent with the Sauk Centre Comprehensive Plan and/or storm water plan, as applicable, and be reviewed and approved by the City Engineer and watershed district, where applicable. Erosion and siltation control shall be coordinated to control run-off from the development directly into street storm water catch basins.

(d) *Electric/telephone/cable.*

1. All new electric distribution lines (excluding main line feeders and high voltage transmission lines), telephone service lines, cable television lines and services constructed within the confines of and providing service to customers in a newly platted residential area shall be buried underground, except where topographical, geological or other physical conditions make underground installation cost prohibitive.

2. These lines, conduits or cables shall be placed within easements or dedicated public ways in a manner which will not conflict with other underground services.

3. Transformer boxes shall be located so as not to be hazardous to the public.

## Subdivisions

4. The City Council may waive the requirements of underground services as set forth in this section if, after study and recommendation by the Planning Commission, the City Council establishes that the underground utilities would not be compatible with the planned development or unusual topography, soil or other physical conditions which would make underground installation unreasonable or impractical.

(D) *Erosion and sediment control.*

(1) Grade and drainage requirements for each plat shall be subject to approval of the City Engineer.

(2) The following controls shall be practiced to manage erosion and sediment control:

(a) Where topsoil is removed, sufficient arable soil shall be set aside for re-spreading over the developed area. Topsoil shall be restored or provided to a minimum depth of 6 inches and shall be of a quality at least equal to the soil quality prior to development;

(b) The development shall conform to the natural limitations presented by topography and soil so as to create the least potential for soil erosion;

(c) Erosion and siltation control measures shall be coordinated with the different stages of construction and approved by city staff.

1. Appropriate control measures shall be installed prior to development when necessary to control erosion.

2. Silt fences shall be installed in the front of all lots, prior to issuing a building permit.

3. The silt fence shall be installed right behind the curb or if a sidewalk is in place right behind the sidewalk.

4. If a sidewalk is located in the front of the lot the developer will be responsible for sodding the boulevard between the sidewalk and the curb before a certificate of occupancy will be issued;

(d) Land shall be developed in increments of workable size so that adequate erosion and siltation controls can be provided as construction progresses. The smallest practical area of land shall be exposed at any 1 period of time;

(e) When soil is exposed, the exposure shall be for the shortest feasible period of time, as specified in the development agreement; and

(f) Any disturbances of 5 or more acres of land requires a general construction storm water permit (MNR100000) prior to starting construction.

(E) *Lot and block standards.*

(1) *Lots.* Lots shall be designed to meet the following minimum standards.

(a) *Area.* The minimum lot area, width and depth shall be sufficient to satisfy zoning requirements.

(b) *Corner lots.* Corner lots for residential uses shall have additional width to permit appropriate building setback from both streets as required in the Zoning Ordinance.

(c) *Double frontage lots.*

1. Double frontage lots (or "through" lots) should be avoided, except where the subdivision abuts a major highway; major road or arterial; or to overcome disadvantages of topography.

2. A planting screen easement of at least 20 feet and across which there may be no right of access, will be provided along the line of lots abutting the traffic artery or other disadvantageous use.

(d) *Features.* In the subdividing of land, regard shall be shown for all natural features such as tree growth, watercourses, bluffs, historic spots or similar conditions which, if preserved, will add attractiveness and stability to the proposed development.

(e) *Frontage/access.* Every lot must have the minimum frontage on a city approved street other than an alley, as required by the city Zoning Ordinance, except where permitted under a planned unit development.

(f) *Lot boundaries.* No lot shall be divided by a boundary line between registered land and abstract property.

(g) *Lot corners at street intersections.*

1. Curbs at street intersections shall be rounded by an arc, the minimum radius of 14.5 feet or by a straight line not less than 7 feet in length at approximately 45-degree angles from the lot lines.

2. Lots at corners shall be platted with additional lot width of at least 15 feet wider to allow appropriate building setbacks from both streets as required by the Zoning Ordinance in effect.

(h) *Lot line angles.*

1. Side lot lines shall be straight lines running within 20 degrees of perpendicular to the road upon which the lots front.

2. Side lot lines on curved roads should run at or near radially to the curve.

## Subdivisions

(I) *Lot pads.*

1. The top of the foundation and the garage floor of all structures shall be a minimum of 12 inches and a maximum of 24 inches above the grade of the crown of the street upon which the property fronts.

2. Exceptions to this standard may be approved by the Zoning Administrator for special circumstances such as increased setback, site topography, flooding potential, septic system operation and the like, provided that proper site and area drainage is maintained and the elevation of the structure is in keeping with the character of the area.

3. The Zoning Administrator may require a certificate of survey prior to building permit issuance to assure compliance with this section if lot pads are not installed as part of the subdivision process.

(j) *Lot remnants.* All remnants of lots below minimum size left over after subdividing of a larger tract must be added to adjacent lots, rather than allowed to remain as unusable parcels, except where the owner can show plans for the future use of the remnant.

(k) *Lots along thoroughfares.*

1. There shall be no direct vehicular access from residential lots to a major arterial street, and residential lots shall be separated from major arterial streets and railroad rights-of-way by a 25-foot buffer strip, which may be in the form of added depth or width of lots backing on or siding on the thoroughfares or railroad right-of-way.

2. Where driveway access from a major or collector street may be necessary for several adjoining lots, the city may require that the lots be served by a combined access drive in order to limit possible traffic hazards on the street.

(l) *Re-subdivision of lots.* When a tract is subdivided into larger than normal building lots or parcels, those lots or parcels shall be so arranged as to permit the logical location and openings of future streets and appropriate re-subdivision, with provision for adequate utility connections for the re-subdivision.

(m) *Setback lines.* On the preliminary plat, setback or building lines shall be shown on all lots intended for residential use and shall not be less than the setback required by the city Zoning Ordinance, as may be amended.

(n) *Turn-around access.* Where proposed residential lots abut a collector or arterial street, they should be platted in a manner so as to encourage turn-around access and egress on each lot.

(o) *Watercourses.* Lots abutting a watercourse, wetland, ponding area or stream shall have additional depth and width, as required under the provisions of the city Zoning Ordinance.

(2) *Block standards.* All blocks shall be designed to meet the following minimum standards.

(a) *Block access.* Pedestrian ways or bicycle trails 10 feet wide may be required between streets paralleling a block if pedestrian access to schools or other areas of pedestrian destination is deemed desirable by the Planning Commission and City Council.

(b) *Arrangement.* A block shall be so designated as to provide 2 tiers of lots, unless it adjoins a railroad or limited access highway and unless topographical conditions necessitate a single tier of lots.

(c) *Block length.*

1. In general, intersecting streets, determining block lengths, shall be provided as intervals so as to serve cross-traffic adequately and to meet existing streets.

2. Where no existing plats control, the blocks in residential subdivisions should not exceed 1,000 feet in length nor be less than 400 feet in length, except where topography or other conditions may justify a departure from this maximum.

3. In blocks longer than 600, pedestrian ways and/or easements through the block may be required near the center of the block.

(d) *Block shape.* Blocks shall be shaped so that all blocks fit readily into the overall plan of the subdivision and their design must evidence consideration of lot planning, traffic flow and public open space areas.

(e) *Block use.* Blocks intended for commercial, institutional and industrial use must be designated as so and the plan must show adequate off-street areas to provide for parking, loading docks and other facilities that may be required to accommodate motor vehicles.

(F) *Park/public land dedication.*

(1) *Intent and purpose.*

(a) The process of dividing land into separate parcels for parks and open space is 1 of the most important factors in the growth of any community.

(b) Once the land has been dedicated to parks and open space, the basic character of the permanent addition to the city has become firmly established.

(c) It is, thereof, in the interest of the general public, the developer and the residents of the community, that parks and open space areas be conceived, designed and developed in accordance with the highest possible standards of excellence.

## Subdivisions

(d) All parks and open space areas hereafter dedicated shall comply, in all respects, with the regulations set forth herein.

(e) It is the purpose of these regulations to:

1. Provide for a variety of activities within the park system, including various cultural and social activities, and active and passive recreation;
2. Establish and promote high quality design standards in the development of the park system;
3. Encourage cooperative planning development and use of park and recreational facilities by the school district and the city so that the city facilities can be useful to the school district and the school district facilities will be available to city residents; and
4. To ensure that all areas of the city have equal access to parks and open space areas by providing for equal distribution of parks and open spaces throughout all sections of the city relative to user population densities.

### (2) *General requirements.*

(a) Where a proposed park, playground or open space area is proposed to be located in whole or in part in a subdivision, the Planning Commission shall require that the area or areas be shown on plats in accordance with the requirements specified to the city by the developer if the City Council approves the dedication.

(b) The Planning Commission shall require that plats show sites of an acceptable character and location suitable for the development of a park, playground or other recreation purposes. The Planning Commission may require that the developer satisfactorily grade any like recreation areas shown on the plat to ensure maximum advantage of natural features, notable waterways and the like.

(c) Land to be dedicated for parks and open spaces shall be reasonably suitable for its intended use and shall be at a location convenient to the people to be served.

(d) Existing features, which would add value to residential development or to the local government as a whole, such as trees, watercourses and falls, beaches, historic spots and similar irreplaceable assets, shall be preserved in the design of the subdivision.

(e) No trees shall be removed from any subdivision nor any change of grade of the land effected until approval of the preliminary plat has been granted. All trees on the plat required to be retained shall be preserved, and all trees, where required, shall be welled and protected against change of grade.

**Sauk Centre - Land Usage**

(f) The preliminary plat shall show the number and location of existing trees, where practical, as required by these regulations, and shall further indicate all those marked for retention, and the location of all proposed trees required along the street side of each lot, as required by these regulations.

(g) Where a proposed park, playground, school site or other public site shown on an adopted plan or the official map is embraced in part or whole by a boundary of a proposed subdivision, and the public sites are not dedicated to the city or Board of Education, the public ground shall be shown as reserved land on the preliminary plat so as to allow the city, state agency, Board of Education or other governmental agency the opportunity to consider and take action toward acquisition of the site by purchase or other means prior to approval of the final plat.

(3) *Dedication requirements.*

(a) The city does hereby require that in all plats of subdivisions to be developed for residential, commercial, industrial or other uses, or as a planned unit development which includes residential, commercial and industrial uses, or any combination thereof, 10% of the gross areas of all property being subdivided shall be dedicated for parks, playgrounds, trails, recreational areas or public open space. The percentages shall be in addition to the property dedicated for streets, alleys, drainage ways, pedestrian ways or other public ways. Storm water ponding areas may be incorporated into the parkland but shall not be considered a part of the parkland dedication.

(b) The city shall have the option of requiring a cash contribution in lieu of the land dedication. The required cash contribution shall be in accordance with the fee schedule as set forth by resolution adopted by the City Council. The city may elect to accept a combination of land dedication for park use and a cash payment. If the city selects a fee in lieu of land, the developer shall be required to pay the dedication prior to the filing of the final plat.

(c) Church, school, government buildings and other non-profit organizations who operate and are based within the city limits may be exempt from the requirements specified in this section, by action of the City Council. If the property that is exempt from park dedication is ever subdivided, re-platted or sold and used for other purposes, than those mentioned above, it would be subject to the requirements specified in this section.

(d) Parks bordered on 1 or more sides by existing or native rivers, lakes or streams shall ensure:

1. Access to the park is provided from an arterial roadway or collector street;
2. Pathways that allow emergency motorized vehicle traffic within the park are present;
3. All new parks shall provide access ways, from all practical directions, as determined by the Planning Commission. All access ways shall be in compliance with the Americans with Disabilities Act, being 42 U.S.C §§ 1201 et seq.;



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4. Parking areas shall be established on land adjacent to the required parkland area, sized to meet the needs of the planned facilities. The parking areas shall be dedicated to public use and shall be included in the 10% land dedication. The city shall complete improvement of the parking area; and

5. The developer shall be responsible for grading and seeding of required parkland, to city specifications.

(4) *Exception for outlots.*

(a) In subdivisions which include outlots the developer, at the Council's discretion, may contribute land, cash or any combination thereof for the entire subdivision, including the land within the outlots or for only that land exclusive of the outlots.

(b) When outlots are subdivided, the contribution requirement shall be met in accordance with then existing regulations as applicable unless the contributions have been previously met.

(5) *Special fund.* All monies collected from cash contributions shall be placed in a special fund from which only those public uses outlined in this section may be realized.

(6) *Land dedication.*

(a) In cases where the developer is required to dedicate land area the City Council shall have the right to determine the geographic location and configurations of the dedication.

(b) If a new subdivision is designed to be platted in several additions, all public recreation space, school sites or other areas of public use in the total subdivision shall be dedicated at the time of platting of the first addition, except, streets, alleys or easement other than those leading directly to the sites may be excluded if deemed desirable by the city.

(G) *Easements.*

(1) *Drainage.*

(a) Where a subdivision is traversed by a watercourse, there shall be provided a drainage way, channel, outlot or drainage right-of-way conforming substantially with the lines of the watercourse, together with the further width of construction of both, as will be adequate for storm water run off as indicated by the City Engineer.

(b) All drainage easements shall be so identified on the plat and shall be graded and sodded in accordance with this chapter's requirements.

(2) *Public trails/walkways.*

(a) In addition to other open space, dedication of easement to provide connections to public trails will be required where shown on the Comprehensive Plan.

(b) Where deemed essential to provide circulation, or access to schools, playgrounds, shopping centers, transportation and other community facilities, pedestrian easements with rights-of-way widths of not less than 10 feet shall be required.

(3) *Utilities.*

(a) Easements at least 10 feet wide, centered on rear and front lot lines, and easements as requested by utility companies, unless the side lot line abuts a public right-of-way or is used for storm or sanitary sewer in which it shall be 20 feet wide, for all utilities.

(b) In special circumstances, such as the need for extra depth, a greater easement width may be required.

(c) Easements shall have continuity of alignment from block to block.

(H) *Other.*

(1) *Character of the land.*

(a) Land which the City Council finds to be unsuitable for subdivision or development due to flooding, improper drainage, steep slopes, rock formations, adverse earth formations or topography, utility easements or other features which will reasonably be harmful to the safety, health and general welfare of the present or future inhabitants of the subdivision and/or its surrounding areas shall not be subdivided or developed unless adequate methods are formulated by the developer and approved by the City Council, upon recommendation of the Planning Commission, to solve the problems created by the unsuitable land conditions.

(b) The land shall be set aside for uses as shall not involve like dangers.

(2) *Preservation of natural features.* The Planning Commission and City Council may establish any existing natural features in order to preserve any trees, groves, water courses and falls, beaches, historic sites, vistas and similar irreplaceable assets which add value to all developments and to the community as a whole.

(3) *Subdivisions in flood plain and shoreland management districts.*

(a) No land shall be subdivided which is deemed by the city to be unsuitable for the proposed uses, because of flooding. All plats located in the Flood Plain Management District shall comply with the requirements of the Zoning and/or Flood Plain Ordinance.

## Subdivisions

(b) Copies of all plats within the Shoreland District shall be submitted to the Minnesota Commission of Natural Resources within 10 days of submission of the completed application. All plats located within the Shoreland District shall comply with the requirements of the Zoning and/or Shoreland Ordinance.

(4) *Planned unit developments.* All Planned Unit Developments (PUDs) must comply with the requirements of Chapter 151.

(5) *Planting, gateways, entrances.*

(a) Erosion within entrance areas shall be improved with weed free sod or the area shall be controlled with hay bales or riprap to avoid erosion, as approved by the City Engineer.

(b) The planting of trees, the type and spacing on public property will be subject to the regulations of the City Council.

(c) No planting, gateways, entrances and similar improvements may be made on public property except with permission and approval of the Council.

(6) *Sidewalks/pedestrian ways.*

(a) In those cases where the City Council deems it appropriate and as designated by the Comprehensive Plan, sidewalks of not less than 5 feet in width shall be provided (i.e. along highways, collectors, arterials and the like).

(b) Where a proposed plat abuts or includes an arterial street, sidewalks of not less than 5 feet in width shall be provided on both sides of the paved surface, unless a trail is included as designated by the Comprehensive Plan.

(c) Where the proposed plat abuts or includes a collector street, sidewalks of not less than 5 feet in width shall be required on one side of the street. In all cases where sidewalks are provided provisions shall be made for handicapped access.

(7) *Sodding.* If a sidewalk is located in the front of the lot the developer will be responsible for sodding the boulevard between the sidewalk and the curb before a certificate of occupancy will be issued. All drainage swales shall be graded and sodded or protected with other city approved erosion control measures.

(8) *Trees.* The Planning Commission and Council may allow the required trees to be planted in 1 area, such as along an arterial street or between incompatible zoning districts as a buffer in lieu of plantings on each lot.

(9) *Trunk area charges.* All unplatted land, may be charged water, sanitary sewer and storm sewer trunk area charges calculated in the manner set forth in the City of Sauk Centre fee schedule, special assessment policies and procedures for public improvements.

(10) *Administration fee.* All new plats, developer financed and 429 public improvement projects may be charged an administration fee for the reimbursement of staff time in accordance with the local improvement policy.  
(Ord. 616, passed 11-21-2001)

#### **§ 155.05 REQUIRED IMPROVEMENTS AND AGREEMENTS.**

(A) *Developer's agreement.*

(1) Before the Council approves a final plat the owner/developer shall execute a developer's agreement for the new subdivision, which contains satisfactory assurance that he or she will provide the following improvements at his or her expense.

(2) The owner or developer, if privately financing the project shall deposit with the City Administrator an amount agreed to in the development agreement, either in cash, a letter of credit or an indemnity bond, with sureties satisfactory to the city, conditioned upon the payment of all expenses incurred by the city for engineering and legal fees and other expense in connection with the making of the improvement.

(3) The development agreement, which shall be recorded at the Stearns County Recorder's office following filing of the plat, shall include:

- (a) The proposed legal description of the land which will result upon being platted;
- (b) A warranty, such as a current (30-day or less) title opinion, that the developer is the fee owner, unless the agreement is a 3-way agreement (city, developer and owner);
- (c) Method of financing public improvements and engineer's estimated cost of the improvements;
- (d) An itemization of trunk areas charges for water, sanitary sewer and storm sewer, as applicable;
- (e) A description of parkland dedication or the fee-in-lieu of and the land the dedication includes. The agreement should identify whether or not park land dedication for outlots is included with this phase;
- (f) An itemization of other fees associated with the subdivision including civil defense siren fees, legal fees, engineering fees and fees for administering the assessment process, as applicable;
- (g) Erosion control standards;

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(h) A provision that no private construction will be made on the plat or no building permit shall be filed for the construction until all improvements required under this chapter have been made or arranged for in a manner approved by the City Council;

(I) A listing or schedule of when and what improvements, subject to inspection and approval by the City Engineer, shall be required as recommended by the Planning Commission and approved by the City Council;

(j) A certification by the City Administrator or City Engineer that the improvements, agreements and documents meet the minimum requirements of all applicable ordinances;

(k) A provision containing all conditions, if any, imposed by the City Council upon approval of the final plat; and

(l) A provision requiring all improvements to be inspected by the City Engineer during construction at the expense of the developer. Additionally, the subdivision agreement shall also contain a provision for supervision of review of plans by the City Engineer.

### (B) *General improvements.*

(1) Monuments shall be installed at all lot corners, block corners, angle points, points of curves and streets and at intermediate points as required by the City Engineer. Monuments removed or destroyed during the construction process shall be replaced by the developer.

(2) All streets shall be graded and surfaced in accordance with applicable standard specifications of the city, and subject to inspection and approval by the City Engineer.

(3) Concrete curbs, gutters, drainage and drainage structures in accordance with standards of the city, and subject to the inspection and approval of the City Engineer.

(4) Street name signs at all street intersections within or abutting the subdivision of a type approved by the city and placed in accordance with the standards of the city. Note, the city may elect to order and place the street signs and charge the expense to developer.

(5) Installation of sanitary sewer and water mains including extension of both to the extremities of the property being platted.

(6) Connection of each lot to public sanitary sewer subject to the approval of the City Engineer.

(7) Water mains and service connections, sufficient to serve all lots in the subdivision, stubbed to the property line.

(8) Provisions shall be made for the proper drainage of all streets through the installation of adequately designated culverts, storm sewers, retention ponds and the like and the installation thereof shall be considered part of the essential street construction requirements.

(9) Provisions shall be made for the installation of sidewalks or trails at locations designated by the city.

(10) Standard or decorative street lighting with underground wiring as approved by the Sauk Centre Public Utilities Commission specifications. The developer and/or developer's engineer is responsible for forwarding information to the PUC prior to installation.

(11) Plans for final grading and planting of appropriate ground cover on vacant lots may be required of the developer as a condition of city acceptance of the public improvements identified in this section.

(12) Franchised and public utilities including telephone, cable TV, electric and gas service lines are to be placed underground. Conduits, pipes or cables shall be placed within easements or in rights-of-way adjacent to streets in a manner so as not to conflict with other underground services.

(13) Every buildable lot shall be identified by a sign that indicates the lot and block number and address, if available, which is approved by city staff prior to issuing any building permits. These signs can be removed as lots are developed.

(C) *Financing and participation by the city.*

(1) Prior to City Council approval of the final plat and as included in the subdivision agreement the developer shall be required to provide a financial guarantee to assure installation of all required improvements at his or her expense or shall submit to the city a petition for public improvements with the project expenses to be financed by the city and assessed against the subject property. Petitions for public improvements shall be submitted to the city for consideration by October 1 of the year preceding the proposed construction.

(2) The owner or developer, if privately financing the project shall deposit with the city 1 of the following.

(a) *Cash escrow deposit submitted to the City Treasurer in an amount of 125% of the total cost as estimated by the City Engineer of the improvements.*

1. Improvement costs shall include all construction costs incurred in making the improvements, all expense incurred by the city for engineering, planning and legal fees and all other expenses in connection with the making of the improvements.

2. The total cost shall include costs of inspection by the City Engineer. The city shall be entitled to reimburse itself out of the deposit for any cost or expense incurred by the city for completion of the work in case of default of the developer under the agreement and for any damages sustained on account of any breach thereof.

3. Immediately upon completion of the work, the developer may submit to the city copies of invoices for work completed and approved by the City Engineer.

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4. The city may then release a portion of the escrow funds. At no time shall the escrowed amount be less than 125% of the remaining construction costs. Upon completion and acceptance of the work and termination of any liability the remaining balance of the escrow deposit shall be refunded to the developer.

### (b) *Letter of credit.*

1. The developer may deposit with the city from a bank or other reputable institution a letter of credit providing authorization and guarantee to the city that the city may draw on the developer's account, amounts not to exceed the financial guarantee.

2. The required financial guarantee shall be in an amount equal to 125% of the total cost as estimated by the City Engineer for the improvements.

3. Improvement costs shall include all construction costs incurred in making the improvements, all expense incurred by the city for engineering, planning and legal fees, and all other expense in connection with the making of the improvements.

4. The total cost shall include costs of inspection by the City Engineer.

5. The letter of credit shall be irrevocable, and shall provide for 30 days notice to the city and approval of the City Council of any change, amendment or termination. The city shall accept the letter of credit as a financial guarantee only after review and approval.

6. Immediately upon completion of the work, the developer may submit to the city copies of invoices for work completed and approved by the City Engineer. The city may release a portion of the letter of credit. At no time shall the amount of the letter of credit be less than 125% of the remaining construction costs. Upon completion and acceptance of the work and termination of any liability the letter of credits shall be released.

### (c) *Performance bond.*

1. The developer may furnish a public contractor's performance bond as prescribed by Minnesota Statutes, with corporate surety in a penal sum equal to 125% of the City Engineer's cost estimate for the required improvements to be furnished and/or installed by the developer.

2. Prior to its acceptance, the City Attorney shall approve the performance bond. The term of the performance bond shall not exceed 2 to 3 years at which time if the improvements are not constructed, the bond shall be forfeited and the city shall install the improvements from bond proceeds.

3. In addition to the bond, a certified check shall be submitted from the developer in the amount of the estimated inspection costs and all engineering expenses for the required improvements to be furnished and/or installed by the developer. The check is to be submitted at the time of submission of the performance bond.

**Sauk Centre - Land Usage**

4. The City Council will not accept dedication of required improvements nor release a performance bond until the City Engineer has submitted a statement that all required improvements have been satisfactorily completed. Upon approval and recommendation, the City Council shall thereafter accept the improvements of dedication in accordance with the established procedure.

(3) All required improvements shall be inspected by the City Engineer during construction at the expense of the developer. The contract shall contain a provision for supervision of construction by the City Engineer and shall grant to the Engineer the authority to correlate the work to be done under the contract by any subcontractor authorized to proceed thereunder with other work being done or contracted by the city in the vicinity.

(4) The owner or developer, if publicly financing the project through the city's assessment process (M.S. § 429, as it may be amended from time to time) shall deposit with the city 1 of the following at the time of execution of the developer's agreement. The financial guarantee shall be held by the city during the construction period until all improvements have been substantially completed and approved.

(a) *Cash escrow deposit submitted to the City Treasurer in an amount of 100% of awarded bid price of the improvements.*

1. Improvement costs shall include all construction costs incurred in making the improvements, all expense incurred by the city for engineering, planning and legal fees, and all other expense in connection with the making of the improvements.

2. The total cost shall include costs of inspection by the City Engineer.

3. The city shall be entitled to reimburse itself out of the deposit for any cost or expense incurred by the city for completion of the work in case of default of the developer under the agreement and for any damages sustained on account of any breach thereof.

4. Upon substantial completion and acceptance of the work and termination of any liability the remaining balance of the escrow deposit shall be refunded to the developer.

(b) *Letter of credit.*

1. The developer may deposit with the city from a bank or other reputable institution a letter of credit providing authorization and guarantee to the city that the city may draw on the developer's account, amounts not to exceed the financial guarantee.

2. The required financial guarantee shall be in an amount equal to 100% of the awarded bid price for the improvements.

3. Improvement costs shall include all construction costs incurred in making the improvements, all expense incurred by the city for engineering, planning and legal fees and all other expense in connection with the making of the improvements.



## Subdivisions

4. The total cost shall include costs of inspection by the City Engineer.

5. The letter of credit shall be irrevocable, and shall provide for 30 days notice to the city and approval of the City Council of any change, amendment or termination. The city shall accept the letter of credit as a financial guarantee only after review and approval.

6. Upon completion and acceptance of the work and termination of any liability the letter of credits shall be released.

### (c) *Performance bond.*

1. The developer may furnish a public contractor's performance bond as prescribed by Minnesota Statutes, with corporate surety in a penal sum equal to 100% of the City Engineer's cost estimate for the required improvements to be furnished and/or installed by the city on behalf of the developer.

2. Prior to its acceptance, the City Attorney shall approve the performance bond. The term of the performance bond shall not exceed 5 years at which time if the improvements are not constructed, the bond shall be forfeited and the city shall install the improvements from bond proceeds.

3. In addition to the bond, a certified check shall be submitted from the developer in the amount of the estimated inspection costs and all engineering expenses for the required improvements to be furnished and/or installed by the developer.

4. The check is to be submitted at the time of submission of the performance bond.

5. The City Council will not accept dedication of required improvements nor release a performance bond until the City Engineer has submitted a statement that all required improvements have been satisfactorily completed.

6. Upon approval and recommendation, the City Council shall thereafter accept the improvements of dedication in accordance with the established procedure.

(5) The owner or developer, if publicly financing the project through the city's assessment process (M.S. § 429 as it may be amended from time to time), shall deposit with the city on an annual basis 1 of the following financial guarantees until a time that the principal and interest on assessments have been paid in full. The guarantee shall be provided to the city by December 15 of each year for the following calendar year.

(a) Cash escrow deposit submitted to the City Treasurer in an amount equal to the following year's principal and interest assessments against the lots within the subdivision and the city shall be entitled to reimburse itself out of the deposit for any delinquent assessments as of November 15 in the following year.

**Sauk Centre - Land Usage**

1. Immediately upon sale of a lot and payment of its assessments and/or payment of fees for city services (planning, legal, engineering and the like), the developer may submit to the city a request to release a portion of the escrow funds.

2. Upon sale of the lots and payment of assessments the remaining balance of the cash escrow deposit shall be refunded to the developer.

3. The city may release a portion of the escrow funds, but at no time shall the escrowed amount be less than the estimated annual principal and interest assessments for the following year.

(b) Letter of credit; the developer may deposit with the city from a bank or other reputable institution a letter of credit providing authorization and guarantee to the city that the city may draw on the developer's account, amounts not to exceed the financial guarantee.

1. The letter of credit shall be submitted to the City Treasurer in an amount equal to the following year's principal and interest assessments against the lots within the subdivision, and the city shall be entitled to reimburse itself out of the deposit for any unpaid assessments which occur.

2. Immediately upon sale of a lot and payment of its assessments and/or payment of fees for city services (planning, legal, engineering and the like), the developer may submit to the city a request to release a portion of the letter of credit.

3. The city may release a portion of the letter of credit, but at no time shall the amount be less than the estimated annual principal and interest assessments for the following year. Upon sale of the lots and payment of assessments the remaining balance of the letter of credit shall be released.

(D) *As-built drawings.*

(1) Upon completion of the project, as-built drawings of all improvements shall be filed with the City of Sauk Centre. Drawings shall include 3 full 11-inch by 17-inch reproducible copies for the city, Public Utilities Commission and City Engineer, 1 digital set in GIS format and 1 scanned set for imaging. As-built drawings shall show the date of construction and shall be drawn in a manner and on materials to meet the standards of the city.

(2) As-built drawings must be completed and filed with the Public Works Superintendent within 120 days of the completion of the improvements.

(3) If as-built drawings are not filed within the time period specified, the City Engineer may be authorized to conduct surveys and complete drawings, with all of the costs pursuant thereto to be paid by the owner, and the City Council may elect to withhold building permits for construction within the subdivision.

(Ord. 616, passed 11-21-2001)

## Subdivisions

### § 155.06 MINOR SUBDIVISIONS; WAIVER OF SUBDIVISION PLATTING REQUIREMENTS.

(A) *Application.* Minor subdivisions shall apply to the following applications:

(1) In the case of a request to divide a lot where the division is to permit the adding of a parcel of land to an abutting lot;

(2) In the case of a request to divide a lot from a larger tract of land thereby creating no more than 2 lots. To qualify, the parcels of land shall not have been part of a minor subdivision within the last 5 years; and

(3) In the case of a request to divide a base lot upon which a 2-family dwelling, townhouse or a quadraminium which is a part of a recorded plat where the division is to permit individual private ownership of a single dwelling unit within a like structure and the newly created property lines will not cause any of the unit lots or the structure to be in violation of this chapter.

(B) *Contents and data required.*

(1) *Certificate of survey.*

(a) The requested minor division shall be prepared by a licensed land surveyor in the form of a certificate of survey.

(b) If the property affected is registered land, a registered land survey shall be required.

(c) Ten copies of the survey shall be submitted to the Zoning Administrator not less than 2 weeks prior to the next Planning Commission meeting.

(d) Contents of the certificate of survey shall include:

1. North arrow;
2. Lot sizes in square feet, prior to and after the proposed split;
3. Existing buildings and setbacks from proposed lot lines;
4. Tree cover;
5. Legal descriptions for the parcels to be created; and
6. Streets and easements.

(2) *Additional information.* In addition to the certificate of survey, the applicant shall submit:

- (a) A special assessment search;
- (b) Property owners names and addresses and proof of ownership; and
- (c) Zoning of all affected parcels.

(C) *Procedure for minor subdivisions.*

(1) *Filing.* Ten reproducible 11-inch by 17-inch copies of the certificate of survey, prepared by a licensed land surveyor shall be filed with the Zoning Administrator at least 20 days prior to the regular Planning Commission meeting, at which time the minor subdivision is to be considered, along with the required application information and fee.

(2) *Action by the City and Zoning Administrators.*

(a) The City Administrator, upon recommendation of the Zoning Administrator, may administratively approve the subdivision without Planning Commission review and approval, provided that it complies with applicable provisions of this chapter.

(b) If it is the opinion of the Zoning Administrator that Planning Commission approval is warranted due to complex divisions, applicable provisions of division (C)(3) below shall be followed.

(3) *Action by the Planning Commission when required under division (C)(2)(b) above.*

(a) The Planning Commission shall consider the minor subdivision together with the reports from city staff and consultants, and compliance with city ordinances.

(b) The Planning Commission shall formulate a recommendation concerning the minor subdivision and promptly transmit it to the City Council together with 1 copy of the certificate of survey, application and staff report, or the Council may take action without a recommendation.

(4) *Action by the City Council.*

(a) The City Council shall approve, conditionally approve or deny the minor subdivision.

(b) If the City Council disapproves the minor subdivision, the grounds for refusal shall be set forth in the proceedings of the City Council and reported to the applicant.

(5) *Term of approval.* Approval of the minor subdivision shall be effective for a period of 12 months, unless an extension is granted by the City Council.

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### (D) *Design standards.*

(1) The minor subdivision shall conform to all design standards as specified in § 155.04 above.

(2) Any proposed deviation from the standards shall require the processing of a variance request.

### (E) *Processing.*

(1) If the land division results in 2 lots each greater than 10 acres in size, the City Administrator may administratively approve the subdivision without Planning Commission and Council review and approval, provided that it complies with applicable provisions of this chapter.

(2) In the case of applications involving the division of property, which results in a lot less than 10 acres in area, applicable procedure provisions of division (C) above shall be followed.

### (F) *Filing.*

(1) Upon execution of the Council's resolution approving the petition for a minor subdivision, the City Administrator or Zoning Administrator shall be authorized to sign the deed or registered land survey as meeting the requirements of the city.

(2) The certificate of survey or registered land survey shall be filed and recorded at the office of the County Recorder within 30 days of approval.

(Ord. 616, passed 11-21-2001; Am. Ord. 694, passed 7-21-2010)

## § 155.07 COMMON INTEREST COMMUNITIES.

(A) *Common interest communities (CIC) approval.* A common interest community shall be evaluated and considered for approval in the same manner as a standard plat and shall be subject to the site coverage standards contained within the City of Sauk Centre Zoning Ordinance.

(B) *Requirements.* Common interest communities shall be subject to all use, residential density, setback and height requirements of the applicable zoning district and any other applicable standard contained in the City of Sauk Centre Zoning Ordinance.

(C) *Conversions of common interest communities.* The conversion of existing common interest communities, resorts, mobile home parks or other similar types of developments from privately owned structures on leased or rented land, or the division of several commonly owned structures on a single

parcel of land to individually owned parcels containing separate structures, shall be by a standard plat pursuant to the requirements of this chapter and the applicable requirements of M.S. Ch 515A and Ch. 515B, as they may be amended from time to time, or successor statutes, and shall be further subject to the following.

(1) *Sewage treatment.*

(a) When considering approval of conversions the Planning Commission shall consider the development as a whole, relative to the provision for sewer and on-site sewage treatment systems, and shall require connections to the municipal system where they are available.

(b) In areas where municipal services are not available, design plans shall be presented and approved for a community wastewater treatment system as an integral element of the community interest community approval.

(c) A timeline to implement the approved wastewater treatment plan and/or eliminate all identified failing sewage treatment systems shall be established by a subdivision or development agreement.

(2) *Conformity.*

(a) The developer shall make every effort to minimize the degree of nonconformity with existing lot requirements and setback requirements.

(b) Lot lines shall be arranged to provide the largest possible setbacks between structures that will become the principal structures on the newly created lots.

(c) Accessory buildings shall be moved or removed when and where possible to create the lowest, most uniform density possible.

(3) *Density.* The conversion shall not result in an increase in residential density, unless the residential density requirements of the applicable zoning district are met.

(4) *Unified and efficient use of space.* To the extent possible, the common open space, individual properties and other elements of the common interest community shall be so planned that they will achieve a unified scheme of planning and efficient distribution of uses.  
(Ord. 616, passed 11-21-2001)

## Subdivisions

### § 155.08 PREMATURE SUBDIVISIONS.

(A) *Conditions establishing premature subdivisions.* Any preliminary plat of a proposed subdivision deemed premature for development shall be denied by the City Council. A subdivision may be deemed premature should any of the conditions set forth in the provisions which follow exist.

(1) *Lack of adequate drainage.* A condition of inadequate drainage shall be deemed to exist if:

(a) Surface or subsurface water retention and runoff is such that it constitutes a danger to the structural security of the proposed structures;

(b) The proposed subdivision will cause pollution of water sources or damage from erosion and siltation on downhill or downstream land;

(c) The proposed site grading and development will cause harmful and irreparable damage from erosion and siltation on downhill or downstream land; or





## Subdivisions

(d) Factors to be considered in making these determinations may include, but are not limited to:

1. Average rainfall for the area;
2. The relation of the land to flood plains;
3. The nature of soils and subsoils and their ability to adequately support surface water runoff and waste disposal systems;
4. The slope of the land and its effect on effluents; and
5. The presence of streams as related to effluent disposal.

(2) *Lack of adequate water supply.* A proposed subdivision shall be deemed to lack an adequate water supply if the proposed subdivision, if developed to its maximum permissible density, does not have adequate sources of water to serve the proposed subdivision without causing an unreasonable depreciation of existing water supplies for surrounding areas.

(3) *Lack of adequate streets or highway to serve the subdivision.* A proposed subdivision shall be deemed to lack adequate streets or highways to serve the subdivision when:

(a) Streets which currently serve the proposed subdivision and/or streets that are proposed to serve the subdivision are of a width, grade, stability, site distance and surface conditions that an increase in traffic volume generated by the proposed subdivision would create a hazard to public safety and general welfare and, when with due regard to the advice of the county or state, the roads are inadequate for the intended use.

(b) The traffic volume generated by the proposed subdivision as calculated by the City Engineer and subject to generally accepted generation computation formulae and design standards would create unreasonable highway congestion at the time of the application or proposed for completion within the next 2 years.

(4) *Lack of adequate waste disposal systems.*

(a) A proposed subdivision shall be deemed to lack adequate waste disposal systems if there is inadequate sewer capacity in the present system to support the subdivision if developed to its maximum permissible density after reasonable sewer capacity is reserved for schools, planned public facilities and commercial and industrial development projected for the next 5 years.

(b) Expected wastewater generation rates applicable to a proposed subdivision shall be based on generally accepted generation computation formulae as assigned by the City Engineer.

(5) *Lack of adequate city support facilities.* A proposed subdivision shall be deemed to lack adequate support facilities, such as parks and recreational facilities and police, fire and ambulance protection and services when the support facilities are reasonably expected to be necessitated by the subdivision and can not be reasonably provided for within the next 5 fiscal years.

(6) *Inconsistency with the comprehensive plan.* A proposed subdivision shall be deemed premature if it is found to be inconsistent with the purposes, objective and recommendations of the duly adopted Comprehensive Plan of the City of Sauk Centre, as may be amended from time to time.

(7) *Inconsistency with environmental protection policies.* A proposed subdivision shall be deemed premature if it is found to be inconsistent with environmental protection policies set forth within the city, state and federal rules and regulations, as may be amended.

(B) *Burden of establishing.* The burden shall be upon the applicant to show that the proposed subdivision is not premature.

(Ord. 616, passed 11-21-2001)

#### **§ 155.09 VARIANCES; AMENDMENTS.**

(A) *Variances.*

(1) When necessary, the Council upon recommendation by the Planning Commission may authorize variances to the requirements of this chapter (not procedural provisions). These variances shall be requested by the developer in writing at the time of the application for preliminary plat approval, and the applicant shall state the grounds for the variances.

(2) A variance may be granted following a public hearing in the manner prescribed by law only if the Planning Commission and the Council find that all of the following factors pertain thereto:

(a) That there are special circumstances or conditions affecting the property that are not common to all other properties in the area;

(b) That the variance is necessary for the preservation and enjoyment of substantial property rights enjoyed by other properties of the same vicinity, and that extraordinary hardship would result from strict compliance with these regulations because of special circumstances or conditions affecting the property;

(c) That the granting of a variance will not be detrimental to the public health, safety or public welfare or injurious to other property in the vicinity of the property involved. In granting a variance, both the Planning Commission and the Council shall make a written record of the findings of fact in connection therewith;

(d) That the special conditions and circumstances causing the undue hardship do not result from the actions of the applicant;

## Subdivisions

(e) The variances will not in any manner vary the provisions of the Zoning Ordinance or the official zoning map; and

(f) In the granting of variances from this chapter, the City Council and Planning Commission shall require the conditions as will, in their judgment, secure substantially the objectives of the standards or requirements so varied.

### (B) *Amendments.*

(1) For the purpose of providing the public health, safety and general welfare, the Planning Commission may recommend and the City Council may approve amendments to the provisions of this chapter.

(2) Public hearings on all proposed amendments shall be held by the Planning Commission in the manner prescribed by law.

(3) Upon recommendation from the Planning Commission; the City Council shall take final action on all proposed amendments.

(Ord. 616, passed 11-21-2001)

## § 155.10 COMPLIANCE; ENFORCEMENT.

### (A) *Compliance.*

(1) *Conditions for recording.* No plat of any subdivision shall be entitled to record in the County Recorder's office or have any validity until the plat thereof has been prepared, approved and acknowledged in the manner prescribed by this chapter.

### (2) *Building permits.*

(a) No building permits will be issued by the city for the construction of any building, structure or improvement to the land or to any lot in a subdivision, as defined herein, until all requirements of this chapter have been fully complied with.

(b) No public improvements are to be installed and/or service shall not be provided until approval of the final plat is granted and the same has been duly recorded.

(3) *Responsible official.* It shall be the duty of the City Council and its designate to see that the provisions of this chapter are properly enforced.

(4) *Fees.* Fees for subdividing may be established by the City Council.

(B) *Violations and penalty.*

(1) *Sale of lots from unrecorded plats.* It is unlawful for any person to sell, trade or otherwise convey or offer to sell, trade or otherwise convey any lot or parcel of land as a part of, or in conformity with, any plan, plat or re-plat of any subdivision or area located within the jurisdiction of this chapter unless the plan, plat or re-plat shall have first been recorded in the Office of the Stearns County Recorder or waived as provided for in § 155.08 above.

(2) *Receiving or recording unapproved plats.* It is unlawful for any person to receive or record in any public office any plans, plats or re-plats of land laid out in building lots and street rights-of-way, alleys or other portions of the same intended to be dedicated to public or private use, or for the use of purchasers or owners of lots fronting on or adjacent thereto, and located within the city, unless the same shall bear thereon, by endorsement or otherwise, the review of the Planning Commission and the approval of the City Council or waived as provided for in § 155.08 above.

(3) *Misrepresentation as to construction, supervision or inspection of improvements.* It is unlawful for any person, owning an addition or subdivision of land within the city, to represent that any improvements upon any of the street rights-of-way, alley or avenues of the addition or subdivision, or any utility in the addition or subdivision have been constructed according to the plans and specifications approved by the City Council, or have been supervised or inspected by the city, when those improvements have not been so constructed, supervised or inspected.

(4) *Violation a misdemeanor.* Every person who violates a section, division, clause or provision of this chapter when he or she performs an act thereby prohibited or declared unlawful, or fails to act when the failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof. (Ord. 616, passed 11-21-2001) Penalty, see § 10.99

## CHAPTER 156: ZONING

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## **Zoning**

### ***GENERAL PROVISIONS***

#### **§ 156.001 TITLE.**

This chapter shall be known as the Sauk Centre Zoning Ordinance, may be cited as so, and will be referred to herein as "this chapter."

(Ord. 643, passed 5-18-2005)

#### **§ 156.002 PURPOSE.**

The basic purpose of this chapter shall be to achieve the following objectives:

(A) To protect the public health, safety and welfare;

(B) To maintain regulations that are consistent with the Comprehensive Plan of the City of Sauk Centre and which implement the plan;

(C) To protect existing urban development from potential negative effects of conflicting uses, but also to permit broad development opportunities within the community;

(D) To prevent excessive population densities and overcrowding of land;

(E) To provide and maintain a safe and efficient traffic circulation system;

(F) To preserve the area's substantial natural amenities, such as the rivers, lakes, wetlands, bluffs, hills, valleys and woodland;

(G) To promote a pleasing visual environment throughout the community, within the urban, rural, commercial, industrial, public and residential areas;

(H) To provide for the protection of access to direct sunlight for solar energy systems;

(I) To maintain the small town character of the community; and

(J) To maintain compatibility of land uses.

(Ord. 643, passed 5-18-2005)

**§ 156.003 DEFINITIONS.**

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

**ABUTTING.** Making contact with or separated only by public thoroughfare, railroad, public utility, right-of-way or navigable waters.

**ACCESSORY USE OR STRUCTURE.** A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, a principal use or structure.

**ADDITION.** A physical enlargement of an existing structure.

**ALLEY.** A public right-of-way which affords a secondary means of access to abutting property not to exceed 30 feet in width at its intersection with a street.

**ALTERATION.** Any change in the size, shape, character or use of a building or structure.

**BASEMENT.** Any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all 4 sides, regardless of the depth of excavation below ground level.

**BLOCK.** A tract of land bounded by streets or a combination of streets and public parks, cemeteries, railroad rights-of-way, shorelines, waterways or boundary lines of the corporate limits of the city.

**BOARD OF APPEALS AND ADJUSTMENTS.** The Planning Commission of the City of Sauk Centre.

**BUILDABLE AREA.** The space remaining on a zoning lot after the minimum setbacks and open space requirements of this chapter are met.

**BUILDING.**

(1) A structure built for the support, shelter or enclosure of persons, animals or personal property of any kind and which is permanently affixed to the land, and which provides permanent protection from the elements.

(2) When a **BUILDING** is divided by party, walls without openings, each portion of that building so separated will be called a separate **BUILDING**.

**BUILDING, COMPLETELY ENCLOSED.** A building separated on all sides from the adjacent open space or from other buildings or structures by a permanent roof and by exterior walls or party walls, pierced only by windows and normal entrance and exit doors.

## Zoning

### ***BUILDING HEIGHT.***

(1) The vertical distance measured from curb level or its equivalent, to the highest point of the roof surface on a flat roof, to the deck line of mansard roofs, and to the mean height level between eaves and ridge of gable, hip and gambrel roofs.

(2) For buildings set back from the street line, the ***HEIGHT*** of the building shall be measured from the average elevation of the finished grade along the front of the building, provided its setback from the street line is not less than the height of the finished grade above the established curb level.

***BUILDING INSPECTOR.*** As used in this chapter shall mean the Building Inspector provided for in the Building Code.

***BUILDING, NONCONFORMING.*** Any building or structure which does not comply with all the regulations of this chapter or any amendment thereto governing the zoning district in which the building or structure is located.

***BUILDING LINE.*** An imaginary line separating buildable area and required yards.

***BUILDING, PRINCIPAL.*** A non-accessory building in which the primary use of the lot on which it is located is conducted.

***CELLAR.*** That portion of the building having more than ½ of the floor to ceiling height below the average level of the adjoining grade.

***CITY/COMMUNITY.*** The City of Sauk Centre, Minnesota.

***CLEARCUTTING.*** The complete (as opposed to selective) removal of vegetation within an area.

***COMMISSION.*** The Planning Commission of the City of Sauk Centre.

***CONDITIONAL USE.*** See ***USE, CONDITIONAL.***

***COUNCIL.*** The City Council of the City of Sauk Centre.

***DISTRICT, ZONING.*** A portion of the city within which regulations and requirements govern the use of land and buildings.

***EROSION.*** The wearing away of the land surface by the action of natural elements.

***FAMILY.*** One or more persons related by blood, marriage or adoption including foster children or a group of not more than 5 persons not so related, maintaining a common household in a dwelling unit.

**FENCE.** A structure providing enclosure but not necessarily protection against the elements.

**FENCE, SOLID.** A fence that provides a visual barrier between adjacent property and the area enclosed.

**FLOOR AREA.**

(1) The sum of the gross horizontal areas of the several floors of a building or buildings on a zoning lot measured from the exterior faces of exterior walls or from the centerline of party walls separating 2 buildings.

(2) In particular, **FLOOR AREA** will include:

- (a) Basement space (see "basement" defined herein);
- (b) Attic floor space where the structural headroom exceeds 7.5 feet;
- (c) Interior balconies and mezzanines;
- (d) Enclosed porches, but not terraces and breezeways;
- (e) Stairwells at each level; and
- (f) Accessory structures.

**FLOOR AREA, LIVABLE.** The same area as defined in **FLOOR AREA**, excluding all areas occupied by basements, garages, porches, attics, stairways and storage, utility and heating rooms and other accessory uses.

**FLOOR AREA RATIO (F.A.R.).**

(1) The floor area of the building or buildings on a zoning lot divided by the area of the zoning lot, or in the case of planned development, by the net site area.

(2) The **F.A.R.** requirements, as set forth in each zoning district, shall determine the maximum floor area allowable (total floor area of both principal and accessory buildings) in direct ratio to the gross area of the zoning lot.

**GARAGE.** A detached accessory building or portion of the principal building (attached), including a carport, which is used primarily for storing passenger vehicles and/or recreational vehicles.

**GRADE.** The average level of the finished surface of the ground adjacent to the exterior walls of the building or structure.

## Zoning

### ***HOME OCCUPATION.***

(1) A gainful occupation conducted entirely within a residential building which is clearly secondary and incidental to the principal residential use of the building and generates no appreciable increase in traffic in the district.

(2) A ***HOME OCCUPATION*** shall be carried on only by the dwelling's residents and require no internal or external alterations or involve construction features not customarily found in residential buildings.

***IMPERVIOUS SURFACES.*** Artificial structures such as buildings, decks and patios, and roads, sidewalks, driveways and parking lots that are covered by impenetrable materials such as asphalt, concrete, brick and stone. Soils compacted by urban development including areas covered by Class V are also considered ***IMPERVIOUS SURFACE***.

***LEGAL NONCONFORMING.*** Lawfully existing at the time of adoption of this chapter but not complying with all the regulations of this chapter or any amendments thereto.

***LOADING SPACE.*** That portion of a lot designed to serve the purpose of loading and/or unloading all types of vehicles.

***LOT.*** A parcel of land having a legal description and generally intended for occupancy by a single use.

***LOT AREA.*** The area of a horizontal plane bounded by the front, side and rear lot lines, measured within the lot boundaries, but not including any area occupied by the waters of a duly recorded lake or river.

***LOT, CORNER.*** A lot situated at the intersection of 2 streets.

### ***LOT COVERAGE.***

(1) The total of all areas of a lot occupied by buildings, structures, driveways, parking lots and other impervious surfaces.

(2) ***LOT COVERAGE*** may be expressed in terms of percentage of the lot so occupied in relation to the overall size of a lot.

(3) The overall size of a lot shall not include areas of the lot, if any, lying within a dedicated street, alley or other public right-of-way.

***LOT DEPTH.*** The average horizontal distance between the front and rear lot lines measured within the lot boundaries.

**LOT, INTERIOR.** A lot other than a corner lot.

**LOT LINE, FRONT.** That boundary of a lot which abuts an existing or dedicated public street and, in the case of a corner lot, it shall be the shortest dimension on a public street, except that a corner lot in a non-residential zone shall be deemed to have frontage on both streets.

**LOT LINE, REAR.** That boundary of a lot which is most distant from and is, or is most nearly, parallel to the front lot line.

**LOT LINE, SIDE.** Any boundary of a lot which is not a front lot line or a rear lot line.

**LOT LINE, SIDE-INTERIOR.** A side lot line that abuts another property.

**LOT LINE, SIDE-STREET (CORNER).** A side lot line that abuts a public street or road right-of-way as on a corner.

**LOT OF RECORD.** A lot which is part of a subdivision or plat, an auditor's subdivision or a registered land survey or a parcel of land not so platted, which has been approved by the city as of the effective date of this chapter.

**LOT, THROUGH.** A lot having a pair of opposite lot lines along 2 more or less parallel public streets. On a like lot both street lines shall be deemed front lot lines.

**LOT WIDTH.** The horizontal distance between the side lot lines of a lot measured at the building setback line.

**MOTOR VEHICLE.** A self-propelled vehicle for personal or business use defined in M.S. § 169.01 as it may be amended from time to time.

**OPEN SPACE.** Any unoccupied land area.

**PARKING SPACE, AUTOMOBILE.** A suitable surfaced and permanently maintained area off the public street right-of-way, either within or outside of a building, of sufficient size to store 1 standard automobile, but in no event less than 180 square feet, exclusive of passageways, driveways or other means of circulation.

**PARTY WALL.** A common wall which divides a structure into 2 or more buildings.

**PERFORMANCE STANDARDS.** Criteria established to control noise, odor, toxic or noxious matter, vibration, fire and explosive hazards, glare or heat, or other potential impacts generated by or inherent in uses of land and buildings.

**PERSON.** Any individual, firm, partnership, corporation, company, association, joint stock association or political body; and includes any trustee, receiver, assignee or other similar representative.

## Zoning

**PLANNING COMMISSION.** The Planning Commission of the City of Sauk Centre.

**PROPERTY LINES.** The lines bounding a described parcel of land or lot as defined herein.

**RECREATIONAL VEHICLE.** Any type of vehicle, at least 16 feet long and 6 feet in height, either self-powered or drawn by another vehicle used primarily for purposes of recreation or transport of recreational equipment, including, but not limited to, campers, motor homes, boats, travel trailers, camper trailers, boat trailers and horse trailers.

**SETBACK.** The minimum horizontal distance between the building and the property line or road right-of-way. Three feet of roof overhang, accessibility ramps, unroofed stoops not exceeding 30 square feet and steps from stoops to ground not over 4 feet wide may protrude into the setback.

**SIGHT TRIANGLE.** The triangular area of a corner lot formed by the street lines and a line connecting them at points 15 feet from the intersection of the street lines or in the case of a rounded corner from the intersection of the street property lines extended. On streets having an angle of intersection of 90 degrees or more, the line connecting the intersecting streets is moved 1 foot further from the intersection along each street for each 10 degrees by which the angle of the intersecting streets exceeds 90 degrees.

**SIGN.** A name, identification, description, display, illustration or device which is affixed to or represented directly or indirectly upon a building, structure or land in view of the general public and which directs attention to a product, place, activity, person, institution or business.

**SIGN, OFF-PREMISE ADVERTISING.** An advertising sign, which directs attention to a business, commodity, service or entertainment not exclusively, related to premises where the sign is located or to which it is affixed.

**SPA.** A unit primarily designed for therapeutic use that is not drained, cleaned or refilled for each individual. It may be included but not limited to hydrojet circulation, hot water, cold water, mineral baths, air induction bubbles or any combination thereof, including therapeutic pool, whirlpool and hot spa.

**STORY.** That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above, then the space between the floor and the ceiling next above it.

**STREET, ARTERIAL.** A street which provides for traffic movement to and from municipalities and the surrounding areas, to and from freeways/expressways and collector streets, and between major parts of an urban area. Intersections are at grade and direct access to abutting property should be avoided.

***STREET, COLLECTOR.*** A street which collects and distributes the internal traffic within an area of a community such as a residential neighborhood or industrial district, and between arterial and local streets. It provides some access to abutting property.

***STREET, LOCAL.*** A street of little or no continuity designed to provide access to abutting property and ideally leading into collector streets.

***STRUCTURE.*** Anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins and manufactured homes.

***STRUCTURAL ALTERATION.*** Any change, other than incidental repairs, which would prolong the life of the supporting members of a building, such as bearing walls, columns, beams, girders or foundations.

***SWIMMING POOL, RESIDENTIAL.*** Any constructed pool, permanent or portable, which is intended for non-commercial use as a swimming pool by the owner's family and their guests and which is over 24 inches in depth and has a surface area exceeding 200 feet.

***TRAVEL TRAILER.*** A vehicular portable structure built on a chassis designed to be used as a temporary dwelling for travel, recreation and vacation uses.

***USEABLE OPEN SPACE.*** That required portion of a lot at ground level, unoccupied by buildings and available to all the occupants of the building. This space of minimum prescribed dimensions shall not be devoted to service driveways or off-street parking space and or loading berths but shall be usable for greenery, recreational space and other leisure activities normally carried on outdoors.

***USE.*** The purpose or activity for which the land or buildings thereon are designed, arranged or intended, or for which it is occupied or maintained, and shall include any manner of performance of the activity with respect to the performance standards of this chapter.

***USE, ACCESSORY.*** A use subordinate to the principal use or building on the same lot.

***USE, CONDITIONAL.***

(1) A use, either public or private, which, because of its unique characteristics, cannot be properly classified as a permitted use in a particular district.

(2) After due consideration in each case of the impact of the use upon neighboring land, and the public need for the particular use at the particular location, the ***CONDITIONAL USE*** may or may not be granted.



## **Zoning**

**USE, INCOMPATIBLE.** A use which is incapable of direct association with certain other uses because it is contradictory, incongruent or discordant.

**USE, PERMITTED.** A use which may be lawfully established in a particular district or districts, provided it conforms to all requirements, regulations and performance standards, if any, of the district or districts.

**USE, PRINCIPAL.** The main use of land or buildings as distinguished from a subordinate or accessory use.

### **VARIANCE.**

(1) A modification or variation of the dimensional requirements of this chapter as applied to a specific piece of property.

(2) Allowable uses within a district shall not be modified by **VARIANCE**.

**YARD.** An open space on the same zoning lot with a building or structure which is unoccupied and unobstructed. A **YARD** extends along a lot line and to a depth or width measured from the lot line specified in the yard requirements for the zoning district in which a zoning lot is located.

**YARD, FRONT.** A yard extending along the full width of the front lot line between the side lot lines.

**YARD, REAR.** A yard extending along the full width of the rear lot line between the side lot lines.

**YARD, SIDE.** A yard extending along a side lot line from the front yard to the rear yard.

**ZONING ADMINISTRATOR.** The Zoning Administrator of the City of Sauk Centre as duly appointed by the City Council.

**ZONING MAP.** The map setting forth the boundaries of the Zoning Districts of the City of Sauk Centre which map is a part of this chapter.

(Ord. 643, passed 5-18-2005; Am. Ord. 647, passed 6-13-2006; Am. Ord. 702, passed 12-1-2010; Am. Ord. 737, passed 4-17-2013; Am. Ord. 740, passed 9-18-2013)

### **§ 156.004 LEGAL AUTHORITY.**

This chapter is enacted in accordance with authority granted by M.S. § 462.357, as it may be amended from time to time.

(Ord. 643, passed 5-18-2005)

**§ 156.005 GEOGRAPHIC JURISDICTION.**

The geographic jurisdiction of this chapter shall be the entire area within the corporate limits of Sauk Centre, Minnesota. Territory added to the City of Sauk Centre by annexation shall be zoned Agriculture until zoned otherwise by ordinance.  
(Ord. 643, passed 5-18-2005)

**§ 156.006 DEADLINE FOR ACTIONS.**

(A) It is the intent of the city to comply with state requirements for timely review and actions requiring formal approval by the city.

(B) Information submissions and applications must be determined by the city to be complete before a timeline for action is set.

(C) The review for completeness will be conducted within 10 business days of receipt of an application.

(D) In the event the city cannot act upon a request within a time frame of 60 days, the city will notify an applicant in writing that action will be taken within 120 days of the date the application was accepted by the city.

(E) In the event that multiple approvals are involved in any action, such as a Zoning Ordinance amendment requiring a Comprehensive Plan amendment, each action shall require a separate, independent timeline for action.  
(Ord. 643, passed 5-18-2005)

**§ 156.007 RULES OF CONSTRUCTION.**

For clarity and consistency in the understanding and application of this chapter the following shall apply:

(A) Whenever in any zoning district a use is neither specifically permitted nor specifically prohibited, the use shall be considered prohibited; and

(B) The city code, the International Building Code or Webster's Dictionary shall define terms not defined in this chapter.  
(Ord. 643, passed 5-18-2005)

## **Zoning**

### **§ 156.008 SCOPE AND INTERPRETATION.**

#### *(A) Scope.*

(1) No structure, or part thereof, shall be erected, converted, enlarged, reconstructed, altered or moved without a permit approved by the city.

(2) No structure or land shall be used for any purpose or altered in any manner that is not in conformity with the provisions of this chapter.

#### *(B) Relationship to Comprehensive Plan.*

(1) Interpretation and enforcement of the provisions of this chapter are intended to be consistent with the implementation of goals, policies and land use elements of the Sauk Centre Comprehensive Plan to the extent practical or required by law.

(2) The application of or amendments to this chapter which are determined to be inconsistent with the Comprehensive Plan shall require amendments to the Comprehensive Plan, this chapter or both.



## Zoning

### (C) *Minimum requirements.*

(1) In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements for the promotion of the public health, safety and general welfare.

(2) Requirements of the ordinance shall be rounded to the nearest whole number and rounded up if halfway between whole numbers.

### (D) *Uses not identified.*

(1) When a use is not listed in the table contained in § 156.047 below nor described in the descriptions contained in § 156.048 below, the Zoning Administrator shall make an interpretation as to if the use is similar to a use listed on the table or described in the descriptions.

(2) If the use is similar to a use listed on the table or described in the descriptions the use shall be treated in the manner prescribed by the listed and/or described use.

(3) Uses not interpreted as being similar in use to a listed or described use shall be prohibited. (Ord. 643, passed 5-18-2005)

## **§ 156.009 LEGAL NONCONFORMING USES, STRUCTURES AND SIGNS.**

Any use, structure or sign lawfully existing or approved on the effective date of the adoption of this chapter that does not or will not, if built as approved, conform to the provisions of this chapter may be continued or completed subject to the following conditions.

(A) The use, structure or sign shall not be expanded or enlarged, except in conformity with the provisions of this chapter.

(B) If a legal nonconforming use is discontinued, or a nonconforming structure or sign is abandoned, for a period of 1 year, the use, structure or sign shall be brought into conformance with this chapter.

(C) If a legal nonconforming use is replaced by another use, the new use shall conform to this chapter.

(D) (1) If a structure occupied by a legal nonconforming use, a legal nonconforming structure or legal nonconforming sign is destroyed by fire or other peril to the extent that repair or replacement costs exceeds 50% of the assessors estimated market value of the structure or 50% of the market value of the sign and no building permit or sign permit has been applied for within 180 days of when the structure or sign is damaged, the structure or sign shall not be replaced or repaired except in conformity with this chapter.

(2) In the event a building permit or sign permit to replace or repair a building or sign is applied for within 180 days of when the structure or sign is damaged, the city may impose reasonable conditions on a building permit or sign permit issued thereto to mitigate any newly created impact on adjacent property.

(E) Normal maintenance of a structure occupied by a legal nonconforming use, a legal nonconforming structure or a legal nonconforming sign is permitted, including necessary non-structural repairs and incidental alterations that do not extend or intensify the legal nonconforming structure or sign.

(Ord. 643, passed 5-18-2005)

### **§ 156.010 RIGHTS OF APPROVED PROJECTS.**

(A) *Uses, structures and signs.*

(1) A use, structure or sign that was approved as of the date this chapter took effect but that has not been established or constructed and will not conform to the provisions of this chapter may be established or constructed in accordance with the approved terms and schedule for establishing or constructing the use, structure or sign.

(2) After the use, structure or sign has been established or constructed it shall be subject to § 156.009 above.

(B) *Planned unit developments.* Residential planned unit developments approved under the zoning ordinance this chapter is replacing may elect to continue to be governed by that zoning ordinance code and the approved planned unit development as long as the approved terms and schedule are adhered to. (Ord. 643, passed 5-18-2005) Penalty, see § 10.99

### **§ 156.011 LOT PROVISIONS.**

(A) *Lots of record.*

(1) No lot of record shall be reduced in size below the district requirements of this chapter.

(2) A vacant lot of record shall be deemed buildable even though the lot area and/or dimensions are less than those required for the district provided the following conditions are met:

(a) Evidence is provided that the lot in question met minimum requirements for the division of property under ordinance regulations in effect at the time the property was divided;

(b) It has frontage on a public street; and

## Zoning

(c) The lot is at least 60% of the minimum lot area and lot width required as specified in § 156.049 below and other provisions of § 156.049 are complied with.

(3) A lot of record that has been improved with a building or buildings shall be deemed buildable even though the lot area and/or dimensions are less than those required for the district provided conditions in divisions (2)(a) and (b) above are met.

(4) If 2 or more lots are in single ownership and if all or part of the lots does not meet the width and area requirements of this chapter, the contiguous lots shall be considered to be an undivided parcel for the purposes of this chapter and the Subdivision Ordinance.

(B) *One building per lot.* No more than 1 principal building shall be located on a lot unless specifically permitted herein.

(Ord. 643, passed 5-18-2005) Penalty, see § 10.99

### § 156.012 SIGHT TRIANGLE.

A wall, sign, fence, plant or other object which obstructs sight lines at an elevation above 3 feet and below 8 feet above a roadway shall be prohibited within the sight triangle as defined in § 156.003 above in all zoning districts except the C-1 Central Business District.

(Ord. 643, passed 5-18-2005) Penalty, see § 10.99

### § 156.013 HOME OCCUPATIONS.

Home occupations as defined in § 156.003 above will be allowed as provided elsewhere in this chapter providing the following conditions are met:

(A) Conduct of the home occupation does not result in any alteration to the exterior or interior of the residence, which changes the character of the residence;

(B) Signage consists of no more than 1 unlighted sign on each property no more than 2 square feet in area if single-sided and no more than 1 square foot in area on each side if double-sided;

(C) Conduct of the home occupation does not generate more noise, vibration, glare, fumes, odors or electrical interference than is normally associated with residential occupancy in the neighborhood. Operation of hours shall be determined by a conditional use permit.

(D) The use does not generate sewage of a nature or rate greater than that normally associated with residential occupancy nor generate hazardous waste or solid waste at a rate greater than that normally associated with residential occupancy;

(E) The home occupation does not jeopardize the health and safety of the residents of the city;

(F) The home occupation does not increase vehicular traffic flow and parking above levels normally associated with the neighborhood;

(G) The home occupation is carried on only by residents of the dwelling;

(H) No goods are displayed or equipment or materials are stored outside of an enclosed building or structure;

(I) No accessory building or attached garage shall be used for operations, display of goods or the storage of equipment or materials used in the home occupation; and

(J) Equipment used in the home occupation shall be of a type normally found in the home. (Ord. 643, passed 5-18-2005; Am. Ord. 661, passed 9-19-2007) Penalty, see § 10.99

#### **§ 156.014 SINGLE-FAMILY DWELLING REQUIREMENTS.**

Single-family detached dwellings shall be constructed according to the following minimum standards:

(A) All dwellings shall have a minimum width of 24 feet;

(B) All dwellings shall have a minimum first floor area of 576 square feet;

(C) All dwellings shall have a permanent, frost-free foundation as defined in the International Building Code. Split level, split entry and earth-sheltered homes shall comply with this requirement; and

(D) Main roofs shall have a minimum pitch of 3:12 per definition of the International Building Code.

(Ord. 643, passed 5-18-2005)

#### **§ 156.015 TEMPORARY DWELLINGS.**

A tent, recreation vehicle or other temporary dwellings may not be occupied for dwelling purposes except with permission from the city.

(Ord. 643, passed 5-18-2005)



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### **§ 156.016 STREET ACCESS REQUIRED.**

Every residential building hereafter erected shall be located on a lot having frontage on a public street. On all driveways hereafter installed or modified, the maximum driveway width within the boulevard shall be limited to no more than 24 feet as measured from the bottom of the beaver tail. (Ord. 643, passed 5-18-2005; Am. Ord. 661, passed 9-19-2007; Am. Ord. 694, passed 7-21-2010)

### **§ 156.017 DRIVEWAY AND PARKING LOT IMPROVEMENTS.**

All required ingress/egress points, driveways and parking areas in all new residential developments and all commercial and industrial uses shall be paved with bituminous or concrete surfaces. (Ord. 643, passed 5-18-2005) Penalty, see § 10.99

### **§ 156.018 PUBLIC UTILITIES REQUIRED.**

Uses that include plumbing facilities shall be connected to the public sewer and water system in accordance with the policies and regulations of the Sauk Centre Public Utilities Commission. (Ord. 643, passed 5-18-2005) Penalty, see § 10.99



## **Zoning**

### **§ 156.019 ABANDONED OR UNLICENSED VEHICLES.**

It shall be unlawful for any person to park, store, leave or dismantle any abandoned or unlicensed motor vehicle upon any public or private property within the city, or for any property owner or occupant to permit the parking, storing, leaving or dismantling of any abandoned or unlicensed vehicle upon private property, unless the vehicle is within an enclosed building or structure.

(Ord. 643, passed 5-18-2005) Penalty, see § 10.99

### **§ 156.020 EXTERIOR STORAGE OF RECREATIONAL VEHICLES.**

The exterior storage on a residentially zoned property of no more than 1 recreational vehicle is permitted between April 1 and November 30 of each year, and the exterior storage of recreational vehicles is not permitted between December 1 and March 31 of each year.

(Ord. 643, passed 5-18-2005) Penalty, see § 10.99

### **§ 156.021 RELOCATED BUILDINGS OR STRUCTURES.**

(A) A building and a moving permit in accordance with § 156.102(C), (F) through (K) below shall be required to relocate an existing building or structure anywhere in the city.

(B) The application for a moving permit shall include photographs of all sides and the current location of the building or structure to be moved, the route that will be followed in moving the building or structure and the time that the building or structure is proposed to be moved.

(C) The Zoning Administrator shall approve permits for the relocation of buildings or structures only upon certifying the following:

(1) The building or structure is compatible in appearance, age and character with existing buildings and structures in the area of the relocation destination;

(2) The building or structure meets all code requirements for new buildings or structures;

(3) The building or structure is compatible with any other buildings or structures existing on the same property;

(4) Buildings or structures, excluding manufactured/mobile homes that are moving into the RM Zoning District, which are moved into or within the city must comply with the provisions of this section, this chapter, and the State Building Code for new buildings or structures; and

(5) Manufactured/mobile homes that are moved into the RM Zoning District must comply with the provisions of this section, § 156.082, this chapter, and the State Manufactured Home Building Code.

(Ord. 643, passed 5-18-2005; Am. Ord. 653, passed 4-18-2007)

### **§ 156.022 ACCESSORY STRUCTURES.**

(A) No more than 2 detached accessory structures are permitted on a parcel occupied by a single-family detached dwelling.

(B) (1) On parcels less than 90,000 square feet occupied by a single-family dwelling the cumulative square feet of accessory structures and attached garages shall not exceed 1,800 square feet.

(2) On parcels greater than 90,000 square feet in the R-1 Zoning District that are occupied by a dwelling unit the cumulative square feet of accessory structures and attached garages shall not exceed 2% of the total parcel area up to a maximum of 3,600 square feet.

(C) On parcels occupied by dwelling units no attached garage or accessory structure shall exceed 1,200 square feet in area. No accessory structure shall be constructed on a parcel without a principal structure.

(D) Accessory structures shall be set back a minimum of 30 feet from the front lot line, 25 feet from the side street lot line on a corner lot and 5 feet from rear and interior side lot lines and not placed within or on any easement or ROW.

(E) Accessory garage structures shall be set back at least 20 feet from a public alley right-of-way if the vehicle entrance to the garage backs upon a public alley.

(F) An accessory structure on a legal nonconforming corner lot of record, buildable under § 156.011(A) above, shall be set back a minimum of 33% of the lot width from a street side lot line.

(G) Accessory structures in commercial and industrial districts shall comply with setbacks for principal structures, except that buildings for parking attendants, guard shelters, gatehouses and transformer buildings and similar structures may be located in the front and side yards.

(H) The maximum roofline height of an accessory building in an R-1, R-2 and R-M District shall not exceed 26 feet.

(I) The maximum height of sidewalls of an accessory building in an R-1, R-2 and R-M District shall not exceed 12 feet.

## **Zoning**

(J) No accessory structure shall be constructed on a parcel without a principal structure. (Ord. 643, passed 5-18-2005; Am. Ord. 668, passed 11-5-2008; Am. Ord. 732, passed 9-19-2012; Am. Ord. 740, passed 9-18-2013)

### **§ 156.023 TEMPORARY FAMILY HEALTH CARE DWELLINGS.**

Pursuant to authority granted by M.S. § 462.3593, Subd. 9, the city opts-out of the requirements of M.S. § 462.3593, which defines and regulates temporary family health care dwellings. (Ord. 766a, passed 9-21-2016)

## ***ZONING DISTRICTS***

### **§ 156.035 DISTRICTS ESTABLISHED.**

The City of Sauk Centre is hereby divided into classes of zoning districts as listed below and as shown on the official zoning map, which, together with all the explanatory and supplemental matter thereon, is hereby adopted by reference and declared part of this chapter:

- (A) A: Agriculture;
- (B) R-1: Low-Density Residential;
- (C) R-2: Multiple-Family Residential;
- (D) R/C: Residential/Commercial;
- (E) R-M: Residential Manufactured Home;
- (F) C-1: Central Business;
- (G) C-2: General Commerce;
- (H) I/C: Industrial/Commercial;
- (I) PUDE: Planned Unit Development Existing;
- (J) PRDO: Planned Residential Development Overlay;
- (K) AO: Airport Overlay;
- (L) FZO: Fire Zone Overlay; and

(M) WHPO: Wellhead Protection Overlay.  
(Ord. 643, passed 5-18-2005)

### § 156.036 OFFICIAL ZONING MAP.

The locations and boundaries of the districts established by this chapter are set forth on the zoning map of the City of Sauk Centre, which is made part of this chapter.  
(Ord. 643, passed 5-18-2005)

### § 156.037 ZONE BOUNDARY INTERPRETATION.

(A) The location and boundaries of each zoning district established by this chapter are as set forth in zoning district sections of this chapter and are shown on the official zoning map.

(B) Where uncertainty exists as to the boundaries as shown on the official zoning map, the following rules will apply:

(1) Boundaries indicated as approximately following the centerline of streets, highways or alleys shall be construed to follow the centerlines;

(2) Boundaries indicated as approximately following platted lot lines shall be construed as following the lot lines;

(3) Boundaries indicated as approximately following city limits and orderly annexation boundaries shall be construed as following the city limits and orderly annexation boundaries;

(4) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;

(5) (a) Boundaries indicated as following shorelines shall be construed to follow the shorelines, and in the event of change in the shoreline, the boundary shall be construed as moving with the actual shoreline.

(b) Boundaries indicated as approximately following the centerlines of streams, river canals, lakes or other bodies of water shall be construed to follow the centerlines;

(6) (a) Boundaries indicated as parallel to or extensions of features indicated in the divisions (B)(1) through (5) above shall be so construed.

(b) Distances not specifically indicated on the official zoning map shall be determined by the scale of the map;

## **Zoning**

(7) Where physical or cultural features existing on the ground are at variances with those shown on the official zoning map, or in other circumstances not covered by divisions (B)(1) through (5) above, the Zoning Administrator shall interpret the district boundaries; and

(8) Where a district boundary line divides a lot which was in single ownership at the time of passage of this chapter, the Planning Commission may permit as a special exemption the extension of the regulations for either portion of the lot not to exceed 50 feet beyond the district line into the remaining portion of the lot.

(Ord. 643, passed 5-18-2005)

### **§ 156.038 AGRICULTURE (A).**

The intention of this district is to recognize the existing agricultural use of the land and to preserve the undeveloped state of the land until development at urban densities with public sewer and water occurs.

(Ord. 643, passed 5-18-2005)

### **§ 156.039 LOW-DENSITY RESIDENTIAL (R-1).**

The intention of this district is to recognize fully or partially-developed low or medium-density residential areas, including supporting public and semi-public facilities; to provide for future development of a low-density; and to protect the desired low-intensity living environment from encroachment by potential conflicting uses.

(Ord. 643, passed 5-18-2005)

### **§ 156.040 MULTIPLE-FAMILY RESIDENTIAL (R-2).**

(A) The intention of this district is to provide for detached and attached housing as well as owner-occupied and rental housing opportunities in areas where public utilities are available and required for service.

(B) The design and circulation of new residential areas are also intended to be complementary with and enhance the community's small town atmosphere.

(Ord. 643, passed 5-18-2005)

### **§ 156.041 RESIDENTIAL/COMMERCIAL (R/C).**

In addition to the purposes stated in § 156.002 above, it is intended that the R/C District be used as a transition between low-density residential and commercial and for neighborhood commercial to

provide opportunities for residential, neighborhood-service commercial, low impact commercial uses, government facilities, schools, churches, hospitals, libraries and other similar public and institutional uses.

(Ord. 643, passed 5-18-2005)

**§ 156.042 RESIDENTIAL MANUFACTURED HOMES (R-M).**

The intention of this district is to recognize the existence of manufactured home communities within the city and to allow them to continue to provide housing in the manner they have in the past, in accordance with state statute.

(Ord. 643, passed 5-18-2005)

**§ 156.043 CENTRAL BUSINESS (C-1).**

The intention of this district is to recognize the existing “downtown” area of Sauk Centre and its function as a social, trade and service center for residents of the city and surrounding agricultural areas.

(Ord. 643, passed 5-18-2005)

**§ 156.044 GENERAL COMMERCE (C-2).**

The intention of this district is to provide appropriate areas in proximity to thoroughfares for commercial retail and service establishments that are oriented to the motoring public and are not compatible with the desired character of the downtown.

(Ord. 643, passed 5-18-2005)

**§ 156.045 INDUSTRIAL/COMMERCIAL (I/C).**

The intention of this district is to provide land for development of industrial activities and for commercial activities with land use requirements and impacts similar to those of industrial uses.

(Ord. 643, passed 5-18-2005)

**§ 156.046 PLANNED UNIT DEVELOPMENT EXISTING (PUDE).**

The intention of this district is to allow those residential planned unit developments approved under the zoning ordinance this chapter is replacing to continue, if they elect, to be governed by that zoning ordinance and the approved planned unit development as long as the approved terms and schedule are adhered to.

(Ord. 643, passed 5-18-2005)



## Zoning

### § 156.047 LAND USE BY ZONING DISTRICT.

(A) *Designation and reference.* The land uses listed on the table in this section are described in more detail in § 156.048 below.

(B) *Land uses permitted.* Land uses listed as "permitted" (designated as a "P" on the table contained in this section) are permitted by the general land use requirements of this chapter, subject to the general requirements of the specific zoning district in which they are located, any additional requirements imposed by sections of this chapter referred to in footnotes, any additional requirements imposed by applicable overlay zoning districts as designated on the official zoning map, the general requirements of this chapter, and any and all other applicable city, county, state and federal regulations as may be amended from time to time.

(C) *Land uses permitted as a conditional and interim use.*

(1) Land uses listed as "permitted as a conditional use" (designated as a "CU" on the table contained in this section) and land uses listed as "permitted as an interim use" (designated as an "IU" on the table contained in this section) are permitted subject to all the requirements applicable to uses permitted by right, any additional requirements imposed by sections of this chapter referred to in footnotes, and additional conditions intended to mitigate anticipated adverse impacts associated with the use, to ensure compliance with the standards, to ensure that the criteria are met, to protect the value of other property and to achieve the goals and objectives of the Comprehensive Plan.

(2) Each conditional use or interim use application shall be considered a unique situation and shall not be construed as precedents for similar requests.

(3) Further conditions may be imposed on any conditional use or interim use by the City Council in response to special conditions of the use or site.

(D) *Land uses permitted as accessory uses.*

(1) Land uses listed as "permitted as an accessory use" (designated as an "A" on the table contained in this section) are permitted only as subject to all of the requirements applicable to the permitted or conditional use to which they are accessory provided they meet the definition of accessory use, plus any additional requirements applicable to that particular land use contained in this chapter.

(2) Accessory uses other than required off-street parking may not occupy more than 25% of the total floor area of any building unless further restricted in the district regulations.

(E) *Land uses permitted as temporary uses.* Land uses listed as "temporary" (designated as a "T" on the table contained in this section) are permitted subject to all the requirements applicable to uses permitted by right as listed in division (B) above for a finite period of time as specified by this chapter, or if not specified, by the Zoning Administrator.

(F) *Land uses not permitted.*

**Sauk Centre - Land Usage**

(1) Land uses listed as "not permitted" (designated as an "N" on the table contained in this section) within a specific use district are not permitted in that use district, except as legal nonconforming uses in accordance with § 156.009 above.

(2) Uses not permitted in any zone in the city include junk yards, mining and the feeding and raising of livestock or poultry.

*(G) Full compliance necessary.*

(1) A land use permitted by right as a conditional use in a particular use district may not be permitted or permissible on every parcel in that use district.

(2) No land use is permitted or permissible on a parcel unless it can be located thereon in full compliance with all of the standards and regulations of this chapter which are applicable to the specific land use and parcel in question, or unless an appropriate variance has been granted under § 156.103 below.

<i>Zoning Districts</i>	<i>A</i>	<i>R-1</i>	<i>R-2</i>	<i>R/C</i>	<i>R-M</i>	<i>C-1<sup>5</sup></i>	<i>C-2</i>	<i>I/C</i>
<b>Agriculture</b>	P	N	N	A	N	N	N	N
<b>Residential Uses</b>								
Single-family dwelling	P	P	P	P	N	N	N	N
2-family dwelling	N	P	P	CU/IU	N	N	N	N
Multiple-family dwelling	N	N	CU/IU	CU/IU	N	CU/IU	N	N
Elderly housing	N	CU/IU	CU/IU	CU/IU	N	CU/IU	CU/IU	N
Rooming house	N	CU/IU	CU/IU	CU/IU	N	CU/IU	N	N
Manufactured home park	N	N	N	N	P1	N	N	N
Live/work units	N	N	N	P	N	P	P	N
Housing/services establishment serving 6 or fewer persons	P	P	P	P	N	N	N	N
Housing/services establishment serving more than 6 persons	N	N	CU/IU	CU/IU	N	P	P	N
<b>Human Care Uses</b>								
Adult day care	N	N	N	P	N	P	P	N
Family child care serving 10 or fewer persons	A	A	A	A	A	A	N	N
Group family child care serving 14 or fewer persons	A	A	A	A	A	A	N	N

<i>Zoning Districts</i>	<i>A</i>	<i>R-1</i>	<i>R-2</i>	<i>R/C</i>	<i>R-M</i>	<i>C-1<sup>5</sup></i>	<i>C-2</i>	<i>I/C</i>
Child care center serving 14 or fewer persons	CU/IU	CU/IU	CU/IU	P	N	P	P	N
Child care center serving more than 14 persons	N	N	CU/IU	CU/IU	N	P	P	N
State-licensed residential facility serving 7 to 16 persons	N	N	P	P	N	P	P	N
State-licensed residential facility serving 17 or more persons	N	N	CU/IU	CU/IU	N	CU/IU	CU/IU	N
Group home/non-statutory	CU/IU	CU/IU	CU/IU	CU/IU	CU/IU	CU/IU	CU/IU	N
Hospital	N	CU/IU	N	CU/IU	N	N	CU/IU	N
Medical offices	N	N	N	P	N	P	P	N
Dental offices	N	N	N	P	N	P	P	P
Nursing home	N	CU/IU	N	CU/IU	N	CU/IU	CU/IU	N
Funeral home	N	N	N	CU/IU	N	P	P	N
<b>Institutional Uses</b>								
Community centers	N	CU/IU	N	CU/IU	N	P	P	N
Education/academic	N	CU/IU	N	CU/IU	N	P	P	N
Essential service	P	P	P	P	P	P	P	P
Essential service structures	N	P	P	P	P	P	P	P
Governmental facilities	N	N	N	P	N	P	P	P
Libraries	N	P	N	P	N	P	P	N
Museums/art gallery	N	P	N	P	N	P	P	N
Parks/open space	P	P	P	P	P	P	P	P
Parks/recreation	P	P	P	P	P	P	P	P
Religious institution	N	CU/IU	N	CU/IU	N	P	P	P
Utility substation	CU/IU	CU/IU	CU/IU	CU/IU	N	CU/IU	P	CU/IU
<b>Commercial Uses</b>								
Animal handling	N	N	N	N	N	N	CU/IU	P
Appliance small engine, bicycle repair	N	N	N	N	N	CU/IU	CU/IU	P
Bank	N	N	N	CU/IU	N	P	P	N

## Sauk Centre - Land Usage

<i>Zoning Districts</i>	<i>A</i>	<i>R-1</i>	<i>R-2</i>	<i>R/C</i>	<i>R-M</i>	<i>C-1S</i>	<i>C-2</i>	<i>I/C</i>
Bars	N	N	N	N	N	P	P	P
Bed/breakfast	N	CU/IU	CU/IU	CU/IU	N	N	P	N
Business/trade school	N	N	N	CU/IU	N	CU/IU	P	P
Car wash	N	N	N	N	N	N	CU/IU	CU/IU
Clubs/lodges	N	CU/IU	N	CU/IU	N	P	P	P
Convention center	N	N	N	N	N	CU/IU	P	P
Dry cleaning, laundering	N	N	N	N	N	P	P	P
Home occupations	A	A	A	A	A	A	N	N
Hostel	N	N	N	N	N	P	P	P
Hotel/motel	N	N	N	N	N	P	P	P
In-vehicle sales/service	N	N	N	N	N	CU/IU	CU/IU	CU/IU
Medical, optical and dental laboratories	N	N	N	N	N	P	P	P
Motor fuel station	N	N	N	N	N	CU/IU	P	P
Motor vehicle sales	N	N	N	N	N	N	P	P
Motor vehicle service/repair	N	N	N	N	N	CU/IU	CU/IU	CU/IU
Office	N	N	N	P	N	P	P	P
Outdoor sales	N	N	N	N	N	N	P	P
Pawnshop	N	N	N	N	N	P	P	P
Post office customer service	N	N	N	N	N	P	P	P
Printing process	N	N	N	N	N	P	P	P
Private entertainment (indoor)	N	N	N	N	N	P	P	P
Restaurants without intoxicating liquor license	N	N	N	CU/IU	N	P	P	P
Restaurants with intoxicating liquor license	N	N	N	N	N	P	P	P
Retail	N	N	N	P	N	P	P	P
Retail, large item	N	N	N	N	N	P	P	P

<i>Zoning Districts</i>	<i>A</i>	<i>R-1</i>	<i>R-2</i>	<i>R/C</i>	<i>R-M</i>	<i>C-15</i>	<i>C-2</i>	<i>I/C</i>
Services	N	N	N	P	N	P	P	P
Sexually-oriented businesses; limited impact	N	N	N	N	N	N	N	P <sup>2</sup>
Sexually-oriented businesses; high impact	N	N	N	N	N	N	N	CU/IU <sup>2</sup>
Shopping center	N	N	N	N	N	P	P	P
Studio	N	N	N	P	N	P	P	P
Telecommunication; amateur facility	P <sup>3</sup>	P <sup>3</sup>	P <sup>3</sup>	P <sup>3</sup>	P <sup>3</sup>	P <sup>3</sup>	P <sup>3</sup>	P <sup>3</sup>
Telecommunication antenna	P <sup>3</sup>	P <sup>3</sup>	P <sup>3</sup>	P <sup>3</sup>	P <sup>3</sup>	P <sup>3</sup>	P <sup>3</sup>	P <sup>3</sup>
Telecommunication tower	N	N	N	N	N	N	CU/IU <sup>3</sup>	CU/IU <sup>3</sup>
<b>Industrial Uses</b>								
Auto body/paint	N	N	N	N	N	N	CU/IU	P
Bulk flammables storage	N	N	N	N	N	N	N	CU/IU
Composting operations	CU/IU	N	N	N	N	N	N	CU/IU
Freight terminal	N	N	N	N	N	N	CU/IU	P
Manufacturing/process	N	N	N	N	N	N	N	P
Office warehouse	N	N	N	N	N	N	CU/IU	P
Outdoor storage	N	N	N	N	N	N	N	P
Parcel delivery service/post office	N	N	N	N	N	P	P	P
Recycling operations	N	N	N	N	N	N	N	CU/IU
Showrooms	N	N	N	N	N	P	P	P
Warehouse/storage	N	N	N	N	N	N	CU/IU	P
<b>Transportation Uses</b>								
Heliport	N	N	N	N	N	N	CU/IU	CU/IU
Helistop	N	CU/IU	N	CU/IU	N	CU/IU	CU/IU	CU/IU
Parking lot	N	N	A	A	N	A	A	A
Parking ramps	N	N	N	N	N	CU/IU	P	P
Time transfer stations	N	N	N	N	N	CU/IU	P	P

Sauk Centre - Land Usage

Zoning Districts	A	R-1	R-2	R/C	R-M	C-1 <sup>5</sup>	C-2	IC
Transit stations	N	N	N	N	N	CU/IU	P	P
<b>Temporary Uses</b>								
Building construction structures	T	T	T	T	T	T	T	T
On-site equipment storage	T	T	T	T	T	T	T	T
Temporary structure	T	T	T	T	T	T	T	T
Carnivals, and the like	T	T	T	T	T	T	T	T
Outdoor sales, temporary	N	N	N	T	N	T	T	T
Produce sales	N	N	N	T	N	T	T	T
Garage sale	T	T	T	T	T	T	T	N
Pollution abatement equipment	T	T	T	T	T	T	T	T
Earth removal and earth filling	CU/IU 4	CU/IU 4	CU/IU 4	CU/IU 4	CU/IU 4	CU/IU 4	CU/IU 4	CU/IU 4
P = Permitted Use A = Accessory Use CU/IU = Conditional Use; Interim Use T = Temporary Use N = Not Permitted								
1 Subject to § 156.082 2 Subject to § 156.084 3 Subject to § 156.083 4 Subject to § 156.085 5 For residential uses, see § 71.06(E) of this code								

(Ord. 643, passed 5-18-2005; Am. Ord. 692, passed 4-21-2010; Am. Ord. 698, passed 8-18-2010; Am. Ord. 705, passed 4-20-2011; Am. Ord. 760, passed 7-15-2015)

**§ 156.048 LAND USE DESCRIPTIONS.**

(A) *Agriculture defined.*

(1) **AGRICULTURE** means the tilling of the soil, the raising of crops, forestry, horticulture and gardening, the keeping or raising of domestic animals and fowl and including all activities and accessory uses incidental thereto.

(2) The term shall not include the raising and feeding of livestock, fowl or fur-bearing animals for commercial purposes, nor the operation of riding academies, commercial stables or kennels.

(B) *Typical residential uses.* The following are typical of the residential uses referred to in this chapter.

(1) **SINGLE-FAMILY DWELLING** means a fully detached dwelling located on an individual lot and intended for occupancy by a single family.

(2) **TWO-FAMILY DWELLING** means 2 dwelling units attached in a single structure, each having a separate outside entrance. Dwelling units may be located on individual lots or on a lot in common.

(3) **MULTIPLE-FAMILY DWELLING** means more than 2 dwelling units contained within a single structure, where each has an entrance off a hallway or balcony in common with at least 1 other dwelling unit.

(a) Buildings tend to be massive in scale and institutional in appearance.

(b) Other characteristics may include high density, large parking lots and high traffic generation for the land area occupied by this use.

(4) **ELDERLY HOUSING** means multiple-family dwellings where a minimum of 60% of the units are occupied by single persons at least 60 years of age or by couples with 1 or both being at least 60 years of age.

(5) **ROOMING HOUSE** means a building where lodging is provided for between 3 and 8 persons and is the primary residence of the owner.

(a) Lodging is available on an extended basis rather than daily or weekly.

(b) No provision for cooking is provided in any of the rooms occupied by lodgers.

(6) (a) **MANUFACTURED HOME PARK** means any site, lot, field or tract of land upon which 2 or more occupied manufactured homes are located, either free of charge or for compensation, and includes any building structure, tent, vehicle or enclosure used or intended for use as part of the equipment of the manufactured home park.

(b) **MANUFACTURED HOME** means a structure, transportable in 1 or more sections, which in the traveling mode, is 8 body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities; except that the term includes any structure which meets all the requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the Department of Housing and Urban Development and complies with the standards established by M.S. Ch. 327, as it may be amended from time to time.

(7) **LIVE-WORK UNIT** means a dwelling unit that includes space for the gainful employment of a resident of the dwelling unit and up to 2 workers who may not be residents of the dwelling unit.

(a) The floor area devoted to the business use may not exceed the floor area devoted to the residential use within the unit.

(b) Any space that will be used by walk-in customers of the business must be accessible from an exterior entrance that is not used to access other residential units.

(c) With the exception of the exterior entrance, the business cannot substantially alter the exterior of the property or substantially affect the character of the neighborhood or the health, safety and welfare of the residents.

(d) The business space must be designed to permit conversion to residential space with minimum work and no structural changes.

(e) Uses which are not allowed include but are not limited to the following: uses classified as industrial; appliance, small engine repair; motor vehicle sales; motor vehicle service and repair; pawnshops; animal handling; bars; food service; restaurants; private entertainment; and sexually oriented businesses.

(8) ***HOUSING WITH SERVICES ESTABLISHMENT*** means an establishment providing sleeping accommodations to 1 or more adult residents, at least 80% of which are 55 years of age or older, and offering or providing, for a fee, 1 or more regularly scheduled health-related services or 2 or more regularly scheduled supportive services, whether offered or provided directly by the establishment or by another entity arranged for by the establishment; or an establishment that registers under M.S. § 144D.025.C., as it may be amended from time to time.

(C) *Human care uses.* The following are typical of the human care uses referred to in this chapter.

(1) ***ADULT DAY CARE*** means a facility that provides care to functionally impaired adults on a regular basis for periods of less than 24 hours in a structure which is not the residence of the person being served or the facility operator.

(a) Some characteristics of this use are similar to family day care and nursing homes.

(b) This use is appropriate in commercial areas provided there is accessibility to outdoor areas for sitting and exercise.

(c) Persons being served are most like nursing home residents.

(2) ***FAMILY CHILD CARE*** means a licensed facility that provides care, protection and supervision of 10 or fewer children in a private residence for periods of less than 24 hours for a fee. The size of the outdoor play area, the maximum number of children who may be served, and the number and qualifications of required outside teachers or helpers are set forth in state law which may be amended from time to time. It generates about 2 vehicle trips or 4 vehicle trip ends per child per day.



(3) **GROUP FAMILY CHILD CARE** means a licensed facility that provides care, protection and supervision of 14 or fewer children in a private residence for periods of less than 24 hours for a fee. The size of the outdoor play area, the maximum number of children who may be served, and the number and qualifications of required outside teachers or helpers are set forth in state law which may be amended from time to time. It generates about 2 vehicle trips or 4 vehicle trip ends per child per day.

(4) **CHILD CARE CENTER** means a state-licensed nonresidential facility where child care, protection and supervision services are provided for a fee on a regular basis for periods of less than 24 hours. This use requires a large, sensitively located outdoor play area and it generates about 2 vehicle trips or 4 vehicle trip ends per child per day.

(5) **STATE-LICENSED RESIDENTIAL FACILITY** means a state-licensed and state-mandated residential facility occupied by persons in need of specialized treatment or protection and resident staff who live together as a single housekeeping unit, usually for a limited period of time.

(a) The use includes outpatient group counseling, some supervision and treatment programs.

(b) The maximum number of clients served is specified by state law which may be amended from time to time.

(c) Persons served may include the impaired or vulnerable individuals and severely physically handicapped.

(6) **GROUP HOME/NON-STATUTORY** means occupancy of a residential structure by persons in need of specialized treatment or protection and resident staff who usually live together as a housekeeping unit for a limited period of time.

(a) This use may include outpatient group counseling, some supervision, forced detention, treatment for mental illness and drug addiction, protective shelter, half-way house and release programs.

(b) The facility may be licensed by the state but is not mandated.

(7) **HOSPITAL** means a facility that provides health services primarily for human inpatient medical or surgical care, including related facilities, such as laboratories, outpatient departments, training facilities, central service facilities and staff offices. Characteristics include large institutionally designed buildings, large volumes of traffic, large parking lots or ramps, 24-hour activity, service vehicles, large quantities of waste and emergency vehicles.

(8) **MEDICAL/DENTAL OFFICE** means a facility which provides direct delivery of health related examination and services or treatment to customers on an appointment or walk-in basis; and

includes counseling, consultation, chiropractic and podiatry. The use may include a supporting retail component for medicine, health-related food or other product.

(9) **NURSING HOME** means a licensed health care facility providing lodging and 24-hour care for medically or physically impaired persons usually on a long-term basis.

(a) Residents of the facility do not have private apartments or kitchens.

(b) This use includes a food service and may include supporting medical and retail services for the residents.

(c) A quiet area is preferred and usable outdoor open space is required.

(10) **FUNERAL HOME** means a facility where funeral services are held and where embalming and other processes occur in preparation of the dead for burial.

(a) It may include the storage of caskets, funeral urns and other related funeral supplies, and it usually provides vehicles to transport the dead to the place of burial.

(b) This use does not include a crematorium. Characteristics include intermittent periods of high traffic generation.

(D) *Institutional uses.* The following are typical of the institutional uses referred to in this chapter.

(1) **COMMUNITY CENTERS** means a place, structure, area or other facility which is open to the public and designed to accommodate and serve significant segments of the community and which is used for educational, religious, fraternal, social and recreational programs. This use may include accessory food service and accessory retail shops.

(2) **EDUCATION/ACADEMIC:**

(a) **PUBLIC** means neighborhood or district based education services normally provided to children through young adult age. The use may include evening or off-hour service to adults in the community. This use generally includes an accessory food service and some retail facilities to serve students and faculty.

(b) **PRIVATE** means community or regional based education services normally provided to persons through young adult age. The facilities are similar to public education facilities.

(3) **ESSENTIAL SERVICES** means the erection, construction, alteration or maintenance by public utilities or municipal departments or commissions, of underground or overhead gas, electrical, communication, steam or water transmissions or distribution systems including poles, wires, mains,

drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers and other similar equipment and accessories in connection therewith (but not including structures) reasonably necessary for the furnishing of adequate service by public utilities or municipal departments or commissions for the public health, safety or general welfare.

(4) **ESSENTIAL SERVICE STRUCTURE** means facilities which support essential services including water towers, utility and public service related distribution facilities and wastewater and storm drainage structures, but excluding utility substations.

(a) These facilities are normally serviced by small trucks several times per day and by larger vehicles or equipment on a periodic basis.

(b) Associated buildings typically have large windowless walls and an institutional appearance.

(5) **GOVERNMENTAL FACILITIES** means facilities designed to serve the public health and safety such as city halls, police/fire stations and armories. They may include an office component, the storage of fire trucks, police cars and equipment, and the boarding of personnel within an enclosed building. Characteristics may include sporadic periods of loud noise, sirens and activity.

(6) **LIBRARY** means a facility where collections of books and other materials are housed in a building which is open to the public during regularly scheduled hours which may include weekend days and evenings. Books and other materials may be available for loan. Characteristics may include high parking demand and high traffic generation.

(7) **MUSEUMS/ART GALLERIES** means a facility which houses collections of artifacts, paintings or sculpture in a building which is open to the public during regularly scheduled hours which may include weekend days and evenings.

(8) **PARKS/OPEN SPACE** means passive recreation including hiking trails, natural areas, wild life areas, arboretums, open grass areas and tot lot.

(9) **PARKS/RECREATION** means areas for active outdoor recreation activities such as baseball diamonds, tennis courts, basketball courts, playfields, playgrounds, outdoor swimming pools, fitness courses and driving ranges.

(10) **RELIGIOUS INSTITUTION** means a facility where people gather to relate or manifest faithful devotion to an acknowledged ultimate reality or deity.

(a) This use is characterized by meeting rooms, education and training about the religion, worship practice, indoor activities, intermittent parking needs, group singing or chanting and music.

(b) The assembly typically meets on weekends or evenings.

(c) Uses that frequently accompany the principal use include day care and park and ride.

(11) **UTILITY SUBSTATION MEANS** a structure of electrical components to transform high voltage electricity into lesser voltages to make it suitable for distribution to end users.

(a) The use consists of a large structure and numerous power lines which are difficult to screen and are classified as land use intensity 10.

(b) This use has minimal outdoor activity and traffic generation.

(E) *Commercial uses.* The following are typical of the commercial uses referred to in this chapter.

(1) (a) **ANIMAL HANDLING** means the sale, boarding, treatment and care of privately owned small animal pets which may include dogs, cats, other mammals, fish and reptiles but excludes large animals such as horses, farm animals or animals raised for slaughter.

(b) Characteristics may include special refuse, storage, noise, odor and other nuisance characteristics.

(2) (a) **APPLIANCE, SMALL ENGINE AND BICYCLE REPAIR** means maintenance and repair of appliances, small engines, bicycles and similar items.

(b) Characteristics include some outdoor activity and noise.

(3) **BANK** means a facility for the deposit, management and lending of money, frequently with accessory drive-up facility.

(a) This use includes banks and savings and loans but not insurance companies and stock brokerage firms.

(b) Characteristics may include high peak hour traffic on certain days.

(4) **BAR** means a facility where the primary use is the sale of alcoholic beverages for consumption on the premises.

(a) Minors are excluded from entry by law.

(b) Characteristics include late hours, high parking demand and noise, trash and litter and heavy off-peak traffic.

(c) Use is often found in conjunction with restaurants, hotels and nightclubs.

(5) **BED AND BREAKFAST ESTABLISHMENT** means a place of lodging that provides not more than 8 rooms for rent to no more than 20 guests at a time, is located on the same property as the owner's personal residence, provides no meals other than breakfast served to persons who rent rooms, and was originally built and occupied as, or was converted to, a single family residence prior to being used as a place of lodging.

(6) **BUSINESS/TRADE SCHOOL** means a facility serving adults and sometimes high school age persons which provides specialized education to develop a skill to prepare for a specific job. Equipment or processing which simulate an industrial or commercial work setting may be included.

(7) **CARWASH** means a facility designed to wash automobiles and light trucks.

(a) The facility utilizes equipment and wash cycles are relatively short.

(b) These facilities are typically accessory to other automotive related land uses and may sporadically cause congestion on its site.

(8) **CLUB/LODGE** means a facility operated by an association of persons primarily not for profit where social, educational, recreational or dining activities are provided.

(a) Services provided are not customarily carried on as a business and may include dining, consumption of alcoholic beverages, dancing, legal gambling and meetings.

(b) Characteristics may include late hours, high parking demand and noise and heavy off-peak traffic.

(9) **CONVENTION AND EXHIBITION CENTER** means a facility providing large and small meeting rooms for the assembly of persons and the display of products and information.

(a) It may include banquet kitchens and facilities.

(b) Characteristics include heavy parking and loading area requirements and large scale buildings.

(10) **DRY CLEANING, LAUNDERING WITH ROUTE PICKUP AND DELIVERY** means a facility where clothing, diapers or other fabrics are cleaned by dry cleaning or laundering processes.

(a) Materials to be cleaned may be brought to the site either by pickup and delivery trucks operated as part of the business or by customers who drop off and pick up their own materials to be cleaned.

(b) The use may include the storage of delivery vehicles on the site.

(11) **HOME OCCUPATION** means an occupation, profession or activity which provides gainful employment to a resident of a dwelling unit which is clearly an incidental and subordinate use to the residential use and which does not alter the exterior of the property or affect the residential character of the neighborhood. Auto body/painting, motor vehicle sales, motor vehicle service and repair, retail sales, medical/dental office, animal boarding, warehouse/storage and manufacturing/processing do not qualify as home occupations.

(12) **HOSTEL** means a lodging facility operated under the auspices of a national or international hostel organization which has dormitory rooms available for rent by members.

(a) The facility has common cooking and eating facilities and may have common restroom facilities.

(b) The duration of stay is typically short and the facility has a resident manager.

(13) **HOTEL/MOTEL** means facilities which provide overnight lodging in individual rooms or suites of rooms, each having a private bathroom, which are rented by day or week.

(a) These facilities may include in-room or in-suite kitchens and recreational facilities for use by lodgers.

(b) Restaurants, banquet rooms, arcades, fitness centers and other facilities available to non-lodgers are not considered accessory uses.

(14) **IN-VEHICLE SALES OR SERVICE** means sales or service to persons in vehicles.

(a) It may include drive-in, drive-up and drive-through facilities, but does not include motor fuel stations.

(b) Characteristics include high traffic volumes during the typical peak hour traffic period.

(15) (a) **MEDICAL AND DENTAL LABORATORIES** mean facilities in which individually produced and made to order medical and dental prosthetics are crafted for the specific needs of specific individuals.

(b) Characteristics may include hours of operation of 7:00 a.m. to 6:00 p.m.; daily deliveries to and from the facilities by car, van or light truck; minimal heavy truck traffic; no use of outside storage and occasional visitation of facilities by customers needing specialized attention as to the makeup and fit of their specific prosthesis.

(16) **MOTOR FUEL STATION** means a facility of whatever character or description where gasoline, other inflammable liquids, or compressed natural gas which supplies and dispenses at retail motor fuels directly into a motor vehicle; it may also include the sale of lubricants, batteries, tires and motor vehicle accessories.

(a) Motor fuels may be self-serve or dispensed by an attendant. Light maintenance activities to vehicles including engine tune-ups, lubrication, repairs and carburetor cleaning may also be conducted.

(b) Characteristics include outdoor activity, high traffic generation and extended hours of operation and in ground and above ground tanks for fuel dispensing.

(c) This use excludes heavy automobile repair including, but not limited to, engine overhauls, automobile painting and bodywork.

(d) **MOTOR VEHICLE** means all vehicles, engines, machines, or mechanical contrivances which are propelled by internal combustion motors or engines.

(17) **MOTOR VEHICLE SALES** means display, sale and rental of automobiles, trucks and recreational vehicles outside of an enclosed building; motor vehicle service and repair often occur in conjunction with this use. Characteristics may include outdoor activity, banners and lights for promotion and advertising, outdoor sound systems, truck deliveries, night and weekend operating hours and test driving on nearby streets.

(18) **MOTOR VEHICLE SERVICE/REPAIR** means engine rebuilding, overhauling and major reconditioning and collision service including body, frame or fender straightening or repair and overall painting of motor vehicles or trailers.

(19) **OFFICE** means a facility in which the handling of information or the performing of administrative services is conducted.





(a) It includes services provided to persons both on-site and off-site on a walk in or appointment basis such as counseling or indirect or non-personal service such as real estate, travel agencies, financial agencies, insurance offices and professional offices.

(b) This description excludes hospitals or other medical facilities; except it may include up to a maximum of 10% of the gross floor area in medical or dental offices.

(c) Characteristics include high peak period traffic generation and 8:00 a.m. to 5:00 p.m. hours of operation.

(20) **OUTDOOR SALES** means the display and sale or rental of merchandise or equipment outside of an enclosed building. It may include boat sales, canoe sales, nursery sales; but it excludes the sale of motor vehicles.

(21) **PAWNSHOP** means a facility where money is loaned based on the value of goods deposited at the facility by the borrower of the money, which goods are held by the lender of the money occupying the facility as collateral for the loan.

(a) Items held by the lender which are not redeemed by a borrower may be put up for sale at the facility to the general public.

(b) The characteristics of this use are similar to those for retail uses.

(22) **POST OFFICE CUSTOMER SERVICE** means the retail/customer service portion of the post office function that includes customer drop off of packages and mail; sale to the public of stamps, money orders, insurance, envelopes and packaging materials and other mail services; and post office boxes.

(a) Characteristics include hours similar to offices and Saturday mornings, high volumes of automobile traffic and some truck traffic.

(b) Mail sorting for mail route delivery and distribution are not part of this land use.

(23) **PRINTING PROCESS/SUPPLY** means a facility in which retail-oriented graphic and photographic reproductive services are conducted. This does not include industrial operations where printing is of a commercial nature.

(24) **PRIVATE ENTERTAINMENT (INDOOR)** means entertainment services provided entirely within an enclosed building.

(a) It includes theaters, health or fitness centers, bowling alleys, arcades, roller rinks and pool halls.

(b) Characteristics may include late operating hours, outdoor lighting, noise and traffic.

(25) **RESTAURANT** means an establishment whose principal business is the sale of food and beverages which are prepared and served in individual portions in a ready-to-consume state for consumption on site or delivered to the customer off site for final preparation and consumption.

(a) This use is often found in conjunction with bars, hotels and food service.

(b) It is preferably located on major thoroughfares with no access to residential streets.

(c) Characteristics include late hours of operation, refuse, high car, truck traffic generation, cooking and processing odors, refuse storage issues.

(26) (a) **RETAIL** means a facility where merchandise or equipment is displayed and rented or sold and where delivery of merchandise or equipment to the ultimate consumer is made.

1. This use includes limited production, repair or processing as an accessory use.

2. Hours of operation generally begin after the a.m. peak traffic period and extend to time ranges from 5:00 p.m. to 10:00 p.m.; although some convenience stores and grocery stores are open 24 hours per day.

3. Characteristics generally include high parking demand and high off-peak traffic generation; generally prefers high visibility and access to major thoroughfares.

4. This use includes but is not limited to camera shops, clothing stores, department stores, grocery stores, discount stores, jewelry stores, delicatessens, retail bakeries, toy stores; but excludes restaurants, bars, pawn shops, motor vehicle sales, motor fuel stations and large item retail.

(b) **RETAIL, LARGE ITEM** means a facility where large item merchandise or equipment is displayed and rented or sold and where delivery of merchandise or equipment to the ultimate customer is made.

1. Characteristics generally include hours of operation between 9:00 a.m. and 9:00 p.m. weekdays and weekends.

2. The parking demand per square foot of building area is normally less than the demand for general retail.

3. This use includes but is not limited to, furniture stores, carpet stores, large appliance stores; but excludes motor vehicle sales, pawnshops and retail.

(27) **SERVICE** means on-site service provided directly to an individual.

(a) This use includes barbershops, beauty shops, massage parlors, laundromats, shoe repair shops and dry cleaners where articles to be cleaned are picked up and delivered by the patron.

(b) This use excludes pawnshops.

(28) **SEXUALLY-ORIENTED BUSINESS** means any limited impact sexually-oriented business or any high impact sexually-oriented business.

(a) **LIMITED IMPACT SEXUALLY-ORIENTED BUSINESS** means a business where sexually-oriented materials are sold, bartered, distributed, leased, furnished or otherwise provided, and which meets the following restrictions:

1. All sexually-oriented materials must be provided for use or entertainment off the business premises only;

2. All sexually-oriented materials must be provided from a separate area to which persons under the age of 18 years are prohibited access;

3. The separate area may not exceed a maximum of 20% of the retail floor area of the establishment, or 300 square feet, whichever is less;

4. No person outside the separate area shall be able to perceive or observe any sexually oriented materials at any time, including when someone is entering or exiting the separate area, shopping, or purchasing sexually oriented materials;

5. A sign must be displayed on the entrance to the separate area, which shall read: "No person under the age of 18 years is allowed in this area." The sign letter shall be a minimum of 2 inches high; and

6. The entry into the separate area shall be visible to an employee of the business at all times.

(b) **HIGH IMPACT SEXUALLY-ORIENTED BUSINESS** means any business with materials or entertainment which are principally related to sexual stimulation or gratification other than a limited impact sexually-oriented business. Examples of a **HIGH IMPACT SEXUALLY-ORIENTED BUSINESS** include the following:

1. A business where sexually-oriented materials are sold, bartered, distributed, leased, furnished, exhibited or otherwise provided for use or entertainment on the business premises;

2. A business where specified sexual activities (as defined herein) are explicitly verbally described or shown;

3. A business where specified anatomical areas (as defined herein) are explicitly verbally described or shown;

4. A business providing sexually-oriented materials for off-site use or entertainment, which has a separate area but does not meet the size or other restrictions to qualify as a limited impact sexually-oriented business; and

5. A business providing sexually-oriented materials for off-site use or entertainment, where the sexually oriented materials are dispersed within the business rather than isolated in a separate area.

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

***SEXUALLY-ORIENTED MATERIALS.*** Visual, printed or aural materials, and other objects or devices, which:

- a. Contain, depict or describe specified sexual activities or specified anatomical areas; and
- b. Are marketed for use in conjunction with, or are primarily used only with or during, the specified sexual activities.

***SPECIFIED ANATOMICAL AREAS.***

- a. Less than completely and opaquely covered human genitals, pubic area, buttock, anus or female breast below a point immediately above the top of the areola; and
- b. Human male genitals in a state of sexual arousal, whether or not completely and opaquely covered.

***SPECIFIED SEXUAL ACTIVITIES.***

- a. Actual or simulated sexual intercourse of any kind involving 2 humans, or 1 human and an animal or object;
- b. Actual or simulated masturbation;
- c. Actual or simulated sadism or masochism;
- d. Actual or simulated sexual stimulation of any kind;
- e. Situations involving a person who is nude, clad in undergarments or in a revealing costume, and who is engaged in activities involving binding, fettering or other physical restraint of that or another person; and
- f. Sexually-oriented touching of an animal by a human.

(d) **SEXUALLY-ORIENTED BUSINESSES** exclude the following:

1. Any material with significant literary content or social commentary;
2. A business where sexually-oriented materials are sold, bartered, distributed, leased, furnished or otherwise provided for off-site use or entertainment, if the material harmful to minors on each item is blocked from view by an opaque cover as required under M.S.A. § 617.293, and each item is behind the counter and accessible only by an employee of the business;
3. Displays of sexually-oriented materials may occur up to 6 times per year without rendering a business a high impact sexually-oriented business, if the displays are limited to an area which has been leased to a person or business for their exclusive occupancy for a private party, and the only people in attendance have received advance invitation from that person or company;
4. Any person or organization exempted under M.S.A. § 617.295;
5. Any activity regulated under M.S.A. § 617.251;
6. Any business may display works of art showing specified anatomical areas, so long as no sexually-oriented materials are for sale, and the business does not have a liquor license; or
7. Movies rated G, GP, PG-13 or R.

(29) **SHOPPING CENTER** means a group of commercial uses planned, developed and/or managed as a unit that has common parking facilities. Shopping centers may include more than 1 building and more than 2 contiguous properties.

(30) **STUDIO** means a facility where the practice or study of the visual and audio arts occurs.

(a) This use may include painting, sculpturing, photography, recording and radio and television studios. This use also includes dance studios and studios for the martial arts.

(b) This use does not include large industrial photography or printing processes.

(31) (a) **TELECOMMUNICATION AMATEUR FACILITY** means an FCC-licensed telecommunication antenna and tower used for the transmission and reception of radio waves for non-commercial communication purposes including an antenna or antennas; and a tower structure, self-supporting or supported by lines, cables, wires, braces and/or masts to which the antenna(s) are attached, or an existing structure used secondarily for supporting the antenna(s); along with a base station located near and used in conjunction with the antennas.

(b) **TELECOMMUNICATION ANTENNA** means any structure or device used for the purpose of collecting or radiating electromagnetic waves, including but not limited to directional antennas, such as panels, microwave dishes and satellite dishes, and omni-directional antennas, such as whips, along with a base station located near and used in conjunction with the antenna.

(c) **TELECOMMUNICATION TOWER** means a tower structure at least 20 feet in height including supporting lines, cables, wires, braces and masts; along with antenna supported by the tower and used for the purpose of collecting or radiating electromagnetic waves, including but not limited to directional antennas, such as panels, microwave dishes and satellite dishes and omnidirectional antennas; and along with a base station located near and used in conjunction with the antennas.

(F) *Industrial uses.* The following are typical of the industrial uses referred to in this chapter.

(1) **AUTO BODY/PAINTING** means a facility for painting, straightening, replacing and repairing the frame and body parts of motor vehicles usually damaged as result of an accident.

(a) It includes the outdoor storage of damaged and dismantled vehicles, and may generate odor and noise.

(b) This use excludes junkyards and automobile wrecking yards.

(2) **BULK FLAMMABLES STORAGE** means the storage of flammable liquids or gases in containers, including those stored under pressure and not under pressure and those used and not used for fuel.

(3) **COMPOSTING OPERATION** means the collection, storage, processing, disposal and distribution of vegetation.

(a) Characteristics may include odor, unsightly appearance, truck traffic and heavy equipment.

(b) Recycling of non-organic materials is excluded.

(4) **FREIGHT TERMINAL** means short-term storage and transshipment of materials and the outdoor storage of trucks and related equipment. Characteristics include high volumes of large truck traffic.

(5) **MANUFACTURING/PROCESSING** means a facility for the production of a physical commodity or changing the form of a raw ingredient.

(a) It may include administrative offices, warehousing and limited distribution and sale of a commodity.

(b) Characteristics may include heavy truck traffic, odor and noise of processes and equipment, refuse storage issues and the use of toxic and hazardous materials.

(c) Concrete plants, junkyards, slaughterhouses, rendering plants, salvage yards and auto reduction plants are excluded.

(6) **OFFICE WAREHOUSE** means a facility in which the handling of information or the performing of administrative services is conducted in conjunction with receiving, holding, shipping and occasional packaging of commodities. Characteristics include high peak period traffic generation and 8:00 a.m. to 5:00 p.m. hours of operation, high truck traffic generation and parking demand.

(7) **OUTDOOR STORAGE** means the receiving, keeping and shipping of goods and materials outside of an enclosed building where outdoor activity includes only the unloading, loading and keeping of materials.

(a) This use may include storage yards for contractors, equipment, lumber, landscaping materials, construction materials and shipping materials.

(b) Storage of unlicensed or inoperable vehicles or other materials typically associated with a junkyard, salvage yard or auto reduction plants are excluded.

(8) **PARCEL DELIVERY SERVICE/POST OFFICE** means a facility for the transshipment of letters and packages generally less than 100 pounds in weight. Customers may purchase stamps, money orders, insurance and other mail services. Hours of operation are similar to those of offices, but may include Saturdays. Characteristics include high volumes of truck and automobile traffic and vehicles stored on premises overnight.

(9) **RECYCLING OPERATION** means a facility located within an enclosed building for the collection, sorting, temporary storage and shipment of recoverable resources including, but not limited to, newspapers, cardboard, glassware, metal cans and plastic.

(10) **SHOWROOM** means the display only of samples of merchandise and equipment where a sales agreement with a consumer is conducted and delivery of purchased merchandise is made from a warehouse that is not accessible to the consumer and is physically separated from the showroom by a minimum 8-foot-tall permanent wall. Merchandise or equipment which is displayed is typically large bulky items and includes, but is not limited to, furniture, appliances, plumbing fixtures, lighting and carpeting. Characteristics include hours of operation between 9:00 a.m. and 9:00 p.m. weekdays and during some weekend hours.

(11) **WAREHOUSE/STORAGE** means a facility for receiving, holding, shipping and occasional packaging of commodities except flammable liquids and gases.

(a) With the exception of loading and unloading of commodities, and parking and storage of trailers, all functions shall be within an enclosed building. Characteristics may include high truck traffic generation and low parking demand.

(b) This use may include, but is not limited to, conventional warehouse facilities, mini warehouse and joint warehouse and storage facilities, self-storage and outdoor self-storage incidental to a self-storage facility.

(G) *Transportation uses.* The following are typical of the transportation uses referred to in this chapter.

(1) **HELIPORT** means a facility for the landing, taking off, basing, service and repair of helicopters used for transportation purposes. Characteristics include noise and the outdoor storage of helicopters.

(2) **HELISTOP** means a facility for the landing and taking off of helicopters used for transportation purposes but with no facilities for the service of helicopters. Characteristics include intermittent periods of noise.

(3) **PARKING LOTS** means surfaced and improved ground surface areas used for the parking of licensed and operable motor vehicles for periods of less than 24 hours.

(4) **PARKING RAMP** means a structure built for the storage of licensed, operable motor vehicles for periods of less than 24 hours. Characteristics may include noise, exhaust fume odor, heavy traffic and large structure mass and footprint.

(5) **TIME TRANSFER STATION** means a facility where passengers are transferred on, off or between public transportation vehicles. This use is characterized by large volumes of bus and auto traffic at peak hours.

(6) **TRANSIT STATIONS** means loading, unloading and transferring of passengers on, off or between public transportation ground vehicles. Parking lots and parking ramps frequently are located in conjunction with the station.

(H) *Temporary uses.* The following are typical of the temporary uses referred to in this chapter.

(1) **BUILDING CONSTRUCTION STRUCTURE** means a structure used by a contractor or leasing agent as an office or for storage purposes for a construction project for which a building permit has been secured and is in effect. This use includes construction trailers, sales and leasing.

(2) **ON-SITE EQUIPMENT STORAGE** means any structure or outdoor storage area designed for the on-site storage of construction equipment and materials for an active construction project.

(3) **TEMPORARY STRUCTURE** means a building other than a construction structure used for a period not exceeding 6 months.

(4) **CARNIVALS, FESTIVALS, FAIRS AND PROMOTIONAL EVENTS** means tents and stands used for entertainment, display and sale of food and merchandise, and amusement rides permitted for a period not exceeding 14 days.



(5) ***OUTDOOR SALES, TEMPORARY*** means the display and sale of merchandise other than agricultural commodities outside of an enclosed building where it is offered in conjunction with an established use that legally sells the same or similar merchandise within a building on the same site. Characteristics include the use of tents, trailers or other temporary structures.

(6) ***PRODUCE SALES*** means the temporary display and sale of agriculture products such as vegetables, fruit, nuts, flowers, trees and other greens.

(7) ***GARAGE SALE*** means the temporary sale of home-crafted items and used household goods by the owner, resident and/or neighbors of a property. Garage sales include estate, rummage, basement, yard, porch or similar sales conducted at a residentially zoned and/or used property permitted no more than 6 times per year for periods exceeding no more than 3 days each.

(8) ***POLLUTION ABATEMENT EQUIPMENT*** means equipment and structures that are erected or installed on a property for the purpose of eliminating or abating ground or water pollution.

(9) ***EARTH REMOVAL*** means the excavation of earth and removal from a site and earth filling means the importing of earth to and placement on a site, in either case to achieve an elevation or engineering specification pursuant to a city-approved plan.

(Ord. 643, passed 5-18-2005; Am. Ord. 668, passed 11-5-2008; Am. Ord. 731, passed 9-5-2012; Am. Ord. 757, passed 4-15-2015; Am. Ord. 760, passed 7-15-2015)

#### **§ 156.049 DIMENSIONAL STANDARDS.**

This section identifies lot area, lot width, front yard, side yard, rear yard, height and lot coverage requirements that must be met in each zoning district.



(Ord. 643, passed 5-18-2005; Am. Ord. 661, passed 9-19-2007; Am. Ord. 694, passed 7-21-2010; Am. Ord. 700, passed 11-3-2010; Am. Ord. 705, passed 4-20-2011)

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**§ 156.050 PARKING REQUIREMENTS.**

(A) The following table illustrates the minimum number of on-site parking spaces required for various uses permitted in the city.

(B) The city may modify minimum parking requirements in the C-1 District, if it is determined that the use is consistent with the purpose of the district and that street parking is sufficient to accommodate the use.

<i>Uses</i>	<i>Minimum Number of Parking Spaces Required</i>
Residential	2/dwelling unit
Church	1/3 seats in largest assembly
School	1/classroom plus 1/3 seats in largest assembly
Theater	1/3 seats
Restaurant	1/3 seats
Office	5/1,000 square feet gross floor area
Retail	5/1,000 square feet gross floor area for first 10,000 square feet 3/1,000 square feet gross floor area over 10,000 square feet
Convenience store	7/1,000 square feet gross floor area
General service	4/1,000 square feet gross floor area
Trade business	3/1,000 square feet gross floor area
Manufacturing	3/1,000 square feet gross floor area
Other industry	3/1,000 square feet gross floor area
Car wash	5 stacking plus 1/bay
Drive-up restaurant	5 stacking plus 1/3 seats

(C) All required parking areas, ingress/egress points and driveways in all new residential developments and all commercial and industrial uses shall be paved with bituminous or concrete surfaces, according to minimum city specifications.

(D) Parking areas for commercial and industrial uses abutting residential districts shall be screened in accordance with § 156.076 below.

(Ord. 643, passed 5-18-2005)

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### **§ 156.051 PLANNED RESIDENTIAL DEVELOPMENT OVERLAY (PRDO).**

*(A) Intent:*

(1) To allow for the development of residential areas under a flexible regulatory process as compared to the more rigid development regulations common to traditional zoning districts;

(2) The Planned Residential Development Overlay (PRDO) District provides for a joint planning design effort by developers and city officials rather than the city establishing maximum limits to which the developers must conform; and



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(3) Benefits resulting from the PRDO District include an opportunity to protect and preserve valuable natural resources and amenities and to create new public amenities, such as parks, trails, open spaces and housing variety; in so doing, contributing more than a conventional development does to a higher quality living environment.

(B) *General requirements.* The Council, after receiving the recommendation of the Planning Commission, may authorize departures from traditional dimension standards requirements of this chapter for a PRDO, consistent with the intent and uses permitted in the R-1 and R-2 Districts of the Sauk Centre Zoning Ordinance, if the Council determines, after considering the Planning Commission's recommendation and reviewing a complete plan, that the development is consistent with the general purposes of this chapter and that the project complies with the special requirements in this section and general development goals of the city.

(1) *Ownership.* The tract of land included in the PRDO is under unified control at the time of application and is scheduled to be developed as one development.

(2) *Minimum size.* The area included in the project consists of not less than 5 acres of contiguous land.

(3) *Buildings and dimensional standards.* Through the PRDO process more than 1 principal building may be located on a lot and with the exception of maximum height, the dimensional standards for uses permitted in the R-1 and R-2 Districts may be varied from those set forth in § 156.049. The maximum variation from any dimensional standard shall not exceed 25% provided the city finds as follows:

(a) The extent of any waiver or variation from dimensional standards is commensurate with the extent of unique features and public benefit proposed in the PRDO, as determined by the city.

(b) The provisions in § 156.021 are met.

(c) The PRDO meets or exceeds other requirements of this chapter and the goals and policies of the Sauk Centre Comprehensive Plan.

(4) *Perimeter setbacks and building spacing.*

(a) Notwithstanding other provisions relating to PRDOs, every structure contained within and abutting the perimeter of the PRDO shall conform to yard requirements for the underlying district for the yard abutting the PRDO perimeter.

(b) The distance between buildings in the PRDO District shall not be less than 20 feet.

(5) *Open space.* In addition to the conventional park dedication requirements, a minimum of 10% of the residential portion of each PRDO shall be reserved for common open space held in common ownership or dedicated for public use with approval of the Council.

(C) *Procedure.*

(1) *Preliminary development plan.*

(a) An application for approval of a preliminary development plan for a proposed PRDO shall be filed with the Zoning Administrator, along with required preliminary plat, if any, by the owner of the property.

(b) The application shall be accompanied by a filing fee and escrow for estimated expenses.

(c) The application and accompanying statements shall be submitted in 12 copies and shall include, in addition to the information as the Zoning Administrator may require, a vicinity map showing the relationship of the proposed PRDO to the Comprehensive Plan of the city, to existing public facilities and services, and to the surrounding areas, unique features of the PRDO which qualify it for special consideration, a preliminary plan of the PRDO area showing proposed uses, densities, proposed street and off-street parking areas, the specifics of the development plan and the proposed schedule for development.

(2) *Planning Commission public hearing and recommendation.*

(a) The Planning Commission shall, after holding a public hearing in the same manner as required for amendments to this chapter, recommend denial of the preliminary development plan or approval with changes and conditions as it may suggest.

(b) The Planning Commission's recommendation shall be transmitted to the City Council.

(3) *Action by Council.* The Council shall thereupon consider the application and shall disapprove or approve the application with the changes and conditions, if any, as it may deem appropriate.

(4) *Final review and approval.*

(a) Within 12 months of approval of the preliminary development plan by the City Council, the applicant shall file an application for review and approval of the final development plan, and of any required final plats.

(b) A final application and its supporting documentation shall give the same information required of plats under the Subdivision Ordinance of the city in addition to other information as required by this chapter and by the Planning Commission for approval of the preliminary plan.

(c) In addition, the application shall be accompanied by other documentation as specifically required by the Planning Commission and the Council for the particular PRDO.



## **Zoning**

### *(5) Action on the final application.*

(a) Procedure for action by the Planning Commission and the Council on an application for review and approval of the final PRDO plan shall be the same as prescribed for action on the preliminary proposal, except that a public hearing is not required.

(b) The final development plan shall conform to the preliminary development plan as approved.

(Ord. 643, passed 5-18-2005)

## ***PERFORMANCE STANDARDS***

### **§ 156.065 RESIDUAL FEATURES.**

No activity or operation shall be established or maintained which by reason of its nature or manner of operation will cause the emission of noise, odor, toxic or noxious fumes, gases, smoke, dust and particulate matter in concentrations as to be detrimental to or endanger the public health, welfare, comfort and safety or cause injury to property or business as regulated by federal and state laws and regulations.

(Ord. 643, passed 5-18-2005) Penalty, see § 10.99

### **§ 156.066 GLARE.**

(A) *Direct or reflected glare.* Direct or reflected glare, such as from floodlights or high temperatures processes, and as differentiated from general illumination, shall not be visible beyond the site of origin at any property line.

(B) *Lighting.* All lighting used for exterior illuminate (including off-street parking area) shall be shaded or diffused so as to reflect the lights away from adjoining property and away from abutting traffic flow. Stadium lights will only be allowed with a Conditional Use Permit (CUP).

(C) *Lighting plans.* Lighting plans shall be submitted with site plan reviews as required within C-1, C-2 and IC Districts.

(Ord. 668, passed 11-5-2008)

### **§ 156.067 NOISE.**

Noise generated from any use shall be in compliance with and regulated by Minnesota Pollution Control Agency rules.

(Ord. 643, passed 5-18-2005)

**§ 156.068 VIBRATION.**

Vibration generated from any use shall be in compliance with and regulated by Minnesota Pollution Control Agency rules.  
(Ord. 643, passed 5-18-2005)

**§ 156.069 EXPLOSIVES.**

(A) Any use requiring the storage, utilization or manufacturing of products which could decompose by detonation shall be located not less than 1,000 feet from any residential district.

(B) This standard shall not apply to the storage or usage of liquefied petroleum or natural gas for normal residential or commercial purposes.  
(Ord. 643, passed 5-18-2005) Penalty, see § 10.99

**§ 156.070 WASTE MATERIAL.**

(A) All waste generated from any use shall be managed in compliance with and regulated by Minnesota Pollution Control Agency rules.

(B) Waste generated on any premises shall be kept in containers designed for waste collection and stored in a structure or within an enclosed or screened area.

(C) The accumulation, storage, processing or disposal of waste, compost or recyclable materials on any premises, which is not generated on that premises, is prohibited, except as specifically provided in this chapter.  
(Ord. 643, passed 5-18-2005) Penalty, see § 10.99

**§ 156.071 RADIATION AND ELECTRICAL EMISSIONS.**

(A) No activities shall be permitted that emit dangerous radioactivity beyond enclosed areas.

(B) There shall be no electrical disturbance (except from domestic household appliances) adversely affecting the operation at any point of any equipment including but not limited to radio and television reception other than that of the creator of the disturbance.  
(Ord. 643, passed 5-18-2005) Penalty, see § 10.99

**§ 156.072 TRAFFIC CONTROL.**

(A) The traffic generated by any use shall be channeled and controlled in a manner that will not contribute to congestion on public streets, safety hazards and excessive traffic through residential areas.

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(B) Traffic into and out of all commercial and industrial uses and areas shall in all cases be forward moving with no backing onto streets or pedestrian ways.

(C) No access drive to any lot shall be located within 30 feet of any 2 intersecting street right-of-way lines.

(Ord. 643, passed 5-18-2005) Penalty, see § 10.99

### **§ 156.073 DRAINAGE.**

(A) No land shall be developed in a way and no use shall be permitted that results in flooding or erosion affecting adjacent properties.

(B) Runoff shall be properly channeled into a storm sewer, water course, ponding area or other suitable facility approved by the city.

(Ord. 643, passed 5-18-2005) Penalty, see § 10.99

### **§ 156.074 LAND SLOPE.**

No building or structure shall be constructed on slopes of 18% or more in grade.

(Ord. 643, passed 5-18-2005) Penalty, see § 10.99

### **§ 156.075 OUTSIDE STORAGE.**

(A) In all districts except I/C, all material and equipment shall be stored within a building or be fully screened (see § 156.076 below) so as not to be visible from adjoining properties, except the following:

(1) Construction and landscaping materials and equipment temporarily being used on the premises;

(2) Agricultural equipment and materials if these are being used or intended for use on the premises;

(3) Recreational vehicles, boats, equipment and the like;

(4) Public recreational equipment and facilities;

(5) Off-street parking facilities except as otherwise herein regulated and except in residential districts where any off-street parking area containing over 6 spaces shall be screened in accordance with § 156.076 below;

(6) In commercial and industrial/commercial districts, merchandise of the type customarily displayed outdoors for retail sale may be so displayed beyond the principal structure without screening

provided that in no event shall the outside display area exceed 100% of the ground floor area of the principal structure;

(7) Auto repair shops shall store no more than 6 disabled vehicles outside of a building or structure. A disabled vehicle shall be maintained on the premises for no longer than 6 months; and

(8) Vehicle/equipment impound lot for the purpose of storing items that may have been towed or placed therein due to legal police action or criminal activities.

(B) In the I/C District outside storage screening or enclosure is required within 1 year from the adoption of this chapter in cases where industrial uses are adjacent to or across the street from property zoned or developed for residential or public use.

(C) Outdoor secure self-storage incidental to self-storage in I/C District.

(1) The storage of any toxic, corrosive, flammable, or hazardous materials is prohibited.

(2) Other than the storage of licensed operational vehicles, licensed operational recreational vehicles, and licensed utility trailers, all storage and accessory uses shall be contained within a building.

(Ord. 643, passed 5-18-2005; Am. Ord. 731, passed 9-5-2012)

#### **§ 156.076 SCREENING.**

(A) The screening of outside storage and on site parking areas required herein shall consist of a solid fence or wall at least 75% opaque and not less than 6 feet or more than 8 feet in height.

(B) A like screen wall or fence shall be designed and constructed as to be architecturally harmonious with the principal structure and located so as to not extend within 15 feet of any street.

(C) Landscaping (trees, shrubs, grass and other planting) shall be on the right-of-way side of any screening or fencing.

(D) A screen planting may be substituted for a screen wall or fence at the discretion of the city, provided that any like screen planting shall fulfill the foregoing height and opacity requirements throughout each season of the year within 24 months after date of planting, and that no like screen planting shall be located across any existing easements.

(Ord. 643, passed 5-18-2005) Penalty, see § 10.99

#### **§ 156.077 FENCES.**

(A) As used in this section, the terms **FENCES** and **WALLS** refer to structures erected for the purpose of enclosing a lot, yard, or a portion thereof; fences and walls do not include:

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- (1) Retaining walls;
- (2) Decorative or landscaping walls that are 2 feet or less in height.

(B) As used in this section, the terms **FENCES** and **WALLS** refer to structures erected for the purpose of enclosing a lot, a yard, or a portion thereof, retaining walls, and decorative or landscaping walls. A wall, fence or hedge may occupy part of the required front, side or rear yard.

(1) Fences and walls are permitted in all use districts, subject to the provisions of these regulations.

- (2) No fence or wall shall be constructed without a permit from the Zoning Officer.

(C) *Fence and wall height.*

(1) Fences and walls located within the front yard of a lot in a residential district shall not exceed a height of 3 feet.

(2) Fences and walls located within the rear or side yard of a lot in a residential district shall not exceed a height of 6 feet except when located within a sight triangle where the height is limited to 3 feet.

(3) Fences and walls located in all other use districts shall not exceed a height of 8 feet, unless a higher fence is approved as part of a conditional use permit allowing the use.

- (4) If 2 different zones abut, the higher fence or wall requirements shall apply.

(5) All heights shall be measured from the natural level of the ground, immediately below where the fence will be installed. For purposes of this section, **NATURAL GROUND** shall be defined as the top of the earth after the finish grading of the lot per the approved site plan or certificate of survey. Minor depressions or hills that do not exceed 1 foot change in elevation from the adjacent ground outside of the depressions or hills that are less than 10 feet in length along the line of the fence from edge to edge shall not be considered when measuring the height of the fence from the ground. Fences installed on a slope shall run parallel to the slope.

- (6) For purposes of this section, front yard is the area forward of the front plane of the house.

(D) *Fence materials.*

(1) Fences shall be constructed of wood, metal, plastic, or other durable material. All wooden fences, other than those constructed out of redwood or cedar, shall be stained or painted on both sides. Metal fences shall be made of non-rusting material or treated to prevent rust.

- (2) The use of creosote lumber as fencing or wall material is prohibited.

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(3) The use of chicken wire, cattle panels, wire mesh, or other non-durable, plastic or metal products as fencing or wall material is prohibited.

(4) Fences shall not be constructed of hazardous materials that could affect the health and/or safety of the general public.

(5) Barbed wire and electrical fences are prohibited, except as follows:

(a) Properties actively used for agricultural operations may install barbed wire or electrical fences;

(b) Security fences and walls in commercial and industrial districts may be topped with a barbed wire fence not exceeding 2 feet in height.

(E) *General fence and wall standards.*

(1) Fences and walls shall be constructed at least 3 feet inside the property line.

(2) That side of any fence or wall considered to be its finished side (i.e., the side having no structural supports) shall front abutting property.

(3) No fence or wall shall be constructed that is approximately parallel to an existing fence and creates an area between the fences or walls that has limited accessibility for purposes of maintenance.

(4) All fences and walls shall be maintained in a safe condition. The landowner of the property on which the fence or wall is located shall be responsible for the maintenance and repair of the structure.

(5) No fence or wall may be constructed or maintained in a location that obstructs the ability of a driver of a motor vehicle to see another motor vehicle or pedestrian on any street or alley or sidewalk.

(6) Fences and walls are prohibited, and shall not be permitted, within the flood plain district.

(7) In residential districts, fences and walls in the front yard shall be constructed with an opacity or opaqueness of less than 50%.

(F) *Fences and walls within easements.*

(1) Fences and walls are prohibited, and shall not be maintained, on or in an easement, except by written permit granted pursuant to the following procedures:

(a) The landowner, together with the landowner's permit application, shall submit a written request describing the easement to be affected;

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(b) The Zoning Officer shall refer the permit application and request to the Public Works Director and Public Utilities Superintendent for review and recommendations;

(c) Based upon the recommendations of the Public Works Director and Public Utilities Superintendent, the Zoning Officer shall approve or deny the request;

(d) Any approval must be accompanied by specific conditions or modifications to the original request as deemed appropriate to protect the city's easement interests; the permit must contain the specific conditions stated in the approval.

(2) If the request for the fence or wall is approved:

(a) The city retains the right to require the landowner to remove or abate the fence or wall where the fence or wall interferes in any manner with the city's use of the easement;

(b) If there is an emergency necessitating immediate access to the easement, the city reserves the right to remove the fence or wall to obtain access to the easement;

(c) The landowner shall bear all costs for removal of the fence or wall in the event the landowner is required to remove the fence or wall for access to the easement, or in the event the city removes the fence or wall in the case of an emergency;

(d) The landowner shall be responsible for, and bear all the costs of, restoration of the fence or wall in the event the landowner is required to remove the fence or wall for access to the easement, or in the event the city removes the fence or wall in the case of an emergency.

(3) If the request for the fence or wall is approved, the city specifically reserves all rights of an easement holder afforded under the common law of the State of Minnesota. (Ord. 643, passed 5-18-2005; Am. Ord. 668, passed 11-5-2008; Am. Ord. 7-21-2010; Am. Ord. 700, passed 11-3-2010; Am. Ord. 705, passed 4-20-2011) Penalty, see § 10.99

### **§ 156.078 LOT MAINTENANCE.**

All lots with grass, hedges, landscaping or other lawn flora (including clippings, trimmings, fallen leaves and the like) must be maintained so as to not protrude onto public rights-of-way.

(A) All open areas of a site not occupied by building, parking, walkway or other permitted structures or storage shall be grass or approved ground cover. Ground cover shall be planted as to present a finished appearance and reasonably complete coverage within 8 months after issuance of Certificate of Occupancy.

(B) The property owner shall be responsible for replacing and/or removing dead trees, shrubs, ground covers and sodding. If any plant materials are not maintained, the city shall maintain the plant

materials and assess the costs against the property.

(Ord. 643, passed 5-18-2005; Am. Ord. 661, passed 9-19-2007) Penalty, see § 10.99

### § 156.079 SOIL EROSION AND SEDIMENTATION CONTROL.

(A) All land in the city must be maintained in a condition so that storm water and snow melt running off the land will not cause soil sediment to be transported into a storm sewer, drainage course, wetland or lake.

(B) Before grading or construction an erosion control fence must be placed and maintained down gradient from the disturbed surface to filter sediment out of runoff before the runoff enters storm sewers, drainage courses, wetlands or lakes.

(C) This fencing must remain in place until all development activities that may cause soil erosion have been finished and adequate vegetative cover has been established.

(D) Vegetative cover shall be established promptly after earth filling or removal activities are completed.

(E) The publication *Protecting Water Quality in Urban Areas* (Minnesota Pollution Control Agency-March 1, 2000) describes the proper method of installing an erosion control fence as well as other techniques that may, with the approval of the Zoning Administrator, be used in lieu of the installation of erosion control fencing to ensure that sediment is filtered or settled out of runoff before it enters storm sewers, drainage courses, wetlands or lakes.

(F) A national pollution discharge effluent standard (NPDES) permit from the Minnesota Pollution Control Agency is required for construction activity that disturb more than 1 acre of land either as a separate project or as part of a larger common plan of development.

(G) The application for the NPDES/SDS permit must include a storm water pollution prevention plan (SWPPP).

(Ord. 643, passed 5-18-2005)

### § 156.080 SIGNS.

(A) *General requirements.* The total height from sea level (NGVD 1988) to the top of the sign is not to exceed 1,305 feet and where the maximum height of the sign is not to exceed 75 feet from the natural ground within the sign overlay district.

(B) *Prohibited signs.* The following are prohibited in the city:

(1) Signs within the public right-of-way or on city property, except with city approval for a specified time;



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(2) Signs painted, attached or in any manner affixed to trees, rocks or similar natural surfaces or to light poles or structural support posts;

(3) Signs painted directly onto the roof or the sides of a building;

(4) Signs which interfere with the ability of vehicle operators or pedestrians to see traffic signals, or which impede the vision of traffic by vehicle operators or pedestrians; and

(5) Signs that obstruct any window, door, fire escape or opening intended to provide entry or exit to any structure or building or public right-of-way.

### *(C) Temporary signs.*

(1) Campaign signs posted by bona fide candidates for political office or by a person or group promoting a political issue for a candidate may be placed in any district subject to the requirements of the district.

(a) Campaign signs of any size may be posted from August 1 in a state general election year until 3 days following the state general election.



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(b) No campaign sign shall be posted in any publicly-owned property or public right-of-way.

(c) Campaign signs posted on any publicly-owned property or public right-of-way may be removed by the city and destroyed.

(2) Temporary banners, pennants and portable signs announcing the grand opening of business establishments or special events may be displayed on a property for no more than 10 consecutive days at a time, no more than 2 times per calendar year and shall be removed within 3 days after the opening or event.

(3) One temporary identification sign setting forth the name of the project, architect, engineers, contractors, planners and financing agencies may be installed at a construction site in any district for the period of construction. The sign area of a temporary identification sign shall not exceed 35 square feet.

(4) Temporary real estate sign per street frontage may be erected for the purpose of advertising availability for lease or sale of the property upon which it is placed.

(a) Only 1 like sign shall be permitted per street frontage.

(b) The sign shall be removed within 3 days following lease or sale and the maximum size of the signs for each district is as follows:

1. Residential Districts: 10 square feet;
2. Residential/Commercial District: 15 square feet;
3. Commercial Districts: 25 square feet; and
4. Industrial/Commercial District: 32 square feet.

(5) Temporary real estate advertising signs may be erected for the purpose of selling or promoting a residential project of 5 or more dwelling units or any new residential project provided:

- (a) The sign shall not exceed 50 square feet in area or 10 feet in height;
- (b) The signs shall not exceed 2 in number nor be spaced more than 500 feet apart;
- (c) The signs shall be removed when the project is 75% sold, or leased; and

(d) The signs shall be located no closer than 150 feet to an existing residential dwelling unit outside the project.

(D) *Off-premise signs.*

(1) City identification signs, not exceeding 500 square feet in area or 15 feet in height, are permitted at major highway entrances to the city.

(2) Off premise advertising signs are prohibited in all districts.

(3) Off premise directional signs for public and institutional uses are permitted in all districts provided the signs shall not exceed 6 square feet in area, 6 feet in height and are not located in an area that creates a traffic hazard or obstruction.

(E) *District regulations.* In addition to those signs permitted in all districts, signs as herein designated shall be permitted in each specified district and shall conform as to size, location and character according to the requirements herein set forth.

(1) *General.*

(a) Illuminated signs are permitted in all districts except residential districts. All illuminated signs shall have a shielded light source.

(b) Attached roof signs shall be permitted only in the C-2 and I/C Districts as wall signs and shall be an integral part of the structure. These roof signs shall not project over the roofline of the buildings to which they are attached.

(c) Canopies and marquees shall be considered an integral part of the structure to which they are attached and shall be considered a wall sign. One sign may be permitted on a canopy or marquee.

(d) A comprehensive sign plan is required at the time of Planning Commission review of any proposed commercial or industrial development. The plan shall indicate the location, size, height, color, lighting and orientation of all proposed signs and shall be submitted for approval pursuant to the regulations of the city.

(2) *Signs in Residential Districts.* Within the Residential Districts the following signs are permitted:

(a) Name plate signs: One sign not to exceed 2 square feet in area for each single-family detached dwelling or 6 square feet in area for each multiple-family building. The nameplate shall indicate only name and address;

(b) Institutional, recreation and quasi-public signs: One sign or bulletin board per street frontage for each permitted or conditional use in the district, provided the sign shall not exceed 24 square feet in area and shall not be placed closer than 10 feet to any street right-of-way and shall not exceed 10 feet in height;

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(c) Area identification sign: One sign for each entrance to a residential development consisting of at least 5 dwelling units, provided the sign is not placed within 10 feet of any street right-of-way, is not in excess of 10 feet in height and is not more than 32 square feet in area; and

(d) Signage for home occupations as per § 156.013.

(3) *Signs in the R/C Residential/Commercial and C-1 Central Business District.* Within the R/C and C-1 Districts the following signs are permitted:

(a) Wall signs: Wall signs are permitted provided the signs do not exceed 15% of the wall area;

(b) Free-standing signs: One free-standing sign with no more than 2 sides per street frontage provided the sign does not exceed 100 square feet in area on each side and 25 feet in height; and

(c) Area identification signs: One area identification sign is permitted per street frontage provided the sign does not exceed 64 square feet in area and 20 feet in height.

(4) *Signs in the C-2 General Commerce and I/C Industrial/Commercial Districts:* Within the General Commerce and Industrial/Commercial Districts the following signs are permitted:

(a) Wall signs: Wall signs are permitted provided the signs do not exceed 15% of the wall area;

(b) Free-standing signs: One free-standing sign with no more than 2 sides per street frontage provided the sign does not exceed 250 square feet in area on each side and 45 feet in height and is not placed within 10 feet of any street right-of-way; and

(c) Area identification signs: One area identification sign is permitted per street frontage per commercial development provided sign does not exceed 64 square feet in area and 20 feet in height and is not placed within 10 feet of any street right-of-way.

(F) *Dynamic signs.*

(1) *Regulations.* Dynamic displays on signs are allowed subject to the following conditions:

(a) Dynamic displays are allowed only on freestanding signs for churches, schools and other institutional uses located in residential districts. They are allowed on wall signs and freestanding signs in all other zoning districts.

(b) Signs less than 200 square feet: Dynamic displays may occupy no more than 40% of the sign area, up to a maximum of 40 square feet. The remainder of the sign must not have the capability for dynamic displays. Only 1, contiguous dynamic display area is allowed on a sign face. The message shall change no more frequently than once every 6 seconds.

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(c) Signs greater than 200 square feet: dynamic display may occupy up to 100% of the sign area and may change messages no more frequently than once every 5 minutes. Changes between messages must be achieved by instantaneous re-pixelization.

(d) Flashing dynamic displays are prohibited.

(e) Dynamic displays must be designed and equipped to freeze the device in 1 position if a malfunction occurs. The displays must also be equipped with a means to immediately discontinue the display if it malfunctions, and the sign owner must immediately stop the dynamic display when notified by the city that it is not complying with the standards of this chapter.

(f) Dynamic displays must comply with the brightness standards:

1. No sign may be brighter than is necessary for clear and adequate visibility.

2. No sign may be of such intensity or brilliance as to impair the vision of a motor vehicle driver with average eyesight or to otherwise interfere with the driver's operation of a motor vehicle.

3. No sign may be of such intensity or brilliance that it interferes with the effectiveness of an official traffic sign, device or signal.

(g) Dynamic displays existing on the effective date of this chapter must comply with the operational standards listed above. An existing dynamic display that does not meet the structural requirements in § 156.080(D)(1)(f)2. and (D)(1)(f)3. above may continue as a non-conforming use;

(h) Audio speakers or any form of pyrotechnics are prohibited in association with the dynamic display;

(i) Video display signs must be wall signs and may be a maximum of 8 square feet. Definition of video display signs, a sign that changes its message or background in a manner or method of display characterized by motion or pictorial imagery, which may or may not include text and depicts action or a special effect to imitate movement, the presentation of pictorials or graphics displayed in a progression of frames which give the illusion of motion, including but not limited to the illusion of moving objects, moving patterns or bands of light, or expanding or contracting shapes, not including electronic changeable copy signs. Video display signs include projected images or messages with these characteristics onto building or other objects

(j) One dynamic display sign is allowed per parcel.

(k) Unless permitted as an off-premise sign no dynamic sign will display messages or images of off-premise advertising.

(l) The images and messages displayed must be complete in themselves, without continuation in content to the next image or message or to any other sign. Signs existing on the effective

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date of this chapter that utilize this technique may continue as a non-conforming use until the sign is replaced or, if feasible, be reprogrammed to conform to this section.

(G) *Off-premise commercial directional signs.*

(1) *Purpose.* This sign ordinance is intended to establish a comprehensive and balanced system of sign control that accommodates the need for a well-maintained, safe, and attractive community, and to accommodate the business community's need for effective communication and identification. It is the intent of this division (G) to promote the health, safety, general welfare, and desirable community image through the regulation of the type, placement, and physical dimensions of signs. Also that adjacent property values need to be respected and upheld by not drawing negative attention through improper signage.

(2) *Definitions.* For the purpose of this division (G), the following definition shall apply unless the context clearly indicates or requires a different meaning.

**OFF PREMISE COMMERCIAL DIRECTIONAL SIGNS.** A sign, generally informational, that has a purpose secondary to the use of the property upon which it is located, intended to facilitate the movement of pedestrians and vehicles to a commercial business not readily visible from the street. The primary purpose of such sign shall be to assist visitors to a facility, or to find it once they are in the area.

(3) *Performance standards.* The following regulations shall be applicable to all off premise directional signs. Any sign not specifically allowed is prohibited.

(a) Off premise directional signs are limited in wording to include only the name of the organization or business, and/or logo, the distance to same and a directional arrow. Organizations and business utilizing off premise commercial directional signage are limited to permitted or conditional uses currently operating within the existing R-C (Residential-Commercial) zoning district. Each sign may include a maximum of 2 businesses.

(b) Signs shall be limited to property with frontage along Main Street South (US Hwy 71) between 5th Street South and 8th Street South.

(c) Signs for a single business or organization shall be a maximum of 3 square feet in area. A sign for 2 businesses or organizations shall be a maximum of 6 square feet in area. Signs shall be mounted on an approved sign standard. The top of the sign shall not exceed 8 feet in height from the ground. Signs may be double sided, free standing signs only. No directional signs shall be allowed to be attached to a structure.

(d) No 2 signs that meet the definition shall be located closer together than 300 feet.

(e) There shall be no more than 1 off premise commercial directional sign permitted for each business or organization. A maximum of 2 commercial business or organizations may share 1 sign.

(f) A permit shall be required for all signs. The permit shall give the exact location of the sign, height and the name of the organization or business to be designated on the sign. The permit must be signed by the applicant and the owner of record of the property on which the sign will be located. Not more than 1 sign is permitted per parcel of record.

(g) Signs shall have a minimum 10-foot setback from all property lines. Sign shall be non-illuminated and located outside of any sight triangle. The applicant shall be required to furnish all information deemed necessary by the Zoning Administrator for the proper approval of said permit. (Ord. 643, passed 5-18-2005; Am. Ord. 649, passed 12-20-2006; Am. Ord. 719, passed 3-21-2012; Am. Ord. 754, passed 1-21-2015)

#### **§ 156.081 DWELLING BELOW GROUND LEVEL.**

(A) Earth-sheltered dwellings, meaning residential structures constructed so that 50% or more of the exterior surface area of the building excluding garages and accessory buildings is covered with earth and all applicable codes and ordinances including the International Building Code are satisfied, are permitted pursuant to applicable regulations of this chapter.

(B) Partially completed buildings shall not be considered earth sheltered.  
(Ord. 643, passed 5-18-2005)

#### **§ 156.082 MANUFACTURED HOME PARKS.**

Manufactured home parks shall meet the following general requirements in addition to specific conditions attached to approval of a conditional use permit for a particular manufactured home park:

(A) (1) At least 6% of the total site of a manufactured home park shall be reserved for common, usable open space, for the exclusive use of residents and be maintained by the proprietor or operator of the manufactured home park.

(2) The open space and its improvements shall be completed before any manufactured home site is offered for occupancy;

(B) (1) A 10-foot wide landscaped strip shall be provided and maintained around the perimeter of the manufactured home park.

(2) Each manufactured home site shall be provided with at least 1 tree.



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(3) All unpaved areas shall be sodded or seeded;

(C) A conditional use permit application for a manufactured home park shall be accompanied by the same data, map and information required for other plats or subdivisions within the city and any data required by the State Board of Health for licensing of manufactured home parks;

(D) Commercial sales and/or commercial storage of mobile homes shall be prohibited in a manufactured home park;

(E) Paved private streets serving the manufactured home park shall be of sufficient width to provide for 2 lanes of traffic and for parking on each side of the street, unless off-street parking is provided;

(F) Each manufactured home park shall provide a storm shelter with sufficient space to accommodate all of its residents;

(G) Each manufactured home within a manufactured home park shall be on a permanent foundation or be completely enclosed between the perimeter of the manufactured home and the ground; and

(H) Each manufactured home within a new or expanded manufactured home park shall be located at least 20 feet from the nearest adjacent manufactured home.  
(Ord. 643, passed 5-18-2005; Am. Ord. 661, passed 9-19-2007)

### **§ 156.083 TELECOMMUNICATION FACILITIES.**

(A) *Purpose.* In order to accommodate the telecommunication needs of residents and businesses while protecting the public health, safety and general welfare of the community, the city finds that these regulations are necessary in order to:

(1) Facilitate the provision of telecommunication services to residents and businesses of the community;

(2) Maximize the use of existing and approved towers and buildings in order to reduce the number of new towers necessary in order to provide telecommunication services to the community;

(3) Ensure that telecommunication towers are designed, sited and constructed in accordance with all applicable code requirements; and

(4) Require towers, their antennas and base stations to blend the facilities within the surrounding natural setting and built environment to the extent possible as determined by the city staff.

(B) *District regulations.*

(1) Telecommunication antennas are permitted in any zoning district providing they are no more than 10 feet higher than the structure to which they are attached and providing building materials, colors, textures, screening and landscaping that effectively blend the facilities within the surrounding natural setting and built environment are utilized.

(2) Telecommunication amateur facilities are permitted in any zoning district provided that the tower (including all attachments) associated with a like facility shall be no more than 70 feet high and setback as follows:

(a) In Residential and C-1 Districts at least the height of the tower from lot lines; and

(b) In C-2 and I/C Districts at least the height of the tower from any residential structures located on surrounding parcels.

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(3) Telecommunication towers are conditional uses in the following C-2 and I/C Districts of the city, subject to the following height and setback requirements:

(a) In C-2 District towers (including all attachments) shall be no more than 200 feet in height and shall be set back at least the height of the tower from any residential structure located on surrounding parcels; and

(b) In I/C Districts towers (including all attachments) shall be no more than 250 feet in height and shall be set back at least the height of the tower from any residential structure located on surrounding parcels.

(C) *Performance standards.*

(1) A conditional use permit for a new telecommunications tower shall not be approved unless the applicant shows that the communications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building within the area where the proposed tower is proposed due to 1 or more of the following reasons:

(a) The planned equipment would exceed the structural capacity of the existing or approved tower or building, as documented by a qualified and licensed professional engineer, and the existing or approved tower cannot be reinforced or modified to accommodate planned equipment at a reasonable cost;

(b) The planned equipment would cause interference with other existing or planned equipment at the tower or building as documented by a qualified radio frequency engineer, and the interference cannot be prevented at a reasonable cost;

(c) No existing or approved towers or commercial/industrial buildings within the area meet the radio frequency design criteria;

(d) Existing or approved towers and commercial/industrial buildings within the area cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified radio frequency engineer; and/or

(e) The existing structure is not made available by the owner on reasonable terms.

(2) All towers erected, constructed or located within the city shall comply with the following requirements:

(a) Monopoles are the preferred tower design. However, the city will consider alternative tower types in cases where structural, radio frequency design considerations, and/or the number of tenants required by the city preclude the use of a monopole;

(b) Towers, their antennas and base stations shall comply with all applicable provisions of this chapter;

(c) Towers shall be certified by a qualified and licensed professional engineer to conform to the latest structural standards of the uniform building code and all other applicable reviewing agencies;

(d) Towers, their antennas and base stations shall comply with all applicable provisions of the electrical code;

(e) Metal towers shall be constructed of, or treated with, corrosive resistant material;

(f) Towers shall be designed, structurally, electrically and in all respects, to accommodate both the applicant's antennas and comparable panel antennas for at least 1 additional multiple antenna user.

1. Except in residential districts the height restrictions applicable to each tower shall be increased by 25 feet for each additional antenna the tower is designed to accommodate.

2. To allow for future rearrangement of antennas upon the tower, the tower shall be designed to accept antennas mounted at no less than 10-foot intervals;

(g) All towers shall be reasonably protected against unauthorized climbing;

(h) No advertising or identification of any kind intended to be visible from the ground or other structures is permitted, except applicable warning and equipment information signage required by the manufacturer or by federal, state or local authorities;

(i) Towers shall not be illuminated by artificial means, unless the illumination is specifically required by the Federal Aviation Administration or other authority;

(j) No part of any antenna or tower, nor any lines, cable, equipment, wires or braces shall at any time extend across or over any part of the right-of-way, public street, highway or sidewalk, without approval by the city; and

(k) All unused towers shall be removed within 12 months of the cessation of operations unless a time extension is approved by the city.

1. If a time extension is not approved, the tower may be deemed a nuisance pursuant to M.S. § 463.15, as it may be amended from time to time.

2. In the event a tower is determined to be a nuisance, the city may act to abate the nuisance and require the removal of the tower at the property owner's expense.

3. In the case of multiple operators sharing the use of a single tower, this provision shall not become effective until all users cease operations for a period of 12 consecutive months.

(D) *Submittal requirements for building permits.*

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(1) Building permits shall be required for all telecommunication antennas and towers.

(2) In addition to the submittal requirements required elsewhere in this chapter, applications for building permits for telecommunication towers and antennas shall be accompanied by the following information:

(a) For telecommunication towers by a report from a qualified and licensed professional engineer which does the following:

1. Describes the tower height and design including a cross section and elevation;
2. Demonstrates the tower's compliance with the aforementioned structural and electrical standards;
3. Documents the height above grade for all potential mounting positions for co-located antennas and the minimum separation distances between antennas; and  
+
4. Describes the tower's capacity, including the number and type of antennas that it can accommodate.

(b) For telecommunication antennas mounted on an existing structure by the following information:

1. A drawing showing the location of the proposed antennas and base stations on the structure and documenting that the request meets the requirements of this chapter;
2. A building plan showing the construction of the antennas, the proposed method of attaching them to the existing structure and documenting that the request meets the requirements of this chapter; and
3. A report prepared by a qualified and licensed professional engineer indicating the existing structure's ability to support the antennas.  
(Ord. 643, passed 5-18-2005) Penalty, see § 10.99

### **§ 156.084 SEXUALLY ORIENTED BUSINESSES: LIMITED AND/OR HIGH IMPACT.**

Limited impact and/or high impact sexually oriented businesses must be located on parcels that are at least the following distances from the following parcels of land as measured by a straight line:

- (A) At least 350 feet from parcels of land zoned residential or used for residential purposes;

(B) At least 350 feet from parcels of land used for educational or recreational purposes, frequented by children or designed as a family destination, such as a day care facility, school, library, museum, park, playground, nature center, trail, camp, fairground, religious institution and public recreational facility; and

(C) At least 700 feet from another parcel of land used by another limited and/or high impact sexually oriented business.

(Ord. 643, passed 5-18-2005) Penalty, see § 10.99

### **§ 156.085 EARTH REMOVAL AND EARTH FILLING.**

(A) (1) Earth removal, earth filling, and storage of earth removed on-site or being used for filling on-site, shall be permitted in all zoning districts, on any lot or parcel except that it shall be unlawful for any person to remove, store, excavate or place as fill any rock, sand, dirt, gravel, clay or other like material within the city.

(2) The removal or filling of 5,000 or more cubic yards of material on any lot or parcel shall require a conditional use permit except for all municipal projects or activities.

(B) Conditions or restrictions that the city deems necessary for the preservation of health, welfare and safety of the citizens, including time limits, may be attached to permits or conditional use permits for earth removal, earth filling or earth storage.

(C) Earth removal and earth filling activities are subject to the requirements of § 156.079 above. (Ord. 643, passed 5-18-2005) Penalty, see § 10.99

### **§ 156.086 CONSTRUCTION MATERIALS.**

(A) Single-family dwelling roofs shall be shingled with asphalt, wood, tiles, metal (with concealed fasteners) or other comparable materials that comply with the applicable provisions of the Building Code.

(B) Single-family dwellings, garages and accessory structures over 120 square feet of floor space or over 120 square feet of roof and roof over hang shall be constructed of materials similar in quality and appearance to that of the main dwelling structure on the lot.

(C) Within all residential districts, galvanized sheet metal, corrugated sheet metal, asbestos and iron whether or not they are colored shall not be used as a major exterior wall covering on buildings over 120 square feet of floor space or over 120 square feet of roof and roof over hang.

(D) Horizontal steel siding having a width not exceeding 10 inches, if it is affixed without exposed fasteners, is allowed.

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(E) (1) Within C-1 and C-2 Zoning Districts, the front and street side of the structure shall have a facade of brick, stucco, decorative, stone, decorative block, 29 gauge or thicker dent-free metal with a factory-color finish; or the equivalent as determined and approved in writing in advance by the Planning Commission/and or planning and zoning staff.

(2) A combination of any of the above referenced construction materials is permitted.

(F) Within all zoning districts of the city, buildings constructed of canvas, fabric or straw shall not be permitted.

(Ord. 643, passed 5-18-2005; Am. Ord. 646, passed 4-5-2006)

### **§ 156.087 SWIMMING POOLS AND SPAS.**

(A) *Location.* Residential swimming pools and spas shall be located as follows:

- (1) No less than 10 feet from any side or rear lot line;
- (2) Not in any required front yard; and
- (3) Not under an overhead utility line or over an underground utility line.

(B) *Fencing.* Residential swimming pools and spas shall comply with the following fencing requirements:

(1) Shall be fenced during construction with a portable fence, such as a snow fence, of not less than 4 feet in height; and

(2) If outside of a building, to make impenetrable by toddlers, shall either have a latchable cover of suitable material or be completely enclosed by a minimum 4 feet high fence or wall and gate with self-closing and self-latching device and of a non-climbing type with no external handholds.

(C) *Permit.* No person shall construct or alter a residential swimming pool or a spa without a permit from the city.

(Ord. 643, passed 5-18-2005) Penalty, see § 10.99

### **§ 156.088 REGULATING WIND ENERGY CONVERSION SYSTEMS.**

(A) *Intent and purpose.* The purpose of this section is to establish standards and procedures by which the installation and operation of commercial and noncommercial wind energy conversion systems (WECS) shall be governed within the city while protecting the public health, safety and general welfare of the community.

(B) *Application.*

(1) These regulations apply to the location, size, use, design construction, operation, maintenance, appearance and removal of all WECS, windmills, wind turbines, wind generators, wind chargers or similar devices.

(2) Ornamental wind devices, not used for energy conversion, that are less than 24 feet in height and less than 120 square feet in horizontal area, are exempt from this section. All other applicable regulations in the City Code apply.

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

**COMMERCIAL WIND ENERGY CONVERSION SYSTEM (WECS).** A WECS of equal to or greater than 40kW in total nameplate generating capacity.

**FEEDER LINE.** A power line that carries electrical power from 1 or more wind turbines or individual transformers associated with individual wind turbines to the point of interconnection with the electrical power grid, in the case of interconnection with the high voltage transmission systems, the point of interconnection shall be the substation servicing the WECS.

**METEOROLOGICAL TOWER.** Towers erected to measure wind speed and direction plus other data relevant to siting WECS. Meteorological towers shall be regulated as commercial towers under § 156.083 (Telecommunication Facilities), as may be amended.

**NONCOMMERCIAL WECS.** A WECS of less than 40kW in total name plate generating capacity.

**ROTOR DIAMETER.** The diameter of the circle described by the moving rotor blades.

**WECS TOTAL HEIGHT.** The highest point above ground reached by a rotor tip or any other part of the WECS.

**WECS TOWER.** A vertical structure that supports an electrical generator, rotor blades and/or meteorological equipment used in the operation of a WECS.

**WECS TOWER HEIGHT.** The total height of the WECS exclusive of the rotor blades.

**WIND ENERGY CONVERSION SYSTEM (WECS).** An electrical generating facility comprised of 1 or more wind turbines and accessory facilities, including, but not limited to: power lines, transformers, substations and metrological towers, that operate by converting the kinetic energy of wind into electrical energy. The energy may be used on-site or distributed to the electrical grid.

**WIND TURBINE.** Any piece of electrical generating equipment that converts the kinetic energy of blowing wind into electrical energy through the use of airfoils or similar devices to capture the wind.



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(D) *Conditional use permit required.* The erection of a WECS, both commercial and noncommercial, shall require a conditional use permit, as prescribed by § 156.088 the additional provisions and standards as set forth in this section.

(E) *Location by district.* A WECS may be allowed by a conditional use permit as follows:

(1) Noncommercial WECS shall be allowed as a conditional use within the R-1, R-2, R-C, R-M, Ag Zoning Districts and Planned Residential Development Overlay; and

(2) Commercial WECS shall be allowed as a conditional use within the C-1, C-2, I-C, Ag Zoning Districts and in Planned Unit Development Existing (PUDE).

(F) *Application requirements.* All applications for a WECS conditional use permit shall be accompanied by a site plan drawn to scale and dimensioned displaying following:

(1) The names of project applicants and property owners;

(2) Project address and legal description;

(3) A description of the project including type, name plate generating capacity, tower height, rotor diameter and total height of all wind turbines and means of interconnecting with the feeder lines;

(4) Site layout, including the location of property lines, wind turbines, electrical grid and all related accessory structures. This site layout shall include distances and be drawn to scale;

(5) Certification by an engineer competent in disciplines of WECS of structure design, electrical design and fall zone;

(6) Location and height of all existing and proposed buildings, structures, above ground utilities and trees on the lot, including both existing and proposed structures and guy wire anchors;

(7) Location and height of all adjacent buildings, structures, aboveground utilities and trees located within 350 feet of the exterior boundaries of the property in question;

(8) Location of wetlands, scenic and natural areas within 1,320 feet (1/4 mile) of the proposed WECS(s);

(9) An elevation drawing of the premises accurately depicting the proposed WECS and its relationship to structures on the subject site and adjacent lots;

(10) A written statement or map describing how the proposed structure relates to existing arrival/departure corridors utilized by air ambulances;

(11) An Acoustical Analysis that certifies that the noise requirements as prescribed by the Minnesota Pollution Control Agency can be met;

(12) An FAA permit, if required;

(13) Location of and evidence that there will be no interference with any commercial and/or public safety communication towers within 2 miles of the proposed WECS; and

(14) A Decommissioning Plan: Each Commercial/Utility WECS shall have a Decommissioning Plan outlining the anticipated means and cost of removing WECS at the end of their serviceable life or upon being discontinued. The cost estimates shall be made by a competent party, such as a professional engineer, a contractor capable of decommissioning or a person with suitable expertise or experience with decommissioning. The Plan shall also identify the financial resources that will be available to pay for decommissioning and removal of the WECS and accessory facilities.

(G) *Performance standards.*

(1) No more than 1 WECS tower shall be permitted per parcel.

(2) A WECS shall not interfere with hospital heliport approach/departure corridors as defined by the Minnesota Department of Transportation.

(3) Setbacks.

(a) No part of a WECS (including guy wire anchors) shall be located within or above any required front, side or rear yard setback.

(b) WECS towers shall be setback from all property lines a total of 110% of the WECS total height.

(4) The permitted maximum height of a WECS shall be determined in 1 of 2 ways. In determining the height of the WECS, the total height of the system shall be included. System height shall be measured from the base of the tower to the highest possible extension of the rotor. The height of a WECS must also comply with Federal Aviation Administration and Airport Zoning Clear Zone Regulations.

(a) A ratio of 1 foot to 1 foot between the distance of the closest property line to the base of the WECS to the height of the system.

(b) A maximum system height of 175 feet.

(c) The shortest height of the 2 above-mentioned methods shall be used in determining the maximum allowable height of a WECS system.

(5) A WCES shall be designed with a monopole with or without guy wires. Lattice towers are prohibited.

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(6) Blade arcs created by the WECS shall have a minimum of 30 feet of clearance over any structure or tree.

(7) A WECS shall be equipped with both a manual and automatic braking device capable of stopping the WECS operation in high winds (40 miles per hour or greater).

(8) A WECS shall be grounded to protect against natural lightning strikes in conformance with the Electrical Code as adopted by the city.

(9) To prevent unauthorized climbing, WECS towers must comply with 1 of the following provisions:

(a) Tower climbing apparatus shall not be located within 12 feet of the ground;

(b) A locked anti-climb device shall be installed on the tower; and

(c) Towers capable of being climbed shall be enclosed by a locked, protective fence at least 6 feet high.

(10) A WECS shall have a sign posted at the base of the tower containing the following information: A high voltage warning, the manufacturer's name, an emergency phone number and emergency shutdown procedures.

(11) A WECS shall not have affixed or attached any lights, reflectors, flashers or any other illumination, except for illumination devices required by FAA regulations or as required by the city if within heliport arrival or departure corridors as defined by the Minnesota Department of Transportation.

(12) A WECS must comply with applicable FAA regulations.

(13) A WECS shall be designed and constructed so as not to cause radio and television interference.

(14) Noises emanating from the operation of WECS maintain compliance with Minnesota Pollution Control Standards.

(15) Applicant should conform to the latest Distributed Generation Interconnection Agreement and Tariff on file with Sauk Centre Public Utilities Commission (SCPUC). This agreement establishes technical requirements promoting the safe and reliable parallel operation of on-site generation resources. This is required by the state (M.S. § 216B.1611, as it may be amended from time to time) and has been adopted and set forth by SCPUC.

(16) Standard drawings of the structural components of the wind energy conversion system and support structures, including base and footings shall be provided along with engineering data and calculations to demonstrate compliance with the structural design provisions of the Building Code. Drawings and engineering calculations shall be certified by a Minnesota licensed engineer.

(17) WECS electrical equipment and connections shall be designed and installed in adherence to the Electrical Code.

(18) Rooftop mounted WECS are prohibited.

(19) All WECS towers shall be white, gray or another non-obtrusive color demonstrated to minimize visibility unless otherwise required by FAA regulations. All finishes shall be matte or non-reflective.

(20) If a WECS is not maintained in operational condition and poses a potential safety hazard, the owner shall take action within 30 days to correct the situation.

(21) Any WECS or tower which is not used for 12 successive months shall be deemed abandoned and shall be dismantled and removed from the property at the expense of the property owner.

(22) No advertising or identification of any kind intended to be visible from the ground or other structures is permitted, except applicable warning and equipment information signage required by the manufacturer or by federal, state or local authorities.

(Ord. 682, passed 11-18-2009)

#### § 156.089 OUTDOOR FURNACES.

(A) *Purpose and intent.*

(1) This section is intended to promote the public health, safety and welfare and to safeguard the health, comfort, living conditions, safety and welfare of the citizens of the City of Sauk Centre by regulating the air pollution and the fire hazards of outdoor fire boilers.

(2) No person shall install nor permit the installation of an outdoor solid fuel-fire heating devices (SFHD) except as permitted in conformance with this section.

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

**CLEAN WOOD.** Natural wood which had not been painted, varnished or coated with a similar material, has not been pressure treated with preservatives, and does not contain resins or glues as in plywood or other composite wood products.

**EXTERNAL SOLID FUEL HEATING DEVICE (SFHD).** A device designed for external solid fuel combustion so that usable heat is derived for the interior of a building and includes solid fuel-fire stoves, solid fuel-fired cooking stoves, and combination fuel furnaces or boilers which burn solid fuel. Traditional wood burning stoves and fireplaces are excluded from this section.

**PERSON.** An individual, partnership, corporation, company or other association.

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**REFUSE or GARBAGE.** Any waste material except trees, logs, bush, stumps, leaves, grass clippings, and other vegetative matter. This would include but not limited to: food wastes, food wraps, packaging, animal carcasses, paint or painted materials, furniture, composite shingles, construction or demolition debris, or other household or business wastes; asphalt and products containing asphalt; treated or painted wood including but not limited to plywood, composite wood products or other wood products that are painted, varnished or treated with preservatives; any plastic material including but not limited to nylon, PVC, ABS, polystyrene or urethane foam and synthetic fabrics, plastic films and plastic containers; rubber including tires and synthetic rubber-like products.

**STACK or CHIMNEY.** Any vertical structure incorporated into a building or upon a SFHD, enclosing a flue or flues that carry off smoke or exhaust from a SFHD, especially the part of such a structure extending above a roof.

**VERMIN.** Any small animal or bird with filthy, destructive, troublesome habits.

(C) *Application.* This section applies to any outdoor SFHD, as defined herein, within the City of Sauk Centre, except as follows:

(1) This section shall not apply to cooking or grilling appliances which use charcoal, wood, propane or natural gas used for grilling or cooking food outdoors;

(2) This section shall not apply to any stove, furnace, fireplace or other heating device located within a residence.

(D) *Performance standards.* An outdoor SFHD installed and in use prior to the date of enactment of this section is subject to the following requirements.

(1) The lawful use of any existing outdoor wood-burning unit or outdoor solid fuel-fired heating device existing at the time of the effective date of this section may be continued, although such use may not conform to the provision of this section.

(2) No pre-existing, non-conforming outdoor wood-burning unit or outdoor solid fuel-fired heating device shall hereafter be replaced, extended, or expanded except in conformance with this section.

(3) At such time the useful life of an outdoor wood-burning unit or outdoor solid fuel-fired heating device has elapsed or would need to be repaired to function properly, the unit cannot be replaced and must be abandoned, not used and removed from the property immediately.

(4) The existing outdoor SFHD must have an appropriate ventilating stack with a minimum stack height of 20 feet above ground level. A stack must be of masonry or insulated metal with a minimum 6-inch flue. A spark arrester screen is required. A stack must be constructed to withstand high winds or other related elements and according to the specifications of the manufacture of the SFHD.

(5) Buildings with less than 25 feet of open space between 2 or more structures shall have a minimum stack height of 3 feet over and above the roof of the adjacent buildings highest roof.

(6) Any outdoor SFHD, including its emissions in the form of smoke, cinders and ash, is subject to any nuisance ordinance maintained by the city.

(7) Only fuels designed for burning in the outdoor SFHD may be burned. No refuse or garbage may be burned in a SFHD.

(8) Ashes removed from a SFHD must be placed in a metal container equipped with a lid or cover.

(9) Fuel for the SFHD must be stored at least 4 feet away from the SFHD, and the area surrounding it kept clear of combustibles.

(10) Outdoor fuel storage is limited to 5 cords of wood; 1 cord is the amount of wood that can be stacked 4 feet high by 4 feet wide by 8 feet long. Other fuel sources are similarly limited to a volume not to exceed 4 feet high by 4 feet wide by 8 feet long. Any structures constructed to contain or store fuel for SFHD must be constructed in accordance with the applicable zoning regulations. External storage units allowed includes, outdoor storage that is kept in an orderly manner and kept more than 10 feet away from any property line, or interior storage within the residence or garage, or a free-standing storage shed. Any storage method must take steps to ensure the storage area is kept vermin free.

(11) No outdoor SFHD shall continue to be permitted, which is in violation of any division of this section, which is no longer in use, or which is unusable due to its operating condition.

(12) *Setbacks.* The outdoor SFHD shall be located no less than 150 feet from the nearest building which is not on the same property as the outdoor SFHD and which building is in existence before the installation of the outdoor SFHD. Further, the outdoor SFHD shall satisfy all applicable setbacks for an accessory building, as established by the City of Sauk Centre Zoning Ordinance as amended.

(13) A person utilizing or maintaining a SFHD shall be responsible for all fire suppression costs and any other liability resulting from damage caused by fire.

(E) *District regulations.* An outdoor SFHD shall be allowed within the Agricultural (A) and Residential Low and Medium Density (R-1) zoning districts as established by the City of Sauk Centre Zoning Ordinance, as amended.

(F) *Penalty.* In addition to the compliance provisions set forth in § 10.99 of this code, any person violating provisions of this section is guilty of a petty misdemeanor and subject to the maximum penalty as set forth by state statute, plus the costs of prosecution in any case.

(Ord. 709, passed 7-6-2011)

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### § 156.090 CARGO CONTAINERS.

(A) *Purpose and intent.* This section is intended to promote the public health, safety and welfare and to safeguard the health, comfort, and living conditions of the citizens of the city by regulating the installation and use of cargo containers and the like.

(B) *Application.* This chapter applies to any cargo containers, as defined herein, within the city. No person shall install nor permit the installation or use of cargo containers except as permitted in conformance with this section.

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

**CARGO CONTAINER.** An article of transport equipment which falls into any of the following categories:

A standardized, reusable vessel that is or appears to be:

(a) Originally, specifically or formerly designed for or used in the packing, shipping, movement, transportation or storage of freight, articles, goods or commodities; or

(b) Designed for or capable of being mounted or moved on a rail car; or

(c) Designed for or capable of being mounted on a chassis or bogie for movement by truck trailer or loaded on a ship.

(d) Includes equipment also referred to as PODS.

(e) Includes trailers intended for pulling behind a semi-tractor.

(f) Includes box van bodies.

**TEMPORARY USE.** A period of time that does not exceed 7 days.

(D) *District regulations.* Cargo containers shall be allowed within the Agricultural (A) and Industrial Commercial (I-C) zoning districts as established by the city zoning ordinance, as amended. Cargo containers are allowed as a temporary use only on any property otherwise zoned.

(E) *Permit required.* Prior to the installation of a cargo container, a zoning permit or a temporary use zoning permit must be acquired from the city. No more than 2 temporary use permits may be granted to any property within a calendar year.

(F) *Performance standards.* A cargo container installed after adoption of this section and those in use prior to the date of enactment of this section are subject to the following requirements.

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- (1) Cargo containers shall not be stacked or connected to another cargo container or any structure on the property.
- (2) Cargo containers shall be used only for storage of materials or commodities incidental to the primary use on the property and shall not be used for human habitation.
- (3) Cargo containers shall not be used for commercial retail purposes.
- (4) Cargo containers for rental to others must meet the following guidelines.
  - (a) Of the total rental units available, cargo containers shall not be greater than 25% of the total units when used as part of a self-storage facility;
  - (b) Cargo containers rented to others shall have non-insecticide treated wood and shall not be coated in lead paint;
  - (c) Cargo containers shall be placed on either:
    1. A level pad with concrete curbs under the front and back of the container;
    2. Poured concrete piers; or
    3. Slab on grade;
  - (d) Cargo containers shall be neutral in color and have an identification number. No stickers or advertising shall be allowed on the containers.
- (5) Cargo containers shall not be provided with refrigeration, heating, electricity or plumbing;
- (6) Refuse and debris shall not be stored in, against, on or under any cargo container;
- (7) A cargo container may not occupy any required off-street parking spaces or loading/unloading areas or fire lanes in any district;
- (8) Cargo containers shall not block, obstruct, or reduce in any manner any required exits, windows, vent shafts, parking spaces, access driveways or fire hydrants;
- (9) Cargo containers permitted as a temporary use shall be placed on asphalt or concrete surfaces and not on grassy areas;
- (10) Cargo containers must meet setback regulations and will be included in impervious surface calculations unless permitted as a temporary use;



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(11) Cargo containers shall not be placed upon any public right of way unless permitted in accordance with § 96.068; and

(12) Cargo containers must be structurally sound, stable and in good repair. Any container that becomes unsound, unstable or otherwise dangerous shall be immediately repaired or removed from the property. Any cargo container kept in disrepair shall be considered a public nuisance and may be removed by the city after due notice in accordance with city code.

(G) *Existing cargo containers.* All property owners within the city that have existing cargo containers shall have 90 days from the effective date of this section to bring any property that is not in compliance into full compliance with the provisions of this section.  
(Ord. 770, passed 4-19-2017)

### ***ADMINISTRATION AND ENFORCEMENT***

#### **§ 156.100 ZONING ADMINISTRATOR.**

The specific duties of the Zoning Administrator include:

(A) Providing zoning information upon request;

(B) Receiving applications for conditional use permits, variances, amendments and appeals, referring applications to the appropriate official body, notifying affected property owners of required public hearings and publishing notice of the hearings;

(C) Notifying applicants for conditional use permits, variances, amendments and appeals of actions taken by the official bodies relative to their applications;

(D) Conducting inspections to determine and assure compliance with ordinance provisions;

(E) Investigating violations, notifying persons accused of violations and describing the nature of those and initiating appropriate actions against violators as provided by law; and

(F) Maintaining permanent and current records of this chapter and the official zoning map, including but not limited to:

(1) Conditional use permits;

(2) Variances;

(3) Amendments;

(4) Appeals; and

(5) Applications.

(Ord. 643, passed 5-18-2005)

### **§ 156.101 PLANNING COMMISSION DUTIES IN ZONING ADMINISTRATION.**

Planning Commission duties in zoning administration shall be:

(A) (1) To hold public hearings on applications for amendments to and conditional use permits under this chapter.

(2) The Commission shall not have the authority to make amendments to or issue conditional use permits under this chapter; rather, it shall act in an advisory manner to the City Council making its recommendation in all cases referred to it; and

(B) To act as the Board of Appeals and Adjustments in considering applications for variances and appeals.

(Ord. 643, passed 5-18-2005)

### **§ 156.102 PERMITS.**

(A) *Building permits.*

(1) No person shall erect, alter, remodel, wreck or move any kind of a structure or building or part thereof without first securing a building permit as provided for by International Building Code or other applicable code or ordinances.

(2) Application for a building permit must be made on a building permit application form provided by the city.

(B) *Certificate of occupancy.* Hereafter no new building or addition shall be occupied other than for an essential service use of structure until a certificate of occupancy has been issued stating that the new occupancy complies with all applicable ordinances.

(C) *Application for building permit.* Each application for a building permit shall be accompanied by the following:

(1) Illustrations of structure location, dimensions and setbacks, and 3 sets of construction details;

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(2) A certificate of survey if foundation or enclosed rooftop area are added to a parcel of land. This requirement may be waived by the Zoning Administrator if 1 of the following conditions are met:

(a) The new structure is located on a lot with an existing structure and where the new structure is clearly further from the lot line than the existing structure with concurrence of the Zoning Administrator;

(b) There is an existing survey on file for the lot with existing known measuring points and a permitted structure exists on the lot;

(c) The structure is readily movable; and

(3) A permit fee and completed application form.

(D) *Expiration of building permit.*

(1) If the work authorized by any building permit has not begun within 180 days from the date of issuance thereof, and is not complete within 2 years, the permit shall expire.

(2) Written notice of the expiration thereof shall be given to the persons affected.

(E) *Zoning permits.*

(1) No person shall erect, alter, move or install fences, signs, fill, above ground swimming pools, sheds 120 square feet or less in size, or driveways, patios or any other impervious surface or structure without first securing a zoning permit from the Zoning Administrator. All impervious surfaces or structures shall meet current setbacks and be included in the lot coverage calculations.

(2) Zoning permits shall be valid for 1 year after which they shall become null and void. Time limits may be extended by the Zoning Administrator for good cause. A second extension shall be decided by the Planning Commission. Termination provisions of 1 year will also apply to currently issued permits and the 1 year would run from the date of the adoption of the amended ordinance.

(3) Granting of a zoning permit shall occur when all requirements of this section have been met, but shall not be considered a statement of compliance with regional, state or federal codes, statutes or laws or approval of the design of the structure or accessories, or description of the property. Subsequent actions of the Zoning Administrator shall not be considered acceptance of structural components with workmanship, but rather shall be for the purpose of determining general compliance with this section.

(F) *Moving permit.*

(1) A person must not move or cause to be moved, a building or structure, including a manufactured/mobile home, into, within, or out of the city without first obtaining a moving permit.

(2) Before a building or structure, excluding a manufactured/mobile home moving into the RM Zoning District, may be moved into or within the city, a permit must be granted by the City Council, following a public hearing and recommendation by the Planning Commission.

(3) A notice of the time and place of the public hearing shall be published in the official newspaper of the city at least 10 days prior to the date of the hearing. A similar notice shall be mailed at least 10 days before the date of the hearing to each owner of property situated within a radius of 350 feet of the property to which the building is proposed to be moved. Notice containing the same information shall be posted on the property to which the building is proposed to be moved not less than 10 days prior to the date of the hearing. A copy of the published notice, the posted notice, and a list of owners and addresses to whom notice was sent, shall be attested to by the responsible person and shall be made a part of the proceedings. Failure to receive mailed notice by individual property owners or defects in the notice shall not invalidate the proceedings, provided a bonafide attempt to comply with this provision has been made. The city may rely on current county real estate tax records for purposes of providing notice to property owners within the stated radius.

(4) Before a manufactured/mobile home may be moved into the RM Zoning District, a permit must be granted by the Zoning Administrator. The Zoning Administrator shall not issue a moving permit for a manufactured/mobile home that was manufactured more than 10 years prior to the year of the moving permit application.

(5) Before a building or structure, including a manufactured/mobile home may be moved out of the city, a permit must be issued by the Zoning Administrator.

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(6) Permits are not required for moving a residential accessory building which has a ground floor area that does not exceed 120 square feet.

(G) *Moving permit application.* An application for a moving permit must include the following where applicable:

(1) A certificate from the City Building Official that the building or structure meets the requirements of the State Building Code;

(2) The address, tax identification number, and legal description of the premises from which the building is to be moved in the city;

(3) The address, tax identification number, and legal description of the premises to which the building will be moved;

(4) A plot plan showing:

(a) The proposed location of the building on the premises to which the building will be moved;

(b) The proposed grade and elevation as it relates to adjacent lots;

(c) The proposed elevation of the first floor and finished height of the building; and

(d) All drainage and fill requirements;

(5) Photographs showing:

(a) All sides of the building or structure;

(b) The proposed building location; and

(c) One photograph of all adjacent lots and structures;

(6) A list of the highways, streets, and other property over which the building is proposed to be moved;

(7) The proposed moving date and hours;

(8) Evidence that all taxes, assessments, and other charges against the lots from which, and to which, the building is to be moved are currently paid;

(9) Evidence showing that the applicant is the owner of the building and is entitled to move the building;

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(10) The City Building Official inspection fee, as established by the City Council;

(11) The permit fee, as established by the City Council;

(12) A bond or certified check from the property owner in an amount established by the City Council payable to the city to ensure that:

(a) The city is reimbursed for the cost of removing and replacing electric wires, street lamps, and poles belonging to the city;

(b) The structure is properly removed from the former property;

(c) The structure is properly located on the proposed property and attached to the foundation by use of appropriate tie downs; and

(d) All work is performed in compliance with the permit, the State Building Code, and this section;

(13) The name, address and telephone number of the proposed building mover; and

(14) Any additional information requested by the city.

(H) *Permit issuance.*

(1) The Planning Commission may refuse to recommend, and the City Council may refuse to issue, a moving permit if it finds that 1 or more of the following situations exist:

(a) A requirement has not been met;

(b) The building is too large to move, or that no route is available that does not endanger persons or property, or that no route is available that does not seriously inconvenience traffic in the city. Limited vegetation trimming or removal may be allowed in the permit;

(c) The proposed route includes the use of private property, and no consent from the owner has been obtained;

(d) People or property in the city would be endangered by moving the building;

(e) The building is structurally unsafe or unfit for the purpose for which it is being moved, if the proposed location is in the city;

(f) The building is a manufactured/mobile home that was manufactured more than 10 years prior to the year of the moving permit application;

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(g) The proposed building mover's equipment is unsafe, and persons and property would be endangered by its use;

(h) The proposed building mover does not have a current license issued by the state under M.S. § 221.81, as it may be amended from time to time;

(I) The proposed building mover has been shown to be unreliable and irresponsible in complying with city requirements;

(j) The building to be moved is not worth at least 50% of the cost of a similar new building;

(k) The building in the proposed location in the city would fail to comply with a provision of the city code or ordinances;

(l) The building in the proposed location in the city would not conform to the general character of, and the types of architecture in, the use district to which the building would be moved; or

(m) The building in the proposed location in the city is not compatible with the houses in the neighborhood to which the applicant wished to move the house or building, with respect to height, age, style, condition, or design and as a result would reduce the values of existing houses in the neighborhood to which the building would be moved. If the building to be moved is more than 10 years older than the oldest building situated on a lot adjacent to the proposed location, such fact shall be evidence that the building to be moved is not compatible with the houses in the neighborhood.

(2) The permit must specify the permitted days, hours, route, movement, parking, speed limit, and vegetation removal for the proposed move.

(3) The City Council may impose additional conditions or requirements in the permit.

(4) The issuance of a permit by the city does not relieve the applicant of the obligation to obtain required permits from other governmental agencies and does not permit the use of private property, except with the written consent of the landowner.

### (I) *Supplemental information.*

(1) At least 10 business days before the actual move is to take place, the applicant must submit to the Zoning Administrator the following supplemental information:

(a) Confirmation of the proposed moving date and hours;

(b) A copy of the proposed building mover's state license and an insurance certificate showing that the mover has current insurance coverage required by state law;

(c) A signed statement from the applicant or a contractor agreeing to fence or secure the foundation at the original building location, to fill the foundation cavity, and to keep the area safe and clean, if the original building location is in the city;

(d) A signed statement from the applicant or a contractor agreeing to properly abandon and seal any wells, fill or remove any septic tanks, and properly shut-off and disconnect any utilities, if the original building location is in the city; and

(e) A signed statement from the applicant or a contractor agreeing to connect the building to its new foundation, including appropriate tie downs, if the proposed building location is in the city.

(2) A permit for a building move is void if the additional information required by subsection (1) above is not provided in a timely manner.

(3) In consultation with the Chief of Police, Utilities Superintendent and the Public Works Director, the Zoning Administrator may deny the proposed moving date and hours if the move at that time would unreasonably interfere with the public's use of a street or highway, or would otherwise adversely affect the public interest.

(4) The Zoning Administrator may deny use of the proposed building mover if the proposed building mover's equipment is not in compliance with federal and state requirements, the proposed building mover does not have a current license or insurance as required by state law, or the proposed building mover has previously been unreliable or irresponsible in complying with city requirements.

(5) The Zoning Administrator must notify the applicant in writing of a denial at least 3 business days before the proposed moving date, giving the reasons for the denial. The applicant may file a written appeal of this decision with the City Administrator/Clerk, to be heard by the Council at its next available meeting, unless the applicant selects a later date.

(J) *Building moving conditions.*

(1) A licensed building mover must comply with the following when moving buildings into, within, or out of the city. The building mover must:

(a) Move a building only in compliance with the permit conditions and only over the streets and other property designated for that use in the permit;

(b) Obtain prior permission from the Chief of Police, Utilities Superintendent and Public Works Director for any changes in the route or time for the move;

(c) Notify the Police Department at least 1 hour in advance of the proposed move;

(d) Notify the Public Works Director of all damage done to property during the move within 24 hours after the damage has occurred;



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(e) Be responsible for all damage caused by the move and pay the cost to correct the damage or the value of the property lost because of damage, and to be responsible for and to compensate any business for loss of income resulting from the move and/or the damage caused by the move;

(f) Comply with state and county requirements for over-sized vehicles and loads;

(g) When necessary, erect and maintain barricades across the streets to protect the public from damage or injury because of the move;

(h) 1. Complete the move within 48 hours after either:

A. The building crosses into the city, if moved from a location outside the city;  
or

B. The building is raised from its original foundation, if moved from a location within the city.

2. A move is complete when the structure has been moved to the precise location shown on the approved plot plan and the equipment used to move the building has been removed;

(I) Pay the expense of employees or other individuals who are required by the city to accompany or monitor the movement of the building for the purpose of ensuring compliance with the moving permit or protecting the public health, safety or welfare; and

(j) Comply with all applicable state laws and local ordinances.

(2) A building mover cannot transfer its obligations under subsection (1) of this division to the building owner or any other party, except where the responsibility for damage is insured by a contract for liability insurance.

(3) Within 120 days after the date of the permit issuance, the building must be moved, the State Building Code requirements met as they apply to the structure at its new location, and a certificate of occupancy or a satisfactory final inspection report from the City Building Official for the building received.

(4) Within 180 days after the date of the permit issuance, all proposed exterior improvements to the building shall be completed; and within 240 days after the date of the permit issuance, all landscaping on the premises shall be completed.

(5) A person must not cause or permit a structure that has been raised from a foundation and placed on supports to:

(a) Remain at a location or locations in the city, other than the new permanent location, for longer than 48 hours; or

(b) Remain on any property without the property owner's permission.

(6) The applicant, the landowner and the contractor hired to be responsible for the work must not leave rubbish or other materials at the site from which the building is moved or otherwise allow that site to remain in an unsafe, unsanitary or unsightly condition.

(7) The applicant, the landowner and the contractor hired to be responsible for a building foundation must not allow an open and unattended foundation to remain unsecured for more than a 2-hour period immediately after a building has been raised from the foundation. Foundations must be fenced or secured in some other manner to prevent uninvited access, particularly by children, to the open foundation.

(8) The applicant, the landowner and the contractor hired to be responsible for a building foundation must not allow a foundation from which a building has been removed to remain open longer than 7 days after the building was removed. The foundation must be removed and the cavity filled with appropriate earth materials that are graded level with the adjacent areas, or be used in the construction of a new building, if approved by the building official.

(9) No later than the time required by subsection (8) above for filling the foundation from which a building has been removed, the applicant, the landowner, and the contractor hired to be responsible for the work must properly:

(a) Abandon and seal any wells;

(b) Fill or remove any septic tanks remaining on the original site of the building; and

(c) Properly shut-off and disconnect any utilities, as specified by the utility provider.

(10) The building must be connected to the foundation at its new location in accordance with the City Building Code within 10 days after the move has been completed.

(11) The applicant, the landowner and the contractor hired to be responsible for the work must construct and provide all necessary and proper drainage and erosion control for the premises onto which the building is to be moved or moved from, the drainage to be installed and constructed according to plans submitted by the landowner and approved by the Public Works Director. Erosion control measures shall be in accordance with all city storm-water/NPDES requirements and watershed district standards.

(12) Variances from the provision of this division may be granted by the City Council upon good cause shown.

(13) A failure to comply with a permit provision, State Building Code requirement, or condition in this section will result in a forfeiture of the bond or cash deposit. The city may use the bond proceeds or cash deposit to complete unfinished work required by the permit, the State Building Code, or this section, or to pay for any damage caused by the move.

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(K) *Enforcement.* This section will be enforced by the Zoning Administrator, Utilities Superintendent, Chief of Police, Public Works Director, and authorized agents. (Ord. 643, passed 5-18-2005; Am. Ord. 653, passed 4-18-2007; Am. Ord. 668, passed 11-5-2008; Am. Ord. 694, passed 7-21-2010; Am. Ord. 724, passed 4-18-2012) Penalty, see § 10.99

### § 156.103 VARIANCES AND APPEALS.

(A) *Board of Appeals and Adjustments.* The Planning Commission shall act as the Board of Appeals and Adjustments and shall hear requests for appeals and shall hear requests for and order the issuance of variances from the requirements of any official control including restrictions placed on nonconformities.

(1) *Appeals.* Appeals to the Board may be taken by any affected person upon compliance with any reasonable conditions imposed by the zoning ordinance. The Board shall hear and decide appeals where it is alleged that there is an error in any order, requirement, and decision or determination made by an administrative officer in the enforcement of the zoning ordinance.

(2) *Variances.* The Board shall hear requests for variances from the requirements of the zoning ordinance including restrictions placed on nonconformities.

(a) Variances shall only be permitted when they are in harmony with the general purpose and intent of the ordinance and when the variances are consistent with the Comprehensive Plan. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance. **PRACTICAL DIFFICULTIES**, as used in connection with granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality.

(b) Economic considerations alone do not constitute practical difficulties.

(c) Practical difficulties also include, but are not limited to, inadequate access to direct sunlight for solar energy systems.

(d) Variances shall be granted for earth-sheltered construction as defined in M.S. § 216C.06 subdivision 14, as it may be amended from time to time, when in harmony with this chapter.

(e) No variance may be granted that would allow any use that is not allowed in the zoning district in which the subject property is located. The Board of Adjustments may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

(B) *Appeal procedures.*

- (1) An application to appeal a decision or judgment of the Zoning Administrator must be made on a form provided by the city. Fees for appeals are established by resolution of the City Council.
- (2) One copy of the written interpretation of the Zoning Administrator being appealed and of a statement describing the basis for the appeal shall be required with the application.
- (3) After an appeal has been filed, the Zoning Administrator shall set a date for consideration of the appeal by the Board of Appeals and Adjustments.
- (4) Upon hearing the appeal the Board of Appeals and Adjustments shall either reaffirm or overturn the interpretation of the Zoning Administrator. In acting on the appeal the Board of Appeals and Adjustments shall set forth the basis for its decision on the appeal.
- (5) Within 30 days of the action of the Board of Appeals and Adjustments on an appeal, the applicant or an affected property owner may file an appeal to the City Council of the decision of the Board of Appeals and Adjustments.

(C) *Variance procedures.*

- (1) Applications for a variance from the dimensional standards of this chapter must be made on forms provided by the city. Fees for variances are established by resolution of the City Council.
- (2) One copy of the information set forth in § 156.106 below shall be required with the application.
- (3) (a) After a variance application is filed, the Zoning Administrator shall set a date for a public hearing.
  - (b) Notice of the hearing shall be posted and published at least 10 days prior to the date of the hearing, and notice shall be mailed to each property owner within 350 feet of the property to which the variance relates.
  - (c) Defects in the notice or failure to notify individual property owners shall not invalidate the proceedings, provided a good faith effort was made to comply with these provisions.
- (4) (a) Upon hearing the request, the Board of Appeals and Adjustments shall either approve or deny the variance and shall state findings supporting the reasons for the action.
  - (b) Conditions for approval may be attached to any variance granted. Actions by the Board of Appeals and Adjustments are effective upon a simple majority of members present.

## Zoning

(5) The Board of Appeals and Adjustments must find as follows in the granting of a variance from this chapter:

(a) Granting a variance will not adversely affect the public health, welfare and safety and will not be detrimental and injurious to property or improvements in the neighborhood;

(b) Strict interpretation or enforcement of the provisions of this chapter would result in a practical difficulty that is not self-created and is inconsistent with the intent of this chapter and the Comprehensive Plan;

(c) There are exceptional or extraordinary circumstances or conditions applicable to the property, use or facilities that do not apply generally to other properties in the same district;

(d) Strict or literal interpretation of this chapter would deprive the applicant of the use and enjoyment of his or her property in a manner similar to others in the same district; and

(e) Granting of the variance will not allow a use which is otherwise not a permitted use in the zoning district in question.

(6) Economic considerations alone shall not constitute a practical difficulty if reasonable use for the property exists under the terms of this chapter.

(7) A variance granted but not used shall become void 1 year after its effective date.

(8) No application for the same or essentially the same variance shall be made within 6 months of the date of denial.

### (D) *Variance appeal procedures.*

(1) Within 30 days of the action of the Board of Appeals and Adjustments, the applicant or an affected property owner may appeal the decision of the Board of Appeals and Adjustments to the City Council.

(2) The City Council shall hold a public hearing within 45 days of receipt of the appeal to consider granting or denying the variance request.

(Ord. 643, passed 5-18-2005; Am. Ord. 711, passed 10-19-2011)

**§ 156.104 CONDITIONAL USES.***(A) Purpose.*

(1) It is the intent of the city in establishing standards and criteria for conditional uses that the uses listed in §§ 156.035 through 156.051 above will be subject to careful evaluation to ensure that their location, size and design are consistent with standards, purposes and procedures of this chapter and the Comprehensive Plan.

(2) The Planning Commission may recommend and the City Council may impose conditions on the uses in order to ensure compliance or to affect the purpose of this chapter.

*(B) Application, public hearing and procedure.*

(1) The application, public hearing, notice and procedure requirements for conditional use permits shall be the same as those for amendments, as provided in § 156.105 below, except that 12 sets of the information set forth in § 156.106 below shall be required with the application and approval of a conditional use by the City Council requires only a simple majority affirmative vote.

*(C) Standards.*

(1) The conditional use must be allowed under § 156.047 above in the zoning district where the property is located.

(2) The conditional use must meet or exceed the performance standards set forth in this chapter and other applicable city ordinances.

(3) The conditional use must comply with all conditions of approval, which shall be included in the conditional use permit agreement.

*(D) Criteria.* The Planning Commission shall recommend a conditional use permit and the Council shall issue conditional use permits only if it finds that the use at the proposed location:

(1) Will not be detrimental to or endanger the public health, safety, comfort, convenience or general welfare of the neighborhood or the city;

(2) Will be consistent with the objectives of this chapter and the city's Comprehensive Plan;

(3) Will be designed, constructed, operated and maintained so that it is compatible in appearance with the existing or intended character of the general vicinity and will not change the essential character of that area;

## Zoning

(4) Will not be hazardous or disturbing to existing or planned neighboring uses;

(5) Will be served adequately by essential public facilities and services, including streets, police and fire protection, drainage structures, refuse disposal, water and sewer systems and schools; or will be served adequately by the facilities and services provided by the persons or agencies responsible for the establishment of the proposed use;

(6) Will not create excessive requirements for public facilities and services and will not be detrimental to the economic welfare of the community;

(7) Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property or the general welfare because of excessive production of traffic, noise, smoke, fumes, glare, odors, rodents or trash;

(8) Will have vehicular approaches to the property which do not create traffic congestion or interfere with traffic or surrounding public thoroughfares;

(9) Will not result in the destruction, loss or damage of solar access, natural, scenic or historic features of major significance;

(10) Will be aesthetically compatible with the area;





## Zoning

- (11) Will not depreciate surrounding property values; and
- (12) Will meet standards prescribed for certain uses in this chapter.

(E) *Conditions.* The city may attach conditions to approval of a conditional use permit to mitigate anticipated adverse impacts associated with the use, to ensure compliance with the standards, to ensure that the criteria are met, to protect the value of other property and to achieve the goals and objectives of the Comprehensive Plan.

(F) *Termination.* All conditional use permits shall terminate 1 year after the issuance of the conditional use permit if the use has not been established, upon notice that the conditions under which the permit was issued have been violated or upon discontinuance of the use for a period of 1 year. (Ord. 643, passed 5-18-2005)

### § 156.105 INTERIM USE PERMITS.

(A) *Intent and purpose.* The City Council may issue an interim use permit where authorized for the purpose of allowing a temporary use of property until a particular date, until the occurrence of a particular event or until zoning regulations no longer permit it. The purpose of this section is to establish provisions for the review of proposals by applicants for interim uses.

(B) *Application, public hearing, public notice and procedure.* The application, public hearing, public notice and procedure requirements of interim use permits shall be the same as those for conditional use permits. The application for the interim use permit shall be made to the Planning Commission for recommendation to the City Council and shall address the following general provisions.

(C) *General provisions.* Interim uses may be allowed by permit where authorized if:

- (1) The use otherwise conforms to the comprehensive plans and zoning regulations with regard to performance standards and other requirements;
- (2) The date or event that will terminate the use can be identified with certainty;
- (3) The use will not impose additional costs on the public if it is necessary for the public to take property in the future; and
- (4) The use will be subject to, by agreement with the owner, any specific conditions that the city has deemed appropriate for permission of the use, including a condition that the owner will provide an appropriate financial surety to cover the cost of removing the interim sue and any interim structures upon the expiration of the interim use permit.

(D) *Termination.* An interim use permit shall terminate upon the occurrence of any of the following events, whichever occurs first:

- (1) The date stated in the permit; or
- (2) A violation of conditions under which the permit was issued; or
- (3) A change in the city's zoning regulations which renders the use nonconforming; or

(4) Redevelopment of the use and/or property upon which it is located as a permitted use as allowed within the respective zoning districts.

- (5) Any other condition stipulated in this section.

(Ord. 692, passed 4-21-2010)

#### **§ 156.106 AMENDMENTS.**

(A) Amendments to this chapter may be initiated by the Planning Commission, City Council or by petition of a landowner.

(B) Applications for an amendment to this chapter must be made on a form provided by the city.

(C) The applicant shall provide plans, maps, surveys, description, narrative and the like, to ensure proper review and consideration of any proposed amendment to the written provisions of this chapter or zoning district boundaries.

(D) (1) After the filing of an application, or after initiation by the City Council, the Zoning Administrator shall set a date for a public hearing.

(2) At least 10 days prior to the date of the hearing notice of the hearing for all amendments shall be posted in a prominent location at the city offices and published in the official newspaper of the city.

(3) In addition notice of the hearing for all proposed zoning district boundary changes shall be mailed to each property owner within 350 feet of the proposed zoning district boundary amendment at least 10 days prior to the date of the hearing.

(E) Upon hearing the request, the Planning Commission shall recommend either approval or denial of the proposed amendment and shall state the reasons of the action.

(F) Within 30 days of the recommendation by the Planning Commission, the City Council shall consider the recommendation and shall approve, deny or modify the request to amend this chapter.  
(Ord. 643, passed 5-18-2005; Am. Ord. 692, passed 4-21-2010)

## **Zoning**

### **§ 156.107 SUBMITTAL REQUIREMENTS.**

(A) For all zoning actions including variances, appeals, conditional use permits, zoning map amendments and planned residential developments, the following information is required:

(1) A Certificate of Survey if foundation or enclosed rooftop area are added to a parcel of land, this requirement may be waived by the Zoning Administrator if 1 of the following conditions are met:

(a) The new structure is located on a lot with an existing structure and where the new structure is clearly further from the lot line than the existing structure with concurrence by the Zoning Administrator.

(b) There is an existing survey on file for the lot with existing known measuring points, and a permitted structure exists on that lot.

(c) The structure is readily movable.

(2) Scaled location of all buildings, structures, driveways, sidewalks, trails, parking stalls and curbing;

(3) Scaled identification of all setback dimensions from property lines;

(4) Scaled locations of all existing and proposed utilities and easements;

(5) Scaled depictions of floor plans for each story;

(6) Scaled depictions of each building elevation and descriptions of exterior building materials and color schemes;

(7) Scaled site-grading plans, including erosion and sedimentation control measures and procedures;

(8) Scaled delineations of any shoreland, flood plain or wetland areas on the site;

(9) Identification of any flood plain or wetland encroachments and detailed mitigation plans;

(10) Detailed landscape plans, illustrating size, types and locations of all materials, a description of site seeding or sodding, a description of the timetable for site landscaping and the identification of any irrigation systems;

(11) Detailed descriptions of any site fencing, including type, location and height;

(12) Any additional written or graphic data reasonably required by the Administrator or the Planning Commission;

(13) All plans shall be dated and shall bear the name(s) of the preparer(s), including professional registrations or certifications when appropriate or required.

(B) The Zoning Administrator may waive certain submittal requirements when they are determined to not be applicable or necessary to complete a review of the proposed action or when information for the subject property has previously been submitted to the city.  
(Ord. 643, passed 5-18-2005; Am. Ord. 685, passed 11-18-2009; Am. Ord. 692, passed 4-21-2010)

#### **§ 156.108 FEES.**

(A) Fees for appeals, variances, conditional use permits and amendments shall be established from time to time by resolution by the City Council.

(B) The city shall be reimbursed for all out-of-pocket expenses incurred reviewing applications or issuing permits.

(C) Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal.

(D) There shall be no fee in the case of applications filed in the public interest by the City Council or by the Planning Commission.  
(Ord. 643, passed 5-18-2005; Am. Ord. 692, passed 4-21-2010)

#### **§ 156.109 VIOLATIONS.**

(A) Violation of the provisions of this chapter or failure to comply with any of its requirements shall constitute a misdemeanor.

(B) Any person who violates this chapter or fails to comply with any of its requirements may upon conviction be punished to the maximum extent allowed by law.

(C) Each day a violation continues shall be considered a separate offense.  
(Ord. 643, passed 5-18-2005; Am. Ord. 692, passed 4-21-2010) Penalty, see § 10.99

## Zoning

### § 156.110 SEPARABILITY.

It is hereby declared to be the intention of the City Council that the several provisions of this chapter are separable in accordance with the following:

(A) If any court of competent jurisdiction shall judge any provision of this chapter to be invalid, that judgment shall not affect any other provisions of this chapter not specifically included in the judgment; and

(B) If any court of competent jurisdiction shall judge invalid a building or other structure, that judgment shall not affect the application of the provision to any other property, building or structure not specifically included in the judgment.

(Ord. 643, passed 5-18-2005; Am. Ord. 692, passed 4-21-2010)

### § 156.111 PUBLICATION BY SUMMARY.

(A) *Summary approval.*

(1) Pursuant to M.S. § 412.191 subdivision 4, as it may be amended from time to time, the Council hereby determines that publication of the title and a summary of this chapter will clearly inform the public of the intent and effect of this chapter.

(2) The text of the summary of this chapter, entitled "Official Summary of Ordinance No.643," a copy of which is attached hereto to Ordinance 643, is hereby approved and the Council determines that it clearly informs the public of the intent and effect of this chapter.

(B) *Publication, inspection and posting.*

(1) The City Administrator is hereby directed to publish only the title of this chapter and the attached summary and to indicate with the publication of the title and summary that a printed copy of this chapter is available for inspection by any person during regular office hours at the office of the City Administrator/Clerk.

(2) A copy of the entire text of this chapter shall also be posted at the Sauk Centre City Hall, 320 Oak Street South.

(Ord. 643, passed 5-18-2005; Am. Ord. 692, passed 4-21-2010)



## **TABLE OF SPECIAL ORDINANCES**

Table

- I. MORATORIUMS**
- II. STREETS, EASEMENTS AND PUBLIC WAYS**
- III. ANNEXATIONS**
- IV. ZONING AND SUBDIVISIONS**
- V. FRANCHISE**





**TABLE I: MORATORIUMS**

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
604	12-6-2000	Moratorium (120-day) on the construction of new wireless telecommunication towers and antennas. Expires 4-6-2001.
695	7-21-2010	Moratorium (1-year) on the installation of outdoor solid fuel burning furnaces.
709	7-6-2011	Repealing 1-year moratorium on the installation of outdoor solid fuel burning furnaces.
766	3-16-2016	Moratorium (1-year) on locating or the placing of cargo containers and the like within the city. Expires 3-16-2017.



**TABLE II: STREETS, EASEMENTS AND PUBLIC WAYS**

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
567	10-2-1996	Vacates a portion of Maple Street and reserves a general utility easement
587	10-7-1998	Vacates public alley and reserves a general utility easement in Block 1, Houghton's Third Addition
611	7-11-2001	Vacates a portion of a public alley and reservation of general utility easements in Lots 1 through 6 and Block 2 of Houghton's Addition
612	7-11-2001	Vacates a public alley in Houghton's Second Addition, behind Lots 8 through 12, Block 1
615	9-5-2001	Vacates a public utility easement in Lot 6 Block 4 Brown Addition Plat II
621	12-5-2001	Vacates a public street between Blocks 1 and 2 of Houghton's Second Addition
637	6-16-2004	Authorized easement over a portion of Lot 5 of Block 13
749	10-15-2014	Changing the name of Railroad Avenue Court to 9. Street



**TABLE III: ANNEXATIONS**

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
568	10-2-1996	Annexes land in the east half of Section 10 and the southwest quarter of Section 11, Township 126 North, Range 34 West
571	3-19-1997	Amends Ord. 562 that annexed land in Morning View Drive
572	3-19-1997	Amends Ord. 559; annexes land in the southeast quarter of Section 10, in the north half of the north half of the Northeast quarter of Section 15
573	4-16-1997	Annexes land in the northeast quarter of the northeast quarter of Section 10, and in the southwest quarter of the southeast quarter of Section 3, Township 126 North, Range 34 West
574	4-16-1997	Annexes land in the southeast quarter of Section 10, and the west half of the southwest quarter of Section 11, Township 126 North, Range 34 West
576	8-20-1997	Annexes land in the northeast quarter of the southeast quarter and the southeast quarter of the northeast quarter of Section 10
581	5-6-1998	Annexes land in the southwest quarter of the southwest quarter of Section 15
586	8-19-1998	Annexes land in the southwest quarter of the southwest quarter of Section 11
759	7-1-2015	Annexes Lot 1, Block 1, of Rieland's Addition, Section 8, Township 126, Range 34W



**TABLE IV: ZONING AND SUBDIVISIONS**

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
566	8-21-1996	Rezoning of all that part of Lot 13 of Auditor's Subdivision of the west half of Section 10 and the northeast quarter of Section 9; from 1 and 2-Family Residential District to Multiple Family Residential District
570	1-22-1997	Rezoning of all that part of the southwest quarter of Section 9, and the north half of the northwest quarter of Section 16; from Rural Residence District to Highway Business District
575	6-4-1997	Part of the southwest quarter of the southeast quarter of Section 15 lying northeasterly of the northeasterly right-of-way line of U.S. Interstate 94; rezoned from the 1 and 2-Family Residential District to the Highway Business District
577	9-3-1997	The south 50 feet of the north half of the southwest quarter of the southwest quarter of Section 9; and that part of the south half of the southwest quarter of the southwest quarter of Section 9; rezoned from Rural Agricultural District to Highway Business District
582	4-15-1998	Rezoning of the northeast quarter of the southwest quarter of Section 15, less and excepting the north 150 feet lying west of a point beginning at a point on the quarter line of the southwest quarter
585	8-5-1998	Rezoned Lots 1, 2, 3 and 4, Block 2, Arrowsmith Addition; from Highway Business District to PUD-A/B-1

## Sauk Centre - Table of Special Ordinances

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
588	12-2-1998	Part of the southwest quarter of Section 15 rezoned from 1 and 2-Family Residential District to Highway Business District
589	12-16-1998	Rezones 5 tracts of land from the 1 and 2-Family Residential District to the Highway Business District
597	12-15-1999	The west 100 feet of Block 18 of Robbins and Mendenhall's Addition to the city, less and excepting the south 90 feet thereof; from the Light Industrial District to the 1 and 2-Family Residential District
601	6-20-2000	Lot 10, Block 18, original town site rezoned from the 1 and 2-Family Residential District to the General Business District
602	9-6-2000	Rezoning of Lot 15, less the south 135 feet of the west half and less the south 198 feet of the east half of R Moore's Addition of Outlots; from Single and 2-Family Residential District to the Highway Business District
609	4-4-2001	Those portions of the southeast quarter of the northeast quarter and the northeast of the southeast quarter of Section 10; rezoned to PUD
610	5-16-2001	Portions of Blocks 5, 6 and 11 of Robbins and Mendenhall's Addition rezoned to Multiple Family Residential District and PUD
622	6-26-2002	Portions of Lots 11 and 12 rezoned to Multiple-Family Residential District and PUD
625	8-21-2002	Part of Section 3 commencing at the ■X• in the concrete driveway which marks the location of the southwest corner of Section 3 rezoned to Residential and Limited Commercial District



<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
634	8-20-2003	Rezones all of Heritage Hill Townhomes to the PUD R-1 Single-Family Residential-Planned Unit Development District
636	4-28-2004	The east half of Lots 5 and 6, Block 13, less and excepting Lot 5 of the south 16.6 feet thereof; rezoned to Multiple-Family Residential District
644	9-21-2005	Rezoning of part of Lake Shore Drive right-of-way to Multiple-Family Residential District
662	9-19-2007	Lots 1 and 2, Block 3 of Robbins and Mendenhalls Addition and east 1/2 of Separate Lot 3, Townsite of Sauk Centre; rezoned from R/C (Residential/Commercial) District to C-1 (Central Business) District
663	10-17-2007	<p>The following land shall be removed from the R-1 (Residential and Two-Family) District and included in the I-C (Industrial/Commercial) District:</p> <p>(1) Those portions of Lots 4, 5 and 6, Block 7 of the Original Town of Sauk Centre;</p> <p>(2) Main Track Centerline commencing at the southeast corner of Section 9, Township 126, Range 34 west of the 5th P.M.; and</p> <p>(3) The south half of that part of the 66 foot wide right-of-way of 4th Street.</p>
691	4-21-2010	Section 9, Township 126, Range 34 Original Town Site of Sauk Centre; the east 1/2 of Lot 7, Block 11, subject to easement restrictions and conditions, if any, which may appear in public records including the structure setback where the property abuts residentially zoned property shall be a minimum of 5 feet, shall be included in a C-1 Central Business District and shall be removed from the R-1 Residential and Two-Family District.

**Sauk Centre - Table of Special Ordinances**

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
729	7-18-2012	<p>The following land shall be included in a C-2 (General Commerce) District and shall be removed from the R-1 (Residential and Two-Family) District:</p> <p>Lot 36 of the Auditor's Subdivision less the north 6 feet, of the north half of Section 15, Township 126, Range 34;</p> <p>Lot 41 of the Auditor's Subdivision of the north half of Section 15, Township 126, Range 34 less and excepting therefrom the North 72.5 feet of the west 256.29 feet of the said lot, and less and excepting the west 216.18 feet of the south 10 feet of said Lot, Stearns County, Minnesota;</p> <p>The south 100 feet of the east 236 feet of Lot 42 of Auditor's Subdivision of the north half of Section 15, Township 126, Range 34, and the east half of the north 65 feet of Auditor's Subdivision of the north half of Section 15, Township 126, Range 34 and the north 10 feet of the south 100 feet of the east 236 feet of said Lot 42, less that part thereof which is situated in the east half of said Lot 42, together with the benefit of an easement in and to the north 10 feet of the south 110 feet of the east half of said Lot 42.</p>
733	12-5-2012	<p>Lot 32 less Highway and Lot 51 less part East and North of old Highway 52, Auditor's Subdivision, Section 9, Township 126, Range 34 shall be included in the R/C (Residential Commercial) District and shall be removed from the R-1 (Residential and Two Family) District.</p>

**Zoning and Subdivisions**

12A

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
738	5-15-2013	<p>The following land shall be included in a I-C (Industrial-Commercial) District and shall be removed from the R-1 (Residential and Two-Family) District:</p> <p>That part of Lot 7 of State Subdivision of the NW 1/4 of NE 1/4 of Section 16, Township 126 North, Range 34 West;</p> <p>That part of Lot 6 of State Subdivision of NW 1/4 of NE 1/4 of Section 16, Township 126 N, Range 34 West.</p>
741	9-18-2013	<p>That part of Lot 6 of State Subdivision in the NE 1/4 of Section 16 lying southwesterly of CSAH #72 (Beltline Road) except the south 7 feet of west 138 feet and specifically including that part of the vacated right-of-way of CSAH #72 (Beltline Road) abutting lot; Section 16, Township 126 North, Range 34 West shall be included in the R-1 (Residential and Two-Family) District and shall be removed from the I-C (Industrial-Commercial) District.</p>
743	12-4-2013	<p>The West 30 feet of lots 4, 5, and 6, Block 2, of Barto's Subdivision of Lot 9 or R. Moores Addition of Outlots, Section 3, Township 126, Range 34, containing 4,929 square feet more or less shall be included in the C-2 (General Commerce) District and shall be removed from the R-1 (Residential and Two-Family) District.</p>
746	4-16-2014	<p>Lot 9 and the North 9 feet of Lot 10, Block 6, Country Club Addition, shall be included in the R-C (Residential-Commercial) District and removed from the R-1 (Residential and Two-Family) District.</p>

## Sauk Centre - Table of Special Ordinances

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
748	9-17-2014	That part of Auditor's Subdivision North Half of Section 15 commencing 275' South of the Southwest corner of Houghton's 3rd Addition, thence South 90 degrees East 137.83' to point of beginning; thence South 90 degrees East 125' South 00 degrees West 232.40' North 89 degrees West 125.01 North 00 degrees East 230.98 to point of beginning with the city, containing 0.66 acres, shall be included in the C-2 (General Business) District and shall be removed from the R-2 (Multi-Family) District.
751	11-19-2014	That part of Lots 22 and 23 of Auditor's Subdivision of the S 1/2 of the N 1/2 and the N 1/2 of the S 1/2 of Section 9, Township 126 North, Range 34 West, commencing at the northwest corner of Lot 22, thence South 00 degrees East, assumed bearing, along the west line of Lot 22, a distance of 160.00 feet to the point of beginning; thence South 89 degrees 27 minutes East 80.00 feet; thence South 00 degrees East 27.43 feet; thence South 89 degrees 27 minutes East 201.34 feet to the westerly line of a public street (Fairy Lake Road); thence South 10 degrees 35 minutes 32 seconds East, along said westerly line, 136.76 feet to the south line of Lot 23; thence North 89 degrees 46 minutes 24 seconds West, along said south line and along the south line of Lot 22, a distance of 306.47 feet to said west line of Lot 22; thence North 00 degrees West, along said west line, 163.35 feet to the point of beginning; containing 0.96 acres, shall be included in an I-C (Industrial) District and shall be removed from the R-1 (Single Family) District.
756	3-18-2015	The West half lots 31 and 32, Block 2, Country Club Addition, shall be included in a R-C (Residential Commercial) District and shall be removed from the R-1 (Residential and Two-Family) District.

**Zoning and Subdivisions**

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
767	12-7-2016	Lot 1, Block 8, Townsite of Sauk Centre and the N2 of vacated 4th Street South adjacent to and south of Lot 1, Block 8 of the Townsite of Sauk Centre shall be included in a I-C (Industrial/Commercial) District and shall be removed from the R-1 (Residential and Two Family) District.



**TABLE V: FRANCHISE**

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
317	9-23-1964	Amend Ord. 314 - Limiting the grant of authority to Central Minnesota Television Company Relative to Television Distribution Facility
420	12-5-1979	Cable TV franchise
441	12-9-1982	Franchise/Minnegasco (superceded by Ord. 666)
465	2-6-1985	Cable TV franchise renewal
501	12-6-1989	Adopting franchise regulation
532	11-17-1993	Regulation of cable TV rates
554	2-21-1996	Regulation of cable TV
666	8-6-2008	Nonexclusive franchise to Centerpoint Energy
669	12-22-2009	Establishing a franchise fee for the granting of a non-exclusive franchise
699	10-6-2010	Extending the term of the franchise granted to Mainstreet Communications LLC.
721	4-18-2012	Amending the rate for the franchise fee with Centerpoint Energy.





## PARALLEL REFERENCES

References to Minnesota Statutes  
References to Minnesota Rules  
References to 1985 Code  
References to Ordinances



## REFERENCES TO MINNESOTA STATUTES

<i>M.S. Section</i>	<i>Code Section</i>
10A.14	113.57
12.25	31.01, 31.04
12.31	31.06
Ch. 13D	32.03
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