

## **CODE OF ORDINANCES**

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

The ordinances embraced in the following chapters and sections shall constitute and be designated the "Code of Ordinances, City of Le Center, Minnesota."

(Code 1987, § 100.01(1))

**State law reference(s)**--Codification, M.S.A. § 415.021.

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

In the construction of this Code and of all ordinances, the following definitions and rules of construction shall be observed, unless such construction would be inconsistent with the manifest intent of the city council:

*Agent or employee.* Whenever the Code requires an act to be done, which act may legally be done by an agent or employee as well as by the principal, such requirement shall be satisfied by the performance of such act by an authorized agent or employee.

*City.* The term "city" shall mean the City of Le Center, Minnesota, and shall extend to and include its several officers, agents and employees.

*City council, council.* The terms "city council" and "council" shall mean the city council of the City of Le Center, Minnesota.

*Code.* The term "Code" shall mean the Code of Ordinances, City of Le Center, Minnesota, as designated in section 1-1.

*Computation of time.* The time, where the performance or doing of any act, duty, matter, payment or thing is ordered or directed and the period of time or duration for its performance or doing is prescribed and fixed by law or ordinance, shall be computed so as to exclude the first and include the last day of the prescribed period or duration of time. When the last day of the period falls on a Saturday, Sunday or legal holiday, that day shall be omitted from the computation.

*County.* The term "county" shall mean the County of Le Sueur, Minnesota.

*Gender.* A word importing either the masculine or feminine gender shall extend and be applied to both the masculine and feminine genders, and to firms, partnerships and corporations.

*Joint authority.* Words purporting to give authority to three or more officers or other persons shall be construed as giving such authority to a majority of such officers or other persons, unless it is otherwise declared.

*Keeper and proprietor.* The terms "keeper" and "proprietor" shall mean and include persons, firms, associations, corporations, clubs and copartnerships, whether acting by themselves or through a servant, agent or employee.

*Month.* The term "month" shall mean a calendar month.

*M.S.A.* The abbreviation "M.S.A." shall mean and refer to the latest edition or supplement of Minnesota Statutes Annotated.

*Number.* A word importing the singular may extend and be applied to the plural, and vice versa.

*Oath.* The term "oath" shall include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the terms "swear" and "sworn" shall be equivalent to the terms "affirm" and "affirmed."

*Officer, employee, department, board, commission or other agency.* Whenever any officer, employee, department, board, commission or other agency is referred to by title only, such reference shall be construed as if followed by the words "of the City of Le Center, Minnesota." Whenever, by the provisions of this Code, any officer, employee, department, board, commission or other agency of the city is assigned any duty or empowered to perform any act or duty, reference to such officer, employee, department, board, commission or other agency shall mean and include such officer or any designee or authorized subordinate and shall also include the successor in function to such officer, employee, department, board, commission or agency.

*Owner.* The term "owner" when applied to a building or land shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety of the whole or of a part of such building or land.

*Person.* The term "person" shall extend and be applied to associations, clubs, societies, firms, partnerships and bodies politic and corporate as well as to individuals. For the purpose of imposing penalties or fines for violation of any section of this Code and whenever the term "person" is used in such section for which a penalty is imposed, the term shall include partners or members of an association, and as to corporations shall include its officers, agents or members who are responsible for any such violation.

*Personal property.* The term "personal property" shall include every species of property except real property.

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

*Public place.* The term "public place" shall mean any place subject to the primary control of any public agency, including but not limited to any park, street, public way, cemetery, schoolyard or adjacent open space and any lake or stream.

*Real property.* The term "real property" shall include lands, tenements and hereditaments.

*Shall, may.* The term "shall" is mandatory; the term "may" is permissive.

*Sidewalk.* The term "sidewalk" shall mean any portion of a street between the curblin and the adjacent property line, intended for the use of pedestrians.

*State.* The term "state" shall mean the State of Minnesota.

*Street.* The term "street" shall embrace streets, avenues, boulevards, roads, highways, alleys, lanes, viaducts and all other public ways in the city.

*Tenant, occupant, lessee.* The terms "tenant," "occupant" and "lessee," when applied to a building or land, shall include any person holding a written or oral lease of, or who occupies the whole or part of, such building or land, either alone or with others.

*Tense.* Words used in the past or present tense include the future as well as the past and present.

*Written and in writing.* The terms "written" and "in writing" shall include any representation of words, letters or figures, whether by printing or otherwise.

The words and phrases used in this Code shall be construed in their plain, ordinary and usual sense, except that technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.

(Code 1987, § 100.02)

**State law reference(s)**--Construction of words and phrases, M.S.A. § 645.08 et seq.; definitions of words and phrases, M.S.A. § 645.44 et seq.

### **Sec. 1-3. Catchlines of sections.**

The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the sections and shall not be deemed or taken to be titles of

such sections, nor as any part of the sections; nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.

(Code 1987, § 100.01(4))

**Sec. 1-4. References to chapters or sections.**

All references to chapters or sections are to the chapters and sections of this Code unless otherwise specified.

**Sec. 1-5. History notes.**

The history notes appearing in parentheses after sections of this Code are not intended to have any legal effect, but are merely intended to indicate the source of matter contained in the section.

**Sec. 1-6. References and editor's notes.**

References and editor's notes following certain sections of this Code are inserted as an aid and guide to the reader and are not controlling nor meant to have any legal effect.

**Sec. 1-7. Code does not affect prior offenses, penalties and rights.**

Nothing in this Code or the ordinance adopting this Code shall affect any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of this Code.

(Code 1987, § 100.04)

**Sec. 1-8. Effect of repeals.**

The repeal of an ordinance or portion of this Code shall not revive any ordinance or portion of this Code in force before or at the time the provision repealed took effect. The repeal of an ordinance or a portion of this Code shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal, for an offense committed under the provision repealed.

(Code 1987, § 100.04)

**Sec. 1-9. Certain ordinances not affected by Code.**

Nothing in this Code or the ordinance adopting this Code shall be construed to repeal or otherwise affect the validity of any of the following when not inconsistent with this Code:

- (1) Any offense or act committed or done or any penalty or forfeiture incurred before the effective date of this Code.
- (2) Any ordinance or resolution promising or guaranteeing the payment of money for the city, or authorizing the issue of any bonds of the city, or any evidence of the city's indebtedness, or any contract, right, agreement, lease, deed or other instrument or obligation assumed by the city.

- (3) Any administrative ordinances of the city not in conflict or inconsistent with the provisions of this Code.
- (4) Any right or franchise granted by any ordinance.
- (5) Any ordinance or resolution dedicating, naming, establishing, locating, relocating, opening, paving, widening, repairing, vacating, etc., any street or public way in the city.
- (6) Any appropriation ordinance.
- (7) Any ordinance levying or imposing taxes.
- (8) Any ordinance prescribing fees, fines, charges, rates or other specific monetary values.
- (9) Any ordinance annexing territory or excluding territory or any ordinance extending the boundaries of the city.
- (10) Any ordinance establishing traffic or parking regulations on any street or public way, including traffic schedules.
- (11) Any ordinance regarding salaries or compensation of city officers or employees.
- (12) Any zoning ordinance or zoning map amendment.
- (13) Any temporary or special ordinances.

All such ordinances are recognized as continuing in full force and effect to the same extent as if set out at length in this Code. All ordinances are on file in the office of the administrative clerk-treasurer.

#### **Sec. 1-10. Amendments to Code.**

- (a) Any and all additions and amendments to this Code, when passed in such form as to indicate the intention of the city council to make such additions or amendments a part of this Code, shall be deemed to be incorporated in this Code so that reference to the Code shall be understood and intended to include such additions and amendments.
- (b) All ordinances passed subsequent to the adoption of this Code which amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of this Code and printed for inclusion in the Code. When subsequent ordinances repeal any chapter, article, division, section or subsection or any portion of a chapter, article, division, section or subsection, such repealed portions may be excluded from the Code by their omission from reprinted pages.
- (c) Amendments to any of the provisions of this Code may be made by amending such provisions by specific reference to the section number of this Code in substantially the following language: "That section \_\_\_\_\_ of the Code of Ordinances, City of Le Center, Minnesota, is hereby amended to read as follows: . . . ." The new provisions shall then be set out in full.
- (d) If a new section not then existing in the Code is to be added, the following language may be used: "That the Code of Ordinances, City of Le Center, Minnesota, is hereby amended

by adding a section to be numbered \_\_\_\_\_, which section reads as follows: . . . ." The new section may then be set out in full.

- (e) All sections, divisions, articles, chapters or provisions desired to be repealed must be specifically repealed by section, division, article or chapter number, as the case may be.

#### **Sec. 1-11. Supplementation of Code.**

- (a) By contract or by city personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the city council. A supplement to the Code shall include all substantive permanent and general parts of ordinances passed by the city council or adopted by initiative and referendum during the period covered by the supplement and all changes made by the supplement in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages which have become obsolete or partially obsolete; and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of adoption of the latest ordinance included in the supplement.
- (b) In preparing a supplement to this Code, all portions of the Code which have been repealed shall be excluded from the Code by their omission from reprinted pages.
- (c) When preparing a supplement to this Code, the codifier, meaning the person authorized to prepare the supplement, may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:
  - (1) Organize the ordinance material into appropriate subdivisions;
  - (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in catchlines, headings and titles;
  - (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;
  - (4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," or "this section," as the case may be, or to "sections \_\_\_\_\_ through \_\_\_\_\_." The inserted section numbers will indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code; and
  - (5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

#### **Sec. 1-12. Severability of parts of Code.**

It is declared to be the intention of the city council that the sections, paragraphs, sentences, clauses and phrases of this Code are severable; and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional, invalid or unenforceable, such

unconstitutionality, invalidity or unenforceability shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code.

(Code 1987, § 100.07)

**Sec. 1-13. General penalty.**

- (a) Whenever in this Code or in any ordinance of the city any act is prohibited or is made or declared to be unlawful, an offense or a misdemeanor, or whenever in such Code or ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is provided, the violation of any such provision of this Code or city ordinance shall be punished as a misdemeanor, that is, with a fine of up to \$700.00 or imprisonment for not more than 90 days or by both such fine and imprisonment, unless otherwise provided in this Code. The term "misdemeanor" shall be as defined in M.S.A. § 609.02, subd. 3. Each day any violation of any provision of this Code or of any ordinance shall continue shall constitute a separate offense.
- (b) Whenever an act or omission is declared by this Code to be a petty offense or a petty misdemeanor, any person violating the provision shall, upon conviction, be subject to a fine of not more than \$200.00.
- (c) In case of the amendment by the city council of any section of this Code for which a penalty is not provided, the general penalty as provided in subsection (a) of this section shall apply to the section, as amended; or in case such amendment contains provisions for which a specified penalty other than the aforementioned general penalty is provided in another section in the same chapter, the penalty so specified shall be held to relate to the amended section, unless such penalty is specifically repealed.

(Code 1987, § 100.06)

**State law reference(s)**--Authority to adopt penalty of up to \$700.00, M.S.A. § 609.034; prosecutions, violations of ordinances, M.S.A. § 412.861.

**Chapter 2 ADMINISTRATION\***

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**\*Cross reference(s)**--Any administrative ordinances of the city not in conflict or inconsistent with the provisions of this Code saved from repeal, § 1-9(3); department and administrative authority over business regulations, § 10-1; civil emergencies, ch. 14; community development, ch. 16;

elections, ch. 18; area fire district board of commissioners, § 24-96 et seq.; law enforcement, ch. 26; planning, ch. 30; planning commission, § 30-31 et seq.; utilities, ch. 42.

**State law reference(s)**--Municipal rights, powers and duties, M.S.A. ch. 471.

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

##### **Sec. 2-1. Hearings.**

- (a) *Generally.* 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.* Every hearing shall be preceded by ten days' mailed notice to all persons entitled to such notice by law, ordinance or regulation unless only published notice is required. The notice shall state the time, place and purpose of the hearing. Failure to give the notice or defects in it shall not invalidate the proceedings if a good-faith effort has been made to comply with this section.
- (c) *Conduct of hearing.* At the hearing, each party in interest shall have an opportunity to be heard and to present such evidence as is relevant to the proceeding. The council may adopt rules governing the conduct of hearings, records to be made, and such 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.

(Code 1987, § 100.05)

**Secs. 2-2--2-35. Reserved.**

#### **ARTICLE II. CITY COUNCIL\***

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**\*Cross reference(s)**--Elections, ch. 18.

**State law reference(s)**--Councils generally, M.S.A. § 412.191 et seq.

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## DIVISION 1. GENERALLY

### **Sec. 2-36. Presiding officer.**

- (a) *Who presides.* The mayor shall preside at all meetings of the council. In the absence of the mayor, the acting mayor shall preside. In the absence of both, the administrative clerk-treasurer shall call the meeting to order and shall preside until the councilmembers present at the meeting choose one of their number to act temporarily as presiding officer.
- (b) *Procedure.* The presiding officer shall preserve order, enforce the rules of procedure prescribed in this article, and determine without debate, subject to the final decision of the council on appeal, all questions of procedure and order. Except as otherwise provided by statute or by the rules of procedure, the proceedings of the council shall be conducted in accordance with Robert's Rules of Order, Newly Revised.
- (c) *Appeal procedure.* Any member may appeal to the council from a ruling of the presiding officer. If the appeal is seconded, the member may speak once solely on the question involved and the presiding officer may explain his ruling, but no other councilmember shall participate in the discussion. The appeal shall be sustained if it is approved by a majority of the members present exclusive of the presiding officer.
- (d) *Rights of presiding officer.* The presiding officer may make motions, second motions or speak on any question; except that on demand of any councilmember, he shall vacate the chair and designate a councilmember to preside temporarily.

(Code 1987, § 201.02)

### **Sec. 2-37. Minutes.**

- (a) *Who keeps.* Minutes of each council meeting shall be kept by the administrative clerk-treasurer or, in his absence, by a deputy. In the absence of both, the presiding officer shall appoint a secretary pro tem. Ordinances, resolutions and claims need not be recorded in full in the minutes if they appear in other permanent records of the administrative clerk-treasurer and can be accurately identified from the description given in the minutes.
- (b) *Approval.* The minutes of each meeting shall be reduced to typewritten form and shall be signed by the administrative clerk-treasurer, and copies of the minutes shall be delivered to each councilmember as soon as practicable after the meeting. At the next regular meeting following such delivery, approval of the minutes shall be considered by the council. The minutes need not be read aloud, but the presiding officer shall call for any additions or corrections. If there is no objection to a proposed addition or correction, it may be made without a vote of the council. If there is an objection, the council shall vote upon the addition or correction. If there are no additions or corrections, the minutes shall stand approved.

(Code 1987, § 201.03)

**Sec. 2-38. Order of business.**

- (a) *Order established.* Each meeting of the council shall convene at the appointed time and place. Council business shall be conducted in the following order:
  - (1) Call to order.
  - (2) Approval of minutes.
  - (3) Approval of bills to be paid.
  - (4) Reports of officers, boards and committees.
  - (5) Petitions, requests and communications.
  - (6) Unfinished business.
  - (7) New business.
  - (8) Miscellaneous.
  - (9) Adjournment.
- (b) *Varying order.* The order of business may be varied by the presiding officer, but all public hearings shall be held at the time specified in the notice of hearing.
- (c) *Agenda.* The administrative clerk-treasurer shall prepare an agenda of business for each regular council meeting and file a copy in his office not later than one day before the meeting. The agenda shall be prepared in accordance with the order of business, and copies of the agenda shall be delivered to each councilmember and to the city newspaper and city attorney as far in advance of the meeting as time for preparation will permit. No item of business shall be considered unless it appears on the agenda for the meeting or is approved for addition to the agenda by a unanimous vote of the councilmembers present.

(Code 1987, § 201.04)

**Sec. 2-39. Quorum and voting.**

- (a) *Quorum.* At all council meetings a majority of all the elected councilmembers shall constitute a quorum for the transaction of business, but a smaller number may adjourn from time to time.
- (b) *Voting.* The votes of the members on any questions may be taken in any manner which signifies the intention of the individual members, and the votes of the members on any action taken shall be recorded in the minutes. The vote of each member shall be recorded on each appropriation of money, except for payments of judgments, claims and amount fixed by statute. If any member is present but does not vote, the minutes, as to his name, shall be marked "Present-Not Voting."

- (c) *Votes required.* A majority vote of all members of the council shall be necessary for approval of any ordinance unless a larger number is required by statute. Except as otherwise provided by statute, a majority vote of a quorum shall prevail in all other cases.

(Code 1987, § 201.05)

**Sec. 2-40. Ordinances, resolutions, motions, petitions, communications.**

- (a) *Readings.* Every ordinance and resolution shall be presented in writing. Every ordinance shall receive two readings before the council prior to final adoption but shall not be read twice at the same meeting unless the rules are suspended for that purpose. An ordinance or resolution need not be read in full unless a member of the council requests such a reading.
- (b) *Signing and publication proof.* Every ordinance and resolution passed by the council shall be signed by the mayor, attested by the administrative clerk-treasurer, and filed by him in the ordinance or resolution book. Proof of publication of every ordinance shall be attached and filed with the ordinance.
- (c) *Repeals and amendments.* Every ordinance or resolution repealing a previous ordinance or resolution or a section or subdivision of an ordinance or resolution shall give the number, if any, and the title of the ordinance or code number of the ordinance or resolution to be repealed in whole or in part. Each ordinance or resolution amending an existing ordinance or resolution or part of an ordinance or resolution shall set forth in full each amended section or subdivision as it will read with the amendment.
- (d) *Motions, petitions, communications.* Every motion shall be stated in full before it is submitted to a vote by the presiding officer and shall be recorded in the minutes. Every petition or other communication addressed to the council shall be in writing and shall be read in full upon presentation to the council unless the council dispenses with the reading. Each petition or other communication shall be recorded in the minutes by title and filed with the minutes in the office of the administrative clerk-treasurer.

(Code 1987, § 201.06)

**Sec. 2-41. Council assignments.**

- (a) *Standing assignments.* There shall be the following standing council assignments:
  - (1) Police, civil defense, fire.
  - (2) Parks and recreation.
  - (3) Streets and lights.
  - (4) Water and sewer.
  - (5) Health and refuse.
  - (6) Fire commission.

- (7) Ambulance commission.
- (8) Planning and zoning.

Council assignments shall be made by the mayor at the first regular council meeting in January of each year.

- (b) *Purpose.* These assignments are to assign a certain responsibility for government function to each member of the city council.
- (c) *Referral and reports.* Any matter brought before the council for consideration may be referred by the presiding officer to the appropriate council assignee for a written or oral report and recommendation before it is considered by the council as a whole. Each council assignee shall act promptly and faithfully on any matter referred to it.

(Code 1987, § 201.07)

**Sec. 2-42. Salaries of mayor and councilmembers.**

The salary of the mayor and councilmembers shall be set in accordance with M.S.A. § 415.11.

(Code 1987, § 201.09)

**Secs. 2-43--2-65. Reserved.**

DIVISION 2. MEETINGS\*

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\***State law reference(s)**--Open meetings law, M.S.A. § 471.705.  
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**Sec. 2-66. Regular meetings.**

Regular meetings of the council shall be held on the second Tuesday of each calendar month at 7:00 p.m. Any regular meeting falling upon a holiday shall be held on the next following business day at the same time and place. All meetings, including special and adjourned meetings, shall be held in the city hall.

(Code 1987, § 201.01(1))

**Sec. 2-67. Special meetings.**

The mayor or any two members of the council may call a special meeting of the council upon at least 24 hours' written notice to each member of the council. This notice shall be delivered personally to each member or shall be left at his usual place of residence with some responsible person. Similar notice shall be given to the city newspaper and attorney, and a copy shall be posted on the bulletin board at the foyer of the city hall.

(Code 1987, § 201.01(2))

**Sec. 2-68. Initial meeting.**

At the first regular council meeting in January of each year, the council shall:

- (1) Designate the depositories of city funds.
  - (2) Designate the official newspaper.
  - (3) Choose one of the councilmembers as acting mayor, who shall perform the duties of the mayor during the disability or absence of the mayor from the city or, in case of a vacancy in the office of mayor, until a successor has been appointed and qualifies.
  - (4) Appoint such officers and employees and such members of boards, commissions and committees as may be necessary.
- (Code 1987, § 201.01(3))

**Sec. 2-69. Public meetings.**

All council meetings, including special and adjourned meetings and meetings of council committees, shall be open to the public in accordance with M.S.A. § 471.705.

(Code 1987, § 201.01(4))

**Secs. 2-70--2-100. Reserved.**

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

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**\*Cross reference(s)**--Any ordinance regarding salaries or compensation of city officers or employees saved from repeal, § 1-9(11); civil defense agency, § 14-31 et seq.; economic development authority, § 16-31 et seq.; fire department, § 24-31 et seq.; police department, § 26-31 et seq.; forester, § 44-32.

**State law reference(s)**--Municipal officers and employees generally, M.S.A. § 412.101 et seq.  
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DIVISION 1. GENERALLY

**Secs. 2-101--2-120. Reserved.**

DIVISION 2. ADMINISTRATIVE CLERK-TREASURER\*

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**\*State law reference(s)**--Duties of clerk, M.S.A. § 412.151.  
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**Sec. 2-121. Position established.**

The position of administrative clerk-treasurer is established.

(Code 1987, § 201.10)

**Sec. 2-122. Purpose.**

The administrative clerk-treasurer shall be appointed by the city council as the chief administrative employee accountable only to the mayor and city council.  
(Code 1987, § 201.10(1))

**Sec. 2-123. Responsibilities.**

The administrative clerk-treasurer shall be accountable for but not limited by the scope of responsibility provided for in the current job description for such position.

(Code 1987, § 201.10(2))

**Secs. 2-124--2-145. Reserved.**

DIVISION 3. PUBLIC WORKS SUPERINTENDENT

**Sec. 2-146. Position established.**

The position of public works superintendent is established.

(Code 1987, § 201.13)

**Sec. 2-147. Purpose.**

The public works superintendent shall be appointed by the city council as the chief public works maintenance employee and be accountable to the mayor and city council directly, or through the administrative clerk-treasurer.

(Code 1987, § 201.13(1))

**Sec. 2-148. Responsibilities.**

The public works superintendent shall be accountable for but not limited by the scope of responsibilities provided for in the current job description for such position.

(Code 1987, § 201.13(2))

**Secs. 2-149--2-180. Reserved.**

**ARTICLE IV. FINANCE\***

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\***Cross reference(s)**--Any ordinance or resolution promising or guaranteeing the payment of money for the city, or authorizing the issue of any bonds of the city, or any evidence of the city's indebtedness, or contract, right, agreement, lease, deed or other instrument or obligation assumed by the city saved from repeal, § 1-9(2); any appropriation ordinance saved from repeal, § 1-9(6); any ordinance levying or imposing taxes saved from repeal, § 1-9(7); any ordinance prescribing fees, fines, charges, rates or other specific monetary values saved from repeal, § 1-9(8).

**State law reference(s)**--Municipal finance and taxation generally, M.S.A. § 412.241 et seq.; municipal finance, taxation and special assessments, M.S.A. § 426.04 et seq.

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**Sec. 2-181. Annual audit.**

- (a) *Established.* There is established the provision for annual auditing of city financial affairs.
- (b) *Procedure.* There shall be an annual audit for the city's financial affairs by the public examiner or a certified public accountant in accordance with generally accepted accounting principles.

(Code 1987, § 201.11(1))

**Chapter 4 ALCOHOLIC BEVERAGES\***

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**\*Cross reference(s)**--Businesses, ch. 12.

**State law reference(s)**--Liquor, M.S.A. § 340A.101 et seq.; municipal authority to impose restrictions and regulations on the sale and possession of alcoholic beverages, M.S.A. § 340A.509.

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**Article I. In General**



Secs. 4-1--4-30. Reserved.

## **Article II. Licensing**

### Division 1. Generally

Secs. 4-31--4-50. Reserved.

### Division 2. Intoxicating Liquor

Sec. 4-51. Provisions of state law adopted.

Sec. 4-52. License required.

Sec. 4-53. Application for license.

Sec. 4-54. License fees.

Sec. 4-55. Places ineligible for license.

Sec. 4-56. Conditions of license.

Sec. 4-57. Restrictions on purchase and consumption.

Sec. 4-58. Suspension and revocation.

Secs. 4-59--4-80. Reserved.

### Division 3. 3.2 Percent Malt Liquor

Sec. 4-81. Definitions.

Sec. 4-82. License required.

Sec. 4-83. License applications.

Sec. 4-84. License fees.

Sec. 4-85. Granting of license.

Sec. 4-86. Persons ineligible for license.

Sec. 4-87. Places ineligible for license; conviction or revocation.

Sec. 4-88. Conditions of license.

Sec. 4-89. Closing hours.

Sec. 4-90. Clubs.

Sec. 4-91. Restrictions on purchase and consumption.

Sec. 4-92. Revocation.

Secs. 4-93--4-125. Reserved.

### **Article III. Municipal Liquor Stores**

Sec. 4-126. Provisions of state law adopted.

Sec. 4-127. Store continued.

Sec. 4-128. Location and operation.

Sec. 4-129. Store fund.

Sec. 4-130. Enforcement.

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

**Secs. 4-1--4-30. Reserved.**

### **ARTICLE II. LICENSING\***

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\***State law reference(s)**--Retail licenses, M.S.A. § 340A.401 et seq.  
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#### **DIVISION 1. GENERALLY**

**Secs. 4-31--4-50. Reserved.**

#### **DIVISION 2. INTOXICATING LIQUOR**

**Sec. 4-51. Provisions of state law adopted.**

The provisions of M.S.A. § 340A.101 et seq., relating to the definition of terms, licensing, consumption, sales, conditions of bonds of licensees, hours of sale, and all other matters pertaining to the retail sale, distribution and consumption of intoxicating liquor are adopted and made a part of this division as if set out in full.

(Code 1987, § 601.01)

**Sec. 4-52. License required.**

- (a) *General requirement.* No person, except a wholesaler or manufacturer to the extent authorized under state license, shall directly or indirectly deal in, sell or keep for sale in the city any intoxicating liquor without a license to do so as provided in this division. Liquor licenses shall be of one kind--on-sale, club licenses.

- (b) *On-sale licenses.* On-sale licenses shall be issued only to clubs, and shall permit on-sale of liquor only.
- (c) *Club licenses.* Club licenses shall be issued only to incorporated clubs which have been in existence for 15 years or more or to congressionally chartered veterans organizations which have been in existence for ten years.

(Code 1987, § 601.02)

**Sec. 4-53. Application for license.**

- (a) *Form.* Every application for a license to sell liquor shall state:
  - (1) The name of the applicant;
  - (2) His age;
  - (3) Representations as to his character, with such references as the council may require;
  - (4) His citizenship;
  - (5) The type of license applied for;
  - (6) The business in connection with which the proposed license will operate and its location;
  - (7) Whether the applicant is owner and operator of the business;
  - (8) How long he has been in that business at that place; and
  - (9) Such other information as the council may require.

In addition to containing such information, the application shall be in the form prescribed by the commissioner of public safety and shall be verified and filed with the administrative clerk-treasurer. No person shall make a false statement in an application.

- (b) *Bond.* Each application for a license shall be accompanied by a surety bond or, in lieu thereof, cash or United States Government bonds of equivalent market value as provided in M.S.A. § 340A.409, subd. 1. Such surety bond or other security shall be in the sum of \$3,000.00 for an applicant for an on-sale club license.
- (c) *Liability insurance.* Prior to the issuance of a liquor license, the applicant shall file with the administrative clerk-treasurer a liability insurance policy in an amount to comply with state-mandated civil damage or dram shop act, M.S.A. § 340A.101 et seq., and shall comply with the provisions of M.S.A. § 340A.409 relating to liability insurance policies. If a liability insurance policy is made subject to all the conditions of a bond under the statute, the policy may be accepted by the council in lieu of the bond required under subsection (b) of this section.

(Code 1987, § 601.03)

**Sec. 4-54. License fees.**

- (a) *Schedule.* The annual fee for a liquor license shall be by resolution set by the council for an on-sale club license, and a schedule of such fees shall be on file and available in the city offices.
- (b) *Payment.* Each application for a license shall be accompanied by a receipt from the administrative clerk-treasurer for payment in full of the license fee. All fees shall be paid into the general fund. If an application for a license is rejected, the administrative clerk-treasurer shall refund the amount paid as the license fee.
- (c) *Term, pro rata fee.* Each license shall be issued for a period of one year; except that if the application is made during the license year, a license may be issued for the remainder of the year for a pro rata fee, with any unexpired fraction of a month being counted as one month. Every license shall expire on the last day of June each year.
- (d) *Refunds.* No refund of any fee shall be made except as authorized by statute in accordance with M.S.A. § 340A.301, subd. 6.

(Code 1987, § 601.04)

#### **Sec. 4-55. Places ineligible for license.**

- (a) *General prohibition.* No liquor license shall be issued for any place or any business ineligible for such a license under state law.
- (b) *Delinquent taxes and charges.* No license shall be granted for operation on any premises on which taxes, assessments or other financial claims of the city are delinquent and unpaid.

(Code 1987, § 601.06)

#### **Sec. 4-56. Conditions of license.**

- (a) *In general.* Every liquor license is subject to the conditions in this section and all other provisions of this division and of any other applicable ordinance, state law or regulation.
- (b) *Licensee's responsibility.* Every licensee is responsible for the conduct of his place of business and the conditions of sobriety and order in it. The act of any employee on the licensed premises authorized to sell intoxicating liquor there is deemed the act of the licensee as well, and the licensee shall be liable to all penalties provided by this division and the law equally with the employee.
- (c) *Inspections.* Every licensee shall allow any peace officer or properly designated city representative or employee of the city to enter, inspect and search the premises of the licensee during business hours without a warrant.
- (d) *Display during prohibited hours.* No on-sale establishment shall display liquor to the public during hours when the sale of liquor is prohibited.
- (e) *Federal stamps.* No licensee shall possess a federal wholesale liquor dealer's special tax stamp or a federal gambling stamp.

(Code 1987, § 601.07)

**Sec. 4-57. Restrictions on purchase and consumption.**

- (a) *Liquor in unlicensed places.* No person shall mix or prepare liquor for consumption in any public place or place of business unless it has a license to sell liquor on-sale or a permit from the commissioner of public safety under M.S.A. § 340A.401, and no person shall consume liquor in any such place.
- (b) *Consumption in public places.* No person shall consume liquor on a public highway, public park or other public place.
- (c) *Hours of sale.* No licensee shall permit the sale or consumption of liquor outside of the following hours:
  - (1) Under off-sale licenses, no sales shall be allowed between the hours of 10:00 p.m. and 8:00 a.m. on any days Monday through Saturday nor from 10:00 p.m. Saturday to 8:00 a.m. Monday.
  - (2) Under on-sale licenses, no sales shall be allowed between the hours of 1:00 a.m. and 8:00 a.m. on any Monday, Tuesday, Wednesday, Thursday, Friday, or Saturday, nor from 1:00 a.m. on Sunday to 1:00 a.m. on Monday, with the following exceptions:
    - a. A club on-sale Sunday liquor license.
    - b. In the event of special variance from the 1:00 a.m. regular closing time by council action.
- (d) *Sales to underage or intoxicated persons.* No liquor shall be sold or served to any intoxicated person or to any person under 21 years of age.

(Code 1987, § 601.08)

**Sec. 4-58. Suspension and revocation.**

The council may either suspend for not to exceed 60 days or revoke any liquor license upon a finding that the licensee has failed to comply with any applicable statute, regulation or ordinance relating to intoxicating liquor. No suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to M.S.A. §§ 15.0418--15.0426.

(Code 1987, § 601.09)

**Secs. 4-59--4-80. Reserved.**

DIVISION 3. 3.2 PERCENT MALT LIQUOR\*

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\*State law reference(s)--3.2 percent malt liquor licenses, M.S.A. § 340A.403.  
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**Sec. 4-81. Definitions.**

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

*3.2 percent malt liquor* means malt liquor containing not less than one-half of one percent alcohol by volume nor more than 3.2 percent alcohol by weight.

**Cross reference(s)**--Definitions generally, § 1-2.

**Sec. 4-82. License required.**

- (a) *Kinds of licenses.* No person, except wholesalers and manufacturers to the extent authorized by law, shall deal in or dispose of by gift, sale or otherwise, or keep or offer for sale, any 3.2 percent malt liquor within the city without first having received a license as provided in this division. Licenses shall be of three kinds:
  - (1) Regular on-sale;
  - (2) Temporary on-sale;
  - (3) Off-sale.
- (b) *Regular on-sale.* Regular on-sale licenses shall be granted only to bona fide clubs, 3.2 percent malt liquor stores, exclusive on-sale liquor stores, restaurants and hotels where food is prepared and served for consumption on the premises. On-sale licenses shall permit the sale of 3.2 percent malt liquor for consumption on the premises only.
- (c) *Temporary on-sale.* Temporary on-sale licenses shall be granted only to bona fide clubs and charitable, religious and nonprofit organizations for the sale of 3.2 percent malt liquor for consumption on the premises only.
- (d) *Off-sale.* Off-sale licenses shall permit the sale of 3.2 percent malt liquor at retail, in the original package for consumption off the premises only.

(Code 1987, § 603.02)

**Sec. 4-83. License applications.**

Every application for a license to sell 3.2 percent malt liquor shall be made to the administrative clerk-treasurer on a form supplied by the city and containing such information as the administrative clerk-treasurer may require. It shall be unlawful to make any false statement in an application.

(Code 1987, § 603.03)

**Sec. 4-84. License fees.**

- (a) *Payment required.* Each application for a license to sell 3.2 percent malt liquor shall be accompanied by a receipt from the administrative clerk-treasurer for payment in full of the required fee for the license. All fees shall be paid into the general fund of the city. Upon

rejection of any application for a license, the administrative clerk-treasurer shall refund the amount paid.

- (b) *Expiration; pro rata fees.* Every license except a temporary license shall expire on June 30 in each year. Each license except a temporary license shall be issued for a period of one year; except that if a portion of the license year has elapsed when the license is granted, the license shall be issued for the remainder of the year for a pro rata fee. In computing such fee, any unexpired fraction of a month shall be counted as one month. A temporary license shall be issued for a specific period in which a special event to which the sale is incident is being held, and such period shall be stated on the license.
- (c) *Schedule.* The annual fees for regular on-sale, off-sale and temporary on-sale licenses is established by council resolution from time to time; and a schedule of such fees is on file and available in the city offices.
- (d) *Refunds.* No part of the fee paid for any license issued under this division shall be refunded except in the following instances upon application to the council within 30 days from the happening of the event. There shall be refunded a pro rata portion of the fee for the unexpired period of the license, computed on a monthly basis, when operation of the licensed business ceases not less than one month before expiration of the license because of:
  - (1) Destruction or damage of the licensed premises by fire or other catastrophe.
  - (2) The licensee's illness.
  - (3) The licensee's death.
  - (4) A change in the legal status of the city, making it unlawful for the licensed business to continue.

(Code 1987, § 603.04)

**Sec. 4-85. Granting of license.**

- (a) *Investigation and hearing.* The city council shall investigate all facts set out in the application for a license to sell 3.2 percent malt liquor. Opportunity shall be given to any person to be heard for or against the granting of the license. After such investigation and hearing, the council shall grant or refuse the application in its discretion.
- (b) *Transfers.* Each license shall be issued to the applicant only and shall not be transferable to another holder. Each license shall be issued only for the premises described in the application. No license may be transferred to another place without the approval of the council.

(Code 1987, § 603.05)

**Sec. 4-86. Persons ineligible for license.**

No license to sell 3.2 percent malt liquor shall be granted to or held by any person who:

- (1) Is not at least 21 years of age;
- (2) Has, within five years prior to the application for such license, been convicted of a felony or of violating any law of this state or local ordinance relating to the manufacture, sale, distribution or possession for sale or distribution of intoxicating liquors or 3.2 percent malt liquor and cannot show competent evidence under M.S.A. § 364.03, of sufficient rehabilitation and present fitness to perform the duties of a 3.2 percent malt liquor licensee;
- (3) Is a manufacturer of 3.2 percent malt liquor or is interested in the control of any place where 3.2 percent malt liquor is manufactured;
- (4) Is not of good moral character;
- (5) Is or during the period of this license becomes the holder of a federal retail liquor dealer's special tax stamp for the sale of intoxicating liquor at any place unless there has also been issued to him a local license to sell intoxicating liquor at such place; or
- (6) Is not the proprietor of the establishment for which the license is issued.

(Code 1987, § 603.06)

**Sec. 4-87. Places ineligible for license; conviction or revocation.**

No license for the sale of 3.2 percent malt liquor shall be granted for sale on any premises where a licensee has been convicted of the violation of this division, or of the state 3.2 percent malt liquor or liquor law, or where any license under this division has been revoked for cause until one year has elapsed after such conviction or revocation.

(Code 1987, § 603.07(1))

**Sec. 4-88. Conditions of license.**

- (a) *General conditions.* Every license for the sale of 3.2 percent malt liquor shall be granted subject to the conditions in this section and all other provisions of this division and of any other applicable ordinance of the city or state law.
- (b) *Sales to underage or intoxicated persons.* No 3.2 percent malt liquor shall be sold or served to any intoxicated person or to any person under 21 years of age.

**State law reference(s)**--Sales to obviously intoxicated persons prohibited, M.S.A. § 340A.502.

- (c) *Consumption by underage persons.* No person under 21 years of age shall consume 3.2 percent malt liquor.

**State law reference(s)**--Similar provisions, M.S.A. § 340A.503, subd. 1.

- (d) *Employment of underage person.* No person under 21 years of age shall be employed on the premises of a 3.2 percent malt liquor store. A person 17 years of age is permitted to work in an establishment where the serving of 3.2 percent malt liquor is not the principal business.



- (e) *Gambling.* No gambling or any gambling device shall be permitted on any licensed premises, except paddle wheels, tipboards and raffles licensed by the city on the premises of a 3.2 percent malt liquor licensee.
- (f) *Interest of manufacturers or wholesalers.* No manufacturer or wholesaler of 3.2 percent malt liquor shall have any ownership of or interest in an establishment licensed to sell at retail contrary to the provisions of M.S.A. § 340A.301. No retail licensee and manufacturer or wholesaler of 3.2 percent malt liquor shall be parties to any exclusive purchase contract. No retail licensee shall receive any benefits contrary to law from a manufacturer or wholesaler of 3.2 percent malt liquor, and no such manufacturer or wholesaler shall confer any benefits contrary to law upon a retail licensee.
- (g) *Dealer's stamp.* No licensee shall sell 3.2 percent malt liquor while holding or exhibiting in the licensed premises a federal retail liquor dealer's special tax stamp unless he is licensed under state law to sell intoxicating liquors.
- (h) *Sales of intoxicating liquor.* No licensee who is not also licensed to sell intoxicating liquor and who does not hold a consumption or display permit shall sell or permit the consumption and display of intoxicating liquors on the licensed premises or serve any liquids for the purpose of mixing with intoxicating liquor. The presence of intoxicating liquors on the premises of such a licensee shall be prima facie evidence of possession of intoxicating liquors for the purpose of sale; and the serving of any liquid for the purpose of mixing with intoxicating liquors shall be prima facie evidence that intoxicating liquor is being permitted to be consumed or displayed contrary to this division.
- (i) *Searches and seizures.* Any peace officer may enter, inspect and search the premises of a licensee during business hours without a search and seizure warrant and may seize all intoxicating liquor found on the licensed premises in violation of subsection (h) of this section.
- (j) *Licensee responsibility.* Every licensee shall be responsible for the conduct of his place of business and shall maintain conditions of sobriety and order.
- (k) *Banquet rooms.* A regular on-sale license shall entitle the holder to serve 3.2 percent malt liquor in a separate room of the licensed premises for banquets or dinners at which are present not fewer than 30 persons.

(Code 1987, § 603.08)

#### **Sec. 4-89. Closing hours.**

No sale of 3.2 percent malt liquor shall be made on any Sunday between the hours of 1:00 a.m. and 12:00 noon, and no sale shall be made between the hours of 1:00 a.m. and 8:00 a.m. on any other day.

(Code 1987, § 603.09)

**State law reference(s)**--Similar provisions, M.S.A. § 340A.504, subd. 1.

#### **Sec. 4-90. Clubs.**

No club shall sell 3.2 percent malt liquor except to members and to guests in the company of members.

(Code 1987, § 603.10)

**Sec. 4-91. Restrictions on purchase and consumption.**

- (a) *Age misrepresentation.* No underage person shall misrepresent his age for the purpose of obtaining 3.2 percent malt liquor.
- (b) *Inducing purchase.* No person shall induce an underage person to purchase or procure 3.2 percent malt liquor.
- (c) *Procurement.* No person other than the parent or legal guardian shall procure 3.2 percent malt liquor for any underage person.
- (d) *Possession.* No underage person shall have 3.2 percent malt liquor in his possession with the intent to consume it at a place other than the household of his parent or guardian.
- (e) *Consumption.* No underage person shall consume 3.2 percent malt liquor unless in the company of his parent or guardian.
- (f) *Liquor consumption and display.* No person shall consume or display any intoxicating liquor on the premises of a licensee who is not also licensed to sell intoxicating liquors or who does not hold a consumption and display permit.

(Code 1987, § 603.11)

**Sec. 4-92. Revocation.**

The violation of any provision or condition of this division by a 3.2 percent malt liquor licensee or his agent is ground for revocation or suspension of the license. The license of any person who holds a federal retail liquor dealer's special tax stamp without a license to sell intoxicating liquors at such place shall be revoked without notice and without hearing. In all other cases, a license granted under this division may be revoked or suspended by the council in accordance with section 12-41.

(Code 1987, § 603.12)

**Secs. 4-93--4-125. Reserved.**

**ARTICLE III. MUNICIPAL LIQUOR STORES\***

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\*State law reference(s)--Municipal liquor stores, M.S.A. § 340A.601 et seq.  
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**Sec. 4-126. Provisions of state law adopted.**

The provisions of M.S.A. ch. 340A with reference to the definition of terms, conditions of operation, restrictions on consumption, provisions relating to sales, hours of sale, and all other

matters pertaining to the retail sale, distribution and consumption of intoxicating liquor in or by a municipal liquor store are adopted and made a part of this article as if set out in full.

(Code 1987, § 602.01)

**Sec. 4-127. Store continued.**

The municipal liquor store heretofore established is continued for the off-sale and on-sale of intoxicating liquor. No liquor may be sold at retail elsewhere in the city or by anyone not employed in the store, except that the on-sale of such liquor is permitted in such clubs as may be lawfully authorized by the council. No person shall consume liquor in a public park, on a public street, or in any public place other than the municipal store or a licensed establishment or in an establishment where the consumption and display of liquor is lawfully permitted.

(Code 1987, § 602.02)

**Sec. 4-128. Location and operation.**

- (a) *Location.* The municipal liquor store shall be located at such suitable place in the city as the council determines; but no premises upon which taxes, assessments or other public charges are delinquent shall be leased for such purposes.
- (b) *Manager.* The store shall be in the immediate charge of a liquor store manager selected by the council and paid such compensation as is fixed by the council. He shall furnish a surety bond to the city conditioned upon the faithful discharge of his duties, in such sum as the council specifies. The bond premium shall be paid by the city. The manager shall operate the store under the council's direction and shall perform such duties in connection with the store as may be imposed upon him by the council. He shall be responsible to the council for the conduct of the store in full compliance with this article and with the laws relating to the sale of liquor and 3.2 percent malt liquor.
- (c) *Other employees.* The council shall also appoint such additional employees as may be required for the store and shall fix their compensation. All employees, including the manager, shall hold their positions at the pleasure of the council. No underage person shall be employed in the store. In the discretion of the council, such employees may be required to furnish surety bonds conditioned for the faithful discharge of their duties, in such sums as the council may specify. The premium on such bonds shall be paid by the city.

(Code 1987, § 602.03)

**Sec. 4-129. Store fund.**

- (a) *Established.* A municipal liquor store fund is created in which all revenues received from the operation of the store shall be deposited and from which all ordinary operating expenses shall be paid. Any amounts it may be necessary to borrow from the general fund of the city for initial costs of rent, fixtures and stock or for operating expenses shall be reimbursed to that fund out of the first available moneys coming into the store fund thereafter. Surpluses accumulating in the store fund may be transferred to the general fund or to any other appropriate fund of the city by resolution of the council and expended for any municipal purposes.

- (b) *Receipts and disbursements.* The handling of municipal liquor store receipts and disbursements shall comply with the procedure prescribed by law for the receipts and disbursements of city funds generally.
- (c) *Audit.* The council shall provide as soon as possible following the close of each fiscal year for an audit of the accounts of the municipal liquor store for that fiscal year by the state auditor or a qualified public accountant.
- (d) *Prohibited business.* No business other than the sale of liquor shall be carried on in the store except the retail sale of cigars, cigarettes, all forms of tobacco, food, soft drinks and 3.2 percent malt liquor, both on-sale and off-sale.
- (e) *Coin-operated games of amusement.* With the approval of the council, the store may make available for the use of patrons one or more coin-operated amusement devices authorized by statute.

(Code 1987, § 602.04)

**Sec. 4-130. Enforcement.**

It shall be the duty of all police officers of the city to enforce the provisions of this article, to search premises and seize evidence of law violation and preserve the evidence as evidence against any person alleged to be violating this article, and to prepare the necessary processes and papers.

(Code 1987, § 602.05)

**Chapter 6 AMUSEMENTS AND ENTERTAINMENTS\***

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**\*Cross reference(s)**--Businesses, ch. 12.

**State law reference(s)**--Authority to regulate and license amusements and shows, M.S.A. § 412.221, subd. 25; lawful gambling and gambling devices, M.S.A. § 349.11 et seq.

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**Article I. In General**

Secs. 6-1--6-30. Reserved.

**Article II. Bingo**

Division 1. Generally

Sec. 6-31. Statute incorporated.

Secs. 6-32--6-55. Reserved.

Division 2. License

Sec. 6-56. Required.

Sec. 6-57. Revocation.

## **ARTICLE I. IN GENERAL**

**Secs. 6-1--6-30. Reserved.**

## **ARTICLE II. BINGO\***

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**\*State law reference(s)**--Conduct of bingo, M.S.A. § 349.17.  
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### DIVISION 1. GENERALLY

**Sec. 6-31. Statute incorporated.**

The provisions of M.S.A. § 349.11 et seq., relating to the game of bingo, are adopted and made a part of this article as if set out in full. In addition, the regulations of this article apply to the conduct of bingo within the city.

(Code 1987, § 506.01)

**Secs. 6-32--6-55. Reserved.**

### DIVISION 2. LICENSE\*

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**\*State law reference(s)**--Bingo hall licenses, M.S.A. § 349.164.  
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**Sec. 6-56. Required.**

The unlicensed conduct of bingo within the city is prohibited. Any organization authorized by law to conduct bingo occasions may do so upon giving evidence that a license has been issued by the state gambling control board.

(Code 1987, § 506.02)

## **Sec. 6-57. Revocation.**

No licensee shall have a vested right in any bingo license, and such licenses may be suspended or revoked by the council at any time upon a showing that:

- (1) Any misrepresentation has been made in the license application or any report required of the licensee; or
- (2) The licensee has violated or caused to be violated any provisions of this article or the state bingo law.

(Code 1987, § 506.03)

## **Chapter 8 ANIMALS\***

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**\*Cross reference(s)**--Environment, ch. 22; R-A agricultural residence districts, § 46-61 et seq.

**State law reference(s)**--Dogs and cats, M.S.A. § 347.01 et seq.; authority to regulate the keeping of animals, M.S.A. § 412.221, subd. 21.

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Sec. 8-1. Definitions.

Sec. 8-2. Licensing; procedure; fees.

Sec. 8-3. Animals running at large.

Sec. 8-4. Pet/dog/cat nuisances.

Sec. 8-5. Confinement of certain animals.

Sec. 8-6. Quarantine of dangerous animals.

Sec. 8-7. Muzzling proclamation.

Sec. 8-8. Proceedings for destruction of dangerous animals.

Sec. 8-9. Impounding.

Sec. 8-10. Penalty.

Sec. 8-11. Local fines and collection.

Sec. 8-12. Areas where keeping prohibited.

Sec. 8-13. Treatment.

Sec. 8-14. Diseased animals.

Sec. 8-15. Manner of keeping.

Sec. 8-16. Care of premises.

**Sec. 8-1. Definitions.**

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

*Animal* means a domestic pet/dog/cat of any kind.

*At large* means the pet/dog/cat is off the property of the person owning, harboring or keeping the animal, and the pet/dog/cat is not under restraint.

*Cat* means all cats over three months of age.

*Dangerous animal* means an animal which has caused injury to a person or other animals and by its actions exhibits a propensity for imminent danger to persons or other animals.

*Dog* means all dogs over three months of age.

*License year* means the period from January 1 until the following December 31.

*Owner* means any person owning, keeping, harboring or acting as custodian of a pet/dog/cat.

*Pet* means any animal that is tamed or domesticated and for the intent and purpose of this chapter is capable of running at large.

*Under restraint* means that the pet/dog/cat is on the premises of the person harboring or keeping the animal; if it is at heel beside a person having custody of it or obedient to that person's command; if it is within a private motor vehicle of a person owning, harboring or keeping the animal; or if it is controlled by a leash not exceeding six feet in length.

(Code 1987, § 503.01)

**Cross reference(s)**--Definitions generally, § 1-2.

**Sec. 8-2. Licensing; procedure; fees.**

- (a) *License required.* No person shall keep any pet/dog/cat over three months of age within the city limits without securing an annual license from the administrative clerk-treasurer, who shall keep record of all licenses issued and shall issue a metal tag for each license.
- (b) *License fee; expiration.* The annual license fee shall be established by council resolution for each male pet/dog/cat or spayed female pet/dog/cat and for unspayed female pet/dog/cat. Every license shall be in effect during the license year and shall expire December 31.
- (c) *Affixing tag.* The owner shall permanently affix a tag to the collar of the pet/dog/cat so licensed in such a manner that the tag may be easily seen. The owner shall see that the tag is constantly worn by the pet/dog/cat. A duplicate shall be issued if the tag is lost.
- (d) *Rabies vaccination.* For each pet/dog/cat to be licensed, the owner shall provide proof (certification of a recent rabies vaccination) before a pet/dog/cat license shall be issued. In accordance with M.S.A. § 346.50, every pet/dog/cat must have a current rabies vaccination.
- (e) *Limitation on pets/dogs/cats.* No resident may license or keep more than three pets/dogs/cats over the age of three months within the city limits.

(Code 1987, § 503.02)

**Sec. 8-3. Animals running at large.**



No pet/dog/cat shall be permitted to run at large within the city limits. This restriction does not prohibit the appearance of any pet/dog/cat upon streets or public property as long as the pet/dog/cat is under restraint by the person charged with its care.

(Code 1987, § 503.03)

**Sec. 8-4. Pet/dog/cat nuisances.**

- (a) No person shall keep or harbor a pet/dog/cat which is a public nuisance. Any pet/dog/cat is a public nuisance that has done any of the following:
  - (1) A pet/dog/cat which habitually barks, yelps, howls, cries or whimpers so as to unreasonably disturb the peace and quiet of any person in the vicinity. The phrase "unreasonably disturb the peace and quiet" shall include but is not limited to the creation of any noise by a pet/dog/cat which can be heard by any person, including law enforcement officers, from the premises of any neighboring property, or in any case more than 100 feet from the building or premises where the pet/dog/cat is being kept and such noise occurs repeatedly over at least a five-minute period of time within one minute or less lapse of time between each pet/dog/cat noise during the five-minute period.
  - (2) Has destroyed or damaged any lawn, garden, shrubbery, foliage or property or habitually trespasses in a damaging manner on property of persons other than its owner. The owner shall be responsible for the actions of his pet/dog/cat and shall be responsible for the cleanup of any defecation on any public or private property, city street, sidewalk or park.
  - (3) Has attacked or bitten a person outside of its owner's premises or has shown dangerous animal tendencies.
  - (4) Frequents school grounds, parks or public property as to molest or annoy pedestrians or persons walking, riding or driving on public streets and highways.
- (b) Failure of the owner or custodian of a pet/dog/cat to prevent the pet/dog/cat from committing such a nuisance is a violation of this chapter and subjects the owner to tickets, fines and subsequent prosecution.

(Code 1987, § 503.04)

**Sec. 8-5. Confinement of certain animals.**

Every female pet/dog/cat in heat shall be confined in a building or other secure enclosure in such manner that it cannot come into contact with another pet/dog/cat except for planned breeding.

(Code 1987, § 503.05)

**Sec. 8-6. Quarantine of dangerous animals.**

Any pet/dog/cat which bites a person shall be quarantined for such time as may be directed by the police chief or responding officer. During quarantine, the animal shall be securely confined and kept from contact with any other animal. At the discretion of the police chief or responding officer, the quarantine may be on the premises of the owner; however, if the police chief or responding officer requires other confinement, the owner shall surrender the animal for the quarantine period to an animal shelter or shall, at his own expense, place it in a veterinary hospital.

(Code 1987, § 503.06)

**Sec. 8-7. Muzzling proclamation.**

Whenever the prevalence of rabies renders such action necessary to protect the public health and safety, the council shall issue a proclamation ordering every person owning or keeping a dog to muzzle it securely so that it cannot bite. No person shall violate such proclamation; and any unmuzzled dog unrestrained during the time fixed in the proclamation shall be subject to impoundment, and the owner of such dog shall be subject to the penalty provided in this chapter.

(Code 1987, § 503.07)

**Sec. 8-8. Proceedings for destruction of dangerous animals.**

Upon sworn complaint to the county court that any of the following facts exist:

- (1) That any pet/dog/cat at any time has destroyed property or habitually trespasses in a damaging manner on the property of persons other than the owner;
- (2) That any pet/dog/cat at any time has attacked or bitten a person outside the owner's or custodian's premises;
- (3) That any dog is vicious or shows vicious habits or molests pedestrians or interferes with vehicles on the street or creates a public nuisance;

the judge shall issue a summons directed to the owner of the pet/dog/cat commanding him to appear before the court to show cause why the pet/dog/cat should not be seized by any police officer, or otherwise disposed of in the manner authorized in this chapter. Such summons shall be returnable not less than two nor more than six days from its date and shall be served at least two days before the time of scheduled appearance. Upon such hearing, and finding the facts true as complained of, the court may either order the pet/dog/cat killed or order the owner or custodian to keep it confined to a designated

place. If the owner or custodian violates such order, any police officer may impound the pet/dog/cat described in such order. The provisions of this section are in addition to and supplemental to other provisions of this chapter. Costs of the proceedings specified by this section shall be assessed against the owner or custodian of the pet/dog/cat if the facts in the complaint are found to be true, or to the complainant if the facts are found to be untrue.

(Code 1987, § 503.08)

### **Sec. 8-9. Impounding.**

- (a) *Police to impound.* Any pet/dog/cat found unlicensed or running at large contrary to the provisions of this chapter may be impounded by an appointed officer or any police officer, who shall give notice of the impounding to the owner of such dog if known. If the owner is unknown, the officer shall post notice at the city hall that if the pet/dog/cat is not claimed within seven calendar days and at least five business days of posting the notice, it will be disposed of.
- (b) *Redemption.* Any pet may be redeemed from impoundment by the owner within the time stated in the notice by the payment to the administrative clerk-treasurer of the license fee for the current year, if unpaid, together with any boarding costs or other costs incurred, plus any applicable fines.
- (c) *Disposition of unclaimed pets/dogs/cats.* Any pet/dog/cat which is not redeemed within the time specified in subsection (b) of this section may be sold for not less than the amount provided in that subsection to anyone desiring to purchase the pet/dog/cat if it is not requested by a licensed educational or scientific institution under M.S.A. § 35.61. All sums received in excess to the fees fixed by subsection (b) of this section shall be paid to the owner if he makes a claim within one year of the sale and furnishes satisfactory proof of ownership. Any pet/dog/cat which is not claimed by the owner or sold shall be painlessly killed and buried by the appointed officer who is dispatched the duty.

(Code 1987, § 503.09)

### **Sec. 8-10. Penalty.**

- (a) Any person keeping a pet/dog/cat without a license or allowing a pet/dog/cat under his control to run at large is guilty of a petty misdemeanor and upon conviction shall be punished in accordance with section 1-13.
- (b) Any person failing to prevent a pet/dog/cat from committing a public nuisance is in violation of this chapter and is guilty of a petty misdemeanor and upon conviction shall be punished in accordance with section 1-13.

- (c) Any person violating the provisions of this chapter after receiving written notice that such violation has occurred shall be in violation of this chapter and is guilty of a petty misdemeanor and upon conviction shall be punished in accordance with section 1-13.

(Code 1987, § 503.10)

**Sec. 8-11. Local fines and collection.**

- (a) *Schedule of fines.* The following schedule lists local fines to be levied for violations of this chapter:

- (1) Pet/dog/cat picked up:

- a. First pickup, \$25.00.
- b. Second or more pickup within 12 months, \$50.00.

- (2) Pet/dog/cat public nuisance:

- a. First occurrence, \$25.00.
- b. Second or more occurrence within 12 months, \$50.00.

- (3) Pet/dog/cat failure to clean up defecation; each occurrence, \$25.00.

- (b) *Collection of fines.* Local fines under this chapter are to be collected in the following manner:

- (1) Direct payment by the pet/dog/cat owner at the time of occurrence. If this payment is not received, then:
- (2) Upon certification from the police department, it shall be added to the city utility bill. If still unpaid, then:
- (3) The police department shall keep a record of all unpaid fines under this chapter and shall once each year, on October 1, certify this list to the administrative clerk-treasurer, who shall in turn certify the amounts of any such unpaid fines to the county auditor as special assessments against the property where the pet/dog/cat is or was kept, for collection with real estate taxes.

(Code 1987, § 503.11)

**Sec. 8-12. Areas where keeping prohibited.**

No horse, cattle, sheep or goat shall be kept within the city's corporate limits.

(Code 1987, § 504.02)

**Sec. 8-13. Treatment.**

No person shall treat any animal in a cruel or inhumane manner.

(Code 1987, § 504.03)

**Sec. 8-14. Diseased animals.**

Any animal with a contagious disease shall be so confined that it cannot come within 50 feet of any public roadway or any place where animals belonging to or harbored by another person are kept.

(Code 1987, § 504.05)

**Sec. 8-15. Manner of keeping.**

No person shall keep any dog, cat or other animal in the city in an unsanitary place or condition or in a manner resulting in objectionable odors or in such a way as to constitute a nuisance or disturbance by reason of barking, howling, fighting or other noise, or in such a way as to permit the animal to annoy, injure or endanger any person or property.

(Code 1987, § 504.06)

**Sec. 8-16. Care of premises.**

- (a) *Clean shelters.* Every structure and yard in which animals or fowl are kept shall be maintained in a clean and sanitary condition and free of all rodents, vermin and objectionable odors. The interior walls, ceilings, floors, partitions and appurtenances of any such structure shall be whitewashed or painted as the police chief or other officer shall direct. Upon the complaint of any individual or otherwise, the police chief or other officer shall inspect such structure or yard and issue any such order as may be reasonably necessary to carry out the provisions of this chapter.
- (b) *Manure.* Manure shall be removed with sufficient frequency to avoid nuisance from odors or from the breeding of flies, at least once per month from October 1 to May 1 each year, and once every two weeks at other times. Unless used for fertilizer, manure shall be removed by hauling beyond the city limits. If used for fertilizer, manure shall be spread upon the ground evenly and turned under at once or as soon as the frost leaves the ground.

(Code 1987, § 504.07)

## **Chapter 10 BUILDINGS AND BUILDING REGULATIONS\***

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**\*Cross reference(s)**--Community development, ch. 16; environment, ch. 22; fire prevention and protection, ch. 24; planning, ch. 30; solid waste, ch. 32; streets, sidewalks and other public places, ch. 36; subdivisions, ch. 38; utilities, ch. 42; vegetation, ch. 44; zoning, ch. 46.

**State law reference(s)**--Authority to regulate the construction of buildings, M.S.A. § 412.221, subd. 28.

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### **Article I. In General**

Sec. 10-1. Department and administrative authority.

Secs. 10-2--10-35. Reserved.

### **Article II. Building Code**

Sec. 10-36. Given as reference.

Sec. 10-37. Additional provisions.

Secs. 10-38--10-70. Reserved.

### **Article III. Permits**

Sec. 10-71. Required.

Sec. 10-72. Application.

Sec. 10-73. Determination of fees.

Sec. 10-74. Issuance.

Sec. 10-75. Fee schedule.

Sec. 10-76. Certificate of use.

Secs. 10-77--10-110. Reserved.

### **Article IV. Fire Limits**

Sec. 10-111. Boundaries.

Sec. 10-112. Required construction materials.

Sec. 10-113. Keeping of combustible materials limited.

## **ARTICLE I. IN GENERAL**

### **Sec. 10-1. Department and administrative authority.**

The city administrative offices department is the building department, and the city council is the administrative authority wherever those terms are used in the building code.

(Code 1987, § 901.03)

**Cross reference(s)**--Administration, ch. 2.

**Secs. 10-2--10-35. Reserved.**

## **ARTICLE II. BUILDING CODE**

### **Sec. 10-36. Given as reference.**

The Minnesota State Building Code, one copy of which is on file in the office of the administrative clerk-treasurer, is given as reference material only to the building code of the city and incorporated in this Code of Ordinances as reference only for consideration by the city council.

(Code 1987, § 901.01)

**Sec. 10-37. Additional provisions.**

The following appendices and supplementary material to the Minnesota State Building Code are given as reference material only to the building code of the city for consideration by the city council:

- (1) Appendix A - Standards.
- (2) Appendix D - Organization and Enforcement.
- (3) Appendix E - Permits and Inspections.
- (4) Floodproofing Regulations, sections 201.2 through 208.02.

(Code 1987, §901.02)

**Secs. 10-38--10-70. Reserved.**

### **ARTICLE III. PERMITS**

#### **Sec. 10-71. Required.**

Except as hereinafter provided, no person shall construct, erect, alter, wreck or move any building or structure or parts of a building or structure within the corporate limits of the city without first securing a building permit from the city. Application for the building permit shall be as set forth in this article and the state building code.

(Code 1987, § 902.18(1))

#### **Sec. 10-72. Application.**

Application for a building permit shall be made to the building inspector on blank forms to be furnished by the city. Each application for a permit to construct, alter or move a building shall be accompanied by a plan drawn to scale showing the dimensions of the lot to be built upon and the size and location of the building and accessory buildings to be erected. The application shall contain such other information as may be deemed necessary for the proper enforcement of this article or any other ordinance.

(Code 1987, § 902.18(2))

#### **Sec. 10-73. Determination of fees.**

The fee for a building permit shall be determined by the city council.

(Code 1987, § 902.18(3))

#### **Sec. 10-74. Issuance.**

The city shall issue or may direct the administrative clerk-treasurer or other person designated to issue the building permit only after determining that the building plans, together with the application, comply with the terms of chapter 46, pertaining to zoning, and the state building code.



(Code 1987, § 902.18(4))

**Sec. 10-75. Fee schedule.**

A schedule of building permit fees as adopted by the city council by resolution shall be on file and available in the city offices.

(Code 1987, § 901.05)

**Sec. 10-76. Certificate of use.**

- (a) A certificate of use specifying zoning compliance shall be obtained before any building erected or structurally altered is occupied or the use of any such building or land is altered or changed.
- (b) Application for a certificate of use for a new building or for an existing building which has been altered shall be made to the building inspector as part of the application for a building permit as required in section 10-72.
- (c) Every certificate of use shall state that the building or proposed use of a building or land complies with all provisions of law and chapter 46, pertaining to zoning. A record of all certificates of use shall be kept on file in the office of the administrative clerk-treasurer, and copies shall be furnished on request to any person having a proprietary or tendency interest in the building or land affected.

(Code 1987, § 902.18(5))

**Secs. 10-77--10-110. Reserved.**

**ARTICLE IV. FIRE LIMITS\***

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\*Cross reference(s)--Fire prevention and protection, ch. 24.  
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**Sec. 10-111. Boundaries.**

All parts of the city designated as follows shall be the fire limits of the city, viz, all that territory lying within the following described boundaries:

Commencing at the center of Lexington Street and Sharon Street; thence running in an easterly direction on the center of Sharon Street to the center of Montgomery Street; thence running northerly along the center of Montgomery Street to the center of Tyrone Street; thence running westerly along the center of Tyrone Street to the center of Lexington Street; thence south along the center of Lexington Street to the center of Sharon Street, the point of beginning.

(Code 1987, § 901.04(1))

**Sec. 10-112. Required construction materials.**

No building or structure of any kind or description shall be constructed or placed within the fire limits of the city unless such building shall be constructed in brick, stone, cement, iron clad, or any material approved by the administrative authority.

(Code 1987, § 901.04(2))

**Sec. 10-113. Keeping of combustible materials limited.**

It shall be unlawful, within the fire limits, for any person owning or occupying any part of property contained within such limits, to keep without enclosure hay, straw, cornstalks or other combustible matter placed in piles on the property.

(Code 1987, § 901.04(3))

**Chapter 12 BUSINESSES\***

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**\*Cross reference(s)**--Alcoholic beverages, ch. 4; amusements and entertainments, ch. 6; community development, ch. 16; emergency services, ch. 20; licensed collectors of refuse, § 32-37; utilities, ch. 42; B-1 limited business district, § 46-151 et seq.; B-2 service business district, § 46-181 et seq.; B-3 central business district, § 46-211 et seq.; I-1 limited industrial district, § 46-241 et seq.; I-2 general industrial district, § 46-271 et seq.; fences, walls or hedges required in commercial and industrial areas, § 46-384.

**State law reference(s)**--Authority to regulate and license transient merchants, hawkers, peddlers, solicitors and canvassers, M.S.A. § 412.221, subd. 19; authority to regulate taxis, M.S.A. § 412.221, subd. 20.  
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**Article I. In General**

Secs. 12-1--12-30. Reserved.

**Article II. Licenses and Permits**

Sec. 12-31. Governance.

Sec. 12-32. Acts prohibited.

Sec. 12-33. Application.

Sec. 12-34. Bond.

Sec. 12-35. Insurance.

Sec. 12-36. Fees.

Sec. 12-37. Duration of license.

Sec. 12-38. Transfers.

Sec. 12-39. Inspection.

Sec. 12-40. Duties of licensee.

Sec. 12-41. Suspension or revocation.

## **ARTICLE I. IN GENERAL**

**Secs. 12-1--12-30. Reserved.**

## **ARTICLE II. LICENSES AND PERMITS**

**Sec. 12-31. Governance.**

Except as otherwise provided in this Code, all licenses and permits granted by the city shall be governed by the provisions of this article.

(Code 1987, § 501.01(1))

**Sec. 12-32. Acts prohibited.**

No person shall conduct any activity or use any property for which a license or permit is required by law or this Code without a currently valid license or permit for such activity or use.

(Code 1987, § 501.01(2))

**Sec. 12-33. Application.**

Every application for a license shall be made to the administrative clerk-treasurer on a form provided by him. It shall be accompanied by payment to the administrative clerk-treasurer of the prescribed fee. If after investigation the administrative clerk-treasurer is satisfied that all requirements of law and this Code have been met, he shall present the application to the council for action; or, if the license or permit does not require council approval, he shall issue the license or permit.

(Code 1987, § 501.01(3))

**Sec. 12-34. Bond.**

Where a bond is required for any license or permit, the bond shall be a corporate surety bond executed on a form approved by the city attorney and shall be filed with the administrative clerk-treasurer before the license or permit is issued. Except where otherwise provided, a bond shall be in the amount of \$3,000.00 for club on-sale liquor. Other amounts if applicable shall be determined upon application. The licensee or permittee shall comply with the applicable ordinance and laws pertaining to the licensed or permitted activity; and the licensee or permittee will indemnify the city and save it harmless from all loss or damage by reason of inadequate work performed by him or by reason of accident caused by the negligence of the licensee or permittee, his agents or employees.

(Code 1987, § 501.01(4))

#### **Sec. 12-35. Insurance.**

- (a) When a licensee or permittee is required to have in force a policy of insurance, the policy shall be approved as to substance and form by the city attorney. The policy shall provide that it is noncancellable without 15 days' notice to the city, and the coverage shall be for the term of the license or permit. Satisfactory evidence of coverage by insurance shall be filed with the administrative clerk-treasurer before the license or permit is issued. Each license or permit shall terminate upon termination of the required insurance coverage.
- (b) Unless otherwise provided, a required policy of liability insurance shall conform to the amounts provided for in M.S.A. § 65B.49, subd. 3. In cases that may result in tort liabilities, the limits set forth in M.S.A. § 466.04 shall apply.

(Code 1987, § 501.01(5))

#### **Sec. 12-36. Fees.**

- (a) *Established.* License fees are in the amounts established by the city council, and a schedule of such license fees is on file and available in the city offices.
- (b) *Prorated fees.* License fees shall not be prorated unless otherwise specified by this Code or by law.
- (c) *Refunds.* License fees shall not be refunded in whole or in part unless otherwise specified by this Code or by law. Exceptions to this provision shall be by the council resolution only.

(Code 1987, § 501.02)

#### **Sec. 12-37. Duration of license.**

Unless otherwise specified, a license shall be valid for a calendar year or the part of the year for which it is issued. A schedule of expiration and renewal dates is on file and available in the city offices.

(Code 1987, § 501.03)

#### **Sec. 12-38. Transfers.**

No license issued under this Code may be transferred to any other person. Where a license relates to specific premises, the license shall not be changed to another location without approval of the council or other licensing authority.

(Code 1987, § 501.04)

**Sec. 12-39. Inspection.**

- (a) *Authorized personnel.* Any city official or employee having a duty to perform with reference to a license under this Code and any police officer may inspect and examine any licensee, his business or premises, to enforce compliance with applicable provisions of this Code. Subject to the provisions of subsection (b) of this section, he may, at any reasonable time, enter any licensed premises or premises for which a license is required in order to enforce compliance with this Code.
- (b) *Search warrants.* If the licensee objects to the inspection of his premises, the city official or employee charged with the duty of enforcing the provisions of this Code shall procure a valid search warrant before conducting the inspection.

(Code 1987, § 501.05)

**Sec. 12-40. Duties of licensee.**

- (a) *Compliance required.* Every licensee and permittee shall have the duties set forth in this section.
- (b) *Inspection.* He shall permit at reasonable times inspections of his business and examination of his books and records by authorized officers or employees.
- (c) *Compliance with law.* He shall comply with laws, ordinances and regulations applicable to the licensed business, activity or property.
- (d) *Display of license.* He shall display the license or other insignia given him as evidence of the license in a conspicuous place on the premises, vehicle or device to which the license relates. If the license is not so related, the license shall be carried on the licensee's person whenever he is carrying on the licensed activity, or at his principal place of business.
- (e) *Unlawful disposition.* The licensee shall not lend or give to any other person his license or license insignia.

(Code 1987, § 501.06)

**Sec. 12-41. Suspension or revocation.**

The council may suspend for a period not exceeding 60 days or revoke any license or permit for violation of any provision of law, ordinance or regulation applicable to the licensed or permitted activity or property. Except where mandatory revocation is provided by law without notice and hearing and except where suspension may be made without a hearing, the holder of the license or permit shall be granted a hearing upon at least ten days' notice before revocation or suspension is ordered. The notice shall state the time and place of the hearing and the nature of the charges against the licensee, consistent with the provisions of M.S.A. § 340.135.

(Code 1987, § 501.07)

## **Chapter 14 CIVIL EMERGENCIES\***

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**\*Cross reference(s)**--Administration, ch. 2; emergency services, ch. 20; fire prevention and protection, ch. 24; law enforcement, ch. 26.

**State law reference(s)**--Emergency management, M.S.A. § 12.01 et seq.  
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### **Article I. In General**

Secs. 14-1--14-30. Reserved.

### **Article II. Civil Defense Agency**

Sec. 14-31. Act adopted.

Sec. 14-32. Organization; director.

Sec. 14-33. Powers and duties of director.

## **ARTICLE I. IN GENERAL**

**Secs. 14-1--14-30. Reserved.**

## **ARTICLE II. CIVIL DEFENSE AGENCY\***

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**\*Cross reference(s)**--Officers and employees, § 2-101 et seq.

**State law reference(s)**--Local organizations for emergency management authorized, M.S.A. § 12.25 et seq.  
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**Sec. 14-31. Act adopted.**

The Minnesota Emergency Management Act of 1996, insofar as it relates to cities, is adopted by reference as part of this article as fully as if set forth explicitly in this section.

(Code 1987, § 206.01)

**Sec. 14-32. Organization; director.**

- (a) *Agency and director.* There is created within the city government a civil defense and disaster agency which shall be under the supervision and control of a director of civil defense. The director shall be appointed by the mayor annually at the January meeting and may be removed by him at any time. He shall serve with a salary as established and approved by the city council. The director shall have direct responsibility for the organization, administration and operation of the civil defense agency, subject to the direction and control of the mayor.
- (b) *Organization and functions.* The civil defense agency shall be organized into such divisions and bureaus, consistent with state and local defense plans, as the director deems necessary to provide for the efficient performance of local civil defense functions during a civil defense emergency. The agency shall perform civil defense functions within the city and in addition shall conduct such functions outside the city as may be required pursuant to M.S.A. § 12.01 et seq. or this article.

(Code 1987, § 206.02)

**Sec. 14-33. Powers and duties of director.**

- (a) *Intergovernmental arrangements.* With the consent of the mayor, the director of civil defense shall represent the city on any regional or state organization for civil defense. He shall develop proposed mutual aid agreements with other political subdivisions within or outside the state for reciprocal civil defense aid and assistance in a civil defense emergency too great to be dealt with unassisted, and he shall present such agreements to the council for its action. Such agreements shall be consistent with the civil defense plan; and during a civil defense emergency, the civil defense agency and civil defense forces shall render assistance in accordance with the provisions of such agreements.
- (b) *Civil defense plan.* The director shall prepare a comprehensive general plan for the civil defense of the city and shall present such plan to the city council for its approval. When the council has approved the plan by resolution, all civil defense forces of the city shall perform the duties and functions assigned by the plan.
- (c) *Reports.* The director shall prepare and present to the council periodically a report of activities and recommendations.

(Code 1987, § 206.03)

## **Chapter 16 COMMUNITY DEVELOPMENT\***

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**\*Cross reference(s)**--Administration, ch. 2; buildings and building regulations, ch. 10; businesses, ch. 12; environment, ch. 22; planning, ch. 30; special assessments, ch. 34; streets, sidewalks and other public places, ch. 36; subdivisions, ch. 38; utilities, ch. 42; zoning, ch. 46.

**State law reference(s)**--Local economic development, M.S.A. § 466A.01 et seq.  
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### **Article I. In General**

Secs. 16-1--16-30. Reserved.

### **Article II. Economic Development Authority**

Sec. 16-31. Established; limitations, authority.

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

**Secs. 16-1--16-30. Reserved.**

### **ARTICLE II. ECONOMIC DEVELOPMENT AUTHORITY\***

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**\*Cross reference(s)**--Officers and employees, § 2-101 et seq.

**State law reference(s)**--Economic development authorities, M.S.A. § 469.090 et seq.



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**Sec. 16-31. Established; limitations, authority.**

Pursuant to M.S.A. § 469.090 et seq., the city establishes and creates an economic development authority consisting of five commissioners and subject to the following limitations upon their actions and authority:

- (1) That the authority must not exercise any powers without the prior approval of the city council.
- (2) That, except when previously pledged by the authority, the city council may, by resolution, require the authority to transfer any portion of the reserves generated by activities of the authority the city council determines is not necessary for the successful operation of the authority, to the debt service fund of the city, to be used solely to reduce tax levies for bonded indebtedness of the city.
- (3) That the sale of all bonds or obligations issued by the authority be approved by the city council before issuance.
- (4) That the authority follow the budget process for city departments as provided by the city and as implemented by the city council and mayor.
- (5) That all official actions of the authority must be consistent with the adopted comprehensive plan of the city and any official controls implemented by the comprehensive plan.
- (6) That the authority submit all planned activities for influencing the action of any other governmental agency, subdivision or body to the city council for approval.
- (7) That the authority submit its administrative structure and management practices to the city council for approval.

(Res. of 3-10-1987)

## **Chapter 18 ELECTIONS\***

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**\*Cross reference(s)**--Administration, ch. 2; city council, § 2-36 et seq.

**State law reference(s)**--Municipal elections, M.S.A. § 205.01 et seq.

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Sec. 18-1. Election date.

Sec. 18-2. Ballot systems.

### **Sec. 18-1. Election date.**

The first Tuesday after the first Monday in November of any year shall be designated as the regular city election date.

(Code 1987, § 201.12)

**State law reference(s)**--Similar provisions, M.S.A. § 205.07, subd. 1.

### **Sec. 18-2. Ballot systems.**

The election of city officers shall be conducted under the Australian Ballot System. All elections shall be conducted in accordance with current state and federal election laws.

(Code 1987, § 201.12(1))

**State law reference(s)**--Ballots, M.S.A. § 205.17.

## **Chapter 20 EMERGENCY SERVICES\***

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**\*Cross reference(s)**--Businesses, ch. 12; civil emergencies, ch. 14; fire prevention and protection, ch. 24; law enforcement, ch. 26.  
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### **Article I. In General**

Secs. 20-1--20-30. Reserved.

### **Article II. Ambulances**

Sec. 20-31. Agreement with ambulance service.

Sec. 20-32. Le Center Volunteer Ambulance Service bylaws.

## **ARTICLE I. IN GENERAL**

**Secs. 20-1--20-30. Reserved.**

## **ARTICLE II. AMBULANCES**

**Sec. 20-31. Agreement with ambulance service.**

- (a) Ambulance services shall be furnished by the Le Center Volunteer Ambulance Service, Inc., in accordance with an agreement made with that nonprofit corporation January 1, 1984.

- (b) While selection of officers shall be under the jurisdiction of the ambulance service, the city council would recommend that election of officers will be consistent with the amended bylaws of the service.
- (c) A copy of the agreement, dated January 1, 1984, shall become a part of this section.

**Sec. 20-32. Le Center Volunteer Ambulance Service bylaws.**

The bylaws of the Le Center Volunteer Ambulance Service is not printed in this Code but is on file and available in the city offices.

**Chapter 22 ENVIRONMENT\***

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**\*Cross reference(s)**--Animals, ch. 8; buildings and building regulations, ch. 10; community development, ch. 16; planning, ch. 30; solid waste, ch. 32; streets, sidewalks and other public places, ch. 36; subdivisions, ch. 38; abandoned vehicles, § 40-166 et seq.; utilities, ch. 42; vegetation, ch. 44; zoning, ch. 46.

**State law reference(s)**--Environmental protection, M.S.A. § 114C.01 et seq.

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**Article I. In General**

Secs. 22-1--22-30. Reserved.

**Article II. Nuisances**

Sec. 22-31. Definitions.

Sec. 22-32. General policy.

Sec. 22-33. Public nuisance generally.

Sec. 22-34. Public nuisances affecting health.

Sec. 22-35. Public nuisances affecting morals and decency.

Sec. 22-36. Public nuisances affecting peace and safety.

Sec. 22-37. Enforcement.

## ARTICLE I. IN GENERAL

**Secs. 22-1--22-30. Reserved.**

## ARTICLE II. NUISANCES\*

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\***State law reference(s)**--Authority to define and abate nuisances, M.S.A. § 412.221, subd. 23.  
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### **Sec. 22-31. Definitions.**

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

*Animals* means cattle, mules, sheep, goats, swine, ponies, ducks, geese, turkeys, chickens, guinea hens, and feathered fowl.

*Deteriorated structure* means any structure or part of any structure which because of fire, wind or other natural disaster, or physical deterioration is no longer habitable nor useful.

*High grass* means any grass or weeds allowed to attain a height in excess of six inches.

*Junk cars* means any unlicensed, unregistered or inoperable vehicle stored in the open in a residential area.

*Junk/rubbish* means any material or substance stored in the open or not enclosed in a building which does not serve nor is it intended to serve any useful purpose or the purpose for which it was originally intended, including but not limited to refuse, empty cans, bottles, debris, used furniture, unused appliances, machinery parts, motor vehicle parts, remnants of wood, decayed, weathered or broken construction material no longer usable, metal, or any cast-off materials.

*Noxious/poisonous vegetation* means any poison ivy, ragweed or other poisonous plants, or any weeds, grass, brush or plants which are a fire hazard or otherwise detrimental to the health or appearance of a neighborhood.

*Unsafe buildings* means any building or structure which is structurally unsafe; does not provide adequate egress; is dangerous to human life; or constitutes a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster damage or abandonment.

(Code 1987, § 801.01)

**Cross reference(s)**--Definitions generally, § 1-2.

### **Sec. 22-32. General policy.**

It is determined that the uses, structures, activities and causes of blight factors described within this article, if allowed to exist, will tend to result in blighted and undesirable neighborhoods so as to be harmful to the public welfare, health and safety. No person shall maintain or permit to be maintained any public nuisance identified within this article on property in the city which is either owned, leased, rented or occupied by such person.

(Code 1987, § 801.02)

**Sec. 22-33. Public nuisance generally.**

Whoever by act or failure to act does any of the following is guilty of maintaining a public nuisance:

- (1) Maintains or permits a condition which unreasonably annoys, injures or endangers the safety, health, morals, comfort or repose of any considerable number of members of the public.
- (2) Interferes with, obstructs or renders dangerous for passage any public highway or right-of-way or waters used by the public.
- (3) Is guilty of any other act or omission declared by law or this section to be a public nuisance and for which no sentence is specifically provided.

(Code 1987, § 801.03)

**Sec. 22-34. Public nuisances affecting health.**

The following are 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 rodentfree or flytight 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 or vegetation upon public or private property.
- (9) Dense smoke, noxious fumes, gas and soot, or cinders in unreasonable quantities.
- (10) All public exposure of persons having a contagious disease.

- (11) Any offensive trade or business as defined by statute not licensed by the city board of health as defined by law.

(Code 1987, § 801.04)

**Sec. 22-35. Public nuisances affecting morals and decency.**

The following are nuisances affecting public morals and decency:

- (1) All gambling devices, slot machines, and punchboards, except as authorized in this Code.
- (2) Betting, bookmaking and all apparatus used in such occupations.
- (3) All houses kept for the purpose of prostitution or promiscuous sexual intercourse, gambling houses, houses of ill fame, and bawdy houses.
- (4) All places where intoxicating liquor is manufactured or disposed of in violation of law or where, in violation of law, persons 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 such a place.
- (5) Any vehicle used for the transportation of intoxicating liquor, or for promiscuous sexual intercourse, or any other illegal purposes.

(Code 1987, § 801.05)

**Sec. 22-36. Public nuisances affecting peace and safety.**

The following are nuisances affecting public peace and safety:

- (1) All snow and ice not removed from public sidewalks 12 hours after the snow or other precipitation causing the condition has ceased to fall.
- (2) All trees, hedges, billboards or other obstructions which prevent persons from having a clear view of all traffic approaching an intersection.
- (3) 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.
- (4) All unnecessary noises and annoying vibrations.
- (5) Obstructions and excavation affecting the ordinary use of the public streets, alleys, sidewalks or public grounds except under such conditions as are permitted by this Code or other applicable law.
- (6) Radio aerials or television antennas erected or maintained in a dangerous manner.
- (7) 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 uses of the streets or sidewalks.

- (8) All hanging signs, awnings and other similar structures over streets and sidewalks, or so situated so as to endanger public safety, or not constructed and maintained as provided by ordinance.
- (9) The allowing of rainwater, ice or snow to fall from any building or structure upon any street or sidewalk or to flow across any sidewalk.
- (10) Any barbed wire fences less than six feet above the ground and within three feet of a public sidewalk or way.
- (11) All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public.
- (12) Wastewater cast upon or permitted to flow upon streets or other public property.
- (13) 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 to fire, health or safety hazards from such accumulation or from the rank growth of vegetation among the items so accumulated.
- (14) Any well, hole or similar excavation which is left uncovered or in such other conditions as to constitute a hazard to any child coming on the premises where it is located.
- (15) Obstruction to the free flow of water in a natural waterway or a public street drain, gutter or ditch with trash or other materials.
- (16) The placing or throwing on any street, sidewalk or other public property of any glass, tacks, nails, bottles or other substances which may injure any person or animal or damage any pneumatic tire when passing over such substance.
- (17) The depositing of garbage or refuse on a public right-of-way or on adjacent private property.
- (18) Any junk or junk cars.
- (19) Any high grass.
- (20) Any deteriorated or unsafe building or structure.
- (21) The keeping of any animals not in transit.
- (22) All other conditions or things which are likely to cause injury to the person or property of anyone.

(Code 1987, § 801.06)

**Sec. 22-37. Enforcement.**

- (a) *Liability.* No officer, agent or employee of the city shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or



permitted in the discharge of his duties under this section. No person who institutes or assists in the prosecution of a criminal proceeding under this section shall be liable in damages unless he acted with actual malice and without reasonable grounds for believing that the person accused or prosecuted was guilty of an unlawful act or omission.

- (b) *Enforcing officer.* It shall be the duty of the administrative clerk-treasurer or his designee to enforce the provisions of this section. Authorized officers may make or cause to be made inspections to determine the condition of exterior premises of property and may, during the course of their inspection, take pictures of the premises. The owner, operator or occupant of the outdoor premises being inspected shall give the enforcement officers free access to the premises at all reasonable times for the purpose of inspecting and taking pictures. It shall be unlawful for any persons to deny an officer access to the premises for the purpose of inspecting them or taking pictures.
- (c) *Notice required prior to prosecuting for creating, maintaining nuisance; method of service.*
  - (1) Before any person is prosecuted for creating, harboring or maintaining a nuisance in the city, the authorized officer shall give such person a ten days' written notice ordering such person to abate such nuisance and to comply with applicable city regulations.
  - (2) Such notice described in subsection (c)(1) of this section shall be served personally or by registered U.S. mail to the person's last known address.
  - (3) Such notice shall describe the property involved sufficiently to identify it and shall describe the violation which exists and the remedial actions required.
  - (4) Upon receiving such notice, if an individual is unable to abate a nuisance within the allotted ten-day period, he may establish the fact to the satisfaction of the administrative clerk-treasurer or his designee. The individual may receive a reasonable extension to accomplish compliance by abating the nuisance.
  - (5) Where a nuisance has occurred and has either been abated by the violator or by the city, and where such nuisance reoccurs at any time within three years of the last violation, a notice to abate shall provide no period of compliance and require immediate abatement. Otherwise, the responsible party is in violation of this article and subject to all penalties under this article and abatement of the nuisance by the city.
- (d) *Penalty.* If the notice described in subsection (a) is not complied with by the responsible person within the time prescribed, the city may refer the case to the prosecuting attorney; and such person, if convicted, is guilty of a misdemeanor and may be punished in accordance with section 1-13.
- (e) *Abatement.* If the notice described is not complied with within the time specified, the enforcing officer shall report that fact forthwith to the administrative clerk-treasurer. Thereafter the city may, after notice to the owner or occupant and an opportunity to be heard, choose to abate the nuisance; except nuisances involving the failure to remove snow and ice from public sidewalks within 12 hours and the nuisance provisions prohibiting high grass and noxious weeds may be abated by the administrative clerk-treasurer without further notice or opportunity to be heard; and the city council may, from time to time, provide the administrative clerk-treasurer with a list of additional violations

which may be abated without further notice or opportunity to be heard. The notice required by this subsection shall be served in the same manner as a summons and complaint in a civil action and shall be given at least ten days before the date stated in the notice when the council will consider the matter. If notice is given by posting, at least 30 days shall elapse between the day of posting and the hearing.

(f) *Recovery of cost.*

(1) *Personal liability.* 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. As soon as the work has been completed and the cost determined, the administrative clerk-treasurer or other official designated by the council shall prepare a bill for the cost and mail it to the owner. Thereupon the amount shall be immediately due and payable at the office of the administrative clerk-treasurer.

(2) *Assessment.*

a. 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 or insect-infected trees, the city clerk or his designee shall, on or before September 1 next following abatement of the nuisance, list the total unpaid charges along with all other such charges as well as other charges for current services to be assessed under M.S.A. § 429.101 against each separate lot or parcel to which the charges are attributable.

b. The council may then spread the charges against such property under the 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 ten, as the council may determine in each case.

(Code 1987, § 801.07)

**Cross reference(s)**--Special assessments, ch. 34.

## **Chapter 24 FIRE PREVENTION AND PROTECTION\***

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**\*Cross reference(s)**--Buildings and building regulations, ch. 10; fire limits, § 10-111 et seq.; civil emergencies, ch. 14; emergency services, ch. 20.

**State law reference(s)**--Authority to provide for fire prevention and protection, M.S.A. § 412.221, subd. 17; municipal fire prevention generally, M.S.A. § 438.05 et seq.  
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### **Article I. In General**

Secs. 24-1--24-30. Reserved.

### **Article II. Fire Department**

Sec. 24-31. Furnishing of services.

Sec. 24-32. Department constitution.

Secs. 24-33--24-65. Reserved.

### **Article III. Area Fire District**

Division 1. Generally

Sec. 24-66. Organization and purpose.

Sec. 24-67. Funding authority.

Sec. 24-68. Defaults.

Sec. 24-69. Services dependent upon funding.

Sec. 24-70. Use of equipment.

Sec. 24-71. Ownership of district assets.

Secs. 24-72--24-95. Reserved.

#### Division 2. Board of Commissioners

Sec. 24-96. Duties.

Sec. 24-97. Membership.

Sec. 24-98. General powers of the board.

Sec. 24-99. Liability; governmental function.

Sec. 24-100. Meetings.

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

**Secs. 24-1--24-30. Reserved.**

### **ARTICLE II. FIRE DEPARTMENT\***

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\***Cross reference(s)**--Officers and employees, § 2-101 et seq.  
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#### **Sec. 24-31. Furnishing of services.**

- (a) Fire department services shall be furnished by the Le Center area fire commission in accordance with the most recent agreement made with that commission.
- (b) While selection of officers shall be under the jurisdiction of the fire commission, the city council would recommend that election of officers and their duties will be consistent with the most recent constitution of the Le Center fire department. The most recent agreement between the city and the Le Center area fire commission is not printed in this volume but is on file and available in the city offices.

#### **Sec. 24-32. Department constitution.**

The constitution of the Le Center fire department is not printed in this volume but is on file and available in the city offices.

**Secs. 24-33--24-65. Reserved.**

### **ARTICLE III. AREA FIRE DISTRICT**

#### DIVISION 1. GENERALLY

**Sec. 24-66. Organization and purpose.**

- (a) There is formed the Le Center Area Fire District, to be managed by a board of commissioners.
- (b) The purpose of the district is to provide contract municipalities with fire protection services, including but not limited to fire prevention and firefighting.
- (c) The area included within the district is as follows:
  - (1) The City of Le Center corporate limits.
  - (2) Town of Cordova, sections 1--18, 20--24, 26--29, 33--34.
  - (3) Town of Derrynane, sections 28, 31--34, SW 1/4, all but NE 1/4 35, SW 1/4 27.
  - (4) Town of Lexington, sections 2--11, 14--23, 25--36.
  - (5) Town of Sharon, sections 12--13, 23--27, 35--36.

(Code 1987, § 203.02)

**Sec. 24-67. Funding authority.**

- (a) Each calendar year, each municipality shall pay to the fire district a share of the district's operating expenses determined as follows:
  - (1) Service area annual share is to be based on each municipality's assessed valuation in the area serviced by the Le Center area fire department.
  - (2) The determination will be adjusted every two years to reflect growth and any change in assessed valuation.
- (b) The revenues due the district from each municipality shall be due and payable in one payment on November 15 of each year.

(Code 1987, § 203.04)

**Sec. 24-68. Defaults.**

If any municipality party to the agreement addressed in this article fails to fulfill its financial commitments by the date specified in this article, the board of commissioners may in their discretion discontinue providing services to the defaulting municipality until the default is removed.

(Code 1987, § 203.06)

**Sec. 24-69. Services dependent upon funding.**

The obligation to furnish fire protection services for the municipalities in this article shall continue as long as the municipalities fund the fire district so that proper fire protection services can be provided.

(Code 1987, § 203.10)

**Sec. 24-70. Use of equipment.**

- (a) All equipment controlled by the board of commissioners shall be used when needed within the boundaries of the fire district and shall not be used outside of the district except as follows:
  - (1) In areas outside of the district when fire or emergency may endanger life or property within the district.
  - (2) When such use is covered by contracts duly entered into by the board with municipalities or organizations for fire protection and other services outside of the district.
  - (3) To fulfill mutual aid agreements duly entered into by the board.
  - (4) In case of major emergency or disaster, when authorized by the fire chief, or in his absence, the officer in charge.
  - (5) When specifically authorized by the board.
- (b) Such use outside of the district shall be authorized only when the fire chief, or in his absence, the officer in charge, has determined that the absence of the equipment from the district will not impair the protection of the district. The fire chief or the officer in charge shall have the authority to determine priority in answering calls and to assign equipment and manpower.

(Code 1987, § 203.05)

**Sec. 24-71. Ownership of district assets.**

The fire hall shall remain the property of the city. All vehicles and equipment shall be the property of the Le Center area fire commission.

(Code 1987, § 203.08)

**Secs. 24-72--24-95. Reserved.**

DIVISION 2. BOARD OF COMMISSIONERS\*

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\*Cross reference(s)--Administration, ch. 2.

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**Sec. 24-96. Duties.**

It shall be the duty of the board of commissioners to manage, control, direct and implement the purpose and intent of this article.

(Code 1987, § 203.02(4))

**Sec. 24-97. Membership.**

The board of commissioners shall consist of one member each from the City of Le Center; the towns of Cordova, Derrynane, Lexington and Sharon; and the Le Center area fire department. The Le Center area fire department fire chief shall serve as a nonvoting member of the board. The members will be appointed by the city council, town boards or fire department respectively. The members will serve at the pleasure and discretion of their appointing body.

(Code 1987, § 203.02(5))

**Sec. 24-98. General powers of the board.**

- (a) The board of commissioners shall have all powers, duties and functions enumerated in this article, and all such further powers necessary to carry out the intent and purpose of the fire district with respect to acquisition of property and operation of the district heretofore set forth, including the following:
  - (1) To provide, maintain and improve a fire department and related fire protection services.
  - (2) To approve the fire chief and other officers of the Le Center area fire department upon recommendation of the department.
  - (3) To employ fire protection, administrative and other personnel, accountants, consultants, engineers, legal counsel, and other qualified personnel, who may be paid for their services as may be agreed upon by the parties.
  - (4) To cause reports, plans, studies and recommendations to be prepared.
  - (5) To determine the need for equipment and other property to be purchased and maintained.
  - (6) To enter into mutual aid agreements with other organizations with similar purposes.
  - (7) To obtain on behalf of the contracting municipalities, as joint owners of the equipment, suitable, proper and adequate public liability, workers compensation and other insurance against loss by fire, windstorm and other risks customarily insured against by reasonable owners of like property.
  - (8) To lease or purchase equipment and supplies as necessary for the proper operation, care, maintenance, preservation and replacement of the district's facilities and equipment.
  - (9) To sell or lease any of its facilities, equipment or other property as may be deemed expedient.
  - (10) To establish a yearly budget within the limits of state law fixing the maximum tax levy for fire protection services pertaining to the district.
  - (11) To act as agent for receipt, custody and disbursement of taxes, gifts or other funds paid or given to the contracting municipalities in behalf of and for the use of the district.
  - (12) To act as paying agent for any bonds, contracts of indebtedness and loans made in the names of the contracting municipalities for the benefit of the district, and to act as custodian of sinking funds created for or required by such indebtedness.

- (13) To order an annual audit to be made of all its accounts, books, vouchers and funds. This audit shall be submitted to the city council by the February regular meeting in the following year.
- (14) To set rates and charges for firefighting services provided by the fire department.
  - (b) The board shall elect from its own members a chair, vice-chair, secretary and treasurer.
  - (c) All disbursements of the board shall be approved by the board at regular or special meetings and cosigned by two of the officers designated by the board.
  - (d) Officers authorized to make disbursements shall be bonded in an amount to be determined and approved by the board before entering upon the performance of their duties.

(Code 1987, § 203.03)

**Sec. 24-99. Liability; governmental function.**

The board of commissioners shall be deemed to be exercising a governmental function by all of its activities, and the provisions of M.S.A. § 466.01 et seq., in regard to tort liability are confirmed.

(Code 1987, § 203.07)

**Sec. 24-100. Meetings.**

- (a) The board of commissioners shall meet at least four times yearly. These meetings shall be held on the third Tuesday of January, April, July and October of each year.
- (b) Special meetings may be called by the chair or any two members of the board. Meetings must comply with M.S.A. § 471.705 concerning public meetings.

(Code 1987, § 203.09)



## **Chapter 26 LAW ENFORCEMENT\***

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\***Cross reference(s)**--Administration, ch. 2; civil emergencies, ch. 14; emergency services, ch. 20; offenses and miscellaneous provisions, ch. 28; traffic and vehicles, ch. 40.

**State law reference(s)**--Peace officer training, M.S.A. § 626.84 et seq.  
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### **Article I. In General**

Secs. 26-1--26-30. Reserved.

### **Article II. Police Department**

Sec. 26-31. Establishment.

Sec. 26-32. Chief of police.

Sec. 26-33. Duties of police.

Sec. 26-34. Uniform and badge.

Sec. 26-35. Extrapolice.

Secs. 26-36--26-65. Reserved.

### **Article III. Abandoned Property**

Sec. 26-66. Storage.

Sec. 26-67. Claim by owner.

Sec. 26-68. Sale.

Sec. 26-69. Disposition of proceeds.

## **ARTICLE I. IN GENERAL**

**Secs. 26-1--26-30. Reserved.**

## **ARTICLE II. POLICE DEPARTMENT\***

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\***Cross reference(s)**--Officers and employees, § 2-101 et seq.  
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### **Sec. 26-31. Establishment.**

A police department is established. The head of the department shall be known as the chief of police; and the number of additional members of the department, together with their ranks and titles, shall be determined by the council by resolution. The compensation to be paid members of the police department shall be fixed by the council. Members of the department shall be appointed by the city council.

(Code 1987, § 202.01)

### **Sec. 26-32. Chief of police.**

The chief of police shall have supervision and control of the police department and its members. He shall be responsible to the council for law enforcement and for property of the city used by the department. He shall be responsible for the proper training and discipline of the members of the department. He shall be responsible for the keeping of adequate records, and he shall report to the council on the needs of the department and its work. Every member of the department subordinate to the chief shall obey the instructions of the chief and any superior officer. The council shall designate one of the police officers as acting chief, who shall have all the powers and duties of the chief during his absence or disability.

(Code 1987, § 202.02)

### **Sec. 26-33. Duties of police.**

Members of the police department shall enforce the ordinances and laws applicable to the city and shall have all duties required by the official job description for police officers, which is on file and available in the city offices.

(Code 1987, § 202.03)

### **Sec. 26-34. Uniform and badge.**

Each member of the department shall, while on duty, wear a suitable badge and uniform furnished by the city; except that the chief may authorize the performance of specific duties while not in uniform. When a member terminates his membership in the department, he shall immediately deliver to the city his badge and all other property of the city in his possession. A uniform allowance as adopted by the city council shall be paid semiannually to each full-time member of the police force commencing with the completion of their probation period as specified in the personnel policy.

(Code 1987, § 202.04)

**Sec. 26-35. Extra police.**

In case of riot or other law enforcement emergency, the police chief may appoint for a specified time as many special police officers as may be necessary for the maintenance of law and order. During such term of appointment, the special police officers shall have only those powers and perform only those duties as shall be specifically assigned by the chief of police.

(Code 1987, § 202.05)

**Secs. 26-36--26-65. Reserved.**

**ARTICLE III. ABANDONED PROPERTY\***

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\*State law reference(s)--Unclaimed property, M.S.A. § 471.195.

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**Sec. 26-66. Storage.**

The department of the city acquiring possession of abandoned property shall arrange for its storage. If city facilities for storage are unavailable or inadequate, the department may arrange for storage at privately owned facilities.

(Code 1987, § 208.02(2))

**Sec. 26-67. Claim by owner.**

The owner may claim abandoned property by exhibiting satisfactory proof of ownership and paying the city any storage or maintenance costs incurred by it. A receipt for the property shall be obtained upon release to the owner.

(Code 1987, § 208.02(3))

**Sec. 26-68. Sale.**

If abandoned property remains unclaimed in the possession of the city for 60 days, the property shall be sold to the highest bidder at a public auction conducted by the chief of police after two weeks' published notice setting forth the time and place of the sale and the property to be sold.

(Code 1987, § 208.02(4))

**Sec. 26-69. Disposition of proceeds.**

The proceeds of the sale of abandoned property shall be placed in the general fund of the city. If the former owner makes application and furnishes satisfactory proof of ownership within six months of the sale, he shall be paid the proceeds of the sale of his property less the costs of storage and the proportionate part of the cost of published notice and other costs of the sale.

(Code 1987, § 208.02(5))

## **Chapter 28 OFFENSES AND MISCELLANEOUS PROVISIONS\***

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**\*Cross reference(s)**--Law enforcement, ch. 26.

**State law reference(s)**--Criminal code, M.S.A. § 609.01 et seq.

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### **Article I. In General**

Sec. 28-1. Use of weapons.

Sec. 28-2. Improper noisy and riotous conduct.

Secs. 28-3--28-35. Reserved.

### **Article II. Curfew**

Sec. 28-36. Authorized.

Sec. 28-37. Responsibility of parents, guardians.

Sec. 28-38. Responsibility of owners, proprietors.

Sec. 28-39. Designation of school nights, youth nights.

Sec. 28-40. Enforcement.

## **ARTICLE I. IN GENERAL**

### **Sec. 28-1. Use of weapons.**

- (a) *Restrictions.* No person except a police officer or member of the United States armed forces or national guard in the performance of duty shall, within the city, discharge any gun, pistol or firearm of any description or carry any such weapon unless it is dismounted or broken apart or carried in a case in such manner that it cannot be discharged. This

section does not prevent the carrying of a handgun within the city under a permit subject to the restrictions imposed by law.

- (b) *Air rifles, slingshots.* No person shall use or discharge any air rifle or slingshot within the city.
- (c) *Offense by parents, guardians.* It is unlawful for any parent or guardian of any person under the age of 18 years knowingly to permit such person to violate any provision of this section.

(Code 1987, § 803.01)

### **Sec. 28-2. Improper noisy and riotous conduct.**

It is unlawful for any person within the limits of this city to make, aid, encourage or assist in making any noise, disturbance, riot or improper diversion to the annoyance or disturbance of any citizen or other person in the city, and all persons who shall, within the limits of this city, collect in bodies or crowds for any unlawful purpose to the annoyance or disturbance of any citizen of the city or other person in the city.

(Code 1987, § 803.02)

**State law reference(s)**--Authority to prevent noise and other disorders, M.S.A. § 412.221, subd. 24.

**Secs. 28-3--28-35. Reserved.**

## **ARTICLE II. CURFEW**

### **Sec. 28-36. Authorized.**

Except as otherwise provided in this section, it shall be unlawful for any minor under the age of 16 years to loiter, idle, or be in or upon the public streets, parks, playgrounds or other public grounds, public places and public buildings or places of amusement, entertainment or refreshment, vacant lots or other unsupervised places between the hours of 10:00 p.m. and 5:00 a.m. preceding a curricular school day, and between the hours of 10:30 p.m. and 5:00 a.m. on other nights or days. The provisions of this section shall not apply to any minor when in the company of his parent, guardian or other adult person having for the time being the care and custody of such minor, or where such minor is upon some necessary business or errand by permission or direction of his parent, guardian or other adult person having for the time being the care and custody of such minor.

### **Sec. 28-37. Responsibility of parents, guardians.**

Except as otherwise provided in this section, it shall be unlawful for the parent, guardian or other adult person having the care and custody of a minor under the age of 16 years to permit such minor to loiter, idle, or be in or upon the public streets, highways, roads, alleys, parks, playgrounds or other public grounds, public places and public buildings or places of amusement, entertainment or refreshment, vacant lots or other unsupervised places during the times prohibited by this section. The provisions of this section shall not apply when the minor is accompanied by his parent, guardian or other adult person having the care and custody of the minor or when the minor

is upon some necessary business or errand by permission or direction of his parent or guardian or other adult person having for the time being the care and custody of such minor.

**Sec. 28-38. Responsibility of owners, proprietors.**

Except as otherwise provided in this section, it shall be unlawful for any person operating or in charge of any place of amusement, entertainment or refreshment to permit any such minors as are referred to in this article to remain in such place during the times prohibited by this article. The provisions of this section shall not apply when such minor is accompanied by his parent, guardian or other adult person having the care and custody of the minor, or where such minor is upon some necessary business or errand by permission or direction of his parent or guardian or other adult person having for the time being the care and custody of such minor.

**Sec. 28-39. Designation of school nights, youth nights.**

The mayor or chief of police, upon the request of the superintendent of schools or other responsible individual or group in the city, may designate certain nights as school nights or youth nights at such times as the school or other responsible individual or group shall sponsor or be engaged in athletic, musical, dramatic or social activities for the benefit or entertainment of those minors contemplated by this article. The provisions of this article shall not apply where any minor contemplated by this article is lawfully going to, attending or returning from such function on any designated school night or youth night.

**Sec. 28-40. Enforcement.**

This article and its provisions will be enforced in the following manner:

- (1) For the first violation, the police shall escort the child home with a verbal warning to the child and parent or adult charged with the child's care.
- (2) For the second violation within any 12-month period, the police shall escort the child to the county law enforcement center; and the parent or adult charged with the child's care will be contacted to come and take the child home.
- (3) For the third violation within any 12-month period, the police shall escort the child to the county law enforcement center; and the parent or adult charged with the child's care will be contacted to come and take the child home. At this time a report will be made and taken to the city attorney for prosecution, as a petty misdemeanor against the adult charged with the child's care.

## **Chapter 30 PLANNING\***

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**\*Cross reference(s)**--Administration, ch. 2; buildings and building regulations, ch. 10; community development, ch. 16; environment, ch. 22; special assessments, ch. 34; streets, sidewalks and other public places, ch. 36; subdivisions, ch. 38; utilities, ch. 42; vegetation, ch. 44; zoning, ch. 46.

**State law reference(s)**--Municipal planning, M.S.A. § 462.351 et seq.  
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### **Article I. In General**

Secs. 30-1--30-30. Reserved.

### **Article II. Planning Commission**

Sec. 30-31. Establishment.

Sec. 30-32. Composition.

Sec. 30-33. Organization, meetings.

Sec. 30-34. Powers and duties.

Sec. 30-35. Zoning ordinances; public hearings.

Sec. 30-36. Plats; approval.

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

**Secs. 30-1--30-30. Reserved.**

### **ARTICLE II. PLANNING COMMISSION\***

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**\*Cross reference(s)**--Administration, ch. 2.

**State law reference(s)**--Planning agency authorized, M.S.A. § 462.354, subd. 1.

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**Sec. 30-31. Establishment.**

A city planning commission is established. The commission shall be the city planning agency authorized by M.S.A. § 462.354, subd. 1.

(Code 1987, § 205.01)

**Sec. 30-32. Composition.**

- (a) *Membership.* The city planning commission shall consist of seven members. The city council shall select two members of the commission from its own membership. The other five members shall be appointed and may be removed by the council.
- (b) *Terms, vacancies, oath.* The initial members of the planning commission shall serve staggered terms. Thereafter members shall serve two-year terms. The administrative clerk-treasurer shall serve as administrator of the commission. Both original and successive appointees shall hold their offices until their successors are appointed and qualified. Vacancies during the term shall be filled by the council for the unexpired portion of the term. Every appointed member shall before entering upon the discharge of his duties take an oath that he will faithfully discharge the duties of his office. All members shall serve without compensation.

(Code 1987, § 205.02)

**Sec. 30-33. Organization, meetings.**

- (a) *Officers.* The city planning commission shall elect a chair and acting chair from among its appointed members for a term of one year, and the commission may create and fill such other offices as it may determine. The administrative clerk-treasurer shall act as secretary of the planning commission but shall not be a member.
- (b) *Meetings, records, reports.* The commission shall hold meetings as required. It shall adopt rules for the transaction of business and shall keep a record of its resolutions, transactions and findings, which record shall be a public record. Expenditures of the commission shall be within amounts appropriated for the purpose by the city council.

(Code 1987, § 205.03)

**Sec. 30-34. Powers and duties.**

The planning commission shall have the powers and duties given planning agencies generally by law. The commission shall also exercise the duties conferred upon it by this article and by the council. After the commission has prepared and adopted a comprehensive plan, the commission shall periodically, but at least once every five years, review the comprehensive plan, any ordinances and any capital improvement program the council has adopted to implement the plan. After such review it shall, to the extent it deems necessary, revise the comprehensive plan, adopt the amendments or the new comprehensive plan, and recommend it to the council in accordance with law. Similarly, after such review, it shall recommend to the council any amendments it deems desirable to the capital improvement program and any ordinance implementing the plan.



(Code 1987, § 205.04)

**Sec. 30-35. Zoning ordinances; public hearings.**

No zoning ordinance or amendment shall be adopted by the council until hearing has been held by the planning commission upon notice as provided in M.S.A. § 462.357, subd. 3.

(Code 1987, § 205.05)

**Sec. 30-36. Plats; approval.**

Any subdivision plat submitted to the council for approval shall, prior to final approval, be referred to the planning commission for review and recommendation. Any plat so referred shall be returned to the council by the commission with its recommendations within 30 days, and failure of the commission to report within that period is deemed to have satisfied the requirements of this section.

(Code 1987, § 205.06)

## **Chapter 32 SOLID WASTE\***

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**\*Cross reference(s)**--Buildings and building regulations, ch. 10; environment, ch. 22; utilities, ch. 42.

**State law reference(s)**--Waste management generally, M.S.A. ch. 115A; authority to regulate solid waste disposal, M.S.A. § 412.221, subd. 22; rubbish removal by municipalities, M.S.A. § 443.015 et seq.  
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### **Article I. In General**

Secs. 32-1--32-30. Reserved.

### **Article II. Refuse Collection and Disposal**

Sec. 32-31. Definitions.

Sec. 32-32. Unauthorized accumulation.

Sec. 32-33. Refuse in streets, other public places.

Sec. 32-34. Scattering of refuse.

Sec. 32-35. Burying of refuse; composting.

Sec. 32-36. Disposal required.

Sec. 32-37. Licensed collectors.

Sec. 32-38. Municipal collection.

Sec. 32-39. Rates and charges.

Sec. 32-40. Refuse collection schedule.

Sec. 32-41. Collection vehicles.

Sec. 32-42. Official refuse package.

Sec. 32-43. Charges and payment.

Sec. 32-44. Commercial refuse service in residential areas limited.

## **ARTICLE I. IN GENERAL**

**Secs. 32-1--32-30. Reserved.**

## **ARTICLE II. REFUSE COLLECTION AND DISPOSAL**

**Sec. 32-31. Definitions.**

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

*Garbage* means organic waste resulting from the preparation of food and decayed and spoiled food from any source.

*Recyclables* include paper, plastic, tin cans, aluminum, motor oil, glass and other metal goods, each separated or otherwise prepared so as to be acceptable to the recycling center where they are to be deposited.

*Recycling center* means premises used for the receipt, storage or processing of recyclables and approved as such by the council when the premises are in the city or by the governing body of the local government unit having jurisdiction when the premises are outside the city.

*Refuse* includes garbage and rubbish.

*Rubbish* means inorganic solid waste such as tin cans, glass, paper, ashes, sweepings, etc.

(Code 1987, § 502.01)

**Cross reference(s)**--Definitions generally, § 1-2.

**Sec. 32-32. Unauthorized accumulation.**

Any unauthorized accumulation of refuse on any premises is a nuisance and prohibited.

(Code 1987, § 502.02(1))

**Sec. 32-33. Refuse in streets, other public places.**

No person shall place any refuse in any street, alley or public place or upon any private property except in proper containers for collection. No person shall throw or deposit refuse in any stream or other body of water.

(Code 1987, § 502.02(2))

**Sec. 32-34. Scattering of refuse.**

No person shall deposit anywhere within the city any refuse in such manner that it may be carried or deposited by the elements upon any public or private premises within the city.

(Code 1987, § 502.02(3))

**Sec. 32-35. Burying of refuse; composting.**

No person shall bury any refuse in the city except in an approved sanitary landfill; but leaves, grass clippings, and easily biodegradable, nonpoisonous garbage may be composted on the premises where such refuse has been accumulated.

(Code 1987, § 502.02(4))

**Sec. 32-36. Disposal required.**

Every person shall dispose of refuse that may accumulate upon property owned or occupied by him in a sanitary manner. Garbage shall be collected, or otherwise lawfully disposed of, at least once each week during the months of May through September and at least once every week during other months. Every household occupant, and owner of any residence shall use the garbage and refuse collection service provided by the city.

(Code 1987, § 502.03)

**Sec. 32-37. Licensed collectors.**

- (a) *License required.* No person shall permit refuse to be picked up from his premises by an unlicensed collector.
- (b) *Collectors.* Collectors of refuse other than the municipal collection service shall be licensed by the county under their licensing provisions. They shall be contracted with those properties that they service under the provisions of their specific licenses. Collectors shall service commercial and industrial clients only within the corporate limits of the city.

(Code 1987, § 502.05)

**Cross reference(s)**--Businesses, ch. 12.

**Sec. 32-38. Municipal collection.**

- (a) *City system established.* There is established a municipal system for the collection and disposal of refuse accumulated within the city. Any person may transport recyclables to a recycling center; but otherwise no person except an authorized city employee shall collect, convey over any street or alley of the city, or dispose of any refuse accumulated in the city except as provided in section 32-35.
- (b) *Responsibility of city system.* The public works superintendent shall supervise and control the collection and disposal of refuse. In accordance with regular personnel and purchasing procedures, he shall employ necessary personnel and acquire necessary equipment to provide for the collection and disposal of refuse accumulated within the city. Subject to council approval, he may adopt rules and regulations necessary to supplement the provisions of this article.

(Code 1987, § 502.06)

**Sec. 32-39. Rates and charges.**

- (a) *Schedule.* The owner or occupant of any premises served by the city refuse collection system shall pay to the city a service charge assessed in accordance with the rates that the council by resolution may establish periodically. This rate schedule shall be updated accordingly with council resolution.
- (b) *Billing.* The service charge shall be made to the owner or occupant of each building or housing unit served. If the building is served by city water or sewer, the refuse collection charge shall be billed as a separate entry on the water or sewer bill. If the premises are not so served, the refuse collection charge shall be separately billed by the administrative clerk-treasurer.
- (c) *Payment.* Services charges shall be payable at the same time as bills for water service and subject to the same conditions of payment. If any charge is unpaid on September 1 of any year, the council may levy an assessment equal to the unpaid charge of that date. The administrative clerk-treasurer shall certify the assessment to the county auditor for collection in the same manner as assessments for local improvements.
- (d) *Fund.* All service charges shall be deposited in a separate fund designated as the refuse fund.  
(Code 1987, § 502.07)

**Sec. 32-40. Refuse collection schedule.**

The municipal collection service shall collect refuse from premises once weekly.

(Code 1987, § 502.08)

**Sec. 32-41. Collection vehicles.**

Every refuse collection vehicle shall be lettered on the outside so as to identify the licensee (contractor). Every vehicle used for hauling garbage shall be covered, leakproof, durable, and of easily cleanable construction. Every vehicle used for hauling refuse shall be sufficiently airtight and so used as to prevent unreasonable quantities of dust, paper or other collected materials to escape. Every vehicle shall be kept clean to prevent nuisances, pollution or insect breeding, and shall be maintained in good repair.

(Code 1987, § 502.09)

**Sec. 32-42. Official refuse package.**

- (a) *Establishment.*
  - (1) There is established an official refuse package. Such package shall be as established by the city council for the collection of refuse. It shall be the only package acceptable for curbside collection by the public works department.
  - (2) No package that is set out for curbside collection shall be filled to in excess of 40 pounds total weight, or left with the top untied. Package weight greater than 40 pounds or

packages not tied at their opening shall be deemed nonconforming and subject to the provisions of subsection (c) of this section.

- (b) *Noncurbside disposal.* The acceptance of refuse in the city collection vehicle at any time shall be limited to only that which is contained in the official refuse package.
- (c) *Nonconforming refuse package.* Any refuse disposal which is not in conformance with this section shall be at the discretion of the public works superintendent as to acceptance and compensation to the city. All nonconforming refuse is excluded from curbside collection and is to be transported by the individual for disposal at the collection vehicle as the vehicle is made available to the public (Saturday mornings), at which time the individual can load the nonconforming package into the rear collection hopper of the refuse truck for disposal. Any such nonconforming refuse will be confined to individual residents and their personal rubbish generated within the city. Any person generating rubbish in the course of business is required to provide for disposal by means other than the city refuse department unless such waste is contained within an official refuse package.

(Code 1987, § 502.10(2)--(4); Ord. of 5-13-1997)

#### **Sec. 32-43. Charges and payment.**

The official refuse package shall be made available to all residents by the city and/or its agents. The point source collection of package sale receipts shall become the method of payment for city refuse disposal. The price per package will be established by the city council periodically so as to assure the financial capacity for the continued operation of the refuse department.

(Code 1987, § 502.10(5))

#### **Sec. 32-44. Commercial refuse service in residential areas limited.**

- (a) No commercial hauler shall supply a refuse container or service to a property that utilizes that container or service to a large degree for the disposal of typical household wastes, with the exception of apartment complexes of eight or more units; and no private commercial hauler's refuse container shall be allowed in any city residential zone for a period in excess of 60 days, and then only for the purposes of one-time cleanup projects such as new construction.
- (b) The only exceptions to the no private commercial hauler refuse container in a residential neighborhood rule shall be:
  - (1) Institutions, such as a church or school which due to normal operations as a church or school produces large quantities of food and food service wastes; and
  - (2) Apartment complexes with eight or more household units.

(Res. of 5-9-1995)

## **Chapter 34 SPECIAL ASSESSMENTS\***

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**\*Cross reference(s)**--Community development, ch. 16; planning, ch. 30; streets, sidewalks and other public places, ch. 36.

**State law reference(s)**--Special assessments for local improvements, M.S.A. § 429.011 et seq.

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### **Article I. In General**

Secs. 34-1--34-30. Reserved.

### **Article II. Assessable Current Services; Obligations of Property Owners and Occupants**

Sec. 34-31. Purpose.

Sec. 34-32. Definitions.

Sec. 34-33. Snow, ice, dirt and rubbish.

Sec. 34-34. Weed elimination.

Sec. 34-35. Public health and safety hazards.

Sec. 34-36. Installation and repair of water service lines.

Sec. 34-37. Repair of sidewalks and alleys.

Sec. 34-38. Street sprinkling, street flushing, tree care.

Sec. 34-39. Street lighting system.

Sec. 34-40. Personal liability.

Sec. 34-41. Assessment.

Sec. 34-42. Repair and/or maintenance of public rights-of-way.

Secs. 34-43--34-75. Reserved.

### **Article III. Local Improvement Policy**

Sec. 34-76. Cutoff date for petitions.

Sec. 34-77. Classification of projects.

Sec. 34-78. Financing class B and C improvements.

Sec. 34-79. Assessment regulations for class B improvements.

Sec. 34-80. Assessment rules for class C improvements.

Sec. 34-81. Special rules.

Sec. 34-82. Federal, state and county aid use.

Sec. 34-83. Procedural restrictions.

Sec. 34-84. Deferment of special assessments for senior citizens.

Sec. 34-85. Branch service lines.

Sec. 34-86. Partial prepayment.

Sec. 34-87. Certification of assessments.

Sec. 34-88. Permanent improvement revolving fund.

Sec. 34-89. Assessment manual.

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

**Secs. 34-1--34-30. Reserved.**

### **ARTICLE II. ASSESSABLE CURRENT SERVICES; OBLIGATIONS OF PROPERTY OWNERS AND OCCUPANTS**

#### **Sec. 34-31. Purpose.**

Cost of current services is collectible as a special assessment at the option of the council under M.S.A. § 429.101, part of the local improvement code. The provisions of this article bring together all the needed regulations with reference to the type of services covered by the code.



### **Sec. 34-32. Definitions.**

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

*Current service* means one or more of the following:

- (1) Snow, ice or rubbish removal from sidewalks;
- (2) Weed elimination from street grass plots adjacent to sidewalks or from private property;
- (3) Removal or elimination of public health or safety hazards from private property, excluding any hazardous building included in M.S.A. §§ 463.15--463.26;
- (4) Installation or repair of water servicelines;
- (5) Street sprinkling, street flushing, light street oiling, or other dust treatment of streets;
- (6) Repair of sidewalks and alleys;
- (7) Trimming and care of trees and removal of unsound and insect-infected trees from the public streets or private property; and
- (8) The operation of a street lighting system.

(Code 1987, § 302.01)

**Cross reference(s)**--Definitions generally, § 1-2.

### **Sec. 34-33. Snow, ice, dirt and rubbish.**

- (a) *Duty of owners and occupants.* The owner and the occupant of any property adjacent to a public sidewalk shall use diligence to keep such walk safe for pedestrians. No such owner or occupant shall allow snow, ice, dirt or rubbish to remain on the walk longer than 12 hours after its deposit on the sidewalk.
- (b) *Removal by city.* The public works superintendent shall remove from all public sidewalks all snow, ice, dirt and rubbish as soon as possible beginning 12 hours after any such matter has been deposited or after the snow has ceased to fall. He shall keep a record showing the cost of such removal adjacent to each separate lot and parcel and shall deliver such information to the administrative clerk-treasurer.

(Code 1987, § 302.02)

### **Sec. 34-34. Weed elimination.**

- (a) *Weeds as a nuisance.* Any weeds, whether noxious as defined by law or not, growing upon any lot or parcel of land outside the traveled portion of any street or alley in the city to a greater height than 12 inches or which have gone or are about to go to seed are a nuisance. The owner and the occupant shall abate or prevent such nuisance on such property and on land outside the traveled portion of the street or alley abutting on such property.
- (b) *Notice.*
  - (1) On or before June 1 of each year and at such other times as ordered by resolution of the council, the administrative clerk-treasurer shall publish once in the official newspaper a notice directing owners and occupants of property within the city to destroy all weeds declared by subsection (a) of this section to be a nuisance and stating that if not so destroyed within ten days after publication of the notice, the weeds will be destroyed by the weed inspector at the expense of the owner and that if not paid, the charge for such work will be made a special assessment against the property concerned.
  - (2) Any such notice to remove weed nuisance shall be given once during any annual growing season from March 1 to October 15 of any year and shall serve as notice for that season in its entirety. Further violation of this section within that season will result in removal by the city according to subsection (c) of this section without further notice.
- (c) *Removal by city.* If the owner or occupant of any property in the city fails to comply with the notice within ten days after its publication, the weed inspector shall cut and remove such weeds. He shall keep a record showing the cost of such work attributable to each separate lot and parcel and shall deliver such information to the administrative clerk-treasurer.

(Code 1987, § 302.03)

**Cross reference(s)**--Nuisances generally, § 22-31 et seq.

### **Sec. 34-35. Public health and safety hazards.**

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

(Code 1987, § 302.04)

**Sec. 34-36. Installation and repair of water service lines.**

Whenever the city installs or repairs water service lines serving private property under chapter 42 of this Code, the public works superintendent shall keep a record of the total cost of the installation or repair against the property and deliver such information to the administrative clerk-treasurer annually by August 15 as to each parcel of property on which the cost has not been paid.

(Code 1987, § 302.05)

**Sec. 34-37. Repair of sidewalks and alleys.**

- (a) *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 council and on file in the office of the administrative clerk-treasurer.
- (b) *Inspections; notice.* The public works superintendent shall make such inspections as are necessary to determine that public sidewalks and alleys within the city are kept in repair and safe for pedestrians and vehicles. If he finds that any sidewalk or alley abutting on private property is unsafe and in need of repairs, he shall inform the city council, who, in turn, shall cause a notice to be served by registered or certified mail or by personal service upon the record owner of the property and occupant, if the owner does not reside within the city or cannot be found in the city, ordering such owner to have the sidewalk or alley repaired and made safe within 14 days and state that if the owner fails to do so, the city council will order the work done on behalf of the city, that the expense must be paid by the owner, and if not paid it shall be paid by special assessment against the property concerned.
- (c) *Repair by city.* If the sidewalk or alley is not repaired within 14 days after receipt of the notice, the public works superintendent shall report the facts to the council; and the council shall by resolution order the public works superintendent to repair the sidewalk or alley and make it safe or order the work done by contract in accordance with law. The public works superintendent shall keep a record of the total cost of the repair attributable to each lot or parcel of property and report such information to the administrative clerk-treasurer.
- (d) *Width of sidewalks.* All sidewalks in a residential zone shall be 4.5 feet in width unless otherwise specified by the city engineer.

(Code 1987, § 302.06)

**Sec. 34-38. Street sprinkling, street flushing, tree care.**

- (a) *Proposed projects.* The council shall each year determine by resolution what streets and alleys shall be sprinkled or flushed, oiled or given other dust treatment during the year and the kind of work to be done on each. The council shall also determine by resolution the streets on which trees shall be trimmed and cared for, the kind of work to be done, and what unsound trees shall be removed. Before any work is done pursuant to either of these resolutions, the administrative clerk-treasurer shall, under the council's direction, publish notice that the council will meet to consider such projects. Such notice shall be published in the official newspaper at least once no less than two weeks prior to such meeting of the council and shall state the date, time and place of such 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; order.*
- (1) At such hearing or at any adjournment of the hearing, the council shall hear property owners with reference to the scope and desirability of the proposed projects. The council shall thereupon adopt a resolution confirming the original projects with such modifications as it considers desirable and shall provide for the doing of the work by day labor through the public works superintendent or by contract.
- (2) The public works superintendent 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 and shall report such information to the administrative clerk-treasurer.

(Code 1987, § 302.07)

#### **Sec. 34-39. Street lighting system.**

The street lighting system shall be budgeted for annually and shall become part of the annual certified budget levy.

(Code 1987, § 302.08)

#### **Sec. 34-40. Personal liability.**

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

(Code 1987, § 302.09)

### **Sec. 34-41. Assessment.**

On or before September 1 of each year, the administrative clerk-treasurer 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 article. The council may then spread the charges against property benefited as a special assessment under M.S.A. § 429.101 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 ten, as the council may determine in each case. These charges shall be those predetermined by the city council not to be charged to general funds.

(Code 1987, § 302.10)

### **Sec. 34-42. Repair and/or maintenance of public rights-of-way.**

- (a) A public right-of-way shall mean any street or alley as platted within the corporate limits of the city. Repair and maintenance shall be established into two categories, (a.) assessable current service and (b.) nonassessable current service.
- (b) An (a.) assessable current service shall be construed to mean repair to a street or alley which consists of removal of either surface and/or base of a public right-of-way to allow for replacement with a new material consistent with the performance criteria of the original material being removed. An (a.) assessable current service shall be assessed in accordance with section 34-41.
- (c) A (b.) nonassessable current service shall be construed as but not limited to seal coating, nonpetitioned overlayment, patching, crack filling, grading and filling. Such service shall be construed as a general obligation of the city.

(Code 1987, § 302.11)

### **Secs. 34-43--34-75. Reserved.**

## **ARTICLE III. LOCAL IMPROVEMENT POLICY**

### **Sec. 34-76. Cutoff date for petitions.**

No petition for construction of streets, storm sewer or public utility expansion shall be accepted or acted upon by the council unless it is filed with the administrative clerk-treasurer on or before September 1 of the year prior to the year of requested construction.

(Code 1987, § 303.01)

### **Sec. 34-77. Classification of projects.**

- (a) *Generally.* Public improvements are divided into the three classes specified in this section according to their respective benefit to the whole city and to property specially served by the improvement and taking into account past city practice. The city council shall determine the class which shall apply to each improvement.
- (b) *Class A.* Class A improvements are those which are of general benefit to the city at large, including:
  - (1) Public buildings, except a building which is part of an improvement described elsewhere in this section;
  - (2) Any public park, playground or recreational facility;
  - (3) The installation and maintenance of street lighting systems; and
  - (4) Any improvement not described in M.S.A. § 429.021, subd. 1. Any such improvement shall be financed from general city funds and not from special assessments.
- (c) *Class B.* Class B improvements are those which are of both general benefit and special benefit to abutting or nearby property. Class B improvements include:
  - (1) Trunk water mains larger than five inches;
  - (2) Trunk sanitary sewer mains larger than six inches;
  - (3) Permanently surfacing arterial streets;
  - (4) Storm sewers;
  - (5) The construction of off-street parking facilities.
- (d) *Class C.* Class C improvements are those which are primarily if not exclusively of benefit to property abutting or in the area of the improvement, including:
  - (1) The construction of sidewalks;
  - (2) The construction of water mains no larger than three inches in diameter;
  - (3) The construction of sanitary sewer mains no larger than six inches in diameter;
  - (4) The construction of curbs and gutters;
  - (5) Grading, graveling, oiling and applying nonpermanent surfacing to streets;
  - (6) Permanently surfacing residential streets;

- (7) The abatement of nuisances and the draining and filling of swamps, marshes and ponds on public or private property.

(Code 1987, § 303.02)

**Sec. 34-78. Financing class B and C improvements.**

It is the policy of the city to finance class B and C improvements by the methods prescribed in sections 34-79, 34-80 and 34-81. The apportionment of the cost between benefited property and the city at large and the method of levying assessments prescribed in those sections shall be followed in each case unless the council, by resolution, finds that because of special circumstances stated in the resolution, a different policy is necessary or desirable in the particular case. Any local improvement described in M.S.A. § 429.02 and not placed in class A, B, or C by section 34-77 shall be financed as the council determines to be most feasible and equitable in each case.

(Code 1987, § 303.03)

**Sec. 34-79. Assessment regulations for class B improvements.**

(a) *Trunk water mains and sanitary sewers.*

- (1) When a water or sewer main is laid across or adjacent to unplatted property, the city shall not defer the assessment that would be made for such an improvement in the case of platted property; but the city shall make the assessment at the time the assessment against other property is made, apportioning the assessment against the unplatted property on the basis of area.
- (2) When a trunk sewer or water main is constructed and is to serve also as a lateral sewer or water main for abutting property, the abutting property shall be assessed for the cost of a lateral sewer or water main of six inches plus its proportionate share of the cost of the excess capacity. Other property benefited by the trunk sewer or water main but unable to utilize it until a lateral connected to the trunk sewer or water main has been built to serve the property shall not be assessed for its share of the cost of the trunk sewer or water main until the lateral is built. The assessment for the lateral shall then include the property's share of the trunk sewer or water main. The cost of the trunk sewer or water main in excess on the basis of lineal foot and/or frontage shall be assessed against all properties benefited. The cost of a lift station shall be assessed on the basis of lineal foot and/or frontage against that property actually benefited by the lift station or on a basis subject to council discretion.

- (b) *Arterial street surfacing.* Arterial streets are determined by the city council upon recommendations of the city engineer. When an arterial street is paved with concrete, bituminous mat or other permanent surface, the cost of the pavement on a 36-foot roadway shall be assessed against the benefited property on the basis of frontage on the abutting street. When the standards for such paving are higher than those the city would use for a residential street, the cost shall be the cost of paving a residential street of the same width. The rest of the cost shall be paid from general funds.
- (c) *Storm sewers.* The city council shall ascertain the percentage of the cost of constructing storm sewers that shall be paid by the city from general funds. The remainder of the cost shall be assessed against the property in the area served by the sewer on the basis of the square footage of the property. The area to be assessed shall be determined on the basis of topographic maps and other pertinent data.

(Code 1987, § 303.04)

**Sec. 34-80. Assessment rules for class C improvements.**

- (a) *Sidewalks.* The cost of the construction of sidewalks shall be assessed on the basis of frontage against property abutting the side of the street on which the sidewalk is located.
- (b) *Water and sewer.* The cost of lateral water mains not exceeding six inches in diameter and of lateral sanitary sewer mains not exceeding eight inches in diameter shall be assessed against abutting property on the basis of frontage. The cost of water mains to be assessed includes the service lines if furnished, hydrants and valves. The cost of sewer mains includes lines if furnished.
- (c) *Streets.* The cost of construction of curbs and gutters on any street, of grading, oiling and applying nonpermanent surfaces to residential streets shall be assessed on the basis of frontage.
- (d) *Nuisances.* The cost of abating nuisances and the draining and filling of swamps, marshes and ponds on public or private property shall be assessed in a manner determined by the council in each case to measure most equitably the benefit received by property to be assessed. The assessment in any such case may be made against nonabutting property to the extent the property is benefited by the improvement.

(Code 1987, § 303.05)

**Sec. 34-81. Special rules.**

- (a) *Corner lots.* In any assessment made on the basis of frontage, except one for water or sanitary sewer, corner lots shall be assessed for footage along the front of



the lot plus half of the side footage; the other half of the side footage shall be spread among all other assessed properties. In the case of an assessment for a lateral water or sewer main, class C, corner lots shall be assessed for the footage along the front side of the lot and shall be assessed for the footage along the front side of the street abutting the lot unless the lot is large enough to accommodate another building which would be benefited by construction of the second main.

- (b) *Intersections.* The cost of water and sewer improvements in street intersections shall be included as part of the total assessable cost. In the case of any kind of street improvement, intersection costs shall be paid by the city.
- (c) *Adjusted frontage.* When the amount of an assessment is determined by frontage, an equivalent front footage shall be determined according to the following rules when an irregular lot requires such an adjustment to maintain fairness in the assessment: All such property shall be dealt with consistently in a manner to be prescribed by the city council, dealing with each improvement project separately.

(Code 1987, § 303.06)

#### **Sec. 34-82. Federal, state and county aid use.**

If the city receives financial assistance from the federal government, the state or the county to defray a portion of the cost of a street improvement project, such aid shall be used first to reduce the share of the project cost which would be met from general city funds according to the assessment formula contained in this article. If such aid is more than the amount of the improvement cost to be borne by the city, the remainder of the aid so received shall be used to reduce each individual assessment proportionately.

(Code 1987, § 303.07)

#### **Sec. 34-83. Procedural restrictions.**

- (a) *Generally.* In addition to conforming to the provisions of M.S.A. § 429.011 et seq., proceedings for a public improvement to be paid wholly or partly by special assessments shall conform to the requirements of this section.
- (b) *Waivers.* When the estimated cost of an improvement is determined and the council has determined what percentage of the estimated project cost can be collected by special assessments, the improvement contract shall not be entered into or the work shall not be commenced by day labor unless all property owners subject to the assessment have signed and submitted to the administrative clerk-treasurer waivers of the right to appeal from the assessment when levied.
- (c) *Conditional contracts.* When the estimated cost of an improvement is determined and the council has determined what percentage of the estimated project cost can be collected by special assessments, the contract for the improvement shall provide that no work shall be undertaken pursuant to the contract until 30 days

after the hearing on the proposed assessment. The contract shall also provide that if any objection to the proposed assessment is filed within such 30-day period, the contract shall be void.

- (d) *Findings on market value increase.* Before determining proposed special assessments on any project, the city shall gather as much evidence as is practical and useful to show that the aggregate benefits to property to be assessed do not exceed the cost of the project and that each proposed individual assessment does not exceed the increase in market value on the property on which the assessment is to be made.

(Code 1987, § 303.08)

**Sec. 34-84. Deferment of special assessments for senior citizens.**

- (a) *When deferred.* The council may defer the payment of any special assessment on homestead property owned by a person who is 65 years of age or older and has an annual income of state prescribed poverty level or less. The deferment shall be granted upon a certification by the owner on a form prescribed by the county assessor supplemented by the administrative clerk-treasurer to establish the qualification of the owner for such deferment. The application shall be made within 30 days after the adoption of the assessment roll by the council and shall be renewed each following year upon the filing of a similar application not later than September 30. The council shall either grant or deny the deferment; and, if it grants the deferment, it may require the payment of the interest due each year. If the council grants the deferment, the administrative clerk-treasurer shall notify the county auditor of that fact.
- (b) *When deferment ends.* The option to defer the payment of special assessments shall terminate and all amounts accumulated plus applicable interest shall become due upon the occurrence of any one of the following events:
  - (1) The death of the owner when there is no spouse who is eligible for deferment;
  - (2) The sale, transfer or subdivision of all or any part of the property;
  - (3) Loss of homestead status on the property;
  - (4) Determination by the council for any reason that there would be no hardship to require immediate or partial payment;
  - (5) Failure to file a renewal application within the time prescribed by subsection (a) of this section; or
  - (6) Having reached a five-year limitation on any deferments.

- (c) *Procedure for termination.* Upon the occurrence of one of the events specified in subsection (b) of this section, the council shall terminate the deferment. Thereupon, the administrative clerk-treasurer shall notify the county assessor and the county auditor of the termination, including the amounts accumulated on unpaid installments plus applicable interest which shall become due and payable as a result of the termination.

(Code 1987, § 303.09)

**Sec. 34-85. Branch service lines.**

Water and sewer lines shall be installed from the main to the front property line of property to be served before any permanent street surfacing is constructed in the street. If any property owner fails to put in such water and sewer service lines within 30 days after notice from the administrative clerk-treasurer, the city council shall proceed to have water and sewer service installed and to assess the cost against the property.

(Code 1987, § 303.10)

**Sec. 34-86. Partial prepayment.**

After the adoption by the city council of the assessment roll in any local improvement proceeding, the owner of any property specially assessed in the proceeding may, prior to the certification of the assessment or the first installment to the county auditor, pay to the administrative clerk-treasurer any portion of the assessment not less than \$100.00. The remaining unpaid balance shall be spread over the period of time established by the council for installment payment of the assessment.

(Code 1987, § 303.11)

**Sec. 34-87. Certification of assessments.**

After the adoption of any special assessment by the council, the administrative clerk-treasurer shall transmit a certified duplicate of the assessment roll with each installment, including interest, set forth separately to the county auditor to be extended on the proper tax lists of the county.

(Code 1987, § 303.12)

**Sec. 34-88. Permanent improvement revolving fund.**

- (a) *Establishment.* There is established a permanent improvement revolving fund of the city to be held and administered by the administrative clerk-treasurer, separate and apart from all other funds of the city, for the purpose of financing local improvements.

- (b) *Source of funds.* The fund shall be a permanent fund of the city, and the moneys necessary for its maintenance shall be provided by taxation by the appropriation of available moneys from other funds of the city and/or by the issuance and sale of permanent improvement revolving fund bonds of the city as deemed necessary by the council.
- (c) *Disposition of funds.* Moneys in the fund shall be used only as directed by resolution of the council for the purpose of advancing to local improvements funds the cost of improvements for which assessments are to be levied. All such moneys so advanced to an improvement fund shall be restored as soon as sufficient moneys are received in the improvement fund, together with interest at a rate fixed by the council at not less than eight percent per annum during the time for which such moneys have been so furnished.
- (d) *Investment.* Whenever there are moneys in the fund not immediately needed for local improvements, such moneys shall be invested by the administrative clerk-treasurer under the direction of the council in any securities authorized for investment of municipal sinking funds by law.
- (e) *Transfer of surplus.* When the fund accumulates encumbered moneys in excess of any amounts reasonably anticipated to be needed for local improvement fund advances, the council may, by resolution adopted by a three-fourths vote, declare any part of such excess to be surplus and transfer it to the general fund.

(Code 1987, § 303.13)

**Sec. 34-89. Assessment manual.**

The administrative clerk-treasurer shall prepare an administrative manual specifying more detailed procedures for the conduct of local improvements and levy of special assessments in supplementation of this article and consistent with this article. Upon approval of the council by resolution, such manual shall be used with this article in the conduct of all local improvement proceedings to which they apply by their terms.

(Code 1987, § 303.14)

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**\*Cross reference(s)**--Any ordinance or resolution dedicating, naming, establishing, locating, relocating, opening, paving, widening, repairing, vacating, etc., any street or public way in the city saved from repeal, § 1-9(5); buildings and building regulations, ch. 10; community development, ch. 16; environment, ch. 22; planning, ch. 30; special assessments, ch. 34; subdivisions, ch. 38; traffic and vehicles, ch. 40; utilities, ch. 42; vegetation, ch. 44; zoning, ch. 46.

**State law reference(s)**--Authority to regulate, open, change, etc., streets and sidewalks, M.S.A. § 412.221, subd. 6; acquisition of property for streets, M.S.A. § 440.08 et seq.

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## **Article I. In General**

Secs. 36-1--36-30. Reserved.

## **Article II. Excavations**

Sec. 36-31. Permit required.

Sec. 36-32. Application and regulations.

Sec. 36-33. Plan.

Sec. 36-34. General regulations for excavations.

Sec. 36-35. Refilling excavations.

Sec. 36-36. Map of subsurface installations.

## **ARTICLE I. IN GENERAL**

**Secs. 36-1--36-30. Reserved.**

## **ARTICLE II. EXCAVATIONS**

**Sec. 36-31. Permit required.**

No person, except an authorized city employee or a contractor performing work under a contract with the city, shall make any excavation in a street, alley, sidewalk or public ground without review and permission from the public works superintendent.

(Code 1987, § 301.01)

**Sec. 36-32. Application and regulations.**

The public works superintendent shall prepare the necessary application forms and permits required under section 36-31. He shall also prepare such rules and regulations with respect to excavations as he finds necessary to protect the public from injury; prevent damage to public or private property; and minimize interference with the public use of streets, alleys, sidewalks and

public grounds. Any person making an excavation covered by this article shall comply with such rules and regulations.

(Code 1987, § 301.02)

**Sec. 36-33. Plan.**

- (a) Any permittee under this article except a public utility corporation or a bonded plumber shall file with the public works superintendent a plan and letter of assurance that the permittee will:
  - (1) Perform work in connection with the excavation in accordance with applicable ordinances and regulations;
  - (2) Indemnify the city and hold it harmless from all damage caused in the execution of such work; and
  - (3) Pay all costs and damages suffered by the city by reason of the failure of the permittee to observe the terms of applicable ordinances and regulations or because of negligence in the execution of the work.
- (b) Any permittee except a public utility corporation shall furnish proof that the permittee has in existence an insurance policy protecting him from liability to the public, including the city, to an amount equal to the maximum claim the city might be required to pay under M.S.A. § 466.01 et seq.

(Code 1987, § 301.03)

**Sec. 36-34. General regulations for excavations.**

Street openings shall be made in a manner that will cause the least inconvenience to the public and shall be made in conformance with the state one call excavation notice system, M.S.A. § 2160.01 et seq. Provision shall be made for the passage of water along the gutters, and at least half of the traveled portion of the street shall be left open and in good condition for the safe passage of vehicles. Open excavations shall be guarded with substantial barriers and marked with red flags and at night with red lights or flashing devices. Pipes or mains exposed to freezing temperatures shall be protected so as to prevent freezing. Any person responsible for exposing a city main or pipe so that it might be damaged by freezing shall be liable to the city for all damages caused by such freezing and all damages sustained by others by such freezing for which the city may be liable.

(Code 1987, § 301.04)

**Sec. 36-35. Refilling excavations.**

Every street excavation shall be refilled as soon as possible after the work is completed; and paving, sidewalks and appurtenances shall be replaced in at least as good condition as before the excavation to the satisfaction of the public works superintendent. All dirt and debris shall be removed immediately. Any person who fails to comply with this section within 24 hours after notice from the city shall be liable to the city for the full cost incurred by the city in remedying the defect and restoring the street, sidewalk, alley or public ground to its proper condition.

(Code 1987, § 301.05)

**Sec. 36-36. Map of subsurface installations.**

The public works superintendent shall maintain a map showing the location of all utility and other installations made beneath the surface of any public street, grounds or right-of-way. The information on the map shall be sufficiently complete and accurate to permit anyone making an excavation in a public place having any underground installation to avoid damage to any existing underground installation and to properly locate any new underground facilities and shall be recorded on the map as soon as practicable upon the issuance of an excavation permit or the completion of a contract for the installation of city underground installations.

(Code 1987, § 301.06)

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**\*Cross reference(s)**--Buildings and building regulations, ch. 10; community development, ch. 16; environment, ch. 22; planning, ch. 30; streets, sidewalks and other public places, ch. 36; utilities, ch. 42; vegetation, ch. 44; zoning, ch. 46.

**State law reference(s)**--Authority to regulate subdivisions, M.S.A. § 462.358.  
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Sec. 38-1. Required improvements.

**Sec. 38-1. Required improvements.**

- (a) The following improvements are required before constructing any building in a new subdivision:
  - (1) Street surfaces should be of the graded packed gravel type. Also a hard bituminous surface will be provided within three years.
  - (2) Curb and gutter.
  - (3) Water, sewage and storm sewer lines.
  - (4) Street lighting and public utilities such as gas and electrical lines.
- (b) All of the requirements set out in subsection (a) of this section must meet the lengths, widths, location, grade, size and material type standards of the city.
- (c) Conformance with this section is required before construction in a subdivision.

(Code 1987, §903.01)



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**\*Cross reference(s)**--Any ordinance establishing traffic or parking regulations on any street or public way, including traffic schedules saved from repeal, § 1-9(10); law enforcement, ch. 26; streets, sidewalks and other public places, ch. 36; visibility at intersections, § 46-386.

**State law reference(s)**--Traffic regulations, M.S.A. ch. 169; local authority, M.S.A. § 169.04.  
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## **Article I. In General**

Sec. 40-1. Definitions.

Sec. 40-2. Establishment of safety zones, lanes of traffic.

Sec. 40-3. Removing keys.

Sec. 40-4. Police duties.

Sec. 40-5. Penalty.

Secs. 40-6--40-40. Reserved.

## **Article II. Operation**

Sec. 40-41. Turning.

Sec. 40-42. Through streets; one-way streets.

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Sec. 40-44. Truck restrictions.

Sec. 40-45. Seasonal weight restrictions.

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Sec. 40-81. Angle and parallel parking.

Sec. 40-82. No parking, stopping or standing zones.

Sec. 40-83. Time limit parking zones.

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Sec. 40-88. Truck zones, loading zones.

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Sec. 40-122. Scope of application.

Sec. 40-123. Private property.

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Sec. 40-126. Exceptions.

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Sec. 40-128. Hours of operation.

Sec. 40-129. Prohibited acts.

Sec. 40-130. Equipment.

Sec. 40-131. Unattended snowmobile.

Sec. 40-132. Minimum age of operation.

Sec. 40-133. Other operator requirements.

Sec. 40-134. Owner's duties.

Secs. 40-135--40-165. Reserved.

#### **Article V. Abandoned Vehicles**

Sec. 40-166. Impoundment and sale.

Sec. 40-167. Summary action in certain cases.

Sec. 40-168. Disposition of proceeds.

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

### **Sec. 40-1. Definitions.**

Any term used in this chapter and defined in M.S.A. § 169.01 has the meaning given it by that section.

(Code 1987, § 701.01)

**Cross reference(s)**--Definitions generally, § 1-2.

### **Sec. 40-2. Establishment of safety zones, lanes of traffic.**

To assist in the direction and control of traffic, to improve safe driving conditions at any intersection or dangerous location, and to warn pedestrians or drivers of motor vehicles of dangerous conditions or hazards, the chief of police may establish safety zones, lanes of traffic, and stop intersections, and he may order installation by the city engineer of stop signs, yield signs, warning signs, signals, pavement markings or other devices. No regulation may be established on a trunk highway unless the consent of the commissioner of transportation is secured.

(Code 1987, § 701.10)

### **Sec. 40-3. Removing keys.**

No person shall leave a motor vehicle, except a truck which is engaged in loading or unloading, unattended on any street, used car lot, or unattended parking lot without first stopping the engine, locking the ignition, and removing all ignition keys from the vehicle. Whenever any police officer finds any motor vehicle standing in violation of this provision, he may remove the keys from the vehicle.

(Code 1987, § 701.11)

### **Sec. 40-4. Police duties.**

The police department shall enforce the provisions of this chapter and the state traffic laws. 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 traffic laws. During a fire or other emergency or to expedite traffic or safeguard pedestrians, officers of the police department may direct traffic as conditions require notwithstanding the provisions of this chapter and the state traffic laws. Officers of the fire department or civil defense may direct or assist the police in directing traffic at the scene of a fire or in the immediate vicinity.

(Code 1987, § 701.13)

### **Sec. 40-5. Penalty.**

Any person convicted of violating any provision of this chapter is guilty of a petty misdemeanor and upon conviction shall be punished in accordance with section 1-13.

(Code 1987, § 701.14)

### **Secs. 40-6--40-40. Reserved.**

## **ARTICLE II. OPERATION**

### **Sec. 40-41. Turning.**

- (a) *Restriction on turns.* The council by resolution may, whenever necessary to preserve a free flow of traffic or to prevent accidents, designate any intersection as one where the turning of vehicles to the left, to the right, or both is to be restricted at all times or during specified hours. The city engineer shall mark by appropriate signs any intersection so designated. No intersection on a trunk highway shall be so designated until the consent of the commissioner of transportation to such designation is first obtained. No person shall turn a vehicle at any such intersection contrary to the directions on such signs.
- (b) *U-turns.* No person shall turn a vehicle so as to reverse its direction on any street in the business district or at any intersection designated by sign as restricted.

(Code 1987, § 701.02)

### **Sec. 40-42. Through streets; one-way streets.**

The council by resolution may designate any street or portion of a street as a through highway or a one-way roadway where necessary to preserve the free flow of traffic or to prevent accidents. The city engineer shall post appropriate signs at the entrance to such streets. No trunk highway shall be so designated unless the consent of the commissioner of transportation to such designation is first secured.

(Code 1987, § 701.03)

### **Sec. 40-43. Speed limit and school stops in school zones.**

The city council may establish a reduced speed limit for school zones, and any limits established shall be posted in accordance with state statute. The council may by motion adopted by a majority vote indicate school stops at street intersections and direct the street commissioner to place proper signs upon such streets and their character and notify the drivers of vehicles of the requirement to stop. It shall be unlawful for the driver of any vehicle to fail to bring his vehicle to a full stop before entering an intersection designated as a school stop. This provision shall be in full force and effect during the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, during the school year.

(Code 1987, § 701.04)

### **Sec. 40-44. Truck restrictions.**

The city council by resolution may designate streets on which travel by commercial vehicles in excess of 40,000 pounds gross weight is allowed. The city engineer shall erect appropriate signs on such streets, designating them as truck routes. No person shall operate a commercial vehicle in excess of the defined weight on any street not so designated.

(Code 1987, § 701.05)

### **Sec. 40-45. Seasonal weight restrictions.**

The city may prohibit the operation of vehicles upon any street under its jurisdiction or impose weight restrictions on vehicles to be operated on such street whenever the street, by reason of deterioration, rain, snow or other climatic conditions, will be seriously damaged or destroyed unless the use of vehicles on the street is prohibited or permissible weights reduced. The city shall direct the street commissioner to erect and maintain signs plainly indicating the prohibition or restriction at each end of that portion of street affected. No person shall operate a vehicle on a posted street in violation of the prohibition or restriction.

(Code 1987, § 701.06)

**Sec. 40-46. Exhibition driving prohibited.**

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. Unreasonable squealing or screeching sounds emitted by tires or the throwing of sand or gravel by the tires is prima facie evidence of a violation of this section.

(Code 1987, § 701.12)

**Secs. 40-47--40-80. Reserved.**

**ARTICLE III. PARKING\***

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\*State law reference(s)--Stopping, standing and parking, M.S.A. § 169.32 et seq.  
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**Sec. 40-81. Angle and parallel parking.**

Angle parking shall be required on the following streets:

The south half block of North Waterville Avenue between Minnesota Street and Tyrone Street on the west side only, and the north half of South Waterville Avenue between Minnesota Street and Sharon Street on the west side only, and on Sharon Street between Park Avenue and Lexington Avenue.

On any such street, every vehicle parked shall be parked with the front of the vehicle facing the curb or the edge of the traveled portion of the street at an angle of approximately 60 degrees and facing between the painted or other markings on the curb or street indicating the parking space. On all other streets, cars shall be parked parallel to the curb or edge of the roadway in accordance with law.

(Code 1987, § 701.07(1))

**Sec. 40-82. No parking, stopping or standing zones.**

The city council may, by resolution, designate certain streets or portions of streets as no parking or no standing zones and may limit the hours in which the restrictions apply. The city engineer shall mark by appropriate signs each zone so designated. 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. No vehicle shall be parked in a no parking zone during hours when parking is prohibited; except that a vehicle may be parked temporarily in such zone for the purpose of forming a funeral procession, and a truck may be parked temporarily between the hours established of any business day for the purpose of loading or unloading where access to the premises is not otherwise available.

(Code 1987, § 701.07(2))

#### **Sec. 40-83. Time limit parking zones.**

The city council may, by resolution, designate certain areas where the right to park is limited during hours specified. The city engineer shall mark by appropriate signs each zone so designated. During the hours specified on the sign, no person shall park a vehicle in any limited parking zone for a longer period than is so specified.

(Code 1987, § 701.07(3))

#### **Sec. 40-84. Parking and movement of commercial vehicles.**

No truck, tractor, trailer or commercial vehicle shall be left parked on Derrynane Street (Highway No. 99) within the city between the hours of 7:00 p.m. and 6:00 a.m. other than from March 15 to May 15 or during the period of weight restrictions on state and county highways. There shall be no parking of trucks, trailers, tractors or commercial vehicles at any time on Derrynane Street (Highway No. 99) from its intersection with Lexington Avenue east to 50 feet east of driveway to Fairgrounds Park. Any signs placed or erected in the boulevards of Derrynane Street (Highway No. 99), shall be at least seven feet high, to base, and be spaced at least 25 feet apart. No truck, tractor, trailer or any type of motor vehicle which is in excess of 25 feet in length, or in excess of 7,000 pounds in weight, or requires a class B or higher license to operate in the state, shall be parked on any city street, in a residential area, for a period longer than four hours, nor any city street, in a commercial zone, between the hours of 6:00 p.m. and 7:00 a.m. All through trucks, tractors, trailers or commercial vehicles of all kinds are to use designated truck routes only  
(Code 1987, § 701.07(4))

#### **Sec. 40-85. Specific no parking zones and regulations.**

- (a) It is unlawful for any vehicle to park on the east side of Cordova Avenue from Spors Street to Bowler Street except for loading and unloading.
- (b) No motor vehicle or trailer of any kind shall be parked on Minnesota Street between Montgomery Avenue and Lexington Avenue; on Park Avenue between Sharon Street and Tyrone Street; Sharon Street between Park Avenue and Lexington Avenue; Lexington Avenue between Minnesota Street and Ottawa Street; Waterville Avenue one-half block north of Minnesota Street and one-half block south of Minnesota Street between the hours of 2:00 a.m. and 7:00 a.m.
- (c) No motor vehicle or trailer of any kind may be parked on any public city street in a residential area for a period of more than 72 hours.

- (d) No motor vehicle shall be parked for a longer continuous period than two hours between the hours of 8:00 a.m. and 6:00 p.m. except on Sundays and holidays as defined by the statutes of the state on the following streets in the city:
  - (1) Upon Park Avenue between Tyrone Street and Sharon Street.
  - (2) Upon Minnesota Street between Kilkenny Avenue and Montgomery Avenue.
- (e) No motor vehicle shall be parked on the streets of the city within 12 feet of any fire hydrant. No motor vehicle shall be parked on the streets of the city opposite any curbing marked or painted with yellow coloring.
- (f) No vehicles, trailers, machinery, watercraft or other personal property of any kind shall be parked upon the right-of-way of Highway No. 99 or any of the public property located adjacent to Highway No. 99 within the corporate limits of the city for any period of time exceeding 12 hours during any day except where specifically provided for in a designated parking area.

(Code 1987, § 701.07(5))

#### **Sec. 40-86. Impoundment.**

Any police officer may remove a vehicle from a street to a garage or other place of safety when the vehicle is left unattended and constitutes an obstruction to traffic or hinders snow removal or street improvement or maintenance operations. Such vehicle shall not be released until the fees for towing and storage are paid in addition to any fine imposed for violation of this article.

(Code 1987, § 701.07(6))

#### **Sec. 40-87. Prima facie violation.**

The presence of any motor vehicle on any street when standing or parking in violation of this article is prima facie evidence that the registered owner of the vehicle committed or authorized the commission of the violation, this provision being in accordance with M.S.A. § 459.14, subd. 6.

(Code 1987, § 701.07(7))

#### **Sec. 40-88. Truck zones, loading zones.**

- (a) *Establishment.* The city council may by resolution establish spaces in streets as loading zones or truck zones. The hours, to be established by council resolution, of any day except Sundays, New Year's Day, Memorial Day, July 4, Labor Day, Thanksgiving Day and Christmas Day or such other time as the city council may specify in a resolution establishing the zone shall be the loading zone or truck zone hours. The city engineer shall mark each such zone by appropriate signs.
- (b) *Truck zone prohibitions.* During truck zone hours, no person shall stop, stand or park any vehicle except in a truck zone. No person shall stop, stand or park a truck in a truck zone during truck zone hours except to receive or discharge passengers or freight and then only for a period no longer than necessary for the purpose.

- (c) *Loading zone prohibitions.* During loading zone hours, no person shall stop, stand or park any vehicle in a loading zone except to receive or discharge passengers or freight and then only for a period no longer than is necessary for the purpose. No person shall occupy a loading zone with a vehicle other than a truck for more than five minutes during such hours.
- (d) *Property owner initiative.* Any person desiring the establishment of a loading zone or truck zone abutting premises occupied by him shall make written application to the city council. If the council grants the request, the proper city officer shall bill the applicant for the estimated cost of placing signs and of painting the curb. When the amount is paid to the administrative clerk-treasurer, the chief of police shall order installation of necessary signs and painting of the curb.
- (e) *Semitrailer parking.* No person shall allow a semitrailer to stand or be parked unattached from a trailer unit for any length of time on any street in the city except in an emergency in order to change tractors, or in a designated area along a truck route.

(Code 1987, § 701.08)

#### **Sec. 40-89. Winter parking.**

No motor vehicle or recreational vehicle or trailer of any kind shall be parked on any public street of any residential or business district following a one (1) inch or more snow fall accumulation and the continuation thereafter until such time the streets of the City of Le Center have been plowed open from curb to curb. Any motor or recreational vehicle or trailer shall be cited by the City of Le Center Police Department and / or towed at the expense of the owner of any motor or recreational vehicle or trailer found to be in violation of this ordinance.  
(Revised 02/2007)

#### **Secs. 40-90--40-120. Reserved.**

### **ARTICLE IV. SNOWMOBILES, ATVs**

#### **Sec. 40-121. Definitions.**

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

*Operate* means to ride in or on and control the operation of a snowmobile/ATV.

*Operator* means every person who operates or is in actual physical control of a snowmobile/ATV.

*Owner* means a person other than a lienholder having the property in or title to a snowmobile/ATV or entitled to its use or possession.

*Recreational motor vehicle, all-terrain vehicle or ATV* means any self-propelled vehicle used for recreational purposes, including but not limited to trail bikes or other all-terrain vehicles, or motor vehicles licensed for highway operation which are being used for off-road recreational purposes.  
*Roadway* means that portion of a highway, street or alley improved, designed or ordinarily used for vehicle travel.



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

*Street* means a public thoroughfare, roadway, alley used for vehicular traffic which is not an interstate, trunk, county state aid highway or county highway.

(Ord. No. 702.01, § 1, 10-1-1997)

**Cross reference(s)**--Definitions generally, § 1-2.

**Sec. 40-122. Scope of application.**

Notwithstanding provisions of this chapter to the contrary, this article shall apply to control of traffic and regulation of that certain class of vehicles falling within the definition of snowmobile/ATV as to matters set forth herein. All provisions of this chapter not relating to matters stated in this article apply as equally to snowmobiles/ATVs as other vehicles.

(Ord. No. 702.01, § 2(1), 10-1-1997)

**Sec. 40-123. Private property.**

It is a misdemeanor to operate a snowmobile/ATV on private property without the permission or consent of the owner or occupant.

(Ord. No. 702.01, § 2(2), 10-1-1997)

**Sec. 40-124. Sidewalks and boulevards.**

It is a misdemeanor to operate a snowmobile/ATV on a sidewalk or boulevard, except that a direct crossing may be made in the same manner as provided for direct crossing of a city street.

(Ord. No. 702.01, § 2(3), 10-1-1997)

**Sec. 40-125. Operation on roadways and public lands.**

Snowmobiles/ATVs may be operated on roadways and public lands only as specified in this section. It is a misdemeanor to operate a snowmobile upon roadways or public lands, as follows:

- (1) At a rate of speed in excess of 15 miles per hour.
- (2) Other than single file on a roadway.
- (3) Other than at the extreme right-hand side of a roadway.
- (4) On publicly owned land, including school land, park property, playgrounds and recreational areas.
- (5) In the business district, which shall be all of Park Avenue from Derrynane Street (Highway No. 99) to Tyrone Street or Minnesota Street from Cordova Avenue to Maple Avenue.

- (6) On streets also designated as county state aid highways or highways which include Cordova Avenue, Maple Avenue, Derrynane Street, Minnesota Street and Park Avenue.

(Ord. No. 702.01, § 2(4), 10-1-1997)

**Sec. 40-126. Exceptions.**

Notwithstanding the prohibitions to operating a snowmobile or ATV upon a roadway to the contrary, such operation is permitted but limited as follows:

- (1) From the owner's residence or place the snowmobile/ATV is generally stored, in a direct route to and from a place of destination, provided such place is a place that such snowmobile/ATV operation may be lawfully operated.
- (2) In an emergency during the period of time when and at locations where snow (ten or more inches) upon the roadway renders travel by automobile impractical.
- (3) In any event only when such snowmobile or ATV is legally equipped and licensed by the state to operate as such on public roadways and highways.

(Ord. No. 702.01, § 2(5), 10-1-1997)

**Sec. 40-127. Direct crossings.**

It is a misdemeanor to operate a snowmobile or ATV upon a state highway or county state aid highway except to make direct crossing, and only as follows:

- (1) The crossing is made at an angle of approximately 90 degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing.
- (2) The snowmobile/ATV is brought to a complete stop before crossing the shoulder or main-traveled way of the highway.
- (3) The driver yields the right-of-way to all oncoming traffic which constitutes an immediate hazard.
- (4) In crossing a highway, the crossing is made only at an intersection of such highway with another public street.
- (5) When there is no other means to accomplish a direct crossing from a residence located on a prohibited street, travel of no more than one city block or to the closest intersection may be made.

(Ord. No. 702.01, § 2(6), 10-1-1997)

**Sec. 40-128. Hours of operation.**

It is a misdemeanor to operate a snowmobile/ATV within the city from 11:00 p.m. to 7:00 a.m. for any purpose other than returning from a ride from outside the city limits, except in an emergency as defined in section 40-126.

(Ord. No. 702.01, § 2(7), 10-1-1997)

**Sec. 40-129. Prohibited acts.**

It is a misdemeanor for any person to operate a snowmobile in the following ways:

- (1) At a rate of speed greater than reasonable or proper under all the surrounding circumstances, but in no event in excess of 15 miles per hour.
- (2) In a careless, reckless or negligent manner so as to endanger or cause injury or damage to the person or property of another.
- (3) While under the influence of an alcoholic beverage or controlled substance.
- (4) To tow any person or object except through use of a rigid tow bar attached to the rear of the snowmobile.
- (5) To intentionally drive, chase, run over or kill any animal with a snowmobile.
- (6) In any tree nursery or planting in a manner which damages or destroys growing stock.

(Ord. No. 702.01, § 2(8), 10-1-1997)

**Sec. 40-130. Equipment.**

It is a misdemeanor for any person to operate a snowmobile unless it is equipped with the following:

- (1) Standard mufflers which are properly attached and which reduce the noise of operation of the motor to the minimum necessary for operation. No person shall use a muffler cutout, bypass, straight pipe or similar device on a snowmobile motor.
- (2) Brakes adequate to control the movement of and stop and hold the snowmobile under any condition of operation.
- (3) A safety or so-called deadman throttle in operating condition. A safety or so-called deadman throttle is defined as a device which when pressure is removed from the engine accelerator or throttle, causes the motor to be disengaged from the driving track.
- (4) When operated between the hours of one-half hour after sunset to one-half hour before sunrise or at times of reduced visibility, at least one clear lamp attached to the front, with sufficient intensity to reveal persons and vehicles at a distance of at least 100 feet ahead during the hours of darkness under normal atmospheric conditions. Such headlight shall be so aimed that glaring rays are not projected into the eyes of on-coming vehicles. It shall also be equipped with at least one red taillamp having a minimum candlepower of sufficient intensity to exhibit a red light plainly visible from a distance of 500 feet to the rear during hours of darkness under normal atmospheric conditions.

- (5) Reflective materials at least 16 square inches on each side, forward of the handlebars, so as to reflect light at a 90-degree angle.

(Ord. No. 702.01, § 2(9), 10-1-1997)

**Sec. 40-131. Unattended snowmobile.**

Every person leaving a snowmobile unattended shall lock the ignition and remove the key from the ignition and from the snowmobile.

(Ord. No. 702.01, § 2(10), 10-1-1997)

**Sec. 40-132. Minimum age of operation.**

No person under the age of 14 years shall operate a snowmobile on any public roadway in the city. A person 14 years of age or older, but less than 18 years of age, may operate a snowmobile on those public roadways as permitted under this article and make a direct crossing of such streets and highways only if he has in his immediate possession a valid snowmobile safety certificate issued by the commissioner of natural resources or valid driver's license, and then only for purposes of travel between his home (or home location of the snowmobile) and a point outside the city, or to an area within the city designated as a snowmobile area. Such travel must be accomplished by the shortest distance, taking the most direct route while complying with applicable laws. No one under the age of 16 years shall operate an ATV on any public roadway in the city.

(Ord. No. 702.01, § 2(11), 10-1-1997)

**Sec. 40-133. Other operator requirements.**

Persons age 18 years and over shall only operate a snowmobile on those public roadways as permitted under this article and by state statute and/or make a direct crossing of such streets and highways if he has in his possession a valid driver's license.

(Ord. No. 702.01, § 2(12), 10-1-1997)

**Sec. 40-134. Owner's duties.**

It is unlawful for any person who is the owner or in lawful control of a snowmobile/ATV to permit the snowmobile/ATV to be operated contrary to the provisions of this article and M.S.A. § 169.01 et seq., referred to as the Minnesota Traffic Law, except for those provisions which by their nature have no application.

(Ord. No. 702.01, § 2(13), 10-1-1997)

**Secs. 40-135--40-165. Reserved.**

**ARTICLE V. ABANDONED VEHICLES\***

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\*Cross reference(s)--Environment, ch. 22.

**State law reference(s)**--Abandoned motor vehicles, M.S.A. § 168B.01 et seq.

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**Sec. 40-166. Impoundment and sale.**

The city police department shall take into custody and impound any abandoned motor vehicle as defined by M.S.A. § 168B.02, subd. 2. It shall give notice of the taking as provided by law; and if the owner or any lienholder does not reclaim the vehicle within the period provided by law, it shall provide for the sale of the vehicle to the highest bidder at public auction or sale following two weeks' published notice.

(Code 1987, § 208.01(1))

**Sec. 40-167. Summary action in certain cases.**

When an abandoned motor vehicle is more than seven model years of age, is lacking vital component parts, and does not display a license plate currently valid in this state or any other state or foreign country, it shall immediately be eligible for sale under section 40-166 and shall not be subject to the notification, reclamation or title provisions of M.S.A. §§ 168B.01--168B.13.

(Code 1987, § 208.01(2))

**Sec. 40-168. Disposition of proceeds.**

The proceeds of the sale of an abandoned motor vehicle shall be placed in the general fund of the city. If the former owner or entitled lienholder makes application and furnishes satisfactory proof of ownership or lien interest within 90 days of the sale, he shall be paid the proceeds of the sale of the vehicle less the cost of towing, preserving and storing the vehicle and all administrative, notice and publication costs incurred in its handling.

(Code 1987, § 208.01(3))

**Chapter 42 UTILITIES\***

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**\*Cross reference(s)**--Administration, ch. 2; buildings and building regulations, ch. 10; businesses, ch. 12; community development, ch. 16; environment, ch. 22; planning, ch. 30; solid waste, ch. 32; streets, sidewalks and other public places, ch. 36; subdivisions, ch. 38.

**State law reference(s)**--Authority to own and operate utility systems, M.S.A. § 412.321; authority to build and maintain waterworks systems and sewage disposal plants, M.S.A. § 444.075.

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## **Article I. In General**

Secs. 42-1--42-30. Reserved.

## **Article II. Water and Sewer Systems**

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Sec. 42-187. Sewer service fund.

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Subdivision VI. Service Charges

Sec. 42-216. Classes.

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### **Article III. Individual Sewage Disposal Systems**

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

**Secs. 42-1--42-30. Reserved.**



## **ARTICLE II. WATER AND SEWER SYSTEMS**

### **DIVISION 1. GENERALLY**

#### **Sec. 42-31. Water and sewer department.**

There is established a water and sewer department, which shall be under the supervision of the public works superintendent. The department shall be responsible for the management, maintenance, care and operation of the waterworks and sanitary sewer system of the city.

(Code 1987, § 401.01)

#### **Sec. 42-32. Use of water or sewer system restricted.**

No person shall make or use any water or sewer service installation connected to the city water or sewer system except pursuant to application and permit as provided in this article. No person shall make or use any such installation contrary to the regulatory provisions of this article.

(Code 1987, § 401.02)

#### **Sec. 42-33. Applications for service.**

- (a) *Procedure.* Application for a water or sewer service installation and for water service shall be made to the administrative clerk-treasurer on forms prescribed by the city council and furnished by the city. By his signature, the applicant shall agree to conform to this article and to rules and regulations that may be established by the city as conditions for the use of water.
- (b) *Fees or deposit.* Application for a service installation shall be made by the owner of the property to be served or by his agent. The applicant shall at the time of making application pay to the city the amount of the fees or deposit required for the installation of the service connection as provided in this article. When a water service connection has been installed, application for water service may be made either by the owner or his agent or by the tenant or occupant of the premises.
- (c) *Special provisions.* The sanitary sewer system, storm sewer system and city water system shall not be connected with and shall not service any building or structure located outside of the boundaries of the city. This shall not apply to buildings or structures or usages, or the connection of or furnishing of sewer or water service to buildings and structures now established.

(Code 1987, § 401.03)

#### **Sec. 42-34. Charges for service connections.**

- (a) *Permit and fee.* No connection shall be made to the city water or sanitary sewer system without council approval.
- (b) *Connection fees.* When a connection requires installation of a service line from the main to the property line, the applicant for a permit shall pay to the city an amount not less than the

cost of making the necessary connections, taps and installation of pipe and appurtenances to provide service to the property and the necessary street repairs.

- (c) *Certification.* No permit shall be issued to connect with any water or sanitary sewer main unless the owner and/or developer certifies to the truth of one of the following or the payment required under subsection (d) of this section is made:
- (1) That the lot or tract to be served has been assessed for the cost of construction of the main with which the connection is made or that proceedings for levying such assessment have been or will be commenced in due course;
  - (2) That the cost of construction of the main has been paid by the developer or builder platting the lot or tract; or
  - (3) That, if neither of the foregoing is true, a sum equal to the portion of the cost of constructing the main which would be assessable against the lot or parcel has been paid to the city.
- (d) *Additional connection fee.* If no such certificate can be issued, the applicant shall pay an additional connection fee equal to the portion of the cost of construction of the main attributable to the property upon the same basis as any assessment previously levied against other property for the main. The determination shall be made by the city council. If no such assessment has been levied, the assessable cost shall be determined upon the basis of the uniform charge which may have been or will be charged for similar connection with the main. The amount shall be determined on the basis of the total assessable cost of the main allocated on the basis of frontage or whatever basis is established by the city council. In no event shall the connection charge made under this subsection exceed the increase in value of the property attributable to the main.
- (e) *Notice and hearing.* Before the administrative clerk-treasurer makes a final determination of the additional connection fee under subsection (d) of this section, he shall submit a written notice to the applicant stating the amount of the proposed connection fee and the basis of its calculation. The notice shall also state that the applicant may, within ten days of receipt of the notice, demand a hearing on the matter. If the applicant requests a hearing within that time, a hearing shall be held on the matter by the city council at least one week after the date on which the request is made. If as a result of the hearing, the administrative clerk-treasurer finds that the proposed connection fee complies with the requirements of subsection (d) of this section, he shall so determine. If he determines that the proposed fee is in excess of the amount that would have been assessed had the property been assessed for the main or in excess of the increase in market value attributable to construction of the main, he shall make a determination of the proper amount of the fee within the limits specified in subsection (d) of this section. No connection shall be made without payment of the connection fee determined after the hearing or determined after the expiration of ten days from receipt of the notice when there has been no request within that time for a hearing.

(Code 1987, § 401.04)

**Sec. 42-35. Accounting, billing, collecting.**

- (a) *Accounts in name of owner.* All accounts shall be carried in the name of the owner. The owner shall be liable for water supplied to his property, whether he is occupying the property or not; and any charges unpaid shall be a lien upon the property.
- (b) *Bills for service.* Water and sewer service charges shall be billed together. Bills shall be mailed to the customers monthly and shall specify the water consumed and the sewer and water charges in accordance with the rates set out in this article.
- (c) *Delinquent accounts.* All charges for water and sewer service shall be due on the quarterly due date specified by the city for the respective account and shall be delinquent one day thereafter. The city shall endeavor to collect delinquent accounts promptly. In any case, where satisfactory arrangements for payment have not been made, the administrative clerk-treasurer may, after the procedural requirements of subsection (d) of this section have been complied with, discontinue service to the delinquent customer by shutting off the water at the stop box. When water service to any premises has been discontinued, service shall not be restored except upon the payment of all delinquent bills and the current turn-on fee. Delinquent accounts shall be certified to the administrative clerk-treasurer, who shall prepare an assessment roll each year providing for assessment of the delinquent amounts against the respective properties served. The assessment roll shall be delivered to the council for adoption on or before October 1 of each year for certification to the county auditor for collection along with taxes. Such action is optional and may be subsequent to taking legal action to collect delinquent accounts.
- (d) *Procedure for shutoff of service.* Water shall not be shut off under subsection (c) of this section or for a violation of rules and regulations affecting utility service until notice and an opportunity for a hearing have first been given the occupant of the premises involved. The notice shall be by certified mail or may be personally served and shall state that if payment is not made before a day stated in the notice, but not less than 14 days after the date on which the notice is given, the water supply to the premises will be shut off. The notice shall also state that the occupant may, before such date, demand a hearing on the matter, in which case the supply will not be cut off until after the hearing is held. If the customer requests a hearing before the date specified, a hearing shall be held on the matter by the city council at least one week after the date on which the request is made. If as a result of the hearing the administrative clerk-treasurer finds that the amount claimed to be owing is actually due and unpaid and that there is no legal reason why the water supply of the delinquent customer may not be shut off in accordance with this article, the city may shut off the supply.

(Code 1987, § 401.05)

**Sec. 42-36. Protection of public and city; apportionment of costs.**

The owner shall bear the costs and expenses incident to the installation and connection of the building sewer or extension of water service to private property, and he shall indemnify the city for any loss or damage directly or indirectly caused by its installation and connection.

(Code 1987, § 401.06)

**Secs. 42-37--42-60. Reserved.**

DIVISION 2. WATER\*

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\*State law reference(s)--Authority to build, construct, etc., waterworks systems, M.S.A. § 444.075.  
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**Sec. 42-61. General water regulations.**

- (a) *Discontinuance of service.* The city may discontinue service to any water consumer without notice for necessary repairs or, upon notice as provided in section 42-35, for nonpayment of charges, or for violation of rules and regulations affecting utility service.
- (b) *Supply from one service.* No more than one house or building shall be supplied from one service connection except by special permission of the council. Whenever two or more parties are supplied from one pipe connecting with a service main, each building or part of building separately supplied shall have a separate stop box and a separate meter.
- (c) *Turning on water, tapping mains.* No person except an authorized city employee, shall turn on any water supply at the stop box or tap any distributing main or pipe of the water supply system or insert a stop cock or other appurtenance in the system without a city permit.
- (d) *Repair of leaks.* The consumer or owner shall be responsible for maintaining the service pipe from the curb box into the building served. If he fails to repair any leak in such service pipe within 24 hours after notice by the city, the city may turn the water off. The water shall not then be turned on again until the current turn-on fee has been paid to the city. When the waste of water is great or damage is likely to result from the leak, the city shall turn the water off immediately upon the giving of notice if repair is not commenced immediately.
- (e) *Use of fire hydrants.* No person other than an authorized city employee or authorized firefighter in the course of duty shall operate a fire hydrant or interfere in any way with the city water system without first obtaining authority to do so from the public works superintendent.
- (f) *Private water supply.* No water pipe of the city water supply system shall be connected with any pump, well or tank that is connected with any other source of water supply. When any such connection is found, the administrative clerk-treasurer's office shall notify the owner to sever the connection; and if this is not done immediately, the city shall turn off the water supply forthwith. Before any new connection to the city system is permitted, the public works department shall ascertain that no cross connection will exist when the new connection is made.
- (g) *Restricted hours.* Whenever the council determines that a shortage of water supply threatens the city, it may, by resolution, limit the times and hours during which city water may be used for sprinkling, irrigation, car washing, air conditioning or other specified uses. After publication of the resolution or two days after the mailing of the resolution to each customer, no person shall use or permit water to be used in violation of the resolution; and any customer who does so shall be charged the current penalty for each day of violation, and the charge shall be added to his next water bill. If the emergency requires immediate compliance with terms of the resolution, the council may provide for the delivery of a copy of the resolution to the premises of each customer; and any customer who has received such notice and thereafter uses or permits water to be used in violation of the resolution

shall be subject to the charge provided above. Continued violation shall be cause for discontinuance of water service.

- (h) *Permitting use by others.* No person shall permit city water to be used for any purpose except upon his own premises, except in an emergency and then only if written permission is first obtained from the administrative clerk-treasurer. Anyone wishing to obtain water from a hydrant for construction purposes shall make application to the administrative clerk-treasurer for such services.

(Code 1987, § 402.01)

#### **Sec. 42-62. Meters.**

- (a) *Required.* Except for the extinguishment of fires, no person other than an authorized city employee shall use water from the city water supply system or permit water to be drawn from the system unless the water passes through a meter supplied or approved by the city. No person not authorized by the public works superintendent shall connect, disconnect, take apart, or in any manner change or interfere with any such meter or its use.
- (b) *Maintenance.* The city shall maintain and repair at its expense any meter that has become unserviceable through ordinary wear and tear and shall replace it if necessary by act or neglect of the owner or occupant of the premises it serves, any city expense caused thereby shall be a charge against and collected from the water consumer, and water service may be discontinued until the cause is corrected and the amount charged is paid.
- (c) *Complaints; meter testing.* When a consumer complains that the bill for any past service period is excessive, the city shall have the meter reread on request. If the consumer remains dissatisfied, he may, on written request and after making the current deposit, have the meter tested. If the test shows an error in the city's favor exceeding five percent of the water consumed, the deposit shall be refunded, an accurate meter shall be installed, and the bill shall be adjusted accordingly. Such adjustment shall not extend back more than one service period from the date of the written request.
- (d) *Property of city.* Water meters shall be the property of the city and may be removed or replaced as to size and type when deemed necessary.
- (e) *Reading and inspection.* Authorized meter readers shall have free access at reasonable hours of the day to all parts of every building and premises connected with the city water supply system in order to read meters and make inspections.
- (f) *Rental.* Each premises on the city water supply using a water meter shall pay a rental charge for such meter. This specific charge shall be set by the city council at their discretion.

(Code 1987, § 402.02)

#### **Sec. 42-63. Plumbing regulations.**

- (a) *Service pipes.* Every service pipe shall be laid with sufficient bend to allow not less than one foot of extra length and in such manner as to prevent rupture by settlement. The

service pipe shall be placed not less than five feet below the surface and be so arranged as to prevent rupture by freezing. A shutoff or other stop cock with waste valve of the size and strength required shall be placed close to the inside wall of the building and shall be well protected from freezing. Copper tubing shall be used for all services of two inches or less. Joints on copper tubing shall be as few as possible, and not more than one joint shall be used for a service up to 70 feet in length. Each joint shall be left uncovered until inspected by the city. Every service over two inches shall be cast iron. Connections with the mains for domestic supply shall be at least three-fourths inch.

- (b) *Water meter setting.* Every water meter shall be installed in accordance with the following provisions:
- (1) The service pipe from the water main to the meter shall be brought through the floor in a vertical position where the pipe enters the building. The stop and waste valve shall be 12 inches above the floor.
  - (2) The bottom of the meter shall be between six and 12 inches above the finished floor line. The meter shall be set not more than 12 inches horizontally from the inside line of the basement wall unless a different position is approved by the public works superintendent. A suitable bracket shall be provided to support the meter in a proper vertical position and prevent noise from vibration.
  - (3) Each meter installation shall have a stop and waste valve on the street side of the meter. In no case shall more than 12 inches of pipe be exposed between the point of entrance through the basement floor and the stop and waste valve. A stop and waste valve shall also be installed on the house side of the meter.
  - (4) The water pipe connecting with the main shall not exceed two feet under the basement floor from the inside of the basement wall to the water meter connection.
  - (5) Meter setting devices for five-eighths-inch, three-fourths-inch, and one-inch meters shall be of copper pipe or tubing from the terminus of the service pipe up to and including the stop and waste valve on the building side.
- (c) *Location of stop boxes.* Curb stop boxes shall be installed generally where desired by the owners of occupied properties, but they shall be placed as near as possible to the curb if on a street or within one foot of the alley line if the main is located in the alley. They shall be installed at an approximate depth of not less than five feet below the established grade and shall be left in an accurate vertical position when backfilling is completed.

(Code 1987, § 402.03)

#### **Sec. 42-64. Water rates.**

- (a) *Service charge.* Each water user shall pay a service charge each month during which water service is furnished as determined by the city council resolution. This shall also be known as the minimum water rate.
- (b) *Rate schedule.* In addition, each water user shall pay for water used each month at the rate established by the council.

(Code 1987, § 402.04)

**Secs. 42-65--42-85. Reserved.**

DIVISION 3. SANITARY SEWER SYSTEM\*

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\***State law reference(s)**--Authority to regulate the disposal of sewage, M.S.A. § 412.221, subd. 22(3).

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*Subdivision I. In General*

**Sec. 42-86. Definitions.**

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

*Act* means the Federal Water Pollution Control Act, also referred to as the Clean Water Act, as amended, 33 USC 1251 et seq.

*BOD<sub>5</sub>* or *biochemical oxygen demand* means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures in five days at 20 degrees Celsius and as expressed in terms of milligrams per liter (mg/l).

*Building drain* means that point of a building which conveys wastewater to the building sewer, beginning immediately outside the building wall.

*City* means the area within the corporate boundaries of the city, the city council or its authorized representative.

*Debt service charge* means a charge to users of the wastewater treatment facility for the purpose of repaying capital costs.

*Equivalent residential unit (ERU)* means a unit of wastewater volume of 100 gallons per day at a strength not greater than NDSW.

*Industrial user* means:

- (1) Any entity as defined in the Standard Industrial Classification Manual (latest edition) as categorized, that discharge wastewater to the public sewer.
  - a. Division A: Agriculture, forestry and fishing.
  - b. Division B: Mining.
  - c. Division D: Manufacturing.
  - d. Division E: Transportation, communications, electric, gas and sanitary sewers.
  - e. Division I: Services.

- (2) Any user whose discharges, singly or by interaction with other wastes:
- a. Contaminate the sludge of the wastewater treatment system.
  - b. Injure or interfere with the treatment process.
  - c. Create a public nuisance or hazard.
  - d. Have an adverse effect on the waters receiving wastewater treatment plant discharges.
  - e. Exceed NDSW limitations.
  - f. Exceed normal residential unit volumes of wastewater.

*Infiltration/inflow (I/I)* means water other than wastewater that enters the sewer system from the ground or from surface runoff, as defined in Minnesota Rules.

*MPCA* means the Minnesota Pollution Control Agency.

*National Categorical Pretreatment Standards* means federal regulations establishing pretreatment standards for introduction of pollutants in publicly owned wastewater treatment facilities; section 307(b) of the act.

*National Pollutant Discharge Elimination System (NPDES) permit* means a permit issued by the MPCA, setting limits on pollutants that a permittee may legally discharge pursuant to sections 402 and 405 of the act.

*Natural outlet* means any outlet, including storm sewers and combined sewers, which flows into a body of surface water or groundwater.

*Nonresidential user* means a user of the treatment facility whose building is not used as a private residence, and discharges NDSW.

*Normal domestic strength waste (NDSW)* means wastewater that is primarily introduced by residential users with BOD<sub>5</sub> concentrations not greater than 200 mg/l and TSS concentrations not greater than 240 mg/l.

*Operation, maintenance and replacement (OM&R) costs* means expenditures necessary to provide for the dependable, economical and efficient functioning of the treatment facility throughout its design life, including operator training and permit fees. Replacement refers to equipment replacement costs, not the cost of future replacement of the entire facility.

*Residential user* means a user of the treatment facility whose building is used primarily as a private residence and discharges NDSW.

*Sewer* means a pipe or conduit that carries wastewater or drainage water.

- (1) *Building sewer* means the extension from the building drain to the public sewer or other place of disposal, also referred to as a service connection.



- (2) *Sanitary sewer* means a sewer designed to carry only liquid and water-carried wastes from residential, nonresidential and industrial sources together with minor quantities of I/I.
- (3) *Storm sewer* means a sewer intended to carry unpolluted surface and subsurface water from any source.

*Sewer service charge* means the total of the user charge and the debt service charge.

*Slug* means a discharge of water or wastewater which in concentration or in quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average 24-hour concentration of flows during normal operation.

*State disposal system (SDS) permit* means a permit issued by the MPCA pursuant to M.S.A. § 115.07 for a disposal system as defined by M.S.A. § 115.01, subd. 8.

*Total suspended solids (TSS)* means the total suspended matter that either floats on the surface of or is in suspension in water, wastewater or other liquids, and is removable by laboratory filtering as prescribed in "Standard Methods for the Examination of Water and Wastewater" (latest edition).

*Unpolluted water* means water of quality equal to or better than the effluent criteria in effect, or water that would not cause violation of receiving water quality standards. An example could be noncontact cooling water.

*User charge* means a charge to users of a treatment facility for the user's proportionate share of the cost of operation and maintenance, including replacement.

*Wastewater* means liquid and water-carried wastes from residential, nonresidential and industrial users, together with any groundwater, surface water and stormwater that may be present.

*Wastewater treatment facilities or treatment facilities* means the land, devices, facilities, structures, equipment and processes owned or used by the city for the purpose of the transmission, storage, treatment, recycling and reclamation of municipal wastewater, and the disposal of residues resulting from such treatment.

(Ord. of 3-8-1994, art. I, §§ 2--24)

**Cross reference(s)**--Definitions generally, § 1-2.

**Sec. 42-87. Control by the authorized representative.**

The council shall appoint an authorized representative who shall have control and general supervision of all public sewers and service connections in the city and shall be responsible for administering the provisions of this division to ensure that a proper and efficient public sewer is maintained. The authorized representative may delegate responsibilities to designated representatives.

(Ord. of 3-8-1994, art. II)

**Sec. 42-88. Powers and authority of inspectors.**

- (a) Duly authorized employees of the city, bearing proper credentials and identification, shall be permitted to enter all properties for inspection, observations, measurement, sampling, testing, repair and maintenance in accordance with the provisions of this division.
- (b) Industrial users shall be required to provide information concerning industrial processes which have a direct bearing on the type and source of discharge to the collection system. An industry may withhold information considered confidential. However, the industry must establish that the information in question might result in an advantage to competitors and that the industrial process does not have deleterious results on the treatment process.

(Ord. of 3-8-1994, art. VIII)

**Sec. 42-89. Tampering with facilities prohibited.**

No person shall willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is part of the wastewater treatment facilities. Any person violating this section shall be subject to immediate arrest under the charge of a misdemeanor.

(Ord. of 3-8-1994, art. VII)

**Sec. 42-90. Penalties.**

- (a) Upon determination that a user has violated or is violating applicable provisions of this division or related permits, the authorized representative may issue a notice of violation. Within 30 days of such notification, the violator shall submit to the authorized representative an adequate explanation for the violation and a plan for the correction and prevention of such occurrences, including specific actions required. Submission of such a plan in no way relieves the violator of liability of any violation occurring before or after the issuance of the notice of violation.
- (b) Any person found to be violating any provision of this division shall be guilty of a misdemeanor and shall be prosecuted accordingly. Each day in which any such violation occurs shall be deemed as a separate offense. Such fines may be added to the user's next sewer service charge, and will hence be subject to the same collection regulations as specified in section 42-188. Users desiring to dispute a fine must file a request for the authorized representative to reconsider within 30 days of the issuance of the fine. If the authorized representative believes that the request has merit, a hearing on the matter shall be convened within 30 days of the receipt of the request.
- (c) To collect delinquent sewer service charge accounts, the city may file a civil action suit or levy an assessment lien against the violator. Related attorney's fees fixed by court order shall also be collected. The violator shall be liable for interest on all balances at a rate of 18 percent annually.
- (d) Any person violating any of the provisions of this division shall become liable to the city for any expense, loss or damage occasioned by the city by reason of such violation.

(Ord. of 3-8-1994, art. XI, §§ 1--4)

**Secs. 42-91--42-110. Reserved.**

*Subdivision II. Use of Public Sewers Required*

**Sec. 42-111. Connection.**

- (a) Within 30 days of receiving official notification, the owners of all properties within 300 feet of a sanitary sewer collection system shall install a suitable service connection at their own expense in accordance with the provisions of this division.
- (b) If an owner shall fail to connect to a public sewer in compliance with a notice given under this division, the city will have the connection made and shall assess the cost against the benefited property.
- (c) Except as otherwise provided in this division, it shall be unlawful to construct or maintain any private facility intended or used for the disposal of wastewater.

(Ord. of 3-8-1994, art. III)

**State law reference(s)**--Authority to require water and sewer connections, M.S.A. § 412.221, subd. 31.

**Sec. 42-112. Private wastewater disposal.**

- (a) Where a public sewer is not available under the provisions of section 42-111, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this section.
- (b) Before construction of a private wastewater disposal system, the owner shall obtain a written permit signed by the authorized representative. The permit shall not become effective until the installation is completed to the representative's satisfaction. A designated representative shall be allowed to inspect any stage of construction. The applicant for the permit shall give notification when ready for the system's final inspection, and before any underground portions are covered. The inspection shall be made within 72 hours of the receipt of the notice.
- (c) The type, capacities, location and layout of a private wastewater disposal system shall comply with all requirements of Minnesota Rules chapter 7080, and applicable local ordinances.
- (d) The owner shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times at no expense to the city.
- (e) When the public sewer becomes available to a property serviced by a private wastewater disposal system, a direct connection shall be made to the public sewer within 30 days in compliance with this division; and within 30 days, private wastewater disposal systems will be cleaned of all sludge. The bottom shall be broken to permit drainage, and the tank or pit filled with suitable material.
- (f) No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by the MPCA, the state department of health, or other responsible federal, state or local agencies.

(Ord. of 3-8-1994, art. IV, §§ 1--6)

**Secs. 42-113--42-130. Reserved.**

*Subdivision III. Building Sewers and Connections Design*

**Sec. 42-131. Permit required.**

- (a) No person shall make any alterations to the public sewer or any of its appurtenances without first obtaining a permit from the city. No private building drain shall extend beyond the limits of the building or property for which the permit has been given.
- (b) Any new connection to the sanitary sewer system shall be prohibited unless sufficient capacity is available in all downstream facilities, including but not limited to capacity for flow, BOD<sub>5</sub> and TSS as determined by the authorized representative.

(Ord. of 3-8-1994, art. V, § 1)

**Sec. 42-132. Separate, independent sewer required.**

- (a) A separate and independent building sewer shall be provided for each building. Old building sewers may be used to service new buildings only when they are found to meet all requirements of this division.
- (b) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, wastewater shall be lifted by an approved means and discharged to the building sewer.

(Ord. of 3-8-1994, art. V, § 2)

**Sec. 42-133. Technical conformity required.**

The construction and connection of the building sewer to the public sewer shall conform to the requirements of the state building and plumbing code, applicable rules and regulations of the city, and the materials and procedural specifications set forth in the American Society of Testing Materials (ASTM) and the Water Pollution Control Federation (WPCF) Manual of Practice No. 9. All such connections shall be made gastight and watertight, and verified by proper testing to prevent I/I.

(Ord. of 3-8-1994, art. V, § 3)

**Sec. 42-134. Connection of unpolluted water sources prohibited.**

No unpolluted water sources shall be connected to the sanitary sewer.

(Ord. of 3-8-1994, art. V, § 4)

**Sec. 42-135. Supervision of connection.**

The applicant for the building sewer permit shall notify the city when the building sewer is ready for connection to the public sewer. The connection shall be made under the supervision of a designated representative.

(Ord. of 3-8-1994, art. V, § 5)

**Sec. 42-136. Construction permit required.**

An appropriate construction permit is required to install a service connection. Any person desiring a permit shall apply in writing to the city council, providing satisfactory evidence of the applicant's qualifications. If approved by the council, the permit shall be issued by a designated representative upon the filing of a bond.

(Ord. of 3-8-1994, art. V, § 6)

**Sec. 42-137. Indemnification of city by contractor; responsibility of property owner.**

A permit for sewer service connection installation is considered issued with a building permit. The contractor will indemnify the city from all suits, accidents and damage that may arise by reason of any opening in any street, alley or public ground made by the contractor or by those in the contractor's employment. A service connection is the responsibility of the property owner starting from the main line. All maintenance and repair to any such service line is the sole responsibility of the property owner.

(Ord. of 3-8-1994, art. V, § 7)

**Sec. 42-138. Grounds for suspension of permit.**

The council may suspend or revoke any permit issued under this subdivision for any of the following causes:

- (1) Giving false information in connection with the application for a permit.
- (2) Incompetence of the permittee.
- (3) Willful violation of any provisions of this subdivision or any rule or regulation pertaining to the making of service connections.
- (4) Failure to adequately protect and indemnify the city and the user.

(Ord. of 3-8-1994, art. V, § 8)

**Secs. 42-139--42-155. Reserved.**

*Subdivision IV. Use of Public Wastewater Treatment Facilities*

**Sec. 42-156. Discharge of unpolluted water or stormwater.**

No unpolluted water or stormwater shall be discharged to the sanitary sewer. Such water shall be discharged only to storm sewers or to natural outlets approved by the city and other regulatory

agencies. The current monthly surcharge will be added to the city utility bill of any property discovered to be discharging stormwaters to the sanitary sewer by any method. Such charge will commence 30 days after the date of notice of discovery of the violation. Such charge will be eliminated upon providing proof of disconnection, either by calling for a reinspection or by affidavit from a licensed plumber that the disconnection has been completed.

(Ord. of 3-8-1994, art. VI, § 1)

**Sec. 42-157. Specific prohibited discharges.**

No person shall discharge any of the following substances to the public sewer.

- (1) Liquids, solids, gases or other substances which singly or by interaction with others may cause fire or explosion.
- (2) Solid or viscous substances which may cause obstruction to the flow in a sewer.
- (3) Wastewater having a pH of less than 5.0 or greater than 9.5 or having any other corrosive or caustic property capable of causing damage or hazard.
- (4) Wastewater containing toxic pollutants, as defined in section 307(a) of the Water Pollution Control Act and M.S.A. § 115.01, subd. 14.

(Ord. of 3-8-1994, art. VI, § 2)

**Sec. 42-158. Limited discharges.**

Discharges of the following substances shall be limited to concentrations or quantities which will not harm the wastewater facility, streams, soils, vegetation and groundwater, and will not otherwise create a hazard or nuisance. The authorized representative may set limitations lower than the prohibition limits outlined in this section. Consideration will be given to such factors as the quantity of waste in relation to flows and velocities, materials of construction, the city's NPDES and SDS permits, capacity of the treatment plant, degree of treatability of wastes and other pertinent factors.

- (1) Wastewater having a temperature greater than 150 degrees Fahrenheit (65.6 degrees Celsius), or causing, individually or in combination with other wastewater, the influent at the treatment facilities to have a temperature exceeding 104 degrees Fahrenheit (40 degrees Celsius), or having heat in amounts which will be detrimental to biological activity in the treatment facilities.
- (2) Wastewater containing fats, wax, grease or oils in excess of 100 mg/l or containing substances which may solidify or become viscous at temperatures between 32 degrees Fahrenheit and 150 degrees Fahrenheit (0 degrees Celsius and 65.6 degrees Celsius).
- (3) A discharge of water or wastewater which in concentration or in quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average 24-hour concentration of flows during normal operation.

- (4) Food wastes not properly shredded to such a degree that all particles will be carried freely under normal flow conditions with no particle greater than one-half inch in any dimension.
- (5) Noxious or malodorous liquids, gases or solids.
- (6) Wastewater with objectionable color not removed in the treatment process.
- (7) Wastewater containing inert suspended solids in such quantities that would cause disruption to the wastewater treatment facilities.
- (8) Radioactive wastes or isotopes in concentrations that exceed limits established by applicable state and federal regulations.
- (9) Wastewaters with BOD<sub>5</sub> or suspended solids levels that require additional treatment, except as may be permitted by specific written agreement with the city subject to section 42-166.
- (10) Wastewater containing substances which cannot be treated to produce effluent quality required by the permit or causes a violation of any applicable local, state or federal regulation.

(Ord. of 3-8-1994, art. VI, § 3)

**Sec. 42-159. Action by representative regarding prohibited or limited discharges.**

- (a) In the event of discharges to the public sewers which contain substances or possess characteristics prohibited in sections 42-157 and 42-158, or which in the judgment of the representative may have a deleterious effect to the treatment facility, receiving water, soils or vegetation, or which create a hazard or nuisance, the representative may:
  - (1) Refuse to accept the wastes.
  - (2) Require pretreatment to an acceptable condition for discharge to the public sewers, pursuant to section 307(b) of the act and all addenda to the act.
  - (3) Require control over the quantities and rates of discharge.
  - (4) Require payment to cover all the added costs of handling, treating and disposing of wastes not covered by existing taxes or sewer charges.
- (b) If the representative permits the pretreatment or equalization of waste flows, the design, installation, maintenance and efficient operation of the facilities and equipment shall be at the owner's expense and shall be subject to review and approval by the city pursuant to the requirements of the MPCA.

(Ord. of 3-8-1994, art. VI, § 4)

**Sec. 42-160. Treatment substitutes prohibited.**

No user shall increase the use of process water or in any manner attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in this subdivision, the National Categorical Pretreatment Standards, and any state or local requirement.

(Ord. of 3-8-1994, art. VI, § 5)

**Sec. 42-161. Interceptors required.**

- (a) Grease, oil and sand interceptors shall be provided at the owner's expense when, in the opinion of the representative, they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts, any flammable wastes, sand or other harmful ingredients. All interceptors shall be readily and easily accessible for cleaning and inspection. The owner shall be responsible for the maintenance of interceptors, including proper removal and disposal of the captured materials by appropriate means, and shall maintain a record of dates and means of disposal, which are subject to review by the representative.
- (b) Any material removal and hauling must be performed by the owner's personnel or a currently licensed waste disposal firm and in compliance with all applicable laws and regulations.

(Ord. of 3-8-1994, art. VI, § 6)

**Sec. 42-162. Control manhole required.**

Where required by the representative, industrial users shall install and maintain at their own expense a suitable structure or control manhole with such necessary meters and other testing equipment needed to facilitate observation, sampling and measurement of wastewater. The manhole will be safe and accessible at all times. The council may require submission of laboratory analyses to illustrate compliance with this division and any special conditions for discharge established by the council or responsible regulatory agency. All measurements, tests and analyses to which reference is made in this division shall be determined in accordance with the latest edition of Standard Methods of the Examination of Water and Wastewater, published by the American Public Health Association, and kept for a period of one year.

(Ord. of 3-8-1994, art. VI, § 7)

**Sec. 42-163. Protection from accidental regulated discharges.**

- (a) Where required by the representative, users shall provide protection from an accidental discharge of substances regulated by this division. Where necessary, facilities to prevent accidental discharges of prohibited materials shall be provided and maintained at the owner's expense. Detailed plans and operating procedures of such facilities shall be submitted to the representative for review and approval prior to construction of the facility. Approval of such plans and operating procedures shall not relieve the user from the responsibility of modifying the facility as necessary to meet the requirements of this division.
- (b) Users shall notify the representative immediately if a slug or accidental discharge of wastewater occurs in violation of this division. Notification will allow measures to be taken



to minimize damage to the treatment facilities. Notification will not relieve users of liability for any expense, loss or damage to the treatment facilities or for fines imposed on the city by any state or federal agency as a result of their actions.

- (c) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees of the emergency notification procedure in the event of a slug or accidental discharge.

(Ord. of 3-8-1994, art. VI, § 8)

**Sec. 42-164. Deposits in, obstruction of sewer prohibited.**

- (a) No person shall permit any substance or matter which may form a deposit or obstruction of flow to be discharged into the public sewer. Whenever any service connection becomes clogged, obstructed, detrimental to the use of the public sewer, or unfit for the purpose of drainage, the owner shall make repairs as directed by the representative.
- (b) Each day after 30 days that the owner neglects to make such repairs shall constitute a separate violation of this section. The representative may then cause the work to be done and recover related expenses from the owner or agent by an action in the name of the city.

(Ord. of 3-8-1994, art. VI, § 9)

**Sec. 42-165. Assessment by city of costs of repair.**

In addition to penalties that may be imposed for violation of any provision of this subdivision, the city may assess against the user/owner the cost of repairing or restoring sewers and associated facilities damaged as a result of the discharge of prohibited wastes and may collect the assessment as an additional charge for the use of the public sewer system.

(Ord. of 3-8-1994, art. VI, § 10)

**Sec. 42-166. Special agreements authorized.**

No statement contained in this subdivision shall prevent any special agreement or arrangement between the city and any industrial user. Industrial waste of unusual strength or character may be accepted by the facility for treatment, subject to adequate payment by the industrial user, providing that National Categorical Pretreatment Standards and the city's NPDES and SDS permit limitations are not violated.

(Ord. of 3-8-1994, art. VI, § 11)

**Secs. 42-167--42-185. Reserved.**

*Subdivision V. Service Charge System*

**Sec. 42-186. Continued.**

- (a) The city continues a sewer service charge system. All revenue collected from users of the wastewater treatment facilities will be used for annual operation, maintenance, replacement and capital costs. Each user shall pay a proportionate share of operation,

maintenance and replacement costs based on the user's proportionate contribution to the total wastewater loading.

- (b) Charges to users of the wastewater treatment facility shall be determined and fixed in a sewer service charge system (SSCS) developed according to the provisions of this division. The SSCS adopted by resolution upon enactment of this division shall be published in the local newspaper and shall be effective upon publication. Subsequent changes in the sewer service rates and charges shall be adopted by council resolution and published in the local newspaper.
- (c) Revenues collected through the SSCS shall be deposited in a separate fund known as the sewer service fund (SSF).

(Ord. of 3-8-1994, art. IX, § 1)

**Sec. 42-187. Sewer service fund.**

- (a) The city continues a sewer service fund as an income fund to receive all revenues generated by the sewer service charge system and all other income dedicated to the wastewater treatment facility.
- (b) The sewer service fund administered by a designated representative shall be separate and apart from all other accounts. Revenues received by the sewer service fund shall be transferred to the following accounts established as income and expenditure accounts:
  - (1) Operation and maintenance.
  - (2) Equipment replacement.
  - (3) Debt retirement for the treatment facility.

(Ord. of 3-8-1994, art. IX, § 2)

**Sec. 42-188. Administration of the sewer service fund.**

- (a) A designated representative shall maintain a proper system of accounts and records suitable for determining the OM&R and debt retirement costs for the treatment facilities, and shall furnish the council with a report of such costs annually.
- (b) At that time, the council shall determine whether sufficient revenue is being generated for the effective management of the facilities and debt retirement. The council will also determine whether the user charges are distributed proportionately. If necessary, the sewer service charge system shall be revised to ensure proportionality of user charges and sufficient funds.
- (c) In accordance with state requirements, each user will be notified annually in conjunction with a regular billing of that portion of the sewer service charge attributable to OM&R.
- (d) Sewer service charges shall be billed on a monthly basis. Any bill not paid in full 30 days after the due date will be considered delinquent. At that time the user will be notified regarding the delinquent bill and subsequent penalty. The penalty shall be computed as

one percent of the remaining balance and shall be increased by the same percentage for every month the bill is outstanding.

(Ord. of 3-8-1994, art. IX, § 3)

**Secs. 42-189--42-215. Reserved.**

*Subdivision VI. Service Charges*

**Sec. 42-216. Classes.**

- (a) Users of the wastewater treatment facilities shall be permitted into one of the following classes:
  - (1) Residential.
  - (2) Nonresidential.
  - (3) Industrial.
- (b) Charges to users who discharge NDSW will be calculated on the basis of metered water use.

(Ord. of 3-8-1994, art. X, § 1)

**Sec. 42-217. Method of calculation.**

- (a) Each user shall pay operation, maintenance and replacement costs in proportion to the user's contribution of wastewater flows and loadings to the treatment plant, with a minimum rate for loadings of BOD and TSS being the rate established for normal domestic strength waste (NDSW) concentrations.
- (b) Those industrial users discharging only segregated NDSW can be classified as nonresidential users for the purposes of rate determination.

(Ord. of 3-8-1994, art. X, § 2)

**Sec. 42-218. Determination of charges.**

- (a) *Generally.* Charges for residential and nonresidential users will be determined proportionately according to billable wastewater flow.
- (b) *Residential users.* Billable wastewater volume for residential users shall be calculated on the basis of metered water usage. The monthly billable wastewater volume will be equal to the monthly metered water usage. The city may require residential users to install water meters for the purpose of determining billable wastewater volume.
- (c) *Nonresidential users.* Billable wastewater volume of nonresidential users may be determined in the same manner as for residential users. The city may require nonresidential users to install such additional water meters or wastewater flow meters as may be necessary to determine billable wastewater volume.

(Ord. of 3-8-1994, art. X, § 3)

**Sec. 42-219. Additional charges for excessive discharges.**

The sewer service charges established in this subdivision will not prevent the assessment of additional charges to users who discharge wastes in concentrations greater than NDSW or of unusual character (industrial users). Special contractual agreements can be made with such users, subject to the following conditions:

- (1) The user pays OM&R costs in proportion to the user's contribution of wastewater flows and loadings to the treatment facility, and no user is charged at a rate inferior to the charge for normal domestic strength wastes.
- (2) Any sampling of wastewater shall be conducted in accordance with the techniques established in Standard Methods for the Examination of Water and Wastewater, latest edition.

(Ord. of 3-8-1994, art. X, § 4)

**Sec. 42-220. User charge formulas.**

- (a) Determination of user charges for producers of normal domestic strength wastes shall be as follows:

$$U_{omr} = OM\&R / T_{bw}$$

Where:	$U_{omr}$	=	Unit cost for operation, maintenance and equipment replacement in \$/100 cubic feet.
	OM&R	=	Total annual OM&R costs.
	$T_{bw}$	=	Total annual billable wastewater flow in 100 cubic feet.

(b) Calculation of user charges shall be as follows:

$$Uc = Uomr \times Bwv + \text{Base}$$

Where:	Uc	=	User charge.
	Uomr	=	Unit cost for operation, maintenance and equipment replacement in \$/100 cubic feet.
	Bwv	=	Billable wastewater volume in 100 cubic feet.
	Base	=	Base charge per connection.

(Ord. of 3-8-1994, art. X, § 5)

**Sec. 42-221. Recovery of local construction costs.**

Local construction costs for the wastewater treatment facility will be recovered through a debt service charge calculated in a manner consistent with the user charge as follows:

(1) *Calculation of unit cost for debt service:*

$$Uads = (Ads - \text{Base} - \text{Tax}) / Tbwv$$

Where:	Uads	=	Unit cost for annual debt service (\$/100 cubic feet).
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	Ads	=	Cost of annual debt service.
	Tbwv	=	Total annual billable wastewater volume (100 cubic feet).
	Base	=	Base charge per connection.
	Tax	=	Property taxes assigned for wastewater debt service.

(2) Calculation of debt service charge:

$$Dsc = Uds \times Bwv + Base$$

Where:	Dsc	=	Debt service charge to a particular connection.
	Uds	=	Unit charge for debt service (\$/100 cubic feet).
	Bwv	=	Billable wastewater volume for a particular user (100 cubic feet).

	Base	=	Base charge per connection.
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(Ord. of 3-8-1994, art. X, § 6)

**Sec. 42-222. Determination of sewerage service charges.**

The sewerage service charge for a particular connection shall be determined as follows:

$$SSC = UC + DSC$$

Where:	SSC	=	Annual sewerage service charge.
	UC	=	Annual user charge.
	DSC	=	Annual debt service charge.

(Ord. of 3-8-1994, art. X, § 7)

**Secs. 42-223--42-255. Reserved.**

**ARTICLE III. INDIVIDUAL SEWAGE DISPOSAL SYSTEMS**

**Sec. 42-256. Objectives.**

The objectives of this article are to provide adequate and safe methods of sewage disposal and to prevent the contamination of any existing or future water supply by any existing or future sewage disposal system. Any system of special, unusual or new design which will satisfy the stated objectives may be accepted as complying with this article; and any permit granted for the construction, installation, alteration or repair of any such special system shall be subject to such conditions and guarantees as may be stated in the permit.

(Code 1987, § 404.08)

**Sec. 42-257. Definitions.**

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

*Building drain* means that part of the lowest horizontal piping of a building drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of any building and conveys the discharges to the building sewer.

*Building sewer* means that part of the horizontal portion of the building drainage system extending from the building drain to its connection with the septic tank and carrying the sewage of but one building.

*Individual sewage disposal system or system* means an individual sewage disposal system, other than a public or community system, which receives sewage from an individual establishment.

*Sewage* means any water-carried domestic waste, exclusive of footing and roof drainage, of any residence, industry or commercial establishment, whether treated or untreated, and includes the liquid wastes produced by bathing, laundry and culinary operations, and from toilets and floor drains. Raw sewage is sewage which has not been subjected to any treatment process.

(Code 1987, § 404.01)

**Cross reference(s)**--Definitions generally, § 1-2.

#### **Sec. 42-258. Licensing.**

No person shall engage in the business of installing and constructing sewage disposal systems within the city without first obtaining approval by council resolution or be licensed by the state for construction of such systems.

(Code 1987, § 404.03)

#### **Sec. 42-259. Council approval.**

- (a) *Procedure required.* No person shall install, alter, repair or extend any individual sewage disposal system in the city without first obtaining approval from the council or its authorized representative for the specific installation, alteration, repair or extension.
- (b) *Applications.* Applications for permits shall be made in writing and shall be signed by the applicant.
- (c) *Contents.* Each application shall have the correct legal description of the property on which the proposed installation, alteration, repair or extension is to take place; and each application shall be accompanied by a plot plan of the land showing the location of any proposed or existing buildings located on the property with respect to the boundary lines of the property and complete plans of the proposed system with substantiating data, if necessary, attesting to the compliance with the minimum standards of this article. A complete plan shall include the location, size and design of all parts of the system to be installed, altered, repaired or extended. The application shall also show the present or proposed location of water supply facilities and water supply piping, and the name of the person who is to install the system, and shall provide such further information as may be required by the council.



(Code 1987, § 404.04)

**Sec. 42-260. Construction requirements.**

Every individual sewage disposal system and every alteration, extension and repair to any system shall conform to the standards in 8 M.C.A.R. § 7080.0010 et seq. Any individual sewage disposal system or pertinent part of a system, irrespective of the date of original installation, which is not located, constructed or installed in accordance with 8 M.C.A.R. § 7080.0010 et seq. shall be so relocated, reconstructed or reinstalled as to comply with the standards of those items.

(Code 1987, § 404.05)

**Sec. 42-261. Administration.**

- (a) The building inspector shall make such inspection or inspections as are necessary to determine compliance with this article. No part of the system shall be covered until it has been inspected and accepted by the building inspector. It shall be the responsibility of the applicant to notify the building inspector that the job is ready for inspection or reinspection, and it shall be the duty of the building inspector to make the indicated inspection within 48 hours after notice has been given. It shall be the duty of the owner or occupant of the property to give the building inspector free access to the property at reasonable times for the purpose of making such inspections. Upon satisfactory completion and final inspection of the system, the building inspector shall issue to the applicant a certificate of approval.
- (b) If upon inspection the building inspector discovers that any part of the system is not constructed in accordance with the minimum standards provided in this article, he shall give the applicant written notification describing the defects. The applicant shall pay an additional fee for each reinspection that is necessary. The applicant shall be responsible for the correction or elimination of all defects, and no system shall be placed or replaced in service until all defects have been corrected or eliminated.

(Code 1987, § 404.06)

## **Chapter 44 VEGETATION\***

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**\*Cross reference(s)**--Buildings and building regulations, ch. 10; environment, ch. 22; planning, ch. 30; streets, sidewalks and other public places, ch. 36; subdivisions, ch. 38; zoning, ch. 46.

**State law reference(s)**--Pesticide control, M.S.A. § 18B.01 et seq.; Minnesota Noxious Weed Law, M.S.A. § 18.75 et seq.

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### **Article I. In General**

Secs. 44-1--44-30. Reserved.

### **Article II. Trees**

Sec. 44-31. Declaration of policy.

Sec. 44-32. Forester.

Sec. 44-33. Epidemic disease program.

Sec. 44-34. Nuisances declared.

Sec. 44-35. Inspection and investigation.

Sec. 44-36. Abatement of Dutch elm disease nuisance.

Sec. 44-37. Procedure for removal of infected trees and wood.

Sec. 44-38. Spraying elm trees.

Sec. 44-39. Transporting elm wood prohibited.

Sec. 44-40. Interference prohibited.

## **ARTICLE I. IN GENERAL**

**Secs. 44-1--44-30. Reserved.**

## **ARTICLE II. TREES**

### **Sec. 44-31. Declaration of policy.**

The city council has determined that the health of the trees within the municipal limits is threatened by fatal diseases known as Dutch elm and oak wilt diseases, and may be threatened by other epidemic diseases of shade trees. It further determines that the loss of trees growing upon public and private property would substantially depreciate the value of property within the city and impair the safety, good order, general welfare and convenience of the public. It is declared to be the intention of the council to control and prevent the spread of those diseases, and this article is enacted for that purpose.

(Code 1987, § 802.01)

### **Sec. 44-32. Forester.**

- (a) *Position created.* The position of forester is created within the public works department of the city.
- (b) *Duties.* It is the duty of the forester to coordinate, under the direction and control of the council, all activities of the city relating to the control and prevention of Dutch elm disease and oak wilt disease and other epidemic diseases of shade trees. He shall recommend to the council the details of a program for the control of such disease and perform the duties incident to such a program adopted by the council.

(Code 1987, § 802.02)

**Cross reference(s)**--Officers and employees, § 2-101 et seq.

### **Sec. 44-33. Epidemic disease program.**

- (a) It is the intention of the council to conduct a program of plant pest control pursuant to all the powers of this city, including the authority granted by M.S.A. § 18.022.

- (b) This program is concentrated on but not limited to the control and elimination of Dutch elm disease fungus, elm bark beetles and the oak wilt fungus and is undertaken at the recommendation of the commissioner of agriculture. The forester shall act as coordinator between the commissioner of agriculture and the council in the conduct of this program.

(Code 1987, § 802.03)

**Sec. 44-34. Nuisances declared.**

- (a) *Trees constituting nuisances.* The following are public nuisances whenever they may be found within the city:
- (1) Any living or standing elm tree infected to any degree with the Dutch elm disease fungus *Ceratocystis ulmi* (Buisman, Moreau) or which harbors any of the elm bark beetles *Scolytus multistriatus* (eichh.) or *Hylurgopinus rufipes* (Marsh).
  - (2) Any dead elm tree, including logs, 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 infected to any degree with the oak wilt fungus *Ceratocystis fagacearum*.
  - (4) Any dead oak tree which in the opinion of the forester 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 other shade trees with an epidemic disease.
- (b) *Abatement.* It is unlawful for any person to permit any public nuisance as defined in subsection (a) of this section to remain on any premises owned or controlled by him within the city. Such nuisances may be abated in the manner prescribed by this article.

(Code 1987, § 802.04)

**Sec. 44-35. Inspection and investigation.**

- (a) *Annual inspection.* As often as practicable, the forester shall inspect all public and private premises within the city which might harbor any plant pest as defined in M.S.A. § 18.46, subd. 13 to determine whether any condition described in section 44-34 exists on the premises. He shall investigate all reported incidents of infestation by Dutch elm fungus, elm bark beetles, oak wilt fungus, or any other epidemic disease of shade trees.
- (b) *Entry on private premises.* The forester or his duly authorized agents may enter upon private premises at any reasonable time for the purpose of carrying out any of the duties assigned him under this article.
- (c) *Diagnosis.* The forester shall, upon finding conditions including Dutch elm, oak wilt or other infestation, immediately send appropriate specimens or samples to the commissioner of agriculture for analysis, or take such other steps for diagnosis as may be recommended by the commissioner. Except as provided in section 44-37, no action to remove infected trees or wood shall be taken until positive diagnosis of the disease has been made.

(Code 1987, § 802.05)

**Sec. 44-36. Abatement of Dutch elm disease nuisance.**

In abating a nuisance defined in section 44-34, the forester shall cause the infected tree or wood to be sprayed, removed, burned or otherwise effectively treated so as to destroy and prevent as fully as possible the spread of epidemic diseases, including Dutch elm disease and oak wilt disease. He shall also take such steps as are necessary to prevent root graft transmission of the diseases. Such abatement procedures shall be carried out in accordance with current technical and expert opinions and plans as may be designated by the commissioner of agriculture.

(Code 1987, § 802.06)

**Cross reference(s)**--Nuisance generally, § 22-31 et seq.

**Sec. 44-37. Procedure for removal of infected trees and wood.**

- (a) *Action by forester.* Whenever the forester finds with reasonable certainty that the infestation defined in section 44-34 exists in any tree or wood in any public or private place in the city, he shall proceed as follows:
- (1) If the forester finds that the danger of infestation of other elm, oak or other trees is not imminent because of the dormancy of the infected trees, he shall make a written report of his finding to the council, which shall proceed by abating the nuisance as a public improvement under M.S.A. § 429.011 et seq. or abating the nuisance as provided in subsection (a)(2) of this section.
  - (2) If the forester finds that danger of infestation of other elm, oak or other trees is imminent, he shall notify the abutting property owner by certified mail that the nuisance will be abated within a specified time, not less than five days from the date of mailing of such notice. The forester shall immediately report such action to the council; and after the expiration of the time limit in the notice, he may abate the nuisance.
- (b) *Action by council.* Upon receipt of the forester's report required by subsection (a)(2) of this section, the council shall by resolution order the nuisance abated. Before action is taken on such resolution, the council shall publish notice of its intention to meet to consider taking action to abate the nuisance. This notice shall be mailed to affected property owners and published once no less than one week prior to such meeting. The notice shall state the time and place of the meeting, the streets or property affected, action proposed, the estimated cost of the abatement, and the proposed basis of assessment, if any, of costs. At such hearing or adjournment of the hearing, the council shall hear property owners with reference to the scope and desirability of the proposed project. The council shall thereafter adopt a resolution confirming the original resolution with such modifications as it considers desirable and provide for the doing of the work by day labor or by contract.
- (c) *Record.* The forester shall keep a record of the costs of abatements done under this section and shall report monthly to the administrative clerk-treasurer (or other appropriate officer) 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) *Assessment.* On or before September 1 of each year, the administrative clerk-treasurer shall list the total unpaid charges for each abatement against each separate lot or parcel to which they are attributable under this article. The council may then spread the charges or any portion of the charges against the property involved as a special assessment under M.S.A. § 429.101 and other pertinent statutes for certification to the county auditor and collection the following year along with current taxes.

(Code 1987, § 802.07)

**Sec. 44-38. Spraying elm trees.**

- (a) *When to spray.* Whenever the forester determines that any elm tree or elm wood within the city is infected with Dutch elm fungus, he may spray or treat all nearby high-value elm trees with an effective elm bark beetle destroying concentrate or fungicide or both. Activities authorized by this section shall be conducted in accordance with technical and expert opinions and plans of the commissioner of agriculture and under the supervision of the commissioner and his agents whenever possible.
- (b) *Notice.* The notice provisions of section 44-37 apply to spraying and treatment operations conducted under this section.

(Code 1987, § 802.08)

**Sec. 44-39. Transporting elm wood prohibited.**

It is unlawful for any person to transport within the city any bark-bearing elm or oak wood without having obtained a permit from the forester. The forester shall grant such permits only when the purpose of this article will be served.

(Code 1987, § 802.09)

**Sec. 44-40. Interference prohibited.**

It is unlawful for any person to prevent, delay or interfere with the forester or his agents while they are engaged in the performance of duties imposed by this article.

(Code 1987, § 802.10)

## **Chapter 46 ZONING\***

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**\*Cross reference(s)**--Any zoning ordinance or zoning map amendment saved from repeal, § 1-9(12); buildings and building regulations, ch. 10; community development, ch. 16; environment, ch. 22; planning, ch. 30; streets, sidewalks and other public places, ch. 36; subdivisions, ch. 38; vegetation, ch. 44.

**State law reference(s)**--Authority to provide for comprehensive zoning, M.S.A. § 462.357.

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Sec. 46-1. Saved from repeal.

### **Sec. 46-1. Saved from repeal.**

The zoning ordinance of the city is not printed in this Code but is on file and available in the city offices.

