

I. GENERAL PROVISIONS

§101. Adopting Ordinance

ORDINANCE NO. 677

AN ORDINANCE CODIFYING THE GENERAL ORDINANCES OF THE CITY OF WHITE BEAR LAKE, MINNESOTA, ADOPTING THE MUNICIPAL CODE OF WHITE BEAR LAKE, MINNESOTA AND REPEALING CERTAIN ORDINANCES IN ACCORDANCE WITH SECTION 4.17 OF THE WHITE BEAR LAKE CITY CHARTER.

Be it ordained by the Mayor and City Council of the City of White Bear Lake, Minnesota:

§101.010 CODIFICATION. The ordinances of a general and permanent nature of the City of White Bear Lake, Minnesota are hereby codified into fourteen (14) articles and the chapters and sections thereunder, which are adopted and declared to be ordinances of this City.

§101.020 SHORT TITLE. For brevity herein, the Municipal Code of White Bear Lake, Minnesota, will sometimes be referred to as "the Code" or "this Code", and any use of "the Code" or "this Code" shall be construed to mean the Municipal Code of White Bear Lake, Minnesota, unless the context clearly requires some other meaning.

§101.030 REPEAL OF PRIOR ORDINANCES. All ordinances and parts of ordinances of a general or permanent nature passed and approved prior to the passage and approval of this codification ordinance and in conflict with this ordinance or with any of the provisions of this ordinance, are hereby repealed; provided, that in construing the provisions of this ordinance the following ordinances shall not be considered or held to be ordinances of a general or permanent nature, to wit:

1. Ordinances vacating streets and alleys.
2. Ordinances authorizing or directing public improvements to be made.
3. Ordinances levying taxes or special assessments.
4. Ordinances granting a franchise or special license to persons, firms or corporations.
5. Ordinances providing for the issuance of bonds or other instruments of indebtedness.
6. Ordinances establishing grades.
7. Real estate transactions.
8. Ordinances amending the Zoning Map.
9. Ordinances specifically mentioned in Appendix B-1, *infra*.
10. Any other ordinance which by nature would be considered special.

§101.040 REPEAL, EXCEPTIONS. The repeal of ordinances as provided in section 101.030 above, shall not effect any rights acquired, fines, penalties, forfeitures or liabilities incurred thereunder, or actions involving any of the provisions of such ordinances and parts thereof prior to repeal. Such ordinances above repealed are hereby continued in force and effect after the passage, approval and publication of this general codification ordinance for the purpose of all rights, fines, penalties, forfeitures, liabilities and actions therefor.

§101.050 SUBSEQUENT ORDINANCES. Ordinances passed after the effective date of this Code shall be passed as amendments or additions to this Code unless they are of limited or special application, or are otherwise deemed to be not a part of this Code. Such ordinances shall be incorporated into this Code and its annual revisions as hereinafter provided, and as directed by the City Council.

§101.060 ANNUAL REVISIONS. This Code is printed in loose-leaf form so that it may be kept up-to-date regularly by the insertion of revised or additional pages. The City Council, with the advice of the City Attorney, shall make arrangements annually for the editorial work and printing necessary to prepare revised and additional pages so as to keep the volume up-to-date at all times.

§101.070 CONSECUTIVE NUMBERING. Regardless of inclusion of some but not all subsequent ordinances in this Code, the consecutive chronological numbering of all ordinances as passed shall continue.

§101.080 SEVERABILITY. If any article, chapter, section, paragraph, sentence, clause, phrase, term or provision of this Code should be declared invalid by any court of competent jurisdiction for any reason whatsoever, such decision shall not effect the remaining portions of this Code, which will remain in full force and effect, and the provisions of this Code are hereby declared to be severable.

§101.090 BLANKET PENAL PROVISION. Violations of this code shall be a misdemeanor punishable by imprisonment of up to 90 days or to a fine not to exceed the maximum amount for misdemeanor violations then provided for in Minn. Stat. Chapter 609, or both. (Ref. Ord. No. 468, 9/9/69)

§101.100 PUBLICATION AND DISTRIBUTION. This Code is printed in book form under the direction of the City Council and shall be distributed as the City Council may see fit.

§101.110 EFFECTIVE DATE. This ordinance shall be in full force and shall take effect from and after its passage, approval and publication according to law.

Passed by the City Council of the City of White Bear Lake, Minnesota this 11th day of December, 1984.

S/S Mayor
Brad Stanius, Mayor

ATTEST:

S/S Ray Siebenaler

Raymond R. Siebenaler, City Clerk

102. RULES OF CONSTRUCTION

§102.010 GENERALLY. Words and phrases 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. (Ref. §102.010, Code 1966)

§102.020 GENDER. Unless the context clearly requires otherwise, the use of either masculine, feminine or neuter gender shall include the other genders. (Ref. §102.020, Code 1966)

§102.030 NUMBER. Unless the context clearly requires otherwise, the use of either singular or plural number shall include the other number. (Ref. §102.030, Code 1966)

§102.040 TENSE. Unless the context clearly requires otherwise, the use of either past, present or future tense shall include the other tenses. (Ref. §102.040, Code 1966)

§102.050 JOINT AUTHORITY. Words importing joint authority to three (3) or more persons shall be construed as authority to a majority of such persons. (Ref. §102.050, Code 1966)

§102.060 TIME. Whenever words fixing or importing time or the hour of the day are used in this Code, they shall be construed to mean Central Standard Time or Central Daylight Savings Time whichever is applicable. The time within which an act shall be done shall be computed by excluding the first (1st) and including the last day. If the last day is a Sunday or a legal holiday, such day shall be excluded. (Ref. §102.060, Code 1966)

§102.070 DEPUTIES. Whenever this 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 requirements shall be satisfied by the performance of such act by an authorized agent or employee. (Ref. §102.070, Code 1966)

§102.080 FILING AT CITY OFFICES. Whenever this Code requires filing with, payment to or notification of any certain city official or department, the requirement shall be satisfied by filing, payment or notification at the regular office of such city official or department during business hours on any business day (Ref. §102.080, Code 1966)

§102.090 REPEALS. The repeal of a provision which repeals a prior provision does not revise the prior provision, unless the intent to do so is clearly stated. The repeal of any provision shall not be construed to abate, annul or otherwise affect any provision had or commenced under or by virtue of the repealed provision, and the same shall be as effectual as if the said provision had not been repealed, unless a contrary intent is clearly stated. Any article, chapter or section duly enacted by the City Council and included in this Code, and any other independent ordinance, chapter, section or subdivision of an ordinance duly enacted shall be altered, amended or revised only by the complete nullification and repeal of such ordinance, article, chapter, section or subdivision and by the substitution of a new ordinance, part, chapter, section or subdivision as amended, altered or revised. (Ref. §102.110, Code 1966)

§102.090

GENERAL PROVISIONS

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§102.100 LIBERAL CONSTRUCTION. All general provisions, terms, phrases and expressions contained in the Municipal Code of White Bear Lake, Minnesota, shall be liberally construed in order that the true intent and meaning of such provisions may be fully carried out. (Ref. §102.120, Code 1966)

§102.110 MINNESOTA RULES OF CONSTRUCTION. Unless clearly in conflict with provisions of this Code, or otherwise clearly inapplicable, rules of construction established for the State of Minnesota by statutes or case law shall apply in the construction of this Code. (Ref. §102.140, Code 1966)

103. DEFINITIONS

§103.010 CERTAIN TERMS DEFINED. As used in this Code, unless the particular context shall clearly require some other meaning, the following words shall mean:

Subd. 1. City. The City of White Bear Lake, Minnesota.

Subd. 2. City Council. The City Council of the City of White Bear Lake, Minnesota.

Subd. 3. Code. The Municipal Code of the City of White Bear Lake, Minnesota.

Subd. 4. Code 1966. The Municipal Code of the City of White Bear Lake, Minnesota, has adopted by ordinance number 431, and effective as of March 1, 1966.

Subd. 5. May. "May" is permissive.

Subd. 6. Mayor. The Mayor of the City of White Bear Lake, Minnesota.

Subd. 7. Municipality. The City of White Bear Lake, Minnesota.

Subd. 8. Person. Any individual, corporation, firm, partnership, association, organization or other group acting as a unit. It also includes any executor, administrator, trustee, receiver or other representative appointed by law. Whenever the word "person" is used in any section prescribing a penalty or fine, it shall include the partners, or members of any partnership or corporation, and, as to corporations, the officers, agents or members thereof who are responsible for the violation.

Subd. 9. Property. Tangible or intangible, real, personal or mixed property.

Subd. 10. Shall. "Shall" is mandatory.

Subd. 11. Sidewalk. That portion of the street between the curb line and the adjacent property line, intended for the use of pedestrians.

Subd. 12. State. The State of Minnesota.

Subd. 13. Street. Any public way, highway, street, avenue, boulevard, alley or other public thoroughfare. Each of said words shall include the others, and, if the context permits, shall also include "sidewalks." (Ref. §§103.010 to 103.090, Code 1966)

§103.020 OTHER DEFINITIONS. Certain chapters of this Code contain other definitions applicable particularly to such chapters. In case of any conflict between the definitions in section 103.010 and such other definitions, the other definitions shall prevail in the chapters where applicable. (Ref. §103.100, Code 1966)

§103.030 MINNESOTA DEFINITIONS. Unless clearly in conflict with definitions or other

provisions of this Code, or otherwise clearly inapplicable, definitions established for the State of Minnesota by statutes or case law shall apply to this Code. (Ref. §103.110, Code 1966)

II. MUNICIPAL ADMINISTRATION

201. Data Privacy

§201.010 DATA PRIVACY; DEFINITIONS. The following definitions shall apply in the interpretation and enforcement of this chapter.

Subd. 1. Applicant Seeking Employment. Every individual submitting an application for employment to perform services for compensation as directed by the employer.

Subd. 2. Confidential Data on Individuals. Data which is not public but is (a) expressly made confidential by law as to the individual subject of that data; (b) collected by a civil or criminal investigation undertaken for the purpose of the commencement of a legal action, provided that the burden of proof as to whether such investigation is active or in anticipation of a legal action is upon the agency; © data which supplies the basis for the diagnosis of the medical or psychiatric condition of an individual as determined by a licensed physician.

Subd. 3. Data on Individuals. All records, files and processes which contain any data in which an individual is or can be identified and which is kept on a permanent or temporary basis. It includes that which is collected, stored and disseminated by manual, mechanical, electronic or any other means. Data on individuals includes data classified as public, private or confidential.

Subd. 4. Employer. The City of White Bear Lake, Minnesota.

Subd. 5. Individual. A natural person. In the case of a minor individual under the age of eighteen (18), "individual" shall mean a parent or guardian acting in a representative capacity, except where such minor individual indicates otherwise.

Subd. 6. Records Repository. Every agency retaining and storing data on individuals as "responsible authority" as defined in Minnesota Statutes, Section 15.162, Subdivision 6 and Title 28 of the Code of Federal Regulations. (Ref. Ord. No. 629, 4/10/79)

§201.020 DATA PRIVACY; INVESTIGATION OF DATA. Every individual hereinafter seeking employment by submitting an application for employment to the City of White Bear Lake, Minnesota, will be subject to investigation by the employer of data collected and stored in a legally established records repository. All data on individuals defined as confidential or private, collected to determine suitability for employment, will be retained by the employer and disseminated only as provided by the Minnesota Government Data Practices Act. (Ref. Ord. No. 629, 4/10/79)

§201.030 DATA PRIVACY; PENAL PROVISION. Any individual who willfully violates the provisions governing collection, storing and dissemination of data on individuals as defined in Minnesota Statutes, Section 15.167 is guilty of a misdemeanor. Willful violation of Minnesota

Statutes, Sections 15.1611 to 15.1698 by any public employee constitutes just cause for suspension without pay, or dismissal of the public employee. (Ref. Ord. No. 629,4/10/79)

202. Elections

§202.010 ELECTIONS; REGISTRATION SYSTEM ADOPTED BY REFERENCE. The system for the permanent registration of voters provided for by Minnesota Statutes, Chapter 201 is hereby adopted. No person shall be permitted to vote at any election held in the City unless he shall have registered as provided in said chapter. (Ref. §203.010, Code 1966)

§202.020 ELECTIONS; PRIMARY ELECTIONS. There is hereby established in the City a primary election pursuant to Minnesota Statutes, Chapter 205. The primary election shall be held fourteen (14) days before the regular City election. (Ref. §203.020, Code 1966)

§202.030 ELECTIONS; AFFIDAVIT OF CANDIDACY. Any person desiring to have his name placed on the primary election ballot as a candidate for office shall file his affidavit of candidacy not more than six (6) nor less than four (4) weeks before the primary election, and the affidavit shall be accompanied by a filing fee of five (\$5.00) dollars. The City Clerk shall thereupon place the name of such candidate upon the primary election ballot without partisan designation. (Ref. §203.030, Code 1966)

§202.040 ELECTIONS; CONDUCT OF ELECTION. The City primary election shall be conducted and the returns made in the manner provided for the state primary election so far as practicable. The City Council shall canvass the returns of the primary election and the two (2) candidates for each office who receive the highest number of votes, or a number of candidates equal to twice the number of persons to be elected to the office who receive the highest number of votes, shall be the nominees for the office named. Their names shall be certified to the City Clerk who shall place them on the regular municipal election ballot without partisan designation and without payment of an additional fee. (Ref. §203.040, Code 1966)

§202.050 ELECTIONS; FILLING OF VACANCIES. When a vacancy occurs in a nomination made at a City primary election, the vacancy shall be filled in the manner provided for filling vacancies after the state primary election. (Ref. §203.050, Code 1966)

203. Retirement of Employees

§203.010 RETIREMENT OF EMPLOYEES; SCOPE. This chapter shall apply to full-time employees of the City or any of its departments or agencies. (Ref. §204.010, Code 1966)

§203.020 RETIREMENT OF EMPLOYEES; RETIREMENT AGE. Except as otherwise provided by law, it is compulsory that employees subject to this chapter shall be retired when they attain the age of seventy (70); provided, however, that upon reaching the age of seventy (70), any such employee can apply for continuous employment by making an application to the City Council and submitting to the City Council a satisfactory report of physical fitness by a physician approved or designated by the City Manager. The report shall show the physical and mental ability of the employee to perform the duties of his position. The application shall show the financial condition present and expected of such employee and shall contain any other information necessary or required by the City Council or the employee going to the merits of the matter. (Ref. §204.020, Code 1966)

§203.030 RETIREMENT OF EMPLOYEES; CONTINUED EMPLOYMENT. In the event the City Council determines that the employee shall be allowed to continue his employment, the City Council shall include in its decision the number of days, months or years such employee shall be allowed to continue his employment; provided, however, that such period shall not exceed two (2) years. (Ref. §204.030, Code 1966)

§203.040 RETIREMENT OF EMPLOYEES; EXPIRATION OF CONTINUED EMPLOYMENT. Upon the expiration of any time limit set by the City Council for any such employee who is allowed to continue employment after the age of seventy (70), such employee may make application again to the City Council in the same manner as provided in Section 203.030. (Ref. §204.040, Code 1966)

§203.050 RETIREMENT OF EMPLOYEES; EMPLOYMENT OF PERSONS OVER SEVENTY. In the event the City desires to employ any person over the age of seventy (70), such proposed employee shall make application to the City Council as provided in section 203.030. (Ref. §204.050, Code 1966)

§204.010

MUNICIPAL ADMINISTRATION

§204.010

204. Compensation

§204.010 COMPENSATION; MAYOR AND COUNCIL. The salary of the Mayor is hereby fixed at eight-hundred dollars (\$800.00) per month and the salary of each member of the City Council is hereby fixed at six-hundred twenty-five (\$625.00) dollars per month. Such salaries shall be in effect from and after January 1, 2016. (Ref. Ord. No. 597, 2/28/77; Ord. No. 686, 2/12/85, 755, 12/8/87; 939, 1/14/97; Ord. No. 1098, 4/28/15)

Revised 1/14/97

§205 ADMINISTRATIVE OFFENSES.

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

205.020 ADMINISTRATIVE OFFENSE DEFINED. An administrative offense is a violation of a provision of this code and is subject to the administrative penalties set forth in the schedule of offenses and penalties referred to in Section 205.090, hereafter.

205.030 NOTICE. Any officer of the White Bear Lake Police Department, or any other person employed by the City, authorized in writing by the City Manager, and having authority to enforce this code, shall, upon determining that there has been a violation, notify the violator, or in the case of a vehicular violation, attach to the vehicle a notice of the violation. Said notice shall set forth the nature, date and time of the violation, the name of the official issuing the notice, and the amount of the scheduled penalty.

205.040 PAYMENT. Once such notice is given, the alleged violator may, within seven (7) days of the time of issuance of the notice, pay the amount set forth on the schedule of penalties for the violation, or may request a hearing in writing, as is provided for hereafter. The penalty may be paid in person or by mail, and payment shall be deemed to be an admission of the violation.

205.050 HEARING. Any person contesting an administrative offense pursuant to this chapter may, within seven (7) days of the time of issuance of the notice, request a hearing by a hearing officer who shall forthwith conduct an informal hearing to determine if a violation has occurred. The hearing officer shall have authority to dismiss the violation or reduce or waive the penalty. If the violation is sustained by the hearing officer, the violator shall pay the penalty imposed.

205.060 HEARING OFFICER. A City employee designated in writing by the City Manager shall be the hearing officer for all administrative offenses except speeding. For speeding offenses, the hearing officer shall be an impartial, qualified individual appointed by the City Council of the City of White Bear Lake who has experience in law or court proceedings. The hearing officer is authorized to hear and determine any controversy relating to administrative offenses provided for in this chapter. (Ref. Ord. 962, 8/11/98)

205.070 FAILURE TO PAY. In the event a party is charged with an administrative offense fails to pay the penalty, a misdemeanor or petty misdemeanor charge may be brought against the alleged violator in accordance with applicable statutes. If the penalty is paid or if an individual is found to not have committed the administrative offense by the hearing officer, no such charge may be brought by the City for the same violation. 1/14/99

205.080 DISPOSITION OF PENALTIES. All penalties collected pursuant to this chapter shall be paid to the City's Finance Director and may be deposited in the City's general fund.

205.090 OFFENSES AND PENALTIES. Offenses which may be charged as administrative offenses and the penalties for such offenses may be established by resolution of the City Council from time to time. Copies of such resolutions shall be maintained in the office of the City Manager.

205.100 SUBSEQUENT OFFENSES. In the event a party is charged with a subsequent administrative offense (except speeding) within a twelve (12) month period of paying an administrative penalty for the same or substantially similar offense, the subsequent administrative penalty shall be increased by twenty-five percent (25%) above the previous penalty except as otherwise provided by resolution. (Ref. Ord. 929, 2/13/96)

205.110 COMPLIANCE WITH MINNESOTA STATUTES. All administrative citations for traffic offenses shall be issued in compliance with Minnesota Statutes Section 169.999. (Ref. Ord. No. 1066; 1/12/10).

III. COMMISSIONS AND BOARDS

301. Planning Commission

§301.010 PLANNING COMMISSION. There is hereby created a Planning Commission consisting of seven (7) members. Members of the Planning Commission shall be appointed by the Mayor for the term of three (3) years, and until their successors are appointed and qualified, except that of members initially appointed, three (3) shall be appointed for one (1) year terms, two (2) for two (2) year terms and two (2) for three (3) year terms. The Planning Commission now in existence shall continue as presently constituted.

The Planning Commission shall be an advisory body of the Council and it shall make recommendations to the council in areas including but not limited to the following: the adoption and amendment of the Comprehensive (City) Plan, amendments to the Zoning Code, rezoning, special use permits, certain variances to the Zoning Code, the initial zonings of annexed land, certain exceptions to minimum requirements of the Zoning Code, permitted uses in the various zoning districts, the review of preliminary plans of subdivisions and variances of subdivision regulations. (Ref. §409.010, Code 1966; Ref. Ord. Nos. 456, 4/9/68; 480, 1/13/70; 568, 11/12/74)

302.010

COMMISSIONS AND BOARDS

§302.010

302. Board of Appeals and Adjustments

§302.010 BOARD OF APPEALS AND ADJUSTMENTS, VARIANCE BOARD.

Repealed

Reference Ordinance No. 14-08-1096 - 8/26/14

Revised 11/1/14

303. Park Advisory Commission

§303.010 PARK ADVISORY COMMISSION. There is hereby created a park Advisory Commission consisting of seven (7) members. The members of the Park Advisory Commission shall be appointed by the Mayor for a term of three (3) years, provided three (3) members of said Commission shall be appointed every third (3rd) year, such term beginning in 1986, and two (2) members shall be appointed in 1987 and 1988. Existing members of the Commission, on the effective date of this ordinance, shall be considered appointed to fill unexpired terms until formal appointment occurs as per the schedule listed above. (Ord. 708, 1/14/86)

The Park Advisory Commission shall advise the City Council on matters relating to planning, development, design, use and maintenance of parks, open space and natural areas in the City of White Bear Lake. The Park Advisory Commission shall submit to the Council, on or before July Fifteenth (15th) of each year, a proposed budget for park development, planning and improvement. Annual report of the Park Advisory Commission activities shall also be submitted to the Council at this time. This proposed budget and annual report shall be used by the City staff and City Council in the preparation of the final budget. The City Manager shall appoint persons from the City staff to the Park Advisory Commission in carrying out its functions.

304. Boards and Commissions in General

§304.010 TERM OF APPOINTMENT. The length of term for an individual appointed to a White Bear Lake Advisory Board or Commission shall be established by the ordinance or resolution creating the Board or Commission. If an individual is appointed to an unexpired term with less than one-half of the required term remaining, such period shall not be included in the calculation of maximum time of service. Upon completion of a term on a Board or Commission, a member may continue to serve until reappointed or until a successor is appointed. (Ref. Ord. No. 849, 07/09/91)

§304.020 REAPPOINTMENT. Upon completion of a term of service on an Advisory Board or Commission, an individual may request reappointment for a second term by submitting a resume or written request to the Mayor. The Mayor shall take into consideration the individual's willingness to serve and past attendance when considering a request for reappointment.

§304.030 COMPENSATION. Members of White Bear Lake Advisory Boards and Commissions shall serve without compensation. The expense of enrollment, local transportation and related out-of-pocket costs incurred in attending training programs germane to the respective Advisory Boards or Commissions may be reimbursed to the extent provided by City policy and the current budget appropriation.

§304.040 MEETING TIME AND LOCATION. Each Advisory Board or Commission established by this Chapter shall hold its regular meetings in the City Council Chambers at 7:00 or 7:30 P.M. on a fixed day to be established each year. Special Meetings may be scheduled by the Board or Commission at alternate times and locations provided they are held in accessible public places at times convenient to the purpose. Notice of all meetings shall be posted at City Hall not less than three days prior to any meeting and said notice shall be provided to the City's official paper. (Ref. Ord. No. 697, 8/13/85)

§304.050 OFFICERS. Each Advisory Board and Commission shall elect its own Chairperson who must be a member of the Board or Commission. Such person shall be elected for a one year term and shall not serve as Chair for more than two (2) consecutive terms. Each Advisory Board or Commission shall also appoint a recording secretary or have a designated person to prepare a journal of committee proceedings. (Ref. Ord. 891, 5/25/93)

IV. DEPARTMENTS

401. Municipal Water System

§401.010 MUNICIPAL WATER SYSTEM; CONNECTIONS, PERMITS, FEES, ASSESSMENTS.

Subd. 1. Permit, Inspection Fee. Before a connection can be made to any water line or main in the City, an application for permit shall first be made to the City Clerk which shall be signed by a plumber licensed by the State of Minnesota and accompanied by a fee of twelve (\$12.00) dollars. After such permit has been issued, the holder thereof shall obtain the approval of the Public Works Director before any connection is made to a City water line or main and before the excavation is covered or backfilled.

Subd. 2. Connection Charge. Before a permit is issued allowing the initial connection to a water line or main in the City there shall be paid a connection charge of three hundred (\$300.00) dollars for a single family residence, six hundred (\$600.00) dollars for a two (2) family residence or one hundred eighty (\$180.00) dollars per unit for a multiple dwelling unit. For industrial and commercial property there shall be a connection charge of five hundred (\$500.00) dollars per acre or three hundred (\$300.00) dollars per unit for each one hundred thousand (100,000) gallons of estimated annual flow, whichever is greater. Commercial or industrial building units shall be assigned a minimum of one (1) unit.

Building additions, remodeled buildings or buildings with a change of occupancy that require additional SAC units shall pay Water Availability Charge units in accordance with additional use units. Units of estimated annual flow shall be computed in accordance with the current estimates used by the Metropolitan Waste Control Commission. If for improvements made after January 1, 1980, the property has previously paid or been assessed a lump sum connection or trunk charge for the water distribution, treatment and storage facilities of the City, such payment or assessment shall not reduce the amount charged for the additional use units since the present dedicated use of each financing method is independent of the other. (Ref. Ord. No.679, 12/11/84)

Subd. 3. Assessments Generally. The connection fee described in Subdivision 2 above shall be in addition to any assessments that may be made against the property as provided for by City Charter Section 8.01 and Municipal Code sections §401.010 Subd. 4; §403.020 and §902.010. If the property has previously paid or been assessed a lump sum connection or trunk charge for the water distribution, treatment and storage facilities of the City, it shall receive a credit toward the aforesaid charge for all sums paid.

Subd. 4. Utility Availability Charge. The owner of any property desiring to connect such property to an existing municipal water main, where such property has not previously been connected to said main and has not been previously assessed for the cost of the main, may do so on the approval of the City and upon paying a utility availability charge. The utility availability charge shall be the proportionate cost of construction, maintenance and use of the main in question. Determination of the amount of such proportionate cost shall be made by the Public Works Director, upon the same basis as assessments then being charged against comparable benefitted properties for water mains in the City. The utility availability charge may be made payable in equal installments spread at not greater than annual intervals for the period of years that assessments for similar water mains are then

being spread over in the City, and at an interest rate equal to interest rates then being charged for such assessments. (Ref. §1201.010, Code 1966; Ord. Nos. 446, 11/14/67; 497, 7/14/70; 520, 10/13/71; 589, 9/7/76; 591, 11/9/76; 614, 6/13/78; 638, 3/4/80)

§401.020 MUNICIPAL WATER SYSTEM; METERS. No person other than an authorized City employee shall use water from the City water system or permit water to be drawn therefrom unless the water passes through a meter supplied by and approved by the City. All meters shall be the property of the City and shall remain under the control and supervision of the City. Meters may be removed and replaced only by the City when deemed necessary, in the City's sole discretion. No person not authorized by the City shall connect, disconnect, take apart or in any manner change, interfere or tamper with any water meter or its use.

City-approved meters will be installed, replaced, and repaired, when deemed necessary by the City at all locations with City water service. Installation of standard size meters will be at the City's expense, except that larger meters may be installed at the customer's expense. Customers not complying with installation or replacement of standard City meters will be subject to a manual meter reading fee, which may be established by the City Council in its fee schedule, or, if deemed necessary by the City, water service shut-off pursuant to Municipal Code sections §401.090. (Ord. 2054, 3/8/22)

§401.030 MUNICIPAL WATER SYSTEM; METER MAINTENANCE AND ACCESS. The City shall maintain and repair at its expense any meter that has become unserviceable through ordinary wear and use and shall replace said meter, if necessary, at no cost to the customer. Where meter repair or replacement is made necessary by act or neglect of the customer or any occupant of the premises it serves, City replacement and repair costs shall be a charge against and collected from the customer. Customers must use reasonable measures to keep their service lines, attachments and water meters in working order, and must protect them from damage and freezing. In case of the breakage or stoppage of any meter, the customer shall immediately notify the City.

Authorized City employees and contractors shall be provided access at reasonable hours of the day to every building or property connected with the City water supply in order to install and replace meters, obtain meter readings, maintain meters, and make meter inspections, as deemed necessary in the City's sole discretion. Water meters shall be kept unobstructed and accessible by the customer.

If after reasonable efforts the City is unable to gain access to a building or property to install, read, maintain, replace, or inspect any water meter, irrespective of the reason, the water customer shall be subject to a quarterly non-compliance fee to account for the City's inability to determine usage and properly maintain its water meters and its overall municipal water system. Said fee may be established by the City Council in the City's fee schedule. If deemed necessary by the City, water service shut-off pursuant to Municipal Code sections §401.090 may also be utilized when meter access is not provided to the City. (Ord. 2054, 3/8/22)

§401.040 MUNICIPAL WATER SYSTEM; WATER USE RATES

Subd. 1. Water Use Rates: All water supplied to consumers, both within and outside the corporate limits of the City of White Bear Lake that is measured by meter shall be sold at the following rates:

1. Residential:
 - 0 - 799 cubic feet: Minimum fee of \$9.00 per meter per quarter effective March 1, 2016 for residential accounts
 - 0 - 799 cubic feet: Minimum fee of \$9.75 per meter per quarter effective February 1, 2017
 - 800 and greater cubic feet: \$1.05 per 100 cubic feet effective March 1, 2016 as measured during winter quarter reading period
 - 800 and greater cubic feet: \$1.15 per 100 cubic feet effective February 1, 2017 as measured during winter quarter reading period
 - Non winter quarter billing periods recorded consumption that is higher than the winter quarter reading period: \$1.30 per 100 cubic feet effective March 1, 2016
 - Non winter quarter billing periods recorded consumption that is higher than the winter quarter reading period: \$1.40 per 100 cubic feet effective February 1, 2017

2. Commercial:
 - 0 - 799 cubic feet: Minimum fee of \$9.00 per meter per quarter effective March 1, 2016
 - 0 - 799 cubic feet: Minimum of \$9.75 per meter per quarter effective February 1, 2017
 - 800 - 2,699 cubic feet: \$1.05 per 100 cubic feet effective March 1, 2016
 - 800 - 2,699 cubic feet: \$1.10 per 100 cubic feet effective February 1, 2017
 - 2,700 - 74,999 cubic feet: \$1.10 per 100 cubic feet effective March 1, 2016
 - 2,700 - 74,499 cubic feet: \$1.15 per 100 cubic feet effective February 1, 2017
 - 75,000 and greater cubic feet: \$1.20 per 100 cubic feet effective March 1, 2016
 - 75,000 and greater cubic feet: \$1.30 per 100 cubic feet effective February 1, 2017
 - Non winter quarter billing periods recorded consumption that is higher than winter quarter reading period: \$1.30 per 100 cubic feet effective March 1, 2016
 - Non winter quarter billing periods recorded consumption that is higher than winter quarter reading period: \$1.40 per 100 cubic feet effective February 1, 2017

3. That sale to other municipal districts shall be sold at a rate of \$1.15 per cubic feet during the winter quarter billing period effective March 1, 2016. \$1.25 per 100 cubic feet during the winter quarter billing period effective February 1, 2017. Non winter quarter billing periods recorded consumption that is higher than winter quarter reading period: \$1.30 per cubic feet effective March 1, 2016. Non winter quarter billing periods recorded consumption that is higher than winter quarter reading period: \$1.40 per 100 cubic feet effective February 1, 2017

4. Rates shall be effective for water billings processed after March 1, 2016 and February 1, 2017

(Ref. §1201.030, Code 1966; Ord Nos. 454, 2/13/68; 588, 9/7/76; 625, 1/9/79; 661, 5/17/82; 670, 1/10/84; 681, 12/11/84; 713, 3/12/86; 740, 4/14/87; 917, 1/10/95; 3/1/07; 1071; 7/27/10; 8/24/11, 2/3/16)

§401.050 MUNICIPAL WATER SYSTEM; PAYMENTS. The City Clerk shall compute the amount due to the City for water charges and for sewer charges and render a statement thereof quarterly. All amounts due as shown on the statement shall be payable at the Municipal Building on or before the fifth (5th) day of the month following the month the statement is presented. A penalty of ten (10) percent shall be added to all accounts that are not paid in full by said due date. This ten (10) percent penalty shall be computed on the unpaid balance of the last billing not paid by the appropriate date at the time each quarterly statement is prepared and presented. The City reserves the right to shut off water service if the account is delinquent for an unreasonable length of time as determined by the City Manager. (See also §401.090) (Ref. §1201.040, Code 1966; Ord Nos. 499, 7/14/70; 713, 3/12/86; 822, 11/27/90)

§401.060 MUNICIPAL WATER SYSTEM; LIEN. Each charge levied by and pursuant to this chapter is hereby made a lien upon the corresponding lot, land or premises served by a connection to the water or sewer system of the City and all such charges which are on July Thirty-First (31st) of each year more than thirty (30) days past due and having been properly billed to the occupant of the premises served, shall be certified by the City Clerk to the Auditor of Ramsey County before the tenth (10th) day of October of each year. A certification fee of fifteen (15.00) dollars shall be added to the delinquent amount. The City Clerk in so certifying such charges to the County Auditor shall specify the amount thereof, the descriptions of the premises served and the name of the owner thereof. The amount so certified shall be extended by the Auditor on the tax rolls against such premises in the same manner as other taxes, collected by the County Treasurer and paid to the City Clerk, along with other taxes. (Ref. §1201.050, Code 1966, Ord. No. 713 3/12/86)

§401.070 MUNICIPAL WATER SYSTEM; BROKEN SERVICE LINES. If at any time a break or blockage occurs in the service line between the building connection and the lateral or main in the street, the property owner shall repair the same at his expense. If the property owner fails to make the necessary repairs, the City Manager after giving the property owner ten (10) days written notice, may effect the necessary repairs and the cost thereof shall be a lien against the property and collected in the same manner as is provided in section 401.060 of the Code. (Ref. §1201.060, Code 1966; Ord. No. 451, 2/13/68)

§401.080 MUNICIPAL WATER SYSTEM; INSPECTION OF PREMISES. Every water consumer shall at all reasonable times permit any duly authorized officer or agent of the City to enter his premises or buildings and to examine the building, the water pipes and fixtures, the meter and the manner in which water is used. (Ref. §1201.070, Code 1966)

§401.090 MUNICIPAL WATER SYSTEM; DISCONTINUANCE OF SERVICE. The City expressly reserves the right to shut off the water at any time when deemed necessary or desirable and to discontinue the service on any or all premises. (Ref. §1201.080, Code 1966)

§401.100 MUNICIPAL WATER SYSTEM; RESTRICTED USE. The City expressly reserves the right whenever it may deem it necessary for securing adequate fire protection or for the proper and necessary husbanding of the water supply for domestic use or other necessary or desirable purposes, owing to drought, shortage of water supply or other cause, to prohibit for such length of time as it may deem proper, the use of water for sprinkling purposes or otherwise than for the most necessary and essential domestic purposes. (Ref. §1201.090, Code 1966)

§401.110 MUNICIPAL WATER SYSTEM; DAMAGE CLAIM EXEMPTION. The City reserves the right

at any time to shut off the water in the main pipe for the purpose of repairing the same, making connections or extensions thereto or for the purpose of cleaning the same. No claim shall be made against the City by reason of the breaking of any service pipe or service cock or for any damages arising from shutting off water for repairing, laying or relaying mains, hydrants or other connections. (Ref. §201.100, Code 1966)

§401.120 MUNICIPAL WATER SYSTEM: CONSERVATION

Subd. 1. Purpose. To conserve groundwater resources and prevent the wasteful and harmful effects of irrigation during the mid-day hours and during times when it is improvident to irrigate due to excessive moisture.

Subd. 2. Irrigation Restriction. No person shall irrigate using the public water supply between the hours of 10:00 a.m. and 5:00 p.m. on any day from May 1 through September 30. This water restriction applies to all property within the City.

Subd. 3. Excessive Moisture Detection. All new commercial, industrial, and institutional automatic irrigation systems must install rain sensors using best available technology on their control systems at the time of installation. Existing commercial, industrial and institutional applications must install rain sensors on their irrigation system no later than August 1, 2007.

Subd. 4. Penalty. Failure to comply with this ordinance shall be subject to the following penalties:

1st violation: Written warning

2nd violation: As provided in the most current resolution of the City Council establishing administrative fines (Ref. Ord. No. 1033; 3/28/06)

§401.130 CRITICAL WATER DEFICIENCY

Subd. 1. Purpose. The purpose of this section is to satisfy the requirement imposed on the City under Minnesota Statutes, section 103G.291 to adopt and enforce water conservation restrictions that apply when the Governor declares by executive order that there is a critical water deficiency.

Subd. 2. Scope. This section applies to the use of water supplied by the City's municipal water system during the period of a critical water deficiency. Nothing in this section limits the City's authority to implement any emergency response plans or procedures it may adopt, even if those plans impose additional or more restrictive limitations on the use of water. This section is in addition to the water conservation restrictions established in Section 401.120.

Subd. 3. Definitions. For the purposes of this section, the following terms shall have the meaning given them in this subdivision.

(a) Critical Water Deficiency. "Critical water deficiency" means the period during which the Governor has determined and declared by executive order that a critical water deficiency exists within the City.

(b) Customer. "Customer" means an owner or lessee of property lawfully connected to the City's municipal water system within the City.

- (c) Irrigation. "Irrigation" means the watering of shrubs, trees, sod, seeded areas, gardens, lawns, or any other outdoor vegetation, except outdoor vegetation utilized for agricultural purposes.
- (d) Reclaimed Water. "Reclaimed water" means water collected from rooftops, paved surfaces, or other collection devices and all water utilized more than once before re-entering the natural water cycle.
- (e) Water Recirculation System. "Water recirculation system" means any system which enables a user to reuse water at least once prior to returning the water to the natural water cycle.

Subd. 4. Public Notice. If the Governor declares a critical water deficiency, the City shall post notice of the declaration at City Hall and on the City's website, and shall utilize the City's other methods of electronic communications to notify residents of the critical water deficiency and that additional water conservation measures are in effect.

Subd. 5. Water Conservation Measures. The following restrictions on the use of water from the City's municipal water system shall apply during the period of a critical water deficiency:

- (a) Outdoor irrigation of yards, gardens, golf courses, parklands, and other non-agricultural land, except for those areas irrigated with reclaimed water, is prohibited. This prohibition does not apply to fruit and vegetable gardens used primarily to provide food for persons living on the same property;
- (b) Washing or spraying of sidewalks, driveways, parking areas, tennis courts, patios, or other paved areas with water from any pressurized source, including garden hoses, except to alleviate immediate health or safety hazards, is prohibited;
- (c) The outdoor use of any water-based play apparatus connected to a pressurized source is prohibited;
- (d) Restaurants and other food service establishments are prohibited from serving water to their customers, unless water is specifically requested by the customer;
- (e) Operation of outdoor misting systems used to cool public areas is prohibited;
- (f) The filling of swimming pools, fountains, spas, or other exterior water features is prohibited; and

- (g) The washing of automobiles, trucks, trailers, and other types of mobile equipment is prohibited, except for City emergency vehicles and other vehicles requiring frequent washing to protect public health, safety, and welfare, and except for facilities equipped with wash water recirculation systems.

Subd. 6. Variances. The City Manager, or designee, is authorized to grant a variance to this section where strict application of its provisions would result in a serious health or safety hardship to a customer. A customer must submit a written request for a variance that explains the basis for the claimed serious hardship. A variance may only be granted for reasons involving health or safety as determined by the City Manager or designee. The City Manager or designee shall provide the customer its decision in writing. If granted, the customer is exempt from the restrictions imposed under this section, but only to the extent specifically provided for in the written variance. A customer may appeal the denial of a variance request by submitting a written appeal to the City Clerk within five days of the denial. The City Council shall hear and act on the appeal at the next City Council meeting. The decision of the City Council on the appeal is final.

Subd. 7. Violations. A violation of this section is punishable as a petty misdemeanor or as an administrative offense under Section 205 of the Municipal Code. A person who violates any provision of this section shall be subject to criminal or administrative penalties as provided in this subdivision.

- (a) First Violation. The City shall issue the owner or occupant of a property a written warning for a first violation of this section.
- (b) Subsequent Violations. Any subsequent violations of this section occurring on the same property during the same critical water deficiency declaration shall be issued a petty misdemeanor citation or an administrative citation for the violation.

(Ref. Ord. No.2048, 4/27/21)

402. Municipal Sewer System

(Editor's Note: Sections dealing with individual sewage treatment systems have been codified in Chapter 504 of the Code.)

§402.005 DEFINITIONS. The following words and terms, whenever they occur in this Code shall be interpreted as herein defined:

Building drain and building sewer have the meanings given them by the State Building Code. It is unlawful to discharge to any natural outlet within the City, or in any area under its jurisdiction, any sanitary sewage, industrial waste, or other polluted waters, except where suitable treatment has been provided in accordance with provisions of this section.

Industrial waste means the liquid waste from industrial processes distinct from sanitary sewage.

Inspector means a person duly authorized, including the building inspector, to inspect and approve installation of sewers and their connection to the public sewer system.

Public sewer means a sewer receiving both surface and runoff water, and sewage.

Sanitary sewer means a sewer which carries sewage and to which storm, surface and ground waters are not intentionally admitted.

Sewage means a combination of the water-carried wastes from residents, business buildings, institutions and industrial establishments together with such ground, surface, and storm waters as may be present.

Sewer means pipe or conduit for carrying sewage.

Sewage works means all facilities for collecting, pumping, treating and disposing sewage. (Ref. Ord. 720, 6/10/86)

§402.010 MUNICIPAL SEWER SYSTEM; CONNECTIONS, PERMITS, FEES, ASSESSMENTS.

Subd. 1. Permit, Inspection Fee. Before a connection can be made to any sanitary sewer line or main of the City, an application for permit shall first be made to the City Clerk, signed by a plumber licensed by the State of Minnesota and accompanied by a fee of Twelve (12.00) Dollars. After the permit shall have been issued, the holder thereof shall obtain the approval of the Public Works Director before any connection is made to the City sanitary sewer lines or main and before the excavation is covered or backfilled.

Amended 6/10/86

Subd. 2. Connection Charge. Before a permit is issued allowing the initial connection to a sewer line or main in the City, there shall be paid a connection charge of Three Hundred (300.00) Dollars for a single family residence, Six Hundred (600.00) Dollars for a two (2) family residence or One Hundred Eighty (180.00) Dollars per unit for a multiple dwelling unit. For industrial and commercial property there shall be paid a connection charge of Five Hundred (500.00) Dollars per acre or, in lieu thereof, a Utility Availability Charge of Three Hundred (300.00) Dollars per unit for each one hundred thousand (100,000) gallons of estimated annual flow, whichever is greater. Commercial or industrial building units shall be assigned a minimum of one (1) unit. Building additions, remodeled buildings or buildings with a change of occupancy that require additional SAC units shall pay Sewer Availability Charge units in accordance with additional use units. Units of estimated annual flow shall be computed in accordance with the current estimates used by the Metropolitan Waste Control Commission. If for improvements made after January 1, 1980, the property has previously paid or been assessed a lump sum connection or trunk charge for the sewer distribution, treatment and storage facilities of the City, such payment or assessment shall not reduce the amount charged for the additional use units since the present dedicated use of each financing method is independent of the other. (Ref. Ord. No. 680, 12/11/84)

Subd. 3. Assessments Generally. The connection fee described in Subd. 2 above shall be in addition to any assessments that may be made against the property as provided for by City Charter 58.01 and Municipal Code §402.101, Subd. 4; §403.020 and §902.010. If the property has previously paid or been assessed a lump sum connection or trunk charge for the sewer distribution, treatment and storage facilities of the City, it shall receive a credit toward the aforesaid charge for all sums paid.

Subd. 4. Utility Availability Charge. The owner of any property desiring to connect such property to an existing municipal storm sewer main or municipal sanitary sewer main, where such property has not previously been connected to said main and has not been previously assessed for the cost of the main, may do so on the approval of the City and upon paying a utility availability charge. The utility availability charge shall be the proportionate cost of construction, maintenance and use of the main in question. Determination of the amount of such proportionate cost shall be made by the public Works Director upon the same basis as assessments then being charged against comparable benefited properties for storm sewer or sanitary sewer mains in the City. The utility availability charge may be made payable in equal installments spread at not greater than annual intervals for the period of years that assessments for similar storm sewer or sanitary sewer mains are then being spread over in the City, and at an interest rate equal to interest rates then being charged for such assessments. (Ref. §1202.020, Code 1966; Ord. Nos. 447 1/13/70; 496 7/14/70; 521 10/13/71; 590 9/7/76; 592 11/9/76; 615 6/13/78; 638 3/4/80)

Amended 3/12/86

§402.020 MUNICIPAL SEWER SYSTEM; SEWER USE RATES. A sewage use rate is hereby imposed upon each lot, parcel of land, building or premises, within or outside the corporate limits of the City of White Bear Lake, which is connected to the City's sanitary sewage system, or is otherwise discharging sewage, including industrial waste, into the City's sewage as follows:

1. For all connections where the City water supply is metered, a minimum charge per meter or structure for use from 0 - 800 cubic feet of water per quarter shall be \$24.40 per quarter effective March 1, 2016 and \$26.00 per quarter effective February 1, 2017. (Ref. Ord. No. 864, 2/11/92; 917, 1/10/95; 928, 12/12/95; 940, 2/11/97; 953, 3/10/98; 1071; 7/27/10; 8/24/11; 2009, 2/3/16)

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2. For all connections where the City water supply is metered and use in excess of 800 cubic feet of water per quarter, the usage rate shall be \$3.05 per 100 cubic feet per quarter effective March 1, 2016 and \$3.25 per 100 cubic feet per quarter effective February 1, 2017. (Ref. Ord. No. 2009, 2/3/16)
3. Rates shall be effective for all sewer billings processed after March 1, 2016 and February 1, 2017. (Ref. Ord. No. 2009, 2/3/16)
4. For all single or two-family residential connections having a water source that is an unmetered well, the charge shall be calculated based on the current average usage for single family residences. This average will be calculated at 6,250 gallons per month, or 25 ccf per quarter.
5. For all other sewage connections where the service is by well, a meter must be installed in accordance with the directions of the City Manager and sewage payments shall be based upon the rate set forth in subparagraph (1) above. (Ref. §1202.030, Code 1966; Ord. Nos. 454, 2/13/68; 588, 9/7/76; 625, 1/8/79; 661, 5/17/82; 670, 1/10/84; 681, 12/11/84; 713, 3/12/86; 740, 4/14/87; 864, 8/24/11)

§402.030 MUNICIPAL SEWER SYSTEM; PAYMENTS. Payment shall be made as provided for by section 401.050 of the Code. Failure to make payment shall result in a lien against the property as provided by §401.060 of the Code. (Ref. §1202.040, Code 1966)

§402.040 MUNICIPAL SEWER SYSTEM; CONNECTION REQUIRED. It shall be the duty of every owner or occupant of any property having a building thereon used as a dwelling house or business building, which property abuts upon any public street or alley along which a main or lateral sewer has been constructed, to connect therewith.

No owner or occupant of any property shall fail to make connection with the sewer within thirty (30) days after written notice is given to the owner or occupant by the City manager. (Ref. §1202.505 Code 1966; Ref. Ord. 720, 6/10/86)

Subd. 1. Unlawful Facilities. Except as hereinafter provided, it is unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facilities intended or used for the disposal of sewage.

Subd. 2. Facilities Required. The owner of any house, building or property used for human occupancy, employment, recreation, or other similar purposes, situated within the City and abutting any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary sewer or combined sewer of the City, is hereby required at his expense to install suitable toilet facilities therein.

Subd. 3. Toilet Facilities--No Sewer Available. Where a public sanitary or combined sewer is not available, the building sewer shall be connected to an individual sewer disposal system complying with all requirements of §504 of this Code.

Revised 8/24/11

Subd. 4. Permit Required. No person shall install, alter, repair, or extend any individual or municipal plumbing system within the property lines without first obtaining an approved permit. A permit shall be issued to the owner of a premises who is residing thereon and who proposes to make his own connection to existing service leads on his own property. When such a permit is

issued to an owner proposing to make his own connection on his own property, such connection shall be subject to usual and regular inspection of the City.

Subd. 5. License Required. No person shall engage in a business of installing the plumbing system within the City unless proof of a valid master plumbers license issued by the State of Minnesota is provided.

Subd. 6. Installation of Service Connections. If a service connection is required for a lot that is presently unserved, the connection to the sewer main or lateral shall be made by a licensed plumber.

Subd. 7. Bond Required. Before a permit may be issued for excavating for plumbing within property lines, in any public streetway or alley, the person applying for such permit shall de-posit with the City Clerk a corporate surety in the sum of Two Thousand Dollars (\$2,000.00) conditioned that he will perform all work with due care and skill, and in accordance with the laws, rules and regulations established under the authority of any laws of the City pertaining to plumbing.

The Bond shall state that the person will indemnify and save harmless the City and the Owner of the premises against all damages, costs, expenses, outlays and claims of every nature and kind arising out of unskillfulness or negligence on his part in connection with plumbing, or excavating for plumbing as prescribed in this section. The Bond shall remain in force and must be executed for a period of one year, except that on such expiration it shall remain in force as to all penalties, claims and demands that may have accrued thereunder prior to such expiration.

Subd. 8. Insurance Required. In addition to the corporate surety required the person applying for such permit shall have deposited with the City Clerk insurance policies insuring the City, its officers, and employees, against property damage in the sum of at least One Hundred Thousand Dollars (\$100,000.00) and shall also deposit with said City Clerk a policy of public liability insurance with a coverage of not less than One Hundred Thousand Dollars (\$100,000.00) for each person and Three Hundred Thousand Dollars (\$300,000.00) for each accident.

Subd. 9. Independent Sewer Requirements. A separate and independent building sewer shall be provided for every building. Exceptions to this requirement will be allowed only by special permission granted by the Building Official.

Subd. 10. Existing Building Sewers. Existing building sewers or portions thereof may be used in connection with new buildings only when they are found on examination and tests by the inspector to meet all requirements of this Code.

Subd. 11. Artificial Lifting. In any buildings in which a building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried to such drains shall be lifted by an approved artificial means and discharged to the public sewer.

Amended 8/24/10

Subd. 12. Inspection Requirements. No part of the sanitary system shall be covered until it has been inspected and accepted by the inspection department. It shall be the responsibility of the applicant for the permit to notify the inspection department that the job is ready for inspection or reinspection, and the inspector shall make the indicated inspection within eight (8) work hours after such notice has been given. The owner or occupant of the property shall give the inspector free access to the property at reasonable times for the purpose of making inspections. If any part of the system is not constructed in

accordance with the standards provided in the State Plumbing Code and this regulation, the inspector shall give the applicant written notification describing the defects. The applicant shall be responsible for the correction or elimination of all defects. No system shall be placed or replaced in service until all defects have been corrected or eliminated.

The inspector and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter upon all properties for the purpose of inspections, measurements, sampling, and testing in accordance with the provisions of this section.

Subd. 13. Excavations. All excavations for building sewer installation shall be adequately parted with barricades and lightings so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City Engineer.

Subd. 14. Prohibited Use. It shall be unlawful to discharge or cause to be discharged, any storm water, surface water, ground water, roof runoff, subsurface drainage, cooling waters or unpolluted industrial process waters to any sanitary sewer. It shall be unlawful to discharge or cause to be discharged to any public sewer, any harmful water or wastes, whether liquid, solid or gas, capable of causing obstruction to the flow in the sewers, damage for hazard to structures, equipment and personnel on sewage works, or other interferences with the proper operation of the sewage works.

Subd. 15. Objectional Materials. The admission into the public sewers of any waters or wastes having harmful or objectional characteristics shall be subject to review and approval of the City Engineer. In the opinion of the City Engineer, the owner shall pro-vide at his expense such preliminary treatment as may be necessary to treat these wastes prior to discharge to the public sewer. Preliminary treatment plans and specifications shall be submitted for approval to the City Inspector and the State Board of Health and no construction of such facilities shall be commenced until said approval is obtained in writing. Preliminary treatment facilities provided for any waters or wastes, shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

Subd. 16. Control Manholes. When required by the Inspector, the owner of any property served by a building sewer carrying industrial wastes shall install and maintain at his expense a suitable control manhole in the building sewer to facilitate observation sampling and measurement of the waste. All measurements, tests, and analysis of the characteristics of waters and wastes shall be determined and approved by the Minnesota Department of Health.

Subd. 17. Grease, Oil, and Sand Interceptors. Grease, oil and sand interceptors shall be provided when, in the opinion of the Inspector, they are necessary for the proper handling of liquid waste containing grease in excessive amounts, or any flammable wastes, sand and other harmful ingredients. Where installed, they shall be maintained by the owner at his expense in efficient operation at all times.

Amended 8/24/11

Subd. 18. Tampering with Municipal Sewage Works. It shall be unlawful to maliciously, willfully, or negligently break, damage, destroy, uncover, deface or tamper with any structure, apparatus or equipment which is a part of the municipal sewage system.

Subd. 19. Notice of Violations. Any person who violates any provisions of this section shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations. (Ref. Ord.

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§402.050 MUNICIPAL SEWER SYSTEM; BROKEN SERVICE LINE. If at any time a break or blockage occurs in the service line between the building connection and the lateral or main in the street, the property owner shall repair the same at his expense. If the property owner fails to make the necessary repairs, the City Manager after giving the property owner ten (10) days written notice, may effect the necessary repairs and the cost thereof shall be a lien against the property and collected in the same manner as provided in §401.060 of the Code. (Ref. Ord. No. 452, 2/13/68)

Amended 8/24/11

403. Utilities Generally

RIGHT-OF-WAY MANAGEMENT

§403.01. FINDINGS AND PURPOSE.

Subd. 1. General. To provide for the health, safety, and well-being of its citizens, and to ensure the structural integrity of its streets and the appropriate use of the rights-of-way, the City strives to keep its rights-of-way in a state of good repair and free from unnecessary encumbrances. Although the general population bears the financial burden for the upkeep of the rights-of-way, a primary cause for the early and excessive deterioration of its rights-of-way is frequent excavation.

The City holds the rights-of-way within its geographical boundaries as an asset in trust for its citizens. The City and other public entities have invested millions of dollars in public funds to build and maintain the rights-of-way. It also recognizes that some persons, by placing their equipment in the right-of-way and charging the citizens of the City for goods and services delivered thereby, are using this property held for the public good. Although such services are often necessary or convenient for the citizens, such persons receive revenue and/or profit through their use of public property.

In response to the foregoing facts, the City hereby enacts this new Chapter of this Code relating to right-of-way permits and administration. This Chapter imposes reasonable regulations on the placement and maintenance of equipment currently within its rights-of-way or to be placed therein at some future time. It is intended to complement the regulatory roles of state and federal agencies. Under this Chapter, persons disturbing and obstructing the rights-of-way will bear a fair share of the financial responsibility for their integrity. Finally, this Chapter provides for recovery of out-of-pocket and projected costs from persons using the public rights-of-way.

Subd. 2. Legislative Power. By enactment of this Chapter, the City Council hereby exercises its lawful police power and common law authority, and all statutory authority which is available to it, including, but not limited to, the powers conferred on it under Minn. Stat. §§ 237.162 and 237.163, while preserving all power and authority to further require franchises from right-of-way users under Minn. Stat. §§ 216B.36, 222.37, 300.03, and 412.11, and other provisions of law.

§403.02. DEFINITIONS.

The following definitions apply in this Chapter of this Code. References hereafter to “sections” are, unless otherwise specified, references to sections in this Chapter. Defined terms remain defined terms whether or not capitalized.

(a) "Applicant" means any person requesting permission to excavate or obstruct a right-of-way.

(b) "Business District" means that portion of the City lying within and bounded by the following streets: to be subsequently designated.

(c) "City" means the City of White Bear Lake, Minnesota. For purposes of section 403.28, city means its elected officials, officers, employees, and agents.

(d) "Management Costs" means the actual costs the City incurs in managing its rights-of-way, including, but not limited to, costs associated with registering applicants; issuing, processing, and verifying right-of-way permit applications; creating, maintaining and updating mapping systems; budget analysis; systems analysis; legal assistance; inspecting job sites and restoration projects; maintaining, supporting, protecting, or moving user facilities, during public right-of-way work; determining the adequacy of right-of-way restoration; restoring work inadequately performed; and revoking right-of-way permits and performing all other tasks required by this Chapter, including other costs the City may incur in managing the provisions of this Chapter.

(e) "Degradation" means a decrease in the useful life of the right-of-way caused by excavation in or disturbance of the right-of-way, resulting in the need to reconstruct such right-of-way earlier than would be required if the excavation did not occur.

(f) "Degradation Cost" means the cost to achieve a level of restoration as determined by the City at the time the permit is issued, not to exceed the maximum restoration shown in plates 1 to 13, set forth in proposed PUC rules parts 7819.9900 to 7819.9950.

(g) "Degradation Fee" means the estimated fee established at the time of permitting by the City to recover costs associated with the decrease in the useful life of the right-of-way caused by the excavation, and which equals the degradation costs.

(h) "Department" means the Department of Public Works of the City.

(i) "Department Inspector" means any person authorized by the Director to carry out inspections related to the provisions of this Chapter.

(j) "Director" means the Director of the Department of Public Works of the City, or her or his designee.

(k) "Delay Penalty" is the penalty imposed as a result of unreasonable delays in right-of-way construction.

(l) "Emergency" means a condition that (1) poses a clear and immediate danger to life or health, or of a significant loss of property; or (2) requires immediate repair or

replacement in order to restore service to a customer.

(m) "Equipment" means any tangible asset used to install, repair, or maintain facilities in any right-of-way.

(n) "Excavate" means to dig into or in any way remove or physically disturb or penetrate any part of a right-of-way.

(o) "Excavation Permit" means the permit which, pursuant to this Chapter, must be obtained before a person may excavate in a right-of-way. An excavation permit allows the holder to excavate that part of the right-of-way described in such permit.

(p) "Excavation Permit Fee" means money paid to the City by an applicant to cover the costs as provided in Section 707.11.

(q) "Facility or Facilities" means any tangible asset in the right-of-way required to provide utility service.

(r) "Local Representative" means a local person or persons, or designee of such person or persons, authorized by a registrant to accept service and to make decisions for that registrant regarding all matters within the scope of this Chapter.

(s) "Obstruct" means to place any object in a right-of-way so as to hinder free and open passage over that or any part of the right-of-way.

(t) "Obstruction Permit" means the permit which, pursuant to this Chapter, must be obtained before a person may obstruct a right-of-way, allowing the holder to hinder free and open passage over the specified portion of that right-of-way by placing equipment described therein on the right-of-way for the duration specified therein.

(u) "Obstruction Permit Fee" means money paid to the City by a registrant to cover the costs as provided in Section 707.11.

(v) "Patch or Patching" means a method of pavement replacement that is temporary in nature. A Patch consists of (1) the compaction of the subbase and aggregate base, and (2) the replacement, in kind, of the existing pavement for a minimum of two feet beyond the edges of the excavation in all directions. A Patch is considered full Restoration only when the pavement is included in the City's five year project plan.

(w) "Performance and Restoration Bond" means a performance bond or letter of credit posted to ensure the availability of sufficient funds to assure that all obligations pursuant to this Chapter, including, but not limited to, right-of-way excavation and obstruction work is timely and properly completed.

(x) "Permittee" means any person to whom a permit to excavate or obstruct a right-of-way has been granted by the City under this Chapter.

(y) 'Person' means any natural or corporate person, business association or other business entity including, but not limited to, a partnership, a sole proprietorship, a political subdivision, a public or private agency of any kind, a utility, a successor or assign of any of the foregoing, or any other legal entity.

(z) "Probation" means the status of a person that has not complied with the conditions of this Chapter.

(aa) "Probationary Period" means one year from the date that a person has been notified in writing that they have been put on probation.

(bb) "Registrant" means any person who (1) has or seeks to have its equipment or facilities located in any right-of-way, or (2) in any way occupies or uses, or seeks to occupy or use, the right-of-way or any equipment in the right-of-way.

(cc) "Restore or Restoration" means the process by which a right-of-way and surrounding area, including pavement and foundation, is returned to the same condition and life expectancy that existed before excavation.

(dd) "Restoration Cost" means an amount of money paid to the City by a permittee to achieve the level of restoration according to plates 1 to 13 of PT.JC rules.

(ee) "Right-of-Way" means the surface and space above and below a public roadway, highway, street, cartway, bicycle and public sidewalk in which the City has an interest, including other dedicated rights-of-way for travel purposes, utility easements and any other real property owned by or under the control of the City.

(ff) "Right-of-Way Permit" means either the excavation permit or the obstruction permit, or both, depending on the context, required by this Chapter.

(gg) "Service" or "Utility Service" includes but is not limited to (1) those services provided by a public utility as defined in Mimi. Stat. §216B.02, subs. 4 and 6; (2) telecommunications, pipeline, community antenna television, fire and alarm communications, water, electricity, light, heat, cooling energy, or power services; (3) the services provided by a corporation organized for the purposes set forth in Minn. Stat. 300.03; (4) the services provided by a district heating or cooling system; and (5) cable communications systems as defined in Minn. Stat. Chap. 238; and a (6) Telecommunications right-of-way user as defined below.

(hh) ‘Supplementary Application’ means an application made to excavate or obstruct more of the right-of-way than allowed in, or to extend, a permit that had already been issued.

(ii) “Telecommunication Rights-of-Way User” means a person owning or controlling a facility in the right-of-way, or seeking to own or control a facility in the public right-of-way, that is used or is intended to be used for transporting telecommunication or other voice or data information. For purposes of this Chapter, a cable communication system defined and regulated under Minn. Stat. Chap. 238, and telecommunication activities related to providing natural gas or electric energy services are not telecommunications right-of-way users for purposes of this chapter.

(jj) “Unusable Facilities” means facilities in the right-of-way which have remained unused for one year and for which the registrant is unable to provide proof that it has either a plan to begin using it within the next twelve (12) months or a potential purchaser or user of the equipment.

§403.03. ADMINISTRATION.

The Director is the principal City official responsible for the administration of the rights-of-way, right-of-way permits, and the ordinances related thereto. The Director may delegate any or all of the duties hereunder.

§403.04. UTILITY COORDINATION COMMITTEE.

The City may create a utility coordination committee. If created, this committee shall be voluntary and advisory to the Director. It will be composed of any registrants that wish to assist the City in obtaining information and by making recommendations regarding use of the tight-of-way, and to improve the

process of performing construction work therein. The Director may determine the size of such committee

and shall appoint members from a list of registrants that have expressed a desire to assist the City.

§403.05. REGISTRATION AND RIGHT-OF-WAY OCCUPANCY.

Subd. 1. Registration. Each person who occupies, uses, or seeks to occupy or use, the right-of-way or place any equipment in the right-of-way, including persons with installation and maintenance responsibilities by lease, sublease or assignment, must register with the Director. Registration will consist of providing application information, paying a registration fee, and posting a performance and restoration bond, or other security acceptable to the Director.

The performance and restoration bond required in this section and in Sections 403.09, subd. 2; 403.12, subd. 2(b), and Section 403.30, subd. 1(b)(3) shall be in an amount determined in the director's sole discretion, sufficient to serve as security for the full and complete performance of the obligations under this Chapter, including any costs, expenses, damages, or loss the City pays or incurs because of any failure to comply with this Chapter or any other applicable laws, regulations or standards. During periods of construction, repair or restoration of rights-of-way or equipment in rights-of-way, the performance and restoration bond shall be in an amount sufficient to cover 100% of the estimated cost of such work, as documented by the person proposing to perform such work, or in such lesser amount as maybe determined by the Director, taking into account the amount of equipment in the right-of-way, the location and method of installation of the equipment, the conflict or interference of such equipment with the equipment of other persons, and the purposes and policies of this Chapter. Sixty (60) days after completion of the work, the performance and restoration bond may be reduced in the sole discretion of the Director.

Subd. 2. Registration Prior to Work. No person may construct, install, repair, remove, relocate, or perform any other work on, or use any facilities or any part thereof in any right-of-way without first being registered with the Director.

Subd. 3. Exceptions. Nothing herein shall be construed to repeal or amend the provisions of a city ordinance permitting persons to plant or maintain boulevard plantings or gardens in the area of the right-of-way between their property and the street curb. Persons planting or maintaining boulevard plantings or gardens shall not be deemed to use or occupy the right-of-way, and shall not be required to obtain any permits or satisfy any other requirements for planting or maintaining such boulevard plantings or gardens under this Chapter. However, nothing herein relieves a person from complying with the provisions of the Minn. Stat. Chap. 216D, "One Call" law.

§403.06. REGISTRATION INFORMATION.

Subd. 1. Information Required. The information provided to the Director at the time of registration shall include, but not be limited to:

(a) Each registrant's name, Gopher One-Call registration certificate number, address and e-mail address if applicable, and telephone and facsimile numbers.

(b) The name, address and e-mail address, if applicable, and telephone and facsimile numbers of a local representative. The local representative or designee shall be available at all times. Current information regarding how to contact the local representative in an emergency shall be provided at the time of registration.

(c) A certificate of insurance or self-insurance:

(1) Verifying that an insurance policy has been issued to the registrant by an insurance company licensed to do business in the State of Minnesota, or a form of self insurance acceptable to the Director;

(2) Verifying that the registrant is insured against claims for personal injury, including death, as well as claims for property damage arising out of the (i) use and occupancy of the right-of-way by the registrant, its officers, agents, employees and permittees, and (ii) placement and use of facilities in the right-of-way by the registrant, its officers, agents, employees and permittees, including, but not limited to, protection against liability arising from completed operations, damage of underground equipment and collapse of property;

(3) Naming the City as an additional insured as to whom the coverages required herein are in force and applicable and for whom defense will be provided as to all such coverages;

(4) Requiring that the Director be notified thirty (30) days in advance of cancellation of the policy or material modification of a coverage term; and

(5) Indicating comprehensive liability coverage, automobile liability coverage, workers compensation, and umbrella coverage established by the Director in amounts sufficient to protect the City and the public and to carry out the purposes and policies of this Chapter.

(d) The City may require a copy of the actual insurance policies.

(e) If the person is a corporation, a copy of the certificate required to be filed under Minn. Stat. §300.06 as recorded and certified to by the Secretary of State.

(f) A copy of the person's order granting a certificate of authority from the Minnesota Public Utilities Commission or other applicable state or federal agency, where the person is lawfully required to have such certificate from said Commission or other state or federal agency.

(g) Such other information as the City may require.

Subd. 2. Notice of Changes. The registrant shall keep all of the information listed above current at all times by providing to the Director information as to changes within fifteen (15) days following the date on which the registrant has knowledge of any change.

§403.07. REPORTING OBLIGATIONS.

Subd. 1. Operations. Each registrant shall, at the time of registration and by December 1, of each year, file a construction and major maintenance plan for underground facilities with the Director. Such plan shall be submitted using a format designated by the Director and shall contain the information determined by the Director to be necessary to facilitate the coordination and reduction in the frequency of excavations and obstructions of rights-of-way.

The plan shall include, but not be limited to, the following information:

(a) The locations and the estimated beginning and ending dates of all Projects to be commenced during the next calendar year (in this section, a "Next-year Project"); and

(b) The tentative locations and estimated beginning and ending dates for all Projects contemplated for the five years following the next calendar year (in this section, a "Five-year Project").

The term "project" in this section shall include both Next-year Projects and Five-year Projects.

By January 1 of each year the Director will have available for inspection in this Director's office a composite list of all Projects of which the Director has been informed in the annual plans. All registrants are responsible for keeping themselves informed of the current status of this list.

Thereafter, by February 1, each registrant may change any Project in its list of Next-year Projects, and must notify the Director and all other registrants of all such changes in said list. Notwithstanding the foregoing, a registrant may at any time join in a Next-year Project of another registrant listed by the other registrant.

Subd. 2. Additional Next-year Projects. Notwithstanding the foregoing, the Director will not deny an application for a right-of-way permit for failure to include a project in a plan submitted to the City if the registrant has used commercially reasonable efforts to anticipate and plan for the project.

§403.08. PERMIT REQUIREMENT.

Subd. 1. Permit Required. Except as otherwise provided in this Code, no person may obstruct or excavate any right-of-way without first having obtained the appropriate right-of-way permit from the Director to do so.

(a) Excavation permit. An excavation permit is required by a registrant to excavate that part of the right-of-way described in such permit and to hinder free and open passage over the specified portion of the right-of-way by placing facilities described therein, to the extent and for the duration specified therein.

(b) Obstruction permit. An obstruction permit is required by a registrant to hinder free and open passage over the specified portion of right-of-way by placing equipment described therein on the right-of-way, to the extent and for the duration specified therein. An obstruction permit is not required if a person already possesses a valid excavation permit for the same project.

Subd. 2. Permit Extensions. No person may excavate or obstruct the right-of-way beyond the date or dates specified in the permit unless such person (i) makes a supplementary application for another right-of-way permit before the expiration of the initial permit, and (ii) a new permit or permit extension is granted.

Subd. 3. Delay Penalty. Notwithstanding Subd. 2 of this section, the City shall establish and impose a delay penalty for unreasonable delays in right-of-way excavation, obstruction, patching, or restoration. The delay penalty shall be established from time-to-time by *City* Council resolution.

Subd. 4. Permit Display. Permits issued under this Chapter shall be conspicuously displayed or otherwise available at all times at the indicated work site and shall be available for inspection by the Director.

§403.09. PERMIT APPLICATIONS.

Subd. 1. General Requirements. Application for a permit is made to the Director. Right-of-way permit applications shall contain, and will be considered complete only upon compliance with the requirements of the following provisions:

(a) Registration with the Director pursuant to this Chapter;

(b) Submission of a completed permit application form, including all required attachments, and scaled drawings showing the location and area of the proposed project and the location of all known existing and proposed facilities;

(c) Payment of all money due to the City for

(1) permit fees, estimated restoration costs and other management costs;

(2) prior obstructions or excavations;

(3) any undisputed loss, damage, or expense suffered by the City because of applicant's prior excavations or obstructions of the rights-of-way or any emergency actions taken by the City;

(4) franchise or user fees, if applicable.

(d) Payment of disputed amounts due the City by posting security or depositing in an escrow account an amount equal to at least 110% of the amount owing.

Subd. 2. Additional Equipment. When an excavation permit is requested for purposes of installing additional performance and restoration bond for the additional equipment may be required in

accordance with Section 403.05, subd. 1.

§403.10. ISSUANCE OF PERMIT; CONDITIONS.

Subd. 1. Permit Issuance. If the applicant has satisfied the requirements of this Chapter, the Director shall issue a permit.

Subd. 2. Conditions. The Director may impose reasonable conditions upon the issuance of the permit and the performance of the applicant thereunder to protect the public health, safety and welfare or when necessary to protect the right-of-way and its current use.

§403.11. PERMIT FEES.

Subd. 1. Excavation Permit Fee. The Excavation Permit Fee shall be established by the City Council in an amount sufficient to recover the following costs:

- (a) the City cost;
- (b) degradation cost, if applicable.

Subd. 2. Obstruction Permit Fee. The Obstruction Permit Fee shall be established by the City Council and shall be in an amount sufficient to recover the City cost.

Subd. 3. Payment of Permit Fees. No excavation permit or obstruction permit shall be issued without payment of excavation or obstruction fees. The City may allow the applicant to pay such fees within thirty (30) days of billing.

Subd. 4. Non refundable. Permit fees that were paid for a permit that the Director has revoked for a breach as stated in Section 707.21 are not refundable.

§403.12. RIGHT-OF-WAY REPAIR AND RESTORATION.

Subd. 1. Timing. The work to be done under the excavation permit, and the patching and restoration of the right-of-way as required herein, must be completed within the dates specified in the permit, increased by as many days as work could not be done because of extraordinary circumstances beyond the control of the permittee, as determined by the Director, or when work was prohibited as unseasonal or unreasonable under Section 403.15.

Subd. 2. Patch and Restoration. Permittee shall patch its own work. The City may chose either to have the permittee restore the right-of-way or to restore the right-of-way itself.

- (a) City Restoration. If the City restores the right-of-way, permittee shall pay the costs thereof within thirty (30) days of billing. If, during the thirty-six (36) months following such restoration, the pavement settles due to permittee's improper backfilling, the

permittee shall pay to the City, within thirty (30) days of billing, all costs associated with having to correct the defective work.

(b) Permittee Restoration. If the permittee restores the right-of-way itself, it shall at the time of application for an excavation permit, if the Director determines additional security is necessary, post an additional performance and restoration bond in an amount determined by the Director to be sufficient to cover the cost of restoration. If, thirty-six (36) months after completion of the restoration of the right-of-way, the Director determines that the right-of-way has been properly restored, the surety on the Performance and Restoration Bond posted pursuant to this subd. 2(b) shall be released.

Subd. 3. Standards. The permittee shall perform patching and restoration according to the standards and with the materials specified by the Director. The Director shall have the authority to prescribe the manner and extent of the restoration, and may do so in written procedures of general application or on a case-by-case basis. The Director in exercising this authority shall be guided by the following considerations:

- (a) The number, size, depth and duration of the excavations, disruptions or damage to the right-of-way;
- (b) The traffic volume carried by the right-of-way; the character of the neighborhood surrounding the right-of-way;
- (c) The pre-excavation condition of the right-of-way; the remaining life-expectancy of the right-of-way affected by the excavation;
- (d) Whether the relative cost of the method of restoration to the permittee is in reasonable balance with the prevention of an accelerated depreciation of the right-of-way that would otherwise result from the excavation, disturbance or damage to the right-of-way; and
- (e) The likelihood that the particular method of restoration would be effective in slowing the depreciation of the right-of-way that would otherwise take place.

Subd. 4. Guarantees. By choosing to restore the right-of-way itself, the permittee guarantees its work and shall maintain it for thirty-six (36) months following its completion. During this 36-month period it shall, upon notification from the Director, correct all restoration work to the extent necessary, using the method required by the Director. Said work shall be completed within five (5) calendar days of the receipt of the notice from the Director, not including days during which work cannot be done because of circumstances constituting force majeure or days when work is prohibited as unseasonal or unreasonable under Section 403.15.

Subd. 5. Failure to Restore. If the Permittee fails to restore the right-of-way in the manner and to the condition required by the Director, or fails to satisfactorily and timely complete all restoration required by the Director, the Director at its option may do such work. In that event the permittee shall pay to the City, within thirty (30) days of billing, the cost of restoring the right-of-way. If permittee fails to pay as required, the City may exercise its rights under the restoration bond.

Subd. 6. Degradation Fee in Lieu of Restoration. In lieu of right-of-way restoration, a right-of-way user may elect to pay a degradation fee. However, the right-of-way user shall remain responsible for patching, and the degradation fee shall not include the cost to accomplish these responsibilities.

§403.13. JOINT APPLICATIONS.

Subd. 1. Joint Application. Registrants may jointly apply for permits to excavate or obstruct the right-of-way at the same place and time.

Subd. 2. With City Projects. Registrants who join in a scheduled obstruction or excavation performed by the Director, whether or not it is a joint application by two or more registrants or a single application, may not be required to pay some or all of the obstruction and degradation portions of the permit fee, in the sole discretion of the Director.

Subd. 3. Shared Fees. Registrants who apply for permits for the same obstruction or excavation, which the Director does not perform, may share in the payment of the obstruction or excavation permit fee. Registrants must agree among themselves as to the portion each will pay and indicate the same on their applications.

§403.14. SUPPLEMENTARY APPLICATIONS.

Subd. 1. Limitation on Area. A right-of-way permit is valid only for the area of the right-of-way specified in the permit. No permittee may do any work outside the area specified in the permit, except as provided herein. Any permittee which determines that an area greater than that specified in the permit must be obstructed or excavated must before working in that greater area (i) make application for a permit extension and pay any additional fees required thereby, and (ii) be granted a new permit or permit extension.

Subd. 2. Limitation on dates. A right-of-way permit is valid only for the dates specified in the permit. No permittee may begin its work before the permit start date or, except as provided herein, continue working after the end date. If a permittee does not finish the work by the permit end date, it must apply for a new permit for the additional time it needs, and receive the new permit or an extension of the old permit before working after the end date of the previous permit. This supplementary application must be done before the permit end

date.

§403.15. OTHER OBLIGATIONS.

Subd. 1. Compliance With Other Laws. Obtaining a right-of-way permit does not relieve permittee of its duty to obtain all other necessary permits, licenses, and authority and to pay all fees required by the City or other applicable rule, law or regulation. A permittee shall comply with all requirements of local, state and federal laws, including Minn. Stat. §§ 216D.01-.09 (“One Call Excavation Notice System”). A permittee shall perform all work in conformance with all applicable codes and established rules and regulations, and is responsible for all work done in the right-of-way pursuant to its permit, regardless of who performs the work.

Subd. 2. Prohibited Work. Except in an emergency, and with the approval of the Director, no right-of-way obstruction or excavation may be done when seasonally prohibited or when conditions are unreasonable for such work.

Subd. 3. Interference with Right-of-Way. A permittee shall not so obstruct a right-of-way that the natural free and clear passage of water through the gutters or other waterways shall be interfered with. Private vehicles of those doing work in the right-of-way may not be parked within or next to a permit area, unless parked in conformance with City parking regulations. The loading or unloading of trucks must be done solely within the defined permit area unless specifically authorized by the permit.

Subd. 4. Screening. A permittee placing a utility cabinet or other structure on any boulevard or other right-of-way area may be required to provide visual screening of the structure with appropriate landscaping, as determined by the Director.

§403.16. DENIAL OF PERMIT.

The Director may deny a permit for failure to meet the requirements and conditions of this Chapter or if the Director determines that the denial is necessary to protect the public health, safety and welfare or when necessary to protect the right-of-way and its current use.

§403.17. INSTALLATION REQUIREMENTS.

The excavation, backfilling, patching and restoration, and all other work performed in the right-of-way shall be done in conformance with Engineering Standards adopted by the PUC or other applicable local requirements, in so far as they are not inconsistent with the PUC rules.

§403.18. INSPECTION.

Subd. 1. Notice of Completion. When the work under any permit hereunder is completed, the permittee shall furnish a Completion Certificate in accordance with PUC

rules.

Subd. 2. Site Inspection. Permittee shall make the work-site available to the Director and to all others as authorized by law for inspection at all reasonable times during the execution of and upon completion of the work.

Subd. 3. Authority of Director.

(a) At the time of inspection the Director may order the immediate cessation of any work which poses a serious threat to the life, health, safety or well-being of the public.

(b) The Director may issue an order to the permittee for any work which does not conform to the terms of the permit or other applicable standards, conditions or codes. The order shall state that failure to correct the violation will be cause for revocation of the permit. Within ten (10) days after issuance of the order, the permittee shall present proof to the Director that the violation has been corrected. If such proof has not been presented within the required time, the Director may revoke the permit pursuant to Sec. 403.21.

§403.19. WORK DONE WITHOUT A PERMIT.

Subd. 1. Emergency Situations. Each registrant shall immediately notify the Director of any event regarding its facilities which it considers to be an emergency. The registrant may proceed to take whatever actions are necessary to respond to the emergency. Within two business days after the occurrence of the emergency the registrant shall apply for the necessary permits, pay the fees associated therewith and fulfill the rest of the requirements necessary to bring itself into compliance with this Chapter for the actions it took in response to the emergency.

If the Director becomes aware of an emergency regarding a registrant's facilities, the Director may attempt to contact the local representative of each registrant affected, or potentially affected, by the emergency. In any event, the Director may take whatever action it deems necessary to respond to the emergency, the cost of which shall be borne by the registrant whose facilities occasioned the emergency.

Subd. 2. Non-Emergency Situations. Except in an emergency, any person who, without first having obtained the necessary permit, obstructs or excavates a right-of-way must subsequently obtain a permit, and as a penalty pay double the normal fee for said permit, pay double all the other fees required by the Legislative Code, deposit with the Director the fees necessary to correct any damage to the right-of-way and comply with all of the requirements of this Chapter.

§403.20. SUPPLEMENTARY NOTIFICATION.

If the obstruction or excavation of the right-of-way begins later or ends sooner than the date given on the permit, permittee shall notify the Director of the accurate information as soon as this information is known.

§403.21. REVOCAION OF PERMITS.

Subd. 1. Substantial Breach. The City reserves its right, as provided herein, to revoke any right-of-way permit, without a fee refund, if there is a substantial breach of the terms and conditions of any statute, ordinance, rule or regulation, or any material condition of the permit. A substantial breach by permittee shall include, but shall not be limited to, the following:

- (a) The violation of any material provision of the right-of-way permit;
- (b) An evasion or attempt to evade any material provision of the right-of-way permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the City or its citizens;
- (c) Any material misrepresentation of fact in the application for a right-of-way permit;
- (d) The failure to maintain the required bonds and/or insurance;
- (e) The failure to complete the work in a timely manner; unless a permit extension is obtained or unless the failure to complete the work is due to reasons beyond the permittee's control; or
- (f) The failure to correct, in a timely manner, work that does not conform to a condition indicated on an order issued pursuant to Sec. 403.18.

Subd. 2. Written Notice of Breach. If the Director determines that the permittee has committed a substantial breach of a term or condition of any statute, ordinance, rule, regulation or any condition of the permit the Director shall make a written demand upon the permittee to remedy such violation. The demand shall state that continued violations may be cause for revocation of the permit. A substantial breach, as stated above, will allow the Director, at his or her discretion, to place additional or revised conditions on the permit.

Subd. 3. Response to Notice of Breach. Within twenty-four (24) hours of receiving notification of the breach, permittee shall contact the Director with a plan, acceptable to the Director, that will cure the breach. Permittee's failure to so contact the Director, or the permittee's failure to submit an acceptable plan, or permittee's failure to reasonably implement the approved plan, shall be cause for immediate revocation of the permit. Further, permittee's failure to so contact the Director, or the permittee's failure to submit an acceptable plan, or permittee's failure to reasonably implement the approved plan, shall

automatically place the permittee on probation for one (1) full year.

Subd. 4. Cause for Probation. From time to time, the Director may establish a list of conditions of the permit, which if breached will automatically place the permittee on probation for one full year, such as, but not limited to, working out of the allotted time period or working on right-of-way grossly outside of The permit authorization.

Subd. 5. Automatic Revocation. If a permittee, while on probation, commits a breach as outlined above, permittee's permit will automatically be revoked and permittee will not be allowed further permits for one full year, except for emergency repairs, or as allowed in writing by the Director.

Subd. 6. Reimbursement of City Costs. If a permit is revoked, the permittee shall also reimburse the city for the city's reasonable costs, including restoration costs and the costs of collection and reasonable attorneys' fees incurred in connection with such revocation.

§403.22. MAPPING DATA.

Subd. 1. Information Required. Each registrant shall provide Mapping information required by the Director in accordance with PUG rules.

Subd. 2. Trade Secret Information. At the request of any registrant, any information requested by the Director, which qualifies as a "trade-secret" under Minn. Stat. §13.37(b) shall be treated as trade secret information as detailed therein.

§403.23. LOCATION OF FACILITIES.

Subd. 1. Undergrounding. To the extent not inconsistent with applicable law or regulation, or unless otherwise permitted by an existing franchise or Minn. Stat. §216B.34, or unless existing above-ground facilities are repaired or replaced, new construction and the installation of new facilities and replacement of old underground facilities shall be done underground or contained within buildings or other structures in conformity with applicable codes, if required by the Director.

Subd. 2. Corridors. The Director may assign specific corridors within the right-of-way, or any particular segment thereof as may be necessary, for each type of equipment that is or, pursuant to current technology, the Director expects will someday be located within the right-of-way. All excavation, obstruction, or other permits issued by the Director involving the installation or replacement of facilities shall designate the proper corridor for the facilities at issue.

Any registrant who has facilities in the right-of-way in a position at variance with the corridors established by the Director shall, no later than at the time of the next reconstruction or excavation of the area where the facilities are located, move the facilities

to the assigned position within the right-of-way, unless this requirement is waived by the Director for good cause shown, upon consideration of such factors as the remaining economic life of the facilities, public safety, customer service needs and hardship to the registrant.

Subd. 3. Nuisance. One year after the passage of this Chapter, any facilities found in a right-of-way that has not been registered shall be deemed to be a nuisance. The City may exercise any remedies or rights it has at law or in equity, including, but not limited to, abating the nuisance or taking possession of the facilities and restoring the right-of-way to a useable condition.

Subd. 4. Limitation of Space. To protect health, safety, and welfare or when necessary to protect the right-of-way and its current use, the Director shall have the power to prohibit or limit the placement of new or additional facilities within the right-of-way. In making such decisions, the Director shall strive to the extent possible to accommodate all existing and potential users of the right-of-way, but shall be guided primarily by considerations of the public interest, the public's needs for the particular utility service, the condition of the right-of-way, the time of year with respect to essential utilities, the protection of existing facilities in the right-of-way, and future City plans for public improvements and development projects which have been determined to be in the public interest.

§403.24. RELOCATION OF FACILITIES.

A registrant must promptly and at its own expense, with due regard for seasonal working conditions, permanently remove and relocate its facilities in the right-of-way whenever the Director for good cause requests such removal and relocation, and shall restore the right-of-way to the same condition it was in prior to said removal or relocation. The Director may make such request to prevent interference by the Company's equipment or facilities with (i) a present or future City use of the right-of-way, (ii) a public improvement undertaken by the City, (iii) an economic development project in which the City has an interest or investment, (iv) when the public health, safety and welfare require it, or (v) when necessary to prevent interference with the safety and convenience of ordinary travel over the right-of-way.

Notwithstanding the foregoing, a person shall not be required to remove or relocate its facilities from any right-of-way which has been vacated in favor of a non-governmental entity unless and until the reasonable costs thereof are first paid to the person therefor.

§403.25. PRE-EXCAVATION FACILITIES LOCATION.

In addition to complying with the requirements of Minn. Stat. §§ 216D.01-.09 ("One Call Excavation Notice System") before the start date of any right-of-way excavation, each registrant who has facilities or equipment in the area to be excavated shall mark the horizontal and approximate vertical placement of all said facilities. Any registrant whose facilities are less than twenty (20) inches below a concrete or asphalt surface shall notify and work closely with the excavation contractor to establish the exact location of its equipment and the best procedure for excavation.

§403.26. DAMAGE TO OTHER FACILITIES.

When the Director does work in the right-of-way and finds it necessary to maintain, support, or move a registrant's facilities to protect it, the Director shall notify the local representative as early as is reasonably possible. The costs associated therewith will be billed to that registrant and must be paid within thirty (30) days from the date of billing.

Each registrant shall be responsible for the cost of repairing any equipment in the right-of-way which it or its facilities damages. Each registrant shall be responsible for the cost of repairing any damage to the facilities of another registrant caused during the City's response to an emergency occasioned by that registrant's facilities.

§403.27. RIGHT-OF-WAY VACATION.

Subd. 1. Reservation of Right. If the City vacates a right-of-way which contains the facilities of a registrant, and if the vacation does not require the relocation of registrant's or permittee's facilities, the City shall reserve, to and for itself and all registrants having facilities in the vacated right-of-way, the right to install, maintain and operate any facilities in the vacated right-of-way and to enter upon such right-of-way at any time for the purpose of reconstructing, inspecting, maintaining or repairing the same.

Subd. 2. Relocation of Facilities. If the vacation requires the relocation of registrant's or permittee's facilities; and (i) if the vacation proceedings are initiated by the registrant or permittee, the registrant or permittee must pay the relocation costs; or (ii) if the vacation proceedings are initiated by the City, the registrant or permittee must pay the relocation costs unless otherwise agreed to by the City and the registrant or permittee; or (iii) if the vacation proceedings are initiated by a person or persons other than the registrant or permittee, such other person or persons must pay the relocation costs.

§403.28. INDEMNIFICATION AND LIABILITY.

By registering with the Director, or by accepting a permit under this Chapter, a registrant or permittee agrees as follows:

Subd. 1. Limitation of Liability. By reason of the acceptance of a registration or the grant of a right-of-way permit, the City does not assume any liability (i) for injuries to persons, damage to property, or loss of service claims by parties other than the registrant or the City, or (ii) for claims or penalties of any sort resulting from the installation, presence, maintenance, or operation of facilities by registrants or activities of registrants.

Subd. 2. Indemnification. A registrant or permittee shall indemnify, keep, and hold the City free and harmless from any and all liability on account of injury to persons or damage to property occasioned by the issuance of permits or by the construction, maintenance, repair,

inspection, or operation of registrant's or permittee's facilities located in the right-of-way.

The City shall not be indemnified for losses or claims occasioned through its own negligence except for losses or claims arising out of or alleging the local government unit's negligence as to the issuance of permits or inspections to ensure permit compliance. The City shall not be indemnified if the injury or damage results from the performance in a proper manner of acts that the registrant or permittee reasonably believes will cause injury or damage, and the performance is nevertheless ordered or directed by the City after receiving notice of the registrant's or permittee's determination.

Subd. 3. Defense. If a suit brought against the City under circumstances where the registrant or permittee is required to indemnify, the registrant or permittee, at its sole cost and expense, shall defend the City in the suit if written notice of the suit is promptly given to the registrant or permittee within a period in which the registrant or permittee is not prejudiced by the lack or delay of notice.

If the registrant or permittee is required to indemnify and defend, it shall thereafter have control of the litigation, but the registrant or permittee may not settle the litigation without the consent of the City. Consent will not be unreasonably withheld.

This part is not, as to third parties, a waiver of any defense, immunity, or damage limitation otherwise available to the City.

In defending an action on behalf of the City, the registrant or permittee is entitled to assert in an action every defense, immunity, or damage limitation that the City could assert in its own behalf.

§403.29. APPEAL.

(a) A right-of-way user that: (1) has been denied registration; (2) has been denied a permit; (3) has had permit revoked; or (4) believes that the fees imposed are invalid, may have the denial, revocation, or fee imposition reviewed, upon written request, by the City Council. The City Council shall act on a timely written request at its next regularly scheduled meeting. A decision by the City Council affirming the denial, revocation, or fee imposition will be in writing and supported by written findings establishing the reasonableness of the decision.

(b) Upon affirmation by the City Council of the denial, revocation, or fee imposition, the right-of-way user shall have the right to have the matter resolved by binding arbitration. Binding arbitration must be before an arbitrator agreed to by both the City Council and right-of-way user. If the parties cannot agree on an arbitrator, the matter must be resolved by a three-person arbitration panel made up of one arbitrator selected by the City, one arbitrator selected by the right-of-way user and one selected by the other two arbitrators. The costs and fees of the single arbitrator shall be borne equally by the City and right-of-way user. In

the event there is a third arbitrator, each party shall bear the expense of its own arbitrator and shall jointly and equally bear with the other party the expense of the third arbitrator and of the arbitration.

§403.30. ABANDONED AND UNUSABLE FACILITIES.

Subd. 1. Discontinued Operations. A registrant who has determined to discontinue its operations in the City must either:

(a) Provide information satisfactory to the Director that the registrant's obligations for its facilities in the right-of-way under this Chapter have been lawfully assumed by another registrant; or

(b) Submit to the Director a proposal and instruments for transferring ownership of its facilities to the City. If a registrant proceeds under this clause, the City may, at its option:

(1) purchase the facilities; or

(2) require the registrant, at its own expense, to remove it; or

(3) require the registrant to post an additional bond or an increased bond amount sufficient to reimburse the City for reasonably anticipated costs to be incurred in removing the facilities.

Subd. 2. Abandoned Facilities. Facilities of a registrant who fails to comply with subd. 1, of this Section, and which, for two (2) years, remains unused shall be deemed to be abandoned. Abandoned facilities are deemed to be a nuisance. The City may exercise any remedies or rights it has at law or in equity, including, but not limited to, (i) abating the nuisance (ii) taking possession of the facilities and restoring them to a usable condition, or (iii) requiring removal of the facilities by the registrant, or the registrant's successor in interest.

Subd. 3. Removal. Any registrant who has unusable and abandoned facilities in any right-of-way shall remove it from that right-of-way during the next scheduled excavation, unless this requirement is waived by the Director.

§403.31. RESERVATION OF REGULATORY AND POLICE POWERS.

A permittee's or registrant's rights are subject to the regulatory and police powers of the City to adopt and enforce general ordinances necessary to protect the health, safety and welfare of the public.

§403.32. FRANCHISE; FRANCHISE SUPREMACY.

The City may, in addition to the requirements of this Chapter, require any person which has

or seeks to have equipment located in any right-of-way to obtain a franchise to the full extent permitted by law, now or hereinafter enacted. The terms of any franchise which are inconsistent with any provision of this Chapter, whether granted prior or subsequent to enactment of this Chapter, shall control and supersede the conflicting terms of this Chapter. All other terms of this Chapter shall be fully applicable to all persons whether franchised or not.

§403.33. SEVERABILITY.

If any section, subsection, sentence, clause, phrase, or portion of this Chapter is for any reason held invalid or unconstitutional by any court or administrative agency of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof. If a regulatory body or a court of competent jurisdiction should determine by a final, non-appealable order that any permit, right or registration issued under this Chapter or any portions of this Chapter is illegal or unenforceable, then any such permit, right or registration granted or deemed to exist hereunder shall be considered as a revocable permit with a mutual right in either party to terminate without cause upon giving sixty (60) days written notice to the other. The requirements and conditions of such a revocable permit shall be the same requirements and conditions as set forth in the permit, right or registration, respectively, except for conditions relating to the term of the permit and the right of termination. Nothing in this Chapter precludes the City from requiring a franchise agreement with the applicant, as allowed by law, in addition to requirements set forth herein.

404. Municipal Fire Department

§404.010 FIRE DEPARTMENT; ESTABLISHMENT. A volunteer fire department is hereby established consisting of a Fire Chief, four (4) Assistant Chiefs and firemen in a number established by the City Council. The Assistant Chiefs shall be elected annually by the membership of the Fire Department and such selection shall be subject to the approval of the City Council. Assistant chiefs may be removed by the Council only for cause and after a hearing. Other officers may be elected by members of the Department annually as they may determine. (Ref. §202.010, Code 1966; Ord. Nos. 437, 9/20/66; 645, 12/9/80)

§404.020 FIRE DEPARTMENT; FIRE CHIEF. The Fire Chief shall be selected by the City Manager subject to a concurring vote by a majority of the members of the Department. When candidates for the position of the Fire Chief have equal qualifications, preference shall be given to the members of the Volunteer Fire Department.

The Chief shall serve at the pleasure of and shall be accountable to the City Manager for the proper functioning of his Department. The Fire Chief shall have control at all times over all of the fire fighting apparatus, equipment, men and quarters used by the Fire Department. He shall be responsible for the care and condition of the apparatus, equipment and quarters and for the proper training and discipline of members of the Department. He shall make a report in January of each year to the City Council and City Manager as to the condition of the equipment and needs of the Fire Department. He may submit additional reports and recommendations from time to time as he deems necessary and appropriate. (Ref. §202.020, Code 1966; Ord.No. 645, 12/9/80)

§404.030 FIRE DEPARTMENT; ASSISTANT FIRE CHIEF. The Senior Assistant Fire Chief shall, in the absence of the Fire Chief, perform all the functions and exercise all the authority of the Chief. (Ref. §202.050, Code 1966; Ord. No. 645, 12/9/80)

§404.040 FIRE DEPARTMENT; MEMBERSHIP. Members of the Fire Department shall reside within a reasonable distance of the City as is determined by the Fire Chief. Members shall not be less than eighteen (18) years of age and physically fit to perform their duties. Membership in the Department may be held in accordance with the existing by-laws of the Fire Department and dismissal of any member for cause may take place in accordance with said by-laws. Members may be suspended by the Chief for refusal or neglect to obey orders, pending such action as will be taken by the Department at the first (1st) meeting following the suspension. (Ref. §202.060, Code 1966; Ord. No. 645, 12/9/80)

§404.050 FIRE DEPARTMENT; COMPENSATION. The volunteer members and officers of the Fire Department shall receive compensation as is established yearly by the City Council. The Fire Chief's salary shall be set by the City Council along with other management salaries. Such salaries shall be placed on file in the office of the City Clerk for Public inspection during normal business hours. (Ref. §202.070, Code 1966; Ord. No. 645, 12/9/80)

§404.060 FIRE DEPARTMENT; FIREMEN'S RELIEF ASSOCIATION. The members and officers of the

Fire Department shall organize themselves into a Firemen's Relief Association. (Ref. §202.080, Code 1966; Ord. No. 645, 12/9/80)

§404.070

DEPARTMENTS

§404.090

§404.070 FIRE DEPARTMENT; RECORDS. The Chief shall keep on a convenient form a complete record of all fires. Such record shall include the time of the alarm, location of fire, cause of fire (if known), type of building, name of owner and tenant, purpose for which occupied, value of building and contents, amount of insurance carried and probable damage, members of the Department responding to the alarm and such other information as he may deem advisable or as may be required from time to time by the City Council or the State Insurance Department. (Ref. §202.030, Code 1966; Ord. No. 645, 12/9/80)

§404.080 FIRE DEPARTMENT; DRILLS. The Fire Chief shall hold practice drills as he deems necessary for the Fire Department. He shall provide for giving the firemen instructions in approved methods of fire fighting and fire prevention. (Ref. §202.040, Code 1966; Ord. No. 645, 12/9/80)

§404.090 FIRE DEPARTMENT; POLICE POWER. The members and officers of the Fire Department shall have police power during a fire or when responding to or returning from an alarm of fire. (Ref. §202.090, Code 1966; Ord. No. 645, 12/9/80)

405. Public Works Department

§405.010 PUBLIC WORKS DEPARTMENT: ORGANIZATION, RESPONSIBILITIES. The Public Works Department has the responsibility of maintaining the City's physical plant including utilities, parks and street systems. The Public Works Department is under the direction of the Director of Public works, who is appointed by the City Manager. The Department has several operating divisions

with responsibilities as follows:

1. Street Department - Maintain City's roadway system.
2. Sewer Department - Maintain City's sanitary sewer system including mains and lift stations and City's storm sewers.
3. Water Operating Department - Maintain City's water system including mains, meters, hydrants, water wells and appurtenant facilities.
4. Water Treatment Department - Operate City's water treatment plant.
5. Parks Department - Maintain City's park system.
6. Forestry Department - Maintain City's trees and supervise tree disease control and reforestation programs.

406. Stormwater

§406.010 AUTHORIZATION, FINDINGS, PURPOSE AND SCOPE.

Subd. 1. Statutory Authorization. This ordinance is adopted pursuant to the authorization and policies contained in Minnesota Statutes Chapters 103B and 462, Minnesota Rules, Parts 6120.2500-6120.3900, and Minnesota Rules Chapters 8410, 8420 and 7050.0210, and to be consistent with regional watershed organization rules.

Subd. 2. Findings. The City of White Bear Lake finds that stormwater runoff and erosion from land development and land disturbing activity can have significant adverse impacts upon local and regional water resources diminishing the quality of public health, safety, public and private property and natural resources of the City. Specifically, land development and land disturbing activity can:

- a) Threaten public health, safety, property, and general welfare by increasing runoff volumes and peak flood flows and overburdening storm sewers, drainage ways and other storm drainage systems;
- b) Diminish the capacity of lakes and streams to support fish, aquatic life, recreational and water supply uses by increasing pollutant loadings of sediment, suspended solids, nutrients, heavy metals, bacteria, pathogens and other urban pollutants;
- c) Degrade physical stream habitat by increasing stream bank erosion, increasing stream bed scour, diminishing groundwater recharge, diminishing stream base flows and increasing stream temperatures;
- d) Undermine floodplain management efforts by increasing the incidence and levels of flooding;
- e) Alter wetland communities by changing wetland hydrology and increasing pollutant loading; and
- f) Generate airborne particulate concentrations that are health threatening or may cause other damage to property or the environment.

Subd. 3. Purpose. The purpose of this ordinance is to promote, preserve, and enhance the natural resources within the City and protect them from adverse effects by activities that would have an adverse and potentially irreversible impact on water quality. This ordinance will set forth minimum requirements for stormwater management that will diminish threats to public health, safety, public and private property and natural resources within the City by:

- a) Protecting life and property from dangers associated with flooding;
- b) Protecting public and private property and the natural resources from damage resulting from runoff and erosion;
- c) Ensuring site design minimizes the generation of stormwater runoff and maximizes pervious areas for stormwater treatment;
- d) Promoting regional stormwater management;
- e) Providing a single, consistent set of performance standards that apply to all developments;
- f) Protecting water quality from nutrients, pathogens, toxics, debris, and thermal stress;
- g) Promoting infiltration and groundwater recharge;
- h) Providing vegetated corridors (buffers) to protect water resources from degradation;

- i) Protecting functional values of all types of natural waterbodies (e.g., rivers, streams, wetlands, lakes, seasonal ponds);
- j) Complying with requirements of the Minnesota Pollution Control Agency (MPCA) Municipal Separate Storm Sewer System (MS4) Permit and General Permit for Construction Activities; and
- k) Meeting requirements set forth by the Ramsey-Washington Metro Watershed District (RWMWD), Rice Creek Watershed District (RCWD), Vadnais Lake Area Water Management Organization (VLAWMO), or Valley Branch Watershed District (VBWD) depending on the appropriate boundaries.

Subd. 4. Scope.

- a) The City's Municipal Stormwater Management System consists of lift stations, catch basins and manholes, collection piping, forcemain, ditches, ponds, lakes, structural BMPs (Best Management Practices), and associated appurtenances located within public right-of-way and applicable easements;
- b) No person, firm or corporation shall disturb any land for residential, commercial, industrial, or institutional uses without having provided stormwater management measures as required by the City's Engineering Design Standards. No person, firm or corporation shall connect any drainage system to the municipal stormwater management system or make use of any drainage system extension connected to the municipal stormwater management system except in a manner provided in this chapter.

Subd. 5. Permits.

- a) Persons undertaking land disturbance activity and/or desiring a connection to the municipal stormwater system shall apply to the City for a permit;
- b) The applications shall be accompanied by plans, specifications, and other required information, complying with the City's Zoning Code, Subdivision Code, and Engineering Design Standards, as amended from time to time;
- c) The fee for each permit shall be as determined by the City Council. All costs and expenses associated with the installation and connection shall be borne by the owner and installer. The owner and installer shall indemnify the City for any loss or damage that may, directly or indirectly, be occasioned by the installation of the stormwater system connection, including restoring streets and street surfaces.

Subd. 6. Right of Entry and Inspection.

- a) The issuance of a permit constitutes a right-of-entry for the City or its contractor to enter upon the construction site. The applicant shall allow the City and their authorized representatives, upon presentation of credentials to:
 - 1. Enter upon the permitted site for the purpose of obtaining information, examination of records, conducting investigations or surveys.
 - 2. Bring such equipment upon the permitted site as is necessary to conduct such surveys and investigations.
 - 3. Examine and copy any books, papers, records, or memoranda pertaining to activities or records required to be kept under the terms and conditions of the permitted site.
 - 4. Inspect the stormwater pollution control measures.

- 5. Sample and monitor any items or activities pertaining to stormwater pollution control measures.
- 6. Correcting deficiencies in stormwater and erosion and sediment control measures.

Subd. 6. Severability.

- a) The provisions of this ordinance are severable, and if any provision of this ordinance, or application of any provision of this ordinance to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this ordinance must not be affected thereby.

§406.020. ILLICIT DISCHARGE DETECTION AND ELIMINATION

Subd. 1. Findings. The City Council hereby finds that nonstormwater discharges to the City's municipal separate storm sewer system are subject to higher levels of pollutants that enter into receiving water bodies adversely affecting the public health, safety and general welfare by impacting water quality, creating nuisances, impairing other beneficial uses of environmental resources and hindering the ability of the City to provide adequate water, sewage, flood control and other community services.

Subd. 2. Purpose. The purpose of the ordinance is to promote, preserve and enhance the natural resources within the City and protect them from adverse effects occasioned by nonstormwater discharges by regulating discharges that would have an adverse and potentially irreversible impact on water quality and environmentally sensitive land. In addition to requirements relative to the City's sanitary sewer system, this article establishes methods for controlling the introduction of pollutants into the City's municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process and for controlling the introduction. The objectives of this ordinance are:

- a) To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by stormwater discharges by any user.
- b) To prohibit illicit connections and discharges to the municipal separate storm sewer system, and
- c) To establish legal authority to carry out all inspection, surveillance, enforcement, and monitoring procedures necessary to ensure compliance with this ordinance.
- d) This Section is adopted pursuant to the authorization and policies contained in Minnesota Statutes Chapters 103B and 462; Minnesota Rules, Parts 6120.2500-6120.3900, Minnesota Rules Chapters 8410, 8420 and 70510.0210.

Subd. 3. Definitions. The following words, terms and phrases, when used in this article shall have the meanings ascribed to them in this section, except when the context clearly indicates a different meaning:

- a) *Best management practice or BMP*. Erosion and sediment control and water quality management practices that are the most effective and practicable means of controlling, preventing, and minimizing degradation of surface water, including construction-phasing, minimizing the length of time soil areas are exposed, prohibitions, and other management practices published by state or designated area-wide planning agencies.
- b) *Discharge*. Adding, introducing, releasing, leaking, spilling, casting, throwing, or emitting any pollutant, or placing any pollutant in a location where it is likely to pollute public waters.
- c) *Erosion*. The process by which ground surface is worn away by action of wind, water, ice, or gravity.
- d) *Groundwater*. Water contained below the surface of the earth in the saturated zone including, without limitation, all waters whether under confined, unconfined, or perched conditions, in near surface unconsolidated sediment or in rock formations deeper underground.
- e) *Hazardous materials*. Any material including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.
- f) *Illicit connection*. Either of the following:
 - 1) Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system (including any nonstormwater discharge) including sewage, process wastewater, and wash water and any connections to the storm drain system from indoor drains and sinks, regardless of whether the drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or
 - 2) Any drain or conveyance connected from a residential, commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by the City.
- g) *Illicit discharge*. Any direct or indirect nonstormwater discharge to the storm sewer system, except as exempted in Subd. 7. of this article.
- h) *Industrial activity*. Activities subject to NPDES Industrial Stormwater Permits as defined in 40 CFR, Section 122.26 (b)(14).
- i) *MPCA*. The Minnesota Pollution Control Agency.

- j) *Municipal separate storm sewer system or MS4.* The system of conveyances (including sidewalks, roads with drainage systems, municipal streets, catchbasins, curbs, gutters, ditches, manmade channels, or storm drains) owned and operated by the City and designed or used for collecting or conveying stormwater, and which is not used for collecting or conveying sewage.
- k) *NPDES.* The National Pollutant Discharge Elimination System, which is the program for issuing, modifying, revoking, reissuing, terminating, monitoring, and enforcing permits under the Clean Water Act (Section 301, 318, 402, and 405) and United States Code of Federal Regulations Title 33, Section 1317, 1328, 1342, and 1345 authorizing the discharge of pollutants to water of the United States.
- l) *Person.* Any individual, firm, corporation, partnership, franchise, association, or government entity.
- m) *Pollutant.* Any substance which, when discharged has potential to or does any of the following:
- 1) Interferes with state designated water uses;
 - 2) Obstructs or causes damage to public waters;
 - 3) Changes water color, odor, or usability as a drinking water source through causes not attributable to natural stream processes affecting surface water or subsurface processes affecting groundwater;
 - 4) Adds an unnatural surface film on the water;
 - 5) Adversely changes other chemical, biological, thermal, or physical condition, in any surface water or stream channel;
 - 6) Degrades the quality of ground water; or
 - 7) Harms human life, aquatic life, or terrestrial plant and wildlife.
 - 8) Includes but is not limited to dredged soil, solid waste, incinerator residue, garbage, wastewater sludge, chemical waste, biological materials, radioactive materials, rock, sand, dust, industrial waste, sediment, nutrients, toxic substance, pesticide, herbicide, trace metal, automotive fluid, petroleum-based substance, and oxygen-demanding material.
- n) *Pollute.* To discharge pollutants into public waters.
- o) *Pollution.* The direct or indirect distribution of pollutants into public waters.
- p) *Public waters.* Waters of the state, as defined in Minn. Stat. §103G.055(15).
- q) *Storm sewer system.* A conveyance or system of conveyances that is owned and operated by the City or other entity and designed or used for collecting or conveying stormwater.

- r) *Stormwater*. Defined under Minnesota Rule 7077.0105, subpart 41(b), and means precipitation runoff, stormwater runoff, snow melt runoff and any other surface runoff and drainage.
- s) *Surface waters*. All public waters other than ground waters, which include ponds, lakes, rivers, streams, tidal and nontidal wetlands, public ditches, tax ditches, and public drainage systems except those designed and used to collect, convey, or dispose of sanitary sewage.

Subd. 4. Compatibility with Other Regulations. This ordinance is not intended to modify or repeal any other ordinance, rule, regulation, or other provision of law. The requirements of this ordinance are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, whichever provision is more restrictive or

imposes higher protective standards for human health or the environment shall control.

Subd. 5. Illegal Disposal and Dumping.

- a) No person shall throw, deposit, place, leave, maintain, or keep any substance upon any street, alley, sidewalk, storm drain, inlet, catchbasin conduit or drainage structure, business, or upon any public or private land, so that the same might be or become a pollutant, unless the substance is in containers, recycling bags, or any other lawfully established waste disposal device.
- b) No person shall intentionally dispose of grass, leaves, dirt, or landscape material into a water resource, buffer, street, road, alley, catchbasin, culvert, curb, gutter, inlet, ditch, natural watercourse, flood control channel, canal, storm drain or any fabricated natural conveyance.

Subd. 6. Illicit Discharges.

- a) *Provisions.* No person shall cause any illicit discharge to enter the storm sewer system or any surface water.
- b) *Exemptions.* The following discharges are exempt from this section:
- 1) Nonstormwater that is authorized by an NPDES point source permit obtained from the MPCA;
 - 2) Firefighting activities or other activities necessary to protect public health and safety;
 - 3) Dye testing for which the City has been provided a verbal notification prior to the time of the test;
 - 4) Water line flushing or other potable water sources;
 - 5) Landscape irrigation or lawn watering;
 - 6) Diverted stream flows;
 - 7) Rising ground water;
 - 8) Ground water infiltration to storm drains;
 - 9) Uncontaminated pumped ground water;
 - 10) Foundation or footing drains (not including active groundwater dewatering systems);
 - 11) Crawl space pumps;
 - 12) Air conditioning condensation;
 - 13) Natural springs;
 - 14) Noncommercial washing of vehicles;
 - 15) Natural riparian habitat or wetland flows;
 - 16) Dechlorinated swimming pools (for pools to be considered "dechlorinated," water must be allowed to sit seven (7) days without the addition of chlorine to allow for chlorine to evaporate before discharging. **It is recommended that the dechlorinated water be discharged to the ground surface to encourage infiltration, however, it may be discharged in an area where drainage to streets or storm sewer systems occurs**); or
 - 17) Any other water source not containing a pollutant.

Subd. 7. Illicit Connections. No person shall construct, use, or maintain any illicit connection to intentionally convey nonstormwater to the City's storm sewer system. This prohibition expressly includes, without limitation, illicit connections made in the past regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection. A person is considered to be in violation of this article if the person connects a line conveying sewage to the storm sewer system, or allows such a connection to continue.

Subd. 8. General Provisions. All owners or occupants of property shall comply with the following general requirements:

- a) *Septic systems*. No person shall leave, deposit, discharge, dump, or otherwise expose any chemical or septic waste in an area where discharge to streets or storm sewer system may occur. This section shall apply to both actual and potential discharges.
 - 1) Individual septic systems must be maintained to prevent failure, which has the potential to pollute surface water.
 - 2) No part of any individual septic system requiring on-land or in-ground disposal of waste shall be located closer than 150 feet from the ordinary high water level in the case of DNR protected waters, or the wetland boundary in the case of all other water bodies, unless it is proven by the applicant that no effluent will immediately or gradually reach the water bodies because of existing physical characteristics of the site or the system.
 - 3) Recreational vehicle sewage shall be disposed to a proper sanitary waste facility. Waste shall not be discharged in an area where drainage to streets or storm sewer systems may occur.
- b) *Water runoff*. Runoff of water from residential property shall be minimized to the maximum extent practicable. Runoff of water from the washing down of equipment, vehicles, and paved areas in commercial or industrial property shall be conducted in a manner so as to not directly discharge wastewater where drainage to streets or storm sewer system may occur, unless necessary for health or safety purposes and not in violation of any other provisions of the City code.
- c) *Mobile washing businesses*. Business that use significant amounts of water at various locations in the city, such as, but not limited to mobile vehicle washing and carpet cleaning, shall dispose of wastewater into the sanitary sewer at a location permitted by the City. Wastewater must not be discharged where drainage to streets or storm sewer system may occur.
- d) *Motor vehicle repair and maintenance*. Storage of materials, machinery and equipment for motor vehicle repair and maintenance must comply with the following requirements:
 - 1) Motor vehicle parts containing grease, oil or other hazardous substances and unsealed receptacles containing hazardous materials shall not be stored in areas susceptible to runoff.

- 2) Any machinery or equipment that is to be repaired or maintained in areas susceptible to runoff shall be placed in a confined area to contain leaks, spills, or discharges.
- e) *Parking lots and private streets.* Debris such as grass, leaves, dirt, and landscape material shall be removed from impervious surfaces such as parking lots and private streets to the maximum extent practicable and at least twice a year in the spring and fall. Such debris shall be collected and properly disposed.
- f) *Watercourse Protection.* Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse
- g) *Other.* Fuel and chemical residue or other types of potentially harmful material, such as animal waste, garbage or batteries shall be removed as soon as possible and disposed of properly. Household hazardous waste may be disposed of through the county collection program or at any other appropriate disposal site and shall not be placed in a trash container.

Subd. 9. Industrial Activity Discharges. Any person subject to an industrial activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with the permit may be required in a form acceptable to the City prior to the allowing of discharges to the storm sewer system. Any person responsible for a facility that has stormwater discharges associated with industrial activity, who is or may be the source of an illicit discharge, may be required to implement, at the person's expense, additional structural and nonstructural BMPs to prevent the further discharge of pollutants to the storm sewer system. These BMPs shall be part of a stormwater pollution prevention plan as necessary for compliance with requirements of the NPDES permit.

Subd. 10. Notification of Spills. Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into the storm sewer system, or public water the person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials, the person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of nonhazardous materials, the person shall notify the City no later than the next business day.

Subd. 11. Inspection and Sampling. The City shall be permitted to enter and inspect facilities subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance.

- a) If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the City.

- b) Facility operators shall allow the City ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an MPCA NPDES Industrial General Permit, and the performance of any additional duties as defined by state and federal law.
- c) The City shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the City to conduct monitoring and/or sampling of the facility's storm water discharge.
- d) The City has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure storm water flow and quality shall be calibrated to ensure their accuracy.
- e) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the City and shall not be replaced. The costs of clearing such access shall be borne by the operator.

Subd. 12. Access. If the City has been refused access to any part of the premises from which stormwater is discharged, and is able to demonstrate probable cause to believe that there may be a violation of this section or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this article or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the City may seek an administrative search warrant from any court of competent jurisdiction.

Subd. 13. Enforcement.

- a) When the City finds that any person has violated, or continues to violate, any provision of this ordinance, or any order issued hereunder and that the violation(s) has (have) caused or contributed to an actual or threatened discharge to the stormwater management system or waters of the state which reasonably appears to present an imminent and substantial endangerment to the environment, or to the health or welfare of persons, the City may issue and order to the violator to immediately cease and desist all violations.
- b) *Suspension due to the detection of illicit discharge*. All persons discharging to the storm sewer system in violation of this article may have their storm sewer system access terminated if such termination serves to abate or reduce an illicit discharge. It is a violation of this section to reinstate storm sewer system access to premises that have been terminated pursuant to this section without the prior approval of the City.
- c) If the violator fails to comply with a suspension order issued, the City may take such steps as deemed necessary to prevent or minimize damage to the stormwater management system or public waters, or to minimize danger to persons. If the violation is not immediately abated, action may be initiated by the City and all

reasonable costs of abatement shall be assessed against the property and collected along with ordinary taxes by the City.

Subd. 14. Notice of Violation.

- a) Whenever the City finds that a person has violated a prohibition or failed to meet a requirement of this ordinance, the City may order compliance by written notice of violation to the responsible person. The Notice of Violation shall contain:
 - 1) The nature of the violation and associated fine;
 - 2) The performance of monitoring, analysis, and reporting;
 - 3) The implementation of source control or treatment BMPs;
 - 4) Any other requirement deemed necessary.
- b) In the event the violator fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within 7 days, or such greater period as the City shall deem appropriate, after the City has taken one or more of the actions described above, the City may impose a penalty not to exceed \$1,000 (depending on the severity of the violation) for each day the violation remains unremedied after receipt of the notice of violation.

Subd. 15. Remedies not exclusive. The remedies lists in this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the City to seek cumulative remedies.

Subd. 16. Severability. The provisions of this ordinance are hereby declared to be severable. If any provision of this ordinance or application thereof to any person, establishment, or circumstance, is held invalid, such invalidity shall not affect the other provisions or applications of this ordinance. (Ref. Ord. 15-05-2001, 5/12/15).

V. PUBLIC HEALTH, WELFARE AND SANITATION

501. Garbage Collection

§501.010 GARBAGE COLLECTION; CONTRACT FOR GARBAGE AND REFUSE COLLECTION. The City of White Bear Lake has entered into a contract for the pick-up and disposal of garbage and refuse from residences and other stated localities within the City of White Bear Lake. The contract shall set forth the duties and responsibilities of both the City and the Contractor. The current contract shall be on file in the office of the City Clerk and shall be available for public inspection during normal business hours. (Ref. Ord. 753, 12/8/87)

§501.020 GARBAGE COLLECTION; DEFINITIONS. As used in this chapter, unless the particular context shall clearly require some other meaning, the following words shall mean:

Subd. 1. Dwelling Unit.

- a. Single Family Dwelling Unit. The term, single family dwelling unit shall mean a separate dwelling place with a kitchen or area for the preparation of food which is a free-standing, duplex or four-plex residential housing unit which does not have shared refuse service which is provided by a landlord or housing association agreement. (Ref. Ord. 873, 4/14/92; 1000, 3/11/03).
- b. Multi-Family Dwelling Unit. The term, multi-family dwelling unit shall mean a building or complex which provides more than four (4) residential dwelling units with a kitchen or area for the preparation of food as part of a large building or complex which, as part of the rental fee or association dues, provides refuse service for the entire group of households with large vat type containers. (Ref. Ord. 873, 6/14/92; 1000, 3/11/03)

Subd. 2. Garbage. The term garbage means putrescible wastes, including animal offal and dead animals weighing less than ten (10) pounds but excluding human excreta, sewage, and other sanitary wastes. (Ref. Ord. 1000, 3/11/03)

Subd. 3. Recyclables. The term recyclables shall mean materials that are separated from mixed municipal solid waste for the purpose of recycling, including paper, glass, plastic, metals, textiles, automobile oil, and batteries. Refuse-derived fuel or other material that is destroyed by incineration is not a recyclable material (Ref. Ord. 1000, 03/11/03).

Subd. 4. Refuse. The term refuse as used herein shall include all wastes (except body wastes), including but not limited to, garbage as defined above, rubbish, tin cans, paper, cardboard, glass jars, bottles, grass clippings, leaves, Christmas trees, building materials not being used in conjunction with a legally authorized construction project and ashes which normally result from the operation of a household, but not including recyclable material stored in an approved recyclable container.

Subd. 5. Refuse Container. The term refuse container shall mean a rigid closed, water tight container designed for such storage with a tight fitting cover, which is rodent and fly proof, of a suitable gage and construction to ensure durability and with suitable handles on both the container and lid and of a capacity of up to ninety (90) gallons. (Ref. Ord. 1000, 3/11/03)

Subd. 6. Yard Waste. Yard waste shall mean lawn cuttings, leaves, weeds, garden wastes and soft-bodied plants. (Ref. Ord. 1000, 3/11/03)

Subd. 7. Yard Waste Container. The term yard waste container as used herein shall mean a plastic waterproof bag of up to thirty-nine (39) gallon size and one and one-half (1 ½) mil thickness and shall not exceed thirty-five (35) pounds in weight when full. (Ref. Ord. 1000, 3/11/03)

§501.030 GARBAGE COLLECTION; UNLAWFUL ACTS. It shall be unlawful for any person, firm or corporation to not dispose of refuse and yard waste which accumulates upon their property at least once a week. Every householder, occupant or owner of any single family dwelling unit or any other structure utilized for dwelling purposes shall use the garbage and refuse collection service as provided by the City of White Bear Lake. Multi-family housing units are exempt from this contract requirement. (Ref. Ord. Nos. 495, 6/9/70; 554, 7/10/73; Ord. 873, 6-14-92; Ord. 1000, 3/11/03)

§501.040 REFUSE YARD WASTE AND RECYCLABLES COLLECTION: CONTAINERS REQUIRED, EXCEPTION, COLLECTION. All refuse (excluding Christmas trees) shall be kept in containers as defined above. All yard waste shall be kept in yard waste containers or refuse containers as defined above. All recyclable material shall be kept in a container made available through the City's recycling program or other container approved by the Director of Public Works. There is no limit to the number of refuse containers that will be picked up. (Ref. Ord. 873, 6/14/92)

Pick-up and disposal of refuse from multi-family housing dwelling units shall be by a standard rubbish container of one (1), two (2), three (3) or four (4) cubic yard capacity, to be furnished by and maintained by the Contractor. Actual service needs are to be determined by volume accumulations as determined by the Code Enforcement Officer, upon review with the Contractor. Container service is subject to continuing review by the Code Enforcement Officer.

Other types of containers such as oil drums, fiber drums, barrels, cardboard boxes and paper bags will not be accepted as refuse or garbage containers.

On the collection day determined by the City, refuse, yard waste, and recycling containers shall be placed on the curb along the public roadway adjacent to the customer's building and in areas where there is a public alley, containers shall be placed on the alley line for collection; provided, that special "walk-in" service at the dwelling shall be provided for handicapped persons who have filed a doctor's certificate with the City Clerk. Containers must be placed properly for pick-up prior to six (6:00) o'clock a.m. on the day of collection to ensure service. The Contractor shall complete pickups by ten (10:00) o'clock p.m. unless emergency permission is granted by the City Manager's office.

§501.041 ENCLOSURE OF CONTAINERS. All garbage or refuse containers exceeding seventy-five (75) gallons in size and located on property used for purposes other than single family residential, shall be contained within a building or within an area which has an impermeable floor surface and is enclosed and screened within a 90% or greater opaque wooden or metal fence or masonry wall not less than six (6) feet in height having a gate or doorway which remains closed except for access purposes. All enclosures must be large enough to allow adequate area for the storage of recyclable material containers. (Ref. Ord. 873, 6/14/92)

In cases of special hardship, the applicant may apply for a variance as provided for in §1301.060, and the City Council may grant a variance from the requirements of this section and establishing special requirements necessitated by the variance. (Ref. Ord No. 756, 1/12/88)

§501.050 GARBAGE COLLECTION; SERVICE. It shall be the responsibility of every resident to notify the City at least one (1) week in advance of starting or discontinuing garbage collection service. (Ref. Ord Nos. 495, 6/9/70; 554, 7/10/73)

§501.060 REFUSE COLLECTION; MAINTENANCE OF SANITARY CONDITIONS. Persons accumulating garbage or refuse shall comply with the following requirements:

1. No person shall place any refuse in any street, alley, or other public place, or upon any private property whether owned by such person or not, unless it be in proper containers for collection or under express approval granted by the City Manager. Nor shall any person throw or deposit any refuse in any stream or other body of water.
2. No person shall cast, place, sweep or deposit any garbage or refuse in any manner that it may be carried or deposited by the elements off his property within the City.
3. No person shall bury or burn any refuse or yard waste in the City except in accordance with regulations established by the State Pollution Control Agency.
4. The removal of wearing apparel, bedding or other refuse from homes or places where highly infectious or contagious diseases have prevailed shall be performed under the supervision and direction of the Health Officer. Such refuse shall not be placed in containers for regular collections. (Ref. §602.060, Code 1966; Ord. Nos. 495, 6/9/70; 554, 7/10/73)

§501.070 REFUSE COLLECTION; FEES. All residential property within the city on which housing with one to four units is located shall be provided with and subject to the cost of weekly refuse collection provided by the City at the price provided herein.

Subd. 1. Refuse Collection Rates.

1. All refuse collection services provided each residential customer from single-family through four-plexes shall be charged at the following monthly rates:

	Taxable	Non-Taxable	Total
30-gallon - senior	\$7.60	\$1.90	\$9.50
30-gallon	7.75	1.95	9.70
60-gallon	11.40	2.85	14.25
90-gallon	15.50	3.90	19.40

2. All amounts due hereunder shall be payable to the City on the fifth (5th) day of the month following the month in which the statement is presented. A penalty of ten (10%) percent shall be added to all bills not paid by the date fixed for final payment and garbage and refuse service may be stopped without notice.

3. Rates shall be effective for refuse billings processed after September 1, 2011.

(Ref. §602.070, Code 1966; Ord. Nos. 495, 6/9/70; 554, 7/10/73; 823, 11/27/90; 873, 6/14/92; 1000, 3/11/03; 1071, 7/27/10; 8/24/11)

§501.080 REFUSE COLLECTION; LIENS. Each charge levied by and pursuant to this chapter is hereby made a lien upon the corresponding lot, land or premises served hereunder and all such charges which are on July thirty-first (31st) of each year more than thirty (30) days past due and having been billed properly to the occupant of the premises served, shall be certified by the City Clerk to the Auditor of Ramsey County before the tenth (10th) day of October of each year and the City Clerk in so certifying such charges to the County Auditor shall specify the amount thereof, the descriptions of the premises served, the name of the owner thereof and the amount so certified shall be extended by the Auditor on the tax roll against such premises in the same manner as other taxes, and collected by the County Treasurer and paid to the City Clerk, along with other taxes. (Ref. §602.080, Code 1966; Ord. Nos. 495, 6/9/70; 554, 7/10/73)

§501.090. REFUSE COLLECTION; LIMITED EXCEPTION. A limited exception to the exterior storage of garbage and/or refuse is composting as permitted under the Composting Municipal Code Section 509. (Ref. Ord. No. 862, 2/11/92; 1000, 3/11/03.)

Revised 7/27/10

Revised 8/24/11

502. Minimum Property Maintenance Standards

§502.010 TITLE, SCOPE, INTENT AND SERVABILITY.

Subd. 1. Title. These regulations shall be known as the *International Property Maintenance Code* of White Bear Lake hereinafter referred to as "this code."

Subd. 2. Scope. The provisions of this code shall apply to all existing residential and nonresidential structures and all existing *premises* and constitute minimum requirements and standards for *premises* structures, equipment and facilities for light, *ventilation*, space, heating, sanitation, protection from the elements, a reasonable level of safety from fire and other hazards, and for a reasonable level of sanitary maintenance; the responsibility of *owners*, an owner's authorized agent, *operators* and *occupants*; the *occupancy* of existing structures and *premises*, and for administration, enforcement and penalties.

Subd. 3. Intent. This code shall be construed to secure its expressed intent, which is to ensure public health, safety and welfare insofar as they are affected by the continued *occupancy* and maintenance of structures and *premises*. Existing structures and *premises* that do not comply with these provisions shall be altered or repaired to provide a minimum level of health and safety as required herein. Existing non-conforming conditions that do not pose a threat to public health and safety shall be allowed to remain as determined by the Code Official.

Subd. 4. Severability. If a section, subsection, sentence, clause or phrase of this code is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

§502.020 APPLICABILITY.

Subd. 1. General. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall govern. Where differences occur between provisions of this code and the referenced standards, the provisions of this code shall apply. Where, in a specific case, different sections of this code specify different requirements, the most restrictive shall govern.

Subd. 2. Maintenance. Equipment, systems, devices and safeguards required by this code or a previous regulation or code under which the structure or premises was constructed, altered or repaired shall be maintained in good working order. An owner, owner's authorized agent, operator or occupant shall not cause any service, facility, equipment or utility that is required under this section to be removed from, shut off from or discontinued for any occupied dwelling, except for such temporary interruption as necessary while repairs or alterations are in progress. The requirements of this code are not intended to provide the basis for removal or abrogation of fire protection and safety systems and devices in existing structures. Except as otherwise specified herein, the owner or the owner's authorized agent shall be responsible for the maintenance of buildings, structures and premises.

Subd. 3. Application of other codes. Repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of the Minnesota State Building Code and the Minnesota State Fire Code. Nothing in this code shall be construed to cancel, modify or set aside any provision of the White Bear Lake Zoning Ordinance.

Subd. 4. Existing remedies. The provisions in this code shall not be construed to abolish or impair existing remedies of the jurisdiction or its officers or agencies relating to the removal or demolition of any structure that is dangerous, unsafe and insanitary.

Subd. 5. Workmanship. Repairs, maintenance work, alterations or installations that are caused directly or indirectly by the enforcement of this code shall be executed and installed in a workmanlike manner and installed in accordance with the manufacturer's instructions.

Subd. 6. Historic Buildings. The provisions of this code shall not be mandatory for existing buildings or structures designated as historic buildings where such buildings or structures are judged by the code official to be safe and in the public interest of health, safety and welfare.

Subd. 7. Referenced codes and standards. The codes and standards referenced in this code shall be those that are listed in the Minnesota State Building Code and considered part of the requirements of this code to the prescribed extent of each such reference. Where differences occur between provisions of this code and the current addition of the Minnesota State Building Code, the provisions of the current addition of the Minnesota State Building Code shall apply.

Subd. 8. Requirements not covered by code. Requirements necessary for the strength, stability or proper operation of an existing fixture, structure or equipment, or for the public safety, health and general welfare, not specifically covered by this code, shall be determined by the code official.

Subd. 9. Application of references. References to chapter or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such chapter, section or provision of this code.

Subd. 10. Other laws. The provisions of this code shall not be deemed to nullify any provisions of local, state or federal law.

§502.030 ADMINISTRATION AND ENFORCEMENT.

Subd. 1. General. The City Manager, as the appointing authority, shall designate the code compliance official, or designee, who shall administer and enforce the provisions of this ordinance and is hereby authorized to cause inspections on a scheduled basis, or otherwise when reason exists to believe that a violation of this ordinance has been or is being committed.

Subd. 2. Liability. The code official, member of the board of appeals or employee charged with the enforcement of this code, while acting for the jurisdiction, in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be rendered civilly or criminally liable personally, and is hereby relieved from all personal liability for any damage accruing to persons or property as a result of an act or by reason of an act or omission in the discharge of official duties.

a. Legal Defense. Any suit or criminal complaint instituted against any officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be defended by the legal representative of the jurisdiction until the final termination of the proceedings. The code official or any subordinate shall not be liable for costs in an action, suit or proceeding that is instituted in pursuance of the provisions of this code.

Subd. 3. Fees. The fees for activities and services performed by the city in carrying out its responsibilities under this code shall be adopted in the annual fee schedule approved by the City Council.

§502.040 DUTIES AND POWERS OF THE CODE OFFICIAL.

Subd. 1. General. The code official is hereby authorized and directed to enforce the provisions of this code. The code official shall have the authority to render interpretations of this code and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this code. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this code.

Subd. 2. Inspections. The code official shall make all of the required inspections, or shall accept reports of inspection by approved agencies or individuals. Reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The code official is authorized to engage such expert opinion as deemed necessary to report on unusual technical issues that arise, subject to the approval of the appointing authority.

Subd. 3. Right of entry. Where it is necessary to make an inspection to enforce the provisions of this code, or whenever the code official has reasonable cause to believe that there exists in a structure or upon a premises a condition in violation of this code, the code official is authorized to enter the structure or premises at reasonable times to inspect or perform the duties imposed by this code, provided that if such structure or premises is occupied the code official shall present credentials to the occupant and request entry. If such structure or premises is unoccupied, the code official shall first make a reasonable effort to locate the owner, owner's authorized agent or other person having charge or control of the structure or premises and request entry. If entry is refused, the code official shall have recourse to the remedies provided by law to secure entry.

Subd. 4. Identification. The code official shall carry proper identification when inspecting structures or premises in the performance of duties under this code.

Subd. 5. Notices and orders. The code official shall issue all necessary notices or orders to ensure compliance with this code.

Subd. 6. Department records. The code official shall keep official records of all business and activities of the department specified in the provisions of this code. Such records shall be retained in the official records for the period required for retention of public records.

§502.050 APPROVAL.

Subd. 1. Modifications. Whenever there are practical difficulties involved in carrying out the provisions of this code, the code official shall have the authority to grant modifications for individual cases upon application of the owner or owner's authorized agent, provided that the code official shall first find that special individual reason makes the strict letter of this code impractical, the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, life and fire safety requirements. The details of action granting modifications shall be recorded and entered in the department files.

Subd. 2. Alternative materials, design and methods of construction and equipment. The provisions of this code are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by this code, provided that any such alternative has been approved. An alternative material, design or method of construction shall be approved where the code official finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, not less than the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety. Where the alternative material, design or method of construction is not approved, the code official shall respond in writing, stating the reasons why the alternative was not approved.

Subd. 3. Required testing. Whenever there is insufficient evidence of compliance with the provisions of this code or evidence that a material or method does not conform to the requirements of this code, or in order to substantiate claims for alternative materials or methods, the code official shall have the authority to require tests to be made as evidence of compliance without expense to the jurisdiction.

a. Test methods. Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test

methods, the code official shall be permitted to approve appropriate testing procedures performed by an approved agency.

b. Test reports. Reports of tests shall be retained by the code official for the period required for retention of public records.

Subd. 4. Used material and equipment. Materials that are reused shall comply with the requirements of this code for new materials. Materials, equipment and devices shall not be reused unless such elements are in good repair or have been reconditioned and tested where necessary, placed in good and proper working condition and approved by the code official.

Subd. 5. Approved materials and equipment. Materials, equipment and devices approved by the code official shall be constructed and installed in accordance with such approval.

Subd. 6. Research reports. Supporting data, where necessary to assist in the approval of materials or assemblies not specifically provided for in this code, shall consist of valid research reports from approved sources.

§502.060 VIOLATIONS.

Subd. 1. Unlawful acts. It shall be unlawful for a person, firm or corporation to be in conflict with or in violation of any of the provisions of this code.

Subd. 2. Notice of violation. The code official shall serve a notice of violation or order in accordance with Section 502.070.

Subd. 3. Prosecution of violation. Any person failing to comply with a notice of violation or order served in accordance with Section 502.070 shall be deemed guilty of a misdemeanor or civil infraction as determined by the local municipality, and the violation shall be deemed a strict liability offense. If the notice of violation is not complied with, the code official shall institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this code or of the order or direction made pursuant thereto. Any action taken by the authority having jurisdiction on such premises shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

Subd. 4. Violation penalties. Any person who shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof, shall be prosecuted within the limits provided by state or local laws. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

Subd. 5. Abatement of violation. The imposition of the penalties herein prescribed shall not preclude the legal officer of the jurisdiction from instituting appropriate action to restrain, correct or abate a violation, or to prevent illegal occupancy of a building, structure or premises, or to stop an illegal act, conduct, business or utilization of the building, structure or premises.

§502.070 NOTICES AND ORDERS.

Subd. 1. Notice to person responsible. Whenever the code official determines that there has been a violation of this code or has grounds to believe that a violation has occurred, notice shall be given in the manner prescribed to the person responsible for the violation as specified in this code. Notices for condemnation procedures shall comply with Section 502.080, Subd. 3.

Subd. 2. Form. Such notice prescribed in Subd.1 of this Section shall be in accordance with all of the following:

- a) Be in writing.
- b) Include a description of the real estate sufficient for identification.
- c) Include a statement of the violation or violations and why the notice is being issued.

- d) Include a correction order allowing a reasonable time to make the repairs and improvements required to bring the dwelling unit or structure into compliance with the provisions of this code.
- e) Inform the property owner or owner's authorized agent of the right to appeal.
- f) Include a statement of the right to file a lien in accordance with Section 502.060, Subd. 3.

Subd. 3. Method of service. Such notice shall be deemed to be properly served if a copy thereof is: delivered personally, or sent by certified or first class mail addressed to the last known address. If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice.

Subd. 4. Unauthorized tampering. Signs, tags or seals posted or affixed by the code official shall not be mutilated, destroyed or tampered with, or removed without authorization from the code official.

Subd. 5. Penalties. Penalties for noncompliance with orders and notices shall be as set forth in Section 502.060, Subd.4.

Subd. 6. Transfer of ownership. It shall be unlawful for the owner of any dwelling unit or structure who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of such dwelling unit or structure to another until the provisions of the compliance order or notice of violation have been complied with, or until such owner or the owner's authorized agent shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the code official and shall furnish to the code official a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation.

§502.080 UNSAFE STRUCTURES AND EQUIPMENT.

Subd. 1. General. When a structure or equipment is found by the code official to be unsafe, or when a structure is found unfit for human occupancy, or is found unlawful, such structure shall be condemned pursuant to the provisions of this code.

a. Unsafe structures. An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

b. Unsafe equipment. Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure that is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or occupants of the premises or structure.

c. Structure unfit for human occupancy. A structure is unfit for human occupancy whenever the code official finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is insanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.

d. Unlawful structure. An unlawful structure is one found in whole or in part to be occupied by more persons than permitted under this code, or was erected, altered or occupied contrary to law.

e. Dangerous structure or premises. For the purpose of this code, any structure or premises that has any or all of the conditions or defects described as follows shall be considered to be dangerous:

1. Any door, aisle, passageway, stairway, exit or other means of egress that does not conform to the approved building or fire code of the jurisdiction as related to the requirements for existing buildings.
2. The walking surface of any aisle, passageway, stairway, exit or other means of egress is so warped, worn loose, torn or otherwise unsafe as to not provide safe and adequate means of egress.
3. Any portion of a building, structure or appurtenance that has been damaged by fire, earthquake, wind, flood, deterioration, neglect, abandonment, vandalism or by any other cause to such an extent that it is likely to partially or completely collapse, or to become detached or dislodged.
4. Any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof that is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting natural or artificial loads of one and one-half the original designed value.
5. The building or structure, or part of the building or structure, because of dilapidation, deterioration, decay, faulty construction, the removal or movement of some portion of the ground necessary for the support, or for any other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fail or give way.
6. The building or structure, or any portion thereof, is clearly unsafe for its use and occupancy.
7. The building or structure is neglected, damaged, dilapidated, unsecured or abandoned so as to become an attractive nuisance to children who might play in the building or structure to their danger, becomes a harbor for vagrants, criminals or immoral persons, or enables persons to resort to the building or structure for committing a nuisance or an unlawful act.
8. Any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the approved building or fire code of the jurisdiction, or of any law or ordinance to such an extent as to present either a substantial risk of fire, building collapse or any other threat to life and safety.
9. A building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, ventilation, mechanical or plumbing system, or otherwise, is determined by the code official to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.

10. Any building or structure, because of a lack of sufficient or proper fire resistance rated construction, fire protection systems, electrical system, fuel connections, mechanical system, plumbing system or other cause, is determined by the code official to be a threat to life or health.
11. Any portion of a building remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned so as to constitute such building or portion thereof as an attractive nuisance or hazard to the public.

Subd. 2. Closing of vacant structures. If the structure is vacant and unfit for human habitation and occupancy, and is not in danger of structural collapse, the code official is authorized to post a placard of condemnation on the premises and order the structure closed up so as not to be an attractive nuisance. Upon failure of the owner or owner's authorized agent to close up the premises within the time specified in the order, the code official shall cause the premises to be closed and secured through any available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate and shall be collected by any other legal resource.

a. Authority to disconnect service utilities. The *code official* shall have the authority to authorize disconnection of utility service to the building, structure or system regulated by this code and the referenced codes and standards set forth in Section 502.020, Subd. 7 in case of emergency where necessary to eliminate an immediate hazard to life or property or where such utility connection has been made without approval. The *code official* shall notify the serving utility and, whenever possible, the *owner* or owner's authorized agent and *occupant* of the building, structure or service system of the decision to disconnect prior to taking such action. If not notified prior to disconnection the *owner*, owner's authorized agent or *occupant* of the building structure or service system shall be notified in writing as soon as practical thereafter.

Subd. 3. Notice. Whenever the code official has condemned a structure or equipment under the provisions of this section, notice shall be posted in a conspicuous place in or about the structure affected by such notice and served on the owner, owner's authorized agent or the person or persons responsible for the structure or equipment in accordance with Section 502.070 Subd. 3. If the notice pertains to equipment, it shall be placed on the condemned equipment. The notice shall be in the form prescribed in Section 502.070 Subd. 2.

Subd. 4. Placarding. Upon failure of the owner, owner's authorized agent or person responsible to comply with the notice provisions within the time given, the code official shall post on the premises or on defective equipment a placard bearing the word "Condemned" and a statement of the penalties provided for occupying the premises, operating the equipment or removing the placard.

a. Placard removal. The code official shall remove the condemnation placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated. Any person who defaces or removes a condemnation placard without the approval of the code official shall be subject to the penalties provided by this code.

Subd. 5. Prohibited occupancy. Any occupied structure condemned and placarded by the code official shall be vacated as ordered by the code official. Any person who shall occupy a placarded premises or shall operate placarded equipment, and any owner, owner's authorized agent or person responsible for the premises who shall let anyone occupy a placarded premises or operate placarded equipment shall be liable for the penalties provided by this code.

Subd. 6. Abatement methods. The owner, owner's authorized agent, operator or occupant of a building, premises or equipment deemed unsafe by the code official shall abate or cause to be abated or corrected such unsafe conditions either by repair, rehabilitation, demolition or other approved corrective action.

Subd. 7. Record. The code official shall cause a report to be filed on an unsafe condition. The report shall state the occupancy of the structure and the nature of the unsafe condition.

§502.090 EMERGENCY MEASURES.

Subd. 1. Imminent danger. When, in the opinion of the code official, there is imminent danger of failure or collapse of a building or structure that endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building occupants or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment, the code official is hereby authorized and empowered to order and require the occupants to vacate the premises forthwith. The code official shall cause to be posted at each entrance to such structure a notice reading as follows: "This Structure Is Unsafe and Its Occupancy Has Been Prohibited by the Code Official." It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition or of demolishing the same.

Subd. 2. Temporary safeguards. Notwithstanding other provisions of this code, whenever, in the opinion of the code official, there is imminent danger due to an unsafe condition, the code official shall order the necessary work to be done, including the boarding up of openings, to render such structure temporarily safe whether or not the legal procedure herein described has been instituted; and shall cause such other action to be taken as the code official deems necessary to meet such emergency.

Subd. 3. Closing streets. When necessary for public safety, the code official shall temporarily close structures and close, or order the authority having jurisdiction to close, sidewalks, streets, public ways and places adjacent to unsafe structures, and prohibit the same from being utilized.

Subd. 4. Emergency repairs. For the purposes of this section, the code official shall employ the necessary labor and materials to perform the required work as expeditiously as possible.

Subd. 5. Costs of emergency repairs. Costs incurred in the performance of emergency work shall be paid by the jurisdiction. The legal counsel of the jurisdiction shall institute appropriate action against the owner of the premises or owner's authorized agent where the unsafe structure is or was located for the recovery of such costs.

Subd. 6. Hearing. Any person ordered to take emergency measures shall comply with such order forthwith. Any affected person shall thereafter, upon petition directed to the appeals board, be afforded a hearing as described in this code.

§502.100 DEMOLITION.

Subd. 1. General. The code official shall order the owner or owner's authorized agent of any premises upon which is located any structure, which in the code official's or owner's authorized agent judgment after review is so deteriorated or dilapidated or has become so out of repair as to be dangerous, unsafe, insanitary or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to demolish and remove such structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary, or to board up and hold for future repair or to demolish and remove at the owner's option; or where there has been a cessation of normal construction of any structure for a period of more than two years, the code official shall order the owner or owner's authorized

agent to demolish and remove such structure, or board up until future repair. Boarding the building up for future repair shall not extend beyond one year, unless approved by the building official.

Subd. 2. Notices and orders. Notices and orders shall comply with Section 502.070.

Subd. 3. Failure to comply. If the owner of a premises or owner's authorized agent fails to comply with a demolition order within the time prescribed, the code official shall cause the structure to be demolished and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of such demolition and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

Subd. 4. Salvage materials. Where any structure has been ordered demolished and removed, the governing body or other designated officer under said contract or arrangement aforesaid shall have the right to sell the salvage and valuable materials. The net proceeds of such sale, after deducting the expenses of such demolition and removal, shall be promptly remitted with a report of such sale or transaction, including the items of expense and the amounts deducted, for the person who is entitled thereto, subject to any order of a court. If such a surplus does not remain to be turned over, the report shall so state.

§502.110 MEANS OF APPEAL.

Subd. 1. General. When it is alleged by any person to whom a compliance order is directed that such compliance order is based upon erroneous interpretation of this ordinance, such person may appeal the compliance order to the City Manager within ten (10) days after service of the compliance order. Such appeals must be in writing specifying the grounds of appeal. The City Manager shall review said request and either approve or deny the appeal.

If the appeal is denied by the City Manager, the applicant may appeal the decision to the City Council sitting as a Board of Appeals. Such appeals must be in writing, must specify the grounds for appeal, must be accompanied by a filing fee in the amount as prescribed in the annual fee schedule approved by the City Council, in cash or cashier's check, and must be filed with the Community Development Department within ten (10) days after service of the City Manager's ruling. The filing of an appeal shall stay all proceedings in furtherance of the action appealed from, unless such a stay would cause imminent peril to life, health, or property.

§502.120 STOP WORK ORDER.

Subd. 1. Authority. Whenever the code official finds any work regulated by this code being performed in a manner contrary to the provisions of this code or in a dangerous or unsafe manner, the code official is authorized to issue a stop work order.

Subd. 2. Issuance. A stop work order shall be in writing and shall be given to the owner of the property, to the owner's authorized agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order and the conditions under which the cited work is authorized to resume.

Subd. 3. Emergencies. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work.

Subd. 4. Failure to comply. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not less than the amount set forth in the annual fee schedule approved by the City Council.

§502.130 GENERAL DEFINITIONS.

Subd. 1. Scope. Unless otherwise expressly stated, the following terms shall, for the purposes of this code, have the meanings shown in this chapter.

Subd. 2. Interchangeability. Words stated in the present tense include the future; words stated in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural, the singular.

Subd. 3. Terms defined in other codes. Where terms are not defined in this code and are defined in the International Building Code, International Existing Building Code, International Fire Code, International Fuel Gas Code, International Mechanical Code, Uniform Plumbing Code, International Residential Code, White Bear Lake Municipal Code or NFPA 70, such terms shall have the meanings ascribed to them as stated in those codes.

Subd. 4. Terms not defined. Where terms are not defined through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies.

201.5 Parts. Whenever the words "dwelling unit," "dwelling," "premises," "building," "rooming house," "rooming unit," "housekeeping unit" or "story" are stated in this code, they shall be construed as though they were followed by the words "or any part thereof."

§502.140 DEFINITIONS.

ANCHORED. Secured in a manner that provides positive connection.

APPEALS BOARD. The White Bear Lake City Council shall be deemed the appeals board.

APPROVED. Acceptable to the code official.

BASEMENT. That portion of a building that is partly or completely below grade.

BATHROOM. A room containing plumbing fixtures including a bathtub or shower.

BEDROOM. Any room or space used or intended to be used for sleeping purposes in either a dwelling or sleeping unit.

CODE OFFICIAL. The official who is charged with the administration and enforcement of this code, or any duly authorized representative.

CONDEMN. To adjudge unfit for occupancy.

COST OF SUCH DEMOLITION OR EMERGENCY REPAIRS. The costs shall include the actual costs of the demolition or repair of the structure less revenues obtained if salvage was conducted prior to demolition or repair. Costs shall include, but not be limited to, expenses incurred or necessitated related to demolition or emergency repairs, such as asbestos survey and abatement if necessary; costs of inspectors, testing agencies or experts retained relative to the demolition or emergency repairs; costs of testing; surveys for other materials that are controlled or regulated from being dumped in a landfill; title searches; mailing(s); postings; recording; and attorney fees expended for recovering of the cost of emergency repairs or to obtain or enforce an order of demolition made by a code official, the governing body or board of appeals.

DETACHED. When a structural element is physically disconnected from another and that connection is necessary to provide a positive connection.

DETERIORATION. To weaken, disintegrate, corrode, rust or decay and lose effectiveness.

DWELLING UNIT. A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

EASEMENT. That portion of land or property reserved for present or future use by a person or agency other than the legal fee owner(s) of the property. The easement shall be permitted to be for use under, on or above said lot or lots.

EQUIPMENT SUPPORT. Those structural members or assemblies of members or manufactured elements, including braces, frames, lugs, snuggers, hangers or saddles, that transmit gravity load, lateral load and operating load between the equipment and the structure.

EXTERIOR PROPERTY. The open space on the premises and on adjoining property under the control of owners or operators of such premises.

FAMILY. A family shall be defined as follows:

1. A person or persons related by blood, marriage, or adoption maintaining a common household in a dwelling unit
2. A group or foster care of not more than ten (10) wards or clients all maintaining a common household in a dwelling unit approved and certified by the appropriate public agency
3. A group of not more than five (5) persons not related by blood, marriage or adoption maintaining a common household in a dwelling unit.

GARBAGE. The animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food.

GUARD. A building component or a system of building components located at or near the open sides of elevated walking surfaces that minimizes the possibility of a fall from the walking surface to a lower level.

HABITABLE SPACE. Space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces, and similar areas are not considered habitable spaces.

HISTORIC BUILDING. Any building or structure that is one or more of the following:

1. Listed or certified as eligible for listing, by the State Historic Preservation Officer or the Keeper of the National Register of Historic Places, in the National Register of Historic Places.
2. Designated as historic under an applicable state or local law.
3. Certified as a contributing resource within a National Register or state or locally designated historic district.

HOUSEKEEPING UNIT. A room or group of rooms forming a single habitable space equipped and intended to be used for living, sleeping, cooking and eating that does not contain, within such a unit, a toilet, lavatory and bathtub or shower.

IMMINENT DANGER. A condition that could cause serious or life threatening injury or death at any time.

INFESTATION. The presence, within or contiguous to, a structure or premises of insects, rodents, vermin or other pests.

INOPERABLE MOTOR VEHICLE. A vehicle that cannot be driven upon the public streets for reason including but not limited to being unlicensed, wrecked, abandoned, in a state of disrepair, or incapable of being moved under its own power.

LABELED. Equipment, materials or products to which have been affixed a label, seal, symbol or other identifying mark of a nationally recognized testing laboratory, approved agency or other organization concerned with product evaluation that maintains periodic inspection of the production of the above labeled items and whose labeling indicates either that the equipment, material or product meets identified standards or has been tested and found suitable for a specified purpose.

LET FOR OCCUPANCY or LET. To permit, provide or offer possession or occupancy of a dwelling, dwelling unit, rooming unit, building, premise or structure by a person who is or is not the legal

owner of record thereof, pursuant to a written or unwritten lease, agreement or license, or pursuant to a recorded or unrecorded agreement of contract for the sale of land.

MULTI-FAMILY. A dwelling designed for occupancy by two or more families living independently of one another.

NEGLECT. The lack of proper maintenance for a building or structure.

OCCUPANCY. The purpose for which a building or portion thereof is utilized or occupied.

OCCUPANT. Any individual living or sleeping in a building, or having possession of a space within a building.

OPENABLE AREA. That part of a window, skylight or door which is available for unobstructed ventilation and which opens directly to the outdoors.

OPERATOR. Any person who has charge, care or control of a structure or premises that is let or offered for occupancy.

OWNER. Any person, agent, operator, firm or corporation having legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

PERSON. An individual, corporation, partnership or any other group acting as a unit.

PEST ELIMINATION. The control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that serve as their food or water; by other approved pest elimination methods.

PREMISES. A lot, plot or parcel of land, easement or public way, including any structures thereon.

PUBLIC WAY. Any street, alley or other parcel of land that: is open to the outside air; leads to a street; has been deeded, dedicated or otherwise permanently appropriated to the public for public use; and has a clear width and height of not less than 10 feet (3048 mm).

ROOMING HOUSE. A building arranged or occupied for lodging, with or without meals, for compensation and not occupied as a one or two family dwelling.

ROOMING UNIT. Any room or group of rooms forming a single habitable unit occupied or intended to be occupied for sleeping or living, but not for cooking purposes.

RUBBISH. Combustible and noncombustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust and other similar materials.

SLEEPING UNIT. A room or space in which people sleep, which can also include permanent provisions for living, eating and either sanitation or kitchen facilities, but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.

STRICT LIABILITY OFFENSE. An offense in which the prosecution in a legal proceeding is not required to prove criminal intent as a part of its case. It is enough to prove that the defendant either did an act which was prohibited, or failed to do an act which the defendant was legally required to do.

STRUCTURE. That which is built or constructed.

TENANT. A person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

TOILET ROOM. A room containing a water closet or urinal but not a bathtub or shower.

ULTIMATE DEFORMATION. The deformation at which failure occurs and that shall be deemed to occur if the sustainable load reduces to 80 percent or less of the maximum strength.

VENTILATION. The natural or mechanical process of supplying conditioned or unconditioned air to, or removing such air from, any space.

WORKMANLIKE. Executed in a skilled manner; e.g., generally plumb, level, square, in line, undamaged and without marring adjacent work.

YARD. An open space on the same lot with a structure.

§502.145 GENERAL.

Subd. 1. Scope. The provisions of this chapter shall govern the minimum conditions and the responsibilities of persons for maintenance of structures, equipment and exterior property.

Subd. 2. Responsibility. The owner of the premises shall maintain the structures and exterior property in compliance with these requirements, except as otherwise provided for in this code. A person shall not occupy as owner occupant or permit another person to occupy premises that are not in a sanitary and safe condition and that do not comply with the requirements of this chapter. Occupants of a dwelling unit, rooming unit or housekeeping unit are responsible for keeping in a clean, sanitary and safe condition that part of the dwelling unit, rooming unit, housekeeping unit or premises they occupy and control.

Subd. 3. Vacant structures and land. Vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.

§502.150 EXTERIOR PROPERTY AREAS.

Subd. 1. Sanitation. Exterior property and premises shall be maintained in a clean, safe and sanitary condition. The occupant shall keep that part of the exterior property that such occupant occupies or controls in a clean and sanitary condition.

Subd. 2. Grading and drainage. All properties shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon, or within any structure located thereon. No land shall be developed and no use shall be permitted that results in additional water runoff, causing flooding or erosion on adjacent properties. Such runoff shall be properly channeled into a storm drain, water course, ponding area, or other public facility. All open disturbed areas of any site shall be stabilized as an erosion control measure in accordance with the provisions of the City's Engineering Design Standards. The lot area remaining after providing for off-street parking, off-street loading, sidewalks, driveways, building site and/or other requirements shall be landscaped using ornamental grass, shrubs, trees or other acceptable vegetation or treatment generally used in landscaping within one (1) year following the date of building occupancy.

Exception: Approved retention areas and reservoirs.

Subd. 3. Sidewalks and driveways. Sidewalks, walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions. Commercial property owners and owners of a multiple family dwellings shall be responsible for the removal of snow and ice from parking lots, driveways, steps and walkways on the premises. Individual snowfalls of three (3) inches or more, or successive snowfalls accumulating to a depth of three (3) inches or more, shall be removed from parking lots and driveways within twenty-four (24) hours after cessation of the snowfall. Individual snowfalls of one (1) inch or more, or successive snowfalls accumulating to a depth of one (1) inch or more, shall be removed from steps and walkways within eight (8) hours after cessation of the snowfall.

Subd. 4. Rodent harborage. Structures and exterior property shall be kept free from rodent harborage and infestation. Where rodents are found, they shall be promptly exterminated by

approved processes that will not be injurious to human health. After pest elimination, proper precautions shall be taken to eliminate rodent harborage and prevent re-infestation.

Subd. 5. Exhaust vents. Pipes, ducts, conductors, fans or blowers shall not discharge gases, steam, vapor, hot air, grease, smoke, odors or other gaseous or particulate wastes directly on abutting or adjacent public or private property or that of another tenant.

Subd. 6. Accessory structures. Accessory structures, including detached garages, fences and walls, shall be maintained structurally sound and in good repair.

Subd. 7. Motor vehicles. Except as provided for in other regulations, inoperative or unlicensed motor vehicles shall not be parked, kept or stored on any premises, and vehicles shall not at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. Painting of vehicles is prohibited unless conducted inside an approved spray booth.

Exception: A vehicle of any type is permitted to undergo major overhaul, including bodywork, provided that such work is performed inside a structure or similarly enclosed area designed and approved for such purposes.

Subd. 8. Defacement of property. A person shall not willfully or wantonly damage, mutilate or deface any exterior surface of any structure or building on any private or public property by placing thereon any marking, carving or graffiti. It shall be the responsibility of the owner to restore said surface to an approved state of maintenance and repair.

§502.160 EXTERIOR STRUCTURE.

Subd. 1. General. The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.

a. Unsafe conditions. The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the Minnesota State Building Code as required for existing buildings:

1. The nominal strength of any structural member is exceeded by nominal loads, the load effects or the required strength.
2. The anchorage of the floor or roof to walls or columns, and of walls and columns to foundations is not capable of resisting all nominal loads or load effects.
3. Structures or components thereof that have reached their limit state.
4. Siding and masonry joints including joints between the building envelope and the perimeter of windows, doors and skylights are not maintained, weather resistant or water tight
5. Structural members that have evidence of deterioration or that are not capable of safely supporting all nominal loads and load effects.
6. Foundation systems that are not firmly supported by footings, are not plumb and free from open cracks and breaks, are not properly anchored or are not capable of supporting all nominal loads and resisting all load effects.
7. Exterior walls that are not anchored to supporting and supported elements or are not plumb and free of holes, cracks or breaks and loose or rotting materials, are not properly anchored or are not capable of supporting all nominal loads and resisting all load effects.
8. Roofing or roofing components that have defects that admit rain, roof surfaces with inadequate drainage, or any portion of the roof framing

that is not in good repair with signs of deterioration, fatigue or without proper anchorage and incapable of supporting all nominal loads and resisting all load effects.

9. Flooring and flooring components with defects that affect serviceability or flooring components that show signs of deterioration or fatigue, are not properly anchored or are incapable of supporting all nominal loads and resisting all load effects.
10. Veneer, cornices, belt courses, corbels, trim, wall facings and similar decorative features not properly anchored or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects.
11. Overhang extensions or projections including, but not limited to, trash chutes, canopies, marquees, signs, awnings, fire escapes, standpipes and exhaust ducts not properly anchored or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects.
12. Exterior stairs, decks, porches, balconies and all similar appurtenances attached thereto, including guards and handrails, are not structurally sound, not properly anchored or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects.
13. Chimneys, cooling towers, smokestacks and similar appurtenances not structurally sound or not properly anchored, or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects.

Exceptions:

1. Where substantiated otherwise by an approved method.
2. Demolition of unsafe conditions shall be permitted where approved by the code official.

Subd. 2. Protective treatment. Exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences, shall be maintained in good condition. Exterior wood surfaces, other than decay resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. Siding and masonry joints, as well as those between the building envelope and the perimeter of windows, doors and skylights, shall be maintained weather resistant and watertight. Metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion, and surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

Subd. 3. Premises identification. Buildings shall have approved address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be not less than 4 inches (102 mm) in height with a minimum stroke width of 0.5 inch (12.7 mm).

Subd. 4. Structural members. Structural members shall be maintained free from deterioration, and shall be capable of safely supporting the imposed dead and live loads.

Subd. 5. Foundation walls. Foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rodents and other pests.

Subd. 6. Exterior walls. Exterior walls shall be free from holes, breaks, and loose or rotting materials; and maintained weatherproof and properly surface coated where required to prevent deterioration.

Subd. 7. Roofs and drainage. The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.

Subd. 8. Decorative features. Cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.

Subd. 9. Overhang extensions. Overhang extensions including, but not limited to, canopies, marquees, signs, metal awnings, fire escapes, standpipes and exhaust ducts shall be maintained in good repair and be properly anchored so as to be kept in a sound condition. Where required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather coating materials, such as paint or similar surface treatment.

Subd. 10. Stairways, decks, porches and balconies. Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.

Subd. 11. Chimneys and towers. Chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe and sound, and in good repair. Exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather coating materials, such as paint or similar surface treatment.

Subd. 12. Handrails and guards. Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

Subd. 13. Window, skylight and door frames. Every window, skylight, door and frame shall be kept in sound condition, good repair and weather tight.

a. Glazing. Glazing materials shall be maintained free from cracks and holes.

b. Openable windows. Every window, other than a fixed window, shall be easily openable and capable of being held in position by window hardware.

Subd. 14. Insect screens. During the period from May 1st to September 30th every door, window and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored shall be supplied with approved tightly fitting screens of minimum 16 mesh per inch (16 mesh per 25 mm), and every screen door used for insect control shall have a self-closing device in good working condition.

Exception: Screens shall not be required where other approved means, such as air curtains or insect repellent fans are employed.

Subd. 15. Doors. Exterior doors, door assemblies, operator systems if provided, and hardware shall be maintained in good condition. Locks at all entrances to dwelling units and sleeping units shall tightly secure the door. Locks on means of egress doors shall be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort.

Subd. 16. Basement hatchways. Every basement hatchway shall be maintained to prevent the entrance of rodents, rain and surface drainage water.

Subd. 17. Guards for basement windows. Every basement window that is openable shall be supplied with rodent shields, storm windows or other approved protection against the entry of rodents.

Subd. 18. Building security. Doors, windows or hatchways for dwelling units, room units or housekeeping units shall be provided with devices designed to provide security for the occupants and property within.

a. Doors. Doors providing access to a dwelling unit, rooming unit or housekeeping unit that is rented, leased or let shall be equipped with a deadbolt lock designed to be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort and shall have a minimum lock throw of 1 inch (25 mm). Such deadbolt locks shall be installed according to the manufacturer's specifications and maintained in good working order. For the purpose of this section, a sliding bolt shall not be considered an acceptable deadbolt lock.

b. Windows. Operable windows located in whole or in part within 6 feet (1828 mm) above ground level or a walking surface below that provide access to a dwelling unit, rooming unit or housekeeping unit that is rented, leased or let shall be equipped with a window sash locking device.

c. Basement hatchways. Basement hatchways that provide access to a dwelling unit, rooming unit or housekeeping unit that is rented, leased or let shall be equipped with devices that secure the units from unauthorized entry.

Subd. 19. Gates. Exterior gates, gate assemblies, operator systems if provided, and hardware shall be maintained in good condition. Latches at all entrances shall tightly secure the gates.

§502.170 INTERIOR STRUCTURE.

Subd. 1. General. The interior of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. Occupants shall keep that part of the structure that they occupy or control in a clean and sanitary condition. Every owner of a structure containing a rooming house, housekeeping units, a hotel, a dormitory, two or more dwelling units or two or more nonresidential occupancies, shall maintain, in a clean and sanitary condition, the shared or public areas of the structure and exterior property.

a. Unsafe conditions. The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the Minnesota State Building Code as required for existing buildings:

1. The nominal strength of any structural member is exceeded by nominal loads, the load effects or the required strength.
2. The anchorage of the floor or roof to walls or columns, and of walls and columns to foundations is not capable of resisting all nominal loads or load effects.
3. Structures or components thereof that have reached their limit state.
4. Structural members are incapable of supporting nominal loads and load effects.
5. Stairs, landings, balconies and all similar walking surfaces, including guards and handrails, are not structurally sound, not properly anchored or are anchored with connections not capable of supporting all nominal loads and resisting all load effects.
6. Foundation systems that are not firmly supported by footings are not plumb and free from open cracks and breaks, are not properly anchored or are not capable of supporting all nominal loads and resisting all load effects.

Exceptions:

1. Where substantiated otherwise by an approved method.
2. Demolition of unsafe conditions shall be permitted where approved by the code official.

Subd. 2. Structural members. Structural members shall be maintained structurally sound, and be capable of supporting the imposed loads.

Subd. 3. Interior surfaces. Interior surfaces, including windows and doors, shall be maintained in good, clean and sanitary condition. Peeling, chipping, flaking or abraded paint shall be repaired, removed or covered. Cracked or loose plaster, decayed wood and other defective surface conditions shall be corrected.

Subd. 4. Stairs and walking surfaces. Every stair, ramp, landing, balcony, porch, deck or other walking surface shall be maintained in sound condition and good repair.

Subd. 5. Handrails and guards. Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

Subd. 6. Interior doors. Every interior door shall fit reasonably well within its frame and shall be capable of being opened and closed by being properly and securely attached to jambs, headers or tracks as intended by the manufacturer of the attachment hardware.

§502.180 COMPONENT SERVICEABILITY.

Subd. 1. General. The components of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition.

a. Unsafe conditions. Where any of the following conditions cause the component or system to be beyond its limit state, the component or system shall be determined as unsafe and shall be repaired or replaced to comply with the Minnesota State Building Code as required for existing buildings:

1 Soils that have been subjected to any of the following conditions:

- 1.1 Collapse of footing or foundation system.
- 1.2 Damage to footing, foundation, concrete or other structural element due to soil expansion.
- 1.3 Adverse effects to the design strength of footing, foundation, concrete or other structural element due to a chemical reaction from the soil.
- 1.4 Inadequate soil as determined by a geotechnical investigation.
- 1.5 Where the allowable bearing capacity of the soil is in doubt.
- 1.6 Adverse effects to the footing, foundation, concrete or other structural element due to the ground water table.

2. Concrete that has been subjected to any of the following conditions:

- 1.1 Deterioration.
- 1.2 Ultimate deformation.
- 1.3 Fractures.
- 1.4 Fissures.
- 1.5 Spalling.
- 1.6 Exposed reinforcement.

- 1.7 Detached, dislodged or failing connections.
3. Aluminum that has been subjected to any of the following conditions:
 - 1.1 Deterioration.
 - 1.2 Corrosion.
 - 1.3 Elastic deformation.
 - 1.4 Ultimate deformation.
 - 1.5 Stress or strain cracks.
 - 1.6 Joint fatigue.
 - 1.7 Detached, dislodged or failing connections.
4. Masonry that has been subjected to any of the following conditions:
 - 1.1 Deterioration.
 - 1.2 Ultimate deformation.
 - 1.3 Fractures in masonry or mortar joints.
 - 1.4 Fissures in masonry or mortar joints.
 - 1.5 Spalling.
 - 1.6 Exposed reinforcement.
 - 1.7 Detached, dislodged or failing connections.
5. Steel that has been subjected to any of the following conditions:
 - 1.1 Deterioration.
 - 1.2 Elastic deformation.
 - 1.3 Ultimate deformation.
 - 1.4 Metal fatigue.
 - 1.5 Detached, dislodged or failing connections.
6. Wood that has been subjected to any of the following conditions:
 - 1.1 Ultimate deformation.
 - 1.2 Deterioration.
 - 1.3 Damage from insects, rodents and other vermin.
 - 1.4 Fire damage beyond charring.
 - 1.5 Significant splits and checks.
 - 1.6 Horizontal shear cracks.
 - 1.7 Vertical shear cracks.
 - 1.8 Inadequate support.
 - 1.9 Detached, dislodged or failing connections.
 - 1.10 Excessive cutting and notching.

Exceptions:

1. Where substantiated otherwise by an approved method.
2. Demolition of unsafe conditions shall be permitted where approved by the code official.

§502.190 HANDRAILS AND GUARDRAILS

Subd. 1. General. Every exterior and interior flight of stairs having more than four risers shall have a handrail on one side of the stair and every open portion of a stair, landing, balcony, porch, deck, ramp or other walking surface that is more than 30 inches (762 mm) above the floor or grade below shall have guards. Handrails shall be not less than 30 inches (762 mm) in height or more than 42 inches (1067 mm) in height measured vertically above the nosing of the tread or above the finished floor of the landing or walking surfaces. Guards shall be not less than 30 inches (762 mm) in height above the floor of the landing, balcony, porch, deck, or ramp or other walking surface.

Exception: Guards shall not be required where exempted by the adopted building code.

§502.200 RUBBISH AND GARBAGE.

Subd. 1. Accumulation of rubbish or garbage. Exterior property and premises, and the interior of every structure, shall be free from any accumulation of rubbish or garbage.

Subd. 2. Disposal of rubbish. Every occupant of a structure shall dispose of all rubbish in a clean and sanitary manner by placing such rubbish in approved containers.

a. Rubbish storage facilities. The owner of every occupied premises shall supply approved covered containers for rubbish, and the owner of the premises shall be responsible for the removal of rubbish.

b. Refrigerators. Refrigerators and similar equipment not in operation shall not be discarded abandoned or stored on premises without first removing the doors.

Subd. 3. Disposal of garbage. Every occupant of a structure shall dispose of garbage in a clean and sanitary manner by placing such garbage in an approved garbage disposal facility or approved garbage containers.

Subd. 4. Containers. The operator of every establishment producing garbage shall provide, and at all times cause to be utilized, approved leak proof containers provided with close fitting covers for the storage of such materials until removed from the premises for disposal.

§502.210 PEST ELIMINATION.

Subd. 1. Infestation. Structures shall be kept free from insect and rodent infestation. Structures in which insects or rodents are found shall be promptly exterminated by approved processes that will not be injurious to human health. After pest elimination, proper precautions shall be taken to prevent re-infestation.

Subd. 2. Owner. The owner of any structure shall be responsible for pest elimination within the structure prior to renting or leasing the structure.

Subd. 3. Single occupant. The occupant of a one family dwelling or of a single tenant nonresidential structure shall be responsible for pest elimination on the premises.

Subd. 4. Multiple occupancy. The owner of a structure containing two or more dwelling units, a multiple occupancy, a rooming house or a nonresidential structure shall be responsible for pest elimination in the public or shared areas of the structure and exterior property. If infestation is caused by failure of an occupant to prevent such infestation in the area occupied, the occupant and owner shall be responsible for pest elimination.

Subd. 5. Occupant. The occupant of any structure shall be responsible for the continued rodent and pest free condition of the structure.

Exception: Where the infestations are caused by defects in the structure, the owner shall be responsible for pest elimination.

§502.220 GENERAL LIGHT, VENTILATION AND SPACE.

Subd. 1. Scope. The provisions of this chapter shall govern the minimum conditions and standards for light, ventilation and space for occupying a structure.

Subd. 2. Responsibility. The owner of the structure shall provide and maintain light, ventilation and space conditions in compliance with these requirements. A person shall not occupy as owner occupant, or permit another person to occupy, any premises that do not comply with the requirements of this chapter.

Subd. 3. Alternative devices. In lieu of the means for natural light and ventilation herein prescribed, artificial light or mechanical ventilation complying with the Minnesota State Building Code shall be permitted.

§502.230 LIGHT.

Subd. 1. Habitable spaces. Every habitable space shall have not less than one window of approved size facing directly to the outdoors or to a court. The minimum total glazed area for every habitable space shall be 8 percent of the floor area of such room. Wherever walls or other portions of a structure face a window of any room and such obstructions are located less than 3 feet (914 mm) from the window and extend to a level above that of the ceiling of the room, such window shall not be deemed to face directly to the outdoors nor to a court and shall not be included as contributing to the required minimum total window area for the room.

Exception: Where natural light for rooms or spaces without exterior glazing areas is provided through an adjoining room, the unobstructed opening to the adjoining room shall be not less than 8 percent of the floor area of the interior room or space, or not less than 25 square feet (2.33 m²), whichever is greater. The exterior glazing area shall be based on the total floor area being served.

Subd. 2. Common halls and stairways. Every common hall and stairway in residential occupancies, other than in one and two family dwellings, shall be lighted at all times with not less than a 60-watt standard incandescent light bulb for each 200 square feet (19 m²) of floor area or equivalent illumination, provided that the spacing between lights shall not be greater than 30 feet (9144 mm). In other than residential occupancies, interior and exterior means of egress, stairways shall be illuminated at all times the building space served by the means of egress is occupied with not less than 1 foot candle (11 lux) at floors, landings and treads.

Subd. 3. Other spaces. Other spaces shall be provided with natural or artificial light sufficient to permit the maintenance of sanitary conditions, and the safe occupancy of the space and utilization of the appliances, equipment and fixtures.

§502.240 VENTILATION.

Subd. 1. Habitable spaces. Every habitable space shall have not less than one operable window. The total operable area of the window in every room shall be equal to not less than 45 percent of the minimum glazed area required in Section 502.230, Subd. 1.

Exception: Where rooms and spaces without openings to the outdoors are ventilated through an adjoining room, the unobstructed opening to the adjoining room shall be not less than 8 percent of the floor area of the interior room or space, but not less than 25 square feet (2.33 m²). The ventilation openings to the outdoors shall be based on a total floor area being ventilated.

Subd. 2. Bathrooms and toilet rooms. Every bathroom and toilet room shall comply with the ventilation requirements for habitable spaces as required by Section 502.240, Subd. 1,

except that a window shall not be required in such spaces equipped with a mechanical ventilation system. Air exhausted by a mechanical ventilation system from a bathroom or toilet room shall discharge to the outdoors and shall not be recirculated.

Subd. 3. Cooking facilities. Unless approved through the certificate of occupancy, cooking shall not be permitted in any rooming unit or dormitory unit, and a cooking facility or appliance shall not be permitted to be present in the rooming unit or dormitory unit.

Exceptions:

1. Where specifically approved in writing by the code official.
2. Devices such as coffee pots and microwave ovens shall not be considered cooking appliances.

Subd. 4. Process ventilation. Where injurious, toxic, irritating or noxious fumes, gases, dusts or mists are generated, a local exhaust ventilation system shall be provided to remove the contaminating agent at the source. Air shall be exhausted to the exterior and not be recirculated to any space.

Subd. 5. Clothes dryer exhaust. Clothes dryer exhaust systems shall be independent of all other systems and shall be exhausted outside the structure in accordance with the manufacturer's instructions.

Exception: Listed and labeled condensing (ductless) clothes dryers.

§502.250 OCCUPANCY LIMITATIONS.

Subd. 1. Privacy. Dwelling units, hotel units, housekeeping units, rooming units and dormitory units shall be arranged to provide privacy and be separate from other adjoining spaces.

Subd. 2. Minimum room widths. A habitable room, other than a kitchen, shall be not less than 7 feet (2134 mm) in any plan dimension. Kitchens shall have a minimum clear passageway of 3 feet (914 mm) between counter fronts and appliances or counter fronts and walls.

Subd. 3. Minimum ceiling heights. Habitable spaces, hallways, corridors, laundry areas, bathrooms, toilet rooms and habitable basement areas shall have a minimum clear ceiling height of 7 feet (2134 mm).

Exceptions:

1. In one and two family dwellings, beams or girders spaced not less than 4 feet (1219 mm) on center and projecting not greater than 6 inches (152 mm) below the required ceiling height.
2. Basement rooms in one and two family dwellings occupied exclusively for laundry, study or recreation purposes, having a minimum ceiling height of 6 feet 8 inches (2033 mm) with a minimum clear height of 6 feet 4 inches (1932 mm) under beams, girders, ducts and similar obstructions.
3. Rooms occupied exclusively for sleeping, study or similar purposes and having a sloped ceiling over all or part of the room, with a minimum clear ceiling height of 7 feet (2134 mm) over not less than one third of the required minimum floor area. In calculating the floor area of such rooms, only those portions of the floor area with a minimum clear ceiling height of 5 feet (1524 mm) shall be included.

Subd. 4. Bedroom and living room requirements. Every bedroom and living room shall comply with the requirements of Section 502.230, Subd. 5 - 9.

- a. Room area. Every living room shall contain not less than 120 square feet (11.2 m²) and every bedroom shall contain not less than 70 square feet (6.5 m²)

and every bedroom occupied by more than one person shall contain not less than 50 square feet (4.6 m2) of floor area for each occupant thereof.

b. Access from bedrooms. Bedrooms shall not constitute the only means of access to other bedrooms or habitable spaces and shall not serve as the only means of egress from other habitable spaces.

Exception: Units that contain fewer than two bedrooms.

c. Water closet accessibility. Every bedroom shall have access to not less than one water closet and one lavatory without passing through another bedroom. Every bedroom in a dwelling unit shall have access to not less than one water closet and lavatory located in the same story as the bedroom or an adjacent story.

d. Prohibited occupancy. Kitchens and non-habitable spaces shall not be used for sleeping purposes.

e. Other requirements. Bedrooms shall comply with the applicable provisions of this code including, but not limited to, the light, ventilation, room area, ceiling height and room width requirements; the plumbing facilities and water heating facilities requirements; the heating facilities and electrical receptacle requirements; and the smoke detector and emergency escape requirements.

Subd. 5. Overcrowding. Dwelling units shall not be occupied by more occupants than permitted by the minimum area requirements of Table 502.250, Subd. 6.

Subd. 6. Table.

MINIMUM AREA REQUIREMENTS

Space	MINIMUM AREA IN SQUARE FEET		
	1-2 occupants	3-5 occupants	6 or more occupants
Living room (a, b)	120	120	150
Dining room (a, b)	No requirement	80	100
Bedrooms	(Shall comply with Section 502.250 Subd. 4.a)		

For SI: 1 square foot = 0.0929 m2.

a. See Section 502.250 Subd. 6.b for combined living room/dining room spaces.

b. See Section 502.250 Subd. 6.a for limitations on determining the minimum occupancy area for sleeping purposes.

a. Sleeping area. The minimum occupancy area required by Table 502.240 shall not be included as a sleeping area in determining the minimum occupancy area for sleeping purposes. Sleeping areas shall comply with Section 502.230 Subd. 4.

b. Combined spaces. Combined living room and dining room spaces shall comply with the requirements of Table 502.250, Subd. 5 if the total area is equal to that required for separate rooms and if the space is located so as to function as a combination living room/dining room.

Subd. 7. Efficiency unit. Nothing in this section shall prohibit an efficiency living unit from meeting the following requirements:

1. A unit occupied by not more than one occupant shall have a minimum clear floor area of 120 square feet (11.2 m²). A unit occupied by not more than two occupants shall have a minimum clear floor area of 220 square feet (20.4 m²). A unit occupied by three occupants shall have a minimum clear floor area of 320 square feet (29.7 m²). These required areas shall be exclusive of the areas required by Items 2 and 3.
2. The unit shall be provided with a kitchen sink, cooking appliance and refrigeration facilities each having a minimum clear working space of 30 inches (762 mm) in front. Light and ventilation conforming to this code shall be provided.
3. The unit shall be provided with a separate bathroom containing a water closet, lavatory and bathtub or shower.
4. The maximum number of occupants shall be three.

Subd. 8. Food preparation. Spaces to be occupied for food preparation purposes shall contain suitable space and equipment to store, prepare and serve foods in a sanitary manner. There shall be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage. Kitchen facilities within every dwelling unit shall contain the following:

1. An approved kitchen sink in good working condition and properly connected to an approved water supply and waste system which provides, at all times, an adequate amount of heated and unheated running water with a pressure of not less than eight (8) P.S.I. at the point of discharge, and which is connected to an approved sewer system.
2. Cabinets and/or shelves, for the storage of eating, drinking and cooking equipment and utensils and/or food which does not require refrigeration, providing a minimum of forty-five (45) cubic feet of storage plus an additional fifteen (15) cubic feet per occupant in excess of one (1). Cabinets, shelves, countertops and tables used for the storage and preparation of foods shall have a hard non-absorbent surface which is easily cleanable and that will not impart toxic or deleterious effects to foods. Cabinet and shelves shall be properly secured to walls and kept in good condition.
3. A cook stove and oven for the preparation of food, and a refrigerator for the safe storage of food, at or below forty (40) degrees Fahrenheit, properly installed with all necessary connections. Such items need not be installed when a dwelling or dwelling unit is not occupied and when the occupant is expected to provide these items at occupancy, in which case, space and connections for their installation and operation shall be provided.

§502.260 GENERAL PLUMBING.

Subd. 1. Scope. The provisions of this chapter shall govern the minimum plumbing systems, facilities and plumbing fixtures to be provided.

Subd. 2. Responsibility. The owner of the structure shall provide and maintain such plumbing facilities and plumbing fixtures in compliance with these requirements. A person shall not occupy as owner occupant or permit another person to occupy any structure or premises that does not comply with the requirements of this chapter.

§502.270 REQUIRED FACILITIES.

Subd. 1. Dwelling units. Every dwelling unit shall contain its own bathtub or shower, lavatory, water closet and kitchen sink that shall be maintained in a sanitary, safe working condition. The lavatory shall be placed in the same room as the water closet or located in close proximity to the door leading directly into the room in which such water closet is located. A kitchen sink shall not be used as a substitute for the required lavatory.

Subd. 2. Rooming houses. Not less than one water closet, lavatory and bathtub or shower shall be supplied for each four rooming units.

Subd. 3. Hotels. Where private water closets, lavatories and baths are not provided, one water closet, one lavatory and one bathtub or shower having access from a public hallway shall be provided for each 10 occupants.

Subd. 4. Employees' facilities. Not less than one water closet, one lavatory and one drinking facility shall be available to employees.

a. Drinking facilities. Drinking facilities shall be a drinking fountain, water cooler, bottled water cooler or disposable cups next to a sink or water dispenser. Drinking facilities shall not be located in toilet rooms or bathrooms.

Subd. 5. Public toilet facilities. Public toilet facilities shall be maintained in a safe, sanitary and working condition in accordance with the Minnesota State Plumbing Code. Except for periodic maintenance or cleaning, public access and use shall be provided to the toilet facilities at all times during occupancy of the premises.

§502.280 TOILET ROOMS.

Subd. 1. Privacy. Toilet rooms and bathrooms shall provide privacy and shall not constitute the only passageway to a hall or other space, or to the exterior. A door and interior locking device shall be provided for all common or shared bathrooms and toilet rooms in a multiple dwelling.

Subd. 2. Location. Toilet rooms and bathrooms serving hotel units, rooming units or dormitory units or housekeeping units, shall have access by traversing not more than one flight of stairs and shall have access from a common hall or passageway.

Subd. 3. Location of employee toilet facilities. Toilet facilities shall have access from within the employees' working area. The required toilet facilities shall be located not more than one story above or below the employees' working area and the path of travel to such facilities shall not exceed a distance of 500 feet (152 m). Employee facilities shall either be separate facilities or combined employee and public facilities.

Exception: Facilities that are required for employees in storage structures or kiosks, which are located in adjacent structures under the same ownership, lease or control, shall not exceed a travel distance of 500 feet (152 m) from the employees' regular working area to the facilities.

Subd.4. Floor surface. In other than dwelling units, every toilet room floor shall be maintained to be a smooth, hard, nonabsorbent surface to permit such floor to be easily kept in a clean and sanitary condition.

§502.290 PLUMBING SYSTEMS AND FIXTURES.

Subd. 1. General. Plumbing fixtures shall be properly installed and maintained in working order, and shall be kept free from obstructions, leaks and defects and be capable of performing the function for which such plumbing fixtures are designed. Plumbing fixtures shall be maintained in a safe, sanitary and functional condition.

Subd. 2. Fixture clearances. Plumbing fixtures shall have adequate clearances for usage and cleaning.

Subd. 3. Plumbing system hazards. Where it is found that a plumbing system in a structure constitutes a hazard to the occupants or the structure by reason of inadequate service, inadequate venting, cross connection, backsiphonage, improper installation, deterioration or damage or for similar reasons, the code official shall require the defects to be corrected to eliminate the hazard.

§502.300 WATER SYSTEM.

Subd. 1. General. Every sink, lavatory, bathtub or shower, drinking fountain, water closet or other plumbing fixture shall be properly connected to either a public water system or to an approved private water system. Kitchen sinks, lavatories, laundry facilities, bathtubs and showers shall be supplied with hot or tempered and cold running water in accordance with the Minnesota State Plumbing Code.

Subd. 2. Contamination. The water supply shall be maintained free from contamination, and all water inlets for plumbing fixtures shall be located above the flood level rim of the fixture. Shampoo basin faucets, janitor sink faucets and other hose bibs or faucets to which hoses are attached and left in place, shall be protected by an approved atmospheric type vacuum breaker or an approved permanently attached hose connection vacuum breaker.

Subd. 3. Supply. The water supply system shall be installed and maintained to provide a supply of water to plumbing fixtures, devices and appurtenances in sufficient volume and at pressures adequate to enable the fixtures to function properly, safely, and free from defects and leaks.

Subd. 4. Water heating facilities. Water heating facilities shall be properly installed, maintained and capable of providing an adequate amount of water to be drawn at every required sink, lavatory, bathtub, shower and laundry facility at a temperature not less than 110°F (43°C). A gas-burning water heater shall not be located in any bathroom, toilet room, bedroom or other occupied room normally kept closed, unless adequate combustion air is provided. An approved combination temperature and pressure-relief valve and relief valve discharge pipe shall be properly installed and maintained on water heaters.

§502.310 SANITARY DRAINAGE SYSTEM.

Subd. 1. General. Plumbing fixtures shall be properly connected to either a public sewer system or to an approved private sewage disposal system.

Subd. 2. Maintenance. Every plumbing stack, vent, waste and sewer line shall function properly and be kept free from obstructions, leaks and defects.

Subd. 3. Grease interceptors. Grease interceptors and automatic grease removal devices shall be maintained in accordance with this code and the manufacturer's installation instructions. Grease interceptors and automatic grease removal devices shall be regularly serviced and cleaned to prevent the discharge of oil, grease, and other substances harmful or hazardous to the building drainage system, the public sewer, the private sewage disposal system or the sewage treatment plant or processes. Records of maintenance, cleaning and repairs shall be available for inspection by the code official.

§502.320 STORM DRAINAGE.

Subd. 1. General. Drainage of roofs and paved areas, yards and courts, and other open areas on the premises shall not be discharged in a manner that creates a public nuisance.

§502.330 GENERAL MECHANICAL AND ELECTRICAL.

Subd. 1. Scope. The provisions of this chapter shall govern the minimum mechanical and electrical facilities and equipment to be provided.

Subd. 2. Responsibility. The owner of the structure shall provide and maintain mechanical and electrical facilities and equipment in compliance with these requirements. A person shall

not occupy as owner occupant or permit another person to occupy any premises that does not comply with the requirements of this chapter.

§502.340 HEATING FACILITIES.

Subd. 1. Facilities required. Heating facilities shall be provided in structures as required by this section.

Subd. 2. Residential occupancies. Dwellings shall be provided with heating facilities capable of maintaining a room temperature of 68°F (20°C) in all habitable rooms, bathrooms and toilet rooms. Cooking appliances shall not be used, nor shall portable unvented fuel-burning space heaters be used, as a means to provide required heating.

Subd. 3. Heat supply. Every owner and operator of any building who rents, leases or lets one or more dwelling units or sleeping units on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat during the period from September 1 to May 31 to maintain a minimum temperature of 68°F (20°C) in all habitable rooms, bathrooms and toilet rooms.

Subd. 4. Occupiable work spaces. Indoor occupiable work spaces shall be supplied with heat during the period from September 1 to May 31 to maintain a minimum temperature of 65°F (18°C) during the period the spaces are occupied.

Exceptions:

1. Processing, storage and operation areas that require cooling or special temperature conditions.
2. Areas in which persons are primarily engaged in vigorous physical activities.

Subd. 5. Room temperature measurement. The required room temperatures shall be measured 3 feet (914 mm) above the floor near the center of the room and 2 feet (610 mm) inward from the center of each exterior wall.

§502.350 MECHANICAL EQUIPMENT.

Subd. 1. Mechanical equipment and appliances. Mechanical equipment, appliances, fireplaces, solid fuel-burning appliances, cooking appliances and water heating appliances shall be properly installed and maintained in a safe working condition, and shall be capable of performing the intended function.

Subd. 2. Removal of combustion products. Fuel-burning equipment and appliances shall be connected to an approved chimney or vent.

Subd. 3. Clearances. Required clearances to combustible materials shall be maintained.

Subd. 4. Safety controls. Safety controls for fuel-burning equipment shall be maintained in effective operation.

Subd. 5. Combustion air. A supply of air for complete combustion of the fuel and for ventilation of the space containing the fuel-burning equipment shall be provided for the fuel-burning equipment.

Subd. 6. Energy conservation devices. Devices intended to reduce fuel consumption by attachment to a fuel-burning appliance, to the fuel supply line thereto, or to the vent outlet or vent piping therefrom, shall not be installed unless labeled for such purpose and the installation is specifically approved.

§502.360 ELECTRICAL FACILITIES.

Subd. 1. Facilities required. Every occupied building shall be provided with an electrical system in compliance with the requirements of this section and Section §502.370.

Subd. 2. Service. The size and usage of appliances and equipment shall serve as a basis for determining the need for additional facilities in accordance with NFPA 70. Dwelling units shall be served by a three-wire, 120/240 volt, single phase electrical service having a minimum rating of 60 amperes.

Subd. 3. Electrical system hazards. Where it is found that the electrical system in a structure constitutes a hazard to the occupants or the structure by reason of inadequate service, improper fusing, insufficient receptacle and lighting outlets, improper wiring or installation, deterioration or damage, or for similar reasons, the code official shall require the defects to be corrected to eliminate the hazard.

a. Abatement of electrical hazards associated with water exposure. The provisions of this section shall govern the repair and replacement of electrical systems and equipment that have been exposed to water.

1. Electrical equipment. Electrical distribution equipment, motor circuits, power equipment, transformers, wire, cable, flexible cords, wiring devices, ground fault circuit interrupters, surge protectors, molded case circuit breakers, low-voltage fuses, luminaires, ballasts, motors and electronic control, signaling and communication equipment that have been exposed to water shall be replaced in accordance with the Minnesota State Building Code.

Exception: The following equipment shall be allowed to be repaired where an inspection report from the equipment manufacturer or approved manufacturer's representative indicates that the equipment has not sustained damage that requires replacement:

- 1.1 Enclosed switches, rated not more than 600 volts or less.
- 1.2 Busway, rated not more than 600 volts.
- 1.3 Panel boards, rated not more than 600 volts.
- 1.4 Switchboards, rated not more than 600 volts.
- 1.5 Fire pump controllers, rated not more than 600 volts.
- 1.6 Manual and magnetic motor controllers.
- 1.7 Motor control centers.
- 1.8 Alternating current high-voltage circuit breakers.
- 1.9 Low-voltage power circuit breakers.
- 1.10 Protective relays, meters and current transformers.
- 1.11 Low and medium voltage switchgear.
- 1.12 Liquid-filled transformers.
- 1.13 Cast-resin transformers.
- 1.14 Wire or cable that is suitable for wet locations and whose ends have not been exposed to water.
- 1.15 Wire or cable, not containing fillers, that is suitable for wet locations and whose ends have not been exposed to water.
- 1.16 Luminaires that are listed as submersible.
- 1.17 Motors.

1.18 Electronic control, signaling and communication equipment.

b. Abatement of electrical hazards associated with fire exposure. The provisions of this section shall govern the repair and replacement of electrical systems and equipment that have been exposed to fire.

1. Electrical equipment. Electrical switches, receptacles and fixtures, including furnace, water heating, security system and power distribution circuits, that have been exposed to fire, shall be replaced in accordance with the provisions of the Minnesota State Building Code.

Exception: Electrical switches, receptacles and fixtures that shall be allowed to be repaired where an inspection report from the equipment manufacturer or approved manufacturer's representative indicates that the equipment has not sustained damage that requires replacement.

§502.370 ELECTRICAL EQUIPMENT.

Subd. 1. Installation. Electrical equipment, wiring and appliances shall be properly installed and maintained in a safe and approved manner.

Subd. 2. Receptacles. Every habitable space in a dwelling shall contain not less than two separate and remote receptacle outlets. Every laundry area shall contain not less than one grounding type receptacle or a receptacle with a ground fault circuit interrupter. Every bathroom shall contain not less than one receptacle. Any new bathroom receptacle outlet shall have ground fault circuit interrupter protection. All receptacle outlets shall have the appropriate faceplate cover for the location.

Subd. 3. Luminaires. Every public hall, interior stairway, toilet room, kitchen, bathroom, laundry room, boiler room and furnace room shall contain not less than one electric luminaire. Pool and spa luminaires over 15 V shall have ground fault circuit interrupter protection.

Subd. 4. Wiring. Flexible cords shall not be used for permanent wiring, or for running through doors, windows, or cabinets, or concealed within walls, floors, or ceilings.

§502.380 ELEVATORS, ESCALATORS AND DUMBWAITERS.

Subd. 1. General. Elevators, dumbwaiters and escalators shall be maintained in compliance with ASME A17.1. The most current certificate of inspection shall be on display at all times within the elevator or attached to the escalator or dumbwaiter, be available for public inspection in the office of the building operator or be posted in a publicly conspicuous location approved by the code official. The inspection and tests shall be performed at not less than the periodic intervals listed in ASME A17.1, Appendix N, except where otherwise specified by the authority having jurisdiction.

Subd. 2. Elevators. In buildings equipped with passenger elevators, not less than one elevator shall be maintained in operation at all times when the building is occupied.

Exception: Buildings equipped with only one elevator shall be permitted to have the elevator temporarily out of service for testing or servicing.

§502.390 DUCT SYSTEMS.

Subd. 1. General. Duct systems shall be maintained free of obstructions and shall be capable of performing the required function.

§502.400 GENERAL FIRE SAFETY.

Subd. 1. Scope. The provisions of this chapter shall govern the minimum conditions and standards for fire safety relating to structures and exterior premises, including fire safety facilities and equipment to be provided.

Subd. 2. Responsibility. The owner of the premises shall provide and maintain such fire safety facilities and equipment in compliance with these requirements. A person shall not occupy as owner occupant or permit another person to occupy any premises that do not comply with the requirements of this chapter.

§502.410 MEANS OF EGRESS.

Subd. 1. General. A safe, continuous and unobstructed path of travel shall be provided from any point in a building or structure to the public way. Means of egress shall comply with the Minnesota State Building Code.

Subd. 2. Aisles. The required width of aisles in accordance with the Minnesota State Building Code shall be unobstructed.

Subd. 3. Locked doors. Means of egress doors shall be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort, except where the door hardware conforms to that permitted by the Minnesota State Building Code.

Subd. 4. Emergency escape openings. Required emergency escape openings shall be maintained in accordance with the code in effect at the time of construction, and the following. Required emergency escape and rescue openings shall be operational from the inside of the room without the use of keys or tools. Bars, grilles, grates or similar devices are permitted to be placed over emergency escape and rescue openings provided that the minimum net clear opening size complies with the code that was in effect at the time of construction and such devices shall be releasable or removable from the inside without the use of a key, tool or force greater than that which is required for normal operation of the escape and rescue opening.

§502.420 FIRE-RESISTANCE RATINGS.

Subd. 1. Fire resistance rated assemblies. The provisions of this chapter shall govern maintenance of the materials, systems and assemblies used for structural fire resistance and fire resistance rated construction separation of adjacent spaces to safeguard against the spread of fire and smoke within a building and the spread of fire to or from buildings.

Subd. 2. Unsafe conditions. Where any components are not maintained and do not function as intended or do not have the fire resistance required by the code under which the building was constructed or altered, such components or portions thereof shall be deemed unsafe conditions. Components or portions thereof determined to be unsafe shall be repaired or replaced to conform to that code under which the building was constructed or altered. Where the condition of components is such that any building, structure or portion thereof presents an imminent danger to the occupants of the building, structure or portion thereof, the code official shall act in accordance with the Minnesota State Building Code.

Subd. 3. Maintenance. The required fire-resistance rating of fire resistance rated construction, including walls, firestops, shaft enclosures, partitions, smoke barriers, floors, fire-resistive coatings and sprayed fire-resistant materials applied to structural members and joint systems, shall be maintained. Such elements shall be visually inspected annually by the owner and repaired, restored or replaced where damaged, altered, breached or penetrated. Records of inspections and repairs shall be maintained. Where concealed, such elements shall not be required to be visually inspected by the owner unless the concealed space is accessible by the removal or movement of a panel, access door, ceiling tile or entry to the space. Openings made therein for the passage of pipes, electrical conduit, wires, ducts, air transfer and any other reason shall be protected with approved methods capable of resisting the passage of smoke and fire. Openings through fire resistance rated assemblies shall be protected by self or automatic

closing doors of approved construction meeting the fire protection requirements for the assembly.

a. Fire blocking and draft stopping. Required fire blocking and draft stopping in combustibile concealed spaces shall be maintained to provide continuity and integrity of the construction.

b. Smoke barriers and smoke partitions. Required smoke barriers and smoke partitions shall be maintained to prevent the passage of smoke. Openings protected with approved smoke barrier doors or smoke dampers shall be maintained in accordance with the Minnesota State Building Code.

c. Fire walls, fire barriers, and fire partitions. Required fire walls, fire barriers and fire partitions shall be maintained to prevent the passage of fire. Openings protected with approved doors or fire dampers shall be maintained in accordance with the Minnesota State Building Code.

Subd. 4. Opening protectives. Opening protectives shall be maintained in an operative condition in accordance with the Minnesota State Building Code. The application of field applied labels associated with the maintenance of opening protectives shall follow the requirements of the approved third party certification organization accredited for listing the opening protective. Fire doors and smoke barrier doors shall not be blocked or obstructed, or otherwise made inoperable. Fusible links shall be replaced whenever fused or damaged. Fire door assemblies shall not be modified.

a. Signs. Where required by the code official, a sign shall be permanently displayed on or near each fire door in letters not less than 1 inch (25 mm) high to read as follows:

1. For doors designed to be kept normally open: FIRE DOOR - DO NOT BLOCK.
2. For doors designed to be kept normally closed: FIRE DOOR - KEEP CLOSED.

b. Hold-open devices and closers. Hold open devices and automatic door closers shall be maintained. During the period that such a device is out of service for repairs, the door it operates shall remain in the closed position.

c. Door operation. Swinging fire doors shall close from the full open position and latch automatically. The door closer shall exert enough force to close and latch the door from any partially open position.

Subd. 5. Ceilings. The hanging and displaying of salable goods and other decorative materials from acoustical ceiling systems that are part of a fire resistance rated horizontal assembly shall be prohibited.

Subd. 6. Testing. Horizontal and vertical sliding and rolling fire doors shall be inspected and tested annually to confirm operation and full closure. Records of inspections and testing shall be maintained.

Subd. 7. Vertical shafts. Interior vertical shafts, including stairways, elevator hoistways and service and utility shafts, which connect two or more stories of a building shall be enclosed or protected as required by the Minnesota State Building. New floor openings in existing buildings shall comply with the Minnesota State Building Code.

Subd. 8. Opening protective closers. Where openings are required to be protected, opening protectives shall be maintained self-closing or automatic closing by smoke detection. Existing fusible-link-type automatic door-closing devices shall be replaced if the fusible link rating exceeds 135°F (57°C).

Subd. 1. Inspection, testing and maintenance. Fire detection, alarm and extinguishing systems, mechanical smoke exhaust systems, and smoke and heat vents shall be maintained in accordance with the Code Minnesota State Fire Code in an operative condition at all times, and shall be replaced or repaired where defective.

a. Installation. Fire protection systems shall be maintained in accordance with the original installation standards for that system. Required systems shall be extended, altered or augmented as necessary to maintain and continue protection where the building is altered or enlarged. Alterations to fire protection systems shall be done in accordance with applicable standards.

b. Required fire protection systems. Fire protection systems required by Minnesota Rule Chapter-part 1306 Subp.3., as adopted by the City of White Bear Lake shall be installed, repaired, operated, tested and maintained in accordance with the Minnesota State Fire Code.

c. Fire protection systems. Fire protection systems shall be inspected, maintained and tested in accordance with the Minnesota State Fire Code requirements.

1. Automatic sprinkler systems
2. Automatic fire-extinguishing systems protecting commercial cooking systems
3. Automatic water mist extinguishing systems
4. Carbon dioxide extinguishing systems
5. Carbon monoxide alarms and carbon monoxide detection systems
6. Clean-agent extinguishing systems
7. Dry-chemical extinguishing systems
8. Fire alarm and fire detection systems
9. Fire department connections
10. Fire pumps
11. Foam extinguishing systems
12. Halon extinguishing systems
13. Single and multiple-station smoke alarms
14. Smoke and heat vents and mechanical smoke removal systems
15. Smoke control systems
16. Wet-chemical extinguishing systems

Subd. 2. Standards. Fire protection systems shall be inspected, tested and maintained in accordance with the Minnesota State Fire Code.

Subd. 3. Table.

FIRE PROTECTION SYSTEM MAINTENANCE STANDARDS

SYSTEM STANDARD

Portable fire extinguishers	NFPA 10
Carbon dioxide fire-extinguishing system	NFPA 12
Halon 1301 fire-extinguishing systems	NFPA 12A
Dry-chemical extinguishing systems	NFPA 17
Wet-chemical extinguishing systems	NFPA 17A
Water-based fire protection systems	NFPA 25
Fire alarm systems	NFPA 72
Smoke and heat vents	NFPA 204
Water-mist systems	NFPA 750
Clean-agent extinguishing systems	NFPA 2001

a. Records. Records shall be maintained of all system inspections, tests and maintenance required by the referenced standards.

b. Records information. Initial records shall include the: name of the installation contractor; type of components installed; manufacturer of the components; location and number of components installed per floor; and manufacturers' operation and maintenance instruction manuals. Such records shall be maintained for the life of the installation.

Subd. 4. Systems out of service. Where a required fire protection system is out of service, the fire department and the fire code official shall be notified immediately and, where required by the fire code official, either the building shall be evacuated or an approved fire watch shall be provided for all occupants left unprotected by the shutdown until the fire protection system has been returned to service. Where utilized, fire watches shall be provided with not less than one approved means for notification of the fire department and shall not have duties beyond performing constant patrols of the protected premises and keeping watch for fires. Actions shall be taken in accordance with the Minnesota State Fire Code to bring the systems back in service.

a. Emergency impairments. Where unplanned impairments of fire protection systems occur, appropriate emergency action shall be taken to minimize potential injury and damage. The impairment coordinator shall implement the steps outlined in the Minnesota State Fire Code.

Subd. 5. Removal of or tampering with equipment. It shall be unlawful for any person to remove, tamper with or otherwise disturb any fire hydrant, fire detection and alarm system, fire suppression system or other fire appliance required by this code except for the purposes of extinguishing fire, training, recharging or making necessary repairs.

a. Removal of or tampering with appurtenances. Locks, gates, doors, barricades, chains, enclosures, signs, tags and seals that have been installed by or at the direction of the fire code official shall not be removed, unlocked, destroyed or tampered with in any manner.

b. Removal of existing occupant-use hose lines. The fire code official is authorized to permit the removal of existing occupant-use hose lines where all of the following apply:

1. The installation is not required by the Minnesota State Fire Code.
2. The hose line would not be utilized by trained personnel or the fire department.
3. The remaining outlets are compatible with local fire department fittings.

c. Termination of monitoring service. For fire alarm systems required to be monitored by the Minnesota State Fire Code, notice shall be made to the fire code official whenever alarm monitoring services are terminated. Notice shall be made in writing by the provider of the monitoring service being terminated.

Subd. 6. Fire Department Connection. Where the fire department connection is not visible to approaching fire apparatus, the fire department connection shall be indicated by an approved sign mounted on the street front or on the side of the building. Such sign shall have the letters "FDC" not less than 6 inches (152 mm) high and words in letters not less than 2 inches (51 mm) high or an arrow to indicate the location. Such signs shall be subject to the approval of the fire code official.

a. Fire department connection access. Ready access to fire department connections shall be maintained at all times and without obstruction by fences,

bushes, trees, walls or any other fixed or movable object. Access to fire department connections shall be approved by the fire chief.

Exception: Fences, where provided with an access gate equipped with a sign complying with the legend requirements of the Minnesota State Fire Code and a means of emergency operation. The gate and the means of emergency operation shall be approved by the fire chief and maintained operational at all times.

b. Clear space around connections. A working space of not less than 36 inches (914 mm) in width, 36 inches (914 mm) in depth and 78 inches (1981 mm) in height shall be provided and maintained in front of and to the sides of wall mounted fire department connections and around the circumference of free standing fire department connections.

Subd. 7. Single and multiple station smoke alarms. Single and multiple station smoke alarms shall be installed in existing Group I-1 and R occupancies in accordance with Section 502.430, Subd. 7.a - Subd. 7.c.

a. Where required. Existing Group I-1 and R occupancies shall be provided with single-station smoke alarms in accordance with Section 502.430, Subd. 7.a.1 - Subd. 7.a.4. Interconnection and power sources shall be in accordance with Section 502.430, Subd. 7.b and Subd. 7.c.

Exceptions:

1. Where smoke detectors connected to a fire alarm system have been installed as a substitute for smoke alarms.

1. Group R-1. Single or multiple station smoke alarms shall be installed in all of the following locations in Group R-1:

1. In sleeping areas.
2. In every room in the path of the means of egress from the sleeping area to the door leading from the sleeping unit.
3. In each story within the sleeping unit, including basements. For sleeping units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

2. Groups R-2, R-3, R-4 and I-1. Single or multiple station smoke alarms shall be installed and maintained in Groups R-2, R-3, R-4 and I-1 regardless of occupant load at all of the following locations:

1. On the ceiling or wall outside of each separate sleeping area in the immediate vicinity of bedrooms.
2. In each room used for sleeping purposes.
3. In each story within a dwelling unit, including basements but not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

3. Installation near cooking appliances. Smoke alarms shall not be installed in the following locations unless this would prevent placement of a smoke alarm in a location required by Section 502.430, Subd. 7.a.1 or Subd. 7.a.2:

1. Ionization smoke alarms shall not be installed less than 20 feet (6096 m) horizontally from a permanently installed cooking appliance.
2. Ionization smoke alarms with an alarm silencing switch shall not be installed less than 10 feet (3048 mm) horizontally from a permanently installed cooking appliance.
3. Photoelectric smoke alarms shall not be installed less than 6 feet (1829 mm) horizontally from a permanently installed cooking appliance.

4. Installation near bathrooms. Smoke alarms shall be installed not less than 3 feet (914 mm) horizontally from the door or opening of a bathroom that contains a bathtub or shower unless this would prevent placement of a smoke alarm required the Section 502.430, Subd. 7a.1 or Subd. 7.a.2.

b. Interconnection. Where more than one smoke alarm is required to be installed within an individual dwelling or sleeping unit, the smoke alarms shall be interconnected in such a manner that the activation of one alarm will activate all of the alarms in the individual unit. Physical interconnection of smoke alarms shall not be required where listed wireless alarms are installed and all alarms sound upon activation of one alarm. The alarm shall be clearly audible in all bedrooms over background noise levels with all intervening doors closed.

Exceptions:

1. Interconnection is not required in buildings that are not undergoing alterations, repairs or construction of any kind.
2. Smoke alarms in existing areas are not required to be interconnected where alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available that could provide access for interconnection without the removal of interior finishes.

c. Power source. Single station smoke alarms shall receive their primary power from the building wiring provided that such wiring is served from a commercial source and shall be equipped with a battery backup. Smoke alarms with integral strobes that are not equipped with battery backup shall be connected to an emergency electrical system. Smoke alarms shall emit a signal when the batteries are low. Wiring shall be permanent and without a disconnecting switch other than as required for overcurrent protection.

Exceptions:

1. Smoke alarms are permitted to be solely battery operated in existing buildings where construction is not taking place.
2. Smoke alarms are permitted to be solely battery operated in buildings that are not served from a commercial power source.
3. Smoke alarms are permitted to be solely battery operated in existing areas of buildings undergoing alterations or repairs that do not result in the removal of interior walls or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available that could provide access for building wiring without the removal of interior finishes.

d. Smoke detection system. Smoke detectors listed in accordance with UL 268 and provided as part of the building's fire alarm system shall be an acceptable alternative to single and multiple station smoke alarms and shall comply with the following:

1. The fire alarm system shall comply with all applicable requirements in the Minnesota State Fire Code.
2. Activation of a smoke detector in a dwelling or sleeping unit shall initiate alarm notification in the dwelling or sleeping unit in accordance with the Minnesota State Fire Code
3. Activation of a smoke detector in a dwelling or sleeping unit shall not activate alarm notification appliances outside of the dwelling or sleeping unit, provided that a supervisory signal is generated and monitored in accordance with the Minnesota State Fire Code.

Subd. 8. Single and multiple-station smoke alarms. Single and multiple station smoke alarms shall be tested and maintained in accordance with the manufacturer's instructions. Smoke alarms that do not function shall be replaced. Smoke alarms installed in one and two family dwellings shall be replaced not more than 10 years from the date of manufacture marked on the unit, or shall be replaced if the date of manufacture cannot be determined.

§502.440 CARBON MONOXIDE ALARMS AND DETECTION.

Subd. 1. General. Carbon monoxide alarms shall be installed in dwellings in accordance with the Minnesota State Building Code.

Subd. 2. Carbon monoxide alarms and detectors. Carbon monoxide alarms and carbon monoxide detection systems shall be maintained in accordance with the Minnesota State Building Code. Carbon monoxide alarms and carbon monoxide detectors that become inoperable or begin producing end-of-life signals shall be replaced.

§502.450 LIFE SAFETY.

Subd. 1. Requirements for Licensed Rental Dwellings. City ordinances and laws and regulations of the State of Minnesota, including the Minnesota State Fire Code, are applicable to all dwelling and dwelling units covered by this ordinance. All rental properties shall also meet the following life safety criteria:

- a) Every bedroom located in a basement of a rental property shall have an egress window which complies with the current Minnesota State Building Code.
- b) Rental dwelling units shall have smoke detectors installed in every bedroom and in areas that provide access to bedrooms. Smoke detectors used to comply with this provision shall be hardwired or long life battery operated detectors (10 years).
- c) Every rental dwelling unit shall have carbon monoxide detectors installed as required by Minnesota State Building Code. Carbon Monoxide detectors shall be either hardwired into the electrical wiring, directly plugged into an electrical outlet, or battery powered.
- d) Every rental dwelling unit shall be provided with at least one, 1A 10BC fire extinguisher. The fire extinguisher shall be located in the kitchen or otherwise readily accessible to the occupant at all times. In multi-unit apartment buildings fire extinguishers may be located in hallways or corridors providing access to dwelling units in accordance with the Minnesota State Fire Code.

503. Civil Defense

§503.010 CIVIL DEFENSE: POLICY AND PURPOSE. Because of the existing and increasing possibility of the occurrence of disasters of unprecedented size and destructiveness resulting from enemy attack, sabotage or other hostile action, or from fire, flood, earthquake or other natural causes, and in order to insure that preparations of this city will be adequate to deal with such disasters, and generally, to provide for the common defense and to protect the public peace, health and safety, and to preserve the lives and property of the people of this City, it is hereby found and declared to be necessary:

1. To establish a local Civil Defense Agency.
2. To provide for the exercise of necessary powers during civil defense emergencies.
3. To provide for the rendering of mutual aid between the City and other political subdivisions of this state and of other states with respect to the carrying out of civil defense functions.

It is further declared to be the purpose of this chapter and the policy of the City that all civil defense functions of this City be coordinated to the maximum extent practicable with the comparable functions of the federal government, of this state and of other states and localities, and of private agencies of every type, to the end that the most effective preparations and use may be made of the nation's manpower, resources and facilities for dealing with any disasters that may occur. (Ref. §601.010, Code 1966)

§503.020 CIVIL DEFENSE: DEFINITIONS. For the purposes of this chapter, certain words and terms are defined as follows:

Subd. 1. Civil Defense. The preparation for and the carrying out of all emergency functions other than functions for which military forces are primarily responsible, and to prevent, minimize and repair injury and damage resulting from disasters caused by enemy attack, sabotage or other enemy hostile action, or from fire, flood, earthquake or other natural causes. These functions include, without limitation, fire fighting services, police services, medical and health services, rescue, engineering, air raid warning services, communications, radiological, chemical and other special weapons defenses, evacuation of persons from stricken areas, emergency welfare services, emergency transportation, existing or properly assigned functions of plant protection, temporary restoration of public utility services and other functions related to civilian protection, together with all other activities necessary or incidental to preparation for and carrying out of the foregoing functions.

Subd. 2. Civil Defense Emergency. An emergency declared by the Governor under Minnesota Statutes section 12.31.

Subd. 3. Civil Defense Forces. Any personnel employed by the City and any other volunteer or paid member of the local Civil Defense Agency engaged in carrying on civil defense functions in accordance with the provisions of this chapter or any rule or order hereunder. (Ref. §601.020, Code 1966)

§503.030 CIVIL DEFENSE; AGENCY, DIRECTOR. There is hereby created within the City government a Civil Defense Agency which shall be under the supervision and control of a Director of Civil Defense. The Director shall be appointed by the Mayor for an indefinite term and may be removed by him at any time. The Director shall be paid such salary as the Council may from time to time determine and he shall be paid his necessary expenses. 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. The Civil Defense Agency shall be organized into such divisions and bureaus, consistent with state and local civil defense plans, as the Director deems necessary to provide for the efficient performance of local civil defense functions during a civil defense emergency. The Civil Defense 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 the provisions of the Minnesota Civil Defense Act of 1951 or this chapter. (Ref. §601.030, Code 1966)

§503.040 CIVIL DEFENSE: DIRECTOR: POWERS AND DUTIES. The Director of civil defense shall perform the following duties and have the following powers:

Subd. 1. Mutual Aid Agreement. He shall, with the consent of the Mayor, 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 City Council for its action. Such arrangements shall be consistent with the state civil defense plan and during a civil defense emergency it shall be the duty of the Civil Defense Agency and civil defense forces to render assistance in accordance with the provisions of such mutual aid arrangements. Any mutual aid arrangement with a political subdivision of another state shall be subject to the approval of the Governor.

Subd. 2. Surveys. He shall make such studies and surveys of the manpower, industries, resources and facilities of the City as he deems necessary to determine their adequacy for civil defense and to plan for their most efficient use in time of a civil defense emergency.

Subd. 3. General Defense Plan. He shall prepare a comprehensive general plan for the civil defense of the City and shall present such plan to the Council for its approval. When the Council has approved the plan by resolution, it shall be the duty of all municipal agencies and all civil defense forces of the City to perform the duties and functions assigned by the plan as approved. The plan may be modified in like manner from time to time. The Director shall coordinate the civil defense activities of the City to the end that they shall be consistent and fully integrated with the civil defense plan of the federal government and the state and correlated with the civil defense plans of other political subdivisions within the state.

Subd. 4. Training and Preparation. He shall in accordance with the state and City civil defense plans, institute such training programs and public information programs and shall take all other preparatory steps, including the partial or full mobilization of civil defense forces in advance of an actual disaster, as may be necessary to the prompt and effective operation of the City civil defense plan in time of a civil defense emergency. He may, from time to time, conduct such practice air raid alerts or other civil defense exercises as he may deem necessary.

Subd. 5. Cooperation with the City. He shall utilize the personnel, services, equipment, supplies and facilities of existing departments and agencies of the City to the maximum extent practicable. The officers and personnel of all such departments and agencies shall, to the maximum extent practicable, cooperate with and extend such services and facilities to the local Civil Defense Agency and to the Governor upon request. The head of each department and agency, in cooperation with and under the direction of the Director, shall be responsible for the planning and programming of such civil defense activities as will involve the utilization of the facilities of his department or agency.

Subd. 6. Personnel. He shall, in cooperation with the existing City departments and agencies affected, organize, recruit and train auxiliary police, auxiliary firemen, emergency medical personnel and any other personnel that may be required on a volunteer basis to carry out the civil defense plans of the City and the state. To the extent that such emergency personnel are recruited to augment a regular City department or agency for civil defense emergencies, they shall be assigned to such department or agency for purposes of administration and command. The Director may dismiss any civil defense volunteer at any time and require him to surrender any equipment and identification furnished by the City.

Subd. 7. Orders of Governor. He shall carry out all orders, rules and regulations issued by the Governor with references to civil defense.

Subd. 8. Director of Civil Defense Operations. He shall direct and coordinate the general operations of all local civil defense forces during a civil defense emergency in conformity with controlling regulations and instructions of state civil defense authorities. Heads of departments and agencies shall be governed by his orders in respect thereto. (Ref. §601.050, Code 1966)

§503.050 CIVIL DEFENSE; CONTROL CENTER. Consistent with the civil defense plan, the Director shall provide and equip at some suitable place in the City a control center and, if required by the state civil defense plan, an auxiliary control center to be used during a civil defense emergency as headquarters for direction and coordination of civil defense forces. He shall arrange for representation at the control center by municipal departments and agencies, public utilities and other agencies authorized by federal or state authority to carry on civil defense activities during a civil defense emergency. He shall arrange for the installation at the control center of necessary facilities for communication with and between heads of civil defense divisions, stations and operating units of municipal services and other agencies concerned with civil defense and for communication with other communities and control centers within the surrounding area and with the federal and state agencies concerned. (Ref. §601.606, (Code 1966)

§503.060 CIVIL DEFENSE; EMERGENCY POWERS. During the first (1st) thirty (30) days of the civil defense emergency, if the legislature is in session or the Governor has coupled his declaration of the emergency with a call for a special session of the legislature, the Director may, when necessary to save life or property, require any person, except members of the federal or state military forces and officers of the state or any other political subdivision, to perform services for civil defense purposes as he directs, and he may commandeer, for the time being, any motor vehicle, tools, appliances or other property, subject to the owner's right to just compensation as provided by law.

During a civil defense emergency the City is, notwithstanding any statutory or charter provision to the contrary, empowered, through its governing body acting within or without the corporate limits of the City, to enter into contracts and incur obligations necessary to combat such disaster by protecting the health and safety of persons and property, and providing emergency assistance to the victims of such disaster. The City may exercise such powers in the light of the exigencies of the disaster without compliance with time-consuming procedures and formalities, prescribed by law pertaining to the performance of public work, entering into contracts, incurring of obligations, employment of temporary workers, rental of equipment, purchase of supplies and materials, limitations upon tax levies and the appropriation and expenditure of public funds, for example, but not limited to, publication of ordinances and resolutions, publication of calls for bids, provisions of civil service laws and rules, provisions relating to low bids and requirements for budgets. (Ref. §601.070, 601.100, Code 1966)

§503.070 CIVIL DEFENSE; EMERGENCY REGULATIONS. Whenever necessary to meet a civil defense emergency or to prepare for such an emergency for which adequate regulations have not been adopted by the Governor or the City Council, the Mayor may by proclamation promulgate regulations, consistent with applicable federal or state law or regulations, respecting: protection against air raids; the sounding of air raid alarms; the conduct of persons and the use of property during alarms; the repair, maintenance and safeguarding of essential public services, emergency health, fire and safety regulations, trial drills or practice periods required for preliminary training; and, all other matters which are required to protect public safety, health and welfare in civil defense emergencies. No regulation governing observations of enemy aircraft, air attack, alarms or illumination during air attacks shall be adopted or take effect unless approved by the State Director of Civil Defense.

Every proclamation of emergency regulations shall be in writing, signed by the Mayor, dated, referred to the particular civil defense emergency to which it pertains, if so limited, and be filed in the office of the City Clerk, where a copy shall be kept posted and available for public inspection during normal business hours. Notice of the existence of such regulation and its availability for inspection at the Clerk's office shall be conspicuously posted at the front of City Hall or other headquarters of the City and at such other places in the affected area as the Mayor shall designate in the proclamation. Thereupon the regulation shall take effect immediately or at such later time as may be specified in the proclamation. By like proclamation, the Mayor may modify or rescind any such regulation.

The City Council may rescind any such regulation by resolution at any time. If not sooner rescinded, every such regulation shall expire at the end of thirty (30) days after its effective date or at the end of the civil defense emergency to which it relates, whichever occurs first. Any rule, regulation or portion of this Code inconsistent with any emergency regulation promulgated by the Mayor shall be suspended during the period of time and to the extent that such conflict exists. (Ref. §601.090, Code 1966)

§503.080 CIVIL DEFENSE; VOLUNTEERS, RULES AND REGULATIONS. The following rules and regulations shall apply to civil defense workers:

Subd. 1. Loyalty. No person shall be employed or associated in any capacity in the Civil Defense Agency who advocates or has advocated a change by force or violence in the constitutional form of government of the United States or in this state or the overthrow of any government in the United States by force or violence, or who has been convicted of or is under indictment for information charging any subversive act against the United States. Each person who is appointed to serve in the Civil Defense Agency shall, before entering upon his duties, take an oath in writing before a person authorized to

administer oaths in this state, or before any officer of the State Department of Civil Defense, the Director or the ground observer corps supervisor. The oath shall be substantially in the form prescribed by Minnesota Statutes section 12.43.

Subd. 2. When Used. Civil defense volunteers shall be called into service only in case of a civil defense emergency or a natural disaster for which the regular municipal forces are inadequate or for necessary training and preparation for such emergencies. All volunteers shall serve without compensation.

Subd. 3. Identification. Each civil defense volunteer shall be provided with such suitable insignia or other identification as may be required by the Director. Such identification shall be in a form and style approved by the federal government. No volunteer shall exercise any authority over the person or property of others without his identification. No person except an authorized volunteer shall use the identification of the volunteer or otherwise represent himself to be an authorized volunteer.

Subd. 4. Firearms. No civil defense volunteer shall carry any firearms while on duty except upon written order of the Chief of the Police Department.

Subd. 5. Personnel Procedures. Personnel procedures of the City applicable to regular employees shall not apply to volunteer civil defense workers but shall apply to paid employees of the Civil Defense Agency. (Ref. §601.080, Code 1966)

§503.090 CIVIL DEFENSE; FUND. There is hereby established in the City Treasury a special fund to be known as the Civil Defense Fund. Into this fund shall be placed the proceeds of taxes levied for civil defense, money transferred from other funds, gifts and other revenues of the Civil Defense Agency. From it shall be made expenditures for the operation and maintenance of the Civil Defense Agency and other expenditures for civil defense. Regular accounting, disbursement, purchasing, budgeting and other financial procedures of the City shall apply to the Civil Defense Fund insofar as practicable, but budgeting requirements and other financial procedures shall not prevent compliance with terms and conditions of a federal or state grant of money or property for civil defense purposes. (Ref. §601.110, Code 1966)

§503.100 CIVIL DEFENSE; ANNUAL REPORT. The Director shall, as soon as possible after the end of each fiscal year, prepare and present to the City Council for the information of the Council and the public a comprehensive report of the activities of the Civil Defense Agency during the year. (Ref. §601.120, Code 1966)

§503.110 CIVIL DEFENSE; COOPERATION. Every officer and agency of the City shall cooperate with federal and state authorities and with authorized agencies engaged in civil defense and emergency measures to the fullest possible extent consistent with the performance of their other duties. The provisions of this chapter and of all regulations made hereunder shall be subject to all applicable and controlling provisions of federal and state laws and of regulations and orders issued thereunder and shall be deemed to be suspended and inoperative so far as there is any conflict therewith. (Ref. §601.130, Code 1966)

§503.120 CIVIL DEFENSE; GOVERNMENTAL FUNCTION. All functions under this chapter and all other activities relating to civil defense are hereby declared to be governmental functions. The City, and its officers, agents, employees or representatives engaged in any civil defense activities, except in cases of willful misconduct, while complying with or attempting to comply with the Minnesota Civil Defense Act of 1951, or with this chapter or any rule, regulation or order made hereunder, shall not be liable for

the death of or injury to any person, or damages to property as a result of such activity. The provisions of this section shall not affect the right of any person to receive benefits to which he would otherwise be entitled under this chapter or under the worker's compensation law or under any pension law, nor the right of any such person to receive any benefits or compensation under any act of Congress. (Ref. §601.140, Code 1966)

§503.130 CIVIL DEFENSE; PROHIBITED ILLUMINATION, NUISANCE. Any illumination within the City contrary to the provisions of this chapter or of any regulation adopted hereunder or of any federal or state law, regulation or order shall be deemed a public nuisance. Any regular policeman or civil defense worker may abate such nuisance summarily or may take any other action necessary to enforce such provisions, including entry on private property and the use of whatever reasonable force is necessary. (Ref. §601.150, Code 1966)

§503.140 CIVIL DEFENSE; POLITICS, LABOR DISPUTES. The Civil Defense Agency shall not participate in any form of political activity. It shall not be employed directly or indirectly for political purposes, nor shall it be employed in a legitimate labor dispute. (Ref. §601.160, Code 1966)

PUBLIC HEALTH, WELFARE AND SANITATION

504 Individual Sewage Treatment Systems

§504.010 PURPOSE, INTENT, APPLICABILITY, AND AUTHORITY

Subd. 1. Purpose. It is the purpose of this ordinance to establish standards for the design, location, construction, operation, and maintenance of Subsurface Sewage Treatment Systems (SSTS).

Subd. 2. Intent. It is the intent of this ordinance to protect public health and safety, ground water quality, and prevent or eliminate the development of public nuisances. The White Bear Lake Subsurface Sewage Treatment System (SSTS) Ordinance is a conventional SSTS ordinance allowing the use of trenches, seepage beds, mounds and at grade systems to safely treat sewage.

Subd. 3. Applicability. This ordinance shall apply to any premises in the City that utilize a subsurface sewage treatment system to treat sewage.

Subd. 4. Authority. This ordinance is adopted pursuant to Minnesota Statutes, Section 115.55; Minnesota Statute, Section 145A.01 through 145A.08; Minnesota Statutes, Section 375.51; or successor statutes, and Minnesota Rules, Chapter 7080, Chapter 7081, Chapter 7082;, or successor rules.

§504.020 STANDARDS ADOPTED

Subd. 1. Minnesota Rules Adopted. Minnesota Administrative Rules Chapters 7080 and 7081, and 7082 that are in effect on the date of passage of this ordinance, relating to subsurface sewage treatment systems, are hereby adopted by reference and made a part of this ordinance as if fully set forth herein.

Subd. 2. Minnesota Rules Amended. The rules, adopted in Section 4.1 are amended as follows: Chapter 7080.2270, 7080.2280, 7080.2350, 7080.2400 are deleted and therefore not adopted by the City of White Bear Lake. This amendment will eliminate the potential for SSTS in flood plain areas, the use of privy vaults, and use of the design provisions for Type IV and Type V subsurface sewage treatment systems. (Ref. Ord. 1093, 6/10/14)

§504.030 DEFINITIONS

The following words and phrases shall have the meanings ascribed to them in this Article. If not specifically defined in this Article, terms used in this Ordinance shall have the same meaning as provided in the standards adopted by reference. Words or phrases that are not defined here or in the standards adopted by reference shall have common usage meaning. For purposes of this Ordinance, the words “must” and “shall” are mandatory and the words “may” and “should” are permissive.

Compliance: No person shall cause or permit the location, construction, alteration, extension, conversion, operation, or maintenance of a subsurface sewage treatment system, except in full compliance with the provisions of this ordinance.

Compliance Inspection: An inspection of an existing system to determine whether the soil

dispersal system, septic tanks or other conditions pose an imminent threat to public health and safety or are failing to protect ground water.

Development: Work that would require the issuance of a building permit for construction of a structure such as a new building, an addition, or an accessory structure. Maintenance and repair of an existing structure shall not be considered development.

Failure to Protect Groundwater: At a minimum, a SSTS that does not protect groundwater is considered to be a seepage pit, cesspool, drywell, leaching pit, or other pit; a SSTS with less than the required vertical separation distance, described in MR Chapter 7080.1500 Subp.4 D and E; and a system not abandoned in accordance with part 7080.2500. The determination of the threat to groundwater for other conditions must be made by a Qualified Employee or an individual licensed pursuant to Section 5 hereof.

Imminent Threat to Public Health and Safety: At a minimum a SSTS with a discharge of sewage or sewage effluent to the ground surface, drainage systems, ditches, or storm water drains or directly to surface water; SSTS that cause a reoccurring sewage backup into a dwelling or other establishment; SSTS with electrical hazards; or sewage tanks with unsecured, damaged, or weak maintenance access covers. The determination of protectiveness for other conditions must be made by a Qualified Employee or a SSTS inspection business licensed pursuant to Section 5 hereof.

Minor Repair: The repair or replacement of an existing damaged or faulty component/part of an SSTS that will return the SSTS to its operable condition. The repair shall not alter the original area, dimensions, design, or specifications of the SSTS.

Qualified Employee: An employee of the state or a local unit of government, who performs site evaluations or designs, installs, maintains, pumps, or inspects SSTS as part of the individual's employment duties and is registered on the SSTS professional register verifying specialty area endorsements applicable to the work being conducted.

Shoreland: Land located within the following distances from public water: 1,000 feet from the ordinary high water level of a lake, pond, or flowage; and 300 feet from a river or stream, or the landward extent of a flood plain designated by ordinance on a river or stream, whichever is greater.

Transfer or Sale of a Property: A transfer of real estate from one party to another.

§504.040 GENERAL PROVISIONS

Subd. 1. Treatment Required. All sewage generated, in un-sewered areas shall be treated and dispersed by an approved SSTS or a system permitted by the Minnesota Pollution Control Agency. (Ref. Ord. 1093, 6/10/14)

Subd. 2. Administrative Policy and Procedures. The White Bear Lake Building Department shall administer the SSTS program and all provisions of this Ordinance. At appropriate times the city shall review and revise this ordinance as necessary. The city shall employ or retain under contract a qualified employee and appropriately licensed professional to administer and operate the SSTS program.

Subd. 3. Variance Requests. A property owner may request a variance from the

standards as specified in this Ordinance pursuant to the requirements provided in Minnesota State Statutes. The City shall consider the requirements of Minnesota Rules Chapter 7082.0300, subp.2 and 3 when considering such variances. Variances that pertain to the standards and requirements of the State of Minnesota must be approved by the affected State Agency pursuant to the requirements of the State. (Ref. Ord. 1093, 6/10/14)

Subd. 4. Liability. Any liability or responsibility shall not be imposed upon the department or agency or any of its officials, employees, or other contract agent, its employees, agents or servants thereof for damage resulting from the defective construction, operation, or abandonment of any onsite or cluster treatment system regulated under this rule by reason of standards, requirements, or inspections authorized hereunder.

Subd. 5. Violations. Violation of any condition imposed by the city shall be deemed a violation of this ordinance and subject to the penalty provisions set forth in this ordinance.

Subd. 6. Evaluation, System Design, Construction, Inspection, and Servicing. Site evaluation, and system design, construction, permit issuance and inspection, system operation and servicing shall be performed by Minnesota Pollution Control Agency licensed SSTS businesses or qualified employees of local governments or persons exempt from licensing in Minnesota Administrative Rules 7083.0700. (Ref. Ord. 1093, 6/10/14)

Subd. 7. Two Soil Treatment and Dispersal Areas. For lots platted after January 23, 1996 a design shall evaluate and locate space for a second soil treatment area. (Ref. Ord. 1093, 6/10/14)

Subd. 8. Determination of Hydraulic Loading Rate and SSTS Sizing. Table IX or IXa of Minnesota Rules, Chapter 7080.2150, Subp.3(E) shall be used to determine the hydraulic loading rate and infiltration area for all SSTS permitted under this Ordinance. (Ref. Ord. 1093, 6/10/14)

Subd. 9. Compliance Inspection Required. An SSTS compliance inspection is required:

- a.) For a new, replacement or expansion of existing subsurface sewage treatment systems (SSTS).
- b.) When altering an existing structure to add a bedroom. (Ref. Ord. 1093, 6/10/14)
- c.) When the transfer or sale of a property served by a subsurface sewage treatment system occurs.
- d.) When a parcel having an existing system undergoes development, subdivision, or lot split, or a change of use. Development shall include construction projects that would require the issuance of a building permit for construction of a structure such as a new building, an addition, or an accessory structure. Maintenance and repair of an existing structure shall not be considered development.
- e.) When a property owner responsible for a parcel served by a subsurface sewage treatment system fails to maintain the system. A subsurface sewage treatment system shall be considered maintained when kept in compliance with Chapter 7080.2450, which requires that the owner of a subsurface sewage treatment system shall regularly, but in no case less frequently than once every three

years, have the septic tanks assessed and pumped if necessary. Septic tank assessment shall be provided by a MPCA licensed professional.

- f.) Whenever a property located in the Shoreland Area requires a permit or variance of any type for any improvement on, or use of, the property. This language is consistent with the Minnesota Department of Natural Resources Shoreland Management Rule Chapter 6120.
- g.) At any time as required by this ordinance or the Building Official deems appropriate such as upon receipt of a complaint or notice of a system malfunction.

Subd. 10. Imminent Public Health and Safety Threat; Failing System; and Surface Discharge.

- a.) The SSTS must be protective of public health and safety. A subsurface sewage treatment system that is determined to be an imminent threat to public health or safety in accordance with Minnesota Rules, Chapter 7080.1500, Subp.4A shall immediately abate the threat according to instructions by the Department. The SSTS shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this Ordinance in accordance with a schedule established by the Department, which schedule will not exceed 3 months. (Ref. Ord. 1093, 6/10/14)
- b.) A failing system, an SSTS that is not protective of groundwater in accordance with Minnesota Rules, Chapter 7080.1500, Subp.4.B, shall be brought into compliance by means of upgrade, repair, replacement or abandonment within 6 months after receiving notice from the Building Official. (Ref. Ord. 1093, 6/10/14)
- c.) An SSTS discharging raw or partially treated wastewater to ground surface or surface water is prohibited unless permitted under the National Pollution Discharge Elimination System. (Ref. Ord. 1093, 6/10/14)

Subd. 11. Conflict Resolution. Disputes involving documented discrepancies on the depth of the periodically saturated soil for SSTS design or compliance purposes shall be resolved according to Minnesota Rules, Chapter 7082.0700 Subp.5, by obtaining a judgment from a qualified employee of the local permitting authority. (Ref. Ord. 1093, 6/10/14)

Subd. 12. Septic Tank Maintenance. The owner of a sewage tank, or tanks, shall regularly, but not less frequently than every three years (unless otherwise approved by the Department due to limited use), inspect the tank(s) and measure the accumulations of sludge, and scum. If the system is pumped, measurement is not needed. The owner shall remove and sanitarily dispose of septage whenever the top of the sludge layer is less than 12 inches below the bottom of the outlet baffle or the bottom of the scum layer is less than 3 inches above the bottom of the outlet baffle. Removal of septage shall include complete removal of scum and sludge. (Ref. Ord. 1093, 6/10/14)

Subd. 13. Non-Complying Systems. Existing systems which are non-complying, but not an imminent health or safety threat, failing, or discharging to surface, may continue in use so long as the use is not changed or expanded. If the use changes or is expanded, the non-complying elements of the existing system must be brought into compliance.

Subd. 14. Non-Complying Work. New individual sewage treatment system construction that is non-compliant, or other work on a system that is non-compliant, must be brought into compliance with this ordinance in accordance with a schedule established by the Department, which schedule will not exceed seven days unless the Department finds extenuating circumstances.

Subd. 15. Floodplain. An SSTS shall not be located in a floodway or floodplain. Location within the flood fringe is permitted provided that the design complies with this ordinance and all of the rules and statutes incorporated by reference. (Ref. Ord. 1093, 6/10/14)

Subd. 16. Class V Injection Wells. All owners of new or replacement SSTS that are considered to be Class V injection wells, as defined in the Code of Federal Regulations, title 40, part 144, are required by the Federal Government to submit SSTS inventory information to the Environmental Protection Agency. (Ref. Ord. 1093, 6/10/14)

§504.050 PROHIBITIONS

Subd. 1. Occupancy or Use of a Building without a Compliant SSTS. It is unlawful for any person to maintain, occupy, or use any building intended for habitation that is not provided with a wastewater treatment system that disposes of wastewater in a manner that does not comply with the provisions of this Ordinance.

Subd. 2. Sewage Discharge to Ground Surface or Surface Water. It is unlawful for any person to construct, maintain, or use any SSTS system regulated under this Ordinance that results in raw or partially treated wastewater seeping to the ground surface or flowing into any surface water. Any surface discharging system must be permitted under the National Pollutant Discharge Elimination System program by the MPCA.

§504.060 COMPLIANCE INSPECTION CRITERIA

Subd. 1. Soil Treatment Separation.

Any SSTS built before April 1, 1996 outside of areas designated as shoreland areas and wellhead protection areas shall have at least two feet of vertical separation between the bottom of the dispersal system and seasonal saturation or bedrock. (Ref. Ord. 1093, 6/10/14)

Any SSTS built after March 31, 1996 or SSTS located in a Shoreland area, wellhead Protection area, or serving a food, beverage, or lodging establishment as defined under 7080.1100, Subp. 84 shall have a three-foot vertical separation between the bottom soil infiltrative surface and the periodically saturated soil and/or bedrock. (Ref. Ord. 1093, 6/10/14)

Existing systems that have no more than a 15 percent reduction in this separation distance (a separation distance no less than 30.6 inches) to account for settling of sand or soil, normal variation of separation distance measurements and interpretation of limiting layer characteristics may be considered compliant under this Ordinance. The vertical separation measurement shall be made outside the area of system influence but in an area of similar soil. 7080.1500, Subp.4. (Ref. Ord. 1093, 6/10/14)

Subd. 2. Holding Tanks. Holding tanks may be allowed for the following applications; as replacement to a failing existing system, an SSTS that poses an imminent threat to public health and safety, or for an existing lot in which an SSTS cannot feasibly be installed and the Building

Department finds extenuating circumstances. The owner of holding tanks installed after the effective date of this ordinance shall provide the Building Department with a copy of a contract with a licensed sewage maintenance business for monitoring and removal of holding tank contents. (Ref. Ord. 1093, 6/10/14)

Subd. 3. System Abandonment. An SSTS, or component thereof, that is no longer intended to be used must be abandoned in accordance with the adopted standards of this ordinance. (Ref. Ord. 1093, 6/10/14)

§504.070 PERMITS

Subd. 1. Permit Required. No person shall cause or allow the location, construction, alteration, extension, conversion, or modification of any subsurface sewage treatment system without first obtaining a permit for such work from the Building Department. No person shall construct, alter, extend, convert, or modify any structure that is or will utilize subsurface sewage treatment system without first obtaining a permit. (Ref. Ord. 1093, 6/10/14)

Subd. 2. Licensed Personnel. All work performed on an SSTS shall be done by an appropriately licensed business, qualified employees or persons exempt from licensing. Permit applications shall be submitted by the person doing the individual subsurface sewage treatment system construction on forms provided by the Building Department and accompanied by required site and design data, and permit fees. (Ref. Ord. 1093, 6/10/14)

Subd. 3. Inspection Required. No part of an individual sewage treatment system shall be covered until it has been inspected and approved by the Building Department. If any part of the system is covered before being inspected and approved as herein provided, it shall be uncovered upon the direction of the Department. The Building Department shall cause such inspections as are necessary to determine compliance with this ordinance. It shall be the responsibility of the permit applicant to notify the Building Department that the system is ready for inspection.

Subd. 4. SSTS Management. Permits for new and replacement SSTS shall include a management plan detailing a schedule for septic tank maintenance. A maintenance schedule shall be required of all owners of new holding tanks and SSTS that the Building Department has determined require operational oversight. (Ref. Ord. 1093, 6/10/14)

Subd. 5. Minor Repairs. A permit is not required for minor repairs or replacement of damaged or deteriorated components that do not alter the original function, change the treatment capacity, change the location of system components, or otherwise change the original system's design, layout, or function.

Subd. 6. Operating Permit. An operating permit shall be required for all owners of new MSTs or any other SSTS that the Building Department has determined requires operational oversight. Application for an operating permit shall be made on a form provided by the Building Department. (Ref. Ord. 1093, 6/10/14)

§504.080 VIOLATIONS AND PENALTIES

Subd. 1. Misdemeanor. Any person who fails to comply with the provisions of this ordinance may be charged with a misdemeanor and upon conviction thereof, shall be punished therefore, as provided by law. A separate offense shall be deemed committed upon each day

during or on which a violation occurs or continues.

Subd. 2. Injunctive Relief. In the event of a violation or a threat of violation of this ordinance, the Building Department may institute appropriate actions or proceedings to include injunctive relief to prevent, restrain, correct, or abate such violations or threatened violations; and the City Attorney may institute a civil action.

Subd. 3. Civil Action. In the event of a violation of this ordinance, the City may institute appropriate actions or proceedings to include injunctive relief to prevent, restrain, correct, or abate such violations, or threatened violations, and the City Attorney may institute such action.

§504.090 EFFECTIVE DATE

This shall be effective immediately upon passage by the City Council. Passed June 10, 2014.

(Ref. Ord. 14-6-1093/6-10-14)

505. Curbside Recycling Scavenging Prohibited

§505.010 Purpose. This section is designed to prevent unauthorized collections of recyclable materials which are set out by City residents as part of a designated recycling program. Unauthorized collection or "scavenging" may reduce the volumes of materials collected as part of a designated program and thereby threaten the economic viability of the authorized program. Scavenging may also cause confusion among participating residents and thereby disrupt the publicity and educational processes of an authorized program. This section is also designed to insure that a designated recycling program will be implemented in an orderly fashion to avoid adverse effects on the public health, welfare, safety and environment.

505.020 Definitions.

"**Recyclable materials**" shall mean all items of refuse designated by the City Manager to be part of an authorized recycling program and which are intended for transportation, processing, and remanufacturing or reuse.

"**Authorized or designated recycling program**" shall mean a program for the collection and recycling of recyclable materials which is instituted, sponsored and controlled by the City of White Bear Lake.

"**Scavenging**" shall mean the unauthorized collection of recyclable materials that have been set out by residents of the City specifically for participating in curbside recycling programs.

505.030 Designation of Items. The City Manager shall prepare a list of refuse items designated to be part of an authorized recycling program. Such items must be ones which are generally accepted by the recycling industry for remanufacture and reuse, which can be cleaned, prepared, and stored in a manner to protect the public health, welfare, safety or environment, and which can be collected and recycled without threatening the economic viability of an authorized recycling program. This list shall be filed with the City Clerk after two weeks published notice in the official newspaper. The City Manager may modify the items on this list as circumstances warrant by following the procedure specified for the original designation.

505.040 Ownership. Ownership of recyclable materials set out for the purpose of participating in curbside recycling programs shall remain with the person or household from which the materials originated until collected by authorized collector. Upon removal by the City or its designated agents or contractors from a designated collection point, ownership of properly prepared and stored re-and stored recyclable materials intended for a City authorized collection program shall be vested in the authorized collector. Materials not prepared, cleaned or stored according to City specifications shall remain the responsibility and property of the individuals or household from which the materials originated. Nothing in this ordinance shall abridge the right of any individual or household to give or sell their recyclable materials to any recyclable materials program.

(Reference Ord. No. 771, 10/11/88)

Added 10/11/88

§505.050

PUBLIC HEALTH, WELFARE AND SANITATION

§504.050

505.050 Unauthorized Collection. It shall be unlawful for any person who is not authorized by the City or County to take or collect recyclable material set out for authorized collection programs within the City.

Any person violating this provision shall, upon conviction thereof, be punished by a fine not to exceed two hundred dollars (\$200.00).

Conviction of a second or subsequent violation or offense within five (5) years shall be a misdemeanor and shall be punished by a fine not to exceed seven hundred dollars (\$700.00) and/or imprisonment in the County Jail or Women's Detention facility for a period not to exceed ninety (90) days.

(Reference Ord. No. 771, 10/11/88)

Added 10/11/88

506. Prevailing Wage Rate

§506.010. City Policy. It is in the public interest that public buildings and other public works be constructed and maintained by the best means and highest quality of labor reasonably available and that persons working under contract on public works be compensated according to the real value of the services they perform. It is, therefore, the policy of the City of White Bear Lake that wages of laborers, workers, and mechanics on contracted projects financed in whole by City funds should be comparable to wages paid for similar work in the community as a whole.

§506.020. Definitions.

Subd. 1. Terms. As used in this ordinance, the terms defined in this section shall have the meaning given them below, except where the context indicates otherwise.

Subd. 2. "City Project". "City Project" means the erection, construction, remodeling, or repairing of a City building or City park or other City public work or City public improvement, (except snow removal, street maintenance, including overlaying, milling and sealcoating) where all the following conditions exist:

- a) The City Project is financed in whole by City funds;
- b) The work under the City Project is to be performed by a contractor and the City Project by law is required to be competitively bid under Minnesota Statute 471.375;
- c) The City is to let the contract for the City Project;
- d) The estimated cost of the City Project exceeds \$15,000.00;
- e) The work is to be performed on real property or on fixtures thereto and not solely on personal property.

Subd. 3. Prevailing Wage Rate. "Prevailing Wage Rate" means the same as defined by Minnesota Statute 177.42, Subd. 6, and as determined pursuant thereto for the area of Ramsey County by the Minnesota Department of Labor and Industry from time to time.

§506.030. Contract Requirement for Payment of Prevailing Wage Rate. The bid specifications and the contract for any City Project shall contain the following provisions or language similar in substance.

(Ref. Ord. 792, 9/12/89)

Subd. 1. The contractor and any subcontractor, agent, and other person doing or contracting to do all or a part of the work of the City Project must pay at least the Prevailing Wage Rate to all laborers, workers, and mechanics employed directly on the City Project work site.

Subd. 2. Upon request of the City, the contractor and any subcontractor, agent and other person doing or contracting to do all or a part of the work of the City Project shall within five (5) working days supply the City a copy of payrolls showing wages paid, and a wage compliance statement with respect to wages paid each of its laborers, workers, and mechanics employed directly on the City Project work site. In the event such statements are not provided or in the event such statements disclose that the required Prevailing Wage Rate is not being paid, then the City shall have the right to withhold payments to the contractor for such periods of non-compliance. The withheld payments shall be equal to the difference between the wages paid and the Prevailing Wage Rate for the period of non-compliance. During the course of and upon completion of the contract work, the City shall have the right to require an audit of the contractor's books to determine compliance or non-compliance. Each contractor and subcontractor shall retain copies of the weekly payrolls for a period not less than one (1) year after completion of the work.

§506.040. Exceptions. The requirements set forth in §506.030 do not apply to wage rates of laborers, workers, or mechanics who process or manufacture materials or products or to the delivery of materials or products by or for commercial establishments which have a fixed place of business from which they regularly supply processed or manufactured materials or products. Provided, however, the requirements set forth in §506.030 do apply to laborers, workers, or mechanics who deliver mineral aggregate such as sand, gravel, or stone which is incorporated into the work under the contract by depositing the material substantially in place, directly or through spreaders, from the transporting vehicle.

(Ref. Ord. 792, 9/12/89)

§507 Refuse and Recyclables Collectors.

§507.010 PURPOSE. It is the intent of the City of White Bear Lake to establish a licensing procedure for all haulers of refuse and recyclable materials in the City.

§507.020 DEFINITIONS. For the purposes of this chapter only, the words and phrases below are defined as follows:

- A) **Collection** means the aggregation of refuse or recyclable materials from the place at which it is generated and includes all activities up to the time when the waste is delivered to a designated facility.
- B) **Commercial and Industrial Site** means any location in the City that is not residential and contains a retail business, restaurant, manufacturing enterprise, school, church, nursing home, daycare facility or any similar establishment.
- C) **Multi-family Dwelling** means a building or complex which provides more than four (4) residential dwelling units with a kitchen or area for preparation of food as part of a large building or complex which, as part of the rental fee or association dues, provides refuse service for the entire group of households with large vat type containers.
- D) **Recyclable Materials** means materials that are separated from refuse for the purpose of recycling.
- E) **Recycling** means the process of collecting and preparing recyclable materials and reusing the materials in their original form or using them in manufacturing processes that do not cause the destruction of recyclable materials in a manner that precludes further use.
- F) **Recycling Contractor** means a person, company or corporation that is in the business of collection, transportation and preparation of recyclables for use or resale.
- G) **Refuse** means waste material, garbage, rubbish and other solid wastes as described in §501 of the City Code.
- H) **Refuse Contractor** means a person, company or corporation that is in the business of collecting, transporting non-recyclable waste material from the place of the original generator to a waste disposal facility.
- I) **Single-Family Residential Dwelling Unit** means a residential accommodation including complete kitchen facilities permanently installed which are arranged, designed, used or intended for use exclusively as living quarters.

(Ref. Ord. 874, 6/9/92)

§507.030. LICENSE FOR REFUSE AND RECYCLING CONTRACTORS REQUIRED. No person, company or corporation shall act as a refuse or recycling contractor without first obtaining the appropriate license issued by the City. Anyone desiring a license to collect refuse or recyclables in the City shall submit a completed license application form along with the license fee and the required certificate of insurance.

§507.040. LICENSE FEE. The fee for refuse or recycling contractor license is \$100 per year. A contractor that is licensed as a refuse contractor does not need to pay a second fee for a recycling contractor's license and vice versa.

§507.050. LIABILITY INSURANCE REQUIRED. Before a refuse or recycling contractor license shall be issued, the applicant shall provide a certificate of liability insurance for all vehicles in the sum of not less than \$600,000 for bodily injury damages and \$200,000 for property damages.

§507.060. WORKER'S COMPENSATION INSURANCE REQUIRED. Before a contractor license shall be issued, the applicant shall file with the City a certificate indicating statutory Worker's Compensation coverage or evidence of self-insured status approved by the State of Minnesota.

§507.070. REFUSE AND RECYCLING SERVICE - SINGLE FAMILY RESIDENTIAL. The City shall contract with a refuse and recycling contractor to serve as the exclusive curbside collector of materials from single family residential dwelling units. In such contract the City Council shall determine the schedule, the materials and frequency of collection.

§507.080. REFUSE AND RECYCLING SERVICE - MULTI-FAMILY, COMMERCIAL AND INDUSTRIAL SITES. Every multi-family, commercial and industrial location in the City shall contract with a refuse and recycling contractor who will remove refuse and recyclable material at least once weekly.

§507.085. RECYCLING MATERIALS TO BE REMOVED. All refuse haulers licensed under this section who collect refuse from single family residential or multi-family accounts must provide recycling service for each of their refuse accounts within the City. Minimum service provided must include weekly collection service, recycling containers, adequate signs and educational material for effective recycling of newspaper, glass, food and beverage cans and plastic containers (product code No. 1 and No. 2).

§507.090. REPORT TO THE CITY. All licensed haulers who collect from single family residential or multi-family residential accounts shall keep accurate records of all material collected from each account and submit to the City a quarterly report of the total tonnage of refuse and recyclables collected. Refuse licensees shall provide proof of proper disposal of refuse at a site designated by Ramsey County. The recycling licensees shall provide proof of disposal of recycling products to end markets.

§507.100. VEHICLES. Licensees shall use equipment so constructed that materials will not spill out during transportation. The equipment shall be kept clean and shall not be allowed to stand in any street or public place longer than is necessary to collect materials. The equipment shall not leak fuel, oil or hydraulic fluid while in normal operation in the City.

§507.110. HOURS OF COLLECTION. Licensees may collect materials only during hours between 6:00 A.M. and 10:00 P.M.

§507.120. EXPIRATION OF LICENSE. All licenses shall expire annually on March 31st.

§507.130. REVOCAION. A licensee's failure to comply with the provisions of the City of White Bear Lake's code, State laws or any of the conditions attached to the license shall be grounds for license revocation, without refund of licensee fee.

(Ref. Ord. 874, 6/9/92)

508. Rental Dwelling Licensing

§508.010 LICENSING OF RENTAL UNITS. This amended licensing program shall commence on April 1, 2008 and applies to all single family, two-family, and multi-family rental dwellings as hereinafter provided. All single and two-family rental owners shall have ninety (90) days from the commencement date in which to apply. All rental units shall be licensed as a prerequisite to leasing. All rental units must be in compliance with the City's "Minimum Housing Standards" as outlined in Chapter 502 of the City code in order to be licensed. Failure to secure or renew a license in the timeframe provided by the City will be cause for revocation and other legal action. All licenses shall be valid for a period of two (2) years from the date of issuance, except as otherwise provided herein or in cases of suspension or revocation. Licensees may continue to operate their business, lawfully, after the expiration date of their license provided, that the licensee has filed with the Compliance Official, on or before the expiration date, the appropriate license application and license fee. Application and license fees for new unlicensed dwellings shall be due prior to the issuance of the Certificate of Occupancy.

§508.015 RELATIVE HOMESTEAD EXEMPTION. Residential real estate that is occupied and used for the purposes of a homestead by a relative of the owner is exempt from formal licensing requirements. In these instances, the owner shall file for an exemption once every two years, on a form to be provided by the City. There shall be no charge for filing the exemption. The property must still comply with the exterior maintenance and storage requirements of Section 502 "Minimum Housing Standards"; Section 1302.030 Subd. 14 and 15 "Refuse and Exterior Storage"; and Section 1302.055 "Permitted Storage". Unless otherwise authorized by the City, the owner shall have 30 days from the date of filing the exemption to bring the property into compliance with the exterior standards. Failure to comply within this time will require the owner to apply for a formal license. For the purposes of this section, a "relative" shall include those persons defined as a relative in Minnesota Statutes Section 273.124, Subd.1(c), as may be amended from time to time. (Ref. Ord. No. 1051; 10/14/08).

§508.020 LICENSE FEES. At the time of application, the applicant shall submit a non-refundable license fee. The license fee shall be charged every two (2) years and shall equal a base fee of \$50.00 plus an additional \$7.00 for each additional dwelling unit within the apartment complex or building. When re-inspections are required, fees shall be charged pursuant to §508.130.

Non-refundable late fees for re-licensing shall be charged as follows:

- 1) 1 - 7 days after expiration 25% over original fee
- 2) 8 or more days after expiration 50% over original fee
- 3) 30 days after expiration legal procedures will begin

§508.030 OWNER OR AGENT TO APPLY. License application or renewal shall be made by the owner of rental units or a legally constituted agent. Application forms may be acquired from and subsequently filed with the Compliance Official. The applicant shall supply the following:

- 1) Name, address and telephone number of the dwelling owner; partners if a partnership; corporate officers if a corporation.

- 2) Name, address and telephone number of designated agent or manager.
- 3) Name, address and telephone number of vendee, if dwelling is being purchased through a contract for deed or mortgage.
- 4) Legal description and address of dwelling.
- 5) Number of units in each rental dwelling and the type of units (one (1) bedroom, two (2) bedroom etc...) within each of the rental dwelling.
- 6) The number of paved off-street parking spaces available (e.g. enclosed parking spaces, exterior parking spaces and handicap parking spaces).

Every person holding an operating license shall give notice, in writing, to the Compliance Officer within five (5) business days after any change of this information. Notice of transfer shall be as described in Section S502.330.

(Ref. Ord. No. 856, 11/26/91) Added 11/26/91

§508.030 RESIDENT AGENT REQUIRED. No operating license shall be issued or renewed for a nonresident owner of rental dwelling units (one who does not reside in any of the following Minnesota counties: Hennepin, Ramsey, Anoka, Carver, Dakota, Scott or Washington; or Wisconsin counties: Polk, St. Croix and Pierce) unless such owner designates in writing to the Compliance Official the name, address and phone no. of his resident agent (one who does reside in any of the following Minnesota counties: Hennepin, Ramsey, Anoka, Carver, Dakota, Scott or Washington; or Wisconsin counties: Polk, St. Croix and Pierce) who is responsible for maintenance and upkeep and who is empowered to receive service of notice of violation of the provisions of the City Ordinances, to receive orders and to institute remedial action to effect such orders and to accept all service or process pursuant to law. The Compliance Official shall be notified in writing of any change of resident agent.

§508.040 APPLICATION AND INSPECTION. Upon receipt of a properly executed application for a rental housing license, an inspection shall be made of the premises every two years to ensure that the property is in compliance with all applicable ordinances of the City.

Subd. 1. Prior to conducting an inspection, the Compliance Official shall mail notification to the owner or agent at least 10 working days prior to the proposed inspection date. It shall be the responsibility of the applicant to inform tenants of the scheduled inspections.

Subd. 2. The number of units to be inspected by the Compliance Official shall be determined by the following:

<u>No. of units within a building</u>	<u>Units to be inspected per building</u>
3 - 5	All
6 - 30	5 units or 25% of the units, whichever is greater
31 - 60	25% of the units
61 +	15 units

§508.050 CONFORMANCE TO LAWS. No operating license shall be issued or renewed unless the rental dwelling and its premises conform to all applicable City ordinances and laws and regulations of the State of Minnesota including the International Fire Code.

§508.060 INSPECTION CONDITION. No operating license shall be issued or renewed unless the owner of rental units agrees in his application to permit inspections. (Ref. Ord. No. 856, 11/26/91)

§508.070 ISSUANCE OF RENTAL HOUSING LICENSE. If the rental dwelling is in compliance with all applicable ordinances of the City, a license shall be issued to the present owner or his designated agent, which shall state that the property has been inspected and is in compliance. If the City finds that the circumstances of the occupancy following the issuance of the license involve possible Code violations, substandard maintenance or abnormal wear and tear, the City may re-inspect the premises during the licensing period. (Ref. Ord. 1048; 3/11/08)

§508.080 POSTING OF LICENSE. Every licensee of a single-family, two-family, and multiple dwelling shall post the license in the main entry way or other conspicuous location therein.

§508.090 LICENSE TRANSFERABILITY. No operating license shall be transferable to another person or to another rental dwelling without written approval of the Compliance Official. A license issued hereunder is transferable providing that the new owner, partners or corporate officers submit to the Compliance Official within five (5) business days after legally acquiring ownership of the licensed rental dwelling(s), a License Transfer Form (supplied by the City), along with a transfer fee of \$20.00. Failure to submit the license transfer form and the transfer fee may result in the termination of the rental license.

§508.100 OCCUPANCY REGISTER REQUIRED. Every owner of a licensed rental dwelling shall keep, or cause to be kept, a current register of occupancy for each dwelling unit which provides the following information:

- 1) Dwelling unit address.
- 2) Number of bedrooms in dwelling unit.
- 3) Number of adults and children (under 18 years of age) currently occupying the dwelling unit.

Such register shall be made available for viewing or copying by the Compliance Official at all reasonable times.

§508.105 CONDUCT ON LICENSED PREMISES.

- 1) It shall be the responsibility of the licensee to require persons occupying a licensed premises to conduct themselves in such a manner so as not to cause the premises to be disorderly. For purposes of this Section, a premises refers to a rented single family dwelling, duplex or triplex, and is deemed disorderly if any of the following activities occur:

- a. Conduct which would be in violation of laws relating to: sale of alcoholic beverages; gambling; prostitution; sex trafficking; fire arms; controlled substances; possession of stolen property; or disorderly conduct.
 - b. Conduct which would be in violation of City Code provisions relating to: Prohibited Noise (§ 703.070 Subd. 2-8); Responsibility of Owners (§ 502.060); Refuse (§ 1302.030 Subd. 14); Dogs and Animals (§§ 701, 702); Exterior Storage (§ 1303.030 Subd. 15); Weeds (§ 705); or, Discharge of Firearms (§ 703.020);
 - c. Other conduct constituting a nuisance under the City Code or State Statutes, after consultation with the City Attorney.
- 2) The City Building Official or designee shall be responsible for enforcement and administration of this Ordinance.
 - 3) Upon determination by the City Building Official or designee that a licensed premises was used in a disorderly manner, as described in paragraph 1, the City Building Official or designee shall give written notice to the licensee of the violation and direct the licensee to take steps to remedy the violation and prevent further violations.
 - 4) If three separate notices of disorderly use of the licensed premises occur within a twelve month period, the Building Official may forward a recommendation to the City Council to suspend, revoke, or deny renewal of the rental dwelling license. The proceedings following such notice will be carried out in compliance with Section 508.110 of this Chapter.
 - 5) No adverse license actions shall be taken where the instance of disorderly use of the licensed premises occurred during the pendency of eviction proceedings (unlawful detainer) or within thirty (30) days of notice given by the licensee to a tenant to vacate the premises where the disorderly use was related to conduct by that tenant or by other occupants or guests of the tenant's unit. Eviction proceedings shall not be a bar to adverse license action, however, unless the licensee diligently pursues them. Further, an action to suspend, revoke, deny or not renew a license based upon violations of this section may be postponed or discontinued at any time if it appears that the licensee has taken appropriate measures, which will prevent further instances of disorderly use.
 - 6) A determination by the City Council, after a due process hearing, that the licensed premises have been used in a disorderly manner as described in paragraphs 1) and 4) shall be made upon a fair preponderance of the evidence to support such a determination. In that proceedings under this Section are administrative in nature, it shall not be necessary that criminal charges be brought in order to support a determination of disorderly use, nor shall the fact of dismissal or acquittal of a criminal charge operate as a bar to adverse license action under this Section. A criminal conviction, however, is sufficient to establish such a violation.

- 7) All notices given by the City under this Section shall be sent to the licensee's last known address, or if neither method of service effects notice, by posting on a conspicuous place on the licensed premises.
- 8) Enforcement actions provided in this section shall not be exclusive, and the Building Official may take any action with respect to a licensee, a tenant, or the licensed premises as is authorized by this Code or by State Statutes or regulations. (Ref. Ord. No. 16-11-2019)

§508.110 LICENSE SUSPENSION OR REVOCATION. Every operating license issued under the provisions of this ordinance is subject to suspension or revocation by the City Council, should the licensed owner or his duly authorized resident agent fail to operate or maintain the licensed rental dwelling(s) and dwelling units therein consistent with the provisions of all applicable ordinances of the City. Prior to suspension or revocation the licensee or his designated agent shall be notified in writing at least five (5) days prior to the City Council's consideration of such an action. In the event that an operating license is suspended or revoked by the City Council it shall be unlawful for the owner or his duly authorized agent to thereafter permit any new occupancies of vacant, or thereafter vacated rental units, until such time as a valid operating license is restored. Issuance of a new license after suspension or revocation shall be made in the manner provided for obtaining an initial license. The license application will be accompanied by the license fee equal to one hundred and fifty (150) percent of the original license fee.

An operating license may also be suspended or revoked for any of the following reasons:

- 1) The license was procured by misrepresentation of material facts, by fraud, by deceit or by bad faith.
- 2) The applicant or one acting in his behalf made oral or written misstatements or misrepresentations of material facts in or accompanying the application.
- 3) The licensee or applicant has failed to comply with any condition set forth in any other permits granted by the City of White Bear Lake.
- 4) The activities of the licensee in the licensed activity create or have created a serious danger to the public health, safety or welfare.
- 5) The licensed business, or the way in which said business is operated, maintains or permits conditions that injure, annoy, or endanger the safety, health, morals, comfort or repose of any member of the public.

§508.120 POSTED TO PREVENT OCCUPANCY. Whenever any dwelling or dwelling unit has not obtained the required license, or has been denied a license or has had its operating license suspended or revoked or is unfit for human habitation, it shall be posted with a placard by the Compliance Official to prevent further occupancy.

No person, other than the Compliance Official or his/her representative, shall remove or tamper

with any placard used for posting. The Compliance Official will post on the placard the date that
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the vacancy shall become effective. On or after the placard vacancy date, no person shall reside in, occupy or cause to be occupied any dwelling or dwelling unit which has been posted to prevent occupancy.

§508.130 REINSPECTION FEES. At the time that a third inspection of a dwelling or dwelling unit is needed, a re-inspection fee will be charged to the owner. The re-inspection fee shall be twenty-five (25) percent of the license fee or Fifty (\$50.00) dollars, whichever is greater, for each re-inspection needed after the initial inspection and the second inspection has been done. No license will be issued until all outstanding re-inspection fees have been paid. If a dwelling or dwelling unit is licensed, the license shall expire twenty (20) days after the licensee or his agent is notified of the re-inspection fees that must be paid to maintain such license in good standing, unless the re-inspection fee is paid prior to the expiration of the twenty (20) day period. (Ref. Ord. 1048, 3/11/08)

§508.140 PENALTIES. Any person violating any of the provisions of this ordinance by doing any act or failing to do any act which constitutes a breach of any section of this ordinance, shall be guilty of a misdemeanor. (Ref. Ord. No. 1051; 10/14/08).

§508.150 LIABILITY. Neither the City nor its employees or agents shall be deemed liable for damages to a third person by reason of this ordinance.

§508.160 SEPARABILITY. Every section, provisions, or part of this ordinance is declared separable from every other section, provision, or part to the extent that if any section, provision or part of the ordinance shall be held invalid, it shall not invalidate any other section, provision or part thereof.

(Ref. Ord. No. 856, 11/26/91)

Added 3/19/10

509. Composting

§509.010. COMPOSTING DEFINITION. The following definitions shall apply in the interpretation and enforcement of this ordinance.

Subd. 1. Compost. A mixture of decayed organic matter.

Subd. 2. Composting. Any above ground microbial process that converts yard waste to organic soil amendment or mulch by decomposition of material through an aerobic process providing adequate oxygen and moisture.

Subd. 3. Garden. Ground area for cultivation of flowers, vegetables and shrubs.

Subd. 4. Rear Yard. A yard extending across the full width of the lot and lying between the rear line of the lot and the nearest line of the principal building.

Subd. 5. Yard Waste. Means grass/lawn clippings, leaves, weeds, garden waste (tomato vines, carrot tops, cucumber vines, etc.) soft-bodied plants (flower and vegetable plants), small non-woody shrub trimmings or twigs (1/4 inch diameter maximum), pine cones and needles.

Subd. 6. Zoning Administrator. The person appointed by the City Manager, who shall be responsible for the administration of this ordinance.

§509.020. COMPOSTING.

Subd. 1. Composting is permitted only in residential properties up to four (4) dwelling units provided that all of the following conditions are met:

- a) Permitted Composting Materials. Only yard waste, straw, fruit and vegetable scraps, coffee grounds, egg shells of which is generated from the site on which the composting is located. In addition, commercially available composting ingredients can be placed in a composting containers.
- b) Prohibited Materials. The following materials shall not be placed in the composting container(s): Meat, bones, fat oils, whole eggs, dairy products, unshredded branches or logs, weeds heavily loaded with seeds, plastics, synthetic fibers, human or pet wastes, diseased plants, and any other garbage or refuse except for those permitted above in "a".
- c) Composting Structure. All composting materials must be contained in a bin which may be constructed of wood, wire mesh, a combination of wood and wire or commercially fabricated compost bins designed to contain composting materials.

(Ref. Ord. No. 861, 2/11/92)

Added 2/11/92

- d) **Composting Container Size.** Composting shall be conducted within an enclosed container(s) not to exceed a total of one hundred fifty (150) cubic feet (for example, 6'x5'x5') in volume for those lots of ten thousand five hundred (10,500) square feet or less. For those lots greater than ten thousand five hundred (10,500) square feet, a total of two hundred fifty (250) cubic feet (for example 10'x5'x5') in volume, will be allowed. Maximum height of the composting container shall be five (5) feet. For composting containers larger than the above or for non-contained composting material, approval is required by the Zoning Administrator. Requests shall be submitted on the appropriate request form (to be supplied by the City) and submitted to the Zoning Administrator for his approval. If request is denied, applicant can appeal to the City Council for approval within ten (10) days of the denial.
- e) **Location.** The composting container shall be located in the rear yard of the property, and be at least two (2) feet from the property line and no closer than fifty (50) feet to any adjacent habitable building, other than the residents own home.
- f) **Maintenance.** The compost must be periodically mixed and moistened to incorporate air, to property mix wet and dry material, and to promote rapid biological degradation. The compost must provide for adequate air circulation to prevent objectionable odors to adjacent properties.
- g) **Nuisance.** The operation of composting in a manner that results in objectionable odors and/or the placing of prohibited materials in a composting container to create a health hazard is considered a public nuisance.

§509.030. **PENALTIES.** Any person violating any of the provisions of this ordinance by doing any act or failing to do any act which constitutes a breach of any section of this ordinance is guilty of a misdemeanor and shall upon conviction thereof may be punished by a fine not to exceed Seven Hundred (\$700.00) dollars or by imprisonment not to exceed ninety (90) days or both.

§509.040. **SEPARABILITY.** Every section, provisions, or part of this ordinance is declared separable from every other section, provision, or part to the extent that if any section, provision or part of the ordinance shall be held invalid, it shall not invalidate any other section, provision or part thereof.

(Ref. Ord. 861, 2/11/92)

510. SPECIAL SERVICES DISTRICT, NO. 1.

§510.010. There is hereby established Special Services District, No. 1 in the City of White Bear Lake.

Subd. 1. District Limits. The following property zoned commercial, business or industrial is hereby designated and defined as Special Services District, No. 1:

A) Outline of Boundaries:

Beginning at the centerline intersection of Highway 61 and 10th Street, then East along the centerline of 10th Street a distance of 490 feet to the west right-of-way line of Stewart Avenue, then South along the west right-of-way line of Stewart Avenue a distance of 500 feet to the north property line of Lot 2, of Block 22, then West 600 feet to the centerline of Highway 61, then South along the centerline of Highway 61 a distance of 250 feet to the centerline intersection of Highway 61 and 8th Street, then East along the centerline of 8th Street a distance of 340 feet to the centerline of Cook Avenue, then South along the centerline of Cook Avenue a distance of 362+ feet to the centerline of 7th Street, then West along the centerline of 7th Street a distance of 180+ feet, then South along the east property line of Lot 3 and 6 of Block 37 a distance of 360 feet to the centerline of 6th Street, then West along the centerline of 6th Street a distance of 180 feet to the centerline of Banning Avenue, then South along the centerline of Banning Avenue a distance of 360 feet to the centerline of 5th Street, then East along the centerline of 5th Street a distance of 360 feet to the centerline of Cook Avenue, then South along the centerline of Cook Avenue a distance of 1139+ feet to the centerline of 2nd Street, then West along the centerline of 2nd Street a distance of 965+ feet to the centerline of Clark Avenue, then South along the centerline of Clark Avenue a distance of 180 feet, then West along the south property line of Lot 3 and 4 of Block 6 a distance of 339+ feet to the centerline of Burson Avenue, then South along the centerline of Burson Avenue a distance of 420 feet to the centerline of 1st Street, then Northwesterly along the centerline of 1st Street a distance of 280 feet, then Southwesterly along a line between Lot 5 and 6 of Block 2 a distance of 150 feet, then Southwesterly along a line between Lot 9 and 10 of Block 2 a distance of 150 feet to the north line of the public right-of-way of Shady Lane, then Northwesterly along the north line of the public right-of-way of Shady Lane a distance of 150 feet to the centerline of Highway 61, then Northeasterly along the centerline of Highway 61 a distance of 65+ feet, then West 350 feet to the centerline of Murray Avenue, then North along the centerline of Murray Avenue a distance of 180 feet to the centerline of 1st Street, then East along the centerline of 1st Street a distance of 105 feet, then North along the east property line of Lot 4 and 5 of Block 12 a distance of 360 feet to the centerline of 2nd Street, then East along the centerline of 2nd Street a distance of 255+ feet to the centerline of Miller Avenue, then North along the centerline of Miller Avenue a distance of 360 feet to the centerline of 3rd Street, then East along the centerline of 3rd Street a distance of 180 feet, then North along the east property lines of Lots 3 and 6 of Block 2 then West along the centerline of 4th Street a distance of 540 feet to Murray Avenue, then South along the centerline of Murray Avenue a distance of 110 feet then West along the South property line of Lot 1 Block 5 a distance of 250 feet to the centerline of Bald Eagle Avenue then north a distance of 500 feet to the centerline of 5th Street then East along the centerline of 5th Street a distance of 1,470 feet then North along the east property lines of Lots 3 and 8 of Block 4 a distance of 360 feet to the centerline of 6th Street , then East along the centerline of 6th Street a distance of 130 feet to the centerline of Washington Avenue, then North along the centerline of Washington Avenue a distance of 955 feet, then West along the south line of Lot 10 of Block 3 a distance of 133+ feet to the southwest corner of Lot 10 of Block 3, then North along the west line of Lots 6, 8 and 9 of Block 3 a distance of 297+ feet to the northwest corner of Lot 6 in Block 3, then East 630 feet to the centerline of Highway 61, then Northeasterly along the centerline of Highway 61 a distance of 190 feet §510.010PUBLIC HEALTH, WELFARE AND SANITATION§510.010

to the point of beginning.

11/12/97)

B) Properties Excluded: (Listed by Ramsey Co. Property ID #/address):

** Part of 14-30-22-11-0059-4 / Unassigned (Burlington RR Property) **

** All of 14-30-22-42-0099-6 / Unassigned (Burlington RR Property) **

** Part of 14-30-22-43-0094-8 / Unassigned (Burlington RR Property) **

- 14-30-22-11-0041-3 / 4923 Long Avenue
- 14-30-22-11-0042-6 / 4919 Long Avenue
- 14-30-22-11-0043-9 / 4920 Washington Ave
- 14-30-22-11-0044-2 / 4925 Washington Ave
- 14-30-22-14-0060-5 / 4915 Long Avenue
- 14-30-22-14-0062-1 / 2181 8th Street
- 14-30-22-14-0063-4 / 2175 8th Street
- 13-30-22-22-0096-2 / 4949 Stewart Avenue
- 13-30-22-22-0097-5 / 4943 Stewart Avenue
- 14-30-22-11-0015-4 / 2254 10th Street
- 14-30-22-11-0016-7 / 2244 10th Street
- 14-30-22-11-0022-2 / Unassigned
- 14-30-22-11-0023-5 / 4923 Stewart Avenue
- 14-30-22-14-0072-8 / 2174 8th Street
- 14-30-22-14-0073-1 / 2180 8th Street
- 14-30-22-14-0074-4 / 2184 8th Street
- 14-30-22-14-0011-3 / 4891 Cook Avenue
- 14-30-22-14-0012-6 / 4885 Cook Avenue
- 14-30-22-14-0013-9 / 4881 Cook Avenue
- 14-30-22-14-0014-2 / 4877 Cook Avenue
- 14-30-22-14-0015-5 / 4873 Cook Avenue
- 14-30-22-14-0044-3 / 2207 6th Street
- 14-30-22-14-0045-6 / 4850 Banning Avenue
- 14-30-22-14-0096-4 / 2154 6th Street
- 14-30-22-14-0099-3 / 5th Street
- 14-30-22-14-0051-1 / 4821 Banning Avenue
- 14-30-22-42-0001-9 / 4799 Division Avenue
- 14-30-22-42-0004-8 / 2120 5th Street
- 14-30-22-42-0005-1 / 4786 Bloom Avenue
- 14-30-22-42-0006-4 / 4747 Bloom Avenue
- 14-30-22-42-0007-7 / 2100 5th Street
- 14-30-22-42-0021-3 / 2101 4th Street
- 14-30-22-42-0023-9 / 4780 Bloom Avenue
- 14-30-22-42-0024-2 / 4th Street
- 14-30-22-42-0025-5 / 2119 4th Street
- 14-30-22-41-0009-6 / Banning Avenue (City Parking Lot)
- 14-30-22-41-0010-6 / 419 Banning Avenue (City Parking Lot)
- 14-30-22-41-0011-9 / Banning Avenue (City Parking Lot)
- 14-30-22-41-0132-5 / 5th Street (City Parking Lot)
- 14-30-22-42-0032-3 / 2114 4th Street
- 14-30-22-42-0033-6 / 2106 4th Street
- 14-30-22-42-0034-9 / 2100 4th Street
- 14-30-22-42-0048-8 / 2101 3rd Street
- 14-30-22-42-0050-1 / 2109 3rd Street
- 14-30-22-41-0070-8 / Washington Avenue (City Park)
- 14-30-22-41-0072-4 / Banning Avenue (City Parking Lot)
- 14-30-22-41-0052-0 / 2228 4th Street
- 14-30-22-41-0077-9 / 2215 3rd Street (City Parking Lot)
- 14-30-22-41-0078-2 / 2223 3rd Street
- 14-30-22-41-0079-5 / 2229 3rd Street
- 14-30-22-41-0080-5 / 4739 Cook Avenue
- 14-30-22-42-0051-4 / 3rd Street (City Property)
- 14-30-22-42-0052-7 / 250 Miller Avenue (City Property)
- 14-30-22-42-0094-1 / 4701 Highway 61 (City Property)
- 14-30-22-42-0095-4 / 3rd Street (City Property)
- 14-30-22-42-0082-8 / 4705 Clark Avenue
- 14-30-22-41-0106-6 / 2171 2nd Street
- 14-30-22-41-0107-9 / 2175 2nd Street
- 14-30-22-41-0108-2 / 2181 2nd Street
- 14-30-22-41-0109-5 / 2191 2nd Street
- 14-30-22-41-0088-9 / 2230 3rd Street
- 14-30-22-41-0089-2 / 4711 Cook Avenue
- 14-30-22-41-0090-2 / 2224 3rd Street
- 14-30-22-41-0091-5 / 2218 3rd Street
- 14-30-22-41-0110-5 / 2203 2nd Street
- 14-30-22-41-0111-8 / 2209 2nd Street
- 14-30-22-41-0112-1 / 2215 2nd Street
- 14-30-22-41-0113-4 / 2223 2nd Street
- 14-30-22-41-0114-7 / 2231 2nd Street
- 14-30-22-41-0115-0 / 4705 Cook Avenue
- 14-30-22-42-0069-5 / 4690 Bald Eagle Avenue (Part of)
- 14-30-22-42-0070-5 / 2nd Street
- 14-30-22-42-0071-8 / 2nd Street
- 14-30-22-43-0067-6 / 1st Street
- 14-30-22-43-0069-2 / 2076 1st Street
- 14-30-22-43-0070-2 / 4668 Murray Avenue
- 14-30-22-43-0071-5 / 4660 Murray Avenue
- 14-30-22-42-0087-3 / 4685 Clark Avenue
- 14-30-22-42-0088-6 / 4683 Clark Avenue
- 14-30-22-43-0015-5 / 2105 1st Street
- 14-30-22-43-0016-8 / 2115 1st Street
- 14-30-22-43-0017-1 / 2121 1st Street

Subd. 2. Special Services Within District. The City may provide special services within Special Services District No. 1, which are not ordinarily paid for by the City from its general fund, as follows:

- A) The promotion and management of a special service district as a trade or shopping area.
- B) Compensation and operating expenses associated with the employment of a professional marketing director.

(Ref. Ord. 879, 10/13/92)

Added 10/13/92

Subd. 3. Ad Valorem Taxes. The Council may, by resolution, establish or impose service charges in the form of ad valorem taxes against and upon property zoned for commercial, business and industrial use within Special Services District, No. 1 to defray the cost of the special services provided.

- A) A resolution levying a special service charge for more than one year shall not be adopted unless the notice of public hearing required by Laws of Minnesota, Chapter 428A, and the notice mailed with the adopted resolution pursuant to Laws of Minnesota, Chapter 428A, include the following information:
- 1) In the case of improvements, the maximum rate of amount of taxes to be levied in any year and the maximum number of years the taxes will be levied to pay for the improvement.
 - 2) In the case of operating and maintenance services, the maximum rate or amount of service charges to be levied in any year and the maximum number of years, or a statement that the service charge will be imposed for an indefinite number of years, and the service charges will be levied to pay for operation and maintenance services.
 - 3) The resolution may provide that the maximum amount of service charge to be levied in any year will increase or decrease from the maximum amount authorized in the preceding year based on an indicator of increased cost or a percentage amount established by the resolution.

Subd. 4. Classes of Benefited Property. The Council may, from time to time, by resolution establish, designate or redesignate different classes of property within Special Services District No. 1 benefitted by the special services to be provided, and may vary the amount or rate of tax to be imposed based upon such designation and/or benefit.

Subd. 5. Limitations. Nothing herein shall be construed to:

- A) Require that the City provide any specific or minimal promotion of any individual business(s) within the Special Services District; or
- B) Market or otherwise promote the sale and/or lease of any individual business(s).

(Ref. Ord. 879, 10/13/92)

Added 10/13/92

V. PROHIBITING THE USE AND SALE OF COAL TAR-BASED SEALANTS**§511.101. PURPOSE.**

The City of White Bear Lake highly values lakes, rivers, streams and other bodies of water as natural assets which enhance the environmental, recreational, cultural and economic resources and contribute to the general health and welfare of the community.

The use of sealers on asphalt surfaces is a common maintenance practice. However, scientific studies on the use of pavement sealers have demonstrated a relationship between stormwater runoff and certain health and environmental conditions, including the presence of Polycyclic Aromatic Hydrocarbons, a known carcinogen.

The purpose of this ordinance is to regulate the use of sealer products within the City of White Bear Lake, in order to protect, restore, and preserve the quality of its waters. Further, it is the purpose of this ordinance to enhance compliance with the application prohibition through regulating sale of certain products.

§501.020. DEFINITIONS.

Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. For the purpose of this ordinance, the following definitions shall apply unless the context clear indicates or requires a different meaning:

ASPHALT-BASED SEALER. A petroleum-based sealer material that is commonly used on driveways, parking lots, and other surfaces and which does not contain coal tar.

COAL TAR. A byproduct of the process used to refine coal.

COAL TAR-BASED SEALER. A sealer material containing coal tar and is for use on an asphalt or concrete surface, including a driveway or parking area.

CITY. The City of White Bear Lake.

PAHs. Polycyclic Aromatic Hydrocarbons. A group of organic chemicals formed during the incomplete burning of coal, oil, gas, or other organic substances. Present in coal tar and believed harmful to humans, fish, and other aquatic life.

§511.030. USE OF COAL TAR-BASED SEALER PROHIBITED.

Subd. 1. No person shall apply any coal tar-based sealer to any driveway, parking lot, or other surface within the City of White Bear Lake.

Subd. 2. No person shall contract with any commercial sealer product applicator, residential or commercial developer, or any other person for the application of any coal tar-based sealer to any driveway, parking lot, or other surface within the City.

Subd. 3. No commercial sealer product applicator, residential or commercial developer, or other similar individual or organization shall direct any employee, independent contractor, volunteer, or other person to apply any coal tar-based sealer to any driveway, parking lot, or other surface within the City. A person who owns property on which a coal tar-based sealer is used is presumed to have used a coal tar-based sealer in violation of this section.

§511.040. SALE OF COAL TAR-BASED SEALER RESTRICTED

Subd. 1. A person may not sell a coal tar-based sealer product within the City, unless:

- a) The sale is to a person who intends to use the coal tar-based sealer outside the City's planning jurisdiction; and
- b) The seller requires the purchaser to complete and sign a form provided by the City that includes:
 1. The name, address, and phone number of the purchase,
 2. The date of the purchase,
 3. The quantity of coal tar-based sealer purchased,
 4. A statement that the coal tar-based sealer will not be used within the City of White Bear Lake, and
 5. An affirmation by the purchaser that the information on the form is correct, and
 6. The seller retains the completed form for a period of not less than two years and allows the City to inspect or copy of the form upon request.

§511.050. ASPHALT-BASED SEALCOAT PRODUCTS.

The provisions of this ordinance shall only apply to use of coal tar-based sealer in the City and shall not affect the use or sale of asphalt-based sealer products within the City.

§511.060

PUBLIC HEALTH, WELFARE AND SANITATION

§511.070

§511.060. PENALTY.

Any person convicted of violating any provision of this ordinance is guilty of a misdemeanor and shall be punished by a fine not to exceed one thousand dollars (\$1,000.00) or imprisonment for not more than ninety (90) days, or both, plus the costs of prosecution in either case.

§511.070. SEVERABILITY.

If any provision of this ordinance is found to be invalid for any reason by a court of competent jurisdiction, the validity of the remaining provisions shall not be affected. (Ref. Ord. 10-4-1069, 4/27/10)

VI. TRAFFIC REGULATIONS

601. Traffic Regulations

§601.010. TRAFFIC REGULATIONS; STATE TRAFFIC CODE, ADOPTED BY REFERENCE. The regulatory provisions and definitions of the Minnesota Highway Traffic Regulation Act, also known as the State Traffic Code, which are codified in Minnesota Statutes chapter 169, are adopted as a section regulating the use of highways, streets, alleys and other portions of the City of White Bear Lake. Such Act is incorporated in and made a part of this Code as completely as if set out herein in full, except those provisions that conflict with this Code when the City Council has the authority to alter such regulations. Three (3) copies of the Act are on file in the office of the City Clerk and are available for public inspection at any reasonable time. (Ref. §501.010, Code 1966: Ord. Nos. 435, 5/10/66: 643, 9/16/80)

§601.020. TRAFFIC REGULATIONS; U-TURNS. No driver of a motor vehicle shall turn such vehicle so as to proceed in the opposite direction upon any street or highway within the City; provided, that such provision shall not be effective unless signs giving notice of this regulation are posted as may be most appropriate. (Ref. §501.020, Code 1966)

§601.030. TRAFFIC REGULATIONS; DRIVING ON SIDEWALKS OR LAWNS. No driver of any motor vehicle shall drive such vehicle upon any public sidewalk, pedestrian walkway or boulevard within the City, nor across or upon any public property which is maintained as lawn or yard area, nor across or upon any private property which is maintained as lawn or yard area without the permission of the owner, with the exception of those areas which are a part of a driveway or other clearly defined area designated for the crossing of vehicular traffic, or by vehicles operated by the City Public Works Department during the course of snow removal or other maintenance functions. (Ref. Ord. No. 635, 10/9/79)

§601.040. TRAFFIC REGULATIONS; UNREASONABLE ACCELERATION. No person shall start or accelerate any motor vehicle with any unnecessary exhibition of speed on any public or private way within the City. Prima facie evidence of such unnecessary exhibition of speed shall be the squealing or screeching sounds emitted by the tires or the throwing of sand or gravel by the tires, or both, or the unnecessary fishtailing of the vehicle on wet or slippery services while accelerating. (Ref. Ord. No. 635, 10/9/79)

Section 601.050. TRAFFIC REGULATIONS; UNREASONABLE OPERATION OF A MOTOR VEHICLE. No person shall operate a motor vehicle on a public or private road in an unreasonable manner thereby subjecting others to unsafe conditions. Prima Facie evidence of unreasonable operation includes, but is not limited to: driving on sidewalks except at driveways and entrances, parking on a sidewalk except for maintenance of property, driving with more than two inches of accumulated snow on the surface of a vehicle, traveling the wrong direction on a one way street, failure to come to a complete stop at a stop sign, and operating a vehicle at an unsafe speed. (Ord. No. 09-03-1057, 3/10/09).

§601.060

TRAFFIC REGULATIONS

§601.060

Section 601.060. COMPLIANCE WITH MINNESOTA STATUTES. All administrative citations issued for traffic offenses shall be issued in compliance with Minnesota Statutes Section 169.999 (Ref. Ord. No. 1066; 1/12/10).

602. Weight Restrictions

§602.010. WEIGHT RESTRICTIONS; LOAD LIMITS. No person shall drive, propel or draw or cause to be driven, propelled or drawn, any vehicle of any kind which has a gross weight on any single axle, as defined in Minnesota Statutes section 169.83, exceeding three (3) tons on or upon any public street in the City of White Bear Lake at a time when said street is designated and posted in the following manner:

1. The City Council may by ordinance duly passed, designate that the foregoing restrictions shall apply to any street in the City whenever it shall find that such street or highway by reason of deterioration, rain, snow or other climatic conditions will be seriously damaged or destroyed unless the use of vehicles thereon is so restricted; and,

2. Said street is duly posted by clearly visible and appropriate signs which will effectively inform drivers of vehicles that such restriction exists upon said street.

The provisions of this chapter and the foregoing restrictions shall not apply to fire apparatus, snow plowing equipment, road maintenance equipment or emergency vehicles of public utilities used incidental to making repairs. (Ref. §504.010, Code 1966)

§602.020. WEIGHT RESTRICTIONS; THRU TRUCK TRAFFIC PROHIBITED. For the purpose of this section, certain words and terms are defined as follows:

Subd. 1. Semi-Trailer. A vehicle of the trailer type so designed and used in conjunction with a self-propelled vehicle that a considerable part of its weight or that part of its load rests upon and is carried by the towing vehicle.

Subd. 2. Tractor. Any motor vehicle designed or used primarily for drawing other vehicles but having no provision for carrying loads independently.

Subd. 3. Truck. Any vehicle designed and used principally for carrying things other than passengers, including motor vehicles to which has been added a cabinet box, platform, rack or other equipment for the purpose of carrying merchandise other than the person or effects of the passenger.

Subd. 4. Truck-Tractor. Any vehicle designed and used primarily for drawing other vehicles and not so constituted as to carry a load other than a part of the weight of the vehicle so drawn. No person shall operate a truck, tractor, truck-tractor or semi-trailer in the same direction for more than one (1) city block on Lake Avenue between Twelfth (12th) Street and Highway 61. (Ref. §501.030, Code 1966)

603. Parking

§603.010 PARKING; DEFINITIONS. For the purposes of this chapter, certain words and phrases are defined as follows:

Subd. 1. Municipal Parking Lots. The areas owned or designated by the City of White Bear Lake and used for the public parking, loading and unloading of vehicles.

Subd. 2. Operator. Includes every individual who shall operate a vehicle as the owner thereof, or as the agent, employee or permittee of the owner or any individual who is in actual physical control of a vehicle.

Subd. 3. Park or Parking. The standing of a vehicle, whether occupied or not, upon a street or in a Municipal Parking Lot otherwise than temporarily for the purpose of, and while actually engaged in, receiving or discharging passengers or loading or unloading merchandise, or in obedience to traffic regulations, signs or signals or an involuntary stopping of the vehicle by reason of causes beyond the control of the operator of the vehicle.

Subd. 4. Street or Highway. Any public street, avenue, road, alley or highway located in the City which is open to the use of the public, as a matter of right, for purposes of vehicular traffic. The terms "street" and "highway" are used interchangeably herein.

Subd. 5. Vehicle. Any device in, or upon, or by which any person or property is or may be transported upon a public highway. (Ref. §502.010, Code 1966; Ord. Nos. 439, 12/13/66; 574, 6/24/75)

§603.020 PARKING; POWERS OF CITY COUNCIL AND CITY MANAGER. The City Council is authorized to designate parking meter zones and restrict the length of time parking shall be permitted at any place within the City. In establishing or changing parking meter zones or parking restrictions, the Council shall pass a resolution at a regular or special meeting adequately describing and defining said parking meter zones or parking restrictions. Said resolution shall be published once in a local newspaper after which said resolution shall be in force and effect.

The City Manager is hereby authorized to forbid parking of all vehicles for temporary periods in case of emergency at any place within the City. (Ref. §502.020, Code 1966)

§603.030 PARKING; DESIGNATION OF PARKING SPACES. The City Manager is hereby authorized to mark off individual parking spaces. Parking spaces are to be designated by lines painted or durably marked on the curbing or surface of the street. At each space so marked off it shall be unlawful to park any vehicle in such a way that said vehicle shall not be entirely within the limits of the space so designated. (Ref. §502.030, Code 1966)

§603.040 PARKING; BACKING TO CURB PROHIBITED. In areas where angle parking is permitted, no person shall park any vehicle in any manner other than so that the front of vehicle faces the adjacent curb. (Ref. §502.040, Code 1966)

§603.050 PARKING; BACKING TO CURB RESTRICTED. No owner or driver of any vehicle shall at any time between the hours of eight (8:00) o'clock A.M. and six (6:00) o'clock P.M. permit the same to be backed into or up to the curb of any street or highway for the purpose of loading or unloading or any other purpose whatsoever, unless allowed by permission of the Police Department. When taking on or discharging freight or passengers, vehicles shall be headed in the direction of traffic on the right of the roadway. So far as practicable, freight, coal and vehicles carrying other heavy commodities shall be unloaded from the right side and not from the end of the vehicle, and shall be drawn in close to the curb. (Ref. Ord. No. 439, 12/13/66)

§603.060 PARKING; WINTER PARKING. No owner of a motor vehicle shall leave, park or permit the same to stand on any City street, alley or in a Municipal Parking Lot for more than twenty-four (24) hours during the period from November First (1st) through April First (1st) of each year. (Ref. §502.050, Code 1966; Ord. Nos. 439, 12/13/66; 574 6/13/75)

§603.070 PARKING; PARKING AFTER SNOWFALL. No owner of a vehicle shall leave, park or permit same to stand on any City street, alley or in a Municipal Parking Lot, except in compliance with the direction of a police officer, for a period of time commencing immediately after the accumulation thereon of three (3) inches or more of snow, and continuing until the snow has been removed to the full width of the street, alley or parking lot. (Ref. §502.060, Code 1966; Ord. No. 439, 12/13/66; 574, 6/24/75; 714, 3/12/86)

§603.080 PARKING; TOWING AND STORAGE, LIEN. The City Manager is hereby authorized and empowered to have removed any vehicle on any street, alley or in a Municipal Parking Lot in violation of Sections 603.060 and 603.070 of the Code or stalled thereon and to have such vehicle removed and stored in a secure indoor or outdoor facility within 15 miles of the Police Station. Such vehicle shall not be removed therefrom until reasonable costs of storing and towing same have been fully paid. The City Manager shall have the further authority to direct employees of the City to remove any such vehicle and in that event the City Manager may impose a charge to be paid to the City Clerk before said vehicle may be taken or recovered by the owner thereof.

In the event that any vehicle held or stored by the direction of the City Manager, upon which there are charges for storage or towing or both, shall not be reclaimed, recovered or taken by the owner thereof, there shall be deemed to be imposed upon such vehicle a possessory lien in the amount so charged and unpaid and should the owner thereof fail to pay the same then the possessory lien may be foreclosed in the manner provided for by law. (Ref. §502.070, Code 1966; Ord. No. 439, 12/13/66; 574, 6/24/75; 2039, 12/10/2019)

§603.090 PARKING; GENERAL RESTRICTIONS. No vehicle shall be parked in violation of any of the following provisions;

Subd. 1. No person, firm or corporation operating any public garage shall park vehicles on the streets adjacent to or in the vicinity of such public garage for a longer period than ninety (90) minutes.

Subd. 2. No vehicle shall be parked within eighty (80') feet of the point where the property line projected would intersect a street upon which buses are operated, where the corner where such intersection takes place is used as a bus stop.

Amended 3/12/86

Subd. 3. No vehicle shall be parked within thirty (30') feet of any arterial, stop sign or sign

indicating the direction for travel.

Subd. 4. No vehicle shall be parked on the approaches to any bridge, nor upon any boulevard, lawn or grass plot.

Subd. 5. No vehicle shall be parked in a loading zone of a Municipal Parking Lot except for purposes of loading and unloading and then only for the length of time reasonably necessary therefor.

Subd. 6. No vehicle shall be parked in any alley except for purposes of loading and unloading unless at least ten (10') feet of the alley is left available for the free movement of traffic.

Subd. 7. No vehicle shall be parked or left standing upon the private property of any person without the consent of such property owner.

Subd. 8. No vehicle or combination of vehicles over twenty-two (22') feet or more in length, and seven (7') feet or more in width, measured between the two (2) most widely separated points or proportions on either side of such vehicle or combination of vehicles, shall be parked on any street or alley for more than thirty (30) minutes, or for a time reasonably necessary to load or unload such vehicle or combination of vehicles. (Ref. Ord. Nos. 439, 12/13/66; 574, 6/24/75)

§603.100 PARKING; PROHIBITED IN CERTAIN PLACES. No person shall stop, stand or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with the directions of a Police Officer or traffic control device, in any of the following places:

Subd. 1. At any place where official signs prohibit stopping.

Subd. 2. On Fourth (4th) Street between Highway 61 and Washington Avenue in the City. (Ref. Ord. No. 439, 12/13/66)

§603.110 PARKING; ONE-WAY STREETS. Vehicles parked on one-way streets shall face in the same direction in which traffic is permitted to move on said streets. Vehicles when so parked may be placed with either the right-hand or left-hand wheels parallel to the curb, but not more than twelve (12") inches therefrom, with at least four (4') feet between parked vehicles.

In the event a highway includes two (2) or more separate roadways and traffic is restricted to one (1) direction upon any such roadway, no person shall stand or park a vehicle upon the left-hand side of such one-way roadway unless signs are erected to permit such standing or parking. (Ref. Ord. No. 439, 12/13/66)

§603.120 PARKING; DOUBLE PARKING. Vehicles shall not stand two (2) or more abreast in any street except as follows:

Subd. 1. Commercial vehicles, when calling for or delivering parcels or merchandise, may double park for the length of time absolutely and reasonably necessary to load or unload when access to the curb is blocked by other vehicles at the place of delivery. (Ref. Ord. No. 439, 12/13/66)

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TRAFFIC REGULATIONS

§603.130 PARKING; BLOCKING TRAFFIC. No vehicle shall occupy any street or highway so as to interfere with or interrupt the passage of other vehicles.

It shall be unlawful for the driver of any vehicle to enter a street intersection or a marked crosswalk area unless there is sufficient space beyond the intersection in the right half of the roadway to accommodate the vehicle without obstructing the passage of other vehicles, notwithstanding any traffic control signal to proceed, except that on a one-way street, drivers shall not be restricted to the use of the right half of the road, but may have access to the entire width thereof beyond the intersection, provided sufficient space be available.

It shall be unlawful for the driver of any vehicle to drive across a sidewalk in entering a garage or parking lot unless there is sufficient space beyond the crosswalk in the garage or on the parking lot to accommodate the vehicle without obstructing the passage of other vehicles or pedestrians. (Ref. Ord. No. 439, 12/13/66)

§603.140 PARKING; BLOCKING ENTRIES. No person shall park a vehicle or permit it to stand whether attended or unattended upon a highway in front of or within ten (10') feet on either side of the entrance to any depot, theater, hotel, club or other building designated by official no-parking signs: or within fifteen (15') feet on either side of the rear entrance to any theater, except when taking on or discharging freight or passengers, and then only for such length of time as is reasonably necessary for such purpose. At theaters, hotels, clubs, depots or public gatherings, or under unusual circumstances, vehicles must move or park as directed by Police Officers or Police orders. (Ref. Ord. No. 439, 12/13/66)

§603.150 PARKING; TRANSFER OF GOODS RESTRICTED. No person shall transfer goods, wares or merchandise from one (1) vehicle to another while on any arterial highway: provided, that this section shall not be construed to apply where the vehicle from which the transfer is being made is incapable of being moved by its own power. (Ref. Ord. No. 439, 12/13/66)

§603.160 PARKING; MOVING PARKED VEHICLES. No person shall move a vehicle not owned by such person into any prohibited area or away from a curb such distance as is unlawful. (Ref. Ord. No. 439, 12/13/66)

§603.170 PARKING; TRUCK PARKING RESTRICTED IN RESIDENTIAL AREAS. No motor vehicle over one (1) ton capacity or over twelve thousand (12,000) pounds gross vehicle weight, whichever is less, and no commercially licensed trailer shall be parked or stored in a platted residential district except when loading, unloading or rendering a service. School buses may be parked on-street for up to 90 minutes provided they are set back at least fifty (50) feet from any intersection. (Ref. §408.050, Code 1966; Ord. No. 456, 4/9/68; 838, 06/11/91, 989, 03/12/02)

§603.180 PARKING; OTHER PARKING IN RESIDENTIAL AREAS. Off-street and on-street parking in residential areas for periods over six (6) hours shall be limited to the residents of those homes and their guests unless otherwise regulated by other codes and ordinances. Moreover, except for short-term parking of six (6) hours or less, the number of vehicles parked on or in front of a residential lot shall not exceed the number of persons residing on the premises and having automobile drivers licenses, plus one. (Ref §408.060 Code 1966. Ord. No. 456, 4/9/68)

Amended 06/11/91

§603.190

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§603.310

§603.190 PARKING; PRESUMPTION IN REFERENCE TO ILLEGAL PARKING. In any prosecution charging a violation of any law or regulation governing the standing or parking of a vehicle, proof that the particular vehicle described in the complaint was parked in violation of any such law or regulation, together with proof that the defendant named in the complaint was at the time of such parking the registered owner of such vehicle, shall constitute in evidence a prima facie presumption that the

registered owner of such vehicle was the person who parked or placed such vehicle at the point where, and for the time during which, such violation occurred. (Ref. Ord. No. 561, 5/14/74)

§603.200 PARKING; TAXI PARKING. No taxicab shall be permitted to stand on any public street or alley except on taxicab stands which shall be designated and plainly marked by the Police Department, and the parking of any vehicle not a taxicab, on such designated stands is hereby prohibited; except, that whenever a taxicab is on a designated cab stand and blocks the delivery entrance to any building, the drivers of such taxicabs shall make an opening to the curb so as to permit a commercial vehicle to load or unload. The driver of any taxicab occupying a designated stand must remain on the drivers seat at all times, except when necessary to open or close the door of his taxicab, to assist a passenger to enter or leave or to answer his call signal. No taxicab shall stand for a period longer than one-half (1/2) hour; at the end of such time the taxicab heading the line shall move off the stand and the remaining taxicabs will then move forward. No person shall solicit passengers for a taxicab upon the streets and highways of the City, except the driver of a taxicab when sitting upon the drivers seat of his vehicle, but the fact that such taxicab displays a device to indicate that such vehicle is not engaged shall not be considered as soliciting patronage.

Nothing in the foregoing provision of this section, however, shall prohibit the driver of any taxicab from parking in a legal parking space or at a parking meter, provided the proper payment is made therefore for reasonable periods of time during which said driver is taking his meals or is on an errand of personal business. During such periods, however, solicitation of patronage by said drivers is expressly prohibited. (Ref. Ord. No. 439, 12/13/66)

§603.300 DECLARATION OF PURPOSE. The Council of the City of White Bear Lake finds that the residential area adjacent to or near the White Bear Lake High School South Campus, does not have sufficient on-street parking to safely accommodate the residential parking needs of the residents, and the parking needs of non-residents. The Council further finds the frequent parking of vehicles in this residential area by non-residential users has created residential problems of safety, environmental and aesthetic nature.

§603.310 RESTRICTED RESIDENTIAL PARKING AREAS. The following parking regulations shall be in effect for all residential areas as described in Resolution No. 6178 and any additional areas as designated by the City Council. Parking in the above described areas is prohibited where posted except by permit as herein prescribed.

§603.320 PARKING PERMITS; ELIGIBILITY; ISSUANCE

a) Application. Annual application for one or more parking permits authorized under Section 163.300 shall be made on a form provided by the City Clerk of the License Bureau hereinafter referred to as "clerk," which form may require the applicant to furnish his or her name and address, the owners name and address, make, model and license number of his or her vehicles, and any additional information which will aid the clerk in the enforcement of these provisions.

§603.320 **TRAFFIC REGULATIONS** **§603.320**

b) Annual Permit Application. Parking permits will be issued, at no charge, upon application for a twelve (12) month period from January 1, through December 31 of each year.

c) Number of Permits. The number of school zone parking permits available to the residents of said residence or dwelling shall be limited on the basis of one permit for each vehicle owned by the resident. **IN NO WAY SHALL THE NUMBER OF PERMITS EXCEED THE NUMBER OF PERSONS HAVING AUTOMOBILE DRIVERS LICENSES FOR EACH RESIDENCE.**

d) Visitor Permits. Unlimited non-transferrable Special Parking Permits, shall be made available, at

no charge, to each residence or dwelling unit. Special Permits shall be issued by the City Clerk upon written application from the resident. Special Permits shall be issued upon need for a period up to a maximum of fourteen (14) days. Special Permits must be displayed during the entire time the vehicle is parked in the school zone restricted parking area by attaching the permit to the vehicles rear view mirror. It is intended that no resident may use a visitor permit to park a car owned or controlled by him or her in the restricted area, it being the intent of Section 603.300 that such visitor permits shall be made available and used by people not residing in but visiting a resident of the restricted area.

- e) Residents, Special Event Permits. Residents within the restricted area, at no charge, may obtain from the clerk non-transferrable Special Circumstance permits provided that said permits are required for medical purposes, home health care, or other therapeutic reasons. Special event permits shall be issued annually, consistent with the regular resident permits.
- f) Schools, Special Event Permits; Residents, Exceptions; Notice. Schools within the restricted area, at a cost of one dollar (\$1.00) for each permit, may acquire from the clerk, dated Special Events Permits, provided that such permits shall be used only in conjunction with events sponsored by the applicant school. The clerk shall determine the number of and effective period of the permits to be issued. Such permits shall not be required, upon minimum twenty-four hour (24) advance notice to the Police Department, for extraordinary events such as funerals, weddings or festivals, where issuance of such permits would be impracticable.
- g) Placement of Permit Stickers or Tickets. Residential parking permit stickers shall be permanently affixed to the vehicle on the back of the rear view mirror positioned closest to the driver's side so as to be clearly visible from the front of the vehicle. Visitor and Special Event Permit stickers shall be placed over the rear view mirror post or some other conspicuous place on the front of the vehicle which is visible to the front of the vehicle.
- h) Permit Does Not Reserve Parking Space. No permit issued under Sections 603.300 shall guarantee or reserve to the holder a particular position or parking space within the restricted area but shall provide general parking in said area during the time specified in §603.300 and so posted as required by §603.300. (Ref. Ord. 801, 2/14/90)
- i) Lost Permits; Duplicates. In the event any permit is lost, duplicates shall be obtained from the clerk at a cost of one dollar (\$1.00) per permit; provided that no such duplicate shall be issued unless and until the applicant has furnished to the clerk a written statement that he or she has lost the original permit. No person shall apply for a duplicate permit unless the original permit has in fact been lost.

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TRAFFIC REGULATIONS

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§603.330 SERVICES, REPAIR AND EMERGENCY ASSISTANCE. Vehicles used in the performance of commercial services, repairs or emergency assistance for any resident living in the residential area are exempt from restrictions imposed under Sections 603.300 provided, that such persons are then performing or the vehicles in fact are then being used in such services or assistance; and provided further, that the exemption granted hereunder shall terminate immediately upon completion of the necessary services or assistance.

§603.340 STREET MAINTENANCE, SNOW EMERGENCY. No exemptions or other permits granted herein shall abrogate the scope of parking restrictions imposed as such restrictions relate to street maintenance, parking in one location beyond twenty-four (24) hours, or emergencies.

§603.350 HANDICAPPED PARKING. Nothing herein provided shall abrogate the scope of parking privileges granted handicapped persons as established pursuant to this code or statutes enacted by this state.

§603.360 PENALTIES. It shall be unlawful for any person to submit false information in any application for a parking permit issued pursuant to §603.300. Violation of any application requirement shall be grounds for denial or revocation of the permit and shall be punishable as a misdemeanor. It shall also be unlawful for any vehicle to be stopped, parked or abandoned in violation of these provisions. Any such violation is hereby declared a misdemeanor.

Obstruction of public streets shall be punishable as a misdemeanor and may subject the vehicle to be moved or impounded at the cost and expense of the owner in accordance with the terms of Chapter 603.

(Ref. Ord. 801, 2/14/90)

604. Bicycles

§604.010 BICYCLES; STATE REGULATIONS ADOPTED BY REFERENCE. The regulatory provisions of Minnesota Statutes, chapter 168C pertaining to bicycle registration and section 169.222 pertaining to the operation of bicycles are hereby adopted as a section regulating the registration, use and operation of bicycles within the City of White Bear Lake. Such provisions are incorporated in and made a part of this Code as completely as if set out herein in full, except those provisions that conflict with this Code when the City Council has the authority to alter such regulations. Three (3) copies of the aforesaid sections of Minnesota Statutes are on file in the office of the City Clerk and are available for public inspection at any reasonable time.

§604.020 BICYCLES: RIDING ON SIDEWALKS PROHIBITED. No person shall ride a bicycle on any sidewalk within the City of White Bear Lake. (Ref. §501.060, Code 1966)

605. Snowmobiles

§605.010 SNOWMOBILES; STATE REGULATIONS ADOPTED BY REFERENCE. Any person operating a snowmobile in the City of White Bear Lake, unless provided otherwise herein, shall be subject to the provisions of Minnesota Statutes sections 84.81 to 84.90 inclusive, and to the regulations of the Commissioner of Natural Resources, 6MCAR sections 1.0051 to 1.0059 (1978 edition), inclusive, which are incorporated herein by reference. (Ref. Ord. Nos. 464, 12/10/68; 546, 12/18/72; 594, 2/8/77)

§605.020 SNOWMOBILES; LIMITATION OF OPERATION. No person shall operate a snowmobile within the City of White Bear Lake except in the following locations:

1. On public trails, waterways, streets and highways specifically designated for such use: or,

2. On private property, Independent School District No. 624 property or Lakewood Community College property but only where lawful permission has been obtained from the property owner, occupant or lessee.

In addition to the above, the operation of a snowmobile in any Open Space Site on any public trail or public waters under the jurisdiction of the City shall comply with the rules and regulations governing Parks and Open Space set out in chapter 904 of this Code. (Ref. Ord. Nos. 464, 12/10/68; 479, 1/13/70; 546, 12/18/72; 594, 2/8/77)

§605.030 SNOWMOBILES, HOURS OF OPERATION. No person shall operate a snowmobile in the City of White Bear Lake between the hours of eleven (11:00) o'clock p.m. and seven (7:00) o'clock a.m. Sunday through Thursday, and from one (1:00) o'clock a.m. to seven (7:00) o'clock a.m. on other days, including the day preceding a national holiday. (Ref. Ord. Nos. 546, 12/18/72; 594, 2/8/77)

§605.040 SNOWMOBILES; SPEED. No person shall operate a snowmobile in the City of White Bear Lake at a speed in excess of limits specifically posted for such use or at a speed in excess of fifteen (15) miles per hour within one hundred fifty (150') feet of any fisherman, fish house, pedestrian, skier, skater, skating rink, sliding area, ski tow area or other area where such operation would conflict with or endanger other persons or property. (Ref. Ord. Nos. 464, 12/10/68; 546, 12/18/72; 594, 2/8/77)

§605.050 SNOWMOBILES; DISTANCE REQUIREMENTS. No person shall operate a snowmobile within one hundred fifty (150') feet of any residential shore-line on sanctioned lakes within the City of White Bear Lake except at a speed of fifteen (15) miles per hour or less for purposes of access to and egress from the lake or for the purpose of parking such vehicles near the shoreline. (Ref. Ord. Nos. 464, 12/10/68; 546, 12/18/72; 594, 2/8/77)

§605.060 SNOWMOBILES; TOW BARS. No person shall operate a snowmobile so as to tow any person, sled or other conveyance except by the use of a rigid tow bar attached to the rear of such snowmobile. Disabled snowmobiles shall be exempt. (Ref. Ord. Nos. 464, 12/10/68; 546, 12/18/72; 594, 2/8/77)

§605.070 SNOWMOBILES; MANDATORY EQUIPMENT. No person shall operate a snowmobile unless such

vehicle is equipped with a headlight and taillight that are illuminated at all times during such operations. Snowmobiles equipped with engines of five (5) horsepower or less shall be exempt.

No person shall operate a snowmobile unless such vehicle is equipped with a red or orange blaze pennant flag of at least forty (40) square inches in area and displayed at a height of not less than five (5') feet above the treadway. (Ref. Ord. Nos. 464, 12/10/68; 546, 12/18/72; 594, 2/8/77)

§605.080 SNOWMOBILES; PENAL PROVISION. Any person who shall violate any of the provisions of this ordinance, Minnesota Statutes sections 84.81 to 84.90 inclusive, or the regulations of the Commissioner of Natural Resources, 6MCAR sections 1.0051 to 1.0059 (1978 edition), inclusive, may be guilty of a misdemeanor and be punished by a fine of not more than five hundred (\$500.00) dollars or by imprisonment for not more than ninety (90) days, or both. (Ref. Ord. Nos. 464, 12/10/68; 546, 12/18/72; 594, 2/8/77)

§606 ROLLER SKATING, ROLLER BLADING, SKATE BOARDS, AND BMX OR "TRICK" BIKES §606

§606.010. Unless the context clearly indicates otherwise, the words, combinations of words, terms and phrases, as used in §601 shall have the following meaning set forth in the subdivisions of this section which follow:

- a) **Persons** means an individual, partnership, corporation, the state and its agencies and subdivisions, and any body of persons, whether incorporated or not.
- b) **Skate board** means a device for riding upon, usually while standing, consisting of an oblong or rectangular piece of wood or of other composition mounted on wheels.
- c) **Roller skate** means a form of skate with small wheels or rollers instead of a runner.
- d) **Roller blades** means a form of skate with spherical shaped wheels constructed in-line and made of rubber or other synthetic material, also referred to as in-line skates.
- e) **Use** means to ride on or upon or control the operation of a skateboard, roller blades, or roller skates.
- f) **BMX or "trick" bike** means a recreational bike used to perform various "street" stunts.

§606.020. REGULATION OF THE USE OF ROLLER SKATES, ROLLER BLADES, SKATE BOARDS, AND BMX OR "TRICK" BIKES. It shall be unlawful for any person to use roller skates, roller blades, a skateboard, BMX or "trick" bike in the following manner:

- a) In careless, reckless or negligent manner so as to endanger, or be likely to endanger, the safety of any person or is likely to damage the property (public or private) of any other person. It shall be prima facie evidence of careless, reckless or negligent use if any of the devices stated above are used to jump on or over, or rub against, scrape, or ride on any step, curb, handrail, access ramp, bench, or platform on public property or the property of another or if all of the wheels of the above listed devices do not remain on the ground at any given time, while being used, unless the use is in an area designated specifically for such use.
- b) Failure of the user of roller skates, roller blades, skate boards, a BMX or "trick" bike while emerging from an alley, driveway or building upon approaching a sidewalk or the sidewalk area extending across any alleyway to yield the right-of-way to all pedestrians approaching the sidewalk or sidewalk area or upon entering the roadway failing to yield the right-of-way to all vehicles approaching on the roadway.
- c) Using roller blade roller skates, a skate board, BMX or "trick" bike while holding onto or while attached to a motor vehicle.
- d) Using roller blades, roller skates, a skate board, BMX or "trick" bike upon a public roadway in a location which is not as close as is reasonably practical to the right-hand curb or right-hand edge of the roadway.

- e) Use of roller skates, roller blades, a skate board, BMX or “trick” bike upon a public street, sidewalk or other roadway after sunset and before sunrise.
- f) Use of roller skates, roller blades, a skate board, BMX or “trick” bike upon a state trunk highway in the City.
- g) Using roller skates, roller blades, skate boards, BMX or “trick” bikes in an area designated by the City Council where such use is prohibited pursuant to §606.030.

§606.030. PROHIBITION OF THE USE OF ROLLER BLADES, ROLLER SKATES, SKATE BOARDS AND BMX OR “TRICK” BIKES. When and where the City Council determines that the operation of skate boards, roller blades, roller skates, BMX or “trick” bikes on any public street, alley, park, parkway or parking lot is an endangerment to the public health, safety or general welfare, it shall, by resolution, designate the specific area within which the use of the above stated devices is prohibited and order the posting of a prohibition of any or all of the aforementioned activities. (Ref. Ord. No. 853, 11/12/91)

Added 11/12/91
Amended 2/8/04
Amended 3/8/05

VI. TRAFFIC REGULATIONS

607 OPERATION OF MOTORIZED GOLF CART

607.010 Findings and Purpose. The City Council finds that the operation of motorized golf carts on certain roadways may improve the mobility and accessibility of physically disabled individuals. The State of Minnesota authorizes cities to allow the operation of motorized golf carts on some roadways, as defined in Minnesota Statute 169.045.

607.011 Permit Required. No person shall operate a motorized golf cart on roadways within the City unless granted a permit under this ordinance. Registration does not exempt compliance with all applicable local, state, or federal laws.

607.012 Definitions. Certain words or phrases when used in this section shall have the following meaning:

1. Motorized Golf Cart. A motorized golf cart is a vehicle with four wheels used primarily for light terrain slow moving operation. For purposes of this ordinance, the motorized golf cart shall be equipped with the following: front and rear turn lights, head lights and tail lights, rear view mirror and a windshield.

2. Designated Roadways. Roadways within the City of White Bear Lake with a posted speed limit of thirty-five (35) miles per hour or less.

3. Physically Disabled. A White Bear Lake resident who meets the criteria set forth in Minnesota Statute 169.345 to obtain a disability parking certificate.

607.013 Application of Permit. Every application for permit under this section shall be made on a form supplied by the City. The application shall include:

1. Copy of a current permanent, long term, or temporary disability parking certificate.

2. Evidence of insurance complying with the provisions of Minnesota Statute 65B.48 subdivision 5.

3. Evidence of Valid driver's license

607.014 Slow-Moving Vehicle Emblem. The motorized golf cart shall display the slow-moving emblem as described in Minnesota Statute 169.522 when operating on designated roadways.

607.015 Crossing Intersecting Highways. The motorized golf cart may cross any street or highway intersecting a designated roadway.

607.016 Application of Traffic Laws. Persons operating a motorized golf cart have the same rights and duties applicable to drivers of any other motor vehicle under the provisions of Minnesota Statute.

607.017 Times of Operation. A motorized golf cart may only be operated on designated roadways from sunrise to sunset. They shall not be operated in inclement weather or when visibility is impaired by weather, smoke, fog, or other conditions, or at any time when there is insufficient light to clearly see persons and vehicles on the roadway at a distance of 500 feet.

607.018 Term of Permit. A permit issued under this ordinance will be effective beginning with the date of issuance. Permit may not be granted for a period over one year, and may be annually renewed. The license shall expire March 31 each year or the date of expiration on the disability parking certificate.

A permit may be revoked by the White Bear Lake Police Department at any time if there is evidence that the licensee cannot safely operate the motorized golf cart on designated roadways.

607.019 Permit Displayed. The permit issued shall be displayed so that it may be viewed from the rear and left side of the motorized golf cart.

(Ref. Ord. No. 1037, 6/14/06)

VII. POLICE REGULATIONS

701. Dogs

§701.010 DOGS; DEFINITIONS. For the purposes of this chapter, certain words and terms are defined as follows:

Subd. 1. Kennel. Any place where four (4) or more dogs over six (6) months of age are kept, boarded, bred and/or offered for sale.

Subd. 2. Owner. Any person in possession of a dog, or who shall suffer a dog to remain about his premises for a period of ten (10) days. (Ref. §1301.010, Code 1966; Ord. No. 595, 12/14/76)

Subd. 3. Effective Restraint. A dog is under restraint if it is on the premises of the person harboring or keeping the dog; if it is at heel beside a person having custody of it and obedient to that person's command; if it is within a private motor vehicle of a person owning, harboring or keeping the dog; or if it is controlled by a leash not exceeding eight (8) feet in length. (Ref. Ord. no. 847, 6/11/91)

Subd. 4. Running at Large. A dog is running at large when it is off the property of the person owning, harboring, or keeping said dog, and it is not under restraint. (Ref. Ord. No. 847, 6/11/91)

Subd. 5. Designated Areas. A designated area is any City park area as defined by the City Council set aside for dog training and recreational activities. (Ref. Ord. No. 847, 6/11/91)

Subd. 6. Dangerous Dog - Any dog that has:

1. Without provocation, inflicted substantial bodily harm on a human on public or private property;
2. Killed a domestic animal without provocation while off the owner's property; or
3. Been found to be potentially dangerous, and after the owner has notice that the dog is potentially dangerous, the dog aggressively bites, attacks or endangers the safety of humans or domestic animals.

Subd. 7. Potentially Dangerous Dog - Any dog that:

1. When unprovoked, inflicts bites on a human or domestic animal on public or private property;
2. When unprovoked, chases or approaches a person upon the streets, sidewalks or any public property in an apparent attitude of attack; or

3. Has a known propensity, tendency or disposition to attack unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals. (Ref. Ord. 10-6-1070; 6/22/10)

Subd. 8. Designated Outdoor Dog Area. A designated outdoor dog area is a specifically and defined outdoor area located upon a permitted food and beverage establishment where patrons' dogs are allowed.

§701.020 DOGS; LICENSE REQUIRED. No person shall own, possess or harbor a dog three (3) months of age or over in the City without a license therefor. (Ref. §1301.020, Code 1966)

§701.030 DOGS LICENSE APPLICATION, ISSUANCE. A license to own or harbor a dog shall be issued by the City Clerk upon application made and payment of a license fee provided by this chapter. It shall be the duty of any person owning or harboring a dog, on or before January First (1st) of each odd numbered year, before any dog becomes three (3) months of age, forthwith upon becoming a resident of the City, or becoming an owner of any such dog, to apply for a license. The applicant shall give their full name, phone, address, and the age, description, color, breed and name of the dog. The applicant shall furnish a certificate or other proper evidence that the dog has been immunized against rabies and distemper in a manner approved by the Health Officer of the City.

All dog licenses shall expire on December Thirty-First (31st) of each even numbered year. (Ref. §1301.030, Code 1966; Ord. Nos. 524, 12/14/71; 595, 12/14/76; 711, 2/18/86; 966, 11/24/98)

§701.040 DOGS, LICENSE FEES. License fees for dogs shall be as follows: Fifteen (15.00) Dollars for per two years for all dogs nor spade or neutered and Thirteen (13.00) Dollars per two years for neutered males and spayed females. When application is made for a license after January Thirty-First (31st), a two (2.00) dollar late fee shall apply unless one of the following conditions are met: The dog is under six (6) months of age as of January 31st, the dog has been newly acquired, or the owner is a new resident of the City. New residents and new dogs that have been purchased over six (6) months of age shall have forty-five (45) days from point of residency or purchase of license of their dog. The late fee shall be reduced by one (1.00) dollar and license fee reduced by half in an even numbered year. All dogs cited by Animal Control or other City officials shall be subject to a penalty of fifteen (15.00) dollars if the dog is unlicensed. The table below explains the fee structure. Fees may be adopted by resolution. (Ref. §1301.040, Code 1966; Ord. Nos. 524, 12/14/71; 570, 2/11/75; 711, 2/18/86; 966, 11/24/98)

§701.050 DOGS; ISSUANCE OF TAGS. At the time of issuing the dog license, the City Clerk shall deliver to the licensee a tag of metal or other suitable material containing the number of the license duly stamped or engraved thereon and the year of the issuance, together with the words "Licensed, City of White Bear Lake." The color or style of license tags shall be changed each year. (Ref. §1301.050, Code 1966)

§701.060 DOGS; AFFIXING TAGS. Every person owning or harboring any dog shall provide the same with a substantial collar of durable material, to which shall be securely attached the license tag described in section 701.050. Failure to wear such collar and license tag shall be prima fascia evidence that said dog is not licensed, and any person finding such dog on his

premises may seize and deliver such dog to the pound. (Ref. §1301.060, Code 1966)

§701.070 DOGS; TAGS NOT TRANSFERABLE. No person shall remove any license tag from any dog without the consent of the proper authorities or the person owning or harboring said dog, and no tag shall be used on the collar or harness of any dog other than the dog for which the tag was issued. (Ref. §1301.070, Code 1966)

§701.080 DOGS; DUPLICATE TAGS. In case of the loss of a dog tag, the owner may secure a duplicate from the City Clerk upon payment of two (2.00) Dollars. (Ref. §1301.080, Code 1966; Ord. No. 595, 12/14/76; 966, 11/24/98)

§701.090 DOGS; RUNNING AT LARGE.

Subd. 1. It shall be unlawful for any person having the custody or control of any dog or animal of the dog kind to permit the same without being effectively restrained. (Ref. Ord. No. 847, 6/11/91)

Subd. 2. Designated Areas. Any dog not restrained by leash but remaining within the boundaries of a designated area as defined by the City, must be under the active supervision of the person owning, harboring or keeping said dog and obedient to that person's command. (Ref. §§1301.010, 1301.080 Code 1966; Ord. No. 595, 12/14/76, 847, 6/11/91)

§701.100 DOGS; CONTRACT FOR ANIMAL CONTROL SERVICES IMPOUNDING, RELEASE DISPOSITION. The City of White Bear Lake has entered into a contract to provide animal control services to the City of White Bear Lake. The contract sets forth the duties and responsibilities of both the City and the animal control service contractor. The current contract shall be on file in the office of the City Clerk and shall be available for public inspection during normal business hours. (Ref. Ord. 752, 12/8/87)

It shall be the duty of the Animal Control Officers designated by the City to promptly seize, take up and place in a pound all dogs that may be found running at large or being kept or harbored any place within the City contrary to the provisions of this chapter. Any dog found unlicensed after January First (1st) of each odd numbered year may be seized and impounded by such officers, or the person owning or harboring such dog may be notified to procure a license for same within five (5) days of the date of such notice. (Ref. Ord. 711, 2/18/86)

No dog shall be released from the pound unless the owner or other person entitled to demand release of the dog purchases a proper license for said dog and pays the required fees set forth in the animal control service contract currently in effect. All dogs taken to a pound and not claimed and released within five (5) days after being impounded, shall be disposed of in a humane manner, subject to Minnesota Statutes §35.71, Subd. 3, and any animal control service contract currently in effect. (Ref. §§1301.100, 1301.110, 1301.120, 1301.130, Code 1966; Ord. Nos. 524, 12/14/71; 595, 12/14/76; 611, 6/13/78; 649, 4/14/81)

§701.110 DOGS; ENFORCEMENT. It shall be the duty of any Animal Control Officer designated by the City to enforce the provisions of this chapter. Such Officer shall keep accurate and detailed records of the impounding and disposition of all dogs picked up in the City and furnish monthly reports to the City Manager as to services performed during the month. (Ref. §1301.140, Code 1966; Ord. No. 524, 12/14/71)

§701.120 DOGS; CRUELTY. No person may keep a dog or dogs where the Health Officer or a licensed veterinarian finds unkempt surroundings which may cause a health hazard for either the owner or dog. (Ref. §1301.150, Code 1966; Ord. No. 595, 12/14/76)

§701.130 DOGS; BARKING AND OFFENSIVE. No person shall keep or harbor a dog which shall by any noise, 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 dog which can be heard by any person from any property line. The noise must occur over at least a five minute period of time without any interruption of thirty (30) seconds or more. (Ref. §1301.160, Code 1966) (Ref. Ord. 901, 8/24/93)

§701.140 DOGS; VICIOUS AND RABID. No person shall own or harbor a fierce or vicious dog, or a dog that has been afflicted with rabies. Any person who shall have in his or her possession a dog which has contracted or is suspected of contracting rabies, or which has been bitten by an animal known to have been afflicted with rabies, shall, upon demand of the Health Office, Animal Control Officer or any police Officer of the City, produce and surrender up said dog to said Officer, to be held for observation and treatment. With the approval of the Health Officer, any such dog may be surrendered to a registered veterinary or to any approved non-profit corporation organized for the purpose of sheltering dogs. Whenever a dog is taken by such Officer for having bitten a person, such Officer may, if deemed necessary and advisable, after holding such a dog a sufficient length of time to meet the requirements of the Health Officer or investigator, cause such dog to be destroyed as a vicious dog (Ref. §1301.170, Code 1966).

§701.145 Dogs; Dangerous and Potentially Dangerous - Except as otherwise provided in this chapter, the regulatory and procedural provisions of M.S. 347.50 through 347.565 are hereby incorporated herein and adopted by reference.

Subd. 1. Declaration of Potentially Dangerous and Dangerous Dogs: A city police officer, community service officer or animal control officer may declare a dog to be a potentially dangerous or dangerous when the officer has probable cause to believe that the dog is potentially dangerous or dangerous herein. A written notice declaring the dog potentially dangerous or dangerous shall be delivered or mailed to the owner of the dog, or a copy thereof posted at the place where the dog is kept, or delivered to a person residing on the property where the dog is kept, and telephoning, if possible.

Subd. 2. Review of Designation. The Police Chief may review the status of a dog which has been determined to be potentially dangerous if a period of one year has passed without any further incidents and may use discretion in determining whether any conditions which have been ordered are still required.

Subd. 3. Dangerous Dog Registration. No person may own a dangerous dog unless the dog is registered with the City. Such registration will be issued to the owner of a dangerous dog after the owner presents sufficient evidence to the White Bear Lake Police Department that :

- a. A proper enclosure exists for the dangerous dog and the premises are posted with a clearly visible sign that includes a warning symbol of a dangerous dog on the property.

- b. The owner has obtained a surety bond or policy of liability insurance in the sum of at least three hundred thousand dollars (\$300,000) insuring the owner for any personal injuries inflicted by the dangerous dog.
- c. The owner has paid the annual dangerous dog registration.
- d. The owner has had microchip identification implanted in the dangerous dog. The name of the microchip manufacturer and identification number of the microchip must be provided to the White Bear Lake Police Department.

Subd. 4. Potentially Dangerous Dog Regulation. The owner of a potentially dangerous dog must:

- a. Within fourteen (14) days of receiving a determination that the dog is potentially dangerous, have a microchip implanted in the dog for identification, and the name of the microchip manufacturer and identification number of the microchip must be provided to the White Bear Lake Police Department.
- b. When the potentially dangerous dog is outside, the potentially dangerous dog must be muzzled and under the physical control and restraint of a responsible person. The muzzle must be made in a manner that will prevent the dog from biting any person or animal but that will not cause injury to the dog or interfere with its vision or respiration.
- c. The owner of a potentially dangerous dog must annually renew the registration of the dog until the dog is deceased or its designation has been revoked by the Police Chief as provided for in Subd. 2. If a potentially dangerous dog is transferred from another location into or within the City, it must be registered as a potentially dangerous dog in the City.

Subd. 5. Appeal Procedure:

- a. Any owner of a dog declared potentially dangerous or dangerous may appeal the declaration by submitting a written notice of appeal to the Police Chief, or his/her designee, within 14 days of the notice declaring the dog potentially dangerous or dangerous. This appeal process also applies in cases where it is determined that destruction of a dog is necessary as provided for in M.S. 347.56.
- b. The appeal hearing shall be heard by the Police Chief, or his/her designee, within 14 days of the city's receipt of the dog owner's request to appeal the designation. The appeal hearing shall be conducted in an informal manner, and the Minnesota Rules of Civil Procedure and Rules of Evidence shall not be strictly applied. The hearing need not be transcribed, but may be transcribed at the sole expense of the party who requests transcription.
- c. Within 10 days after the hearing, the Police Chief, or designee, shall make written findings of fact and conclusion as to whether the dog is a potentially dangerous or dangerous dog.
- d. An owner's right to appeal or otherwise contest a potentially dangerous or dangerous

dog declaration shall be deemed waived if the owner fails to serve a written request for appeal, as required herein, or fails to appear at the scheduled appeal hearing date.

Subd. 6. Destruction of Dangerous Dog. The Police Chief is authorized to order the destruction of the dog upon a finding that the dog has been declared dangerous, the owner's right to appeal hereunder has been exhausted or expired, and the owner has failed to comply with provisions of M.S. §347.50 through 347.565 and the provisions of this City Code.

Subd. 7. Harboring. Any person who harbors a dog after it has been found by the Police Chief under this provision to be dangerous and ordered into custody for destruction shall be guilty of a misdemeanor. (Ref. Ord. 10-6-1070; 6/22/10)

Reformatted 1/14/16

§701.150 DOGS; KENNELS; LICENSE REQUIRED. No person shall operate a dog kennel within the City of White Bear Lake unless he shall pay the City Clerk a license fee of Twenty-Five Dollars (\$25.00) and submit an application stating therein the maximum number of dogs to be harbored in the kennel, the exact location of the kennel and the qualification and experience of the applicant in the operation of a dog kennel. The City Council shall grant or deny the license. (Ref. §1301.180, Code 1966; Ord. No. 648, 1/13/81)

§701.160 DOGS; CLEANING UP LITTER. The owner of any dog or any person having the custody or control of any dog shall be responsible for cleaning up any feces of the animal and disposing of such feces in a clean and sanitary manner. Every occupant of a dwelling unit, or owner if the dwelling unit is not occupied, shall remove animal feces from said unit, the yard, or lot on which the unit is located, or from any structure appurtenant to the unit which he controls and dispose of such animal feces in a clean and sanitary manner.

It is unlawful for any person owning, keeping, harboring, or in custody of a dog to cause or permit said dog to be on property, public or private, not owned or possessed by such person without having in his or her immediate possession a device for removal of feces and depository for transmission of excrement to a proper receptacle located on the property owned or possessed by such person. (Ref. Ord. 733, 9/8/86)

Revised 06/11/91

§701.170 DOGS; OUTDOOR FOOD AND BEVERAGE SERVICE ESTABLISHMENTS.

Subd. 1. Municipal Authorization. The City of White Bear Lake, a home rule charter city, has the authority to permit food and beverage service establishments to allow dogs to accompany persons patronizing designated outdoor areas of these establishments in accordance with Minnesota Statutes §157.175.

Subd. 2. Permit Process. Food and beverage establishments must apply for a permit to before allowing patrons' dogs on their premises.

Subd. 3. Minimum Requirements. Any establishment obtaining approval for a designated outdoor dog area shall comply with the following requirements, which, along with the

prohibitions imposed by Subd. 5, must be clearly printed on a sign or signs posted in a manner and place that is conspicuous to patrons and employees:

- a) Employees must be prohibited from touching, petting, or otherwise handling dogs;
- b) Employees and patrons must not allow dogs to come into contact with servings dishes, utensils, tableware, linens, paper products, or any other items involved in food service operations;
- c) Patrons must keep their dogs on a leash at all times and must keep their dogs under reasonable control;
- d) Dogs must not be allow on chairs, tables, or other furnishings; and
- e) Dog waste must be immediately removed and the area sanitized.

Subd. 4. Prohibitions. Dangerous and potentially dangerous does, as defined in §701.010, are prohibited from accompanying patrons to food and beverage establishments.

Subd. 5. Service Animals. Nothing in this ordinance shall be construed to limit the right of a person with disabilities to access places of public accommodation while accompanied by a service animal.

Subd. 6. Banning Dogs. Nothing in this ordinance shall be construed to require the owner of a food or beverage to allow dogs to accompany patrons in designated outdoors areas.

Ordinance No. 15-05-2004

702. Animals Generally

§702.010 ANIMALS: RUNNING AT LARGE, IMPOUNDING, RELEASE. It shall be unlawful for the owner of any horse, mule, ass, cattle, sheep, swine or poultry to allow the same to run at large at any time within the City. Any Animal Control Officer, Police Officer or other person appointed by the City Manager for such purpose shall impound any animals or poultry found running at large and hold same until legally released.

The fees to be paid to secure the release of such animals or poultry impounded shall be as follows: horses, mules, asses, cattle, sheep or swine, fifty (\$.50) cents each for impounding and twenty-five (\$.25) cents each per day for keeping thereof: and, poultry, fifteen (\$.15) cents each for impounding and ten (\$.10) cents each per day for the keeping thereof. (Ref. §1301.190, 1301.200, Code 1966)

§702.020 ANIMALS: DISPOSITION OF UNCLAIMED ANIMALS. Animals or Poultry that are impounded and are not claimed in the time prescribed by the statutes of the state, shall be advertised and sold in accordance with said statutes. The balance, after deducting fees for impounding, keeping and selling the same, shall be paid into the City Treasury for the benefit of the owner or claimants if claimed within one (1) year from such sale. If no claim is made within said time, such balance shall become part of the general fund of the City. (Ref. §1301.210, Code 1966)

§702.030 ANIMALS: GIFT OR SALE OF CERTAIN ANIMALS, PENALTY. No chick, duckling, gosling or rabbit that has been dyed or otherwise colored artificially may be sold or offered for sale, raffled, offered or given as a prize, premium or advertising device, or displayed in any store, shop, carnival or other public place.

Chicks, ducklings and goslings younger than four (4) weeks of age shall not be sold or offered for sale, raffled, or offered, or given as a prize, premium or advertising device, in quantity of fewer than twelve (12) birds to an individual person unless sold by a person, firm, partnership or corporation engaged in the business of selling chicks, ducklings and goslings for agricultural or wildlife purposes.

Any person who shall be convicted of a violation of the provisions of this section may be punished by a fine not to exceed one hundred (\$100.00) dollars: provided that, after any violation has been called to the attention of the violator by any law enforcement officer, each day on which the violation continues or is repeated constitutes a separate offense. (Ref. §1301.220, Code 1966)

§702.040. CERTAIN CATS DECLARED A NUISANCE. No person shall own or possess any cat which destroys, damages or defiles property or which creates an offense by way of noise, odor or otherwise, or molests other animals or human beings, or is in heat and unconfined, after receiving notice from the City of the prior commission of such acts by the cat in question. Such cats are declared to be a public nuisance.

§702. 041. NOTICE OF OWNER. Upon written complaint of any person stating the acts committed by any cat, the name and address of the person owning or harboring the cat, and the name and address of the person making the complaint, the City shall notify the person owning or harboring the cat of the acts complained of to restrain the cat from committing any more such acts.

§702.042. ABATEMENT OF NUISANCE WHEN OWNER IS UNKNOWN. In the case of any cat constituting a nuisance under §702.040, where no owner or responsible party is ascertainable, the City may take whatever action is deemed appropriate to abate the nuisance.

§702.043 KEEPING OF PIGEONS AND CHICKENS

Subd. 1. Title. Ordinance authorizing the keeping of chickens and the keeping and racing of pigeons, and providing for the issuance of licenses and providing for violations. (Ref. Ord. 16-04-2011, 4/12/16).

Subd. 2. Intent and Purpose. It is the purpose and intent of this ordinance to permit the keeping, maintenance and flying of certain registered pigeons as a recreational sport and hobby, subject to regulations hereinafter set forth. The keeping, breeding, maintenance and flying of fancy, racing and sporting breeds of pigeons, as defined herein, is determined not to be a nuisance and is not detrimental to the public welfare, if regulated as hereafter set forth.

It is recognized that the keeping, breeding, maintenance and flying of such pigeons is now mainly engaged in by members of local, district and national organizations, and such persons keep their pigeons in suitable permanent structures constructed and maintained for such purpose, and keep such structures in a clean and sanitary manner, and do not permit their pigeons to remain at large in the community in such manner as to disturb their neighbors or to prevent the full enjoyment of property rights by their neighbors.

It is also recognized that the ability to cultivate one's own food is a sustainable activity that can also be a rewarding pastime. Therefore, it is also the purpose and intent of this ordinance to permit the keeping and maintenance of hens in a clean and sanitary manner that is not a nuisance to or detrimental to the public health, safety and welfare of the community. (Ref. Ord. 16-04-2011, 4/12/16)

Subd. 3. Definitions:

A. "Chicken" means a domesticated bird (*of the species Gallus domesticus or various similar or related birds*) that serves as a source of eggs and/or meat.

B. "Coop" means the structure for the keeping or housing of chickens permitted by the ordinance.

C. "Pigeon" means a member of the family Columbidae, and shall include "Racing Pigeons", "Fancy Pigeons" and "Sporting Pigeons" as defined in this ordinance.

D. "Racing Pigeon" means a pigeon which, through selective past breeding, has developed the distinctive physical and mental characteristics as to enable it to return to its home after having been released a considerable distance therefrom, and which is accepted as such by the American Racing Pigeon Union, Inc. or the International Federation of Racing Pigeon Fanciers. Also, commonly know as Racing Homer, Homing Pigeon, or Carrier Pigeon.

E. "Fancy Pigeon" means a pigeon which, through past breeding, has developed certain distinctive physical and performing characteristics as to be clearly identified and accepted as such by the National Pigeon Association, the American Pigeon Club, or the Rare Breeds Pigeon Club. Examples: Fantails, Pouters, Trumpeters.

F. "Sporting Pigeon" means a pigeon which, through selective past breeding, has developed the ability to fly in a distinctive manner, such as aerial acrobatics or endurance flying. Examples: Rollers, Tipplers.

G. "Loft" means the structure(s) for the keeping or housing of pigeons permitted by this ordinance.

H. "Hen" means a female chicken.

I. "Owner" means the owner of Hens or Pigeons subject to this ordinance.

J. "Rooster" means a male chicken.

K. "Run" means a fully enclosed and covered area attached to a coop where the hens can roam.

(Ref. Ord. 16-04-2011, 4/12/16)

Subd. 4. Conditions:

The keeping, breeding, maintenance and flying of pigeons may be permitted subject to the following:

- A. An owner may keep either pigeons or hens, but not both.
- B. All premises on which pigeons or hens are kept or maintained shall be kept reasonably clean from filth, garbage, and any substances which attract rodents. The loft or coop and its surroundings must be cleaned frequently enough to control odor. Manure shall not be allowed to accumulate in a way that causes an unsanitary condition or causes odors detectible on another property.
- C. The loft or coop must be constructed and maintained so as to be predator and rodent-proof. The loft or coop must be maintained in good condition and working order.
- D. All pigeons shall be fed within the confines of the loft on the premises on which the pigeons are housed. The pigeons shall be confined to the loft except when they are released for exercise, performance, training, or to return from areas outside corporate limits of the City of White Bear Lake for the purpose of engaging in a race or returning from training flights.
- E. All grains and food stored for the use of the hens or pigeons shall be kept in a rodent proof container.
- F. Hens and Pigeons shall not be kept in such a manner as to constitute a nuisance to the occupants of adjacent property and shall not be kept in an accessory or principal structure. An exception may be made for hens or pigeons under 4 months in age to be temporarily kept in an accessory structure to facilitate the regulation of their temperature.
- G. Pigeon lofts and hen coops shall be located in the rear yard only and shall be at least 50

feet from adjacent habitable structures and 5 feet from all property lines. If a 50-foot setback from adjacent habitable structures cannot be achieved, the property owner may seek the written consent of the affected property owner(s) for a lesser amount. Inability to obtain the written consent of the affected property owner may be appealed by applying for a formal variance pursuant to Section 1301.060 of the Zoning Code. Portable coops and runs are allowed, but allowable locations must be identified on the required site plan.

- H. A loft shall provide a minimum of one square foot of floor space per pigeon. A coop shall provide a minimum of 4 square feet of floor space per hen.
- I. No one shall release pigeons to fly for exercise, training or competition except owner(s) of pigeons who are member(s) in good standing of an organized pigeon club, such as the American Racing Pigeon Union, Inc., the International Federation of Racing Pigeon Fanciers, the National Pigeon Association, the American Tippler Society, the International Roller Association, the Rare Breeds Pigeon Club, or a local club which has rules that will help preserve the peace and tranquility of the neighborhood.
- J. In no case shall the number of pigeons exceed 100. (Ref. Ord. 17-04-2024, 4/11/17)
- K. In no case shall the number of hens exceed 4.
- L. Roosters are prohibited.
- M. Breeding is prohibited.
- N. Hens must be contained within the coop or run whenever unattended; but when attended by the owner, may be allowed in a yard completely fenced in by a fence at least 4 feet in height. Hens must be confined to the owner's premises at all times, may not roam at large, and must be secured in the coop from sunset to sunrise each day.
- O. Keeping of pigeons and hens is limited to single- and two-family residential properties only.
- P. Dead birds must be disposed of according to the Minnesota Board of Animal Health rules which require carcasses to be disposed of as soon as possible after death, or within 48 to 72 hours. Legal forms of carcass disposal include burial, or off-site incineration, off-site rendering or off-site composting.
- Q. Issuance of a permit does not create a vested zoning right; failure to comply with these conditions is a violation of this ordinance and may result in the suspension or revocation of the approval to keep hens or pigeons. Approval to keep may be revoked following written notice of a hearing to allow the applicant the opportunity to appeal the action to the City Council. If approval is revoked, the owner shall remove the birds from the property within 15 days of the revocation and remove the coop within 30 days.

(Ref. Ord. 16-04-2011, 4/12/16)

Subd. 5. Application for Permit.

A. Applicant shall obtain a zoning permit prior to keeping any birds. The application shall be accompanied by a site plan showing the location and size of the premises and the location, size and design of the loft or coop. The application shall specify the maximum number of birds to be kept on the premises at one time, and the applicant shall sign an agreement pledging to abide by the provisions of this ordinance and to allow the premises to be inspected by the City at all reasonable times so as to assure compliance with the conditions outlined in Subdivision 4. Renters of single and two-family residential properties must provide evidence of the property owner's consent.

B. Number of Birds: The permit shall state the number of birds which may be maintained on the premises. The permittee shall immediately inform the City in writing when the number of birds maintained on the premises exceeds the number allowed by the permit. In no case shall the number of birds exceed that which is permitted by this code. The permit may be denied or revoked if the City objects to the proposed number of birds or if the owner or property is found to be in violation of this code.

C. Structure Design (Coop/Loft): Lofts and coops shall not exceed 6 feet in height or 30 square feet in size as measured at the base of the structure. The structures must be completed with exterior finish materials per Code Section 1302.020, Subd.6, or subject to staff approval. Runs 40 square feet in size or less may not exceed 6 feet in height; runs larger than 40 square feet in size may not exceed 4 feet in height. Runs must provide at least 6 square feet per bird if access to a fenced yard is available; 10 square feet per bird if access to a fenced yard is not available. The structures shall not count towards the accessory structure limits or rear yard coverage limits of Section 1302.030. (Ref. Ord. 17-04-2024, 4/11/17)

A loft may exceed 6 feet in height and 30 square feet in size if it is counted as an accessory structure and follows the City's Accessory Structure Ordinance. (Ref. Ord. 17-04-2024, 4/11/17)

Subd. 6. Right of Entry for Inspection: The Animal Control or Code Enforcement Officer may enter and inspect any property containing a loft or coop at any reasonable time for the purpose of investigating either an actual or suspected violation or to ascertain compliance or noncompliance with this ordinance.

Subd. 7. Violation and Penalties: When the Animal Control or Code Enforcement Officer finds a violation to have occurred, the officer shall give written notice thereof to the owner. If said violation is not remedied within ten (10) days, the Animal Control Officer may issue a citation to appear in district court to answer the charges stated thereon. Any owner found violating any of the provisions of this ordinance shall upon conviction be guilty of a misdemeanor punishable by a fine. Any conviction may result in the revocation of the permit by the City Council. (Ref. Ord. 988; 10/23/01; 16-04-2011, 4/12/16)

702.044 ANIMALS: TRAPPING OF ANIMALS

Subd. 1. Definitions: Trapping is defined as the use of any unattended mechanical device which is designed, used or set for the purpose of capturing, snaring, holding or killing any animal; provided, however, that it shall not include:

- (1) Cage-type traps used for the control of nuisance animals;
- (2) Any mechanical device which is specifically designed or primarily used for capturing, killing or controlling mice, rats, moles and other small rodents.

Subd. 2. Trapping Prohibited: No person shall trap animals within the City of White Bear Lake unless acting in response to a wildlife management concern with the approval of the City Manager or designee, with the exception of trapping performed on private property, in response to a wildlife management concern, at the request of the property owner, by a commercial wildlife control operator possessing a current Minnesota DNR off-season permit. Such trapping shall be in full compliance with State Statutes and regulations of the Minnesota DNR. (Ref. Ord. 1083; 1/8/13)

702.045 KEEPING OF BEES

Subd. 1. Title: Ordinance authorizing the keeping of bees, and providing for the issuance of licenses and providing for violations.

Subd. 2. Intent and Purpose: It is the purpose and intent of this ordinance to permit the keeping of bees, as a hobby, subject to regulations hereinafter set forth. It is recognized that the ability to cultivate one's own food is a sustainable activity that can also be a rewarding pastime, and that gentle strains of honey bees can be maintained within populated areas without causing a nuisance if carefully managed. Therefore, it is also the purpose and intent of this ordinance to permit the keeping of bees in such ways that is not a nuisance to or detrimental to the public health, safety, and welfare of the community.

Subd. 3. Definitions:

- A. "Beekeeper" means a person who owns bees.
- B. "Colony" means an aggregate of bees consisting principally of workers, but having, when perfect, one queen, drones, brood, combs and honey.
- C. "Hives" means the receptacle inhabited by a colony that is manufactured for that purpose.
- D. "Honey Bee" means all life stages of the common domestic honey bee, *apis mellifera* (African subspecies and Africanized hybrids are not allowed).

Subd. 4. Conditions: The keeping of bees may be permitted subject to the following:

- A. Beekeeping is limited to single- and two-family residential properties only.
- B. A maximum of four colonies permitted per property. (Ref. Ord. 14-05-1092, 5/13/14).
- C. Honey bee colonies shall be kept in hives with removable frames, which shall be kept in sound and usable condition. Each hive structure shall not exceed 20 cubic feet in volume.

D. Each beekeeper shall ensure that a convenient source of water is available within 10 feet of the hives at all times that the colonies remain active outside of the hive.

E. Each beekeeper shall ensure that no wax comb or other material that might encourage robbing by other bees are left exposed outdoors. Such materials shall be stored in sealed insect-proof containers, or placed within a building.

F. No selling of honey permitted without an approved home occupation permit.

G. Hives must be setback at least 10 feet from all property lines and at least 25 feet from a principal building on an abutting lot. Hives may not be located in a front yard.

H. A flyaway barrier shall shield any part of a property line that is within 20 feet of a hive. The flyway barrier shall be six feet in height and shall consist of a wall, fence, dense vegetation or a combination thereof such that the bees will fly over, rather than through it to reach the hive. If the adjoining property is undeveloped, with no trails through it to reach the hive. If the adjoining property is undeveloped, with no trails located within 20 feet of the property line, then a flyway barrier is not required. A flyway barrier would be required if an undeveloped property becomes developed.

I. Each hive shall be equipped with a "Warning: Bee Hive" sign consisting of letters at least 4-inch tall. (Ref. Ord. 1092, 5/13/14)

Subd. 5. Application for License:

A. Applicant shall complete an application form provided by the City. The application shall include, but not be limited to the following information: a site plan showing the location and size of the premises and the location, size and type of hive. The application shall include an agreement by the applicant that the premises may be inspected by City staff at all reasonable times so as to assure compliance with the conditions outlined in Subdivision 4.

B. Renters of single and two-family residential properties must provide evidence of the property owner's consent.

C. The applicant for a license to keep bees shall provide written consent from all owners of property within 100 feet from the property on which the bees will be kept.

D. Each beekeeper shall complete a training course prior to issuance of a license by either:

- i. Providing a certificate of completion from a honeybee keeping course from either the University of Minnesota, Century College or the Three Rivers Park District.
- ii. Requesting consideration and submit documentation for having completed a comparable course from another institution or instructor.

E. The applicant shall present proof of and maintain liability insurance in the amount of at least \$100,000 covering damage that may be caused by the beekeeping activity.

F. Duration of License; Fee:

- i. Each license issued hereunder shall expire five (5) years after issuance unless sooner revoked. A license must be renewed upon expiration to continue the keeping of bees.
- ii. The fee for a permit shall be \$30.00, which shall be paid at the time of the making of the application therefore.

Subd. 6. Right of Entry for Inspection: City staff may enter and inspect any property containing a colony at any reasonable time for the purpose of investigating either an actual or suspected violation or to ascertain compliance or noncompliance with this ordinance.

Subd. 7. Violation and Penalties: When City staff finds a violation to have occurred, the city shall give written notice thereof to the beekeeper. If the violation is not remedied within ten (10) days of the notice, the City may issue a misdemeanor citation. Any beekeeper found violating any of the provisions of this ordinance shall upon conviction be guilty of a misdemeanor. Any violation of this ordinance may result in the revocation of the permit.

(Ref. Ord. 1085, 5-14-13)

703. Miscellaneous Offenses

§703.010 MISCELLANEOUS OFFENSES; FIREWORKS, SALE PROHIBITED, USE RESTRICTED. No person shall sell or dispose of any fireworks, crackers or other explosives in the City at any time, nor shall any person exhibit any fireworks within the City without a permit from the City Council which shall limit the time of such firing. Such permit is subject to revocation by the Council at any time after it has been granted. (Ref. §1302.010, 1302.020, Code 1966)

§703.020 MISCELLANEOUS OFFENSES: DISCHARGE OF FIREARMS AND EXPLOSIVES, PERMIT REQUIRED. No person shall fire or discharge any cannon, gun, fowling piece, pistol or firearms of any description, or fire, explode or set off any squib, cracker or other thing containing powder or combustibles or explosive material without a permit from the Chief of Police which shall limit the time of such firing. Such permit is subject to revocation by the Chief of Police at any time after it has been granted. (Ref. §1302.020, Code 1966)

§703.030 MISCELLANEOUS OFFENSES: CONCEALED WEAPONS, LICENSE. No person shall carry or wear concealed about his person any firearm not regulated by Minn. Stat. §§624.711 to 624.717, dagger, slingshot, or knuckles of lead, brass or other metal, bowie knife, razor or any other dangerous or deadly weapons in the City, except as provided herein. Any such weapon adjudged by the Municipal Court of Ramsey County to have been worn or carried in violation of this section shall be confiscated by the City and handed over to the City Manager to be kept, sold or disposed of in the manner provided by law.

This section shall not apply to the officers or members of the police force of the City, nor to any officer of any court whose duty it may be to serve warrants or make arrests, nor to persons whose business or occupation may require the carrying of weapons for protection and who shall have obtained from the Chief of Police a license to do so as hereinafter provided. The Chief of Police may grant to such persons as he may think proper a license to carry concealed weapons, and he may revoke any such license at his pleasure. Application for such license shall be made to the Chief of Police of the City in writing, and when granted, the person applying therefor shall pay into the City Treasury the sum of twenty (\$20.00) dollars and thereupon a license shall be issued by the City Clerk and signed by the Chief of police. Every such license shall state the name, age, location and residence of the person to whom it is granted and shall expire on December thirty first (31st) next following its issuance. (Ref. §1302.030, Code 1966: Ord. No. 570, 2/11/75)

§703.040 MISCELLANEOUS OFFENSES; DANGEROUS WEAPONS, EXCEPTIONS. No person shall have in his possession, except within his own domicile, or carry, use or discharge any firearm, air-gun, "B-B" gun, gas operated gun or any other similar type instrument for the purpose of throwing or projecting missiles of any kind whatsoever, whether such instrument is called by any name set forth or by any other name. The prohibition of this section shall not apply to licensed shooting galleries or in private grounds or premises under circumstances where such instrument can be and is fired, discharged or operated in such a manner as not to endanger persons or property, and also in such a manner as to prevent the projectile from transversing any grounds or space outside of such galleries, grounds or residences; and provided further, that nothing herein contained shall be construed to prevent the carrying of any type of gun whatsoever when unloaded and properly cased. (Ref. §1302.040, Code 1966)

§703.050 MISCELLANEOUS OFFENSES; DISORDERLY CONDUCT. No person shall conduct himself in a disorderly manner by disturbing, tending to disturb or aiding in disturbing the comfort,

repose, health, peace or safety of others within the City by violent, tumultuous, offensive or obstreperous conduct and no person shall knowingly permit such conduct upon any premises owned or possessed by him or under his control.

The following conduct shall be deemed disorderly:

1. Any person who congregates with two (2) or more other persons together or near each other in any public street, or on any footwalk or sidewalk in the City so as to obstruct the free passage or foot passage and who so standing refuses to move immediately after requested to do so by any law enforcement officer.

2. Any person who uses vulgar, profane or indecent language on any public street or other public place or in any public dance hall, club dance, skating rink or other place of business open to public patronage.

3. Any person who acts in any manner as to annoy, disturb, interfere with, obstruct or to be offensive to another or other person.

4. Any person who shall make, continue or cause to be made or continued, any loud, unnecessary or unusual noise or shouts or any noise or shouting which either annoys, disturbs, injures or endangers any other person.

5. Any person who engages with others in brawling, fighting or other quarrelsome, boisterous or noisy conduct.

6. Any person who uses or exhibits offensive, disorderly, threatening, indecent, profane, vulgar, abusive or insulting language, conduct, behavior or appearance.

7. Any person who interferes with, obstructs or renders dangerous for passage any lake, park, public square, street, alley, sidewalk or any public place in the City. (Ref. §1302.050, Code 1966)

§703.060 MISCELLANEOUS OFFENSES; LOITERING. The following conduct shall be deemed loitering:

1. Any person who stands or loiters in or about a doorway or any building or sits upon the steps, window sill or railing of any building in such a manner to obstruct ingress or egress to and from such building or to the annoyance of occupants thereof, or the public in case of a public building.

2. Any person who loiters or wanders without apparent business or reason in a place or manner not usual for law abiding individuals and under circumstances which justify suspicion that he may be engaged or about to engage in crime and who refuses the request of a law enforcement officer that he identify himself and give a reasonably credible account of the lawfulness of his conduct and purposes. (Ref. §1302.050, Code 1966; Ord. No. 441, 5/9/67)

§703.070 MISCELLANEOUS OFFENSES; EXCESSIVE NOISE.

Subd. 1. Definitions.

A. General. Words and phrases defined in this section have, when used in this ordinance, the meanings given below. Any other word or phrase used in this ordinance, and defined in Rules NPC 1, 2 and 4 of the Minnesota Pollution Control Agency, has the meaning given in those rules.

B. Person. Means an individual, firm, partnership, corporation, trustee, association, the state and its agencies and subdivisions, or any body of persons whether incorporated or not. With respect to acts prohibited or required herein, "person" shall include employees and licensees.

Subd. 2. Receiving Land Use Standards.

A. Maximum Noise Levels By Receiving Land Use Districts. No person shall operate or cause or permit to be operated any source of noise in such a manner as to create a noise level exceeding the limits established in the rules promulgated by the Minnesota Pollution Control Agency, except for household unit(s) on property zoned for other than residential uses, shall be classified as Noise Area Classification 2. The Minnesota Pollution Control Agency, NPC-2 Noise Standards, in force and in effect on June 14, 1983, and as they may be hereinafter amended, are hereby adopted by reference and incorporated herein. (Ref. Ord. No. 865, 4/92)

B. Exemptions.

- 1) The levels prescribed in subparagraph 1 do not apply to noise originating on public streets and alleys but such noise shall be subject to all other applicable sections of this ordinance.
- 2) The removal or moving of snow from public and private roadways, driveways and sidewalks using machinery equipped with the manufacturers exhaust noise mitigation components are exempt from the provisions of this section. (Ref. Ord. 1078, 11/09/11)
- 3) Street sweeping or cleaning operations sanctioned by the City of White Bear Lake are exempt from the provisions of this section. (Ref. Ord. 1078, 11/09/11)

Subd. 3. Noises Prohibited.

A. General Prohibition. No person shall make or cause to be made any distinctly and loudly audible noise that unreasonably annoys, disturbs, injures, or endangers the comfort, repose, health, peace, safety, or welfare of any person or precludes their enjoyment of property or affects their property's value. This general prohibition is not limited by the specific restriction of the following subparagraphs.

B. Motor Vehicles. No person shall operate a motor vehicle in the City in violation of the motor vehicle noise limits established in the rules as listed in M.S. 169.69. (Ref. Ord. 987, 7/10/01)

C. Horns, Audible Signaling Devices, Etc. No person shall sound any audible signaling device on any vehicle except as a warning of danger.

D. Exhaust. No person shall discharge the exhaust or permit the discharge of the exhaust of any steam engine, internal combustion engine, motor boat, motor vehicle, or snowmobile except through a muffler or other device that effectively prevents loud or explosive noises therefrom and complies with all applicable state laws and regulations.

E. Specific Prohibitions. Between the hours of 10:00 P.M. and 6:00 A.M., the following activities are prohibited:

- 1) Collection of garbage and refuse.
- 2) The operation of chain saws or the operation of appliances or tools powered by electric motors, compressed air or internal combustion engines.
- 3) Construction, repair or servicing of automobile, recreational vehicles or other equipment if noise from that activity is audible beyond the limits of the property on which it is being conducted.

F. Construction Noise: Construction activities related to buildings, roadways and utilities, except under an emergency for which the City has granted approval, shall not be constructed between the hours of 10:00 p.m. and 7:00 a.m. on weekdays, nor between the hours of 9:00 p.m. and 9:00 a.m. on weekends and holidays. (Ref. Ord. 997, 11/12/02)

G. Model Boats. No person shall operate a model boat powered by an internal combustion engine within the City of White Bear Lake except between the hours of noon and 3:00 P.M. on Saturdays. Any model boat powered by an internal combustion engine operated within the City of White Bear Lake must at all time be equipped with a properly installed stock muffler in working order. (Ref. Ord. No. 835, 5/15/91)

Subd. 4. Participation in Noisy Parties or Gatherings.

A. No person shall congregate because of, or participate in, any party or gathering of people from which noise emanates of a sufficient volume or of such nature to disturb the peace, quiet, or repose of other persons.

B. A police officer may order all persons present other than the owners or tenants of the building or place to immediately disperse. Any person who shall refuse to leave after being ordered to do so by a police officer shall be guilty of a violation of this subparagraph.

C. Any owner or resident of the building or place who has knowledge of the disturbance and fails to immediately abate said disturbance shall be guilty of a violation of this subparagraph.

Subd. 5. Noise Near Schools, Churches, Hospitals, Etc. No person shall create any excessive noise on a street, alley, or public grounds adjacent to any school, institution of learning, church, or hospital when the noise unreasonably interferes with the working of the institution or disturbs or unduly annoys its occupants or residents and when conspicuous signs indicate the presence of such institution.

Subd. 6. Radios, Phonographs, Paging Systems, Etc. No person shall use or operate or permit the use or operation of any radio receiving set, musical instrument, phonograph, paging system, machine, or other device for the production or reproduction of sound in a distinct and loudly audible manner so as to disturb the peace, quiet, and comfort of any person nearby. Operation of any such set, instrument, phonograph, machine, or other device in such a manner as to be plainly audible at the property line of the structure of building in which it is located, in the hallway or apartment unit adjacent if located in an apartment unit, or at a distance of 50 feet if the source is

located outside a structure or building shall be prima facie evidence of a violation of this section. This includes radios and stereos emitting from a motorized vehicle. (Ref. Ord. 987, 7/10/01)

Subd. 7. Loudspeakers, Amplifiers for Advertising, Etc. No person shall operate or permit the use or operation of any loudspeaker, sound amplifier, or other device for the production or reproduction of sound on a street or other public place for the purpose of commercial advertising or attracting the attention of the public to any commercial establishment or vehicle.

Subd. 8. Exception for Emergency Work. Noise created exclusively in the performance of emergency work to preserve the public health, safety, or welfare, or in the performance of emergency work necessary to restore a public service or eliminate a public hazard shall be exempt from the provisions of this ordinance for a period not to exceed 24 hours after the work is commenced. Persons responsible for such work shall inform the issuing authority of the need to initiate such work, or if the work is commenced during non-business hours of the City, at the beginning of business hours of the first business day thereafter. Any person responsible for such emergency work shall take all reasonable actions to minimize the amount of noise.

Subd. 9. Enforcement.

A. Enforcement Duties. The White Bear Lake Police Department and City Code Enforcement Office shall enforce the provisions of this ordinance. The Police Department or its members and the officers of the Code Enforcement Department may inspect private premises other than private residences and may make all reasonable efforts to prevent violations of this ordinance.

B. Civil Remedies. This ordinance may be enforced by injunction, action for abatement, or other appropriate civil remedy.

C. Noise Impact Statements. The Council may require any person applying for a change in zoning classification or a permit or license for any structure, operation, process, installation or alteration, or project that may be considered a potential noise source to submit a noise impact statement on a form prescribed by the Council. It shall evaluate each statement and may take its evaluation into account in approving or disapproving the license or permit applied for or the zoning change requested.

D. Criminal Penalties. Every person who violates any provision of this ordinance is guilty of a misdemeanor and shall, upon conviction, be subject to a fine of not more than \$500 or imprisonment for a term of not to exceed ninety (90) days, or both plus, in either

case, the costs of prosecution. Each act of violation and each day a violation occurs or continues constitutes a separate offense.

Subd. 10. Severability. If any provision of this ordinance or the application of any provisions to a particular situation is held to be invalid by a court of competent jurisdiction, the remaining portions of the ordinance and the application of the ordinance to any other situation shall not be invalidated.

Subd. 11. Conflict With Other Code Provisions. If any provision in this ordinance is in conflict with a provision of any other portion of the City Code, the provision which establishes a higher standard for the promotion and protection of the health and safety of the people shall prevail. (Ref. §1302.060, Code 1966: Ord. No. 665, 6/14/83)

§703.080 MISCELLANEOUS OFFENSES; DEFACING LAMP POSTS. No person shall carelessly or willfully deface, injure or damage any electric light, pole or wire, or any lamppost, or City lamp, within the City. (Ref. §1302.070, Code 1966)

§703.090 MISCELLANEOUS OFFENSES; OBSTRUCTING WATER FLOW. No person shall dam or otherwise obstruct the passage of water in any ditch, sewer, culvert or gutter within the City. (Ref. §1302.080, Code 1966)

§703.100 MISCELLANEOUS OFFENSES; SLIDING IN STREETS. No person shall slide or coast upon sleds, skates or in any other manner upon any street or alley in the City. (Ref. §1302.090, Code 1966)

§703.110 MISCELLANEOUS OFFENSES: HORSES ON CITY STREETS. No person having in his charge any horse or horses within the City shall leave the horse standing in or along a street or alley without securely hitching or fastening it or having the horse securely held by someone. No person shall hitch or fasten a horse to a lamppost, telephone pole or electric pole in the City. No person shall leave any horse standing on any street, alley or any public ground of the City for a period of more than two (2) consecutive hours. (Ref. §1302.100, Code 1966)

§703.120 MISCELLANEOUS OFFENSES: INTERFERENCE WITH FIRE DEPARTMENT, FALSE ALARMS. No person, not a member of the Fire Department, or not authorized by proper authority, shall ride upon any fire engine or other vehicle belonging to the Fire Department or going to or returning from fires. No person shall willfully injure in any manner, or interfere with at any time, any hose, fire alarm, fire engine, automobile or other apparatus, or any building containing the same, belonging to the City. No person shall neglect or refuse to obey any order of the Fire Chief or his assistants at a fire, or in any way interfere with the Fire Department in the discharge of its duties.

No person shall knowingly give or cause to be given a false alarm of fire.

It shall be lawful for the Fire Chief or his assistants to arrest any suspected person, or any person hindering, resisting or in any manner interfering with the Fire Department, or refusing to obey any such officers while acting in the discharge of their duty. (Ref. §1302.110, Code 1966)

§703.130 MISCELLANEOUS OFFENSES: CONSUMPTION OF ALCOHOLIC BEVERAGES IN PUBLIC PLACES. It shall be unlawful for any person to consume intoxicating liquor or non-intoxicating

malt liquor or possess an open bottle, can or other container of such on any public street, sidewalk, alley, municipal parking lot or in the public park in the blocks bounded by Washington Square, Washington Avenue, State Highway 61 and Third (3rd) Street unless specific permission to do so is granted by resolution of the City Council. (Ref. Ord. Nos. 578, 9/9/75; 579, 12/9/75)

§703.140 TRESPASSING. An individual is guilty of a misdemeanor if the person intentionally:

- A) Enters upon the premises of another without claim of right and without permission or refuses to depart from the premises on demand of the lawful possessor; or
- B) Refuses to leave or returns to the premises of another which is open to the public for the public's patronage, after having been requested to leave by one with authority. (Ref. Ord. 900, 8/24/93)

§703.145 MISCELLANEOUS OFFENSES; PUBLIC INTERFERENCE/BEGGING.

Subd. 1. Definitions

A. Beg Means to ask for money or goods as a charity, whether by words, bodily gestures, signs or by other means.

B. Intimidate Means to engage in conduct which would make a reasonable person fearful or feel compelled.

C. Aggressive Manner Means (1) to beg in a manner that intimidates another person into giving money or goods; (2) approaching, touching or following a person in such a manner that would cause a reasonable person to fear bodily harm or the commission of a criminal act upon the person or upon property in the person's immediate possession; (3) touching another person without consent when asking for alms; (4) continuously begging a person after the person has made a negative response; (5) intentionally blocking or interfering with a person's safe and reasonable passage, including causing a person to take evasive action to avoid physical contact.

D. Public Place Means an area generally visible to public view and includes public transportation, alleys, bridges, buildings, driveways, parking lots, parks, plazas, sidewalks, and streets open to the general public, including those that serve food and drink or provide entertainment, and the doorways and entrances to buildings or dwellings and the grounds enclosing them.

Subd. 2. Prohibited Acts

A. No person shall ask, beg, or solicit alms, including money, food or other things of value, in an aggressive manner in public places or within ten feet of an automatic teller machine.

B. No person, in any public or private place, shall use offensive, obscene or abusive language, or grab, follow or engage in conduct which reasonably tends to arouse, alarm, or anger others, or walk, sit stand, sit, lie, or place an object in such a manner as to block passage by another person or a vehicle, or to require another person or a driver of a

vehicle to take evasive action to avoid contact.

Subd. 3. Enforcement

- A. A person who violates this ordinance is guilty of a misdemeanor.
- B. A person's exercise of his/her constitutional right to lawfully picket, protest or speak shall not constitute criminal activity within the meaning of this act.

Updated 1/14/99

§703.150 MISCELLANEOUS OFFENSES: INTENTIONAL FEEDING OF DEER

Subd. 1 **Feeding Prohibited.** No person shall feed deer within the City. For purposes of this subdivision, feeding shall mean the provision of one half cubic foot or more of grain, fruit, vegetables, nuts, hay or other edible material either on the ground or at a height of less than five feet above the ground, in a manner that attract deer. Living food sources such as trees and other live vegetation shall not be considered as deer feeding.

Subd. 2 **Exception.** The provisions of Subd. 1 of this subsection shall not apply to the employees or agents of the City, the County, the State, the Federal government or veterinarians who in the course of their official duties have deer in their custody or under their management. Updated 3/27/2013

§703.160 MISCELLANEOUS OFFENSES: USE OF CANNABIS PRODUCTS IN PUBLIC PLACES.

Subd. 1. Definitions. For the purposes of this section, the following terms shall have the meanings given them in this subdivision.

- A. Cannabis Product. "Cannabis product" means any of the following: cannabis flower; cannabis products; lower-potency hemp edibles; or hemp-derived consumer products, as each are defined in Minnesota Statutes, section 342.01.
- B. Park. "Park" means any public park, playground, sports field, open space, swimming pool, community center, or other recreational area or facility, including the grounds of any such facility.
- C. Parking Lot. "Parking lot" means any state, county, or city owned parking area that is made available to the public for parking.
- D. Public Place. "Public place" means any park, right-of-way, or parking lot. The term does not include any of the following: a private residence, including the person's curtilage or yard; private property not generally accessible by the public, unless the person is explicitly prohibited from consuming cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products on the property by the owner of the property; or the premises of an establishment or event licensed to permit on-site consumption.
- E. Right-of-Way. "Right-of-way" means the entire area within a public roadway, highway, street, alley, cartway, bicycle lane, trail, or public sidewalk.

Subd. 2. Prohibition. It is unlawful for a person to use a cannabis product in a public place within the city.

Subd. 3. Enforcement. A violation of this section is a petty misdemeanor. A violation of this section is also an administrative offense and is subject to an administrative penalty as provided in Chapter 205 of this Code.

(Ref. Ord. 23-09-2068, 09/12/2023)

704. MINORS

§704.010 MINORS: CURFEW.Subd. 1 DEFINITIONS.

- a. "Authorized adult" shall mean any person who is at least eighteen (18) years of age and authorized by a parent of such minor to take said parent's place in accompanying said minor for a designated period of time.
- b. "Emergency errand" shall mean an errand necessary to avoid or seek help for a harm or peril that is immediate, overwhelming or physical, provided the minor could not have avoided the necessity of the errand by taking advance precautions.
- c. "Minor" shall mean any unemancipated person under the age of eighteen (18) years.
- d. "Parent" shall mean any person having legal custody of a minor (i) natural or adoptive parent; (ii) as legal guardian; or (iii) as a person to who, legal custody has been given by order of the court.
- e. "Public Place" shall mean any public street, highway, roadway, park, public recreation, entertainment or civic facility, or other place open to the public within the City.

Subd. 2 PROHIBITED ACTS.

- a. It shall be unlawful for any minor under the age of sixteen (16) years to be in a public place within the City during the period ending at 5:00 a.m. and beginning at 10:00 p.m. every day of the week.
- b. It shall be unlawful for any minor who is sixteen (16) or seventeen (17) years of age to be in any public place within the City during the period ending at 5:00 a.m. and beginning at 12:00 a.m. (midnight) every day of the week.
- c. It shall be unlawful for a parent or authorized adult of a minor to knowingly, or by inefficient control, permit such minor to be in any public place within the City during the hours prohibited by paragraphs a. and b. of this subdivision herein, under circumstances not constituting an exception to this ordinance as set forth herein. The term "knowingly" includes knowledge which a parent or authorized adult shall reasonably be expected to have concerning the whereabouts of a minor under such person's care.
- d. It shall be unlawful for any person operating or in charge of any place of amusement or refreshment which is open to the public to knowingly permit any minor to remain in such place during the hours prohibited by Paragraphs a. and b. of this subdivision herein, under circumstances not constituting an exception to this Ordinance as set forth herein.

Subd. 3 EXCEPTIONS.

- (1) The following shall constitute valid exceptions to the operation of the curfew:
 - a. At any time, if a minor is accompanied by his or her parent or an authorized adult;
 - b. At any time, if a minor is upon an emergency errand;
 - c. At any time, the minor is upon some necessary errand by permission or direction of said parent, guardian or other adult person having the care and custody of the said minor, which permission shall be in written form and signed by such parent, guardian or other adult person having the care and custody of the said minor;
 - d. At any time, where the presence of said minor in said place or places is connected with or required by some legitimate business, trade or profession or occupation in which said minor is permitted by law to be engaged;
 - e. If the minor is legally employed, for a period of from forty-five (45) minutes before or after work, while going directly between his or her home and place of employment;
 - f. At any time the minor is engaged in interstate travel;
 - g. At any time the minor is married in accordance with the law or had disability of nonage removed by a court of competent jurisdiction;
 - h. At any time the minor is attending, or returning by a direct route to his or her current residence from, a specific activity at a public or semi-public place which is open to the general public and supervised by adults at least twenty-one (21) years of age; provided further, that any such activity begins no later than 10:00 p.m.; provided further, that the juvenile possesses written permission from his or her parent or legal guardian authorizing the juvenile to attend or engage in that specific activity;
 - i. Attending an official school, religious, or recreational activity supervised by adults at least twenty-one (21) years of age and sponsored by the City, a school, church, civic organization or other similar entity, which organization takes responsibility for the juvenile as an invitee, or going to or returning from, any such activity without detour; provided further, that the juvenile possesses written permission from his or her parent or legal guardian authorizing the juvenile to attend or engage in that specific activity.
- (2) It is a defense to prosecution under Subdivision 2 that the owner, operator or employee of an establishment promptly notified the police department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

Subd. 4 PENALTIES. Violation of this ordinance shall be a misdemeanor. (Ref. §1303.010, Code 1966: Ord. No. 504, 10/13/70, Ord 949, 7/8/97)

§704.020 MINORS; RESPONSIBILITY OF PARENT OR GUARDIAN TO ENFORCE CURFEW. It shall be unlawful for the parent, guardian or other adult person having the charge of a minor under the age of eighteen (18) years to permit such minor to loiter, idle, wander, stroll or play in or upon public streets, highways, roads, alleys, parks, playgrounds, public places, public buildings, places of entertainment and amusement, vacant lots and other unsupervised places in the City of White Bear Lake during the hours prohibited by this chapter.

The provisions of this section do not apply when the minor is accompanied by his or her parent, guardian or other adult person having the care and custody of the minor: where the minor is upon an emergency errand or on legitimate business directed by his or her parent, guardian or other adult person having the care and custody of the minor: or where the presence of a minor in a place is connected with and required by a legitimate business, trade, profession or occupation in which the minor is permitted by law to be engaged. (Ref. §1303.020, Code 1966; Ord. No. 504, 10/13/70)

§704.030 MINORS; RESPONSIBILITY OF BUSINESS TO ENFORCE CURFEW. No person operating or in charge of any place of amusement, entertainment or refreshment shall permit any minor under the age of eighteen (18) years to remain in such place during the hours prohibited by this chapter. The provisions of this section shall not apply when the minor is accompanied by his or her parent, guardian or other adult person having the care and custody of the minor. (Ref. §1303.030, Code 1966; Ord. No. 504, 10/13/70)

§704.040 MINORS; DANGEROUS WEAPONS. No minor under the age of eighteen (18) years shall handle, have in his possession or have under his control, except when accompanied by his parent or guardian, any firearm, ammunition, slingshot, sling, air-gun or the like. No person shall give, sell or otherwise furnish a firearm or air-gun of any kind, or any ammunition for use therein, to any minor under the age of eighteen (18) years. (Ref. §1303.050, Code 1966; Ord. No. 504, 10/13/70)

§704.050 UNDERAGE PERSONS, POSSESSION OF TOBACCO. (Ref. Ord. 905, 1/11/94)

Subd. 1. Definitions. For the purposes of this section, the following terms shall have the meanings respectively ascribed to them in this section.

- a. "Tobacco" means cigarettes; cigars; cheroots; stogies; perique; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or other tobacco-related devices.
- b. "Tobacco-related devices" means cigarette papers or pipes for smoking.

Subd. 2. Possession by Persons Under 21 Prohibited. Whoever uses, purchases, attempts to purchase, or possesses tobacco or tobacco related devices and is under the age of twenty-one (21) years is guilty of a petty misdemeanor. This subdivision does not apply to a person under the age of twenty-one (21) years who purchases, attempts to purchase, or possesses tobacco or tobacco related devices while under the direct supervision of a responsible adult for training, education, research or enforcement purposes. This subdivision does not apply to the employee of a licensee who is 18 years of age or older when handling tobacco or tobacco related devices as part of a sale to an individual who is 21 years of age or older. (Ref. Ord. 23-08-2066, 8/22/23)

705. Weeds

§705.010 WEEDS; REMOVAL, DUTY OF OWNER, LESSEE OR OCCUPANT. It shall be unlawful for any owner, lessee, occupant, agent, servant, representative or employee of any such owner, lessee or occupant having control of any occupied or unoccupied lot or parcel of land or any part thereof, including any contiguously abutting street boulevard areas in the City of White Bear Lake, to permit or maintain on such any growth of weeds, grass, brush or other rank vegetation to a greater height than twelve (12") inches on the average on the average or any accumulation of dead weeds, grass or brush. It shall also be unlawful for any such person or persons to cause, suffer or allow noxious weeds or plants identified and defined by the Minnesota Department of Agriculture to grow on any such lot or parcel of land so as to endanger the health, safety and welfare of the City. Native grasses indigenous to Minnesota, planted and maintained on any occupied lot or parcel of land, setback a minimum of twenty (20') feet from the front property line as part of a garden or landscape treatment are exempt from this ordinance. (Ref. Ord. No. 815, 6/12/90)

It shall be the duty of any owner, lessee or occupant of any lot or parcel of land to cut and remove or chemically treat (as approved by the City of White Bear Lake) or cause to be cut and removed or chemically treated all such weeds, grass, brush or other rank, poisonous or harmful vegetation as often as may be necessary to comply with the provisions of this section: provided, that cutting and removing or chemically treating such weeds, grass and vegetation at least once in every three (3) weeks, between May fifteenth (15th) and September fifteenth (15th) shall be deemed to be in compliance with this chapter. (Ref. Ord. No. 483, 4/14/70)

§705.020 WEEDS; REMOVAL BY CITY, LIEN. If the provisions of the foregoing section are not complied with, the Weed Inspector, appointed by the Mayor, under the authority of this chapter, and the State of Minnesota Department of Agriculture shall serve written notice upon the owner, lessee, occupant or any person having the care or control of any such lot or parcel of land to comply with the provisions of this chapter. If the person upon whom the notice is served fails, neglects or refuses to cut and remove or chemically treat or cause to be cut and removed or chemically treated such weeds, grass, brush or other vegetation within five (5) days after receipt of such notice, or if no person can be found in the City of White Bear Lake who is or claims to be the owner of such lot or parcel of land, the weed Inspector may cause such weeds, grass, brush or other vegetation to be cut and removed or chemically treated and the actual cost of such cutting and removal or chemical treating shall be certified by the City Clerk to the County Auditor to become a lien upon the property and shall be added to the real estate taxes next to be assessed. (Ref. Ord. No. 483, 4/14/70)

706. Diseased or Dying Trees

§706.010 DISEASED OR DYING TREES; PURPOSE. The City Council of the City of White Bear Lake has determined that the health of the trees within the municipal limits are threatened by tree diseases. It is further determined that the loss of the 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 diseases and this chapter is enacted for that purpose.

It is the intention of the City Council of the City of White Bear Lake to conduct a program of disease control pursuant to the authority granted by Minnesota Statutes section 18.023. This program is directed specifically at the control and elimination of Dutch Elm Disease Fungus, Elm Bark Beetles, Oak Wilt Fungus and any other tree diseases or pests which may be considered public nuisances. (Ref. Ord. Nos. 458, 6/11/68; 571, 4/8/75)

§706.020 DISEASED OR DYING TREES: ADMINISTRATION. It is the duty of the Public Works Department to coordinate all activities of the City relating to the control and prevention of tree diseases covered by this chapter.

§706.030 DISEASED OR DYING TREES: PUBLIC NUISANCE, DEFINED. The following are considered public nuisances whenever they are found within the City of White Bear Lake:

1. Any living or standing elm tree or part thereof infected to any degree with Dutch Elm Disease Fungus Ceratocystis Ulmi (Buisman) Noreau or which harbors any of the Elm Bark Beetles Scioivtus Multistriatus (Eichh.) or Hylurgopinus Rufipes (Marsh).

2. Any dead elm tree or part thereof including logs, branches, stumps, firewood or other elm material, the bark of which has not been removed.

3. Any living or standing oak tree or part thereof infected to any degree with the Oak Wilt Disease Fungus Ceratocyrstris Fagacearum.

4. Any tree, living, dead, or parts thereof, infected to any degree with disease or infestation (bugs, beetles, worms or fungus) or which may be considered a threat to the public welfare.

(Ref. Ord. Nos. 485, 6/11/68; 571, 4/8/75)

§706.040 DISEASED OR DYING TREES; PUBLIC NUISANCE, ABATEMENT AND ASSESSMENT. It is unlawful for any person or persons to permit any public nuisance as defined in this chapter to remain on any premise owned or controlled by him within the City of White Bear Lake. Such nuisances must be abated in the manner prescribed by this chapter.

Pursuant to the authority granted by Minnesota Statutes §18.022, Subd. 6, the City Council by this ordinance authorizes the Director of Public Works and his/her agents to enter and inspect any public or private place which might harbor plant pests.

The City shall give to the owner or controller of the premises, where the public nuisance is described in §706.030 above are found, a written notice of the existing nuisance requiring the removal, burying or burning (if permitted) of same within twenty (20) days following the delivery or sending of such notice. A notice shall also notify the owner or controller of said premises that unless such nuisances are abated in compliance with this chapter within the specified time period, the City will proceed with the removal and abatement of such nuisances and assess all costs₂ authorized by this Chapter, thereon against the said property owner. When the condition of a tree is indeterminable by City Staff an expert tree consultant will be hired to determine the condition of the tree. The cost of said consultant will be paid by the City.

Service of such notice shall be by personal delivery or sent by regular U.S. mail to the person or persons to whom was sent the tax bill for the general taxes for the last preceding year on the property. It shall thereupon become the duty of the owner or owners of said premises to cause such diseased tree or trees or nuisances to be abated.

In the case of removing or treating of trees located on street terraces or boulevards, the owner or controller of abutting property may remove, or have removed, according to specifications established by the Director of Public Works, the subject tree at his or her expense. An alternative treatment regime of fungicide may be authorized the Director of Public Works. Trees which are not removed or treated within the specified time shall be declared a public nuisance and removed or treated by the City which may assess one half (1/2) the total cost, including reasonable administrative expenses, thereof to the property, which expense shall become a lien on the property. (Ref. Ord. Nos. 485, 6/11/68; 571, 4/8/75; 701, 10/8/85)

§706.050 DISEASED OR DYING TREES; PUBLIC NUISANCE ASSESSMENT, DEFERRAL. Pursuant to Minnesota Statutes §435.193 to §535.195, the City Council may, at its discretion, defer payment of a special assessment for the cost of removal of diseased trees.

Subd. 1. Standards and Guidelines. No property shall be considered for deferral of a special assessment for the cost of removal of diseased trees except when all of the following qualifications exist:

1. Affected property is homestead property owned by at least one (1) person who is sixty-five (65) years of age or older.

2. The City orders the abatement of a public nuisance pursuant to this chapter and the applicant, on forms supplied by the City, authorizes the City to abate same within the prescribed time.

3. Payment of special assessments would create a hardship for the applicant. A hardship shall be considered to exist if the household income of the owner does not exceed eighty (80) percent of the most recent published median household income data. Amended 11/9/04

The applicant shall provide the City with such other information as may be required to make a proper determination as to eligibility.

Subd. 2. Procedure. A person seeking a deferment shall make application to the City on forms prescribed by the County Auditor together with such other information as may be required by the City. The application shall be filed with the City Clerk within thirty (30) days from the adoption of the assessment roll. To remain eligible for the term of the deferment, annually, before August thirty-first (31st), the applicant shall file a renewal application with the City Clerk. The City Council shall review each application and either grant or deny the deferment, provided that nothing herein shall be construed to prohibit the determination of hardship on the basis of exceptional and unusual circumstances not covered by the standards and guidelines, where the determination is made in a non-discriminatory manner and does not give the applicant an unreasonable preference or advantage over other applicants. Deferments shall be subject to the terms and conditions of subdivision 3.

Subd. 3. Terms and Conditions. The granting of a deferment shall entitle the property owner to pay the special assessment with interest, if any, accrued to December thirty-first (31st) of the year in which payment is made in a single, installment payable on or before May thirty-first (31st) of the year following the certification of the assessment or in lieu thereof, to pay such assessment with interest, if any, accrued to December thirty-first (31st) of the year in which payment is made in equal installments extending over a period of five (5) years, the first (1st) of the installments to be payable on or before May thirty-first (31st) of the year following certification of the assessment. The property owner may, at any time prior to the certification of the assessment to the County Auditor, pay to the City Treasurer the whole of the assessment with interest accrued, if any, to the date of payment, except that no interest shall be charged if the entire assessment is paid within thirty (30) days from the adoption of the assessment and, the property owner may, at any time thereafter, pay to the County Treasurer the entire amount of the assessment remaining unpaid with interest, if any, accrued to December thirty-first (31st) of the year in which payment is made.

The City Council shall at the time of the adoption of the assessment, determine the interest rate, if any, which shall be charged for deferral.

The option to defer the payment of special assessments in equal annual installments extending over a period of five (5) years 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 property 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 City Council for any reason that there would be no hardship to require immediate or partial payment; or,
5. Failure to file a renewal application. (Ref. Ord. No. 607, 3/21/78)

§706.060 DISEASED OR DYING TREES; TRIMMING TREES. It is the responsibility of the property owner or controller to trim any branch or branches (dead or dying) that could be a place for the Elm or Oak Bark Beetles to harbor and propagate. Trees must not be trimmed in the late spring season (sap time, April and May) to prevent the infection of the fungi spores through the fresh wound and infecting any otherwise healthy tree. (Ref. Ord. No. 571, 4/8/75)

§706.070 DISEASED OR DYING TREES; SPRAYING TREES. Whenever the City determines that any tree or part thereof within the City is infected with a disease or insect, it may spray all nearby trees with an effective destroying concentrate. (Ref. Ord. Nos. 458, 6/11/68; 571, 4/8/75)

§706.080 DISEASED OR DYING TREES; TRANSPORTATION OF DISEASED WOOD PROHIBITED. It is unlawful for any person to transport within the City any bark bearing elm or oak wood, known to have Dutch Elm or Oak Wilt diseases or infestation or a suspect of either or both, without having obtained a permit from the City Clerk or his authorized representative who shall grant such permit only when the purposes of this chapter will be served thereby. (Ref. Ord. Nos. 458, 6/11/68; 571, 4/8/75)

§706.090 DISEASED OR DYING TREES; REFORESTATION. Boulevard trees may be replaced on a one for one basis by the City at City expense. The site and the species of the replacement tree will be determined by the City. (Ref. Ord. No. 571, 4/8/75)

707. Unclaimed Property

§707.010 UNCLAIMED PROPERTY; DEFINITIONS. For the purpose of this chapter certain words and terms are defined as follows:

Subd. 1. Property. All items of tangible personal property including but not limited to perishable goods and foodstuffs and excluding "property" as defined by the Uniform Disposition of Unclaimed Property Act, Minnesota Statutes sections 345.31 to 345.60. (Ref. Ord. No. 442, 5/23/67)

§707.020 UNCLAIMED PROPERTY; RECEIPT, NOTICE. The City Manager shall make provisions for the receiving and safekeeping of property found and delivered to him in the course of municipal operations. A receipt shall be given to the person delivering such property to the City. The City Manager shall keep such property for a period of no less than sixty (60) days and may deliver it to the true owner upon satisfactory proof of ownership, after giving ten (10) days written notice by mail to any person who has asserted a claim of ownership as provided in this chapter. If the true owner does not claim such property during the sixty (60) day period, the City Manager may then deliver said property to the person who found and delivered it to the City if at the time of said delivery such person indicated in writing that he wished to assert a claim to such property as a finder. (Ref. Ord. No. 442, 5/23/67)

§707.030 UNCLAIMED PROPERTY; SALE, EXCEPTION. If such property is not delivered to the owner or finder after the sixty (60) day period has elapsed from the time such property was delivered to the City Manager, it may be sold by the City Manager to the highest bidder at a public auction. The City Manager shall give reasonable public notice of the auction in the official newspaper of the City. This notice shall describe the article to be sold and announce the date, time and place of the auction. After such auction, the City Manager shall deposit the proceeds in the general fund of the City and any property not sold and not suitable for appropriation by the City shall be deemed to be of no value and shall be disposed of by the City Manager in such manner as he directs. If any such property can be used by the City, it may be appropriated by any City department in need thereof upon approval of the City Council.

The true owner of any property sold at auction as hereinbefore provided, shall upon application to the City Manager within six (6) months after the date of said auction and upon satisfactory proof of ownership be paid the sale price upon approval of the City Council.

The City Manager may without notice and in such manner as he determines to be in the public interest, summarily dispose of any property coming into his possession which he determines to be dangerous or perishable. He shall make a record of the pertinent facts of the receipt and disposal of such property. (Ref. Ord. No. 442, 5/23/67)

§708.010

POLICE REGULATIONS

§708.010

ISSUANCE OF WORTHLESS CHECKS

§708.010 It shall be a violation of this code for any person or entity to issue a check on a bank account which has insufficient funds in it to cover such check or which is closed. (Ref. Ord. 942, 3/25/97)

709. FALSE ALARMS

§ 709.010 PURPOSE AND INTENT. The purpose of this ordinance is to provide regulations for the use of burglary, fire and safety alarms, including establishment of user fees for false alarms.

§ 709.020 DEFINITIONS

The following terms shall apply in the interpretation and application of this chapter:

1. "Public Safety Personnel" means a duly authorized city employee.
2. "Alarm User" means the person, firm, partnership, association, corporation, company, or organization of any kind in control of any building, structure, or facility wherein an alarm system is maintained.
3. "Alarm System" means any alarm installation designed to be used for the prevention or detection of burglary, robbery or fire on the premises, which contains an alarm installation.
4. "False Alarm" means an alarm signal eliciting a response by public safety personnel when a situation requiring a response does not, in fact, exist, and which is caused by the activation of the alarm system through mechanical failure, alarm malfunction, improper installation, or the inadvertence of the user of an alarm system or its employees or agents. False alarms do not include alarms caused by climatic conditions such as tornadoes, thunderstorms, utility line mishaps, or violent conditions of nature, nor do they include alarms caused by third persons over whom the user has no control.
5. "Excessive False Alarms" means more than three (3) false alarms generated or reported by an alarm user during twelve (12) consecutive months.

§ 709.030 EXCEPTIONS

The provisions of this ordinance are not applicable to alarm systems affixed to automobiles, boat trailers, house trailers, and recreational motor vehicles.

§ 709.040 EXCESSIVE FALSE ALARMS; USE FEE

An alarm user which generates or reports excessive false alarms shall, upon notice provided by the City, be responsible for payment of a user fee as set by City Council Resolution.

§ 709.050 PAYMENT OF USE FEE

1. Payment of the user fees provided for herein must be made to the City within thirty (30) days from the date of notice by the City to the alarm user. Failure to pay the fee within thirty (30) days will result in the imposition of a penalty of ten percent (10%) of the user fee.

709. FALSE ALARMS

2. All unpaid user fees and penalties shall be certified as an assessment against the property on which the alarm was located and shall be collected each year along with the taxes on said property. Administrative costs in the amount of ten percent (10%) of the unpaid fee and penalty shall be added to each assessment.

§ 709.060 RIGHT TO APPEAL

Any alarm owner may request a hearing to refute a false alarm fee by forwarding an appeal in writing to the Administrative Hearing officer at the City of White Bear Lake. The date, time, and report number of the alleged false alarm must be included in the request for hearing. All appeals must be filed with the Administrative Hearing officer within ten (10) days of receipt of the false alarm card.

§ 709.070 LIABILITY OF CITY

The regulation of alarm response shall not constitute acceptance by the City of liability to maintain equipment, to answer alarms, or to respond to alarms in any particular manner.

(Ref. Ord.____ 3/22/05)

VIII. FIRE REGULATIONS

801. Fire Prevention

§801.010 FIRE PREVENTION; MINNESOTA UNIFORM FIRE CODE, ADOPTED BY REFERENCE. The Minnesota State Fire Code, as adopted by the Commissioner of Public Safety pursuant to Minnesota Statutes, Section 229F.011 including all of the amendments, rules, and regulations that may be established, adopted, and published from time to time by the Minnesota Commissioner of Public Safety, through the Minnesota Department of Public Safety, through the Minnesota Department of Public Safety State Fire Marshal Division, is hereby adopted by reference and incorporated in this Code as if fully set out herein. (Ref. Ord. No. 2045, 11/10/20)

§801.020 FIRE PREVENTION; PROHIBITED CONDITIONS. It shall be unlawful for the owner or owners, agent or occupants of any building in the City to:

1. Allow combustible or explosive matter or dangerous accumulation of rubbish or unnecessary accumulation of wastepaper, boxes, shavings or any highly inflammable materials to be so situated as to endanger property, or to permit obstructions to or on fire escapes, stairs, passageways, doors or windows, liable to interfere with the operation of the Fire Department or the egress of occupants in case of fire.

2. Use or to permit to exist any premises, buildings or structures, or any portions thereof, which by reason of want of repairs, dilapidated condition or damage by fire, or from any other cause, are especially liable to fire, or which are so situated or are in such condition as to endanger its occupants or persons therein, or the general public.

3. Permit to exist upon any premises aforesaid, any electrical wiring so defective as to constitute a fire hazard or any defective heating device or part thereof, including flues and chimneys of that character. (Ref. §702.020, Code 1966)

§801.030 FIRE PREVENTION; INSPECTIONS, RIGHT-OF-ENTRY. The Fire Chief or any fire person designated by him shall make inspections of property in the City at intervals of not more than twelve (12) months and locate and report to the Fire Chief such places where fire hazards exist, and abate any conditions existing contrary to this Code or the laws of the State of Minnesota. (Ref. §§702.010, 702.030, Code 1966; Ref. Ord. No. 829, 1/08/91)

§801.040 FIRE PREVENTION; FIRES, PERMIT REQUIRED. No person shall kindle or maintain any bonfire nor shall normally furnish material for any such fire nor authorize any such fire to be kindled or maintained on or in any street, alley, road, land or Public grounds or upon any private lot without a written permit from the City Manager or his authorized assistant. The permit shall designate the name and address of the applicant, the name and address of the owner of the property upon which the burning is to be done, the location by street address or legal description at which the burning is to be done and the date and time which such fires shall be set.

This section shall not prohibit the burning of inconsiderable quantities of rubbish on private premises on any day between the hours of four (4:00) o'clock P.M. and ten (10:00) o'clock P.M. when placed and contained in a noncombustible container or any type of container approved by the Fire Chief. (Ref. §§703.010, 703.020, Code 1966) Revised 1/08/91

§801.050 FIRE PREVENTION; OUTDOOR BURNERS. Outdoor burners shall not be located within fifteen (15') feet of any residence building or within six (6') feet of any other structure or garage, and such burners shall be so positioned that there is no direct exposure to wood fences or piled combustible material. Outdoor burners shall not be located so as to create a nuisance by reason of their smoke, constitute a fire hazard or by reason of heat or otherwise be injurious to trees, shrubs or flowers on any adjoining property. (Ref. §703.030, Code 1966)

§803.060 MINIMUM FIRE PROTECTION STANDARDS; CERTIFICATE OF COMPLIANCE, FEE. At the time the properties are registered with the Code Enforcement Department, the owner or agent shall make application for the Certificate of Compliance. Fees shall be six (\$6.00) dollars per unit with a maximum of Two Hundred Fifty (\$250.00) dollars and a minimum of Thirty-Six (\$36.00) dollars per building. The biennial inspection fee shall be one-half (1/2) of the original inspection fee. When re-inspections are required, the fee shall be fifteen (\$15.00) dollars. (Ref. §703.040, Code 1966; Ref. Ord. No. 829, 1/08/91.)

§801.070 FINANCING FIRE PROTECTION SYSTEMS. Pursuant to Minnesota Statutes Chapter 429 the City Council may consider a petition to finance the installation of a privately owned fire protection system. Said petition shall be in the form and contain all information required by statute and the City. Financing petitioned improvements shall be limited by the following:

- A. The owner shall be responsible for contracting for the actual installation of the fire sprinkler system. However, the City shall have the final right to disapprove any contractor selected by the owner.
- B. The amount to be specially assessed for the project must be verified by a sworn construction statement and shall not exceed that amount plus reasonable design fees, City administrative costs and interest charges. The petitioner shall be responsible for any construction costs exceeding the amount of the construction estimate.
- C. The petitioner must waive all rights to a public hearing and any appeal of the special assessment adopted by the City Council.
- D. No payment shall be made by the City for installation until the work is completed and finally approved by the City Council and the assessment is adopted.
- E. No special assessment shall be made for a period of more than 10 years.
- F. If the petitioner requests the abandonment of the special assessment project, all City costs incurred shall be reimbursed by the petitioner.
- G. All petitions for the special assessment of the improvement must be received and acted upon by the City Council prior to the start of any fire sprinkler installation.
- H. Consideration of any petition made under this section is subject to a determination by the City Council, in its sole discretion, that sufficient City funds are available for the improvement (Ref. Ord. 950, 10/28/97).

§801.080 FIRE PREVENTION; INTERFERENCE WITH FIRE DEPARTMENT, FALSE ALARMS. No person not a member of the Fire Department, or not authorized by proper authority, shall ride upon any fire engine or other vehicle belonging to the Fire Department while going to or returning from fires. No person shall willfully injure in any manner, or interfere with at any time, any hose, fire alarm, fire engine, automobile or other apparatus, or any building containing the same, belonging to the City.

No person shall knowingly give or cause to be given any false alarm of fire.

No person shall neglect or refuse to obey any order of the Fire Chief or his assistants at a fire, or in any way interfere with the Fire Department in the discharge of its duties. It shall be lawful for the Fire Chief or his assistants to arrest any suspected person, or any person hindering, resisting or in any manner interfering with the Fire Department, or refusing to obey any such officers while acting in the discharge of their duty. (Ref. §1302.110, Code 1966)

Revised 1/14/99

802. Inflammable and Explosive Materials

§802.010 INFLAMMABLE AND EXPLOSIVE MATERIALS; STORAGE GENERALLY. No hay, straw, or other material of an inflammable or combustible nature shall be left upon any City street or lot unless it is enclosed and covered in such manner as not to be accessible to children, vagrants and other such persons. The place in which such material is kept shall be securely fastened or locked in such manner as to be safe from all danger of being set on fire by anyone lurking on the premises, or by falling sparks from any fire or engine. (Ref. §701.010, Code 1966)

§802.020 INFLAMMABLE AND EXPLOSIVE MATERIALS; STATE RULES. The rules of the Minnesota Commissioner of Public Safety governing the handling, storage and transportation of liquefied petroleum gasses, petroleum and petroleum products and all rules amendatory thereof are hereby adopted by reference and made apart hereof as though fully set forth herein. A copy of said rules of the Minnesota Commissioner of Public Safety shall be filed and be permanently kept and maintained by the City Clerk. (Ref. §701.020, Code 1966)

§802.030 INFLAMMABLE AND EXPLOSIVE MATERIALS; PLASTIC, DYNAMITE. No person shall keep or store dynamite for sale or any other purpose in the City except as hereinafter provided:

1. Permits may be issued for blasting. Such permits shall be issued by the City Clerk and shall be in writing and provide the time when, the place where and the manner in which such blasting is to be done.

2. No permit shall be issued for blasting stumps or rocks.

3. Dynamite may be carried within the City for blasting when a permit has been issued, but it shall be unlawful to bring any dynamite within the City before the hour of six (6:00) o'clock a.m., or keep dynamite within the City after the hour of seven (7:00) o'clock p.m. on any day for which a permit has been issued. (Ref. §701.030, Code 1966)

803. Minimum Fire Protection Standards

§803.010 MINIMUM FIRE PROTECTION STANDARDS; REQUIREMENTS. No building containing more than two (2) dwelling units shall be occupied for the purpose of living, sleeping, cooking or eating therein, which does not comply with the following requirements.

Subd. 1. Applicability. Every building falling within the scope of this chapter shall be vacated until made to conform to the requirements of this section.

Subd. 2. Number of Exits. Every apartment and every other sleeping room shall have access to not less than two (2) exits. A fire escape as specified herein may be used as one (1) required exit.

Subd. 3. Stair Construction. All stairs shall have a minimum run of nine (9") inches and a maximum rise of eight (8") inches and a minimum width exclusive of handrails of thirty (30") inches. Every stairway shall have at least one (1) handrail. A landing having a minimum horizontal dimension of thirty (30") inches shall be provided at each point of access to the stairway.

Subd. 4. Interior Stairways. Every interior stairway shall be enclosed with walls of not less than one (1) hour fire- resistive construction. Where existing partitions form part of a stairwell enclosure, wood lath and plaster in good condition will be acceptable in lieu of one (1) hour fire-resistive construction. Doors to such enclosures shall be protected by a self-closing door equivalent to a solid wood door not less than one and three-fourths (1 3/4") inches thick. Enclosures shall include landings between flights and any corridors, passageways or public rooms necessary for continuous exit to the exterior of the building.

The stairway need not be enclosed in a continuous shaft if cut off at each story by the fire-resistive construction required by this subdivision for stairwell enclosures. Enclosures shall not be required if an automatic fire-extinguishing system is provided for all portions of the building except the bedrooms, apartments and rooms accessory thereto.

Subd. 5. Exterior Stairways. Exterior stairs shall be noncombustible or of wood not less than two (2") inch nominal thickness with solid treads and risers.

Subd. 6. Fire Escapes. Fire escapes may be used as one (1) means of egress, if the pitch does not exceed sixty (60) degrees, the width is not less than eighteen (18") inches, the treads are not less than four (4") inches wide and they extend to the ground or are provided with counterbalanced stairs reaching to the ground. Access shall be by an opening having a minimum dimension of twenty-nine (29") inches when open. The sill shall be not more than thirty (30") inches above the floor and landing.

Subd. 7. Doors and Openings. Exit doors shall swing in the direction of exit travel, shall be self-closing and shall be openable from the inside without the use of a key or any special knowledge or effort. Doors shall not reduce the required width of a stairway more than six (6") inches when open. Transoms, and openings other than doors, from corridors to rooms shall be fixed closed and shall be covered with a minimum of three-fourths (3/4") inch plywood or one-half (1/2") inch gypsum wallboard or equivalent material.

All exit doors leading to public areas from all dwelling units and hotel units shall be provided with deadbolt locks, at least one (1) of which must be capable of being locked from the exterior of said unit. For the purpose of this subdivision, a "deadbolt lock" is a locking bolt which, when in the locked position, can only be moved positively by turning a knob, key or sliding bolt. Deadbolt locks having a bolt moved by turning a key shall be of the five (5) pin tumbler type or an approved equivalent. Lock throw shall be not less than three-fourths (3/4") inch. Locks shall meet the requirements of the State Building Code, section 3303(c).

Subd. 8. Exit Signs. Every exit doorway or change of direction of a corridor shall be marked with a well-lighted exit sign having letters at least six (6") inches high.

Subd. 9. Enclosure of Vertical Openings. Elevators, shafts, ducts and other vertical openings shall be enclosed as required for stairways in subdivision 4 above, or by wired glass set in metal frames. Doors shall be noncombustible, or as regulated in subdivision 4.

Subd. 10. Separation of Occupancies. Occupancy separations shall be provided as specified in section 503 of the Uniform Building Code. Lobbies, and public dining rooms not including cocktail lounges, shall not require a separation if the kitchen is so separated from the dining room.

Every room containing a boiler or central heating plant shall be separated from the rest of the building by not less than a one (1) hour fire-resistive occupancy separation. NOTE: a separation shall not be required for such rooms with equipment serving only one (1) dwelling unit.

Subd. 11. House and Building Numbers.

1. It shall be the duty of the owner, lessor, or occupant of every house, industrial, commercial or other building to have proper house or building numbers either by affixing to said building such numbers in metal, glass, plastic or other durable material. The numbers shall not be less than four (4") inches in height, in a contrasting color to the base and so placed to be easily seen from the street and alley if so located. Multiple unit commercial and industrial buildings shall exhibit said numbers so as to be clearly visible from the front and read of each individual unit. The numbers shall be so placed within sixty (60) days from the date of publication of this Ordinance No. 02-09-994. Auxiliary buildings within a unit, such as garages and buildings of like nature, are not affected by this Code. (Ref. Ord. 994, 9/11/02)

2. The Code Enforcement Officer shall be responsible for maintaining order in the numbering system, and shall assign numbers for all properties within the City upon request.

3. Whoever shall fail to comply with the provisions of this Code shall be guilty of a misdemeanor. Each and every day a violation of this Code is allowed to continue shall constitute a separate violation of this Code. (Ref. Ord. Nos. 580, 2/10/76: 660, 1/26/82)

§803.020 MINIMUM FIRE PROTECTION STANDARDS; FIRE LANES. The Fire Chief and the Enforcement Officer shall have the power to designate fire lanes on public and/or private property. These lanes shall be established in areas where congestion or parking would bar the entry of fire equipment or rescue equipment to perform their normal functions. All fire lanes on private property shall be constructed by the property owner and shall be posted in a manner that conforms to the "Manual on Uniform Traffic Control Devices for Streets and Highways of the State of Minnesota." Fire lanes shall not be used for parking purposes, they shall be surfaced as provided in Section 1308.010 of the Code and they shall be kept clear of snow and maintained accessible for Fire Department vehi-

cles. (Ref. Ord. No. 580, 2/10/76)

§803.030 MINIMUM FIRE PROTECTION STANDARDS; FIRE SAFETY REQUIREMENTS. The owner, operator or occupant of a building containing two (2) or more dwelling units shall comply with the following requirements.

Subd. 1. Fire Extinguishers. Fire extinguishers shall be provided in wall mounted receptacles in proper locations on floors of multi-story buildings as directed by the Fire Chief.

Subd. 2. Gasoline. No gasoline shall be stored in any "H" occupancy.

Subd. 3. Doors. Fire doors, stairwell doors, hallway doors, laundry room doors, boiler room doors and storage room doors shall be kept closed at all times.

Subd. 4. Report Fire. Every fire or smoke condition, no matter how small, must be reported to the Fire Department immediately.

Subd. 5. Storage Articles. No articles shall be kept or stored on patio or balcony decks unless a reasonable and adequate exit path is provided.

Subd. 6. Extension Cords. Electrical extension cords running or extended through doors, windows or walls are prohibited.

Subd. 7. Combustible Materials. No combustible materials shall be stored in an area within ten (10') feet of heating plants. (Ref. Ord. No. 580, 2/10/76)

§803.040 MINIMUM FIRE PROTECTION STANDARDS; REGISTRATION OF DWELLING UNIT. It shall be the duty of every property owner or agent within the City of White Bear Lake who owns a multiple dwelling containing more than two (2) units, to register the same with the Code Enforcement Department. It shall be the responsibility of the property owner or agent to provide entry into the building and each unit within two (2) weeks after written notice by the Code Enforcement Officer. (Ref. Ord. No. 580, 2/10/76)

§803.050 MINIMUM FIRE PROTECTION STANDARDS; INSPECTION REQUIRED. After the properties subject to this chapter have been initially inspected and approved, a certificate of Compliance shall be issued by the Code Enforcement Officer. Thereafter, the property shall be inspected every two (2) years. (Ref. Ord. No. 580, 2/10/76)

§803.060 MINIMUM FIRE PROTECTION STANDARDS; CERTIFICATE OF COMPLIANCE, FEE. At the time the properties are registered with the Code Enforcement Department, the owner or agent shall make application for the Certificate of Compliance. Fees shall be three (\$3.00) dollars per unit and a maximum of one hundred fifty (\$150.00) dollars and a minimum of ten (\$10.00) dollars per building. The biennial inspection fee shall be one-half (1/2) of the original inspection fee. When re-inspections are required, the fee shall be seven dollars and fifty cents (\$7.50) per inspection which shall be paid prior to the inspection (Ref. Ord. No. 580, 2/10/76)

§803.070 MINIMUM FIRE PROTECTION STANDARDS; ALTERNATIVE METHOD. No alternative method of obtaining the fire protection and safety required by this chapter may be used unless the City Council finds that such alternate method provides Protection and safety equivalent to that required herein. (Ref. Ord. No. 580, 2/10/76)

§805.010 PURPOSE. This section shall provide procedures for recovering costs incurred by the City for City assistance in negligently caused fire emergencies.

§805.020 DEFINITIONS AS USED IN THIS CHAPTER.

- a) **Negligently caused fire emergency** means a fire or false call caused by the negligence of an owner or occupier of property and/or structures which present a direct and immediate threat to public safety or elicits fire department response and/or requires immediate action to mitigate the threat.
- b) **Expenses** means the actual labor costs of government and volunteer personnel including workers compensation, benefits, administrative costs, costs of equipment, operation, costs of materials, costs of disposal, and the costs of any contract labor and materials.

§805.030 RECOVERY AUTHORIZATION AND PROCEDURES. The City is hereby empowered to recover from any person, corporation, partnership, or other individual or entity whose negligent actions cause emergency expenses incurred by City agencies directly associated with a response to a fire emergency pursuant to the following procedure:

- a) The City shall determine responsibility for the emergency response and notify the responsible party by mail of the City's determination of responsibility and the costs to be recovered.
- b) The notice shall specify that the determined responsible party may appeal the City's decision before the City Manager and establish a date by which the notice of appeal shall be filed. The appeal date shall be no less than fifteen (15) days from the date of the notice.
- c) The City Manager shall make the final decision of assessing responsibility and costs. Amended 11/26/91

§805.040 NO ADMISSION OF LIABILITY. The payment of expenses determined owing under this chapter does not constitute an admission of liability or negligence in any legal action for damages.

§805.050 ACTION TO RECOVER COSTS. In the event parties determined to be responsible for the repayment of negligently caused emergency fire department response costs fail to make payment to the City within thirty (30) days of receipt of billing, the City may initiate legal action to recover from the determined responsible parties, the costs determined to be owing, including the City's reasonable attorney's fees.

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§806.010

Outdoor Burning

§806.020

Outdoor Burning

§806.010 Outdoor Burning Prohibited. It is unlawful to engage in or allow the outdoor burning of any material, waste, product, or fuel except propane, butane, kerosene, natural gas or charcoal when used for heating, cooking, or construction purposes, or firewood as defined below when used for recreational purposes.

§806.020 Outdoor Burning Allowed. Firewood defined as untreated or uncoated natural wood, which is greater than 2 inches and less than eight inches in diameter and less than 20 inches in length may be burned subject to the following conditions:

1. Firewood may only be burned within a non-combustible containment less than 3-feet in diameter and not less than 8 inches in depth or height.
2. A means of controlling or extinguishing the fire (including an approved fire extinguisher, water supply or ample supply of sand) must be immediately available.
3. The fire must be constantly supervised by an adult until fully extinguished.
4. The fire may not be within 15-feet of a structure, property line, or combustible material.
5. The fire may not be lit prior to 10 a.m. nor after 11:00 p.m.
6. Any outdoor burning which imposes smoke into a neighboring structure shall be extinguished. (Ref. Ord 1008, 8/12/03)

IX. PUBLIC WAYS AND PROPERTY

901. Sidewalks

§901.010 SIDEWALKS; CONSTRUCTION. All sidewalks in the City hereinafter built or rebuilt, shall be constructed of poured concrete of not less than four (4") inches in thickness, well seasoned and of good and durable quality, or other similar suitable material acceptable to the council, and laid on a stable foundation. The paving across sidewalk and boulevard spaces at alley crossings and driveways shall be of stone blocks of uniform size, vitrified brick or cement surfaced in place, laid on a suitable foundation. All material used in the construction of the paving at such alley crossings and driveways shall be of adequate strength and durability to withstand the service for which it is intended. All sidewalks must be laid so as to present a true surface on top and conform to the established grade line of the sidewalk, or to a grade line that may be fixed by the Council where such grade line has not been established. All sidewalks, the outer edge of which abuts directly on the traveled roadway of the street must be provided with a suitable curb. All sidewalks and paving at alley crossings and driveways must be constructed under the supervision of the City Manager, who shall have full power to reject and condemn any work or material not in accordance with the provisions of this chapter and to require the removal of any work or materials so condemned. (Ref. §1001.010, Code 1966)

§901.020 SIDEWALKS; WIDTH REQUIRED. The width of all sidewalks constructed within the City, unless otherwise specially ordered by the Council, shall be five (5') feet. (Ref. §1001.020, Code 1966)

§901.030 SIDEWALKS; SNOW AND RUBBISH REMOVAL, NONCOMPLIANCE. All persons owning or occupying any building in the City are required to remove dirt or rubbish from the sidewalks adjacent to such building. (Ref. Ord. 707, 1/14/86)

If the owner or occupant of any building in the City fails to comply with this section, the officers of the City shall cause the same to be removed at the owner's expense, and shall serve a statement of the expense of such removal on the owner or occupant of the building concerned within thirty (30) days from the first (1st) day of the month following the time of such removal. If the owner or occupant of such building fails to pay such expenses within thirty (30) days after the service of such statement, the amount of the expense of removal shall be reported to the County Auditor, to be assessed against such property and collected with the regular taxes for the year in the manner provided by law. (Ref. §§1001.030, 1001.040, Code 1966; Ord. No. 707, 1/14/86)

§901.040 SIDEWALKS; OPENINGS, PERMIT, APPLICATION, BOND, SUPERVISION. No person shall construct or maintain any cellar door, grating, trap door, coal hole, area way or any other opening in any sidewalk in the City without a permit from the City Council.

Any person desiring to obtain a permit shall make a signed written application to the City Council stating the purpose of the opening, the place where it is to be located or is now located, the plans or specifications of the same, the description of the property and the name of the property owner. A permit shall not be granted until the party applying therefor shall furnish the City with a good and sufficient corporate surety bond in the sum of five thousand (\$5,000.00) dollars subject to the approval of the City Attorney, to protect, indemnify and save harmless the City against any and all loss, claim, suit or damages that the City may sustain by reason of the violation of any rule

or regulation or through negligence or in any manner whatsoever. All cellar doors, trap doors, gratings, coal holes, areaways and other openings in sidewalks shall be constructed and maintained under the supervision of the City Manager. (Ref. §§1001.050 thru 1001.070, Code 1966)

Amended

1/14/86

902. Public Improvements Generally

§902.010 PUBLIC IMPROVEMENTS GENERALLY: SPECIAL ASSESSMENTS, PAYMENT, DEFERRAL. When the City of White Bear Lake makes the decision to use special assessments to defray the cost of improvements, it shall proceed according to the City Charter Section 8.01, which incorporates, inter alia, Minnesota Statutes Chapters 429 and 435, and which is supplemented by the following subdivisions:

Subd. 1. Payment of Assessments. This subdivision was enacted for the purpose of authorizing county officers to collect remaining balances of assessments for improvements in order to afford property owners and other members of the public the convenience of making such payment in the same place and in the manner that they pay general taxes and installments of assessment. Whenever any property owner or other person desires to pay the remaining unpaid installments of any assessment for improvement, the assessment roll of which has been certified to the County Auditor for collection with general taxes, the County Treasurer and the County Auditor are hereby authorized to establish whatever procedure is necessary to make possible the payment of said balance to the said county officials in lieu of paying same to the City Treasurer. The said county officials are hereby designated as agents for the City of White Bear Lake to collect such assessments and the mechanics thereof shall be set up by the County Auditor, County Treasurer and the City Clerk so that the intent and purpose of this subdivision can be accomplished.

Subd. 2. Deferral of Assessments, Senior Citizens. Pursuant to the authority granted by Minnesota Statutes Section 435.193, any person sixty-five (65) years of age or older owning homestead property, which property is subject to the levying of a special assessment after June 22, 1978, and which person meets the qualifications of hardship as defined herein, may apply for and receive deferred payment of special assessments so levied by making application therefor to the Department of Property Taxation, Ramsey County, Minnesota, in accordance with Minnesota Statutes Section 435.194. A hardship shall be deemed to exist when the average annual payment for all assessments levied against the subject property exceeds one (1%) percent of the adjusted gross income of the applicant as evidenced by the applicant's most recent federal income tax return. Deferred assessments shall be subject to interest at the rate of eight (8%) percent per annum on the remaining unpaid balance. The option to defer payment of special assessments shall terminate and all amounts accumulated, including accrued interest, shall become due upon the occurrence of any of the following events:

1. The death of the owner; provided, that the spouse is otherwise not eligible for the benefits hereunder.

2. The sale, transfer or subdivision of the property or any part thereof.

3. If the property should for any reason lose its homestead status. (Ref. Ord. Nos. 477, 1/13/70: 612, 6/13/78)

903. Obstructions and Excavations

§903.010 OBSTRUCTIONS AND EXCAVATIONS; OBSTRUCTION OF STREETS AND SIDEWALKS. No person shall obstruct any public street, sidewalk, crosswalk, alley or other public place within the city by piling wood, lumber or other material thereon; placing fences or buildings thereon; leaving any automobile, truck or other vehicle thereon; or shoveling, pushing or piling snow thereon. The City Council may grant permits for the use of limited space on a street, sidewalk, crosswalk or other public place for placing building material for the erection of buildings or such other purposes as it may deem proper. (Ref. §1002.010, Code 1966; Ord. No. 478, 1/13/70)

§903.020 OBSTRUCTIONS AND EXCAVATIONS; LITTERING OF STREETS AND SIDEWALKS. No person shall throw or deposit or permit to be thrown or deposited any dirt, paper, filth, sweepings, ashes, shavings, unclean water, offal, straw, wood, stones, earth, manure, leaves, grass or rubbish of any kind, on or into any street, gutter, sidewalk, alley or public ground in the City. (Ref. §1002.020, Code 1966)

§903.030 OBSTRUCTIONS AND EXCAVATIONS; REMOVAL OF STREET SURFACING. No person shall dig, remove or carry away any stones, earth, sand or gravel from any street, alley or public ground within the City. (Ref. §1002.030, Code 1966)

§903.040 OBSTRUCTIONS AND EXCAVATIONS; MERCHANDISE ON SIDEWALKS. No person shall place upon any sidewalk in the City any goods, wares or merchandise for sale or show beyond the front line of the lot where such goods, wares or merchandise are exhibited. No person receiving or delivering goods, wares or merchandise in the City shall place or keep upon any sidewalk any goods, wares or merchandise which he may be receiving or delivering without leaving a clear passageway upon such sidewalk at least four (4') feet wide for the use of pedestrians; subject, nevertheless, to the foregoing provisions of this section. No person shall permit any goods, wares or merchandise to remain on any sidewalk for longer than twenty-four (24) hours. (Ref. §1002.040, Code 1966)

§903.050 OBSTRUCTIONS AND EXCAVATIONS; SALES AND AUCTIONS RESTRICTED. No person shall sell, attempt to sell or cry for sale at public auction in the City any goods, chattels or personal property whatever, to any person upon any sidewalk or street whereby free passage to any person is prevented or hindered. This section shall include licensed auctioneers. (Ref. §1002.050, Code 1966)

§903.060 OBSTRUCTIONS AND EXCAVATIONS; REMOVAL OF OBSTRUCTIONS, LIENS. The cost of removal of any obstruction shall become a lien upon the property of the owner thereof, or upon the property of the person placing the same in the street or sidewalk, and shall be collected in the following manner.

1. In case the obstruction consists of any material which is valuable, the City Manager after the removal of the same, and after it has been in possession of the City for at least sixty (60) days, shall report to the council the cost of such removal, whereupon the Council shall order the City Manager to sell the same, or so much thereof as may be necessary to realize the cost of said removal, upon ten (10) days published notice of such sale, said notice to contain a description of the property to be sold, the name of the owner thereof, if known, and the time and place of the sale and the amount to be realized.

2. If the property, or obstruction, so removed is not of sufficient value to pay for the removal of the same, then the cost of such removal shall become a charge against the property of the person owning or placing the same on the street or sidewalk, and it may be sued for and collected the same as any other debt. (See also, Code §§707.010 to 707.030) (Ref. §1002.060, Code 1966)

Subd. 1. Definitions. For the purposes of this section, certain words and terms are defined as follows:

1. "Excavation" is the removal of more than one hundred (100) cubic yards of any natural material including earth, black dirt, peat, sand, rock, gravel or sod from any property.

2. "Regrading" is the redistribution of more than one hundred (100) cubic yards upon the same lot of any natural materials including earth, black dirt, peat, sand, rock, gravel or sod.

Subd. 2. Permit Required, Conditions, Bonds. No person shall excavate or regrade any property, public or private, within the City without first obtaining a permit as provided herein. Any person desiring a permit hereunder shall present an application in duplicate with the City Manager on such forms as the City Manager provides, such application to contain the name of the applicant, the address of the applicant and the address and legal description of the place where such excavation or removal is to take place. Such application shall also indicate the kind and quantity of material to be removed, the depth to which it is to be excavated and the condition in which the property is to be left after removal of such materials. Each application for permit shall be accompanied by a fee of one hundred (\$100.00) dollars. This fee shall include payment for all engineering and legal expenses incurred by the City to process and consider the application. The permit for excavating and regrading, as provided herein, shall run for a period of one (1) year, commencing on March first (1st) of each year.

The application, together with the Engineer's report, shall be submitted to the City Council. The Council shall grant or deny the permit and if granted, the Council shall specify the nature and extent of the excavation or regrading and prescribe the conditions for carrying on such work. If the Council deems it necessary to require a bond to guarantee performance of any conditions imposed, the amount and duration of such bonds shall be prescribed and the applicant shall furnish the required bond before the permit is granted.

Subd. 3. Investigations. Upon receipt of an application with the fee, the City Manager shall forthwith forward the application to the City Engineer, who shall investigate the property and prepare a report for the Council. The Engineer's report shall indicate the effect upon the land as to drainage, future use, possible effect upon adjoining properties and any other data related to these factors. If the City Engineer deems it necessary to obtain services of a consulting engineer, he shall obtain such services after first notifying the applicant, and the applicant shall be responsible for the expense of such services as provided for herein.

Subd. 4. Exceptions. This section is intended to cover the excavation and regrading of natural materials from lands but shall not apply to basement excavation or other excavation or earth removal activities which are already covered by the Building Code, Chapter 1201, applicable in the City. (Ref. §§1002.070, 1002.080, Code 1966: Ord. No. 634, 10/9/79)

904. Boulevard Plantings and Structures

§904.010 STREET TRAFFIC VISIBILITY. At street intersections in all districts, except for the B-5 (General Business District), no structure (excluding mailboxes, traffic signs, lights, and utility improvements) or plantings in excess of thirty-six (36) inches above the street centerline grade (excluding trees which have no limbs lower than eight (8) feet above street centerline grade) shall be permitted within a triangular area defined as follows:

<p>corner overlapping triangles <u>INTERSECTION</u></p>	<p><u>DEFINITION OF SAFETY TRIANGLE</u> (Safety triangles shall be overlaid over each in both directions to form two with identical leg lengths on each street)</p>
<p>Intersections with Speed Limits curb or On both streets 30 mph and under</p>	<p>Beginning at the projected extensions of a pavement edge of a street and the curb or pavement edge of an intersecting street; thence twenty (20) feet along the curb or pavement edge then diagonally to a point of 85 feet from the point of beginning on the intersecting curb or pavement edge.</p>
<p>Intersections with Speed Limits curb or On both streets greater than 30 mph pavement edge</p>	<p>Beginning at the projected extensions of a of a street and the curb or pavement edge of an intersecting street; thence twenty (20) feet along the curb or pavement edge then diagonally to a point of 120 feet from the point of beginning on the intersecting curb or pavement edge.</p>

§904.020 Driveway Visibility. Where a driveway intersects a street and/or sidewalk in all districts, no structure (excluding mailboxes, traffic signs, lights, and utility improvements) or plantings in excess of thirty-six (36) inches above the street centerline grade (excluding trees which have no limbs lower than eight (8) feet above centerline street grade) shall be permitted within a triangular area defined as follows: Beginning at the projected extension of the curb or pavement edge of a street and an intersecting pavement edge or surface of a driveway, and/or the intersection of a driveway and a sidewalk; thence ten (10) feet along one curb, pavement edge, or surface edge, thence diagonally to a point of ten (10) feet from the point of beginning.

§904.030 Street, Sidewalk, and Trail Access. In all areas, limbs of trees must be at least eight (8) feet above sidewalk or trail grade and twelve (12) feet above street grade.

§904.040 BOULEVARD TREES; TREES PROTECTED. It shall be unlawful for any person to cut, break or otherwise injure or destroy or remove any boulevard tree, or to cause damage or injury thereto. Written permission from the City shall be required prior to the planting or trimming of any tree(s) in any boulevard or right-of-way. The City may, upon the request of a property owner,

authorize removal and replacement of an otherwise healthy boulevard tree determined to be a private nuisance or threat to private property if the petitioner agrees to pay the total cost of the tree and stump removal and replacement with a tree of the size and species approved by the City. When considering allowing the placement of trees in the City's boulevards or right-of-way the City will consider criteria such as the following: Tree species, size and root structure; impact on traffic visibility; proximity to sidewalks, curbing and other public improvements and the commitment of the applicant to help maintain the tree's health. (Ref. §1003.020, Code 1966; 983, 3/13/01; Ref. Ord. No. 1067; 1/12/10) Amended 1/12/10

§904.050 NEWSPAPER BOXES.

Subd. 1. Purpose. The purpose of this section is to provide for the erection or placement of newspaper vending boxes or other media vending structures within the public right-of-way, hereinafter called newspaper boxes.

Subd. 2. Newspaper vending boxes shall be a permitted use in all districts within the public right-of-way.

Subd. 3. Newspaper vending boxes shall meet the following dimensional criteria for placement within the public right-of-way.

- a) The boxes shall be set back from the corner at least fifteen (15) feet from the intersection of the curb lines. The boxes shall be set back at least five (5) feet from any driveway curb cut.
- b) The boxes shall be no more than forty-two (42) inches in height above the street grade and shall not project beyond the curblines onto the roadway.
- c) The boxes shall not be affixed or chained to traffic signs, parking meter, fire alarm box or fire hydrant, light or notice posts installed or maintained by any unit of government. The boxes shall not be placed within five (5) feet of any fire hydrant.
- d) The boxes shall not be attached to private property without the property owner's written consent.
- e) The boxes shall only be placed at the edge of public accessways such as sidewalks, bus stops, bus shelters. No box shall be placed in a public accessway so as to impede public passage to less than five (5) feet on said accessway. No box shall be placed closer than five (5) feet to any marked crosswalk or handicapped access lane.
- f) Specification for anchorage devices which require drilling into, removal of, or reconstruction of paved surfaces in public right-of-ways shall be submitted to the City Engineer for review and approval prior to installation.

Subd. 4. Use and Appearance. An unattended vending box for newspaper or other media shall be solely for distributing the newspapers or other media or messages and shall be maintained by the applicant in a state of good repair and neat appearance. In addition, the name, address, and phone number of the owner of said device or person responsible for maintenance shall be legibly displayed thereon.

(Ref. Ord. 743, 5/12/87)

Revised 8/6/01

905. Parks and Open Space

§905.010 PARKS AND OPEN SPACE; PURPOSE. This chapter has been enacted to govern the conduct of members of the public during their use and enjoyment of the City of White Bear Lake Parks and Open Space System so as to further the safety, health, enjoyment and welfare of all persons and the use thereof, and to protect public property and resources for posterity. (Ref. Ord. No. 599, 7/12/77)

§905.020 PARKS AND OPEN SPACE; DEFINITIONS. For the purposes of this chapter, certain words and terms are defined as follows:

Subd. 1. Department. The City of White Bear Lake Public Works Department.

Subd. 2. Director. The City Manager or his duly authorized representative who is authorized by the City Council to direct the Department and administer the City of White Bear Lake Parks and Open Space System.

Subd. 3. Law Enforcement Officer. Any person duly deputized or commissioned by the Board of Ramsey County Commissioners, the State of Minnesota, or the City of White Bear Lake for the purpose of enforcing the laws, ordinances and regulations of their respective jurisdictions.

Subd. 4. Park Waters. Any lake, pond, river, stream or other body of water located wholly within the boundaries of an Open Space Site or any public shoreline owned or under the authority of the City of White Bear Lake, including those waters lying within three hundred (300') feet and immediately abutting such shoreline. "Park Waters" shall not include White Bear Lake, which is under the authority of the White Bear Lake Conservation District.

Subd. 5. Open Space Site. Any park, reserve, beach, open area, special use area, golf course or any other area owned, improved, maintained, operated or otherwise controlled by the City of White Bear Lake for recreation and natural resource preservation purposes.

Subd. 6. System. The City of White Bear Lake Parks and Open Space System which includes the sites and facilities owned, maintained and operated by or otherwise under the authority of the City of White Bear Lake. (Ref. §1004.010, Code, 1966; Ord. No. 599, 7/12/77)

§905.030 PARKS AND OPEN SPACE; CONSTRUCTION. In the interpretation of this chapter, all provisions contained herein shall be construed as follows:

1. Any requirement or prohibition by any provision herein, shall respectively extend to and include the causing, procuring, aiding or abetting, directly or indirectly, of such acts; and the permitting or allowing of any minor by the responsible parent, guardian or custodian to commit such acts.

2. No provision herein shall make unlawful any act necessarily performed by any law enforcement officer or Department employee in the line of duty or work as such, or by any person, his agents or employees, in the proper and necessary execution of the terms of any contract or agreement with the City of White Bear Lake.

3. Any act not prohibited by this chapter, provided it is not otherwise prohibited by statute, or by another chapter, section or ordinance, shall be lawful if performed under, by virtue of and strictly within the Provisions of a Department permit to do so, and to the extent authorized thereby. (Ref. Ord. No. 599, 7/12/77)

§905.040 PARKS AND OPEN SPACE; HOURS AND ACCESS. The recreation and education opportunities of the System shall be available to all members of the public regardless of race, sex, age, creed, national origin or place of residency. The System shall be open to the public between the hours of five (5:00) o'clock a.m. and eleven (11:00) o'clock p.m., prevailing time in the City of White Bear Lake. No person shall remain, stop, use or be present within the confines of any Open Space Site between the hours of eleven (11:00) o'clock p.m. and five (5:00) o'clock a.m. Exceptions may be made at the discretion of the Director in the case of emergency or when special use permits have been authorized or for other reasons the Director may determine necessary or desirable. Any section or part of any Open Space Site may be declared closed to the public by the Director at any time or for any interval of time, either temporarily or at regular and stated intervals, either entirely or for certain uses as the Director shall find necessary. (Ref. §1004.020, Code 1966; Ord. No. 599, 7/12/77)

§905.050 PARKS AND OPEN SPACE; PERMITS REQUIRED, LIABILITY, REVOCATION. Permits shall be required for the exclusive use of all or portions of specific areas, buildings and other system facilities and for conducting special events of a cultural, educational, political, religious or recreational nature; and for specific exemption from any provision of this chapter. Any person, group or association of persons required to obtain a permit shall file an application for such permit with the Director.

The grantee of a permit shall be bound by this chapter and any Department regulations in force as though the same were inserted in said permit. The grantee of a permit shall be liable for any loss, damage or injury sustained by the System or by any person whatever, by reason of the negligence of the person or persons to whom such permits are issued. The grantee of a permit shall not transfer nor relinquish said permit to another person or group of persons without the written permission of the Director.

The Director shall have the authority to revoke a permit upon evidence of good cause. No person shall in any manner disturb, harass or interfere with the grantee of a valid permit, nor with any of the grantees' property or equipment. (Ref. Ord. No. 599, 7/12/77)

§905.060 PARKS AND OPEN SPACE; PICNICKING. No person shall picnic in any Open Space Site except in those areas specifically designated and equipped for such use. (Ref. Ord. No. 599, 7/12/77)

§905.070 PARKS AND OPEN SPACE; SWIMMING. No person shall bathe, wade or swim in any Park waters or at any beach in any Open Space Site except in such areas as specifically designated for such use, and only at such times when a City of White Bear Lake or otherwise authorized lifeguard is on duty. No person shall bring into or use at any beach any inner tube, life raft or other inflatable or buoyant object intended to support a person except life belts or jackets approved by the U.S. Coast Guard. No person using Park waters shall swim outside of the marked area. No person shall possess, carry onto or scatter on any beach any glass bottle, broken glass, metal can or other debris which could be a safety hazard. No person shall use any beach area for purposes of picnicking. No person being in custody of any animal shall permit said animal to enter any beach area in an Open Space Site or Park waters during the swimming season so established by the Director, except within the boundaries of a "Designated Area" when under the active supervision of said person and obedient to person's command as defined in Section 701.090 of the Municipal Code. (Ref. §§1004.070, 1004.100, Code 1966: Ord. No. 599, 7/12/77, Ref. Ord. No. 1043, 8/28/07)

§905.080 PARKS AND OPEN SPACE; FISHING. No person shall take any fish, frog, turtle or crayfish by angling, spearing, archery, netting or trapping from any Park Waters or from any shoreline, pier or dock, under the jurisdiction of the City except in specifically designated areas, and then only in accordance with Minnesota Statutes chapters 98 and 101. No person shall fish in a reckless or careless manner so as to create a nuisance or to endanger the safety of said person, other fishermen or Open Space users. No person shall cut a hole in the ice of any Park waters except where ice fishing is specifically permitted, and then only when said hole is less than ten (10") inches in diameter. No person shall erect a permanent or portable ice fishing shelter on any Park Waters without the written permission of the Director. No person shall move an ice fishing shelter onto or off of the ice of any Open Space Site except from access points so designated by the Director. (Ref. Ord. No. 599, 7/12/77)

§905.090 PARKS AND OPEN SPACE; GOLF. No person or group of persons or organization shall play golf or hold a tournament or use the golf course under the jurisdiction of the City without having procured a permit or greens fee receipt from the Director or his representative. No person shall drive, putt or in any other manner play or practice golf except in areas specifically designated for such use. Valid permits or greens fee receipts issued by the City course operators shall be carried on the player, or group representative and shall be exhibited upon demand by the Director or his representative. Golfers shall be properly attired in accordance with socially acceptable standards. No person shall tamper with any irrigation system, tee marker, greens flag or maintenance equipment. No person shall sell any merchandise on the golf course except those concessionaires authorized by the City Council. Entrance to or exit from the golf course shall only be through designated access points. (Ref. Ord. No. 599, 7/12/77)

§905.100 PARKS AND OPEN SPACE; BOATING. No person shall operate any watercraft on any Park waters contrary to or in violation of Minnesota Statutes Chapter 361. No person shall launch or land any boat, canoe, raft or other watercraft on or from any shoreline under the jurisdiction of the city except at locations specifically designated for such purposes. No person shall operate, row or paddle a boat, canoe or other watercraft on any Park Waters unless able to handle the same with safety to himself, other occupants thereof, or in such manner as not to annoy or endanger the occupants of other boats. No person shall leave any watercraft unattended except in areas specifically designated for mooring, anchoring or beaching. No person shall operate any watercraft within an area which has been designated as a swimming area. No person shall drop or throw from any watercraft garbage, litter or other debris. All watercraft launched from a system facility or operating on City Park Waters shall have a Coast Guard approved life preserver for each occupant. No person shall stand up in, rock or operate any watercraft in a careless or reckless manner.

The following horsepower restrictions shall be enforced at the Matoska Launching Area: Residents and nonresidents of the City of White Bear Lake must have a City Boat Launch Tag to launch any boat, including a sailboat or pontoon boat; however, nonresidents may not launch a boat with a motor more than twenty (20) horsepower at this site. (Ref. §1004.060, Code 1966, Ord. Nos. 599, 7/12/77; 610, 4/11/78; 616, 5/23/78)

§905.110 PARKS AND OPEN SPACE; WINTER ACTIVITIES. No person shall snowmobile, skate, toboggan, sled or ski in any Open Space Site except at such times and in such areas specifically designated for such use. (Ref. Ord. No. 599, 7/12/77)

§905.120 PARKS AND OPEN SPACE; SNOWMOBILING. Any person operating a snowmobile in the City of White Bear Lake, unless provided otherwise herein, shall be subject to the provisions of Minnesota Statutes sections 84.81 to 84.90, inclusive, and to the regulations of the Commissioner of Natural Resources, 6MCAR Sections 1.0051 to 1.0059 (1978 edition), inclusive, which are incorporated herein by reference.

No person shall operate a snowmobile within the City of White Bear Lake except in the following locations:

1. On public trails, waterways, streets and highways specifically designated for such use; or,
2. On private property, Independent School District No. 624 property or Lakewood Community College property, but only where lawful permission has been obtained from the property owner, occupant or lessee.

In addition to the above, the operation of a snowmobile in any Open Space Site on any public trail or public waters under the jurisdiction of the City shall comply with the rules and regulations governing Parks and Open Space set out in this chapter.

No person shall operate a snowmobile in any Open Space Site between the hours of eleven (11:00) o'clock p.m. and seven (7:00) o'clock a.m. Sunday through Thursday, and from one (1:00) o'clock a.m. to seven (7:00) o'clock a.m. on other days, including the day preceding a national holiday.

No person shall operate a snowmobile in any Open Space Site at a speed in excess of limits specifically posted for such use or at a speed in excess of fifteen (15) miles per hour within one hundred fifty (150') feet of any fisherman, fish house, pedestrian, skier, skating rink, sliding area, ski tow area or other area where such operation would conflict with or endanger other persons or property. No person shall operate a snowmobile within one hundred fifty (150') feet of a residential shoreline on public waters in the City of White Bear Lake except at a speed of fifteen (15) miles per hour or less for purposes of access to and egress from the public waters, or for the purpose of parking such vehicles near the shoreline. No person shall operate a snowmobile so as to tow any person, sled or other conveyance except by the use of a rigid tow bar attached to the rear of such snowmobile. Disabled snowmobiles shall be exempt. No person shall operate a snowmobile unless such vehicle is equipped with a headlight and taillight that are illuminated at all times during such operations but snowmobiles equipped with engines of five (5) horsepower or less shall be exempt. No person shall operate a snowmobile unless such vehicle is equipped, with a red or blaze orange pennant flag of at least forty (40) square inches in area and displayed at a height of not less than five (5') feet above the treadway. (Ref. Ord. Nos. 464, 12/10/68; 479, 1/13/70; 546, 12/18/72; 594, 2/8/77; 599, 7/12/77)

§905.130 PARKS AND OPEN SPACE; MOTORIZED RECREATIONAL VEHICLES. No person shall operate any motorized recreation vehicle within an Open Space Site except in such areas specifically designated for such use. No person shall operate a nonlicensed motorized recreation vehicle on any park drive or other roadway within an Open Space Site. (Ref. Ord. No. 599, 7/12/77)

§905.140 PARKS AND OPEN SPACE; EQUESTRIANS. No person shall ride or drive a horse in any Open Space Site except in areas, and on bridle paths, trails and roadways specifically designated for such use. No person shall ride or drive a horse in any Open Space Site between the times of thirty (30) minutes after sunset and thirty (30) minutes before sunrise, unless horse-drawn vehicles are adequately lighted. No person shall ride or drive any horse which cannot be held under such control that it maybe easily turned or stopped. No person who is a beginner shall ride or drive a horse in any Open Space Site unless accompanied by capable supervision. No person shall ride or drive a horse in a reckless or careless manner so as to create a nuisance or to endanger the safety or property of said rider, other riders, pedestrians or vehicles. No person shall mistreat, override, cruelly beat, mutilate or torture any horse. No person shall permit any horse to stray unattended or graze in any Open Space Site. All unbridled, unmounted or unattended horses shall be securely hitched or corralled at locations specifically designated and provided for such purposes. No person shall ride or drive a horse so as to obstruct in any way the use of riding trails or bridle paths by other riders. Pedestrians and vehicles shall have the right-of-way where an equestrian trail intersects other established trails or roadways. No person shall ride or drive a horse at a pace faster than a walk or slow trot when passing a pedestrian. No person shall ride or drive a horse at a pace faster than a trot when passing another rider going in the opposite direction. No person shall ride or drive a horse at a pace faster than a slow gait when passing another rider going in the same direction. (Ref. §1004.030, Code 1966: Ord. No. 599, 7/12/77)

§905.150 PARKS AND OPEN SPACE; CAMPING. No person shall establish or maintain any camp or other temporary lodging or sleeping place in any Open Space Site except by Permit and then only in areas specifically designated for such use. No person shall camp for a period longer than that authorized by the permit. All garbage or refuse of any kind shall be placed in receptacles provided for that purpose. No person shall install permanent camp facilities or physically alter the camp site. No person shall wash cooking and eating utensils, or clean fish except at locations designated for such use. No person shall cut or gather wood on any Open Space Site for fuel other than that provided by the Department and stored for such use. No person shall desert a camp site until the site is completely razed and is thoroughly cleaned. No person or group of persons shall use a park shelter unless a specific permit has been granted by the Director for such use. Permits for shelter use shall be issued to adults only, and said adults shall be on the premises at all times during the duration of the permit. (Ref. §1004.090, Code 1966; Ord. No. 599, 7/12/77)

§905.160 PARKS AND OPEN SPACE; DESTRUCTION OF PROPERTY. No person shall tamper with, climb on, injure, deface, destroy, disturb, damage or remove any part of any System building, structure, sign, light pole, drinking fountain, hydrant, table, grill, equipment, statue or other property found therein. No person shall deface, disturb or remove in any manner any soil, artifact, fossil, rock or other mineral resource. No person shall excavate any ditch, trench, tunnel or hole in any Open Space Site. (Ref. Ord. No. 599, 7/12/77)

§905.170 PARKS AND OPEN SPACE; PRESERVATION OF VEGETATION. No person shall injure, cut, destroy, mutilate, uproot, disturb or remove any flower, tree, shrub or other plant whether wild or cultivated, or any part thereof. No person shall plant or cause to be planted any wild, cultivated or exotic tree, shrub or plant except in specifically designated areas with the written permission of the Director. No person shall fell or climb any tree, pick any flowers, fruit or vegetables that are not self grown; or, trample any flowers, tree seedlings, flower beds, vegetable gardens or new turf seedlings. No person shall hitch any animal or fasten, anchor or otherwise attach any wire, rope, cable, signs, posters or other articles to any tree, shrub or plant. No person shall make any unauthorized use of any Open Space Site which is detrimental to the turf and soil conditions. No person shall remove any device, apparatus or material installed for the protection, support or preservation of any tree, shrub or plant. (Ref. §1004.120, Code 1966; Ord. No. 599, 7/12/77)

§905.180 PARKS AND OPEN SPACE; ANIMALS. No Person owning, being in custody or having control of any animal, whether wild, pet or domestic, shall cause or allow such animal to roam or be at large in any Open Space Site, unless the Site is otherwise designated by the City pursuant to Section 701.090 of the Municipal Code. No person being in custody of any animal shall permit said animal to enter any nature interpretive area, wildlife refuge, golf course or park building, whether leashed or otherwise, and when said animals are authorized they shall be restrained at all times by a suitable leash not more than eight (8') feet long or confined to a suitable cage. No person in custody of any pet or animal shall allow said animal to disturb, harass or interfere with other Open Space Site users or their property. Any unattended domestic animal or pet found roaming or at large within any Open Space Site shall be impounded. All state laws and local ordinances relating to the licensing and muzzling of animals and pets shall apply to same brought into any Open Space Site. No person shall release or introduce any exotic or wild animal in any Open Space Site without written permission of the Director. No person owning or in custody of any pet or domestic animal shall allow such animal to graze or browse in any Open Space Site. (Ref. §1004.030, Code 1966; Ord. No. 599, 7/12/77; Ref. Ord. No. 1043, 8/28/07)

§905.190 PARKS AND OPEN SPACE: HUNTING, FISHING AND MOLESTING WILDLIFE. No person shall kill, hunt, trap, pursue, injure, molest or unnecessarily disturb or have in possession any species of wildlife including birds, waterfowl, fish or other animals found within the confines of any Open Space Site or Public Waters except that fishing may be permitted in designated areas subject to laws and regulations established by the State of Minnesota. No person shall rob, disturb or molest the nest, eggs or young of any birds or other animals within the confines of any Open Space Site. (Ref. Ord. No. 599, 7/12/77)

§905.200 PARKS AND OPEN SPACE; FIRES. No person shall start or maintain a fire in any Open Space Site except small recreational fires in fireplaces, fire rings and grills provided for that purpose in areas specifically designated for such use. Private grills may be used in designated areas, provided that all ashes and residue therefrom be disposed of in containers provided for such disposal. Any person who starts or maintains a fire in an authorized area shall exercise continuous supervision from the time the fire is kindled until it is extinguished. No fire shall cause damage or constitute a threat to site vegetation and resources, nor shall it cause discomfort to other Open Space Site users. The Director may at his discretion prohibit fires for limited periods at any location for any purpose when it is necessary for the continued protection of System property and resources. (Ref. Ord. No. 599, 7/12/77)

§905.210 PARKS AND OPEN SPACE; WASTE AND LITTER. No person shall throw, cast, drop, pour, spill or discharge or permit to escape in or upon any land, pond, river, creek, stream, ditch, storm sewer or drain flowing into or through any Open Space Site or Public Waters any substance, matter or thing whether solid, liquid or gas, which shall result in the pollution of said waters, interfere with the conservation management of the water resource or endanger the health of the public. No person shall deposit, scatter, drop or abandon in any Open Space Site, any paper, bottles, cans, sewage, waste, trash or other debris except in receptacles provided by the Department for such purpose. No person shall deposit in any receptacle in any open Space site, any accumulation of waste or trash generated outside the boundaries of the site. No person shall drop, throw or otherwise leave unattended in any Open Space Site lighted matches, burning cigars, cigarettes, tobacco, paper or other combustible material. (Ref. §1004.080, Code 1966; Ord. No. 599, 7/12/77)

§905.220 PARKS AND OPEN SPACE; FIREARMS, WEAPONS, FIREWORKS. No person shall possess, fire, discharge or set off any firearm, missile, fireworks or explosives in any Open Space Site. No person except a law enforcement officer shall possess or carry a firearm of any description in any Open Space Site. No person shall possess or carry in any Open Space Site any air-gun, bow and arrow, knife with a blade greater than three (3") inches, slingshot, dart or projectile thrower or any other dangerous or illegal weapon. No- thing in this section shall be construed to prevent the recreational use of firearms and bow and arrows on officially established fields or target ranges. Any unauthorized or illegal weapon within an Open Space Site shall be subject to seizure by a law enforcement officer. (Ref. §1004.110, Code 1966; Ord. No. 599, 7/12/77)

§905.230 PARKS AND OPEN SPACE; DISTURBING THE PEACE. No person or group of persons shall disturb the peace and good order in any Open Space Site by either work or act. No person or group of persons shall use threatening, abusive, insulting, obscene or indecent language or commit, perform or engage in any lewd, lascivious, obscene or indecent act in any Open Space Site. No person or group of persons shall engage in fighting, quarreling, wrangling, riotous clamor or tumult in any Open Space Site. No person or group of persons shall disturb, harass or interfere, with any user or the user's property in any Open Space Site. No person shall solicit or ask anyone to commit, perform or engage in any lewd, lascivious, obscene or indecent act or behavior in any Open Space Site. (Ref. Ord. No. 599, 7/12/77)

§905.240

PUBLIC WAYS AND PROPERTY

§905.310

§905.240 PARKS AND OPEN SPACE; AUDIO DEVICES. No person shall operate or play any musical instrument, radio, television, record or tape player, loudspeaker, public address system or sound amplifying equipment of any kind in any Open Space Site in such a manner that the sound emanating therefrom is audible beyond the immediate vicinity of the set or instrument and subsequently interferes with the use of the Open Space Site by other users or disturbs the residents of the adjacent property. (Ref. Ord. No. 599, 7/12/77)

§905.250 PARKS AND OPEN SPACE; LOITERING. No person over the age of six (6) shall enter any comfort station or restroom, washroom or a toilet facility set apart or designated for the opposite sex. No person shall lurk or loiter in or around any toilet or other System structure except to use such facility for the purpose for which it is intended. (Ref. Ord. No. 599, 7/12/77)

§905.260 PARKS AND OPEN SPACE; ALCOHOLIC BEVERAGES. No person shall transport, possess, offer for sale, consume or be under the influence of any beer, wine, liquor or other alcoholic or intoxicating beverage at any Open Space Site except with a special permit or in such areas and at such times as may be designated by the Director, and except at such places where beverages are sold by licensees of the City Council. (Ref. Ord. No. 599, 7/12/77)

§905.270 PARKS AND OPEN SPACE; CONTROLLED SUBSTANCES. No person shall use, possess, consume, administer, dispense, sell, give away or be under the influence of any controlled substance except when such use, possession, influence and administration is authorized by law. (Ref. Ord. No. 599, 7/12/77)

§905.280 PARKS AND OPEN SPACE; GAMBLING. No person shall play, participate in, wager on or against any game of chance or activity or operate any gambling device or conduct any games of chance defined by Minnesota Statutes sections 609.75, 609.755 and 609.76. (Ref. Ord. No. 599, 7/12/77)

§905.290 PARKS AND OPEN SPACE: PARADES, ENTERTAINMENT, PUBLIC MEETINGS. No processions, parades, pageants, ceremonies, exhibitions, celebrations, training exercises, speeches, entertainment, tournaments or other public gatherings shall be allowed to pass through or take place in any Open Space Site or on any parkway except with written permission of the Director. (Ref. Ord. No. 599, 7/12/77)

§905.300 PARKS AND OPEN SPACE; GAMES. No person shall engage in any potentially dangerous games involving thrown or propelled objects such as footballs, baseballs, horseshoes, arrows, golf balls, model airplanes or similar objects, except in areas specifically designated for such usage. (Ref. §1004.050, Code 1966; Ord. No. 599, 7/12/77)

§905.310 PARKS AND OPEN SPACE; ADVERTISING. No person shall distribute or disseminate any leaflets, pamphlets, circular, handbills, advertisements or other written or printed material in any Open Space Site except with the written permission of the Director. No person shall post, display, affix or attach any sign, poster, placard, notice, banner or advertisement to any tree, building, shelter, fence, pole or other structure in any Open Space Site except with the written permission of the Director. No person shall use loudspeakers, sound amplifying equipment, musical equipment or cause any noise to be made for advertising purposes or for the purpose of attracting attention to any exhibition, performance, event, show or other purpose in any Open Space Site except with the written permission of the Director. (Ref. §1004.040, Code 1966; Ord. No. 599, 7/12/77)

§905.320 PARKS AND OPEN SPACE; UNLAWFUL SALES. No person shall sell, offer for sale, hawk, peddle or lease any object, merchandise or service or carry on any manner of business or commercial enterprise in any Open Space Site except those concessions authorized by the City Council. (Ref. Ord. No. 599, 7/12/77)

§905.330 PARKS AND OPEN SPACE; SOLICITING ALMS. No person shall beg or solicit alms, donations or contributions in any Open Space Site. (Ref. Ord. No. 599, 7/12/77)

§905.340 PARKS AND OPEN SPACE; PHOTOGRAPHY. No person shall take any photographs or motion or sound pictures for commercial purposes or for use in commercial advertising in any Open Space Site except with the written permission of the Director. (Ref. Ord. No. 599, 7/12/77)

§905.350 PARKS AND OPEN SPACE; UTILITIES. The location, construction or erection of any sewer, gas pipe, water pipe, hydrant, lamp post, telephone and electric power post, conduit, pump, lift station and other utility feature proposed in any Open Space Site shall be subject to the approval of the City Council. No person, firm or corporation shall construct or relocate any of these utility installations or fixtures without written permission of the Director. Every person, firm or corporation who shall receive a contract or permit to do work in an open Space Site shall after such work has commenced and until the same has been completed, isolate the construction area by security fencing, warning lights and signs or other appropriate measures that will protect the public from exposure to danger and prevent unnecessary accidents. (Ref. Ord. No. 599, 7/12/77)

§905.360 PARKS AND OPEN SPACE; LOST AND FOUND ARTICLES. Lost or mislaid articles or money or personal property which are found in any Open Space Site shall be delivered or turned over to the City of White Bear Lake Police Department. If the lawful owner of any article or money deposited with the City does not claim the same within a period of sixty (60) days, it shall be returned to the finder upon request. (Ref. Ord. No. 599, 7/12/77)

§905.370 PARKS AND OPEN SPACE; LAW ENFORCEMENT OFFICERS AND EMPLOYEES. No person shall willfully resist, refuse or fail to comply with any order, direction or request lawfully given by any law enforcement officer or Department employee acting under the authority of the City Council in accordance with this chapter. No person shall interfere with, or in any manner hinder any law enforcement officer or Department employee during the performance of his assigned duties, or any employee of a contractor or other City department engaged in construction, repairing or caring for any Open Space Site or part thereof or while in the discharge of duties conferred by this ordinance. (Ref. Ord. No. 599, 7/12/77)

§905.380 PARKS AND OPEN SPACE; POSTED REGULATIONS, DIRECTIONAL SIGNS AND GRAPHICS. No person shall disregard or fail to comply with any posted regulations, directional signs and graphics, barriers or other control devices located within any Open Space Site or on any parkway. (Ref. Ord. No. 599, 7/12/77)

§905.390 PARKS AND OPEN SPACE; TRAFFIC REGULATIONS. No person shall drive or operate a motor vehicle within any Open Space Site except upon roadways, parking areas, parkways or other areas designated for such use. Disabled vehicles may be moved off of a paved area to allow for the continued flow of traffic but the vehicle must be repaired or removed within two (2) hours, unless other arrangements are made with the Director. No person shall operate a motor vehicle within any Open Space Site or on any parkway in violation of posted regulations and directional signs, Minnesota Statutes chapter 169, County Traffic Ordinances, chapter 601 of this Code or orders or directions of law enforcement officers or Department employees. No person shall drive or operate a vehicle on or along any roads, drives or parking lots which have been restricted, closed or posted with appropriate signs or barricades. The Director shall have the authority to order roads, drives or parking lots within any Open Space Site or any parkway closed during the process of construction, reconstruction or repair or when in his opinion, weather conditions render travel unsafe or unduly destructive. No person shall operate a motor vehicle in a careless or reckless manner, or without due regard for the safety and rights of pedestrians and drivers and occupants of all other vehicles, so as to endanger the life, limb or property of any other person while in lawful use of an Open Space Site. No person shall park, stop or leave a vehicle in any Open Space Site or on any park drive between the hours of eleven (11:00) o'clock p.m. and five (5:00) o'clock a.m., unless arrangements are made with the Director. No person shall operate a vehicle in any Open Space Site which emits excessive or irritating noise, noxious fumes, dense smoke or other pollutants. No person shall wash, grease, change the oil, service or repair any vehicle in any Open Space Site. No person shall park a vehicle adjacent to a curb painted yellow in any Open Space Site. Vehicles illegally parked, disabled or abandoned may be towed away and impounded at the owner's expense. No person shall drink, consume or have in his possession an open bottle or container of an alcoholic or intoxicating beverage in any motor vehicle when such vehicle is in an Open Space Site or on a parkway. Vehicles shall yield the right-of-way at all times to pedestrians. No person shall participate in a drag race or test of unreasonable acceleration in any Open Space Site or on any park drive. No person shall cause any taxi, limousine or other vehicle for hire to stand in any Open Space Site or on any park drive for the purpose of soliciting or taking in passengers other than those who requested or were carried to the site by said vehicle unless licensed by the City Council. (Ref. Ord. No. 599, 7/12/77)

§905.400 PARKS AND OPEN SPACE; PENAL PROVISION. Any person violating any of the provisions of this chapter or rules of the Commissioner of Natural Resources shall be adjudged guilty of a misdemeanor. Furthermore, any person violating any of the provisions of this chapter may be expelled, ejected or ousted at such time from any Open Space Site at the discretion of a law enforcement officer. (Ref. Ord. No. 599, 7/12/77)

906. Right of Way

§906.010 PURPOSE AND INTENT. To provide for the health, safety, and welfare of the citizens of the City of White Bear Lake, and to ensure the integrity of its streets and the appropriate use of its rights of way, the City strives to keep its rights of way in a state of good repair and free from unnecessary encumbrances.

Accordingly, the City hereby enacts this new chapter of this Code relating to right-of-way permits and administration. This chapter imposes reasonable regulations on the placement and maintenance of facilities and equipment currently within the City's rights of way or to be placed therein at some future time. It is intended to complement the regulatory roles of governmental agencies separate from the City. Under this chapter, persons excavating and obstructing the City's rights of way will bear financial responsibility for their work. Finally, this chapter provides for recovery of actual costs from persons using the City's rights of way.

This chapter shall be interpreted consistently with 1997 Session Laws, Chapter 123, substantially codified in Minn. Stat. §§ 237.16, 237.162, 237.163, 237.79, 237.81, and 238.086 (the "Act") and 2017 Minn. Laws, ch. 94, art. 9, amending certain portions of the Act, and the other laws governing applicable rights of the City and right-of-way users. This chapter shall also be interpreted consistent with Minn. R. 7819.0050–7819.9950 and Minn. R., ch. 7560 where possible. To the extent any provision of this chapter cannot be interpreted consistently with the aforementioned Minnesota Rules, that interpretation most consistent with the Act and other applicable statutory and case law is intended. This chapter shall not be interpreted to limit the regulatory and police powers of the City to adopt and enforce general ordinances necessary to protect the health, safety, and welfare of the public.

§906.020 ELECTION TO MANAGE. Pursuant to the authority granted to the City under state and federal statutory, administrative and common law, the City hereby elects, pursuant to Section 237.163, subd. 2(b) of the Act, to manage rights of way within its jurisdiction.

§906.030 DEFINITIONS. The following definitions apply in this chapter of this Code. References hereafter to "sections" are, unless otherwise specified, references to sections in this chapter. Defined terms remain defined terms, whether or not capitalized.

Subd. 1. Abandoned Facility. A facility no longer in service or physically disconnected from another discrete portion of the facility, or from any other facility, that is in use or still carries service. A facility is not abandoned unless (i) declared so by the right-of-way user, unless 45 days pass after a written notice is delivered from the City to the right-of-way user, inquiring as to whether the facility is abandoned, and no response is received from the right-of-way user, or (ii) the City undertakes reasonable due diligence to discover the facility is abandoned, such as through analyzing utility records relating to the facility, or observing the right-of-way user leaving the facility unused, or in disrepair.

Subd. 2. Act. Minnesota Statutes, Sections 237.16, 237.162, 237.163, 237.79, 237.81, and 238.086, as amended.

Subd. 3. City. The City of White Bear Lake, Minnesota, its elected officials, officers,

employees, or agents.

Subd. 4. Collocate or Collocation. To install, mount, maintain, modify, operate, or replace a small wireless facility on, under, within, or adjacent to an existing wireless support structure or utility pole that is owned privately or by the City or other governmental unit.

Subd. 5. Collocation Agreement. The Small Wireless Facility Collocation and Lease Agreement, utilized by the City in compliance with Section 237.163, subd. 3a(f) of the Act.

Subd. 6. Commission. The State of Minnesota Public Utilities Commission.

Subd. 7. Construction Security. Any of the following forms of security provided at permittee's option:

(i) Cash deposit;

(ii) Security of a form listed or approved under Minn. Stat. § 15.73, subd. 3;

(iii) Irrevocable Letter of Credit, in a form acceptable to the City, with automatic renewal provisions;

(iv) Self-insurance, in a form acceptable to the City; or

(v) A blanket bond for projects within the City, or other form of construction bond, for a time specified and in a form acceptable to the City.

Subd. 8. Degradation. A decrease in the useful life of the right of way caused by excavation in or disturbance of the right of way, resulting in the need to reconstruct such right of way earlier than would be required if the excavation or disturbance did not occur.

Subd. 9. Degradation Cost. Subject to Minn. R. 7819.1100, means the cost to achieve a level of restoration, as determined by the City at the time the permit is issued, not to exceed the maximum restoration as set forth in Minn. R., parts 7819.9900 to 7819.9950.

Subd. 10. Degradation Fee. The estimated fee established at the time of permitting by the City to recover costs associated with the decrease in the useful life of the right of way caused by the excavation, and which equals the Degradation Cost.

Subd. 11. Delay Penalty. The penalty imposed as a result of unreasonable delays in right-of-way excavation, obstruction, patching, or restoration as established by permit.

Subd. 12. Department. The Department of Public Works of the City.

Subd. 13. Director. The Director of the Department of Public Works of the City, or her or his designee.

Subd. 14. Emergency. A condition that (1) poses a danger to life, health, or of a significant loss of property; or (2) requires immediate repair or replacement of facilities in order to restore service to a customer.

Subd. 15. Equipment. Any tangible asset used to install, repair, or maintain facilities in any right of way.

Subd. 16. Excavate. To dig into or in any way remove or physically disturb or penetrate any part of a right of way.

Subd. 17. Excavation Permit. The permit which, pursuant to this chapter, must be obtained before a Person may excavate in a right of way. An Excavation Permit allows the holder to excavate that part of the right of way described in such permit.

Subd. 18. Excavation Permit Fee. Money paid to the City by a registrant to cover the costs as provided in Section 906.120 of this Code.

Subd. 19. Facility or Facilities. Any tangible asset in the right of way required to provide a service.

Subd. 20. Local Representative. A local person or persons, or designee of such person or persons, authorized by a registrant to accept service and to make decisions for that registrant regarding all matters within the scope of this chapter.

Subd. 21. Management Costs. The actual costs the City incurs in managing its rights of way, including such costs as those associated with registering registrants; issuing, processing, and verifying right-of-way or small-wireless-facility permit applications; inspecting job sites and restoration projects; maintaining, supporting, protecting, or moving user facilities during right-of-way work; determining the adequacy of right-of-way restoration; restoring work inadequately performed after providing notice and the opportunity to correct the work; and revoking right-of-way or small-wireless-facility permits. Management costs do not include payment by a telecommunications right-of-way user for the use of the right-of-way, unreasonable fees of a third-party contractor used by the City including fees tied to or based on customer counts, access lines, or revenues generated by the right of way for the City, the fees and cost of litigation relating to the interpretation of the Act; or any ordinance enacted under those sections, or the City fees and costs related to appeals taken pursuant to Section 906.300 of this chapter.

Subd. 22. Micro wireless facility. A small wireless facility that is no longer than 24 inches long, 15 inches wide, and 12 inches high, and whose exterior antenna, if any, is no longer than 11 inches.

Subd. 23. Obstruct. To place any tangible object in a right of way so as to hinder free and open passage over that or any part of the right of way.

Subd. 24. Obstruction Permit. The permit which, pursuant to this chapter, must be obtained before a person may obstruct a right of way, allowing the holder to hinder free and open

passage over the specified portion of that right of way, for the duration specified therein.

Subd. 25. Obstruction Permit Fee. Money paid to the City by a permittee to cover the costs as provided in Section 906.120.

Subd. 26. Patch or Patching. A method of pavement replacement that is temporary in nature. A patch consists of (1) the compaction of the subbase and aggregate base, and (2) the replacement, in kind, of the existing pavement for a minimum of two feet beyond the edges of the excavation in all directions. A patch is considered full restoration only when the pavement is included in the City's capital improvement plan.

Subd. 27. Pavement. Any type of improved surface that is within the public right of way and that is paved or otherwise constructed with bituminous, concrete, aggregate, or gravel.

Subd. 28. Permit. Has the meaning given "right-of-way permit" in Section 237.162, subd. 7 of the Act.

Subd. 29. Permittee. Any person to whom a permit to excavate or obstruct a right of way has been granted by the City under this chapter.

Subd. 30. Person. An individual or entity subject to the laws and rules of the State of Minnesota, however organized, whether public or private, whether domestic or foreign, whether for profit or nonprofit, and whether natural, corporate, or political.

Subd. 31. Probation. The status of a person that has not complied with the conditions of this chapter.

Subd. 32. Probationary Period. One year from the date that a person has been notified in writing that they have been put on probation.

Subd. 33. Registrant. Any person who (1) has or seeks to have its equipment or facilities located in any right of way regulated by this chapter, or (2) in any way occupies or uses, or seeks to occupy or use, the right of way or place its facilities or equipment in the right of way.

Subd. 34. Restore or Restoration. The process by which an excavated right of way and surrounding area, including pavement and foundation, is returned to the same condition and life expectancy that existed before excavation.

Subd. 35. Restoration Cost. The amount of money paid to the City by a permittee to achieve the level of restoration according to Commission rules.

Subd. 36. Right of way or Public Right of way. The area on, below, or above a public roadway, highway, street, cartway, bicycle lane, or public sidewalk in which the City has an interest, including other dedicated rights of way for travel purposes and utility easements of the City. A right of way does not include the air space above a right of way with regard to cellular or other non-wire telecommunications or broadcast service.

Subd. 37. Right-of-way Permit. Either the excavation permit, obstruction permit, or small-wireless-facilities permit, or any combination thereof, depending on the context, required by this chapter.

Subd. 38. Right-of-way User. (1) A “telecommunications right-of-way user,” as defined in Section 237.162, subd. 4 of the Act, or (2) a person owning or controlling a facility in the right of way that is used or intended to be used for providing a service, and who has a right under law, franchise, contract, license, or ordinance to use the public right of way.

Subd. 39. Service. Includes: (1) those services provided by a public utility, as defined in Minn. Stat. 216B.02, subds. 4 and 6; (2) services of a telecommunications right-of-way user, including transporting of voice or data information; (3) services of a cable communications system, as defined in Minn. Stat. ch. 238; (4) natural gas or electric energy or telecommunications services provided by the City; (5) services provided by a cooperative electric association organized under Minn. Stat., ch. 308A; and (6) water and sewer services, including service laterals, steam, cooling, or heating services.

Subd. 40. Service Lateral. An underground facility that is used to transmit, distribute or furnish gas, electricity, communications, or water from a common source to an end-use customer. A service lateral is also an underground facility that is used in the removal of wastewater from a customer’s premises.

Subd. 41. Small Wireless Facility. A wireless facility that meets both of the following qualifications:

(i) each antenna is located inside an enclosure of no more than six (6) cubic feet in volume or could fit within such an enclosure; and

(ii) all other wireless equipment associated with the small wireless facility, provided such equipment is, in aggregate, no more than twenty-eight (28) cubic feet in volume, not including electric meters, concealment elements, telecommunications demarcation boxes, battery backup power systems, grounding equipment, power transfer switches, cutoff switches, cable, conduit, vertical cable runs for the connection of power and other services, and any equipment concealed from public view within or behind an existing structure or concealment.

Subd. 42. Small-Wireless-Facility Permit. The permit which, pursuant to this chapter, must be obtained before a person may install, place, maintain, or operate a small wireless facility in a public right of way to provide wireless service. A small-wireless-facility permit allows the holder to conduct such activities in that part of the right-of-way described in such permit. A small-wireless-facility permit does not authorize (1) providing any service other than a wireless service, or (2) installation, placement, maintenance, or operation of a wireline backhaul facility in the right of way.

Subd. 43. Small-Wireless-Facility Permit Fee. Money paid to the City by a permittee to cover the costs as provided in Section 906.120 of this Code.

Subd. 44. Stealth Design. A consistent design for small wireless facilities that incorporates the following elements: (i) no exposed conduit wires; (ii) no wooden pole structures; (iii) equipment attached to the facility located within the design and not visually distinct to the reasonable observer; and (iv) exterior color subject to City review to minimize negative visual aesthetic impacts to surrounding structures and properties.

Subd. 45. Supplementary Application. An application made to the City to excavate or obstruct more of the right of way than allowed in, or to extend or supply additional information to, a permit that has already been submitted or issued.

Subd. 46. Telecommunications Right-of-way User. A person owning or controlling a facility in the right of way, or seeking to own or control a facility in the right of way that is used or is intended to be used for providing wireless service, or transporting telecommunication or other voice or data information. For purposes of this chapter, a cable communication system defined and regulated under Minn. Stat. ch. 238, as amended, and telecommunication activities related to providing natural gas or electric energy services, a public utility as defined in Minn. Stat. § 216B.02, as amended, a municipality, a municipal gas or power agency organized under Minn. Stat. chs. 453 and 453A, as amended, or a cooperative electric association organized under Minn. Stat. ch. 308A, are not telecommunications right-of-way users for purposes of this chapter except to the extent such entity is offering wireless service.

Subd. 47. Trench. An excavation in the pavement, with the excavation having a length equal to or greater than the width of the pavement.

Subd. 48. Utility Pole. A pole that is used in whole or in part to facilitate telecommunications or electric service.

Subd. 49. Wireless Facility. Equipment at a fixed location that enables the provision of wireless services between user equipment and a wireless service network, including equipment associated with wireless service, a radio transceiver, antenna, coaxial or fiber-optic cable, regular and backup power supplies, and a small wireless facility, but not including wireless support structures, wireline backhaul facilities, or cables between utility poles or wireless support structures, that are not otherwise immediately adjacent to and directly associated with a specific antenna.

Subd. 50. Wireless Service. Any service using licensed or unlicensed wireless spectrum, including the use of Wi-Fi, whether at a fixed location or by means of a mobile device, that is provided using wireless facilities. Wireless service does not include services regulated under Title VI of the Communications Act of 1934, as amended, including cable service.

Subd. 51. Wireless Support Structure. A new or existing structure in a right of way designed to support or capable of supporting small wireless facilities, as reasonably determined by the City.

Subd. 52. Wireline Backhaul Facility. A facility used to transport communications data by wire from a wireless facility to a communications network.

§906.040 ADMINISTRATION. The City Engineer and the Public Works Director are the principal City officials responsible for the administration of the public right of way, its permits, and the ordinances related thereto. The City Engineer or the Public Works Director may delegate any or all of the duties hereunder.

§906.050 REGISTRATION AND OCCUPANCY.

Subd. 1. Registration Prior to Work. No person may construct, install, repair, remove, relocate, or perform any other work on, or use any facilities or any part thereof, in any right of way without first being registered with the City.

Subd. 2. Exceptions. Nothing herein shall be construed to repeal or amend the provisions of a City ordinance permitting persons to plant or maintain boulevard plantings or gardens in the area of the right of way between their property and the street curb. Persons planting or maintaining boulevard plantings or gardens shall not be deemed to use or occupy the right of way, and shall not be required to obtain any permits or satisfy any other requirements for planting or maintaining such boulevard plantings or gardens under this chapter. However, nothing herein relieves a person from complying with the provisions of the Minn. Stat. ch. 216D, (Excavation Notice System).

§906.060 REGISTRATION INFORMATION.

Subd. 1. Information Required. The information provided to the City at the time of registration shall include, but not be limited to:

(i) Each registrant's name, Gopher One-Call registration certificate number, address and email address, if applicable, and telephone and facsimile numbers.

(ii) The name, address, and email address, if applicable, and telephone and facsimile numbers of a local representative. The local representative or designee shall be available at all times. Current information regarding how to contact the local representative in an emergency shall be provided at the time of registration.

(iii) Copies of any current or proposed leases, licenses, or other agreements with any other third parties related to the City's right-of-way.

(iv) A certificate of insurance or self-insurance:

(a) Verifying that an insurance policy has been issued to the registrant by an insurance company licensed to do business in the state of Minnesota, or a form of self-insurance acceptable to the City;

(b) Verifying that the registrant is insured against claims for personal injury, including death, as well as claims for property damage arising out of the (1) use and occupancy of the right of way by the registrant, its officers, agents, employees, and permittees, and (2) placement and use of facilities and equipment in the right of way by the

registrant, its officers, agents, employees, and permittees, including, but not limited to, protection against liability arising from completed operations, damage of underground facilities, and collapse of property;

(c) Naming the City as an additional insured as to whom the coverages required herein are in force and applicable and for whom defense will be provided as to all such coverages;

(d) Requiring that the City be notified thirty (30) days in advance of cancellation of the policy or material modification of a coverage term; and

(e) Indicating comprehensive liability coverage, automobile liability coverage, workers' compensation and umbrella coverage established by the City in amounts sufficient to protect the City and the public and to carry out the purposes and policies of this chapter. Such amounts shall be no less than the current maximum tort liability amounts applicable to municipalities in Minn. Stat. §466.04, as amended.

(f) If the registrant is a corporation, a copy of the corporate certificate that has been recorded and certified to by the Minnesota Secretary of State.

(g) A copy of the person's order granting a certificate of authority from the Commission or other authorization or approval from the applicable state or federal agency to lawfully operate, where the person is lawfully required to have such authorization or approval from said commission or other state or federal agency.

Subd. 2. Notice of Changes. The registrant shall keep all of the information listed above current at all times by providing to the City information as to changes within fifteen (15) days following the date on which the registrant has knowledge of any change.

§906.070 REPORTING OBLIGATIONS.

Subd. 1. Operations. Each registrant shall, at the time of registration and by December 1 of each year, file a construction and major maintenance plan for underground facilities with the City. Such plan shall be submitted using a format designated by the City and shall contain the information determined by the City to be necessary to facilitate the coordination and reduction in the frequency of excavations and obstructions of rights of way.

The plan shall include, but not be limited to, the following information:

(i) The locations and the estimated beginning and ending dates of all projects to be commenced during the next calendar year (in this section, a "next-year project"); and

(ii) To the extent known, the tentative locations and estimated beginning and ending dates for all projects contemplated for the five years following the next calendar year (in this section, a "five-year project").

The term “project” in this section shall include both next-year projects and five-year projects.

By January 1 of each year, the City will have available for inspection a composite list of all projects of which the City has been informed of the annual plans. All registrants are responsible for keeping themselves informed of the current status of this list.

Thereafter, by February 1 of each year, each registrant may change any project in its list of next-year projects, and must notify the City and all other registrants of all such changes in said list. Notwithstanding the foregoing, a registrant may at any time join in a next-year project of another registrant listed by the other registrant.

Subd. 2. Additional Next-Year Projects. Notwithstanding the foregoing, the City will not deny an application for a right-of-way permit for failure to include a project in a plan submitted to the City if the registrant has used commercially reasonable efforts to anticipate and plan for the project.

§906.080 PERMIT REQUIREMENT.

Subd. 1. Permit Required. Except as otherwise provided in this Code, no person may obstruct or excavate any right of way, or install or place facilities in the right of way, without first having obtained the appropriate right-of-way permit from the City to do so.

(i) *Excavation Permit*. An excavation permit is required by a registrant to excavate that part of the right of way described in such permit and to hinder free and open passage over the specified portion of the right of way by placing facilities described therein, to the extent and for the duration specified therein.

(ii) *Obstruction Permit*. An obstruction permit is required by a registrant to hinder free and open passage over the specified portion of right of way by placing equipment described therein on the right of way, to the extent and for the duration specified therein. An obstruction permit is not required if a person already possesses a valid excavation permit for the same project.

(iii) *Small-Wireless-Facility Permit*. A small-wireless-facility permit is required by a registrant to erect or install a wireless support structure, to collocate a small wireless facility, or to otherwise install a small wireless facility in the specified portion or the right of way, to the extent specified therein, provided that such permit shall remain in effect for the length of time the facility is in use, unless lawfully revoked. No small-wireless-facility permit is required to solely conduct: (1) routine maintenance of a small wireless facility; (2) replacement of a small wireless facility with a new facility that is substantially similar or smaller in size, weight, height, and wind or structural loading than the small wireless facility being replaced; or (3) installation, placement, maintenance, operation, or replacement of micro wireless facilities that are suspended on cables strung between existing utility poles in compliance with national safety codes, however, a service provider is required to make written notice of such activities to the City if the micro wireless facility work will obstruct a public right of way. A small-wireless-facility permit is required for the work specified in this paragraph regardless of whether the registrant also possesses an excavation permit or an obstruction permit.

Subd. 2. Permit Extensions. No person may excavate or obstruct the right of way beyond the date or dates specified in the applicable permit unless (1) such person makes a supplementary application for another right-of-way permit before the expiration of the initial permit, and (2) a new permit or permit extension is granted.

Subd. 3. Delay Penalty. In accordance with Minn. Rule 7819.1000 subp. 3 and notwithstanding subd. 2 of this Section, the City shall establish and impose a delay penalty for unreasonable delays in right-of-way excavation, obstruction, patching, or restoration. The delay penalty shall be established from time to time by City Council resolution. A delay penalty will not be imposed if the delay in completion is due to circumstances beyond the control of the registrant, including without limitation inclement weather, acts of God, or civil strife.

Subd. 4. Permit Display. Permits issued under this chapter shall be conspicuously displayed or otherwise available at all times at the indicated work site and shall be available for inspection by the City.

§906.090 PERMIT APPLICATIONS. Application for all permits described in this chapter must be made to the City. Right-of-way permit applications shall contain, and will be considered complete only upon compliance with the requirements of the following provisions:

- (i) Registration with the City pursuant to this chapter.
- (ii) Submission of a completed permit application form, including all required attachments, and scaled drawings showing the location and area of the proposed work underlying the permit and the location of all known existing and proposed facilities.
- (iii) In the case of a small wireless facility, an executed Collocation Agreement.
- (iv) If the registrant does not own property upon which the facility will be located, a copy of a current lease or other document evidencing the registrant has the right to locate a facility on such property.
- (v) Payment of money due to the City for:
 - (a) permit fees, estimated restoration costs, and other management costs;
 - (b) prior obstructions or excavations, before issuance of the permit;
 - (c) any undisputed loss, damage, or expense suffered by the City because of the registrant's prior excavations or obstructions of the rights of way or any emergency actions taken by the City; and
 - (d) franchise fees or other charges, if applicable.
- (vi) Payment of disputed amounts due to the City by posting security or depositing in an escrow account an amount equal to at least 110 percent of the amount owing, which shall be

determined by the City.

(vii) Posting an additional or larger construction security for additional facilities when registrant requests an excavation permit to install additional facilities and the City deems the existing construction security inadequate under applicable standards.

§906.100 ISSUANCE OF A PERMIT AND CONDITIONS.

Subd. 1. Permit Issuance. If the registrant has satisfied the requirements of this chapter, the City shall issue a right-of-way permit.

Subd. 2. Conditions. The City may impose reasonable conditions upon the issuance of the permit and the performance of the registrant thereunder to protect the health, safety, and welfare or when necessary to protect the right of way and its current use. In addition, a permittee shall comply with all requirements of local, state, and federal laws, including but not limited to Minn. Stat. §§ 216D.01 - .09 (Excavation Notice System) and Minn. R., ch. 7560, each as amended.

Subd. 3. Traffic Control Plan. All registrants and servicers of facilities located within the City's right-of-way shall have access to on-street parking or nearby off-street parking to service the facility. No facility or structure shall be accessed by driving upon sodded boulevards, sidewalks or trails.

Subd. 4. Small Wireless Facility Conditions. In addition to subdivision 2, the erection or installation of a wireless support structure, the collocation of a small wireless facility, or other installation of a small wireless facility in the right of way, shall be subject to the following conditions:

(i) A small wireless facility shall only be collocated on the particular wireless support structure, under those attachment specifications, and at the height indicated in the applicable permit application submitted by the registrant.

(ii) No new wireless support structure installed within the right of way shall exceed 50 feet in height without the City's written authorization, provided that the City may impose a lower height limit in the applicable permit to protect the public health, safety and welfare or to protect the right of way and its current use, and further provided that a registrant may replace an existing wireless support structure exceeding 50 feet in height with a structure of the same height subject to such conditions or requirements as may be imposed in the applicable permit. Any lower height limit imposed by the City shall be in congruence with maximum heights allowed in the applicable zoning jurisdictions, and the terms and conditions of the lower height shall be provided for in the underlying Collocation Agreement.

(iii) No wireless facility may extend above its wireless support structure.

(iv) Where a registrant proposes to install a new wireless support structure in the right of way, the City may impose reasonable separation requirements between such structure and any existing wireless support structure or other facilities in and around the right of way.

(v) All small wireless facilities shall be of a stealth design. Any deviations from this requirement must be requested by the registrant as part of the small wireless facility permit application, and if granted by the City, will be provided for in the Collocation Agreement.

(vi) Where a registrant proposes collocation on a decorative wireless support structure, sign or other structure not intended to support small wireless facilities, in addition to stealth design requirements, the City may impose additional reasonable requirements to accommodate the particular design, appearance or intended purpose of such structure.

(vii) Where a registrant proposes to replace a wireless support structure, the City may impose reasonable restocking, replacement, or relocation requirements on the replacement of such structure.

Subd. 5. Small-Wireless-Facility Agreement. A small-wireless-facility permit shall only be issued after the registrant has executed a Collocation Agreement with the City. The Collocation Agreement may require payment of the following:

(i) Up to \$150 per year for rent to collocate on a wireless support structure owned by the City.

(ii) \$25 per year for maintenance associated with the collocation.

(iii) If the registrant/permittee obtains electrical service through the City, a monthly fee for electrical service as follows:

(a) \$73 per radio node less than or equal to 100 maximum watts;

(b) \$182 per radio node over 100 maximum watts; or

(c) The actual costs of electricity, if the actual costs exceed the foregoing.

The Collocation Agreement shall be in addition to, and not in lieu of, the required small-wireless-facility permit, provided, however, that the registrant shall not be additionally required to obtain a license or franchise in order to collocate. Issuance of a small-wireless-facility permit does not supersede, alter or affect any existing agreement between the City and the registrant established by the effective date of this chapter.

§906.110 ACTION ON SMALL-WIRELESS-FACILITY PERMIT APPLICATIONS.

Subd. 1. Deadline for Action. The City shall approve or deny a small-wireless-facility permit application within 90 days after filing of such application. The small-wireless-facility permit shall be deemed approved if the City fails to approve or deny the application within the 90-day review period.

Subd. 2. Consolidated Applications. A registrant may file a consolidated small-wireless-

facility permit application addressing the proposed collocation of up to 15 small wireless facilities, or a greater number if agreed to by the City, provided that all small wireless facilities in the application:

- (i) are located within a two-mile radius;
- (ii) consist of substantially similar equipment; and
- (iii) are to be placed on similar types of wireless support structures.

In rendering a decision on a consolidated permit application, the City may approve some small wireless facilities and deny others, but may not use denial of one or more permits as a basis to deny all small wireless facilities in the application.

Subd. 3. Tolling of Deadline. The 90-day deadline for action on a small-wireless-facility permit application may be tolled if:

(i) The City receives applications from one or more registrants seeking approval of permits for more than 30 small wireless facilities within a seven-day period. In such case, the City may extend the deadline for all such applications by 30 days by informing the affected registrants in writing of such extension.

(ii) The registrant fails to submit all required documents or information and the City provides written notice of incompleteness, with specificity as to the missing information, to the registrant within 30 days of receipt of the application. Upon submission of additional documents or information, the City shall have ten days to notify the registrant in writing of any still missing information.

(iii) The City and a small wireless facility registrant agree in writing to toll the review period.

§906.120 PERMIT FEES.

Subd. 1. Excavation Permit Fee. The City shall impose an excavation permit fee, as may be set forth in the City's annual fee schedule, in an amount sufficient to recover the following costs:

- (i) City management costs;
- (ii) degradation costs, if applicable.

Subd. 2. Obstruction Permit Fee. The City shall impose an obstruction permit fee, as may be set forth in the City's annual fee schedule, in an amount sufficient to recover the City management costs.

Subd 3. Small Wireless Facility Permit Fee. From the effective date of this Ordinance

until December 31, 2018, the small wireless facility permit fee shall be \$2,500 per permit. Thereafter, the small wireless facility permit fee shall be set forth in the City's annual fee schedule, in an amount sufficient to recover:

- (i) City management costs;
- (ii) Site plan review costs; and;
- (iii) City engineering and construction costs (if any) associated with collocation of small wireless facilities.

Subd. 4. Payment of Permit Fees. No excavation permit, obstruction permit, or small-wireless-facility permit shall be issued without payment of the corresponding permit fees.

Subd. 5. Non Refundable. Permit fees that were paid for a permit that the City has revoked for a breach as stated in Section 906.220 are not refundable.

Subd. 6. Application to Franchises. Unless otherwise agreed to in a franchise agreement, management costs may be charged separately from and in addition to the franchise fees imposed on a right-of-way user in the franchise agreement.

§906.130 PATCHING AND RESTORATION.

Subd. 1. Timing. The work to be done under an excavation permit, and the patching and restoration of the right of way as required herein, must be completed within the dates specified in the permit, increased by as many days as work could not be done because of circumstances beyond the control of the permittee or when work was prohibited as unseasonable or unreasonable under Section 906.160.

Subd. 2. Patch and Restoration. A Permittee shall patch its own work. The City may choose either to have the permittee restore the right of way or to restore the right of way itself after the work is completed.

(i) *City Restoration.* If the City restores the right of way, the permittee shall pay the costs thereof within thirty (30) days of billing. If, following such restoration, the pavement settles due to permittee's improper backfilling, the permittee shall pay to the City, within thirty (30) days of billing, all costs associated with correcting the defective work.

(ii) *Permittee Restoration.* If the permittee restores the right of way, it shall at the time of application for an excavation permit post construction security in accordance with the provisions of this chapter.

(iii) *Degradation Fee in Lieu of Restoration.* In lieu of right-of-way restoration, a right-of-way user may elect to pay a degradation fee. However, the right-of-way user shall remain responsible for patching and the degradation fee shall not include the cost to accomplish these responsibilities.

Subd. 3. Standards. The permittee shall perform excavation, backfilling, patching, and restoration according to the standards and with the materials specified by the City and shall comply with Minn. Rule 7819.1100.

Subd. 4. Duty to Correct Defects. The permittee shall correct defects in patching or restoration performed by the permittee or its agents. The permittee upon notification from the City, shall correct all restoration work to the extent necessary, using the method required by the City. Said work shall be completed within five (5) calendar days of the receipt of the notice from the City, not including days during which work cannot be done because of circumstances constituting force majeure or days when work is prohibited as unseasonable or unreasonable under Section 906.160.

Subd. 5. Failure to Restore. If the permittee fails to restore the right of way in the manner and to the condition required by the City, or fails to satisfactorily and timely complete all restoration required by the City, the City at its option may do such work. In that event the permittee shall pay to the City, within thirty (30) days of billing, the actual cost of restoring the right of way. If the permittee fails to pay as required, the City may exercise its rights under the construction security.

§906.140 JOINT APPLICATIONS.

Subd. 1. Joint application. Registrants may jointly apply for permits to excavate or obstruct the right of way at the same place and time. Registrants may not jointly apply for small-wireless-facility or conditional-use permits.

Subd. 2. Shared fees. Registrants who apply for permits for the same obstruction or excavation, which the City does not perform, may share in the payment of the obstruction or excavation permit fee. In order to obtain a joint permit, registrants must agree among themselves as to the portion each will pay and indicate the same on their applications.

Subd. 3. With City projects. Registrants who join in a scheduled obstruction or excavation performed by the City, whether or not it is a joint application by two or more registrants or a single application, are not required to pay the excavation or obstruction and degradation portions of the permit fee, but a permit is still required to provide the City with details regarding the project.

§906.150 SUPPLEMENTARY APPLICATIONS.

Subd. 1. Limitation on Area. A right-of-way permit is valid only for the area of the right of way specified in the permit. No permittee may do any work outside the area specified in the permit, except as provided herein. Any permittee which determines that an area greater than that specified in the permit must be obstructed or excavated must before working in that greater area must (1) apply for a supplementary application and pay any additional fees required thereby, and (2) be granted a new or amended permit or permit extension.

Subd. 2. Limitation on Dates. A right-of-way permit is valid only for the dates specified

in the permit. No permittee may begin its work before the permit start date or, except as provided herein, continue working after the end date. If a permittee does not finish the work by the permit end date, it must apply for a new permit for the additional time it needs, and receive the new or amended permit or an extension of the old permit before working after the end date of the previous permit.

§906.160 OTHER OBLIGATIONS.

Subd. 1. Compliance with Other Laws. Obtaining a right-of-way permit does not relieve a permittee of its duty to obtain all other necessary permits, licenses, and authority and to pay all fees required by the City pursuant to its current fee schedule, or other applicable rule, law or regulation. A permittee shall comply with all requirements of local, state and federal laws, including but not limited to Minn. Stat. §§ 216D.01-.09 (Excavation Notice System) and Minn. R., ch. 7560. A permittee shall perform all work in conformance with all applicable codes and established rules and regulations, and is responsible for all work done in the right of way pursuant to its permit, regardless of who does the work.

Subd. 2. Prohibited Work. Except in an emergency, and with the approval of the City, no right-of-way obstruction or excavation may be done when seasonally prohibited or when conditions are unreasonable for such work.

Subd. 3. Interference with Right of way. A permittee shall not so obstruct a right of way that the natural free and clear passage of water through the gutters, ditches or other waterways shall be interfered with. Private vehicles of those doing work in the right of way may not be parked within or next to an area covered by a permit, unless parked in conformance with City parking regulations. The loading or unloading of trucks must be done solely within the defined permit area unless specifically authorized by the permit.

Subd. 4. Trenchless excavation. As a condition of all applicable permits, permittees employing trenchless excavation methods, including but not limited to Horizontal Directional Drilling, shall follow all requirements set forth in Minn. Stat. ch. 216D and Minn. R., ch. 7560 and shall require potholing or open cutting over existing underground utilities before excavating, as determined by the Director.

§906.170 DENIAL OF PERMIT.

Subd. 1. Reasons for Denial. The City may deny a permit for failure to meet the requirements and conditions of this chapter or if the City determines that the denial is necessary to protect the health, safety, and welfare of the public or when necessary to protect the right of way and its current use.

Subd. 2. Procedural Requirements. The denial of a permit must be made in writing and must document the basis for the denial. The City must notify the registrant in writing within ten (10) business days of the decision to deny a permit. If an application is denied, the registrant may cure the deficiencies identified by the City and resubmit its application. If the application is resubmitted within 30 days of receipt of the notice of denial, no additional application fee shall be

imposed. The City must approve or deny the resubmitted application within 30 days after submission.

§906.180 INSTALLATION REQUIREMENTS. The excavation, backfilling, patching and restoration, and all other work performed in the right of way shall be done in conformance with Minn. R. 7819.1100 and 7819.5000 (for telecommunications) and other applicable local requirements, in so far as they are not inconsistent with Sections 237.162 and 237.163 of the Act. Installation of service laterals shall be performed in accordance with Minn. R., ch 7560 and this Code. Service lateral installation is further subject to those requirements and conditions set forth by the City in the applicable permits and agreements referenced in Section 906.230, subd. 2 of this chapter.

§906.190 INSPECTION.

Subd. 1. Notice of Completion. When the work under any permit hereunder is completed, the permittee shall furnish a completion certificate in accordance with Minn. Rule 7819.1300. “As built” drawings are required to be completed by the permittee and distributed to the City within six (6) months of completion of the work.

Subd. 2. Site Inspection. The Permittee shall make the work site available to the City and to all others as authorized by law for inspection at all reasonable times during the construction of and upon completion of the work.

Subd 3. Authority of City.

(i) At the time of inspection, the Director or City Engineer may order the immediate cessation of any work which poses a serious threat to the life, health, safety, or well-being of the public.

(ii) The Director or City Engineer may issue an order to the permittee for any work that does not conform to the terms of the permit or other applicable standards, conditions, or codes. The order shall state that failure to correct the violation will be cause for revocation of the permit. Within ten (10) days after issuance of the order, the permittee shall present proof to the Director or the City Engineer, as the case may be, that the violation has been corrected. If such proof has not been presented within the required time, the Director or the City Engineer, as the case may be, may revoke the permit pursuant to Sec. 906.220 of this chapter.

§906.200 WORK DONE WITHOUT A PERMIT.

Subd. 1. Emergency Situations. Each registrant shall immediately notify the Director of any event regarding its facilities that it considers to be an emergency. The registrant may proceed to take whatever actions are necessary to respond to the emergency. Excavators’ notification to Gopher State One Call regarding an emergency situation does not fulfill this requirement. Within two (2) business days after the occurrence of the emergency, the registrant shall apply for the necessary permits, pay the fees associated therewith, and fulfill the rest of the requirements necessary to bring itself into compliance with this chapter for the actions it took in response to the

emergency.

If the City becomes aware of an emergency regarding a registrant's facilities, the City will attempt to contact the local representative of each registrant affected, or potentially affected, by the emergency. In any event, the City may take whatever action it deems necessary to respond to the emergency, the cost of which shall be borne by the registrant whose facilities occasioned the emergency. The City shall not be liable for any action or inaction taken under this paragraph.

Subd. 2. Non-Emergency Situations. Except in an emergency, any person who, without first having obtained the necessary permit, obstructs or excavates a right of way must subsequently obtain a permit and, as a penalty, pay double the normal fee for said permit, pay double all the other fees required by this Code, deposit with the City the fees necessary to correct any damage to the right of way, and comply with all of the requirements of this chapter.

§906.210 SUPPLEMENTARY NOTIFICATION. If the obstruction or excavation of the right of way begins later or ends sooner than the date given on the permit, the permittee shall notify the City of the most accurate and up-to-date information as soon as this information is known.

§906.220 REVOCAION OF PERMITS.

Subd. 1. Substantial Breach. The City reserves its right, as provided herein, to revoke any right-of-way permit without a fee refund, if there is a substantial breach of the terms and conditions of any statute, ordinance, rule or regulation, or any material condition of the permit or relevant agreement. A substantial breach by a permittee shall include, but shall not be limited to, the following:

- (i) The violation of any material provision of the right-of-way permit.
- (ii) An evasion or attempt to evade any material provision of the right-of-way permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the City or its citizens.
- (iii) Any material misrepresentation of fact in the application for a right-of-way permit.
- (iv) The failure to complete the work in a timely manner, unless a permit extension is obtained or unless the failure to complete work is due to reasons beyond the permittee's control.
- (v) The failure to correct, in a timely manner, work that does not conform to a condition indicated on an order issued pursuant to Sec. 906.190.

Subd. 2. Written Notice of Breach. If the City determines that a permittee has committed a substantial breach of a term or condition of any statute, ordinance, rule, regulation, or any condition of the permit, the City shall follow the procedural requirements of Sec. 906.170, subd. 2 of this chapter. In addition, the demand shall state that continued violations may be cause for revocation of the permit. A substantial breach, as stated above, will allow the City, at its discretion, to place additional or revised conditions on the permit to mitigate and remedy the breach.

Subd. 3. Response to Notice of Breach. Within two (2) calendar days of receiving notification of the breach, the permittee shall provide the City with a plan, acceptable to the City, that will cure the breach. The permittee's failure to so contact the City, or the permittee's failure to timely submit an acceptable plan, or the permittee's failure to reasonably implement the approved plan, shall be cause for immediate revocation of the permit.

Subd. 4. Reimbursement of City costs. If a permit is revoked, the permittee shall also reimburse the City for the City's reasonable costs, including restoration costs and the costs of collection and reasonable attorneys' fees incurred in connection with such revocation.

§906.230 MAPPING DATA.

Subd. 1. Information Required. Each registrant and permittee shall provide mapping information required by the City in accordance with Minn. R. 7819.4000 and 7819.4100. Within ninety (90) days following completion of any work pursuant to a permit, the permittee shall provide the Director accurate maps and drawings certifying the "as-built" location of all equipment installed, owned, and maintained by the permittee. Such maps and drawings shall include the horizontal and vertical location of all facilities and equipment and shall be provided consistent with the City's electronic mapping system, when practical or as a condition imposed by the Director. Failure to provide maps and drawings pursuant to this subsection shall be grounds for revoking the permit.

Subd. 2. Service Laterals. All permits issued for the installation or repair of service laterals, other than "minor repairs" as defined in Minn. R. 7560.0150, subp. 2, shall require the permittee's use of appropriate means of establishing the horizontal locations of installed service laterals and the service lateral vertical locations in those cases where the Director reasonably requires it. Permittees or their subcontractors shall submit to the Director evidence satisfactory of the installed service lateral locations. Compliance with this subdivision 2 and with applicable Gopher State One Call law and Minnesota Rules governing service laterals installed after December 31, 2005, shall be a condition of any City approval necessary for:

(i) payments to contractors working on a public improvement project, including those under Minn. Stat. ch. 429; and

(ii) City approval under development agreements or other subdivision or site plan approvals under Minn. Stat. ch. 462. The Director shall reasonably determine the appropriate method of providing such information to the City. Failure to provide prompt and accurate information on the service laterals installed may result in the revocation of the permit issued for the work or future permits to the offending permittee or its subcontractors.

§906.240 LOCATION AND RELOCATION OF FACILITIES.

Subd. 1. Location. Placement, location, and relocation of facilities must comply with the Act, with other applicable law, and with Minn. R. 7819.3100, 7819.5000, and 7819.5100, to the extent the rules do not limit authority otherwise available to cities.

Subd. 2. Undergrounding. Unless otherwise agreed in a franchise or other agreement between

the applicable right-of-way user and the City, facilities in the right of way must be located or relocated and maintained underground. This regulation does not apply to small wireless facilities or micro wireless facilities.

Subd. 3. Limitation of Space. To protect the health, safety, and welfare of the public, or when necessary to protect the right of way and its current use, the City shall have the power to prohibit or limit the placement of new or additional facilities within the right of way. In making such decisions, the City shall strive to the extent possible to accommodate all existing and potential users of the right of way, but shall be guided primarily by considerations of the public interest, the public's needs for the particular utility service, the condition of the right of way, the time of year with respect to essential utilities, the protection of existing facilities in the right of way, and future City plans for public improvements and development projects which have been determined to be in the public interest. The City shall provide written findings to a registrant in connection with the prohibition of new or additional facilities within the right of way.

§906.250 PRE-EXCAVATION FACILITIES LOCATION. In addition to complying with the requirements of Minn. Stat. §§ 216D.01-.09 (Excavation Notice System) before the start date of any right-of-way excavation, each registrant who has facilities or equipment in the area to be excavated shall mark the horizontal and vertical placement of all said facilities. Any registrant whose facilities are less than twenty (20) inches below a concrete or asphalt surface shall notify and work closely with the excavation contractor to establish the exact location of its facilities and the best procedure for excavation.

§906.260 DAMAGE TO OTHER FACILITIES. When the City does work in the right of way and finds it necessary to maintain, support, or move a registrant's facilities to protect it, the City shall notify the local representative as early as is reasonably possible. The costs associated therewith will be billed to that registrant and must be paid within thirty (30) days from the date of billing. Each registrant shall be responsible for the cost of repairing any facilities in the right of way which it or its facilities damage. Each registrant shall be responsible for the cost of repairing any damage to the facilities of another registrant caused during the City's response to an emergency occasioned by that registrant's facilities.

§906.270 VACATION AND RESERVATION OF RIGHT. If the City vacates a right of way that contains the facilities of a registrant, the registrant's rights in the vacated right of way are governed by Minn. R. 7819.3200.

§906.280 INDEMNIFICATION AND LIABILITY. By registering with the City, or by accepting a permit under this chapter, a registrant or permittee agrees to defend and indemnify the City in accordance with the provisions of Minn. Rule 7819.1250.

§906.290 ABANDONED AND UNUSABLE FACILITIES.

Subd. 1. Discontinued Operations. A registrant who has determined to discontinue all or a portion of its operations in the City must provide information satisfactory to the City that the registrant's obligations for its facilities in the right of way under this chapter have been lawfully assumed by another registrant.

Subd. 2. Removal. Any registrant who has abandoned facilities in any right of way shall remove it from that right of way within 90 days of abandonment, and must remove the facilities immediately if required in conjunction with other right-of-way repair, excavation, or construction, unless this requirement is waived by the City.

§906.300 APPEAL. A registrant or a right-of-way user, as the case may be, that: (1) has been denied a permit; (2) has had a permit revoked; (3) believes that the fees imposed by the City are not in conformity with Section 237.163, subd. 6 of the Act; or (4) disputes a determination of the Director regarding Section 906.230, subd.2 of this chapter may have the denial, revocation, fee imposition, or decision reviewed, upon written request, by the City Council. The City Council shall act on a timely written request at its next regularly scheduled meeting, provided the registrant or right-of-way user, as the case may be, has submitted its appeal with sufficient time to include the appeal as a regular agenda item. A decision by the City Council affirming the denial, revocation, or fee imposition will be in writing and supported by written findings establishing the reasonableness of the decision.

§906.310 RESERVATION OF REGULATORY AND POLICE POWERS. A permittee's rights are subject to the regulatory and police powers of the City to adopt and enforce general ordinances as necessary to protect the health, safety, and welfare of the public.

§906.320 SEVERABILITY. If any portion of this chapter is for any reason held invalid by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof. Nothing in this chapter precludes the City from requiring a franchise agreement with a registrant or right-of-way user, as allowed by law, in addition to requirements set forth herein.

Section 2. Chapter 403 of the White Bear Lake City Code, as enacted by the City Council through Ordinance No. 982, adopted on November 14, 2000, is hereby repealed in its entirety. This Ordinance shall be in full force and effect from and after its passage and publication according to law and the Charter of the City of White Bear Lake, Minnesota.

(Ordinance Established 18-2-3031, 02/21/18)

X. ALCOHOLIC BEVERAGES

1001. Malt Liquor

§1001.010 MALT LIQUOR; DEFINITIONS. For the purpose of this chapter, certain words and terms are defined as follows:

Subd. 1. Commissioner. The Commissioner of Public Safety.

Subd. 2. Malt Liquor. Any malt liquor containing not less than one-half (1/2) of one (1%) percent alcohol by volume nor more than three and two-tenths (3.2%) percent alcohol by weight.

Subd. 3. "Off-sale". Any sale of malt liquor to be consumed off the premises.

Subd. 4. "On-sale". Any sale of malt liquor to be consumed on the licensed premises.

Subd. 5. "Restaurant". A business establishment designed and operated for the principle purpose of serving prepared food to guests, providing seating for not less than 25 guests and deriving not less than fifty (50) percent of its revenue from the sale of prepared food. (Ref. Ord. 08-05-1050, 5/27/08)

§1001.020 MALT LIQUOR; LICENSE REQUIRED. No person shall sell malt liquors at retail without a license. There shall be two (2) types of licenses issued for the sale of malt liquor:

1. "On-sale" licenses shall permit the licensee to sell malt liquors on the premises. "On-sale" licenses shall be granted only to restaurants, and hotels. (Ref. Ord. 699, 10/8/85)

2. "Off-sale" licenses shall permit the licensee to sell malt liquors in original packages for consumption off the premises only. No "off-sale" malt liquor license shall be granted to a holder of an "on-sale" license. (Ref. §801.010, Code 1966)

§1001.030 MALT LIQUORS; LICENSE APPLICATION FEE. Any person desiring a license shall file an application with the City Clerk which shall set forth the name and place of residence of the applicant, the exact location of the place at which the applicant proposes to carry on the business of selling malt liquors and whether or not she or he has ever engaged in a similar business or in the business of selling foodstuffs in the City, and if so, when and where. An investigation will be required of all applicants for a fee set forth by City Council resolution, with the exception of off-sale applicants who by affidavit establish that they will sell less than \$50,000 of malt liquor per year. The application shall be signed by the applicant in person or by an officer of the club seeking the license or by an officer of the corporation seeking the license, it shall be placed on file by the City Clerk and the name of the applicant shall be registered in a book of registration to be kept for that purpose; provided, however, that the Clerk shall not receive any application nor register the name of any applicant unless the application is accompanied by a receipt from the Clerk as provided for in section 1001.040 of the Code. (Ref. §801.020, Code 1966; Ord. No. 1015, 1/13/04; Ord. No. 1072, 11/9/10)

§1001.040 MALT LIQUOR; FEES. Upon filing an application for a license, the applicant shall pay the City Clerk a fee which shall be set by City Council resolution. The Clerk shall give the applicant a receipt for such payment stating the purpose of the deposit. A copy of the receipt shall be filed with the application. (Ref. §801.030, Code 1966; Ord. Nos. 570, 2/11/75; 648, 1/13/81; 967, 1/12/99; 1015, 1/13/04)

§1001.050 MALT LIQUOR; INSPECTION OF PREMISES. The applicant shall permit the Code Enforcement Officers and the representatives of the Police and Fire Departments to inspect and examine the place of business described in the application, together with all the appliances and instruments to be used in the transaction of the business for which the license is sought. Refusal by the applicant to permit such inspection shall be grounds for the City Council to deny the license. (Ref. §801.040, Code 1966)

§1001.060 MALT LIQUOR; RECOMMENDATIONS TO COUNCIL. The City Manager shall present his recommendations to the City Council, together with any reports from the Code Enforcement, Police and Fire Departments, and the Council shall grant or deny the application. (Ref. §801.050, Code 1966)

§1001.070 MALT LIQUOR; LICENSE EXPIRATION. A license shall run from its date of issuance to the following March thirty-first (31st) unless otherwise revoked. (Ref. §801.060, Code 1966)

§1001.080 MALT LIQUOR; SALE TO MINORS. It shall be unlawful for any: (Ref. Ord. 802, 3/1/90)

1. Licensee or his employee to sell or serve malt liquor to any person under the age of twenty-one (21) years or to permit any person under the age of twenty-one (21) years to consume malt liquor on the licensed premises;

2. Person other than the parent or legal guardian to procure malt for any person under the age of twenty-one (21) years;

3. Person to induce a person under the age of twenty-one (21) years to purchase or procure malt liquor;

4. Person under the age of twenty-one (21) years to consume any malt liquor unless in the company of his parent or guardian;

5. Person under the age of twenty-one (21) years to have in his possession any malt liquor, with intent to consume same at a place other than the household of his parent or guardian. Possession of such malt liquor at a place other than the household of his parent or guardian shall be prima facie evidence of intent to consume the same at a place other than the household of his parent or guardian. (Ref. Ord. 802, 3/1/90)

§1001.090 MALT LIQUOR; PROHIBITED SALES. It shall be unlawful for any person, to sell, give, barter, furnish, deliver or dispose of, in any manner, either directly or indirectly, any spirituous, vinous, malt or fermented liquors in any quantity, for any purpose whatever, to any person under the age of twenty-one (21) years, or to any intoxicated person.

It shall be unlawful for any person to sell, give, barter, furnish or dispose of, in any manner, either directly or indirectly, any spirituous, vinous, malt or fermented liquors in any quantity, for any purpose whatever, to any spendthrift, habitual drunkard or improvident person, within one (1) year after written notice by any law enforcement officer, parent, guardian, master, employer, relative or by any person annoyed or injured by the intoxication of such spendthrift, habitual drunkard or improvident person, forbidding the sale of liquor to any such spendthrift, habitual drunkard or improvident person.

Whoever shall in any way procure liquor for the use of any person named in this section shall be deemed to have sold it to such person. (Ref. §§801.080, 802.160, Code 1966; Ord. No. 578, 9/9/75)

§1001.100 MALT LIQUOR; ACTS OF AGENTS. Any sale of liquor in any public drinking place by any clerk, barkeep or other employee authorized to sell liquor in such place is the act of the employer as well as that of the person actually making the sale and such employer and licensee shall be equally liable for violations of this chapter. (Ref. §801.090, Code 1966)

§1001.110 MALT LIQUOR; HOURS AND DAYS OF SALE. The hours for the sale of malt liquor shall be set by Minnesota Statutes subject to the City of White Bear Lake Charter and supplementary ordinances. (Ref. 801.100, Code 1966; Ord. No. 529, 5/9/72; Ord. No. 676, 7/10/84)

§1001.120 MALT LIQUOR; SALE AND DELIVERY PERMITTED. Nothing in this chapter shall be construed to prohibit the sale and delivery in the original package of malt liquors direct to the consumer by the manufacturer or distributor. (Ref. §801.110, Code 1966)

§1001.130 MALT LIQUOR; CONSUMPTION IN PUBLIC PLACES. It shall be unlawful for any person to consume malt liquor or possess an open bottle, can or other container of such on any public street, sidewalk, alley, parking lot on City-owned property, or in the public park in the blocks bounded by Washington Square, Washington Avenue, State Highway 61 and Third (3rd) Street unless specific permission to do so is granted by resolution of the City Council. (Ref. Ord. Nos. 578, 9/9/75; 579, 12/9/75; 886, 2/9/93)

1002. INTOXICATING LIQUOR

§1002.010 INTOXICATING LIQUOR; DEFINITIONS. For the purpose of this chapter, certain words and terms are defined as follows:

Subd. 1 Club. Any corporation duly organized under the laws of the state for civic, fraternal, social, or business purposes or for intellectual improvement, or for the promotion of sports, or a congressionally chartered veterans' organization, which shall have more than fifty (50) members, and which shall, for more than a year, have owned, hired or leased a building or space in a building of such extent and character as may be suitable and adequate for the reasonable and comfortable accommodation of its members, and whose affairs and management are conducted by a board of directors, executive committee or other similar body chosen by the members at a meeting held for that purpose, none of whose members, officers, agents or employees are paid directly or indirectly any compensation by way of profit from the distribution or sale of beverages to the members of the club, or to its guests, beyond the amount of such reasonable salary or wages as may be fixed and voted each year by the directors or other governing body.

Subd. 2 Commissioner. The Commissioner of Public Safety.

Subd. 3 Hotel. Any establishment having a resident proprietor or manager, where, in consideration of payment therefor, food and lodging are regularly furnished to transients, which maintains for the use of its guests not less than twenty-five (25) guest rooms with bedding and other usual, suitable, and necessary furnishings in each room, which is provided at the main entrance with a suitable lobby, desk and office for the registration of its guests on the ground floor, which employs an adequate staff to provide suitable and usual service, and which maintains under the same management and control as the rest of the establishment and has, as an integral part thereof, a dining room with appropriate facilities for seating not less than thirty (30) guests at one (1) time, where the general public are, in consideration of payment therefore, served with meals at tables.

Subd. 4 Intoxicating Liquor or Liquor. Ethyl alcohol, distilled, fermented, spirituous, vinous and malt beverages containing an excess of three and two-tenths (3.2%) percent of alcohol by weight.

Subd. 5 Medicine. Any such potable liquids as prescribed by licensed physicians and dentists for therapeutic purposes, and United States pharmacopoeia and national formulary preparations, and preparations used for the mitigation of disease for external and internal purposes which are usually sold in drug stores and intended for therapeutic purposes and not for beverage purposes.

Subd. 6 "Off-Sale." The sale of liquor in original packages in retail stores for consumption off or away from the premises where sold.

Subd. 7 "On-Sale." The sale of liquor by the glass or by the drink for consumption on the premises only pursuant to such regulations as the Commissioner may prescribe.

Subd. 8 Original Package (also Package). Any container or receptacle holding liquor, which container or receptacle is corked or sealed.

Subd. 9 Restaurant. Any establishment, other than a hotel, under the control of a single proprietor or manager, having appropriate facilities for the serving of meals, and where, in consideration of payment therefore, meals are regularly served at tables to the general public, and which employs an adequate staff to provide the usual and suitable services to its guests. Such establishment shall have facilities for seating not less than twenty-five (25) guests at one (1) time. (Ref. Ord. 08-05-1050, 5/27/08)

Subd. 10 Sale, Sell, Sold. All barbers and all manners or means of furnishing intoxicating liquor including such furnishing in violation or evasion of law. (Ref. §802.010, Code 1966)

Subd. 11 Lawful Gambling Devices. Paddle wheels, pull-tabs, ticket jars and tip boards, as defined in Article XI, Chapter 1111, Section 1111.020 of the Municipal Code. (Ref. Ord. 736, 12/9/86)

Subd. 12 Employee. A person who is currently under the employment of the licensee and is at that time on duty or scheduled to perform labor or services and who shall be paid for said labor and services. (Ref. Ord. 736, 12/9/86)

Subd. 13 Liquor Lounge. Any establishment other than a hotel or restaurant, open to the general public, licensed for the "on-sale" distribution of intoxicating liquor and employs an adequate staff to provide the usual and suitable services to its guests. Such establishment shall have facilities for seating not less than thirty (30) guests at one (1) time. (Ref. Ord. 802, 3/1/90)

Subd. 14 Brewer Taproom. Licenses shall permit the licensee to engage in on-sale of malt liquor produced by the brewer licensee for consumption on the premises of or adjacent to one brewery location owned by the brewer. (Ref. Ord. 12-06-1081, 6/26/12)

§1002.020 INTOXICATING LIQUOR; LICENSE REQUIRED. No person shall sell intoxicating liquor for consumption at any time or place within the City without a license. (Ref. §802.020, Code 1966)

§1002.030 INTOXICATING LIQUOR; LICENSE APPLICATION, FEE. Any person desiring a license to sell intoxicating liquor shall make his verified application in writing to the Council upon a form prepared by the City Clerk and approved by the Commissioner of Public Safety of the State of Minnesota, and shall file the same with the Clerk and with the amount of a license fee herein fixed for the particular license for which he makes application.

Upon receipt of the application and the proper amount of the license fee the Clerk shall give the applicant a receipt stating the purpose for which the deposit is made. The Clerk shall refer the application to the Council.

Upon application for a new license or transfer of an existing license, a minimum fee of two hundred (200.00) dollars will be charged. An investigation fee set by City Council resolution and not to exceed five hundred (500.00) dollars will be charged an applicant by the City if the investigation is conducted within the State. The actual cost, not to exceed ten thousand (10,000.00) dollars will be charged an applicant by the City if the investigation is required outside the State. (Ref. §802.030, Code 1966; Ord. No. 601, 11/8/77; 1015, 1/13/04)

§1002.040 INTOXICATING LIQUOR; LICENSE DECISION. After due consideration, the City Council shall grant or deny the license. (Ref. §802.040, Code 1966)

§1002.050 INTOXICATING LIQUOR; PERSONS INELIGIBLE FOR LICENSE. No license shall be issued to any person:

1. Twenty (20) years of age or under. (Ref. §802.050, Code 1966; Ord. Nos. 555, 7/10/73; 563, 9/17/74; Ord. No. 802, 3/1/90)

§1002.060 INTOXICATING LIQUOR; LICENSE RESTRICTIONS. Not more than one (1) retailer's license shall be directly or indirectly issued to for any one (1) place in the City nor shall any retailer's "on-sale" or "off-sale" license be issued for any place for which a license of another class has been granted. (Ref. Ord. 1021, 6/8/04)

No "off-sale" license shall be issued for any place where non-intoxicating malt beverages shall be sold for consumption on the premises. No "off-sale" or "on-sale" license shall be granted when the business is to be conducted on premises upon which taxes, assessments or any financial claims of the City are unpaid or delinquent, and licenses may be revoked at any time taxes or assessments become delinquent or financial claims of the City are unpaid.

Sale and consumption of intoxicating liquors on premises with an "on-sale" license is limited to within the building at the address designated on the license, unless the license specifically grants, permission for sale and consumption on the premises, but outside of the building at the address designated on the license. (Ref. §802.060, 802.070, Code 1966; Ord. No. 637,1/8/80; Ord. No. 08-05-1050, 5/27/08)

The sale of malt liquor under a Brewer Taproom license shall be subject to all provisions and limits set forth in Minnesota statutes Chapter 340A.301. (Ref. Ord. No. 12-06-1081, 6/26/12)

§1002.070 INTOXICATING LIQUOR; TRANSFER OF LICENSE. No license shall be transferable from person to person or from place to place without the consent of the City Council, which consent shall be evidenced by resolution passed by the Council. No license granted for a specified part of any particular premises shall permit sales of such liquor on a part of such premises not specified in the license; provided, however, that the Council may, by resolution, grant the right to use such other portions of the premises for such sales.

The transfer of stock in any corporate licensee shall be deemed a transfer within the meaning of this section, and no such transfer of stock shall be made without the consent of the Council. The transfer of any stock without the knowledge and consent of the Council shall be cause for revocation by the Council of any license granted to such corporation under the authority of this chapter. (Ref. §802.080, Code 1966)

§1002.080 Section Deleted (Ref. Ord. 799, 12/12/89)

§1002.090 INTOXICATING LIQUOR; LICENSE FEES. License fees for sale of intoxicating liquor shall be set by City Council resolution.

(Ref. §802.100, Code 1966; Ord. Nos. 445, 8/17/67; 570, 2/11/75; 576, 8/12/75; 601, 11/8/77; 647, 1/13/81; 736, 12/9/86; 967, 1/13/99; 1015, 1/13/04)

§1002.100 Section Deleted (Ref. Ord 967, 1/12/99)

§1002.110 INTOXICATING LIQUOR; LICENSE CONDITIONS. All licensees are required to observe the following regulations; provided, however, that any such regulation which specifically refers to an "on-sale" licensee shall not bind an "off-sale" licensee nor shall any regulation which specifically refers to an "off-sale" licensee bind an "on-sale" licensee:

1. No liquor shall be sold or furnished for any purpose whatever to any person under twenty-one (21) years of age, or to a habitual drunkard or to one obviously intoxicated or to any person to whom sale is prohibited by the law of this state, or by reason of sale to whom a penalty is provided by the state, nor shall any person under twenty-one (21) years of age receive delivery of such liquor. (Ref. Ord. No. 802, 3/1/90)

2. No sale shall be made in any place or in any part of a building where such sales are prohibited by state law or this chapter.

3. No person under eighteen (18) years of age may be employed in a place where intoxicating liquor is sold for consumption on the premises, except that persons under eighteen (18) years of age may be employed as musicians or in bussing or washing dishes in a restaurant or hotel that is licensed to sell intoxicating liquor, provided that the person under the age of eighteen (18) years may not serve patrons, and may be employed as waiters or waitresses at a restaurant or hotel where only wine is sold, provided that the person under the age of eighteen (18) years may not serve or sell any wine. (Ref. Ord. No. 702, 3/1/90)

4. Every licensee shall be responsible for the conduct of his place of business, and for conditions of sobriety and order therein.

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5. No licensee shall keep, possess or operate, or permit the keeping, possession or operation of any slot machine, dice or any gambling device or apparatus, on the licensed premises or in any room adjoining the licensed premises and he shall not permit any gambling therein, except that gambling devices may be kept or operated and raffles conducted on premises licensed as clubs and their adjoining rooms when such activities are licensed by the State except that lawful gambling devices may be operated or sold on licensed premises when such activity is licensed by the State pursuant to Minnesota Statutes, Chapter 349, and conducted pursuant to the regulations contained in this Municipal Code. This exception shall not apply to establishments licensed by the City for the sale of nonintoxicating malt beverages, nonintoxicating malt beverages and wine, and nonintoxicating malt beverages and wine as menu items only. (Ref. Ord. 736, 12/9/86)

Notwithstanding other provisions of this Municipal Code to the contrary, the Council may permit an "on-sale" licensee to permit the holding of a single event, such as a banquet, that includes the sale of raffle tickets as a part of the event activity, provided that such events are separate from the public areas of the licensed establishment, not open to the general public and the raffle is conducted by a charitable organization licensed by the State of Minnesota. (Ref. Ord. 736, 12/9/86)

6. No licensee shall permit the licensed premises or any room in those premises or any adjoining building directly or indirectly under his control to be used as a resort for prostitutes or other disorderly persons.

7. No person holding an "on-sale" license shall permit any person under the age of twenty-one (21) years of age to loiter or remain in the room where intoxicating liquor is being served or sold unless accompanied by his parent or legal guardian. This restriction shall not apply to a restaurant as defined herein. (Ref. Ord. No. 802, 3/1/90)

8. The license issued to each licensee shall be posted in a conspicuous place in that portion of the premises for which the license has been issued. (Ref. §802.120, Code 1966; Ord. No. 555, 7/10/73)

§1002.120 INTOXICATING LIQUOR; HOURS AND DAYS OF SALE. The hours for the sale of intoxicating liquor shall be set by Minnesota Statutes subject to the City of White Bear Lake Charter and supplementary ordinances.

1. No "on-sale" licensee shall sell intoxicating liquor between 2:00 a.m. and 8:00 a.m. on the days of Monday through Saturday, nor after 2:00 a.m. on Sundays, except as provided by Minnesota Statutes 340A.504, Subd. 3. (Ref Ord. 1008, 8/12/03)
2. No "on-sale" licensee shall permit any person on his premises after two-thirty (2:30) o'clock a.m. except employees (Ref. §802.120, Code 1966; Ord. Nos. 445, 8/17/67; 529, 5/9/72; 621, 9/19/78; 676, 7/10/84; 1008, 8/12/03).

§1002.130 INTOXICATING LIQUOR; ACTS OF AGENTS. Acts of clerks, barkeepers, agents, servants or employees, which violate this chapter, are deemed to be the acts of the employer and licensee as well as the acts of themselves and such employer and licensee shall be equally liable for violations of this chapter. Any sale of intoxicating liquor by any clerk, barkeeper, agent, servant or employee made in or from any place licensed to sell nonintoxicating malt liquor but not licensed to sell intoxicating liquor shall be deemed the act of the employer and licensee, as well as that of the person actually making the sale, and every such employer and licensee of such place shall be liable to all the penalties provided in this chapter for such sale, equally with the person actually making

the sale. (Ref. §802.140, Code 1966)

§1002.140 INTOXICATING LIQUOR; MINORS. It shall be unlawful for any:

1. Person under the age of twenty-one (21) years to enter any premises licensed for the retail sale of alcoholic beverages or any municipal liquor store for the purpose of purchasing, or having served or delivered to him or her, any alcoholic beverage containing more than one-half (1/2) of one (1%) percent of alcohol by volume. (Ref. Ord. No. 802, 3/1/90)

2. Person under the age of twenty-one (21) years to consume any intoxicating liquor or to purchase, attempt to purchase or have another purchase for him or her any intoxicating liquor. (Ref. Ord. No. 802, 3/1/90)

3. Person to misrepresent or misstate his or her age, or the age of any other person for the purpose of inducing any licensee or any employee of any licensee, or any employee of any

municipal liquor store, to sell, serve or deliver any alcoholic beverage to a person under the age of twenty-one (21) years. (Ref. Ord. No. 802, 3/1/90)

4. Person under the age of twenty-one (21) years to have in his possession any intoxicating liquor, with intent to consume same at a place other than the household of his parent or guardian. Possession of such intoxicating liquor at a place other than the household of his parent or guardian shall be prima facie evidence of intent to consume the same at a place other than the household of his parent or guardian. (Ref §802.150, Code 1966; Ref. Ord. No. 802, 3/1/90)

§1002.150 INTOXICATING LIQUOR; PROHIBITED SALES. It shall be unlawful for any person, except a licensed pharmacist, to sell, give, barter, furnish or dispose of, in any manner, either directly or indirectly, any spirituous, vinous, malt or fermented liquors in any quantity, for any purpose whatever, to any person under the age of twenty-one (21) years or to any intoxicated person or to any public prostitute. (Ref. Ord. No. 802, 3/1/90)

It shall be unlawful for any person, except a licensed pharmacist, to sell, give, barter, furnish or dispose of, in any manner, either directly or indirectly, any spirituous, vinous, malt or fermented liquors in any quantity, for any purpose whatever, to any spendthrift, habitual drunkard or improvident person within one (1) year after written notice not to do so has been served on him by any law enforcement officer, parent, guardian, master, employer, relative or by any person annoyed or injured by the intoxication of such spendthrift, habitual drunkard or improvident person.

Any person who shall in any way procure liquors for the use of any person named in this section shall be deemed to have made a sale to such person. (Ref. §802.160, Code 1966; Ord. No. 578, 9/9/75)

§1002.160 INTOXICATING LIQUOR; LICENSE EXPIRATION. Each license granted under this Chapter, shall expire on the March Thirty-First (31st) next following its issuance. (Ref. §802.170, Code 1966)

§1002.170 INTOXICATING LIQUORS; REVOCATION OF LICENSE. Any license granted hereunder may either be suspended for a time not to exceed sixty (60) days or revoked upon a finding that the licensee has failed to comply with any applicable statutes, regulation or ordinance relating to intoxicating liquor. (Ref. §802.180, Code 1966)

§1002.180 INTOXICATING LIQUORS; SPECIAL LICENSES; SUNDAY ON-SALE, ON-SALE WINE.

Subd. 1. Sunday On-Sale Licenses. Special "on-sale" licenses for the sale of intoxicating liquor on Sunday may be issued to hotels, restaurants or clubs, as defined in section 1002.010, to which "on-sale" licenses have been issued or hereafter may be issued for the sale of intoxicating liquors; provided, said hotels, restaurants or clubs have facilities for serving not less than thirty (30) guests at one (1) time. Such special Sunday "on-sale" licenses shall allow the qualifying establishments to serve intoxicating liquors during the hours allowed as set by Minnesota Statutes subject to the City of White Bear Lake Charter and supplementary ordinances. (Ref. Ord. No. 802, 3/1/90)

Subd. 2 On-Sale Wine Licenses. Special "on-sale" licenses for the sale of wine not exceeding fourteen (14%) percent alcohol by volume in conjunction with the sale of food may be issued to restaurants, as defined below, having facilities for seating not fewer than twenty-five (25) guests at one (1) time. For purposes of this subdivision, "restaurant" shall mean an establishment, under the control of a single proprietor or manager, having appropriate facilities for serving meals, and wherein conjunction of payment therefor, meals are regularly served at tables to the general public, and which employs an adequate staff to provide the usual and suitable service to its guests. (Ref. Ord. Nos. 445, 8/17/67; 572, 4/8/75; 576, 8/12/75; 656, 12/8/81)

It shall be lawful for a holder of an on-sale wine license, who is also licensed to sell non-intoxicating malt liquors at on-sale, pursuant to City Code Section 1001, and whose gross receipts are at least 60 percent attributable to the sale of food, to sell intoxicating malt liquors at on-sale without an additional license. Proof of gross receipts of the sale of food versus the sale of liquors must be provided by the license holder on a quarterly basis and must be in a form acceptable to the City's Finance Director. (Ref. Ord. No. 782, 2/14/89)

Subd. 3. Temporary On-Sale Intoxicating Liquor License. Special "Temporary On-Sale Intoxicating Liquor Licenses" for the sale of liquor for not more than three (3) consecutive days may be issued to local clubs, charitable, religious or non-profit organizations and for special community celebrations or other special event sponsored by a local community group. Application for the license must be made on a form provided by the Minnesota Liquor Control Commission and be accompanied by an application fee of Twenty-Five Dollars (\$25.00) and proof of financial responsibility or liquor liability insurance in the amounts prescribed in State Statute 340A.409. The license may be issued by the City Clerk upon the applicant's compliance with Minnesota Statutes, and upon the approval of the City Council and the Liquor Control Commission. (Ref. Ord. 796, 10/24/89)

§1002.190 INTOXICATING LIQUOR; CONSUMPTION IN PUBLIC PLACES. It shall be unlawful for any person to consume intoxicating liquor or possess an open bottle, can or other container of such on any public street, sidewalk, alley, parking lot on City-owned property, or in the public park in the blocks bounded by Washington Square, Washington Avenue, State Highway 61 and Third (3rd) Street unless specific permission to do so is granted by resolution of the City Council. (Ref. Ord. Nos. 578, 9/9/75; 579, 12/9/75; 886, 2/9/93) Building Code

§1002.200 INTOXICATING LIQUOR: GAMBLING DEVICES ON LICENSED PREMISES. "On-sale" licensees may request permission of the City Council to permit qualified charitable organizations, as defined in Chapter 1111 of this Code, to operate or sell lawful gambling devices only on the licensed premises. The licensee shall make application for permission to the City Council and shall pay therewith the specified fee. If the application is granted, the license shall contain an endorsement specifying this approval, and the gambling endorsement may be considered for renewal at the same time as the Council may consider renewal of the "on-sale" license.

Gambling endorsements on "on-sale" licenses shall be subject to the following regulations, which shall be deemed as a part of the license, and failure of compliance may constitute grounds for revocation as prescribed in the Municipal Code:

1. Application for gambling endorsements must be made by the liquor licensee and must state the name of the qualified charitable organization. The application must also show evidence that the qualified charitable organization is licensed by the State of Minnesota pursuant to Minnesota Statutes Chapter 349 and any appropriate rules of the State of Minnesota.

2. The qualified charitable organization must meet all requirements of Chapter 1111 of this Code and must be organized to operate in White Bear Lake with not less than sixty (60) percent of its members White Bear Lake residents of the City of White Bear Lake, White Bear Township, and the City of Birchwood Village. Residency will be determined pursuant to Minnesota Statute, Chapter 201, Registration and Eligibility of Voters. If the qualified charitable organization is State or nationally chartered, its charter must designate White Bear Lake as its location. The City Council may waive this requirement if the charitable organization expends not less than eighty (80) percent of the profits from the operation of gambling for lawful purposes conducted or located within the City's trade area as defined as City of White Bear Lake, White Bear Township, Gem Lake, Vadnais Heights, City of Birchwood Village, Mahtomedi and Hugo. (Ref. Ord. 958, 5/26/98)

3. Use of the licensed premises shall be by means of a written lease agreement between the licensee and the charitable organization. The lease shall be for a term of at least one year; a copy shall be filed with the City Council, and a copy must also be kept on the premises and available for public inspection upon request. Leases shall be governed by the following:

- a. Rental payments shall not exceed:
 - 1) For booth operations - 10% of gross profits (net after taxes) with a maximum of \$1,750.00 per month. (Ref. Ord. 1013, 1/13/04)
 - 2) For bar operations - 20% of gross profits (net after taxes) with a maximum of \$2,000.00 per month. (Ref. Ord. 1013, 1/13/04)
- b. The rent payments permitted by paragraph a.:
 - 1) of this section shall be inclusive. No other services provided or

contracted by the lessor may be paid by the charitable organization.

- c. The restrictions on rent payments set forth in paragraphs a. and b. of this section shall be applicable to all leases entered into after May 31, 2003. The rent payment provisions of leases entered into prior to June 1, 2003, may continue for the remainder of their terms if they are in compliance with the ordinance provisions in effect at the time such leases were entered into.
 - d. The only form of gambling that shall be permitted on the licensed premises shall be lawful gambling devices approved by the City Council.
 - e. Lawful gambling devices may be operated or sold from a booth used solely by the charitable organizations, by employees of the licensee from the bar service area (Ref. Ord. 1058, 4/14/09).
 - f. The lease shall include the Internal Control Guidelines as prescribed by the State Gambling Board specifying the licensee's responsibilities in a bar operation. The employees of the licensee allowed to conduct lawful gambling under this section shall comply to the laws and rules of the State of Minnesota.
 - g. The construction and maintenance of the booth used by the charitable organization shall be the sole responsibility of the charitable organization.
 - h. The lease shall contain a provision permitting the licensee to terminate the lease if the charitable organization is found guilty of any violation of state or local gambling statutes, ordinances or rules and regulations.
 - i. The charitable organization allowed to conduct lawful gambling under this section shall, with its submission of an application, state the names and addresses of all persons and firms allowed or responsible to maintain records or financial statements and prepare financial reports on behalf of, or submitted to, the charitable organization, the City or the State of Minnesota. The past and present practices of these individuals or firms shall be subject to investigation by the City and may be considered by the City Council when it acts according to this section. Changes in the designation of said individuals or firms must be reported to the City by charitable organization.
4. Only one charitable organization shall be permitted to operate or sell lawful gambling devices on the licensed premises.
 5. The licensee may not be reimbursed by the charitable organization for any license or permit fees, and the only compensation which the licensee may obtain from the charitable organization is the rent fixed in the lease agreement.

6. The licensee and the charitable organization must commit to a minimum of ten (10) hours per week of operation or sale of lawful gambling devices. (Ref. Ord. No. 836, 06/11/91)

7. The Licensee shall be responsible for the charitable organization's conduct of operating and/or selling lawful gambling devices. The City Council may suspend the Licensee's permission to allow gambling on the premises for a period up to sixty (60) days for any violation of state or local gambling laws or regulations that occur on the premises by anyone, including the Licensee or the charitable organization.

Additional violations within a twelve (12) month period shall result in the revocation of the gambling permission, and may also be considered by the Council as grounds for suspension or revocation of the on-sale liquor license if the on-sale licensee knowingly allows the violation to occur on the licensed premises or otherwise participates in the violation. (Ref. Ord. 912, 6/28/94)

8. Any qualified charitable organization selling and/or operating gambling devices in on-sale liquor establishments shall remit quarterly to the City of White Bear Lake an amount up to three (3) percent of its net receipts (gross receipt less prizes equals net receipts) from the sale or operation of gambling devices. Said amount shall be set by resolution of the City Council and reviewed annually. The City shall use funds to cover the costs incurred by the City to regulate lawful gambling. (Ref. Ord. 736, 12/9/86; 912, 6/28/94)

[Editor's Note: The original building code, codified in chapters 301 to 308 and 310, Code 1966, was repealed in its entirety and replaced]

XI. BUSINESS REGULATIONS

1101. Bowling Alleys and Shooting Galleries

§1101.010 BOWLING ALLEYS AND SHOOTING GALLERIES; LICENSE REQUIRED, APPLICATION, ISSUANCE. No person shall keep for public use any bowling alley or shooting gallery in the City without a license. Any person desiring a license, shall apply therefor to the City Clerk. Applications shall state the name of the applicant, the location of his place of business and the number of bowling alleys or shooting galleries which the applicant proposes to maintain. Upon the filing of such application with the Clerk and the approval thereof by the City Council, the Clerk shall issue a license. (Ref. §§902.010 thru 902.030, Code 1966)

§1101.020 BOWLING ALLEYS AND SHOOTING GALLERIES; LICENSE FEE. The fee for licenses granted under this chapter shall be paid into the City Treasury. The fee shall be set by City Council resolution. (Ref. §902.050, Code 1966; Ord. No. 648, 1/13/81; 1015, 1/13/04)

§1101.030 BOWLING ALLEYS AND SHOOTING GALLERIES; LICENSE EXPIRATION, REVOCATION. Licenses granted under this chapter shall expire on March thirty-first (31st) following their issuance, unless sooner revoked or forfeited. Any violation of the requirements of this chapter or any disorderly or improper conduct upon the premises shall be sufficient ground for revocation of a license by the Council. (Ref. §§902.040, 902.060, Code 1966)

1102. BUILDING TRADES

§1102.010. Building Trades; License Required. No person shall engage in the business of doing or performing Commercial General Contracting, Heating and Ventilation Contracting or Tree Trimming without first obtaining a City of White Bear Lake Contractor's License.

- A) Commercial General Contractors shall have a valid Class I license. A General Commercial Contractor is a construction contractor who personally performs construction, or employs other contractors in a separate discipline to complete the construction activities on commercial property, when the work involves two or more trades.
- B) Heating and Ventilation contractors and Tree Trimming contractors shall have a valid CLASS II license.
- C) If the applicant owns and occupies a single family home upon which the work is being done, or is the owner or occupant of a multiple family or commercial building proposing to personally perform nonstructural improvements to that structure, the applicant may obtain a permit for construction without needing to obtain a City license.
- D) Residential General Contractors, Electrical, Plumbing, Fire Suppression, House Moving contractors, Septic System installers, Sewer and Water contractors shall provide proof of state certification in lieu of city licenses. (Ref. §904.010, Code 1966; Ord. No. 603, 11/8/77; 759, 3/15/88, 938,10/23/96)

§1102.015. Licensing Prior to Construction Permits. Prior to the issuance of a permit, all contractors required to be licensed shall provide proof that all required licensing is current and valid. (Ref. Ord. 759, 3/15/88)

§1102.020. Building Trades; License Application Fee. Application for licenses shall be filed with the City Building Official on forms provided by the Building Codes Office. The annual fee shall be established in a resolution approved by the City Council. The annual fee as established by the City Council resolution may be different for general contractors and construction contractors as defined in Sections 1102.010 and 1102.040. (Ref. §904.020, Code 1966; Ord. No. 603, 11/8/88; 759, 3/15/88)

§1102.030. Building Trades; License Expiration and Renewal. All annual licenses shall begin on January one (1) and expire on December thirty-first (31) following the date of issuance unless revoked sooner or forfeited. If a license granted hereunder is not renewed prior to its expiration, all rights granted by such license shall cease and any work performed after the expiration of the license shall be in violation of this code. Persons found to be working in the city without obtaining or renewing their licenses after expiration may be assessed a double fee which shall be considered an administrative fee to cover added administrative costs of the city.

Persons applying for their license after July first (1st) of any year may have their license prorated as established in the annual fee resolution established by the City Council. (Ref. §904.030, Code 1966; Ord. No. 759, 3/15/88)

§1102.040. Building Trades; General Contractor's License. A Class I license granted to a general contractor shall include the right to perform or supervise all of the work included in his construction permit application. The general contractor shall be responsible for work performed by subcontractors listed in the construction permit application. Work authorized by separate permit shall be the responsibility of the individual permit holder. (Ref. §904.010, Code 1966; Ord. No. 759, 3/15/88)

§1102.050 BUILDING TRADES; QUALIFICATIONS. Each applicant for a license shall satisfy the City that he is competent by reason of education, special training and experience, and that he is equipped to perform the work for which a license is requested in accordance with all state laws, the City Council and this Code. (Ref. §904.050, Code 1966)

§1102.060 BUILDING TRADES; LICENSE REVOCATION. The City Council shall have the power to suspend or revoke the license of any person licensed under the regulations of this chapter whose work is found to be improper or defective or so unsafe as to jeopardize life or property; provided, the person holding such license is given twenty (20) days notice and granted the opportunity to be heard before such action is taken. If and when such notice is sent to the legal address of the licensee and he fails or refuses to appear at this said hearing, his license will be automatically suspended or revoked five (5) days after the date of the hearing.

When a license is suspended, the period of suspension shall be not less than thirty (30) days nor more than one (1) year, such period being determined by the Council. Any time a person holding a license, as provided herein, has been convicted for the second (2nd) time by a court of competent jurisdiction for violation of any of the provisions of chapters 1201 or 1202, the Council shall revoke the license of the person so convicted. Such person may not make application for a new license for a period of one (1) year. (Ref. §904.060, Code 1966)

§1102.070 BUILDING TRADES; INSURANCE. Any person applying for any license enumerated under this chapter shall file with the City Clerk copies of his public liability and property damage insurance policies, which insurance policies shall be maintained in force and effect during the life of his license to perform work under this chapter. Said insurance shall cover public liability which shall not be less than one hundred thousand (\$100,000.00) dollars for injuries, including accidental death, to any one (1) person and subject to the same limit for each person and in an amount of not less than three hundred thousand (\$300,000.00) dollars on account of any one (1) accident and shall cover property damage in the amount of not less than one hundred thousand (\$100,000.00) dollars on account of damage to one (1) party and not less than three hundred thousand (\$300,000.00) dollars on account of any one (1) accident. Said policies shall contain a provision that the policies cannot be cancelled without ten (10) days written notice addressed to the City Clerk. (Ref. §904.070, Code 1966)

All contractors applying for or renewing a City of White Bear Lake Contractor's License shall provide proof of workman's compensation insurance as required by state statute and/or regulations prior to issuance of said Contractor's License. (Ref. Ord. No. 759, 3/15/88)

§1102.080 Repealed (Ref. Ord. 720, 6/10/86)

Revised 2/8/11

1103. Christmas Trees

§1103.010 CHRISTMAS TREES; LICENSE REQUIRED, APPLICATION, ISSUANCE. No person shall, within the City, sell any cut evergreen, fir, spruce or other tree of like kind for what is generally known as Christmas trees without a license to do so. Every applicant for such license shall file an application with the City Clerk stating his name, address and the address of the place he intends to sell all such trees, together with the name of the person from whom and the place from which he intends to cut or secure the trees intended to be sold. The City Manager shall grant or deny the license. (Ref. §§906.010, 906.020, 906.040, Code 1966)

§1103.020 CHRISTMAS TREES; LICENSE FEE. The annual fee for the license herein required is thirty-five (\$35.00) dollars which sum shall be paid to the Clerk at the time of filing the application. The license fee shall not be prorated. (Ref. §906.030, Code 1966; Ord. No. 648, 1/13/81)

1104. TOBACCO AND RELATED PRODUCTS

1104.010 PURPOSE.

The City recognizes the public health hazards of exposure of individuals to secondhand smoke. This chapter is intended to regulate the sale, possession, and use of tobacco, tobacco products, and electronic and non-electronic delivery devices for the purpose of enforcing and furthering existing laws, to protect persons under the age of 21 and others against the serious effects associated with the use of tobacco, tobacco products, and related devices, to protect individuals from the hazards of secondhand smoke, and to further the official public policy of the State of Minnesota as stated in Minn. Stat. Sections 144.391 and 144.412.

§1104.020 DEFINITIONS.

1. *Underage Person.* Means any natural person who has not yet reached the age of 21 years.
2. *Smoking.* Means inhaling and/or exhaling smoke from any lighted or heated cigar, cigarette, pipe, or any other non-electronic delivery device or product. This also includes holding the same, intended for inhalation.
3. *Tobacco or Tobacco Products.* Means cigarettes and any product containing, made, or derived from tobacco that is intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, or any component, part, or accessory of a tobacco product including but not limited to cigars; cheroots; stogies; perique; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco. Tobacco excludes any tobacco product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product, as a tobacco dependence product, or for other medical purposes, and is being marketed and sold solely for such an approved purpose. (Ref. Ord. 23-08-2066, 8/22/2023)
4. *Tobacco-Related Devices.* Means cigarette papers or pipes for smoking or other devices intentionally designed or intended to be used in a manner which enables the chewing, sniffing, smoking, or inhalation of aerosol or vapor of tobacco or tobacco products. Tobacco-related devices include components of tobacco-related devices which may be marketed or sold separately. (Ref. Ord. 23-08-2066, 8/22/2023)
5. *Electronic Delivery Device.* Means any product containing or delivering nicotine, lobelia, or any other substance, whether natural or synthetic, intended for human consumption through inhalation of aerosol or vapor from the product. The term includes, but is not limited to, devices manufactured, marketed, or sold as electronic cigarettes, electronic cigars, electronic pipe, vape pens, modes, tank systems, or under any other product name or descriptor. The term also includes any component part of such a product

whether or not marketed or sold separately. The term does not include drugs, devices, or combination products, as those terms are defined in the Federal Food, Drug, and Cosmetic Act, that are authorized for sale by the United States Food and Drug Administration. (Ref. Ord. 23-08-2066, 8/22/2023)

6. *Loosies*. Means single cigarettes, cigars, and any other licensed products that have been removed from their original retail packaging and offered for sale. The term does not include premium cigars that are hand-constructed, have a wrapper made entirely from whole tobacco leaf, and have a filler and binder made entirely of tobacco, except for adhesives or other materials used to maintain size, texture, or flavor. (Ref. Ord. 23-08-2066, 8/22/2023)
7. *Tobacco Products Shop*. Means an existing or proposed retail establishment that:
 - (a) Has an entrance door opening directly to the outside;
 - (b) Prohibits persons under the age of 21 years from entering the establishment at any time; and
 - (c) Derives more than 90 percent of its gross revenue from the sale of tobacco, tobacco-related devices, electronic delivery devices, edible cannabinoid products under Minnesota Statutes, section 151.72, or any product requiring a license to sell at retail from the Office of Cannabis Management under Minnesota Statutes, chapter 342, and in which the sale of other products is merely incidental.

The term does not include a tobacco department or section of any individual business establishment with any type of liquor, food, or restaurant license. (Ref. Ord. 23-08-2066, 8/22/2023)

§1104.030 LICENSE REQUIRED.

1. *Generally*.
 - a. *Required*. No person may directly or indirectly or by means of any device keep for retail sale, sell at retail, offer to sell or otherwise dispose of any tobacco products, tobacco-related devices, or electronic delivery devices at any place in the City without first having obtained a license from the City to do so.
 - b. *Limit*. The maximum number of licenses issued by the City in any year to a retail establishing qualifying as a tobacco products shop under this chapter is limited to ten (10), except that any tobacco products shop holding a valid license as of July 1, 2023 is permitted to retain and renew said license. If the maximum number of licenses has already been issued, a licensee that allows its license to expire or has its license revoked shall not be eligible for a new license. Persons desiring to apply for a license may be placed on a waiting list and be eligible to apply on a first-come, first-serve basis once the number of issued licenses falls below the maximum number allowed.

Notwithstanding the maximum number of allowed licenses, an applicant who purchases a tobacco products shop holding a current license shall be allowed to apply for and obtain, if eligible, a new license for the business location provided it is obtained within the same license year as the current license. (Ref. Ord. 23-08-2066, 8/22/2023)

2. *Specifically.*

- a. *Application.* An application for a license to sell tobacco products, tobacco-related devices, or electronic delivery devices shall be made on a form provided by the City. The application shall contain the full name of the applicant, the applicant's residential and business addresses, and telephone numbers, the name of the business for which the license is sought, and any additional information the City deems necessary. Upon receipt of a completed application, the City Clerk shall forward the application to the City Council for consideration. If the City Clerk determines that the application is incomplete, the City Clerk shall provide the applicant with notice of the information necessary to make the application complete.
- b. *Action.* Upon receipt of a completed application, the City Clerk shall forward the application to the police department for investigation. The police department shall conduct an investigation of the applicant and application, the results of which shall be provided to the City Council. The City Council may either approve or deny the license, or it may delay action for such reasonable period of time as necessary to complete any further investigation it may deem necessary. If the City Council approves the license, the City Clerk shall issue the license to the applicant.
- c. *Term.* All licenses issued under this chapter shall expire on March 31 of each calendar year, unless sooner revoked, suspended or forfeited.
- d. *Fees.* No license shall be issued under this chapter until the appropriate license fee has been paid in full. The fee for a license under this chapter shall be established by the City Council as amended from time to time.
- e. *Smoking.* Smoking shall not be permitted in and no person shall smoke in a public place as defined by Minn. Stat. Section 144.413, Subd.2, at a public meeting, in a place of employment, or in public transportation, except as provided in Minn. Stat. Sections 144.414 and 144.4167, including sampling within a tobacco product shop, as defined in Minn. Stat. Section 144.4167, provided that:
 - i. The business does not have any tables, seating or wait staff.
 - ii. The sampling is limited to free samples of products.
 - iii. The sampling is incidental to the selling of the products and is not the primary activity on site.

- iv. There are no external signs on site promoting the sampling.
- f. *Sanctions for violation.* Violators of this chapter shall be guilty of a misdemeanor.
- g. *Transfers.* All licenses issued under this chapter shall be valid only on the premises for which the license was issued and only for the person to whom the license was issued. No transfer of any license to another location or person shall be valid.
- h. *Display.* All licenses shall be posted and displayed in plain view of the general public on the licensed premises.
- i. *Responsibility.* All licensees under this chapter shall be responsible for the actions of their employees in regard to the sale of tobacco products, tobacco-related devices, or electronic delivery devices on the licensed premises, and the sale of such an item by an employee shall be considered a sale by the license holder.
- j. *Renewals.* The renewal of a license issued under this article shall be handled in the same manner as the original application. The request for a renewal shall be made at least 30 days prior to the expiration of the current license. The license holder is not entitled to an automatic renewal of the license.
- k. *Revocation or Suspension.* Any license issued under this chapter may be revoked or suspended by the City Council for a violation of federal or state tobacco laws, any provision of this chapter, or a provision of this Code related to the licensee's business operations, provided the licensee has been given a reasonable notice and an opportunity to be heard. The City Council may establish and impose administrative penalties for violating applicable state laws or provisions of this chapter, provided such penalties are not less than the minimums required by Minnesota Statutes, Section 461.12. (Ref. Ord. 23-08-2066, 8/22/2023)

§1104.040 BASIS FOR DENIAL OF A LICENSE. The following shall be grounds for denying the issuance of or renewal of a license under this Section. The following list is not exhaustive or exclusive:

1. The applicant is under the age of 21.
2. The applicant has been convicted within the past five years of any violation of a federal, state, or local law, ordinance provision, or other regulation relating to tobacco products, tobacco-related devices, or electronic delivery devices.
3. The applicant has had a license to sell tobacco products, tobacco-related devices, or electronic delivery devices revoked within the preceding 12 months of the date of application.
4. The applicant provides false or misleading information.

5. The applicant or license holder has been found by the City Council to have violated this Code within the previous 12 months, or has outstanding fines, penalties, charges or property taxes owed to the City.
6. The applicant is prohibited by federal or state law, local ordinance, or other regulation, from holding such a license.
7. If a license is mistakenly issued or renewed to a person, it shall be revoked upon the discovery that the person was ineligible for the license under this article.

§1104.050 PROHIBITED SALES. It shall be a violation of this article for any person to give away, dispense, sell or offer to sell any tobacco product or delivery device:

1. To an underage person.
2. By a vending machine.
3. By self-service, or in open displays which are accessible to the public without the assistance or intervention of a store employee.
4. As a single or individually packaged item, such as cigarillos, or anything for less than \$2.00 before tax. Packs or Cartons or other packaging containing more than 3 items and individual cigars with a retail price, before sales tax, of more than \$2.00, shall not be considered individually packaged.
5. By a mobile business, including but not limited to motorized vehicles, moveable sales kiosks or trailers. Licenses shall be issued to fixed location businesses only.
6. If the tobacco products, tobacco-related devices, or electronic delivery devices contain opium, morphine, jimson weed, belladonna, strychnos, cocaine, marijuana, cannabinoid, tetrahydrocannabinol, or other delirious, hallucinogenic, toxic, or controlled substances except nicotine.
7. To any other person, in any other manner or form prohibited by federal or state law or regulation, or by local ordinance.
8. As a looseie.

§1104.060 COMPLIANCE CHECKS AND INSPECTIONS. All licensed premises shall be open to inspection by the City police or other authorized City official during regular business hours. From time to time, but at least once per year, an unannounced compliance check, involving the use of persons who are at least 17 years of age but not yet 21 years of age, with written parental consent for persons under the age of 18, shall be conducted at each licensed retail establishment, subject to police department protocols.

§1104.080 EXCEPTIONS AND DEFENSES. Nothing in this chapter shall prevent the providing of a tobacco product, tobacco-related devices, or electronic delivery device, to an underage person as part of a lawfully recognized religious, spiritual, or cultural ceremony. It shall be an affirmative defense to the violation of this chapter for a person to have reasonably relied upon proof of age.

§1104.090 SIGNAGE AND AGE VERIFICATION REQUIRED: (Ref. Ord. 23-08-2066, 08-22-2023)

1. *Signage.* At each location where tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products are sold, the licensee shall display a sign in plain view to provide public notice that selling any of these products to any person under the age of 21 is illegal and subject to penalties. The notice shall be placed in a conspicuous location in the licensed establishment and shall be readily visible to any person who is purchasing or attempting to purchase these products. The sign shall provide notice that all persons responsible for selling these products must verify, by means of photographic identification containing the bearer's date of birth, the age of any person under 30 years of age.
2. *Age verification.* At each location where tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products are sold, the licensee shall verify, by means of government-issued photographic identification containing the bearer's date of birth, that the purchaser or person attempting to make the purchase is at least 21 years of age. Verification is not required if the purchaser or person attempting to make the purchase is 30 years of age or older. It shall not constitute a defense to a violation of this subdivision that the person appeared to be 30 years of age or older.

§1104.100 SEVERABILITY AND SAVINGS. If any section or portion of this ordinance shall be found unconstitutional or otherwise invalid or unenforceable by a court of competent jurisdiction, that finding shall not serve as invalidation or affect the validity and enforceability of any other section or provision of this ordinance.

Revised 3/12/2014

1105. Coin Operated Amusements Devices

§1105.010 COIN OPERATED AMUSEMENT DEVICES; DEFINITIONS. For the purposes of this chapter, certain words and terms are defined as follows:

Subd. 1. Coin Operated Mechanical Amusement Devices. Any machine which upon the insertion of a coin, token or slug, operates or may be operated by the public generally for use as a game, entertainment or amusement and which contains no automatic payoff device for the return of money, coin, checks, tokens or merchandise or provides any payoff by any other means or manner; provided, however, that this provision shall not prohibit the licensing of such a machine which returns slugs or tokens which may be used only in the machine licensed and which in itself does not constitute a gambling device. The term shall include so-called pinball machines, music machines, video machines, and all other machines (except weighing machines) which, by the insertion of a coin or token, operate for the entertainment or amusement of the player. (Ref. §908.010, Code 1966; Ord. No. 976, 2/8/00)

§1105.020 COIN OPERATED AMUSEMENT DEVICES; LICENSE REQUIRED, APPLICATION. No person shall own, operate, maintain, or keep for operation within the City any coin operated amusement device without a license. No license shall be issued for any roulette wheel, slot machine, mechanical horse race or any other gambling device. The owner of each individual machine or device shall make application to the City Clerk on a form supplied by the City. All applications shall contain the name and serial number of each machine. (Ref. §§908.020, 908.030, Code 1966; Ord. No. 976, 2/8/00)

§1105.030 COIN OPERATED AMUSEMENT DEVICES; LICENSE FEE. The annual license fee for all coin operated amusement devices shall be fifteen dollars (\$15.00) per location and fifteen dollars (\$15.00) per machine. Upon revocation or lapsing of any owner's license, no refund shall be made of any portion of the license fee. (Ref. §908.040, Code 1966; Ord. Nos. 570, 2/11/75; 573, 6/24/75; 648, 1/13/81; 976, 2/8/00; 4/8/14)

§1105.040 COIN OPERATED AMUSEMENT DEVICES; LICENSE EXPIRATION, REVOCATION. Every such license shall expire on March thirty-first (31st) following its issuance, unless sooner revoked or forfeited. Any license may be revoked by the Council for a violation of any provision of this chapter if the licensee has been given a reasonable notice and an opportunity to be heard. Any misstatement of fact in the application for the license shall be grounds for revocation of the license. (Ref. §§908.060, 908.090, Code 1966)

§1105.050 COIN OPERATED AMUSEMENT DEVICES; LICENSE TAG. The owner shall receive in addition to the license, one (1) tag for each machine she/he is licensed to own, which tag shall be affixed to the machine and be displayed in a prominent place. (Ref. §908.070, Code 1966)

§1105.060 COIN OPERATED AMUSEMENT DEVICES; LICENSE RESTRICTIONS. Licenses shall not be transferable from the licensee to any other person.

No person shall permit the operation of any such machine or device for the making of side bets or gambling in any form. No prize, award, merchandise, gift, money, or anything of value shall be given any player of such machine or device which is contrary to law. (Ref. §§908.050, 908.080, Code 1966; Ord. No. 525, 2/8/72; 976, 2/8/00)

Revised 4/8/14

1106. Gasoline Stations

§1106.010 GASOLINE STATIONS; DEFINITIONS. For the purposes of this chapter, certain words and terms are defined as follows:

Subd. 1. Gasoline Filling Station. Any place, building, pump or device maintained and used on private premises or upon any public street, alley or any other public place in the City, for the main purpose of selling gasoline or other oils for use in motor vehicles of any kind. (Ref. §909.010, Code 1966)

§1106.020 GASOLINE STATIONS; LICENSE REQUIRED, APPLICATION, ISSUANCE. No person shall engage in the business of keeping, maintaining or operating any gasoline filling station in the City without obtaining a license. Any person desiring a license shall make a written application to the City Council. The application shall set forth the name and place of residence of the applicant and the exact location of the place at which the applicant proposes to operate the gasoline filling station. The application shall be filed with the City Clerk for presentation to the Council. Upon the filing of the application with the Clerk, the Council shall grant the license if, in the opinion of the Council, the applicant is entitled thereto under the terms and provisions of this chapter. The Clerk shall then issue to the applicant a license as of the date of the approval of the resolution. (Ref. §§909.020 through 909.040, Code 1966)

§1106.030 GASOLINE STATIONS; LICENSE FEE. The annual license fee for a gasoline station shall be twenty (\$20.00) dollars for each metering device. (Ref. §909.060, Code 1966; Ord. Nos. 570, 2/11/75; 648, 1/13/81)

§1106.040 GASOLINE STATIONS; LICENSE EXPIRATION. All licenses granted under this chapter shall expire on March thirty-first (31st) following their issuance, unless sooner revoked or forfeited. (Ref. §909.050, Code 1966)

§1106.050 GASOLINE STATIONS; PUMPS ON PUBLIC PROPERTY. Permission to maintain and operate any curb pump, post or other similar device on public property must be granted by the City Council.

(Ref. §909.070, Code 1966)

§1106.060 GASOLINE STATIONS; INSPECTION. It shall be the duty of the Fire Chief or such other member of the Fire Department as the Chief shall appoint to inspect all gasoline filling stations at reasonable intervals to ascertain whether the provisions of this Code and all laws pertaining to precautions against fire have been complied with in the construction and maintenance of each station.

(Ref. §909.080, Code 1966)

1107. Motion Picture Theaters

§1107.010 MOTION PICTURE THEATERS; LICENSE REQUIRED, APPLICATION, ISSUANCE. No person shall operate a motion picture theater within the City without a license. Application for a license shall be made to the City Clerk on a form supplied by the City and shall state the location of the building in which the theater is to be operated, the full name and address of the applicant and such other information as may be required. The City Council shall grant or deny each license applied for in its discretion. (Ref. §§910.010, 910.020, 910.040, Code 1966)

§1107.020 MOTION PICTURE THEATERS; LICENSE FEE. The fee for every license issued under this chapter shall be two hundred ten (\$210.00) dollars per year. (Ref. §910.030, Code 1966; Ord. Nos. 570, 2/11/75: 648, 1/13/81)

§1107.030 MOTION PICTURE THEATERS; LICENSE EXPIRATION, REVOCATION. Each license shall expire on March thirty-first (31st) following its issuance, unless sooner revoked or forfeited. Violation of any of the provisions of this chapter shall be grounds for revocation of the license. (Ref. §910.050, 910.080, Code 1966)

§1107.040 MOTION PICTURE THEATERS; LICENSE RESTRICTION. No license issued under this chapter shall be transferred. (Ref. §910.060, Code 1966)

§1107.050 MOTION PICTURE THEATERS; INDECENT PICTURES PROHIBITED. No Indecent, lewd or obscene picture shall be shown at any motion picture theater licensed hereunder. (Ref. §910.070, Code 1966)

1108. Newsstands

§1108.010 NEWSSTANDS; DEFINITION. For the purposes of this chapter, certain words and terms are defined as follows:

Subd. 1. Honor Boxes. Metal containers mounted on posts, the plans of the intended materials and manner of installation of which shall be approved by the City Manager.

Subd. 2. Newsstands. As used herein, the term "newsstands" shall include automatic newspaper vending machines and so-called "honor boxes." (Ref. Ord. No. 457, 4/2/68)

§1108.020 NEWSSTANDS; PERMIT REQUIRED, APPLICATION, ISSUANCE. No person, Firm or corporation shall within the limits of the City of White Bear Lake, install or maintain any newsstand on any of the public streets, highways or sidewalks therein without obtaining a permit to do so, as hereinafter provided. Every person, firm or corporation desiring to obtain a permit to maintain a newsstand or newsstands on any street, highway or sidewalk, shall first make application therefor to the City Manager. Such application shall state the proposed location of said stand or stands and shall be made in such form as shall be prescribed by the City Manager. The City Manager shall examine, or cause to be examined, the proposed location and if satisfied that the maintenance of a newsstand at the proposed site or sites will not constitute a serious hazard or obstruction to traffic, shall refer the application to the City Council, together with his recommendation whether such permit should or should not be granted, and thereafter the City Council shall, by resolution, grant or deny the permit or permits sought, and if granted shall instruct the City Manager to issue such permit. (Ref. Ord. No. 457, 4/2/68)

§1108.030 NEWSSTANDS; CONDITIONS. The application form shall contain an agreement to be signed by the applicant, which agreement shall provide:

1. That the applicant will furnish such stand or stands at his own expense, and that such stands shall not exceed eighteen (18") inches in width, forty-eight (48") inches in length, and forty-eight (48") inches in height.

2. To maintain and keep such stand or stands at the outer edge of the sidewalk, unless otherwise directed by the City Manager.

3. To maintain at all times said stand or stands in an orderly condition and to remove all twine, rope, waste paper and other debris and place same in proper paper containers.

4. To remove such stand at once whenever ordered to do so by the City Manager, and to remove the same whenever the permit therefor has been cancelled.

5. To use such newsstand for the sale of newspapers only. (Ref. Ord. No. 457, 4/2/68)

§1108.040 NEWSSTANDS; BOND. The applicant shall furnish a bond to the City of White Bear Lake in the sum of five thousand (\$5,000.00) dollars for each newsstand applied for; provided, that where application is made for more than one (1) stand, such bond shall be deemed to cover all newsstands for which permits are given. Each bond shall be conditioned to save the City of White Bear Lake harmless from any and all liability, judgments, damages or expense that may arise or grow out of the installation, maintenance, use, presence or removal of said newsstand or stands. Such bond shall be in such form as may be approved by the City Attorney and shall have such surety as maybe satisfactory to the City Council. Until such bond has been approved by the City Attorney, no permit herein provided for shall be granted by the Council. (Ref. Ord. No. 457, 4/2/68)

§1108.050 NEWSSTANDS; PERMIT REVOCATION. All permits granted hereunder may be revoked by the City Council at any time in its discretion, and all permits issued hereunder are issued subject to this provision. (Ref. Ord. No. 457, 4/2/68)

1109. Pool Halls

§1109.010 POOL HALLS; DEFINITIONS. For the purposes of this chapter, certain words and terms are defined as follows:

Subd. 1. Pool Halls. Any place where one (1) or more billiard or pool tables are operated or maintained, except for private family use, whether such place is a social club or a business enterprise operated for profit. (Ref. §§911.010, 911.020, Code 1966)

§1109.020 POOL HALLS; PERMIT OR LICENSE REQUIRED. No pool hall shall be maintained or operated in the City without a permit or license.

Subd. 1. Club Permit, Fee. Permission of the City Council to operate and maintain billiard and pool tables in an establishment which is not a business enterprise operated for profit but is a bona fide club restricting its privileges to those paying a stated membership fee, and making no charge proportional to the use of the billiard or pool tables, may be granted by permit, without payment of any fee.

Subd. 2. License, Fee. In all cases other than those described in subdivision 1. above, a license is required. The fee for a license shall be set by City Council resolution. Fees for licenses issued October first (1st), or later in any licensing year shall be one-half (1/2) the annual fee. (Ref. §§911.030 through 911.050, Code 1966; Ord. Nos. 570, 2/11/75:648, 1/13/81; 1015, 1/13/04)

§1109.030 POOL HALLS; PERMIT OR LICENSE APPLICATION. Application for a license or permit shall be filed with the Clerk. The owner of the pool hall, or in case of a partnership, all the partners, or in case of a corporation or association, a majority of the board of directors or other governing body, and also the person who is to be in charge of the pool hall, shall sign and swear to the truth of such application. The application shall contain the following information:

1. Names, residences and occupations for the last five (5) years of the owner of the pool hall; if owned by a partnership, of the partners; or, if owned by a corporation or association, of the executive officers, directors and manager of the pool hall.

2. Whether any of the persons listed in the application have been convicted of a felony and, if so, the date and place of such conviction and the offense.

3. Whether any of the persons listed in the application is a habitual user of intoxicating liquors or narcotic drugs.

4. Whether any of the persons listed in the application has ever operated or been employed in or connected with a pool or billiard hall in the City or in any other place and, if so, the name of the place, dates of such connection and whether the license of such hall was revoked during such connection.

5. Such other information as the Council may require. Any falsehood in such application, or any willful omission to state any information called for on such application

form, shall render any license or permit issued hereunder void and of no effect to protect any person from prosecution or violation of this chapter. (Ref. §911.060, Code 1966)

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§1109.040 POOL HALLS; CONDITIONS. The City Council shall, after due consideration, grant or deny a license to each applicant. No license or permit shall be issued to any person unless and until the Council shall be satisfied:

1. That all persons to be connected with the operation of the pool hall are responsible and of good moral character.

2. That no person to be connected with the operation thereof is a habitual user of intoxicants or narcotics, or has ever been convicted of a felony.

3. That the person to whom the license or permit is issued, nor any person employed by or connected with him, has within five (5) years immediately preceding suffered a revocation of any license or permit for the operation of any billiard or pool hall, either in the City or any other place.

4. That the proposed pool hall complies, as to construction, with this Code.

Furthermore, the Council may, for any reasonable cause, refuse to grant a license or permit. (Ref. §911.070, Code 1966)

§1109.050 POOL HALLS; ISSUANCE. When the proper fee has been deposited with the Clerk and the Council has so ordered, the Clerk shall issue the license or permit. The license or permit, shall specify the name of the person to whom granted, the specific place where the pool hall is to be located and the number of tables authorized. (Ref. §911.080, Code 1966)

§1109.060 POOL HALLS; LICENSE RESTRICTION. No license issued under this chapter shall be transferable. (Ref. §911.090, Code 1966)

§1109.070 POOL HALLS; REVOCATION OF PERMIT OR LICENSE. All licenses and permits granted hereunder shall be revocable for cause at any time on reasonable hearing prescribed by the Council. If there shall be two (2) convictions for violation of this chapter in any pool hall, whether such violations be by the same or different individuals, and whether of the same or different provisions hereof, the second (2nd) such conviction shall be cause for automatic revocation of the license or permit under which the said pool hall is operating. No refund of fees will be paid on revocation. (Ref. §911.110, Code 1966)

§1109.080 POOL HALLS; DISPLAY OF PERMIT OR LICENSE. Licenses shall be kept conspicuously posted in the pool hall to which it applies. No person shall post such license upon premises other than those for which issued nor deface or destroy any such license or permit. (Ref. §911.100, Code 1966)

§1109.090 POOL HALLS; DUPLICATE PERMIT OR LICENSE. A duplicate permit or license to replace a lost original or for a different location, the original being surrendered, may be issued by the Council at its discretion under such regulations as it may prescribe and upon payment of a fee of ten (\$10.00) dollars. (Ref. §911.120, Code 1966)

§1109.100 POOL HALLS; RESPONSIBILITY OF PROPERTY OWNERS. No person shall permit any real property owner or controlled by him to be used as a pool hall without a license or permit as provided by this chapter. (Ref. §911.130, Code 1966)

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§1109.110 POOL HALLS; OBSTRUCTION OF VIEW PROHIBITED. All windows in front of a pool hall shall be of clear glass and the view of the whole of the pool hall from the entrance and through the windows shall be unobstructed by screens, curtains or, partitions. No stalls, boxes or private rooms shall be permitted except for rooms maintained and used exclusively as storage closets or toilets. (Ref. §911.140, Code 1966)

§1109.120 POOL HALLS; PROHIBITED CONDUCT. It shall be unlawful for any person to whom a license or permit has been granted or for any employee or such person in any pool hall or any appurtenant or connected place:

1. To permit any form of gambling.
2. To permit any person to become disorderly or to use profane, obscene or indecent language.
3. To keep such pool hall open or in operation between twelve (12:00) o'clock midnight and eight (8:00) o'clock a.m.
4. To sell or possess or knowingly allow any person in the pool hall to sell or possess narcotics.
5. To knowingly employ any person who has been convicted of a felony.
(Ref. §911.150, Code 1966)

§1109.130 POOL HALLS; ACTS OF AGENT. The conduct of the agents and employees of a person to whom any such license or permit is issued shall be deemed the conduct of such person himself. (Ref. §911.160, Code 1966)

1110. Public Dances and Dance Halls

§1110.010 PUBLIC DANCES AND DANCE HALLS; DEFINITIONS. For the purposes of this chapter, certain words and terms are defined as follows:

Subd. 1. Public Dance. Any dance wherein the public may participate by payment directly or indirectly of an admission fee for dancing or a fee for membership in a club, and shall include any manner of holding a dance which may be participated in by the public through the payment of money directly or indirectly.

Subd. 2. Public Dance Hall. Any room, place or space open to public patronage in which dancing is carried on and to which admission may be had by the public by payment, directly or indirectly, of an admission fee for dancing. (Ref. Ord. No. 532, 6/13/72)

§1110.020 PUBLIC DANCES AND DANCE HALLS; PERMIT REQUIRED, APPLICATION. It shall be unlawful for any person to give, hold or conduct a public dance unless the owner or proprietor of the dance hall or the person giving the same or in charge thereof, shall have first procured a permit therefor. A dance conducted and supervised by the School District, a public or parochial school in the City or, by a City department or agency, shall not require a permit. A permit shall be procured from the City Manager and may be issued for one (1) or more dances or for a period of time not exceeding one (1) year. (Ref. Ord. Nos. 532, 6/13/72; 542, 9/12/72)

§1110.030 PUBLIC DANCES AND DANCE HALLS; PERMIT FEE, DISPLAY, DISPOSITION. Application for a permit shall be made on a form supplied by the City Clerk. A fee of thirty (\$30.00) dollars shall be paid prior to issuance of a permit. The permit shall specify the name and address of the person to whom issued and the time and place where the dance is to be held. The permit shall be posted in a conspicuous place in the dance hall during the time the dance is in progress and the person named in the permit shall be legally responsible for the manner in which the dance is being held and conducted. All fees for permits shall be paid into the general fund of the City of White Bear Lake. (Ref. Ord. Nos. 532, 6/12/72; 648, 1/13/81)

§1110.040 PUBLIC DANCES AND DANCE HALLS; ADMITTANCE. No person to whom a permit has been issued shall permit in the dance hall any intoxicated person or any unmarried person under the age of sixteen (16) years of age unless such person is accompanied by a parent or guardian. (Ref. Ord. No. 532, 6/13/72)

§1110.050 PUBLIC DANCES AND DANCE HALLS; POLICE. It shall be required of the person to whom the permit is issued to have at least one (1) police officer present at every public dance. Such officer shall be designated by the Chief of Police of the City of White Bear Lake. The fees and expenses of such officer shall be paid in advance by the person to whom the permit has been issued. (Ref. Ord. No. 532, 6/13/72)

§1110.060 PUBLIC DANCES AND DANCE HALLS; HOURS. No public dance shall be held or conducted between the hours of one (1:00) o'clock a.m. and six (6:00) o'clock a.m. of any day and on Sunday prior to twelve (12:00) o'clock noon. (Ref. Ord. No. 532, 6/13/72)

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§1110.070 PUBLIC DANCES AND DANCE HALLS; NUMBERS IN ATTENDANCE. The Code Enforcement Officer, in conjunction with the Fire Chief, shall inspect and post in the halls where public dances are held the maximum number of persons that may be present therein for any dance. (Ref. Ord. No. 532, 6/13/72)

1111. Raffles and Gambling Devices

§1111.010 RAFFLES AND GAMBLING DEVICES; DEFINITIONS. For the purposes of this chapter, certain words and terms are defined as follows:

Subd. 1. Active Member. A member who has paid all his dues to the organization and has been a member of the organization for at least six (6) months.

Subd. 2. Gambling Devices. Those gambling devices known as paddle wheels; "tip boards", pull-tabs (or ticket jars) or apparatus used in conducting raffles.

Subd. 3. Lawful Purpose. One or more of the following:

- (a) Benefiting persons by enhancing their opportunity for religious or educational advancement, by relieving or protecting them from disease, suffering or distress, by contributing to their physical well-being, by assisting them in establishing themselves in life as worthy and useful citizens, or by increasing their comprehension of and devotion to the principles upon which this nation was founded;
- (b) Initiating, performing or fostering worthy public works or enabling or furthering the erection or maintenance of public structures;
- (c) Lessening the burdens borne by government or voluntarily supporting, augmenting or supplementing services which government would normally render to the people; or,
- (d) The improving, expanding, maintaining or repairing real property owned or leased by an organization.

"Lawful purpose" does not include the erection or acquisition of any real property, unless the local unit of government specifically authorizes the expenditures after finding that the property will be used exclusively for one or more of the purposes specified in this clause.

Subd. 4. Paddle Wheel. A wheel marked off into sections containing one (1) or more numbers, and which, after being turned or spun, uses a pointer or marker to indicate winning chances.

Subd. 5. Net Profit. The gross receipts from the operation of gambling devices and the conduct of raffles, less reasonable sums expended for prizes, local licensing fees, taxes and maintenance costs for the devices. (Ref. Ord. 912, 6/28/94)

Subd. 6. Pull-Tabs or Ticket Jars. A single folded or banded ticket or a card, the face of which is initially covered, or otherwise hidden from view, to conceal a number or set of symbols out of every set of pull-tabs (or ticket jars) will have been designated in advance and at random as prize winners. A participant pays a consideration to an operator for the opportunity to obtain a folded or banded ticket or a card, view the numbers or symbols on it and possibly obtain a prize winning pull-tab (or ticket jar).

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Subd. 7. Raffle. A game in which a participant buys a ticket for a chance at a prize, the winner determined by a random drawing to take place at a location and date printed upon the ticket.

Subd. 8. Tipboard. A board, placard, or other device measuring at least twelve (12) inches square, marked off in a grid or columns, in which each section contains a hidden number or numbers, or other symbol, which determines the winning chances. (Ref.Ord. No. 644, 11/12/80)

§1111.020 RAFFLES AND GAMBLING DEVICES; EXCEPTIONS. Nothing in this chapter shall be construed to authorize any use, possession or operation of:

1. Any gambling device which is activated by the insertion of a coin or token; or

2. Any gambling game or device in which the winning numbers, tickets or chances are in any way determined by the outcome of any athletic contest or sporting event. (Ref. Ord. No. 644, 11/12/80)

§1111.030 RAFFLES AND GAMBLING DEVICES; LICENSE REQUIRED LIMITATION, APPLICATION. No person shall directly operate a gambling device or conduct a raffle except as authorized by statute and this Code and unless a license from the State of Minnesota to do so has first been obtained. Licenses for the conduct or operation of raffles or gambling devices shall be issued only to religious, fraternal, veterans or other non-profit organizations not organized for pecuniary profit and duly existing under the laws of the State of Minnesota; provided that the proceeds therefrom are not to inure to the profit of any individual; provided further, that said organization shall have been in existence for at least three (3) years, shall have at least thirty (30) active members and shall comply with Minnesota Statutes Chapter 349. (Ref. Ord. 736, 12/9/86)

Application for a license to conduct raffles or to operate gambling devices shall be made to the Minnesota Charitable Gambling Board with notice given to the City thirty (30) days prior to action by the State to approve or deny. (Ref. Ord. No.644, 11/12/80; 736, 12/9/86).

§1111.040 Deleted (Ref. Ord. 736, 12/9/86)

§1111.050 Deleted (Ref. Ord. 736, 12/9/86)

§1111.060 Deleted (Ref. Ord. 736, 12/9/86)

§1111.070 RAFFLES AND GAMBLING DEVICES OPERATIONAL REQUIREMENTS.

Subd. 1. Prize Limits. Total prizes from the operation of paddle wheels, tipboards and pull-tabs or ticket jars shall not exceed limits established by the State of Minnesota.

Subd. 2. Premises. Gambling devices shall be operated and raffles conducted by a licensed organization only upon premises which it owns or leases except that tickets for raffles conducted in accordance with this chapter may be sold off the premises. Leases shall be for a period of not less than one (1) year and shall be in writing. The City Council may authorize raffles to be conducted by a licensed organization on the premises not owned or leased by the organization. Copies of all leases shall be provided to the City Clerk at the time of application.

Subd. 3. Records and Reports. All qualified charitable organizations selling or operating gambling devices in White Bear Lake shall keep monthly financial records as required by Minnesota Statutes Chapter 349 and shall submit copies of said records no later than January 30, April 30, July 30 and October 30 for the three (3) prior calendar months. Additionally, the qualified charitable organization shall report on or before the dates above the exact purpose and location of contributions made from the gambling proceeds. (Ref. Ord. 736, 12/9/86; 912, 6/28/94)

Subd. 4. Profits. Profits from the operation of gambling devices or the conduct of raffles shall be used solely for lawful purposes as defined in Minnesota Statutes No. 349.12 and as authorized at a regular meeting of the organization. Not less than fifty (50) percent of the profits from the operation of gambling or the conduct of raffles earned by charitable organizations other than veteran's clubs shall be used for lawful purposes conducted or located within the City's trade area as defined as City of White Bear Lake, White Bear Township, Gem Lake, Vadnais Heights, Birchwood, Mahtomedi and Hugo. (Ref. Ord. 736, 12/9/86; 912, 6/28/94)

Subd. 5. Fidelity Bond. (Section deleted in its entirety.)

Subd. 6. Gambling Manager. A gambling manager for a single licensed organization shall not act as a gambling manager for any other licensed organization. (Ref. Ord. No. 644, 11/12/80)

The City may at any time conduct investigations or audits of gambling managers sufficient to ensure legal compliance and reporting.

Subd. 7. Other Requirements. In addition to satisfying the qualifications set forth in Minnesota Statutes, Chapter 349, the following requirements and qualifications must be complied with by all licensed organizations:

- A. May not have a gambling license in more than three establishments in the City of White Bear Lake.
- B. Shall register with the State Gambling Board all equipment and supplies used in a licensed "on-sale" liquor establishment.
- C. Shall be open to inspection by the White Bear Lake Police Department at any reasonable time without notice or warrant on all records including accounting and other bank records.

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- D. Shall submit all addresses of on and off site locations of storage of records and materials.
- E. Upon renewal of the organization's gambling license, the following will be submitted: Names and addresses of all officers, directors and employees directly related to the conduct of gambling; a copy of written procedures and/or criteria of distribution of funds; a copy of internal control procedures.
- F. Shall notify the City in writing within ten (10) days of any changes in its officers, directors, or employees directly related to the conduct of gambling. (Ref. Ord. 912, 6/28/94; 977, 3/14/00)

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MAY BE USED FOR FUTURE EXPANSION.

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1112. Riding Stables

Section 1112 of the White Bear Lake Municipal Code relating to Riding Stables is hereby deleted in its entirety. (Ref. Ord. 1015, 1/13/04)

1113. Roller Skating Rinks

§1113.010 ROLLER SKATING RINKS; LICENSE REQUIRED, APPLICATION, ISSUANCE. No person shall operate a roller skating rink in the City wherein persons shall meet and practice upon roller skates, either for individual exercise, public exhibitions or amusement, without a license. Application for a license shall be filed with the City Clerk. Each application shall state the name and address of the applicant and the exact proposed location of the roller skating rink. Upon the filing of the application, the Council shall grant a license to any applicant who is entitled thereto under the terms and provisions of this chapter. The Clerk shall then issue to the applicant, upon payment of the license fee herein required, a license dated as of the date of approval by the Council. (Ref. §§913.010 through 913.030, Code 1966)

§1113.020 ROLLER SKATING RINKS; LICENSE FEE. The annual fee for a license issued under this chapter shall be set by City Council resolution. (Ref. §913.040, Code 1966; Ord. No. 648, 1/13/81; 1015, 1/13/04)

§1113.030 ROLLER SKATING RINKS; LICENSE EXPIRATION, REVOCATION. Licenses issued under this chapter expire March thirty-first (31st) following their issuance, unless sooner revoked or forfeited. The improper conduct of any roller skating rink or permitting any immoral conduct or practices therein, or the sale of liquor illegally therein, or the violation of this Code in connection with the operation thereof, shall be cause for the revocation of any license. (Ref. §913.050, 913.070, Code 1966)

§1113.040 ROLLER SKATING RINKS; INSPECTION. Each applicant and licensee shall permit the City to inspect and examine the place of business or proposed place of business named in the application as often as may be deemed advisable or necessary, and any refusal upon the part of the applicant or licensee to permit such inspection shall be deemed grounds for the Council to refuse to issue a license or to revoke any license already granted. (Ref. §913.060, Code 1966)

1114. Rubbish Haulers and Junk Dealers

§1114.010 RUBBISH HAULERS AND JUNK DEALERS; DEFINITIONS. For the purposes of this chapter, certain words and terms are defined as follows:

Subd. 1 Junk Dealer. Any person having an established place of business and maintaining a store yard, storeroom or storehouse for the purpose of storing junk or other materials named in Section 1114.020 of this Code and any person, purchasing junk or such other materials for the purpose of shipping or delivering them outside the City.

Subd. 2 Junk Gatherer. Any person who makes a business of going about the City and purchasing the materials mentioned in Section 1114.020 from the general public.

Subd. 3. Garbage. Animal and vegetable waste resulting from the handling, preparation, cooking, service and consumption of food. Dead animals weighing less than ten (10) pounds shall be classified as garbage.

Subd. 4. Rubbish. All wastes (except body wastes), including but not limited to, rubbish, tin cans, paper, cardboard, glass jars, bottles, grass clippings, leaves, Christmas trees, building materials deposited in containers and ashes which normally result from the operation of a household.

Subd. 5. Rubbish Hauler. Any person engaged in the collection of rubbish within the City and the disposal thereof, but not including those engaged exclusively in garbage collection and disposal.

NOTE: All persons collecting and buying junk from the general public or hauling rubbish as a servant, agent or employee of another shall be considered a junk gatherer or rubbish hauler under the terms of this chapter and must be licensed accordingly. (Ref. §913.010, Code 1966)

§1114.020 RUBBISH HAULERS AND JUNK DEALERS; LICENSE REQUIRED, APPLICATION, ISSUANCE. No person shall collect and haul rubbish and trash or engage in the business of gathering, buying or storing of old or scrap metals, second-hand plumbing supplies, secondhand automobile parts, used automobile tires or used or scrap wire, cable, copper, lead, solder, iron, aluminum or brass, or junk of any kind or description without a license. Application for a license shall be made to the City Manager and shall state the full name and address of the applicant, the location of his place of business, the general nature of his business and operations, his address for the past five (5) years and such other information as may be required. Upon the filing of the application, it shall be presented to the Council for its consideration and if granted by the Council, a license shall be issued upon payment of the required fee. (Ref. §§914.020 through 914.040, Code 1966)

§1114.030 RUBBISH HAULERS AND JUNK DEALERS; LICENSE FEE. The fee for a rubbish hauler's license shall be set by City Council resolution and the fee for a junk dealer's license shall be set by City Council resolution. The fee for a junk dealer's license issued for less than one (1) year shall be prorated. (Ref. §914.050, Code 1966; Ord. Nos. 570, 2/11/75; 603, 11/8/77; 1015, 1/13/04)

§1114.040 RUBBISH HAULERS AND JUNK DEALERS; LICENSE EXPIRATION AND REVOCATION. Each license shall expire on March thirty-first (31st) after its issuance, unless sooner revoked or forfeited. Any license may be revoked by the Council for any violation of any provision of this chapter if the licensee has been given a reasonable notice and an opportunity to be heard. (Ref. §§914.060, 914.100, Code 1966)

§1114.050 RUBBISH HAULERS AND JUNK DEALERS; LICENSE RESTRICTIONS. Licenses issued under this chapter shall not be transferable. No junk dealer's license shall be granted unless the location of the building and the yard to be used in the business is first approved by the City Council. No rubbish hauler's license shall be granted unless the method and place of disposition of collections is first approved by the City Council. Junk dealers, junk gatherers and rubbish haulers shall confine their operations between the hours of six (6:00) o'clock a.m. and seven (7:00) o'clock p.m. The Police Department shall have the power and right to inspect the books, records, premises and loads of any licensee hereunder at any time. Junk dealers and rubbish haulers shall not permit any part of their collections of junk, rubbish or trash to fall from their load to any street or alley. (Ref. §914.070, 914.090, Code 1966)

§1114.060 RUBBISH HAULERS AND JUNK DEALERS; DISPLAY OF LICENSE. Each junk dealer's license shall be kept conspicuously posted at the place for which the license is issued and shall be exhibited to any person upon request. Each junk gatherer's or rubbish hauler's license must be carried by the junk gatherer or rubbish hauler at all times When he is collecting junk or hauling rubbish and shall be exhibited to any person upon request. (Ref. §914.080, Code 1966)

1115. Sign Construction

§1115.010 SIGN CONSTRUCTION; LICENSE REQUIRED, APPLICATION, FEE. No person shall engage in the business of erecting, constructing, altering, maintaining, servicing, painting or posting outdoor signs without first (1st) having obtained a license from the City Council. Application for the license required by this chapter shall be upon forms provided by the City Clerk and shall be accompanied by a license fee payable to the City in the amount of thirty-five (\$35.00) dollars per year. Said license fee shall be payable prior to April first (1st) of each year. (Ref. §915.010, 915.020, Code 1966)

§1115.020 SIGN CONSTRUCTION; INSURANCE. No license granted under the terms stated herein, shall become effective until the licensee shall have filed with the City Clerk a copy or a certificate of insurance covering public liability insurance, which policy shall cover and protect the licensee for personal injury to the extent of one hundred thousand (\$100,000.00) dollars for each person injured and three hundred thousand (\$300,000.00) dollars for any one (1) accident or mishap and for property damaged to the extent of three hundred thousand (\$300,000.00) dollars. (Ref. §915.040, Code 1966)

1116. Slaughter and Packing Houses

§1116.010 SLAUGHTER AND PACKING HOUSES; LICENSE REQUIRED, APPLICATION, ISSUANCE. No person shall kill, slaughter, dress or pack any cattle, calves, sheep or swine, or establish a manufactory for candles or soap, within the City of White Bear Lake without a license. Any person desiring a license shall apply in writing to the City Council, stating the business he wishes to pursue and specifying the premises whereon it is to be conducted. After due consideration, the Council shall grant or deny the license at its discretion. (Ref. §§916.010, 916.020, 916.040, Code 1966; Ord. No. 648, 1/13/81)

§1116.020 SLAUGHTER AND PACKING HOUSES; NOTICE REQUIRED. Applicants for a license under this chapter shall give one (1) week's notice of intention to apply for a license. Notice shall be published in a paper published in the City. (Ref. §916.030, Code 1966)

§1116.030 SLAUGHTER AND PACKING HOUSES; LICENSE FEE. A license fee of sixty (\$60.00) dollars per year shall be paid. (Ref. §916.040, Code 1966: Ord. Nos. 570, 2/11/75; 648, 1/13/81)

§1116.040 SLAUGHTER AND PACKING HOUSES; LICENSE DURATION. Upon the approval of the bond, the Clerk shall issue a license to the applicant, which license will continue in force until March thirty-first (31st) following its issuance, unless sooner revoked or forfeited. (Ref. §916.060, Code 1966)

§1116.050 SLAUGHTER AND PACKING HOUSES; BOND. If an application is granted, the applicant shall enter into a bond, with one (1) or more sureties, to be approved by the Council, in the penal sum of not less than one hundred (\$100.00) dollars nor more than two thousand (\$2,000.00) dollars as may be ordered by the Council, conditioned that the applicant will faithfully comply with all the provisions of this chapter, the laws of the State of Minnesota, all laws and orders of the Board of Health, and for the payment of all penalties which may be incurred by the applicant for any violation thereof. (Ref. §916.050, Code 1966)

§1116.060 SLAUGHTER AND PACKING HOUSES; SANITATION REQUIREMENTS. No licensee shall allow any bones, offal, blood, liquor from steam tubs or other offensive matter to fall or run upon the ground, or place or allow to remain in the premises any bones, filth, offal, blood, or offensive matter for a longer period than twenty-four (24) hours from May first (1st) to

November first (1st), nor more than forty-eight (48) hours during any other part of the year. The licensee shall collect the same and bury them or otherwise dispose of them so as not to create a nuisance. Each licensee shall at all times keep his premises in a clean, healthy and inoffensive condition, and comply with the laws and orders of the Board of Health. (Ref. §916.070, Code 1966)

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1117. Soft Drinks

Section 1117 of the White Bear Lake Municipal Code relating to Soft Drinks is hereby deleted in its entirety. (Ref. Ord. 1015, 1/13/04)

1118. Solicitors, Canvassers, Hawkers and Peddlers

§1118.010 SOLICITORS, PEDDLERS AND TRANSIENT MERCHANTS. For the purposes of this chapter, certain words and terms are defined as follows:

Subd. 1. Peddler. Means any person, firm or corporation who goes from dwelling to dwelling, business to business, place to place, or from street to street, carrying or transporting goods, wares or merchandise and offering or exposing them for sale.

Subd. 2. Solicitor. Means any person, firm or corporation who goes from dwelling to dwelling, business to business, place to place or from street to street soliciting donations or attempting to take orders for any goods, wares or merchandise for future delivery.

Subd. 3. Transient Merchant. Means any person, firm or corporation who engages temporarily in the business of selling and delivering goods, wares or merchandise within the City, and who, in furtherance of such purpose, hires, leases, uses or occupies any building, structure, vacant lot, parking lot, motor vehicle, or trailer.

Subd. 4. Canvassers. Sometimes known as an advocate, means any person who goes from location to location with the primary purpose of furthering religious, social, or political advocacy. A canvasser may ask for signatures on a petition; request support for a political candidate or position; espouse religious beliefs or causes; seek donations, organization memberships, or other financial support for their religious, social, or political organization or take orders for sale in order to raise money for a non-profit or other charitable organization's operations. A canvasser does not receive compensation for the performance of these herein described. (Ref. Ord. No. 1059; 10/13/09)

Subd. 5. Professional Fundraiser. Any person, including a corporation or other entity, who, for compensation, performs any solicitations or other services for a religious, politician, social, or other charitable organization. A professional fundraiser shall not be exempt from the registration requirements of this ordinance. (Ref. Ord. No. 1059; 10/13/09)

§1118.020 SOLICITORS, PEDDLERS AND TRANSIENT MERCHANTS; REGISTRATION REQUIRED. It is unlawful for any peddler, solicitor or transient merchant to engage in any such activity within the City of White Bear Lake without first registering with the City Clerk in compliance with the provisions of this ordinance. Registration does not exempt compliance with all other applicable local, state and federal laws.

Subd. 1. Registration. Persons registering under this ordinance shall file a sworn statement with the City on a form to be furnished by the City. The sworn statement shall provide:

- A) Full name and date of birth of registrant(s)
- B) A photocopy of driver's license or other acceptable identification of the person(s) registering;
- C) The permanent home address of the registrant(s), local address if applicable and telephone number;
- D) The name and the address of the place of business or the firm or corporation which the applicant(s) represents, telephone number and credentials therefrom establishing the exact relationship with registrant(s);

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- E) If multiple individuals are registering under one business, firm or corporation, the name and telephone number of person responsible for the group;
- F) A description of the nature of the business and the goods to be sold;
- G) The length of time for which the right to do business is required;
- H) A copy of the firm or individual's sales tax permit;
- I) The source of supply of the goods or products to be sold, or orders taken from the sale thereof, where the goods or products are located at the time of said registration is filed, and the proposed methods of delivery;
- J) If a vehicle is to be used, a description of the vehicle, together with the license number;
- K) In cases of transient merchant sales, the applicant must also provide:
 - i) Proof of appropriate permission to operate on proposed site.
 - ii) A sketch layout of proposed set-up including signage and a list of equipment and supplies at the site for set-up. (Ref. Ord. No. 1059; 10/13/09)

§1118.030 SOLICITORS, PEDDLERS AND TRANSIENT MERCHANTS; REGISTRATION FEE. At the time of registration, the person registering shall pay a fee to cover the administrative costs of processing and investigation. The fee shall be in an amount determined by Council resolution.

§1118.040 PERSONS WORKING FOR OR ASSISTING REGISTRANT. The registrant shall also supply the name and address of all persons working for or assisting the registrant.

§1118.050 REGISTRATION IDENTIFICATION. To identify that they have duly registered with the City, all registered solicitors and peddlers and persons working for those registered shall wear identification issued by the City. All transient merchants shall conspicuously display a registration permit issued by the City.

§1118.060 PRACTICES PROHIBITED. No peddler, professional fundraiser, canvasser or solicitor shall enter in or upon any premises or attempt to enter in or upon any premises between 7:00 pm. and 8:00 a.m. or wherein a sign or placard bearing the notice, "Peddlers or Solicitors Prohibited", or language similar thereto, is located.

§1118.070 REGISTRATION PERIOD. Registration shall be valid for the calendar year. All registrations shall expire on the December 31st after their issue.

§1118.080 FARM AND GARDEN PRODUCTS EXCEPTION. In accordance with Minnesota Statute 329.08, the provision of this ordinance shall not apply to persons selling products of the farm or garden occupied and cultivated by themselves.

§1118.090 EXCEPTIONS.

Subd. 1. The provisions of this ordinance shall not apply to special events such as Manitou Days and Thursday Night Marketfest, which are City-side celebrations and which received special permission from the City Council.

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Subd. 2. The provision of this ordinance shall not apply to the initial contacts to establish delivery routes, businesses making deliveries on routes, or sales made pursuant to invitation issued by the owner or legal occupant.

§1118.100. PENALTY. Any person violating any provision of this ordinance shall be guilty of a misdemeanor. (Ref. Ord. No. 1059; 10/13/09)

Revised 10/13/09

1119. Taxicabs

1119.010 DEFINITIONS. Unless the context otherwise clearly indicates, the following terms shall have the meanings given to them in this Section:

1. Taxicab. Any motor vehicle as defined in M.S. 169.01 engaged in carrying of persons for hire, whether over a fixed route or not, and whether the motor vehicle is operated from a street stand, or subject to calls from a garage, or otherwise operated for hire. The term shall not include motor vehicles subject to control and regulation by the State Public Service Commission, motor vehicles regularly used by undertakers in carrying on their business, or motor vehicles hired on an hourly basis.
2. Taxicab Driver. Any person who drives a taxicab.
3. Street. Any street, alley, avenue, court, bridge, lane or public place or highway in the City.

1119.020 Taxicab License Required. No person shall operate a taxicab within the City without displaying a valid taxicab license duly issued by the City of White Bear Lake or another political subdivision of the state, including the Minneapolis-St. Paul International Airport.

1119.030 Application for Taxicab License. Application for a taxicab driver's license shall be made in writing to the City Manager. The application shall state the full name and address of the owner or owners of the vehicles sought to be licensed, place of business, the type, make, body, style and year of each vehicle proposed to be operated as a taxicab, proof of insurance, a schedule of the rates proposed to be charged therefore, and a brief statement of the way the applicant intends to operate the business.

1119.040 Vehicles Inspection. Prior to use and operation of any vehicle under the provisions of this Section, the vehicle shall be thoroughly examined and inspected by a qualified employee of an authorized service station or garage. The owner of the vehicle shall be responsible for the cost of said inspection. Subsequent inspections will be not less than once every 365 days.

1119.050 Investigation of Applicant. The White Bear Lake Police Department is empowered to conduct any and all investigations to verify the information on the application, including ordering a computerized criminal history inquiry and/or a driver's license history inquiry on the applicant.

1119.060 License Fee. The fee for such license shall be fifty (\$50.00) dollars plus twenty-five (\$25.00) dollars for each vehicle proposed to be operated under the license. (Ref. §503.030, Code 1966; Ord. Nos. 531, 6/13/73; 570, 2/11/75; 648, 1/31/81).

1119.070 Meter. Each taxicab licensed in the City shall be equipped with a taxi meter that can be adjusted and sealed after inspection as to its accuracy by the White Bear Lake Police Department or designated authority before being put into service. The Department may calibrate and inspect these meters at its discretion. (Ref. Ord. 531, 6/13/72).

1119.080 Display of License and Rates. Every driver licensed under this Section shall keep taxicab license and rate structure visible to passengers.

1119.090 Identification of Vehicle. A taxicab that solicits or accepts business or stands, or waits for hire, must have some suitable designation of the character of the vehicle painted in plain visible letters on each side thereof.

1119.100 Passenger Pick-up. A taxicab licensed to operate in another political subdivision of this state including the Minneapolis-St. Paul International Airport may carry passengers to any place or point, within the city and may solicit or pick up business within the city.

1119.110 Soliciting Passengers. A taxicab driver licensed to operate in another political subdivision in this state, including the Minneapolis-St. Paul International Airport may carry passengers from that political subdivision into the city and may freely enter and travel upon its streets and thoroughfares for that purpose, and it is not necessary for the driver to obtain a City of White Bear Lake taxicab license.

1119.120 Annual Review. The City Council prior to March thirty-first (31st) of each year shall review the number of taxicabs licensed to operate in the City and the rate structure for such service. (Ref. Ord. 1046, 11/27/07).

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1120. Traveling Shows and Circuses

§1120.010 TRAVELING SHOWS AND CIRCUSES; LICENSE REQUIRED. No person engaged in the business of a traveling show, circus or other traveling entertainment shall exhibit or supply public entertainment within the City of White Bear Lake without a license. (Ref. §919.010, Code 1966)

§1120.020 TRAVELING SHOWS AND CIRCUSES; LICENSE FEE. Such license shall be obtained from the City Clerk upon the payment of three hundred ten (\$310.00) dollars for each daily performance. (Ref. §919.020, Code 1966; Ord. Nos. 570, 2/11/75; 648, 1/13/81)

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1121. Tree Trimming

§1121.010 TREE TRIMMING; LICENSE REQUIRED, ISSUANCE. No person shall exercise, carry on, or be engaged in a trade or business of the removal of or trimming of trees within the City without first having obtained a license. The City Council shall grant or deny the license in its discretion. (Ref. §§905.010, 905.030, Code 1966)

§1121.020 TREE TRIMMING; LICENSE FEE. The amount to be paid for each license shall be thirty-five (\$35.00) dollars per year. (Ref. §905.020, Code 1966; Ord. No. 603, 11/8/77)

§1121.030 TREE TRIMMING; BOND. Before any person shall be licensed as a tree remover or tree trimmer, he shall file with the City Clerk a bond in the sum of one thousand (\$1,000.00) dollars with a duly licensed surety company as surety thereon. Such surety shall be approved by the City Clerk and said bond shall be approved as to form and execution by the City Attorney. The bond shall be conditioned that the licensee shall observe the provisions of this Code as it relates to the business of tree trimming and removal and that he will conduct such business in conformity therewith and will account for all services to be rendered any person legally entitled thereto and to pay for any damage to any person or property which may be occasioned by the trimming or removal of said trees, and said licensee shall clear and remove all twigs, leaves, branches and other debris caused by the trimming or removal of said trees. (Ref. §905.040, Code 1966)

§1121.040 TREE TRIMMING; INSPECTION. Any person licensed under the provisions of this chapter shall at all times be subject to the inspection of the Public Works Director. (Ref. §905.050, Code 1966)

§1121.050 TREE TRIMMING; INSURANCE. Any person applying for any license enumerated under this chapter shall file with the City Clerk copies of his public liability and property damage insurance policies, which insurance policies shall be maintained in force and effect during the life of his license to perform work under this chapter. Said insurance shall cover public liability which shall not be less than one hundred thousand (\$100,000.00) dollars for injuries, including accidental death, to any one (1) person and subject to the same limit for each person and in an amount of not less than three hundred thousand (\$300,000.00) dollars on account of any one (1) accident and shall cover property damage in the amount of not less than one hundred thousand (\$100,000.00) dollars on account of damage to one (1) party and not less than three hundred thousand (\$300,000.00) dollars on account of any one (1) accident. Said policies shall contain a provision that the policies cannot be cancelled without ten (10) days written notice addressed to the City Clerk.

1122. Arcades

§1122.010 ARCADES; DEFINITIONS. For the purpose of this section the term "arcade" shall mean any building, structure, or tract of land or separate part thereof, which has as its principal use or activity the providing of six or more of the following or any combination of any of the following amusements:

1. Billiard, pool, foosball, air hockey, or pigeon hole tables;
2. Pinball machines;
3. Shooting gallery machines;
4. Electronic video machines;
5. Any amusement devices designed for and used exclusively as rides by children such as, but not limited to, kiddie cars, miniature airplane rides, mechanical horses, and other miniature mechanical devices;
6. Any other mechanical, electrical or electronic device operated by means of the insertion of a coin, token or similar object; for the purpose of amusement or skill whether or not registering a score; or which is designed to be played by a contestant or contestants and upon which the contestants receive a score or rating based upon their performance. (Ref. Ord. No. 664, 12/14/82)

§1122.020 ARCADES; LICENSE REQUIRED. No person shall operate an arcade without first paying a license fee and obtaining and having a current license as herein provided. The license required under this section shall be in addition to any license or licenses required to be obtained for any of the amusements described in Section 1122.010. (Ref. Ord. No. 664, 12/14/82)

§1122.030 ARCADES; APPLICATION. Any person desiring to operate an arcade or to renew his license to conduct such activity shall file in duplicate with the Issuing Authority an application on forms provided by the Issuing Authority for that purpose. The application form shall contain the following, together with any other information which the Issuing Authority may require:

1. The full name and address of applicant, and the applicant's date and place of birth;
2. Address of the arcade or the proposed arcade, and the zoning classification;
3. A description of the machines to be covered by the license including mechanical features, name or manufacturer, and serial number;
4. The name and address of all persons owning or having an interest in the licensed premises. In the case of a corporation this shall include the names and addresses of the officers and directors of the corporation and all shareholders who own alone or in conjunction with their spouse or children more than five (5%) percent of the issued shares of corporate stock;

5. If the licensed business is owned by a corporation, a copy of the certificate of incorporation, articles of incorporation and by-laws of the corporation;

6. The name and address of the manager or managers who will supervise the licensed activity;

7. Whether any of the persons listed in 1, 3, or 5 of this section have been convicted of a crime or have had an application for an arcade license denied, revoked or suspended within the last five (5) years;

8. All applications shall also include a statement that the applicant, if requested by the City Clerk, will permit a record of his fingerprints to be made by the Police Department for the purpose of additional investigation to determine whether or not the application should be granted. (Ref. Ord. No. 664, 12/14/82)

§1122.040 ARCADES; LICENSE FEES AND LICENSE PERIOD. The license shall be for the calendar year or remaining portion thereof. The license fee shall be one hundred (\$100.00) dollars per year or portion thereof. The entire fee shall accompany the application and such fee shall be refunded only if the application is withdrawn before Council consideration of the application. (Ref. Ord. No. 664, 12/14/82)

§1122.050 ARCADES; GRANTING OF LICENSES.

1. One copy of the application shall be referred to the Police Chief or his designated inspector who shall investigate the premises where the arcade is operated or where the proposed arcade will be operated, ascertain whether the applicant and manager or managers are persons of good moral character, and either approve or disapprove the application. No license shall be issued to any applicant unless it has been approved by the Chief of Police or his designated inspector. The initial application must be accompanied by a two hundred (\$200.00) dollar background investigation fee in addition to the license fee.

2. The City Council may seek the recommendation of any other employee of the Issuing Authority as the City Council deems necessary. If so, the Council shall refer a copy of the application to the employee, and the employee shall make a written report to the City Council on their findings in regard to the application.

3. The application, together with the Police Chief's recommendation and other recommendations requested of employees of the Issuing Authority, shall be submitted to the City Council. The Council may grant or deny the license. In granting the license, the Council may impose special conditions if it deems such conditions to be necessary because of particular circumstances related to the application. If granted, the City Clerk shall issue the license to the applicant. (Ref. Ord. No. 664, 12/14/82)

§1122.060 ARCADES; INELIGIBILITY FOR LICENSE. Existence of any of the following conditions shall render the applicant ineligible for a license:

1. If the applicant is:

- a. under eighteen (18) years of age;
- b. an alien;
- c. a foreign corporation;

2. If the applicant, employee or employees who supervise the licensed activity or persons owning the licensed activity:

- a. is not a person of good moral character and repute;
- b. has been convicted of "any" offense which may elate to the conduct of the licensed business;
- c. has operated a similar business elsewhere which operation did not substantially comply with the provisions of his Code relating to the manner in which the business is conducted;
- d. has been denied a license to conduct a like or similar activity or has had such license suspended, revoked or cancelled.
(Ref. Ord. No. 662, 12/14/82)

§1122.070 ARCADES; CONDITIONS OF LICENSURE. The following conditions shall govern the issuance and holding of all licenses granted pursuant to this Code:

1. Arcades must first receive a Special Use Permit from the City Council as stipulated in the Zoning Code before a license is issued;

2. The consumption of alcoholic beverages, whether classified as intoxicating or non-intoxicating, or the use of any controlled substance on any part of the licensed premises is prohibited provided, however, that a business with a non-intoxicating malt liquor license may allow the consumption of non-intoxicating malt liquor on the premises;

3. No person under the age of sixteen (16) years of age shall be permitted to remain on any part of the licensed premises after 10:00 p.m. unless accompanied by his parent or legal guardian;

4. No person attending or required by state law to attend elementary, middle or secondary school shall be permitted to enter into or remain on any part of the licensed premises before 3:00 p.m. on any day when public school is in session;

5. The licensed premises shall fully comply with all applicable state and local regulations dealing with health, zoning and building requirements;

6. The licensee shall be responsible for maintaining order on all parts of the

licensed premises;

7. Only amusements with a current valid White Bear Lake license tag attached may be offered for use or kept on the licensed premises;

8. Wagering or betting for a consideration or any other gambling on the licensed premises is prohibited;

9. The licensed activity shall be conducted in such a manner and located in such a place so as not to be likely to result in injury or damage to persons or property in the neighborhood or injurious, annoying or disruptive to patrons of other businesses located in the area;

10. The applicant or employee or employees who will supervise the licensed activity designated in the license application shall be present on the premises during all times the premises are open. All supervisory employees must be at least twenty-one (21) years of age;

11. No arcade nor any coin-operated musical or other musical device therein shall be operated so as to constitute a public nuisance;

12. It shall be the responsibility of the licensee to see that the licensed premises do not become overcrowded so as to constitute a hazard to the health or safety of persons therein. The City Fire Chief may inspect the premises and designate the maximum number of persons to be permitted on the licensed premises;

13. It is unlawful for any person, firm, partnership, or corporation engaged in the business of operating an arcade to sell, offer for sale, or knowingly permit to be sold, or offered for sale, or to be dispensed or consumed or knowingly bought on the licensed premises any alcoholic beverages or narcotic drugs, or to knowingly allow any illegal activity upon the licensed premises provided, however, that a business with a non-intoxicating malt liquor license may offer for sale and sell non-intoxicating liquor on the licensed premises;

14. Every arcade licensed under this Code shall have its license affixed on its premises in plain view evidencing the issuance of its license;

15. The license required and described in this Code is a personal privilege and does not constitute property. No transfer of a license shall become effective until the proposed transferee has submitted to a background investigation as required by section 1122.050 of this Code, and until the City Council has approved the transfer;

16. Arcades shall be closed at 1:00 p.m. each night and shall not open until 10:00 a.m. on weekdays and Saturdays or until 12:00 noon on Sundays, provided, however, that businesses with a non-intoxicating malt liquor license may be open at 8:00 a.m. on weekdays and Saturdays;

17. Smoking shall not be allowed in the licensed premises except in designated smoking areas;

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18. The sale of cigarettes, cigars, pipes or tobacco in any form in the licensed premises is prohibited;

19. There shall be no entrances or exits to adjoining buildings, uses or premises; provided, however, that if the licensed premises is located in a shopping mall, any and all entrances

to the licensed premises must be directly through the shopping mall, and no licensed premises may be directly accessible to patrons without passing through such shopping mall. Notwithstanding the foregoing, the licensed premises may have a fire door that will permit patrons to exit only in times of emergency;

20. Only premises which are within Retail Business. General Business or Industrial districts of the City may be licensed;

21. Licensed premises may not be located within three hundred (300') feet of any school or church;

22. The licensee shall provide bicycle racks for at least twenty (20) bicycles; ,

23. The aforesaid restrictions may be amended and additional conditions or restrictions may be imposed or added as a part of any Special Use Permit issued pursuant to the City's Zoning Code.

(Ref. Ord. No. 662, 12/14/82)

§1122.080 ARCADES; BONDS.

1. At the time of filing an application for license under this section, the applicant shall file a bond with corporate surety with the Issuing Authority. Such bond shall be in the amount of one thousand (\$1,000.00) dollars.

2. The surety on the bond shall be a surety company duly licensed to do business in the State of Minnesota. All surety bonds shall be approved by the City Attorney as to form and execution and deposited with the Issuing Authority.

3. All such bonds shall be conditioned as follows:

a. The licensee shall obey the laws relating to the licensed business;

b. The licensee shall pay to the City when due all taxes, license fees, penalties and other charges provided by law;

c. In the event of violation of any law relating to the business for which the license has been granted, the bond shall be forfeited to the City;

4. All such bonds shall be kept in full force and effect throughout the License period. (Ref. Ord. No. 662, 12/14/82)

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§1122.090 ARCADES; INSURANCE. The applicant shall submit with his application a policy of liability insurance applicable to death or injury caused by the operation of the amusements in the minimum of one hundred thousand (\$100,000.00) dollars for injury to or death of any one person, or three hundred thousand (\$300,000.00) dollars for an accident. (Ref. Ord. No. 662, 12/14/82)

§1122.100 ARCADES; SUSPENSION OR REVOCATION. The City Council may suspend for a period not exceeding sixty (60) days or revoke any license whenever the licensee, its owner, manager, or employees or agents of the licensee have engaged in any of the following conduct:

1. Fraud, deception or misrepresentation in connection with the securing of a license;
2. Conduct inimical to the interests of public health, safety, welfare or morals;
3. Conduct involving moral turpitude;
4. Conviction of an offense involving moral turpitude by any court of competent jurisdiction;
5. Failure to comply with any of the provisions of this Code, the laws of the State of Minnesota, or engaging in conduct which would be grounds for denial of an initial application for licensure.

The holder of a license or permit shall be granted a hearing upon at least ten (10) days notice before revocation or suspension is ordered. The notice shall state the nature of the charges against the licensee. (Ref. Ord. No. 662, 12/14/82)

§1122.110 ARCADES; UNLAWFUL ACTS. It is unlawful to falsify an application for an arcade license, to operate an arcade while the licensee is ineligible for a license, or operate an arcade in violation of any of the conditions of licensure. (Ref. Ord. No. 662, 12/14/82)

§1122.120 ARCADES; PENALTY. Any person violating any provisions of this Code shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than five hundred (\$500.00) dollars or imprisonment not to exceed ninety (90) days or both. (Ref. Ord. No. 662, 12/14/82)

§1122.130 ARCADES; SEIZURE AND DESTRUCTION OF MACHINE. If the Police Chief or his designated inspector shall have reason to believe any amusement listed in Section 1122.010 and located within an arcade is used as a gambling device, such machine may be seized by the police and impounded. (Ref. Ord. No. 662, 12/14/82)

1123. Public Benches

§1123.010 PERMIT REQUIRED. No person shall place or maintain any bench or seat on any public sidewalk or way within the City of White Bear Lake unless he shall have obtained a permit and have complied with the provisions of Sections inclusive of this ordinance.

§1123.020 PROCEDURE FOR ISSUANCE OF PERMITS. A permit to install and maintain a bench on and along any public sidewalk or way may be issued by the City Council to a person by complying with the following requirements:

1. The application for such permit shall be in a form determined by the City Manager and shall contain the location, detailed plans and specifications of each proposed bench and such other information as shall be required by the City Manager.

a. The location of each bench shall be placed at an authorized stop of a recognized public transit route. Other locations that are deemed to be in the public interest may be approved by the City Council.

b. Each bench shall be constructed in such a manner that it is appropriate and compatible with the visual character of the surrounding area. All proposed benches shall be accompanied with a diagram or photograph specifying design and materials.

2. Each application shall be accompanied by a written statement in such form as the City Attorney shall require, signed by the owners or Lessees of the property adjacent to the portion of the street or sidewalk where each bench is proposed to be located giving such owners' or Lessees' consent to the installation of such bench at the proposed location. The applicant shall furnish therewith such evidence of ownership or lease as shall be required by the City Attorney.

3. Each application shall be accompanied by a fee set by City Council resolution. Renewal fees shall be payable when the application for renewal is filed. (Ref. Ord. 1015, 1/13/04).

4. Application for renewal shall be made in such form as the City Clerk shall require and shall be submitted prior to the expiration date of the preceding Permit. Renewal permits may be issued without further consent of the owner of the land or lessee of the property upon which such bench is located unless written objection to such renewal of permit shall be filed by the owner, or lessee, with the City Clerk not later than the first day of January preceding the date of expiration of the existing permit in each case. The City Manager is authorized to approve permit renewals.

5. Whenever a bench for which a permit has been issued is sold or title control thereof transferred or assigned, a new permit shall be required.

6. One application may be made by the same owner for issuance of permits for several benches at similar or different locations, but a separate permit shall be assigned and issued for each bench authorized to be installed and each such permit shall be valid only for the particular location designated therein.

§1123.030 WHERE PUBLIC BENCHES ARE PROHIBITED. No permit shall be issued for the installation and maintenance of any such bench:

1. At any location which in the judgment of the City Manager would interfere with the use of the street or sidewalk and any alley or driveway.

2. At any location where the distance from the face of the curb to the inside sidewalk line is less than eight (8) feet.

§1123.040 DENIAL OR REVOCATION OF PERMITS.

1. The application shall be denied if the City Council shall find that the maintenance of the bench at the proposed location would tend unduly to obstruct passage along any public sidewalk or public way, or to create a hazard, or otherwise to be detrimental to the public safety, convenience or welfare.

2. If the owner, or lessee of any surrounding property shall by writing filed with City Clerk on or before the first day of January preceding the expiration of any permit, withdraw his consent to the renewal thereof, after such expiration, the City Manager shall promptly notify the permittee of the filing of such writing. The City Council shall review all issues and will permit or deny the renewal of such permit.

§1123.050 INSTALLATION AND MAINTENANCE OF BENCHES.

1. When a permit is issued each such courtesy bench shall be installed parallel with the curb and set back not less than twenty four (24) inches from the face of the curb.

2. No bench shall be more than thirty (30) inches wide or seven (7) feet long over all.

3. Each bench shall have displayed thereon, in a conspicuous place, the name and telephone number of the licensee.

4. It shall be the duty of the licensee to maintain each bench at all times in a safe condition at its proper location and to inspect each bench periodically in order that it may be properly maintained.

§1123.060 ADVERTISING AND SIGNS.

1. No advertising matter or sign shall be displayed upon any bench except only upon the front and rear surfaces of the backrest.

2. No advertising matter or sign on any bench shall display the words "STOP", "LOOK", "DRIVE IN", "DANGER", or any other word, phrase or symbol which might interfere with, mislead, or distract traffic.

3. No advertising matter or sign on any bench shall display, promote, or sell tobacco products or alcoholic beverages.

4. No advertising matter or sign on any bench shall display or promote any candidate or organization that is political in nature.

§1123.070 REMOVAL OF BENCHES. Upon revocation or expiration of any permit without renewal, if the permittee fails promptly to remove a bench, the City Manager may do so within ten (10) days after written notice given by mail directed to the address of the permittee on file and, if the permittee shall fail to pay the cost of removal and storage thereof within a period of sixty (60) days after the giving of such notice, the permittee's right in said bench shall be forfeited, but such forfeiture shall not excuse the permittee from the payment of the cost of removal and storage of said bench. (Ref. Ord. No. 685, 1/8/85, 946, 5/13/97)

1124. ADULT ESTABLISHMENTS

§1124.010 Findings and Purpose. A study conducted by the Minnesota Attorney General has examined the impact that sexually orientated adult establishments have in cities in Minnesota and throughout the country. This study concluded that adult establishments have an adverse impact on surrounding neighborhoods. Those impacts include increased crime rates, lower property values, increased transiency, neighborhood blight and potential health risks. Based on these studies and findings, the City Council concludes:

- A. The public health, safety, morals and general welfare will be promoted by the city adopting regulations governing adult establishments.
- B. Adult establishments have adverse secondary impacts of the types set forth above.
- C. The adverse impacts caused by adult establishments tend to diminish if adult establishments are governed by locational requirements, licensing requirements and health requirements.
- D. It is not the intent to prohibit adult establishments from having a reasonable opportunity to locate in the city.

§1124.020 Definitions. For the purposes of this chapter only, the words and phrases below are defined as follows:

1. Adult Establishment. A business engaged in any of the following activities or which utilizes any of the following business procedures or practices:

- A. A business that is conducted exclusively for the patronage of adults and as to which minors are specifically excluded from patronage, either by operation or law or by the owners of such business, except any business licensed under Chapter 1002 of the White Bear Lake City Code;
- B. Any business that has a substantial or significant portion of its floor space that is characterized by an emphasis on material depicting, exposing, describing, discussing or relating to specified sexual activities or specified anatomical areas.

An adult establishment includes, but is not limited to, any adult use as defined in this chapter.

2. Adult Use. An adult use is any of the activities and businesses described below:

- A. Adult Body Painting Studio. An establishment or business which provides the service of applying paint or other substance, whether transparent or non-transparent, to or on the body of a patron when such body is wholly or partially nude in terms of "specified anatomical areas."
- B. Adult Bookstore. A building or portion of a building used for the barter, rental or sale of items consisting of printed matter, pictures, slides, records, audio tape, videotape or motion picture film if such building or portion of a building is not open to the public generally but only to one or more classes of the public excluding any minor by reason of age or if a substantial or significant portion of such items are distinguished or characterized by an emphasis on the depiction or description of "specified anatomical areas."

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- C. Adult Cabaret. A building or portion of a building used for providing dancing or other live entertainment, if such building or portion of a building excludes minors by virtue of age or if such dancing or other live entertainment is distinguished or characterized by an emphasis on the presentation, display, depiction or description of "specified sexual activities" or "specified anatomical areas."
- D. Adult Companionship Establishment. A companionship establishment which excludes minors by reason of age, or which provides the service of engaging in or listening to conversation, talk or discussion between an employee of the establishment and a customer, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."
- E. Adult Conversation/Rap Parlor. A conversation/rap parlor which excludes minors by reason of age, or which provides the service of engaging in or listening to conversation, talk or discussion, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."
- F. Adult Health/Sport Club. A health/sport club which excludes minors by reason of age, or if such club is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."
- G. Adult Hotel or Motel. Adult hotel or motel means a hotel or motel from which minors are specifically excluded from patronage and wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or specified anatomical areas."
- H. Adult Massage Parlor, Health Club. A massage parlor or health club which restricts minors by reason of age, and which provides the services of massage, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."
- I. Adult Mini-Motion Picture Theater. A building or portion of a building with a capacity for less than 50 persons used for presenting material if such building or portion of a building as a prevailing practice excludes minors by virtue of age, or if such material is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.
- J. Adult Modeling Studio. An establishment whose major business is the provision, to customers, of figure models who are so provided with the intent of providing sexual stimulation or sexual gratification to such customers and who engage in "specified sexual activities" or display "specified anatomical areas" while being observed, painted, painted upon, sketched, drawn, sculptured, photographed or otherwise depicted by such customers.
- K. Adult Motion Picture Arcade. Any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrically or mechanically controlled or operated still or motor picture machines, projectors or other image producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing "specified sexual activities" or "specified anatomical areas."

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- L. Adult Motion Picture Theater. A building or portion of a building with a capacity of 50 or more persons used for presenting material if such building or portion of a building as a prevailing practice excludes minors by virtue of age or if such material is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.
- M. Adult Novelty Business. A business which has as a principal activity the sale of devices which stimulate human genitals or devices which are designed for sexual stimulation.
- N. Adult Sauna. A sauna which excludes minors by reason of age, or which provides a steam bath or heat bathing room used for the purpose of bathing, relaxation or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by the sauna is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."
- O. Adult Steam Room/Bathhouse Facility. A building or portion of a building used for providing a steam bath or heat bathing room used for the purpose of pleasure, bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent if such building or portion of a building restricts minors by reason of age or if the service provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."

3. Specified Anatomical Areas.

- A. Less than completely and opaquely covered human genitals, pubic region, buttock, anus or female breast(s) below a point immediately above the top of the areola; and
- B. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

4. Specified Sexual Activities.

- A. Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following sexually-oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerasty; or
- B. Clearly depicted human genitals in the state of sexual stimulation, arousal or tumescence; or
- C. Use of human or animal ejaculation, sodomy, oral copulation, coitus or masturbation; or
- D. Fondling or touching of nude human genitals, pubic region, buttocks or female breast; or
- E. Situations involving a person or person, any of whom are nude, clad in undergarments or in sexually revealing costumes, and who are engaged in activities involving the flagellation, torture, fettering, binding or other physical restraint of any such person; or
- F. Erotic or lewd touching, fondling or other sexually-oriented contact with an animal by a human being; or

G. Human excretion, urination, menstruation, vaginal or anal irrigation.

5. Substantial or Significant. For purposes of this section, the phrase "substantial or significant" means that at least 20 percent of the portion of the floor area of the business (not including storerooms, stock areas, bathrooms, basement or any portion of the business not open to the public) is devoted to items, merchandise or other material that is distinguished or characterized by an emphasis on the depiction or description of "specific sexual activities" or "specified anatomical areas."

§1124.030 Location. Adult establishments shall be located only in districts zoned B-W, I-1 and I-2 and shall be located at least 500 radial feet, as measured in a straight line from the closest point of the property line of the building upon which the adult establishment is located, to the property line of:

- A. Residentially zoned property.
- B. A licensed day care center.
- C. A public or private educational facility classified as an elementary, junior high or senior high.
- D. A public park.
- E. A church.

§1124.040 License Required. No person, firm or corporation shall own or operate an adult establishment without having first secured a license as provided for in this chapter.

Subd. 1 Applications. The application for an adult establishment license shall be submitted on a form provided by the city and shall include:

- A. The name, residence, phone number and birth date of the applicant, if an individual; and if a corporation, the names, residences, phone number and birth dates of those owners holding more than five percent of the outstanding stock of the corporation;
- B. The name, address, phone number and birth date of the manager of such operation, if different from the owners;
- C. The address and legal description of the premises where the adult establishment is to be located;
- D. A statement detailing each gross misdemeanor or felony relating to a sex offense and/or the operation of adult uses and related activities of which the applicant, or in the case of a corporation, the owners of more than five percent of the outstanding stock of the corporation, have been convicted, and whether or not the applicant has ever applied for or held a license to operate a similar type of business in other communities;
- E. The activities and types of business to be conducted;
- F. The hours of operation;
- G. The provisions made to restrict access by minors;

H. A building plan of the premises detailing all internal operations and activities.

Subd. 2 License Fees.

- A. Each application for a license shall be accompanied by a receipt from the city for payment in full of the required fee for the license. All fees shall be paid into the general fund of the municipality. Upon rejection of any applications for a license, the treasurer shall refund the amount paid.
- B. All licenses shall expire on the last day of March in each year. Each license shall be issued for a period of one year, except that if a portion of the license year has elapsed when the application is made, a license may be issued for the remainder of the year for a pro rated fee. In computing such fee, any unexpired fraction of a month shall be counted as one month.
- C. The annual license fee for adult establishments shall be \$1,500.00
- D. No part of the fee paid for any license shall be refunded except in the following instances upon application to the city administrator within 30 days from the happening of the event. There shall be refunded a pro rata portion of the fee for the unexpired period of the license, computed on a monthly basis, when operation of the licensed business ceases not less than one month before expiration of the license because of:
1. Destruction or damage of the licensed premises by fire or other catastrophe;
 2. The licensee's illness;
 3. The licensee's death;
 4. A change in the legal status making it unlawful for the licensed business to continue.

Subd. 3 Granting of License.

- A. The city manager or police chief, or such persons as they shall designate, shall complete their investigation within 30 days after the city manager receives a complete application and all license and investigative fees.
- B. If the application is for a renewal, the applicant shall be allowed to continue business until the Council has determined to renew or refuse to renew a license.
- C. If, after such investigation, it appears that the applicant and the place proposed for the business are eligible for a license under the criteria set forth in this subsection, then the license shall be issued by the City Council within 30 days after the investigation is completed. Otherwise the license shall be denied.

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- D. 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 premise without the approval of the City Council. If the licensee is a partnership or a corporation, a change in identity of any of the principals of the partnership or corporation shall be deemed a transfer of the license. All adult establishments existing at the time of the adoption of this subsection shall be required to obtain an annual license.
- E. An applicant for any license under this section shall deposit with the city at the time an original application is submitted, \$500 to cover the costs involved in verifying the license application and to cover the expense of any investigation needed to assure compliance with this section. If the investigation and verification process is conducted outside the state of Minnesota, the city may require the actual investigation costs not exceeding \$1,500.

Subd. 4 Persons Ineligible for License. No license shall be granted to or held by any person:

- A. Under 21 years of age;
- B. Who has been convicted of a felony or of violating any law of this state or local ordinance relating to sex offenses and/or adult establishments.
- C. Who is not the proprietor of the establishment for which the license is issued.

Subd. 5 Places Ineligible for License.

- A. No license shall be granted for adult establishments on any premises where the owner or the applicant has been convicted of a violation of this chapter, or where any license hereunder has been revoked for cause, until one year has elapsed after such conviction or revocation.
- B. Except for uses lawfully existing at the time of this ordinance adoption, no license shall be granted for any adult establishment which is not in compliance with the city's zoning regulations.

Subd. 6 Conditions of License.

- A. Every license shall be granted subject to the following conditions and all other provisions of this chapter, and of any applicable sections of the code of the city or state law.
- B. All licensed premises shall have the license posted in a conspicuous place at all times.
- C. No minor shall be permitted on the licensed premises.
- D. Any designated inspection officer of the city shall have the unqualified right to enter, inspect and search the premises of a licensee during business hours.

- E. Every licensee shall be responsible for the conduct of his/her place of business and shall maintain conditions of order. Added
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Subd. 7 Additional Conditions for Adult Cabarets. In addition to all other conditions set forth in this ordinance, the following conditions apply to adult cabarets:

- A. No owner, operator or manager of an adult cabaret shall permit or allow any dancer or other live entertainer to perform nude.
- B. No dancer, live entertainer, patron or any other person shall be nude in an adult cabaret.
- C. The owner, operator or manager of an adult cabaret shall provide the following information to the city concerning any persons who dance or perform live entertainment at the adult cabaret: The person's name, home address, home telephone number, date of birth and any aliases.
- D. No dancer, live entertainer or performer shall be under 18 years old.
- E. All dancing or live entertainment shall occur on a platform intended for that purpose and which is raised at least two feet from the level of the floor.
- F. No dancer or performer shall perform any dance or live entertainment closer than 10 feet to any patron.
- G. No dancer or performer shall fondle or caress any patron and no patron shall fondle or caress any dancer or performer.
- H. No patron shall pay or give any gratuity to any dancer or performer.
- I. No dancer or performer shall solicit any pay or gratuity from any patron.

Subd. 8 Penalty.

- A. Any person violating any provision of this chapter is guilty of a misdemeanor and upon conviction shall be punished not more than the maximum penalty for a misdemeanor as prescribed by state law.
- B. Any violation of this chapter shall be a basis for the suspension or revocation of any license granted hereunder. In the event that the City Council proposes to revoke or suspend the license, the licensee shall be notified in writing of the basis for such proposed revocation or suspension. The Council shall hold a hearing for the purpose of determining whether to revoke or suspend the license, which hearing shall be within 30 days of the notice.

- C. The City Council shall determine whether to suspend or revoke a license within 30 days after the close of the hearing or within 60 days of the date of the notice, whichever is sooner, and shall notify the licensee of its decision within that period.

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§1124.050 Severability. The provisions of this ordinance shall be severable. If any provision is found to be void, the remaining provisions of the law shall remain valid, unless the court finds the valid provisions of the law are so essentially connected with the void provisions so that the court cannot presume the Council would have enacted the remaining valid provisions without the void one; or unless the court finds the remaining valid provisions, standing alone are incomplete and incapable of being executed in accordance with the legislative intent.

1125. PAWNBROKERS AND PRECIOUS METAL DEALERS

§1125.010 Findings and Purpose. The City Council finds that pawnbrokers and precious metal dealer regulation is appropriate because such activities provide an opportunity for the commission of crimes and their concealment because such businesses have the ability to receive and transfer stolen property easily and quickly. The City Council also finds that consumer protection regulation of such activities is warranted because customers of such businesses frequently seek their services during times of desperate financial circumstances.

§1125.020 License Required. No person shall exercise, carry on or be engaged in the trade or business of pawnbroker or precious metal dealer within the city unless such person is currently licensed under this ordinance to be a pawnbroker or precious metal dealer, respectively.

§1125.030 Definitions. Certain words when used in this section shall have the following meanings:

1. Item Containing Precious Metal. An item made in whole or in part of metal and containing more than one percent by weight of silver, gold or platinum.

2. Minor. Any natural person under the age of 18 years.

3. Pawnbroker. A person who loans money on deposit or pledge of personal property or other valuable thing or who deals in the purchasing of personal property or other valuable thing on condition of selling that thing back again at a stipulated price or who loans money secured by chattel mortgage or personal property, taking possession of the property or any part thereof so mortgaged.

4. Pawnshop. Any business establishment operated by a pawnbroker.

5. Person. One or more natural persons; a partnership, including a limited partnership; a corporation, including a foreign, domestic or nonprofit corporation; a trust; a political subdivision of the state; or any other business organization.

6. Precious Metal Dealer. Any person engaging in the business of buying coins or second-hand items containing precious metal, including, but not limited to, jewelry, watches, eating utensils, candlesticks and religious and decorative objects. Persons conducting the following transactions shall not be deemed to be precious metal dealers:

- A. Transactions at occasional "garage" or "yard" sales, or estate sales or auctions held at the decedent's residence.
- B. Transactions regulated by Minnesota Statutes, Chapter 80A.
- C. Transactions regulated by the Federal Commodity Futures Commission Act.
- D. Transactions involving the purchase of precious metal grindings, filings, slag, sweeps, scraps or dust from an industrial manufacturer, dental lab, dentist or agent thereof.
- E. Transactions involving the purchase of photographic film such as lithographic and x-ray film, or silver residue or flake covered in lithographic and x-ray film processing. Added

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- F. Transactions involving coins or bullion in ingots.
- G. Transactions in which the secondhand item containing precious metal is exchanged for a new item containing precious metal and the value of the new item exceeds the value of the secondhand item.
- H. Transactions between precious metal dealers if both dealers are licensed under Minnesota Statutes, Section 325F.733, or if the seller's business is located outside of the state and the item is shipped from outside the state to a dealer licensed under Minnesota Statutes, Section 325F.733.
- I. Transactions in which the buyer of the secondhand item containing precious metal is engaged primarily in the business of buying and selling antiques and the items are resold in an unaltered condition except for repair, and the items are resold at retail, and the buyer paid less than \$2,500 for secondhand items containing precious metals purchased within any period of 12 consecutive months.

7. Precious Metals. Silver, gold or platinum.

8. Redemption Period. The date by which an item of property that has been pawned must be redeemed by the pledger without risk that the item will be sold. Such date must be a day on which the pawnbroker or precious metal dealer is open for regular business.

§1125.040. Applications for Licenses. Every application for licenses under this section, whether for a natural person, partnership, corporation or other organization shall be made on a form supplied by the city and shall contain all information as required on that form by law.

§1125.050. Investigation by Police Department. All applications shall be referred to the Police Department for verification and investigation of the facts set forth in the application. The Police Department shall make a written report and recommendation to the City Council as to issuance or non-issuance of the license. The City Council may order and conduct such additional investigation as it deems necessary.

An applicant for any license under this section shall deposit with the city at the time an original application is submitted, \$500 to cover the costs involved in verifying the license application and to cover the expense of any investigation needed to assure compliance with this section. If the investigation and verification process is conducted outside the state of Minnesota, the city may require the actual investigation costs not exceeding \$1,500.

§1125.060 Term of License and Renewals.

1. All licenses issued through this section shall be for a period of 12 months beginning January 1, pro rated on a monthly basis.

2. A license under this section will not be renewed if:

- A. The City Council determines that the licensee has failed to comply with the provisions of this ordinance in a preceding license year.

B. There would be sufficient grounds not to issue a license in the first instance.

§1125.070 License. The license application fees for pawnbrokers and precious metal dealers licenses shall be \$10,000.00.

§1125.080 Persons and Locations Ineligible for Licenses.

1. No licenses under this chapter shall be issued to an applicant who is a natural person, general or managing partner, manager, proprietor or agent if such applicant:

- A. Is a minor at the time the application is filed.
- B. Has been convicted of any offense related to the occupation licensed or involving moral turpitude.
- C. Is not a citizen of the United States or a resident alien.
- D. Is not of good moral character or repute.
- E. Holds an intoxicating liquor license under this Code.
- F. Has had a pawnbroker or precious metal dealer license revoked elsewhere.
- G. Other good and sufficient reason in the sole discretion of the City Council.

2. The following locations shall be ineligible for licenses under this chapter:

- A. No license shall be granted or renewed for operation on any property on which taxes, assessments or other financial claims of the state, county, school district or city are due, delinquent or unpaid.
- B. No license shall be granted or renewed if the property on which the business is to be conducted is owned or controlled by a person who is ineligible for a license.
- C. The property is not properly zoned as B-W, I-1 or I-2 and a conditional use permit has not been granted by the City Council.

3. No license shall be issued for multiple pawnbrokers or precious metal dealers at one location.

§1125.090 Requirements of Licensees.

1. Record Keeping. At the time of receipt of an item of property, whether sold or pawned, the pawnbroker or precious metal dealer shall immediately record, on computer disk or in a book or journal which has page numbers that are pre-printed and in an indelible ink, the following information:

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- A. An accurate description of the item of property including, but not limited to, any trademark,

identification number, serial number, model number, brand, brand name or other identifying mark on such item;

- B. The date and time the item of property was received;
- C. The name, address and date of birth of the person from whom the item of property was received;
- D. The identification number from any of the following forms of identification of the person from whom the item of property was received:
 - 1) A valid driver's license.
 - 2) A valid state picture identification.
 - 3) A photo identification issued by the state of residency of the person from whom the item was received.
- E. The price of the item paid and whether the item was purchased or pawned.

2. Inspection of Records. The pawnbroker or precious metal dealer shall make available the information required in paragraph one of this section at all reasonable times for inspection by the city Police Department or other representative of the city.

The information required in this section shall be retained by the pawnbroker or precious metal dealer for at least five years.

3. Items for Which Daily Reports to Police Are Required. The pawnbroker or precious metal dealer shall submit daily forms to the police regarding the following purchases, sales or pawning:

- A. Any item with a serial number, identification number or "operation identification" number;
- B. Cameras;
- C. Electronic audio or video equipment;
- D. Precious jewelry, gems and metals, including coins containing precious metal;
- E. Artist signed or artist attributed works of art;
- F. Guns;
- G. Any item not included in A-F, above, which the pawnbroker or precious metal dealer intends to sell for more than \$200, except furniture and kitchen or laundry appliances;
- H. All oversized items, currently licensed by the state (such as, but not limited to, watercraft, motor vehicles and trailers) which are subject to redemption, which are stored in a facility outside of the city;

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- I. Any item purchased at wholesale for resale.
- J. Any other item presented for pawning, purchase or sale which the pawnbroker or precious metal dealer has reason to believe is stolen and/or which contains an altered or obliterated serial number, identification number or "operation identification" number.

4. Daily Report Forms. The daily report forms submitted to the city Police Department shall contain all of the information required in paragraph one above.

5. Police Order to Hold Property. Whenever the city Police Department notifies the pawnbroker or precious metal dealer not to sell an item, the item shall not be sold or removed from the licensed premises until authorized to be released by the Police Department.

6. Holding Period of Pawnbrokers. Any item sold or pawned to a pawnbroker for which a report to the police is required under paragraph five of this section shall not be sold or otherwise transferred for 30 days after the date of the sale or pawn. However, an individual may redeem an item pawned 72 hours after the item was received on deposit by the pawnbroker, excluding Sundays and legal holidays.

7. Receipt. The pawnbroker or precious metal dealer shall provide a receipt to the seller or pledger of any item of property received, which shall include:

- A. The name, address and phone number of the pawnbroker or precious metal dealer business;
- B. The date on which the item was received by the pawnbroker or precious metal dealer;
- C. A description of the item received and amount paid to the pledger or seller in exchange for the item pawned or sold;
- D. The signature of the pawnbroker or precious metal dealer or agent;
- E. The last regular business day by which the item must be redeemed by the pledger without risk that the item will be sold and the amount necessary to redeem the pawned item on that date;
- F. The annual rate of interest charged on pawned items received;
- G. The name and address of the seller or pledger.

8. Hours of Operation. No pawnbroker or precious metal dealer shall be open for the transaction of business on any day of the week before 7:00 a.m. or after 10:00 p.m.

9. Minors. The pawnbroker or precious metal dealer shall not purchase or receive personal property of any nature on deposit or pledge from any minor.

10. Inspection of Items. The pawnbroker or precious metal dealer shall at all times during the term of the license, allow the city Police Department to enter the premises where the pawnbroker

or precious metal dealer business is located, for the purpose of inspecting such premises and inspecting the items, wares and merchandise therein for the purpose of locating items suspected or alleged to have been stolen or otherwise improperly disposed of.

11. License Display. A license issued under this section must be posted in a conspicuous place in the premises for which it is used. The license issued is only effective for the compact and contiguous space specified in the approved license application.

12. Maintenance of Order. A licensee under this section shall be responsible for the conduct of the business being operated and shall maintain conditions of order.

13. Prohibited Goods. No licensee under this section shall accept any item of property which contains an altered or obliterated serial number or "operation identification" number or any item of property whose serial number has been removed. The licensee shall report such items to the police.

14. Photograph Requirement for Pawnbrokers and Precious Metals Dealers. A pawnbroker shall take either a photograph or a still video of each person selling or pawning any item of property. If a photograph is taken, it shall be at least two inches in length by two inches in width and shall be immediately developed and referenced with the information regarding the person and the item sold or pawned. The major portion of the photograph shall include a front facial pose. The pawnbroker shall notify the person of the photograph requirement prior to taking his or her photograph. If a still video photograph is taken, the video camera shall zoom in on the person pawning or selling the merchandise so as to include a close up on the person's face. The video photograph shall be referenced by time and date so as to correspond to the merchandise sold or pawned by the person. The pawnbroker shall, by adequate signage, inform the person that he or she is being videotaped. The photographs and videotape shall be kept by the pawnbroker for four months.

15. Holding Period for Precious Metal Dealers. Any item received by a precious metal dealer for which a report to the police is required under paragraph three of this section shall not be sold or otherwise transferred for two weeks after the date of the sale.

16. Storage Sites. Except for items designated in Section 1125.090, 3., H., all items must be stored within the licensed premises building except the city may permit the licensee to designate one locked and secured warehouse building within the city within which the licensee may store only cars, boats and other motorized vehicles. No item may be stored in the designated warehouse building that is not reported in the records pursuant to Section 1125.090, paragraph one, hereof. The licensee shall permit immediate inspection of the warehouse at any time during business hours by the city, and failure to do so is a violation of this ordinance. Oversized items may not be stored in parking lots or other outside areas. All provisions in this section regarding record keeping and reporting shall apply to oversized items.

17. Off Site Sales Storage. All items accepted by a licensee at a licensed location in the city shall be for pledge or sale through a licensed location in the city. No licensee under this section shall sell any items which are transferred from a non-licensed facility or a licensed facility outside the city.

§1125.120 Alarm System Required. An alarm system, professionally installed and approved by the city manager or his/her designee, must be installed at the licensed premises

§1125.130 Suspension or Revocation of License.

1. The City Council may suspend or revoke a license issued under this chapter upon a finding of a violation of 1) any of the provisions of this chapter; 2) any state statute regulating pawnbrokers or precious metal dealers; 3) any state or local law relating to moral character and repute. Any conviction by the pawnbroker or precious metal dealer for theft, receiving stolen property, or any other crime or violation involving stolen property shall result in the immediate suspension pending a hearing on revocation of any license issued hereunder.

2. Except in the case of a suspension pending a hearing on revocation, a revocation or suspension by the City Council shall be preceded by written notice to the licensee and a public hearing. The written notice shall give at least eight days' notice of the time and place of the hearing and shall state the nature of the charges against the pawnbroker or precious metal dealer. The Council may, without any notice, suspend any license pending a hearing on revocation for a period not exceeding 30 days. The notice may be served upon the pawnbroker or precious metal dealer by United States mail addressed to the most recent address of the business in the license application.

§1125.140 Prohibited Acts.

1. No pawnbroker licensed upon this chapter shall:

- A. Lend money on a pledge at a rate of interest above that allowed by law.
- B. Possess stolen goods.
- C. Sell pledged goods before the time to redeem has expired.
- D. Refuse to disclose to the pledger, after having sold pledged goods, the name of the purchaser or the price for which the item sold.
- E. Make a loan on a pledge to a minor or purchase property from a minor.

2. No precious metal dealer licensed under this chapter shall:

- A. Possess stolen goods.
- B. Purchase property from a minor.

§1126.010

SALES OF FIREWORKS

§1126.060

1126 Sales of Fireworks

§1126.010 Findings and Purpose. The City Council finds that regulation of the sale of fireworks as authorized by Minnesota Statutes is appropriate because the conditions and methods of such activity may place the general public and private property at risk of fire, explosion and crime.

§1126.020 License Required. No person shall exercise, carry on or be engaged in the storage or sale of authorized fireworks within the City unless such person or business is licensed under this ordinance.

§1126.030 Definitions. Certain words or phrases when used in this section shall have the following meaning:

1. Authorized fireworks. Only those products or devices identified and described by Minnesota Statutes Section 624.21 as "Consumer fireworks".
2. Allowed Sales Structure. A structure or temporary structure located in a district of the City zoned B-3, B-4, B-5, B-6, or BW, which is in full compliance with the White Bear Lake Zoning Code, the Minnesota Uniform Fire Code and the Uniform Building Code
3. Allowed Storage Structure. A non-temporary building located in a district of the City zoned I-1 or I-2 which is protected by an approved automatic fire suppression system and is in full compliance with the Minnesota Uniform Fire Code and the Uniform Building Code.

§1126.040 Application for License. Every application for a license under this section, whether for a person, partnership, corporation or organization shall be made on a form supplied by the City and shall not be accepted until it is complete and contains all required information, including proof of real estate ownership or written authorization from the owner for temporary use.

§1126.050 Inspection by Fire Department. A license under this section shall not be approved until the allowed sales structure or allowed storage structure has been inspected by the Fire Chief or designee and said structure is determined to be in compliance with the requirements of this section and applicable state or federal statutes or regulations.

§1126.060 Term of License. A license issued under this section shall be effective beginning with the date of issuance and expiring on the March 31 next following.

§1126.070 License Fee. The fee for a license under this section shall be established by the City Council by resolution.

§1126.090

SALES OF FIREWORKS

§1126.110

§1126.080 Time of Sale. The day and time of sale of consumer fireworks shall be in compliance with the zoning regulations for the district in which the authorized sales structure is located.

§1126.090 Storage Limits. At no time shall an allowed sales structure contain more than 200 lbs. gross weight consumer fireworks. At no time shall an allowed storage structure contain more than 400 lbs. gross weight consumer or display fireworks as defined by Minnesota Statutes 624.2.

§1126.100 Sale to Minors. No sales shall be made to persons that are under the age of 18 years old.

§1126.110 Penalty. Any person voluntarily any provision of this section is guilty of a misdemeanor and upon conviction shall be punished not more than the maximum penalty for a misdemeanor as prescribed by state law.

Ordinance 998, 2/25/03; 1034, 4/25/06

1127. Massage Therapists/Massage Therapy Businesses

§1127.010 FINDINGS AND PURPOSE. The purpose of this chapter is to protect the public health, safety and welfare by regulating massage businesses and massage practitioners. (Ref. Ord. No. 2033, 2/26/19)

§1127.020 DEFINITIONS. The following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed to them in this chapter, except where the context clearly indicates a different meaning:

1. Massage Therapist. Any person who practices or administers any massage services for a fee. (Ref. Ord. No. 2033, 2/26/19)
2. Massage Services. Any method of applying pressure on, or friction against, or rubbing, stroking, kneading, tapping or rolling of the external parts of the human body with the hands or with the aid of any mechanical or electrical apparatus, appliance or device with or without such supplemental aids as rubbing (isopropyl) alcohol, liniment, antiseptic oil, powder, cream, lotion, ointment or other similar preparation. This term shall not include, and is distinct from, the practice of medicine, surgery, osteopathy, chiropractic, physical therapy, or podiatry. This term includes, but is not limited to, manual therapies such as massage therapy, Asian bodywork therapies, and movement therapies. While these are recognized as separate disciplines, all are considered massage services and are subject to the requirements of this chapter. (Ref. Ord. No. 2033, 2/26/19)
3. Massage Therapist Business. A place of business where massage services are provided to the public for a fee. This term includes businesses which rent/lease space to an independent licensed massage therapist. (Ref. Ord. No. 2033, 2/26/19)

§1127.030 LICENSES REQUIRED.

1. No person shall perform as a massage therapist without having first secured a license as provided for in this chapter.
2. No person, firm or corporation shall operate a massage therapist business without having first secured a license as provided for in this chapter. (Ref. Ord. No. 2033, 2/26/19)

§1127.040 EXCEPTIONS. Persons duly licensed or registered to practice medicine, surgery, osteopathy, chiropractic, dentistry, physical therapy or podiatry, registered nurses and nurses who work under the direction of such persons, are hereby expressly excluded from the requirements of this chapter, provided the massage and bodywork is administered in the regular course of a prescribed or authorized medical treatment and not provided as part of a separate and distinct massage therapist business, shall be exempt from obtaining a license under this chapter.

§1127.050 LICENSE REQUIREMENTS.

Subd. 1. Fee. There shall be an initial application background check fee in addition to the annual license fee as established by the City Council in its fee schedule. No license shall be issued or renewed unless all fees associated with the requested license have been paid in full. (Ref. Ord. No. 2033, 2/26/19)

Subd. 2. Expiration. Licenses under this chapter shall expire on March 31st of each year, after which the licensee may apply for a renewal through the City's established business license renewal process. (Ref. Ord. No. 2033, 2/26/19)

Subd. 3. Transfer. Licenses are not transferable to another person. A licensed massage therapist may work at another licensed massage therapist business, or transfer from one licensed massage therapist business to another licensed business, provided the licensee provides advance notice to the City's licensing agent. (Ref. Ord. No. 2033, 2/26/19)

Subd. 4. Massage Therapists. All persons providing massage services must have proof of professional liability insurance with coverage of up to \$1,000,000 per occurrence, and at least one of the following:

- A. Certification from National Certification Board for Therapeutic Massage and Bodywork;
- B. Membership with the one of the following accredited professional associations:
 - a. American Massage Therapy Association;
 - b. Associated Bodywork and Massage Professionals;
- C. A certificate of graduation from an educational institution which is either registered with the MN Higher Education Office or accredited by a federally recognized accrediting agency. (Ref. Ord. No. 2033, 2/26/19)

Subd. 5. Massage Therapist Business. An applicant for a massage therapist business must show proof of each of the following:

- A. Applicant has superior possessory interest in the premises at the location approved to be licensed;
- B. All massage therapists at licensed location are duly licensed by the City; and
- C. Proof of workers' compensation insurance as required by Minnesota Law. (Ref. Ord. No. 2033, 2/26/19)

Subd. 6. Application. The initial application for a license shall be made only upon forms furnished by the City of White Bear Lake licensing agent and when completed by the applicant, shall be filed with the licensing agent, and a record of the same made therein. (Ref. Ord. No. 2033, 2/26/19)

Subd. 7. Application Review. Such application shall be reviewed by such departments of the City as shall be deemed necessary by the City Manager. A criminal and

financial background check will be performed by the Police Department. (Ref. Ord. No. 2033, 2/26/19)

Subd. 8. Issuance of Business Licenses. The City Manager shall report to the City Council on the eligibility of an applicant for a massage therapist business license. The City Council shall determine eligibility and act on whether to issue the requested massage therapist business license. If the City Council denies the application, such decision is final and is not subject to appeal within the City.

Subd. 9. Issuance of Therapist Licenses. The City Manager, or the City Manager's designee, is authorized to determine eligibility of an application and to act administratively on whether to issue the requested massage therapist license. If the City Manager or designee denies the application, such decision is subject to appeal to the City Council as provided in Section 1127.115, subdivision 4.

Subd. 10. Letter of Employability. A person seeking employment as a massage therapist, but who is not currently employed at a licensed massage business, may request a background check from the City to confirm the person's eligibility to receive a massage therapist license. The person shall submit an application to the City for the background check together with the required fee. If the person passes the background check, the City Manager or designee will issue the person a letter of employability, which shall be valid through March 31st. A letter of employability does not authorize the person to perform services as a massage therapist. If the person becomes employed at a licensed massage therapist business, the person shall not provide any massage services until the person obtains a massage therapist license by submitting payment for the license to the City. Upon the receipt of such payment, the City Manager or designee shall issue the person a massage therapist license. (Ref. Ord. No. 2033, 2/26/19)

§1127.060 LOCATION. No massage therapy business shall be located or operated in any location not authorized by the City's Zoning Code or within or as an adjunct to any adult entertainment establishment or center or any establishment licensed or required to be licensed for the sale of any form of beverage alcohol, unless the beverage alcohol establishment is located within a hotel or fitness club.

§1127.070 BUSINESS HOURS. No customer or patron shall be allowed to enter the licensed premises after 10:00 p.m. and before 6:00 a.m. daily. No customer or patron shall be allowed to remain upon the licensed premises after 10:30 p.m. and before 6:00 a.m. daily.

§1127.076 LIST OF SERVICES. The operator of the massage therapist business, or responsible employee, shall post or provide to the client a list of services available and the cost of each. No massage therapist shall offer or perform any massage services other than those posted or listed. (Ref. Ord. No. 2033, 2/26/19)

§1127.080 INSPECTION BY CITY OFFICIALS AND IDENTIFICATION OF EMPLOYEES. During any hours in which any person is present on the licensed premises, all massage therapist businesses shall be open to inspection by fire, zoning, building inspectors, police officers and any other appropriate city official. Additionally, during the inspection the massage therapist business and massage therapist shall provide the information required in this section. (Ref. Ord. No. 2033, 2/26/19)

Subd. 1. Upon demand by any city official, any person engaged in providing massage services in shall identify himself/herself giving his/her true legal name and his/her correct address. (Ref. Ord. No. 2033, 2/26/19)

Subd. 2. Employment records, including copies of documents used to determine that the minimum standards for each massage therapist are met as set forth in Section 1127.050, Subd. 4, and that each employee employed by the massage therapist business is (18) eighteen years of age or older, shall be kept by the massage therapist business at the licensed premises and made available for immediate review upon request of a city official. (Ref. Ord. No. 2033, 2/26/19)

Subd. 3. Provide a copy of the massage therapist license issued under this chapter for each massage therapist on the licensed premises of the massage therapy business for immediate review upon request of a city official. (Ref. Ord. No. 2033, 2/26/19)

§1127.090 VIOLATIONS AND PENALTIES. Every person violating any provision of this chapter is guilty of a misdemeanor and upon conviction shall be punished not more than the maximum penalty for a misdemeanor as prescribed by Minnesota state law. Additionally,

Any violation of this chapter shall be a basis for an adverse license action regarding any license granted hereunder. Adverse license actions shall be taken in accordance with Section 1127.115. (Ref. Ord. No. 2033, 2/26/19)

§1127.100 UNLAWFUL ACTS. It shall be unlawful for:

Subd. 1. Any person to engage in or conduct massage therapy without a valid license issued pursuant to this chapter.

Subd. 2. Any person practicing as a massage therapist to place his or her hands upon, or to touch with any part of his or her body, or to fondle in any manner, the genital area of any other person, or breasts of any female person, whether or not the area is clothed. (Ref. Ord. No. 2033, 2/26/19)

Subd. 3. Any person practicing as a massage therapist to expose her female breasts, his or her genital area or any portion thereof to any other person, or to expose the genital area or any portion thereof of any other person. (Ref. Ord. No. 2033, 2/26/19)

Subd. 4. Any person, while in the presence of any other person practicing as a massage therapist, to fail to conceal with a fully opaque covering the genital area of his or her body or her female breasts. (Ref. Ord. No. 2033, 2/26/19)

Subd. 5. Any person to depict, place, publish, distribute or cause to be depicted, placed, published or distributed any advertising matter that suggests to prospective clients that any services are available by a licensee that would constitute a violation of federal, state or local laws, or a violation of this Chapter. (Ref. Ord. No. 2033, 2/26/19)

Subd. 6. Any person to provide false information in its application materials, fail to disclose information required on the application form, or to give false information to a city official during an inspection. (Ref. Ord. No. 2033, 2/26/19)

Subd. 7. Any person to employ any person under the age of eighteen (18) years of age to work in any massage therapy business as an employee, agent or independent contractor.

Subd. 8. Any person owning, operating or managing a massage therapy business knowingly to cause, allow, suffer or permit in or about such massage and bodywork establishment any agent, employee, independent contractor or any other person under his or her control or supervision to perform or allow such acts prohibited in subsections (1) through (8) of this section. (Ref. Ord. No. 2033, 2/26/19)

§1127.110 ADVERSE LICENSE ACTION; GROUNDS. Any of the following shall constitute sufficient grounds for denial, revocation, nonrenewal, suspension or any other appropriate adverse license action. (Ref. Ord. No. 2033, 2/26/19)

Subd. 1. The applicant or licensee is not complying with, or has a history of violations of, the laws and ordinances that apply to public health, safety and morals.

Subd. 2. The applicant or licensee is convicted of any violation, reasonably related to the licensed activity and/or occurring on the licensed premises, of any city ordinance or federal or state statute. (Ref. Ord. No. 2033, 2/26/19)

Subd. 3. The applicant or licensee has evidenced in the past willful disregard for health codes and regulations. (Ref. Ord. No. 2033, 2/26/19)

Subd. 4. The applicant fails to provide all the information and certificates required by this chapter.

Subd. 5. The licensee refuses to permit any authorized police officers or city official to inspect the premises or the operations.

Subd. 6. The applicant or licensee provides false information in its application materials, fails to disclose information required on the application form, or provides false information to a city official during an inspection. (Ref. Ord. No. 2033, 2/26/19)

Subd. 7. The massage therapy business or massage therapist is operating on property on which taxes, assessments or any financial claims of the State, County, or City are unpaid or delinquent. The City Manager may elect not to take action under this provision if the licensee provides sufficient proof of having commenced a suite under Minnesota Statutes, sections 278.01 through 278.03 to challenge the amount of taxes due. (Ref. Ord. No. 2033, 2/26/19)

Subd. 8. The licensee is found to have violated any provisions of this chapter. (Ref. Ord. No. 2033, 2/26/19)

§1127.115 ADVERSE LICENSE DECISION; PROCESS AND APPEAL.

Subd. 1. The City Manager is authorized to take an adverse license action against a massage therapy business or a massage therapist who violates any provision of this chapter. The City Manager may delegate all or part of the authority provided the City Manager under

this chapter to another city official. Adverse license actions included, but are not limited to, the suspension, revocation, denial, or nonrenewal of a license. (Ref. Ord. No. 2033, 2/26/19)

Subd. 2. In the event that the City Manager proposes an adverse license action, the City shall provide the licensee a written notice of noncompliance that identifies the items of noncompliance, what must be done to come into compliance, a date by which the required actions must be completed, and the proposed adverse license action. If the licensee fails to come into compliance as indicated in the notice, the City Manager shall provide the licensee a written notice of the adverse license action. The adverse license action shall be effective ten (10) days from the date of the written notice unless the licensee files a written notice of appeal within that time as provided in this section. (Ref. Ord. No. 2033, 2/26/19)

Subd. 3. The City Manager may immediately suspend a license issued under this chapter for up to ten (10) days upon the occurrence of any of the unlawful act is identified in Section 1127.100. Any adverse license action resulting from the violation shall be processed, and is subject to appeal, as provided in this section. (Ref. Ord. No. 2033, 2/26/19)

Subd. 4. An applicant or licensee may appeal an adverse license action by filing a written statement of appeal with the City within ten (10) days from the date of the written notice of noncompliance. The City Council shall, upon the timely filing of a written statement of appeal, conduct a public hearing on the appeal within thirty (30) days. The City shall provide the licensee at least ten (10) days written notice of the date, time, and place of the public hearing. At the public hearing, the City Council shall provide the licensee an opportunity to be heard and shall determine whether to uphold, modify, or overturn the adverse license action. The City shall provide the licensee written notice of its decision, which shall be effective immediately unless a later effective date is provided in the notice of decision.

Subd. 5. An applicant who has had a license denied, revoked, or not renewed is not eligible to reapply for the same license for one (1) year from the date of the adverse license determination or, if appealed, from the date of the City Council's decision.

§1127.120 SEVERABILITY. The provisions of this ordinance shall be severable. If any provision is found to be void, the remaining provisions of the law shall remain valid, unless the court finds the valid provisions of the law are so essentially connected with the void provisions so that the court cannot presume the Council would have enacted the remaining valid provisions without the void one; or unless the court finds the remaining valid provisions, standing alone, are incomplete and incapable of being executed in accordance with the legislative intent.

Ordinance 15-09-2005, 9/8/15, Effective January 1, 2016

Ordinance 19-02-2033, 02/26/06, Effective April 6, 2019

§1128.010**SIDEWALK CAFÉS****§1128.020**

§1128.010 **PURPOSE.** This chapter is intended assist eligible businesses by allowing them to use the adjacent public sidewalk areas for sidewalk cafés with the issuance of a permit from the City and subject to certain regulations to help protect the public's continued safe use of the public sidewalks, keep public sidewalks clean and orderly, and to minimize negative impacts to neighboring businesses and the public.

§1128.020 **DEFINITIONS.** For the purposes of this chapter, the following terms shall have the meaning given them in this section.

Subd. 1. **City Manager.** The appointed City Manager for the City of White Bear Lake. The term includes any City staff member designated by the City Manager to manage all or some portion of the permitting process under this chapter.

Subd. 2. **Eligible Business.** A business located within the City that regularly and customarily sells food or drink to customers for consumption on the business premises, and that is either a restaurant licensed by the Minnesota Department of Health under Minnesota Statutes, section 157.16 or holds a current liquor license issued by the City pursuant to City Code, article X.

Subd. 3. **Permittee.** An eligible business holding a current sidewalk café permit issued by the City under this chapter.

Subd. 4. **Public Right-of-Way.** Has the meaning given the term in §906.030, subd. 36 of this Code.

Subd. 5. **Public Sidewalk.** A sidewalk owned by the City that is generally available for use by the public for pedestrian traffic. The term does not include any portion of a bike lane, public trail, city parking lot, or area within a public right-of-way intended for vehicular traffic.

Subd. 6. **Sidewalk Café.** An identified portion of a public sidewalk adjacent to an eligible business within which the business is allowed by a city-issued permit to place and use tables, chairs, and accessory items for the service of food or beverages to its customers for on-site consumption as part of its regular business operations.

Subd. 7. **Sidewalk Café Area.** The portion of a public sidewalk adjacent to an eligible business within which a permittee is authorized to operate its sidewalk café under a permit issued by the City.

Subd. 8. **Sidewalk Café Permit or Permit.** A permit issued by the City under this chapter to an eligible business allowing it to operate a sidewalk café on an identified portion of public sidewalk adjacent to the business.

§1128.030 SIDEWALK CAFÉ PERMIT.

Subd. 1. Required. No person, business, or entity may use a public sidewalk to place tables, chairs, or other seating on a public sidewalk in conjunction with a business without first obtaining a sidewalk café permit from the City.

Subd. 2. Exception. A permit is not required under this chapter for a business to temporarily place stands, racks, or tables on a public sidewalk to display their goods or products during a community celebration or sidewalk sales event authorized by the City, but only to the extent allowed by the City.

Subd. 3. Eligibility. Only a business that qualifies as an eligible business under this chapter and that is located in the City's B-1, B-5, or DCB zoning district may obtain a permit.

Subd. 4. Ineligible Places. A permit issued under this chapter shall not allow a permittee to place tables, chairs, or other seating in any of the following locations:

- (a) Any portion of a public right-of-way designated for vehicular travel or as a bike lane;
- (b) A bike or walking trail;
- (c) Private sidewalk or other private property;
- (d) A City parking lot; or
- (e) Any place prohibited by state law.

§1128.040 APPLICATION PROCEDURE. An application for a permit shall be submitted and processed in accordance with this section.

Subd. 1. Permit Application. An eligible business may apply for a permit on the application form furnished by the City and submitted to the City Clerk. An application shall not be considered complete, and shall not be processed, unless it contains all of the following:

- (a) A scaled site plan identifying the proposed location of the sidewalk café, furniture layout, specific location within which liquor will be served (if applicable), and demonstrating compliance with the requirements of this chapter;
- (b) The applicable application fee as provided in the City's fee schedule;
- (c) Evidence of a valid commercial general liability insurance policy, through an insurance carrier authorized or eligible to do business in the state,

covering damage to the public sidewalk, and for any costs and damages the City might incur because of property damage or personal injury arising out of the use of the public sidewalk for a sidewalk café. The minimum coverage limit of the policy shall be \$1,000,000 per occurrence, but the City may require a higher limit based on the location of the proposed sidewalk café. The City shall be listed as an additional insured on the commercial general liability policy;

- (d) An indemnity agreement, approved by the City Attorney, requiring the permittee to indemnify and hold harmless the City and its officers, agents and employees from any claim arising or resulting from the operation of the sidewalk café; and
- (e) A Sewer Availability Charge (SAC) Determination from the Metropolitan Council and the City.

Subd. 2. Permitting Decision. The City Manager is authorized to determine whether to approve a permit application. The City Manager shall not approve an application if the City Manager determines the proposed sidewalk café does not satisfy the requirements of this chapter or would interfere with the public interest or public use of the public sidewalk. The City Manager may place conditions on a permit as the City Manager determines are needed to further the intent of this chapter and to protect the public sidewalk and public safety. A condition of every permit is the continued compliance by the permittee with state law, this chapter, and any other applicable provisions of this Code related to the sidewalk café and the permittee's eligible business. The permit shall identify the specific area of the public sidewalk authorized for use as the sidewalk café area and the approved type and arrangement of furniture to be used within the sidewalk café. Approval of a sidewalk café permit does not indicate approval of any other permits or licenses required to operate within the City. A sidewalk café permit is not transferrable or assignable.

Subd. 3. Reconsideration. If the City Manager denies a permit application, the eligible business may, within 30 days of the denial, submit a revised application for the same business that addresses the concerns associated with the original denial. A new application fee is not required for the resubmitted application if the City receives it within the 30-day period. Any application received after that period will be considered a new application and must be accompanied by a new application fee. The City will process and act on a resubmitted application in the same manner as an original application.

Subd. 4. Appeal. An applicant may appeal the denial of its application to the City Council by filing a written notice of appeal with the City Clerk within 10 days from the date of the denial. Upon receipt of a timely appeal, the City shall provide the applicant at least 10 days written notice of a hearing before the City Council on the appeal. The City Council shall hear from the City Manager regarding the denial and provide the applicant an opportunity to be heard. The City Council may uphold the

denial or direct the City Manager to issue the permit with such conditions as the City Manager recommends together with any other conditions the City Council may direct be imposed on the permit.

§1128.050 PERMIT TERM AND RENEWALS.

Subd. 1. Permit Term. A permit issued under this chapter shall be valid from the date of issuance or April 15, whichever is later, and shall expire on October 15 of each year. The City Manager shall have the authority to modify the operating season as weather conditions may warrant. A permittee shall remove all its personal property related to the sidewalk café from the public sidewalk by October 15 of each year and periodically in the event the City needs to maintain the public sidewalk for any purposes. If a permittee fails to remove its personal property by that date, the City may remove such property and dispose of it as abandoned property if the permittee fails to remove it after at least 10 days written notice to remove it. The City shall not be liable to the permittee for any loss or damage to the personal property caused by the removal.

Subd. 2. Permit Renewal. An eligible business must renew its permit annually. A renewal application shall contain all information required on the renewal application form, the renewal application fee as established in the City's fee schedule, a current certificate of insurance showing the required commercial general liability coverage and naming the City as an additional insured, and a new indemnity agreement. If the eligible business proposes to change the configuration of its sidewalk café, the renewal application shall also include a new scaled drawing showing the proposed new configuration.

§1128.060 SIDEWALK CAFÉ CRITERIA AND RESTRICTIONS. The City Manager shall consider the following criteria in determining whether to approve a sidewalk café application.

Subd. 1. Direct Access. The eligible business must front on, and have direct and unobstructed access to, the portion of the public sidewalk to be used for the sidewalk café. The sidewalk café area shall not extend beyond the boundaries abutting the eligible business.

Subd. 2. Pedestrian Corridor. The sidewalk café shall be located to always provide at least a four-foot-wide unobstructed pedestrian corridor. The permittee shall also maintain at least a two-foot setback from the curb edge. The City may require as a condition of a permit a wider pedestrian corridor or increased clearances if it determines such additional area is needed to accommodate pedestrian traffic, public safety, or to comply with the state building code, Americans with Disabilities Act, or other applicable laws.

Subd. 3. Clearance. A clear unobstructed height of eight feet must be maintained between the sidewalk surface and overhead objects, including umbrellas, associated with the sidewalk café.

Subd. 4. Obstruct Public Amenities. The sidewalk café must not block access to public amenities such as street furniture, trash receptacles, or public signage.

Subd. 5. Spacing. The proposed footprint and seating for the sidewalk café shall not exceed the amount of space available on the public sidewalk under all applicable building and fire code requirements.

Subd. 6. Potential Impacts. The City Manager shall consider the proposed site plan in the context of the surrounding environment, and it may impose additional conditions as it determines is appropriate to ensure the safety of pedestrians, patrons, business employees, adjacent traffic, and to preserve public assets.

Subd. 7. Furniture. The furniture used for the sidewalk café must be made of durable material and not detract from the character of the surrounding environment.

Subd. 8. Planters. City-approved planters or pots may be used to define the sidewalk café area, but are not required. Any proposed planters or other barriers shall be included in the submitted site plan.

Subd. 9. Umbrellas. Table umbrellas are permitted if the umbrellas are completely contained within the sidewalk café, and do not block the site lines of adjacent vehicular traffic.

Subd. 10. Lighting. Lighting associated with the sidewalk café must not cause glare to pedestrians or vehicular traffic, and must not be affixed to City trees or infrastructure.

Subd. 11. Sound. Loudspeakers or amplified sound, including amplified sound from inside the eligible business that is audible outside, are prohibited.

Subd. 12. Liquor. If liquor will be served within the sidewalk café, the additional requirements set out in §1128.080 of this chapter must be complied with along with all applicable federal, state, and local liquor laws, rules, regulations, and ordinances.

§1128.070 OPERATION OF SIDEWALK CAFÉS. A permittee shall operate its sidewalk café in accordance with all the requirements and limitations in this section.

Subd. 1. Business Use. A sidewalk café may be used only by the permittee and only for the seating of patrons in the furniture provided by the permittee. Every patron within the sidewalk café must have their own chair. No overcrowding of the sidewalk café with standing patrons is allowed.

Subd. 2. Hours of Operation. A sidewalk café may only be operated between the hours of 7:00 a.m. and 10:00 p.m., and then only to the extent the eligible business is

open to customers. The City Manager may further limit the hours of operation as a condition of the permit.

Subd. 3. Maximum Occupancy. The number of persons within the sidewalk café shall not exceed the number of seats permitted in the permit, excluding the permittee's staff while working.

Subd. 4. Open Air. The sidewalk café area shall be open to the air, except that seating may be located under approved umbrellas, awnings, or canopies.

Subd. 5. Cleaning. Permittee shall keep the sidewalk café and the adjacent public space surrounding it clean of any solid waste, including food debris, paper, cups, cans, cigarette butts, and any other garbage associated with the operation of the sidewalk café area on a daily basis. Permittee shall wash down the adjacent public sidewalk and right-of-way with water and detergent as often as needed to remove any stains or spills related to the operation of the sidewalk café. Permittee shall properly dispose of all waste and trash in its own trash receptacles. Permittee shall not use public trash receptacles for disposing of business generated waste or trash.

Subd. 6. Maintenance. The permittee shall at all times keep the sidewalk café area and the associated furniture and accessories clean, orderly, and in good repair. Permittee shall promptly repair or remove any damaged furniture from the public sidewalk. Permittee is responsible for securing its furniture as it determines is needed to discourage theft or to prevent it from damaging adjacent properties or public infrastructure during a storm.

Subd. 7. Extended Closure. The permittee shall remove all furniture, enclosures, and barriers from the public sidewalk if the eligible business is closed for more than 14 consecutive days, unless previous arrangements have been made with the City.

Subd. 8. Compliance. The permittee shall obtain and maintain all other permits and permits that may be required, and shall remain in compliance with all applicable city, state and federal laws and regulations, for operation of the eligible business and the sidewalk café.

Subd. 9. Temporary Suspension. The City Manager may temporarily suspend the use of a public sidewalk for a sidewalk café if it determines such use will interfere with a special event, parade, public celebration, a public maintenance, repair, or improvement project, or as needed to protect public safety. The City will endeavor to give the permittee reasonable advance notice before issuing a temporary suspension. Unless expressly provided otherwise in the suspension notice, the permittee shall remove its furniture from the public sidewalk prior to the beginning of the suspension period. If a permittee fails to remove its furniture by the indicated date, the City may remove the furniture at the permittee's expense. The City shall not be liable to the permittee for any loss or damage to the personal property caused by the City's removal

or storage. Operation of the sidewalk café during a suspension period is a violation of this chapter.

Subd. 10. Additional Prohibitions. A permittee shall not violate any of the following prohibitions related to the operation of its sidewalk café:

- (a) No cash registers, tents, minibars, or similar appurtenances shall be allowed within the sidewalk café area.
- (b) Food preparation is not allowed in the sidewalk café area;
- (c) Nothing shall be permanently affixed to a sidewalk or to other public property. All improvements (including furniture and fixtures) must be readily removable without damage to the sidewalk or other public property;
- (d) No business activities may occur outside of the approved sidewalk café area;
- (e) Smoking is not allowed within the sidewalk café area; and

§1128.080 ADDITIONAL REQUIREMENTS FOR ELIGIBLE BUSINESSES SERVING ALCOHOL. In addition to all other provisions of this chapter, a permittee serving alcohol within its sidewalk café area shall comply with the requirements of this section in addition to the other requirements of this chapter.

Subd. 1. Liquor Permit. The permittee must obtain an amendment to its liquor license to include the sidewalk café area as part of the licensed premises within which it may sell and serve liquor before any sales or consumption of liquor may occur within the sidewalk café area.

Subd. 2. Barriers. The permittee shall provide and place stanchions or other portable, visible, above ground barriers between the approved sidewalk café area and the remainder of the public sidewalk whenever the sidewalk café is in use. The items and materials proposed to be used for the barriers must be identified in the permit application. The permittee may only use barriers consistent with those identified in the City's permit approval. The sidewalk café area in which liquor is served must be compact and contiguous to the permittee's eligible business.

Subd. 3. Liquor Compliance. The permittee shall remain in compliance with all laws related to alcohol service and consumption. The permittee shall post visible signs at all exit points from the sidewalk café to the public sidewalk reminding patrons that they cannot possess open containers of alcohol outside of the sidewalk café area. The permittee shall not permit patrons to carry their own alcohol into the sidewalk café area or to carry alcohol sold by the permittee outside of the sidewalk café area.

§1128.090 ENFORCEMENT.

Subd. 1. Administrative Penalties. A violation of any provision of this chapter constitutes an administrative offense and is subject to a civil penalty as provided in City Charter, section 8.05 and City Code, chapter 205 in the amount established in the City's fee schedule. The City shall issue and process notices of administrative violations in accordance with the procedures set out in City Code, chapter 205.

Subd. 2. Permit Actions. The City Manager is authorized to take action against a permittee's license for failing to comply with the requirements of this chapter or any of the conditions imposed on the permit.

- (a) Temporary Permit Suspension. The City Manager is authorized to suspend a permit for up to 10 days if the City Manager determines the permittee has violated a provision of this chapter. The City Manager shall issue a written notice of suspension identifying the violation, the period of suspension, and the corrective actions required to bring the sidewalk café back into compliance with this chapter. If the permittee fails to correct the violation by the date indicated in the suspension notice, or if any other violations occur within 30 days of the end of the temporary suspension period, the City Manager may revoke the permit as provided in this subdivision.
- (b) Permit Revocation. The City Manager may revoke a permit if a permittee fails to comply with the requirements of this chapter, a condition placed on the permit, a suspension notice, or of any regulations governing the use of the public sidewalk or the business activities occurring with the sidewalk café. Before revoking a permit, the City Manager shall provide the permittee a written notice of violation that identifies the violation and provides a reasonable time in which to correct the violation. If the City Manager determines a violation directly obstructs pedestrian use of the public sidewalk or creates an immediate threat to public safety, the City Manager may immediately suspend the permit for the period allowed to correct the violation. If the permittee fails to correct the violation within the correction period, the City Manager may issue the permittee a written notice of revocation that identifies the violation and includes a statement regarding the process to appeal the revocation. The eligible business shall immediately cease using the public sidewalk for its business operations requiring a permit under this chapter.
- (c) Appeal. An eligible business may appeal a revocation of its permit to the City Council by filing a written notice of appeal with the City Clerk within 10 days from the date of revocation. Upon receipt of a timely appeal, the City shall provide the applicant at least 10 days written notice of a hearing before the City Council on the appeal. The City Council shall hear from the City Manager regarding the revocation and provide the applicant an

opportunity to be heard. The City Council may sustain or overturn the revocation. If the City Council overturns the revocation, it may add conditions to the permit as it determines are needed to address the violations identified by the City Manager.

Subd. 3. Other Remedies. In addition to administrative penalties and any actions against the permit, a violation of this chapter is a misdemeanor and may also be enforced through injunctive or other equitable relief, or a combination of remedies.

§1128.100 CODE CHAPTER CONTROLLING. To establish a uniform set of regulations for sidewalk cafés on public sidewalks, the provisions of this chapter shall supersede and preempt conflicting provisions covering the same topic and applicable to public sidewalks and rights-of-way located elsewhere in this Code. An eligible business permitted under this chapter is not required to obtain a right-of-way obstruction permit under this Code, provided its activities are limited to those contemplated in this chapter and comply with the terms and conditions of the permit.

Ordinance 23-02-2061, 2/28/23

§1201.010 CODES ADOPTED BY REFERENCE. The Minnesota State Building Code, as adopted by the Commissioner of Administration pursuant to Minnesota Statutes Sections 16B.59 through 16B.75, including all of the amendments, rules and regulations established, adopted and published from time to time by the Minnesota Commissioner of Administration, through the Building Codes and Standards Division is hereby adopted by reference and incorporated in this ordinance as if fully set out herein.

§1201.020 APPLICATION, ADMINISTRATION AND ENFORCEMENT. The application, administration, and enforcement of the code shall be in accordance with Minnesota State Building Code. The code shall be enforced within the extraterritorial limits permitted by Minnesota Statute, 16B.62, subdivision 1, when so established by this ordinance.

§1201.030 PERMITS AND FEES. The issuance of permits and the collection of fees shall be as authorized in Minnesota Statute, 16B.62, Subdivision 1, and as per the Minnesota State Building Code Chapter-part 1300.0160 regarding fees.

Subd. 1. PERMIT FEES. Permit fees shall be assessed for work governed by this code in accordance with the fee Schedule set forth in Section 1201.070.

Subd. 2. PLAN REVIEW. Plan review fees shall be as required by the State of Minnesota. The plan review fee for dwellings, apartment houses, and their accessory structures shall be 50 percent of the building permit fee. Plan review fee for commercial building permits shall be 65 percent of the building permit fee. Submitted documents approved as similar plans under Chapter 1300.0160 Subp. 6 plan review fees shall not exceed 25% of the building permit fee.

Subd. 3. STATE SURCHARGE FEES. All municipal permits issued for work under the code are subject to a surcharge fee. The fees are established by Minnesota Statutes, Section 16B.70. In addition to the permit fee required, the applicant shall pay a surcharge to be remitted to the Minnesota Department of Administration. State surcharge fees shall be computed in accordance with City Ordinance 1201.070 subd. 9.

Subd. 4. VALUATION. The building official shall utilize the Chart of Estimated Construction Cost as annually provided by the Minnesota Department of Administration State Building Codes and Standards Division to compute building valuations for the purposes of establishing the City of White Bear Lake permit fee schedules. Permit valuation shall include total value of all construction work, including materials and labor, for which the permit is being issued, such as electrical, gas, mechanical, plumbing equipment, and permanent systems. Permit fees for manufactures (mobile) homes and prefabricated structures shall be based on a valuation of on site work only.

Subd. 5. MECHANICAL PERMIT FEES. Mechanical permit procedures and fees are as follows: Mechanical permits shall include plumbing, heating, electrical, and fire suppression. It shall be unlawful for any person to perform work subject to the Building Code for which a permit is required without first obtaining a permit therefor from the City; such permits shall be issued by the City only to persons licensed by the City of White Bear Lake or by the State of Minnesota as required and registered as such with the City or to persons making application to do any such work wholly within a residence owned and occupied by the applicant to whom the permit is to be issued and who shall be charged the permit fees as adopted by the City Council in Section 1201.070.

Subd. 6. INVESTIGATION FEE. Whenever any work for which a permit is required by the code has been commenced without first obtaining said permit, a special investigation shall be made before a permit may be issued for such work. An investigation fee, in addition to the permit fee, shall be collected for the investigation equal to the amount of the permit fee required by this code.

Subd. 7. FEE REFUNDS. The building official may authorize refunding of any fee paid herein which was erroneously paid or collected. The building official may authorize refunding of not more than 80 percent of the permit fee paid when no work has been done under a permit issued in accordance with this code. When plan review services have been provided, the plan review fee portion of the permit fee shall not be refunded. The building official shall not authorize refunding of any fee paid except on written application filed by the original permittee not later than 180 days after the date of fee payment.

§1201.040 VIOLATIONS AND PENALTIES. A violation of the code is a misdemeanor (Minnesota statute 16B.69).

§1201.050 BUILDING CODE OPTIONAL CHAPTERS. The following optional provisions identified in the most current edition of the State Building Code are hereby adopted and incorporated as part of the building code for this municipality:

1. Chapter 1306, Special Fire Protection systems; apply to new buildings under 1306.0020 subp.3; apply to Group R-1, R-2, and R-3 occupancies under 1306.0030 E option 1.
2. Chapter 1305, Appendix chapter K of the 2002 supplement of the 2000 International Building Code.

§1201.060 BUILDING CODE; VIOLATIONS AND PENALTIES. It shall be unlawful for any person, partnership, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, convert, demolish, equip, use, occupy or maintain any building or structure in the City of White Bear Lake or cause the same to be done contrary to, or in violation of any of the provisions of this Code. Any person, partnership, firm or

corporation violating any of the provisions of this Code shall be guilty of a misdemeanor, and shall be guilty of a separate offense for each and every day, or portion thereof, during which any violation of the provisions of this Code is committed, continued or permitted.

1201.070 SCHEDULE OF PERMIT FEES. The applicant for a permit for building, plumbing, heating, electrical or fire suppression systems shall pay the following fees.

Subd. 1. BUILDING PERMIT FEE SCHEDULE.

TOTAL VALUATION	FEE
\$1.00 to \$500.00	\$23.00
\$501.00 to \$2,000.00	\$23.50 for the first \$500.00 plus \$3.05 for each additional \$100.00 or fraction thereof, to and including \$2,000.00
\$2001.00 to \$25,000.00	\$69.25 for the first \$2,000.00 plus \$14.00 for each additional \$1,000.00 or fraction thereof, to and including \$25,000.00
\$25,001.00 to \$50,000.00	\$391.25 for the first \$25,000.00 plus \$10.10 for each additional \$1,000.00 or fraction thereof, to and including \$50,000.00
\$50,001.00 to \$100,000.00	\$643.75 for the first \$50,000.00 plus \$7.00 for each additional \$1,000.00 or fraction thereof, to and including \$100,000.00.
\$100,001.00 to \$500,000.00	\$993.75 for the first \$100,000 plus \$5.60 for each additional \$1,000.00 or fraction thereof, to and including \$500,000.00
\$500,001.00 to \$1,000,000.00	\$3,233.75 for the first \$500,000.00 plus \$4.75 for each additional \$1,000.00 or fraction thereof, to and including \$1,000,000.00.

\$1,000,001.00 and up	\$5,608.75 for the first \$1,000,000.00 plus \$3.15 for each additional \$1,000.00 or fraction thereof.
<u>Other Inspections and Fees:</u>	
<ul style="list-style-type: none"> · Inspections outside of normal business hours\$47.00 per hour* (Minimum charge - two hours) · Re-inspection fees\$47.00 per hour* · Inspection for which no fee is specifically indicated\$47.00 per hour* (Minimum charge - one-half hour) · Additional plan review required by changes, additions or revisions to Plans (minimum charge - one-half hour)\$47.00 per hour* · Outside consultants for plan checking and inspections or both Actual costs ** 	

* Or the total hourly cost to the jurisdiction, whichever is the greatest. This cost shall include supervision, overhead, equipment, hourly wages and fringe benefits of the employees involved.

** Actual cost includes administrative and overhead costs.

2. GRADING PLAN REVIEW FEES.

100 cubic yards or less	No fee
101 to 1,000 cubic yards	\$40
1,001 to 10,000 cubic yards	\$50
10,001 to 100,000 cubic yards	\$50 for first 10,000 cubic yards \$25 for each additional 10,000 or fraction thereof.
101,000 to 200,000 cubic yards	\$300 for first 100,000 cubic yards \$15 for each additional 10,000 or fraction thereof.
200,001 cubic yards or more	\$400 for first 200,000 cubic yards \$10 for each additional 10,000 or fraction thereof.

GRADING PERMIT FEES

100 cubic yards or less	\$25
101 to 1,000 cubic yards	\$40 for first 100 cubic yards \$25 for each additional 100 or fraction thereof.
1,001 to 10,000 cubic yards	\$200 for first 1,000 cubic yards \$20 for each additional 1,000 or fraction thereof.
10,001 to 100,000 cubic yards	\$350 for first 10,000 cubic yards \$75 for each additional 10,000 or fraction thereof.
101,000 cubic yards or more	\$1,000 for first 100,000 cubic yards \$40 for each additional 10,000 or fraction thereof.

Subd. 2. DEMOLITION AND WRECKING OF BUILDINGS FEES. The permit fee shall be \$25.00 for the first 1,000 square feet, plus \$10.00 for each additional 1,000 square feet or fraction thereof. The minimum permit fee shall be \$25.00.

Subd. 3. UTILITY CONNECTION. Buildings or dwellings existing or constructed in the City of White Bear Lake must connect to the municipal water and sanitary sewer system so long as it is reasonably available. Prior to connecting to public utilities, the owner or representative must pay the following fees:

- a. Metropolitan Council Sewer Action Charge SAC fee as established by the Metropolitan Council per state statute MN 473.517
- b. SEWER CONNECT FEES
 - a. Single Family Dwellings \$500.00 per home
 - b. Two Family Dwellings \$1000.00 per dwelling
 - c. Multiple Dwellings \$300.00 per unit
 - d. Commercial and Industrial \$850.00 per acre or \$500 per unit for each 100,000 gallons of estimated annual flow. (A minimum of 1 unit charge)
- e. All connections must pay the sewer connection charge as currently set by the Metropolitan Council.

c. WATER CONNECT FEES

- a. Single Family Dwellings \$500.00 per home
- b. Two Family Dwellings \$1,000.00 per dwelling
- c. Multiple Dwellings \$300.00 per unit
- d. Commercial and Industrial \$850.00 per acre or \$500 per unit for each 100,000 gallons of estimated annual flow. (A minimum of 1 unit charge)

Subd. 4. CERTIFICATE OF OCCUPANCY If a permit shall require a certificate of occupancy, a fee of \$10.00 shall be paid at the time of issuance.

Subd. 5. PLUMBING PERMIT FEES

a. PLUMBING FIXTURE UNIT FEES

- 1.) Residential fee (minimum permit fee) \$25.00
- 2.) Non-Residential fee (minimum permit fee) \$35.00
- 3.) For each fixture or fixture opening \$10.00
- 4.) For each gas piping outlet, stove, dryer etc. \$ 5.00
- 5.) For each water heater and/or vent \$30.00
- 6.) For each lawn sprinkler system backflow protection device \$20.00
- 7.) For each atmospheric-type vacuum breaker..... \$ 1.00
- 8.) For each backflow protection device (other than items 6 & 7) \$20.00
- 9.) Clothes washers: First five or less \$20.00
For each additional unit \$ 7.00
- 10.) For each dishwasher – commercial \$15.00
- 11.) For each flammable waste trap or catch basin \$ 5.00
- 12.) For each cold case condensate line \$10.00
- 13.) For each ice making machine \$10.00
- 14.) For each sewage ejector \$15.00
- 15.) Showers - for each gang-type head \$ 5.00
- 16.) For each water softener \$20.00
- 17.) For each ground run for existing buildings \$15.00
- 18.) For each water distribution piping extension or alteration \$20.00
- 19.) For each rainwater leader \$10.00
- 20.) Main gas line \$10.00

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b. INDIVIDUAL SEWAGE TREATMENT SYSTEMS

- 1.) For each installation of any new or replacement individual sewage treatment system \$100.00
- 2.) For repairs or alteration of an individual sewage system based on value:
 - First \$100.00 \$20.00
 - Each additional \$100.00 or a fraction thereof \$ 5.00
- 3.) For the abandonment of an individual sewage system \$25.00

c. SEWER AND WATER - UNIT FEE SCHEDULE

- 1.) Street excavation \$25.00
- 2.) For each water tap \$20.00
- 3.) For each sewer tap \$20.00
- 4.) For each residential water line installation or repair \$30.00
- 5.) For each residential sewer line installation or repair \$30.00
- 6.) For each non-residential water line installation or repair \$45.00
- 7.) For each non-residential sewer line installation or repair \$45.00
- 8.) For each hydrostatic and conductivity test \$45.00
- 9.) Storm Sewer \$30.00

d. VALUE BASED REPAIRS/ALTERATIONS - UNIT FEE SCHEDULE

- 1.) Repair or alteration of any plumbing system based on value:
 - First \$100.00 (of value) \$15.00
 - For each additional \$100.00 (of value) or fraction thereof \$ 2.00

e. BACKFLOW PROTECTION TEST FILING FEE

- 1.) For each RPZ or double check/double gate valve \$15.00

Subd. 6 HEATING PERMITS FEES

For the installation of any new or replacement central heating and/or air conditioning system, or in floor heating with heat source. The permit fee shall be 1% of estimated cost or the minimum whichever is greater.

- Minimum Fee - Heating system \$60.00
- Minimum Fee - Air Conditioning \$30.00
- Minimum Fee - Heating and Air Conditioning .. \$90.00

- a. For alteration or repair to any central heating and/or air conditioning system. The permit fee shall be 1% of the estimated cost or the minimum whichever is greater.

Minimum Fee \$20.00

- b. For each appliance or piece of equipment regulated by the code, but not classed in other appliance categories or for which no other fee is listed in the code. The fee shall be 1% of the estimated cost or the minimum whichever is greater.

Minimum Fee \$25.00

- c. For the extension or alteration of ductwork in one and two family dwellings whereby the work is supplemental to a current building permit. The permit fee shall be 1% of the estimated value or the minimum whichever is greater.

Minimum Fee \$20.00

- d. For the installation, alteration, or repair of each process piping system, the fee shall be 1% of the estimated value or the minimum whichever is greater.

Minimum Fee \$30.00

- e. For the installation of a fireplace. The fee shall be 1% of the estimated cost or the minimum fee whichever is greater.

Minimum Fee \$25.00

- f. For a review of plans and other data a fee shall be collected equal to 25% of the permit fee or the minimum whichever is greater.

Subd. 7. ELECTRICAL FEES

Electrical fees shall be applied as established in Minnesota Statutes section 326.2441

Subd. 8. FIRE SPRINKLER SYSTEM FEE SCHEDULE

- a. For each fire suppression cooking hood extinguisher system \$30.00
- b. For each bath or tank system \$30.00
- c. For each automatic fire suppression system
 - 1 to 10 heads, including risers \$30.00
 - Each additional 10 heads or fraction thereof..... \$ 3.00
- d. For each on site fire hydrant..... \$35.00
- e. Building standpipe systems per building..... \$50.00
- f. Fire Alarm \$30.00
- g. Fire Permit Plan Review Fee 50% of the permit fee

Subd.9. STATE SURCHARGE FEES If the fee for the permit issued is fixed in amount the surcharge is equivalent to one-half mill (.0005) of the fee or 50 cents, whichever amount is greater. For all other permits the surcharge is as follows.

VALUATION OF STRUCTURE, ADDITION OR ALTERATION	SURCHARGE COMPUTATION
\$1,000,000 or less	.0005 x valuation (minimum \$.50)
\$1,000,000 to \$2,000,000	\$500 + .0004 x (Value - \$1,000,000)
\$2,000,000 to \$3,000,000	\$900 + .0003 x (Value - \$2,000,000)
\$3,000,000 to \$4,000,000	\$1200 +.0002 x (Value -\$ 3,000,000)
\$4,000,000 to \$5,000,000	\$1400 +.0001 x (Value- \$ 4,000,000)
Greater than \$5,000,000	\$1500 +.0005 x (Value -\$ 5,000,000)

Sections 1201.090, 1201.100, and 1201.180 are hereby deleted in their entirety and these section numbers are reserved for future use.

Subd. 2. DEMOLITION AND WRECKING OF BUILDINGS FEES. The permit fee shall be \$25.00 for the first 1,000 square feet, plus \$10.00 for each additional 1,000 square feet or fraction thereof. The minimum permit fee shall be \$25.00.

Subd. 3. UTILITY CONNECTION. Buildings or dwellings existing or constructed in the City of White Bear Lake must connect to the municipal water and sanitary sewer system so long as it is reasonably available. Prior to connecting to public utilities, the owner or representative must pay the following fees:

- a. \$1550.00 per home (set by Metropolitan Council per state statute MN 473.517)

b. SEWER CONNECT FEES

- a. Single Family Dwellings \$500.00 per home
- b. Two Family Dwellings \$1000.00 per dwelling
- c. Multiple Dwellings \$300.00 per unit
- d. Commercial and Industrial \$850.00 per acre or \$500 per unit for each 100,000 gallons of estimated annual flow. (A minimum of 1 unit charge)

e. All connections must pay the sewer connection charge as currently set by the Metropolitan Council.

c. WATER CONNECT FEES

- a. Single Family Dwellings \$500.00 per home
- b. Two Family Dwellings \$1,000.00 per dwelling
- c. Multiple Dwellings \$300.00 per unit
- d. Commercial and Industrial \$850.00 per acre or \$500 per unit for each 100,000 gallons of estimated annual flow. (A minimum of 1 unit charge)

Subd. 4. CERTIFICATE OF OCCUPANCY If a permit shall require a certificate of occupancy, a fee of \$10.00 shall be paid at the time of issuance.

Subd. 5. PLUMBING PERMIT FEES

a. PLUMBING FIXTURE UNIT FEES

- 1.) Residential fee (minimum permit fee) \$25.00
- 2.) Non-Residential fee (minimum permit fee) \$35.00
- 3.) For each fixture or fixture opening \$10.00
- 4.) For each gas piping outlet, stove, dryer etc. \$ 5.00
- 5.) For each water heater and/or vent \$30.00
- 6.) For each lawn sprinkler system backflow protection device \$20.00
- 7.) For each atmospheric-type vacuum breaker..... \$ 1.00
- 8.) For each backflow protection device (other than items 6 & 7) \$20.00
- 9.) Clothes washers: First five or less \$20.00
 For each additional unit \$ 7.00
- 10.) For each dishwasher – commercial \$15.00
- 11.) For each flammable waste trap or catch basin \$ 5.00
- 12.) For each cold case condensate line \$10.00

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13.)	For each ice making machine	\$10.00
14.)	For each sewage ejector	\$15.00
15.)	Showers - for each gang-type head	\$ 5.00
16.)	For each water softener	\$20.00
17.)	For each ground run for existing buildings	\$15.00
18.)	For each water distribution piping extension or alteration	\$20.00
19.)	For each rainwater leader	\$10.00
20.)	Main gas line	\$10.00

b. INDIVIDUAL SEWAGE TREATMENT SYSTEMS

1.)	For each installation of any new or replacement individual sewage treatment system	\$100.00
2.)	For repairs or alteration of an individual sewage system based on value: First \$100.00	\$20.00
	Each additional \$100.00 or a fraction thereof	\$ 5.00
3.)	For the abandonment of an individual sewage system	\$25.00

c. SEWER AND WATER - UNIT FEE SCHEDULE

1.)	Street excavation	\$25.00
2.)	For each water tap	\$20.00
3.)	For each sewer tap	\$20.00
4.)	For each residential water line installation or repair	\$30.00
5.)	For each residential sewer line installation or repair	\$30.00
6.)	For each non-residential water line installation or repair	\$45.00
7.)	For each non-residential sewer line installation or repair	\$45.00
8.)	For each hydrostatic and conductivity test	\$45.00
9.)	Storm Sewer	\$30.00

d. VALUE BASED REPAIRS/ALTERATIONS - UNIT FEE SCHEDULE

1.)	Repair or alteration of any plumbing system based on value: First \$100.00 (of value)	\$15.00
	For each additional \$100.00 (of value) or fraction thereof	\$ 2.00

e. BACKFLOW PROTECTION TEST FILING FEE

1.)	For each RPZ or double check/double gate valve	\$15.00
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Subd. 6 HEATING PERMITS FEES

For the installation of any new or replacement central heating and/or air conditioning system, or in floor heating with heat source. The permit fee shall be 1% of estimated cost or the minimum whichever is greater.

- Minimum Fee - Heating system \$60.00
- Minimum Fee - Air Conditioning \$30.00
- Minimum Fee - Heating and Air Conditioning .. \$90.00

b. For alteration or repair to any central heating and/or air conditioning system. The permit fee shall be 1% of the estimated cost or the minimum whichever is greater.

Minimum Fee \$20.00

c. For each appliance or piece of equipment regulated by the code, but not classed in other appliance categories or for which no other fee is listed in the code. The fee shall be 1% of the estimated cost or the minimum whichever is greater.

Minimum Fee \$25.00

d. For the extension or alteration of ductwork in one and two family dwellings whereby the work is supplemental to a current building permit. The permit fee shall be 1% of the estimated value or the minimum whichever is greater.

Minimum Fee \$20.00

e. For the installation, alteration, or repair of each process piping system, the fee shall be 1% of the estimated value or the minimum whichever is greater.

Minimum Fee \$30.00

g. For the installation of a fireplace. The fee shall be 1% of the estimated cost or the minimum fee whichever is greater.

Minimum Fee \$25.00

h. For a review of plans and other data a fee shall be collected equal to 25% of the permit fee or the minimum whichever is greater.

Subd. 7. ELECTRICAL FEES

6. Electrical fees shall be applied as established in Minnesota Statutes section 326.2441.

Subd. 8. <u>FIRE SPRINKLER SYSTEM FEE SCHEDULE</u>
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- a. For each fire suppression cooking hood extinguisher system \$30.00
- b. For each bath or tank system \$30.00
- c. For each automatic fire suppression system
 - 1 to 10 heads, including risers \$30.00
 - Each additional 10 heads or fraction thereof..... \$ 3.00
- d. For each on site fire hydrant..... \$35.00
- e. Building standpipe systems per building..... \$50.00
- f. Fire Alarm \$30.00
- g. Fire Permit Plan Review Fee 50% of the permit fee

Subd.9. STATE SURCHARGE FEES If the fee for the permit issued is fixed in amount the surcharge is equivalent to one-half mill (.0005) of the fee or 50 cents, whichever amount is greater. For all other permits the surcharge is as follows.

VALUATION OF STRUCTURE, ADDITION OR ALTERATION	SURCHARGE COMPUTATION
\$1,000,000 or less	.0005 x valuation (minimum \$.50)
\$1,000,000 to \$2,000,000	\$500 + .0004 x (Value - \$1,000,000)
\$2,000,000 to \$3,000,000	\$900 + .0003 x (Value - \$2,000,000)
\$3,000,000 to \$4,000,000	\$1200 +.0002 x (Value - \$ 3,000,000)
\$4,000,000 to \$5,000,000	\$1400 +.0001 x (Value- \$ 4,000,000)
Greater than \$5,000,000	\$1500 +.0005 x (Value -\$ 5,000,000)

Sections 1201.090 through 1201.180 are hereby deleted in their entirety and these section numbers are reserved for future use.

Revised 1/15/04

§1201.080 TEMPORARY FAMILY HEALTH CARE DWELLINGS

Subd. 1. OPT-OUT OF MINNESOTA STATUTES, SECTION 462.3593. Pursuant to authority granted by Minnesota Statutes, Section 462.3593, subdivision 9, the City of White Bear Lake opts-out of the requirements of Minnesota Statutes, Section 462.3593 which defines and regulates temporary family health care dwellings. (Ref. Ord. No. 16-08-2017, 8/31/16)

1202. Sign Code

§1202.010: GENERAL PROVISIONS:

Subd. 1 Findings, Purpose and Intent, and Effect:

A. Findings: The city council hereby finds as follows:

1. Exterior signs have a substantial impact on the character and quality of the environment.
2. Signs provide an important medium through which individuals may convey a variety of messages.
3. Signs can create traffic hazards, aesthetic concerns and detriments to property values, thereby threatening the public health, safety and welfare.
4. The city's zoning regulations have included the regulation of signs in an effort to provide adequate means of expression and to promote the economic viability of the business community, while protecting the city and its citizens from a proliferation of signs of a type, size, location and character that would adversely impact upon the aesthetics of the community and threaten the health, safety and welfare of the community. The regulations of the physical characteristics of signs within the city have had a positive impact on traffic safety and the appearance of the community.

B. Purpose and Intent: It is not the purpose or intent of this section to regulate the message displayed on any sign; nor is it the purpose or intent of this section to regulate any building design or any display not defined as a sign, or any sign which cannot be viewed from outside a building. The purpose and intent of this section is to:

1. Regulate the number, location, size, type, illumination and other physical characteristics of signs within the city in order to promote the public health, safety and welfare.
2. Maintain, enhance and improve the aesthetic environment of the city by preventing visual clutter that is harmful to the appearance of the community.
3. Improve the visual appearance of the city while providing for effective means of communication, consistent with constitutional guarantees and the city's goals of public safety and aesthetics.
4. Provide for fair and consistent enforcement of the sign regulations set forth herein under the zoning authority of the city.

C. Effect: A sign may be erected, mounted, displayed or maintained in the city if it is in conformance with the provisions of these regulations. The effect of this section, as more specifically set forth herein, is to:

1. Allow a wide variety of sign types in commercial zones, and a more limited variety of signs in other zones, subject to the standards set forth in this section.
 2. Allow certain small, unobtrusive signs incidental to the principal use of a site in all zones when in compliance with the requirements of this section or when required by federal, state or local law.
 3. Prohibit signs whose location, size, type, illumination or other physical characteristics negatively affect the environment and where the communication can be accomplished by means having a lesser impact on the environment and the public health, safety and welfare.
 4. Provide for the enforcement of the provisions of this section.
- D. Severability: If any subsection, sentence, clause, or phrase of this section is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this section. The city council hereby declares that it would have adopted this section in each subsection, sentence, or phrase thereof, irrespective of the fact that any one or more subsections, sentences, clauses, or phrases be declared invalid.
- E. Any sign not identified as permitted or allowed by this code is prohibited.

(Ordinance 16-8-Z, 2/28/17)

1202.020: DEFINITIONS:

Definitions: The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise:

A-FRAME SIGN: A movable freestanding sign hinged at the top, or attached in a way that forms a shape similar to the letter "A" when viewed from the side, also commonly known and referred to as a sandwich board or a springboard sign. Also called sandwich board signs. A-Frame signs are only allowed on a temporary basis and may not be used as permanent signage.

ABANDONED SIGN: Any sign and/or its supporting sign structure which has been removed or whose display surface remains blank for a period of one year or more. Signs applicable to a business temporarily suspended because of a change in ownership or management of such business shall not be deemed abandoned unless the property remains vacant for a period of one year or more. Any sign remaining after demolition of a principal structure shall be deemed to be abandoned. Any sign within the city may be subject to the definition of abandonment, regardless of whether those signs are legal non-conforming uses or authorized pursuant to a conditional use permit or variance.

AWNING: A roof-like cover, often of fabric, plastic, metal or glass designed and intended for protection from the weather or as a decorative embellishment and which projects from a wall or roof of a structure primarily over a window, door, walk or the like.

AWNING SIGN: A building sign or graphic printed on or in some fashion attached directly to the awning material.

BANNER: A sign constructed of cloth, paper, plastic or other material upon which copy is written and supported fastened to buildings or other permanent structures and that is supported or anchored on two (2) or more edges or at three (3) or more corners. Banners also include such signs which are anchored along one edge, or two (2) corners, with weights installed that substantially reduce the reaction of the sign to wind. Banners are only allowed on a temporary basis and may not be used as permanent signage.

BILLBOARD: Any off-premises advertising sign in excess of 300 square feet designed to display posters or other composite graphic or dynamic advertisements for products and services sold elsewhere (Ref. Ord. 21-12-2052, 12/14/21).

BUILDING: Any structure intended for the shelter, support, or enclosure of persons, animals, or property of any kind; where separated by party walls without openings, each portion of such building is considered a separate building.

BUILDING SIGN: Any sign attached to or supported by any structure used or intended for supporting or sheltering any use or occupancy. Examples of building signs include roof signs and wall signs.

BUSINESS: Any occupation, employment or enterprise wherein merchandise is exhibited or sold, or where services are offered for compensation.

CANOPY: A rooflike cover, often of plastic, metal, or glass on a support, which provides shelter over fuel dispensing stations or drive-thru facilities for banks.

CANOPY SIGN: A building sign or graphic printed or in some fashion attached to a canopy.

COMMERCIAL BUSINESS DISTRICTS: The B-1 thru B-6, LVMU, DBD, DCB, PZ & PZ-R zoning districts within the city as identified in the City's Zoning Code and on the city of White Bear Lake's official zoning map.

COMMERCIAL SPEECH. Speech advertising a business, profession, commodity, service or entertainment.

DIGITAL SIGN: An electronic sign limited to alpha-numeric display of one or two colors only. (Ref. Ord. 19-12-2038, 12/10/19)

DYNAMIC DISPLAY SIGN: A sign face which can be electronically or mechanically changed by remote or automatic means, excluding digital signs. (Ref. Ord. 19-12-2038, 12/10/19)

ELEVATION: The view of the side, front or rear of a given structure showing a structure's relative elevation from the ground and/or other structures.

ERECT: Activity of constructing, building, raising, assembling, placing, affixing, attaching, creating, painting, drawing, installing, engraving or any other way of bringing a sign into being or establishing.

EXTERIOR SIGN: A sign on the outside of a building, structure or outdoor display area.

FLAG: Any fabric or similar lightweight material attached at one edge or no more than two (2) corners of the material, to a staff or pole, so as to allow movement of the material by atmospheric changes and which contains distinctive colors, patterns, symbols, emblems, insignia, or other symbolic devices or text. If any dimension of a flag is more than three (3) times as long as any other dimension, it shall be regulated as a banner for the purposes of this section.

FLASHING SIGN: A directly or indirectly illuminated sign, which exhibits changing light or color effect by any means, so as to provide intermittent illumination, which includes the illusion of intermittent flashing light by means of animation, or any other mode of lighting, which may include but is not limited to zooming, twinkling, or sparkling.

FREESTANDING SIGN: Any sign, which has supporting framework that is anchored in the ground and which is independent from any building or other structure, such as a monument, pylon, or drive-thru sign. (Ref. Ord. 19-12-2038, 12/10/19)

FRONTAGE: The line of contact of a property with the public right of way or private streets.

GRADE: The final ground elevation after construction. Earth mounding for landscaping, berming and/or screening is not part of the final grade for sign height computation.

GROUND SIGN: Any freestanding sign with its sign face mounted on the ground or mounted on a base at least as wide as the sign and which has a total height not exceeding eight feet (8').

HEIGHT OF SIGN: The height of the sign, for freestanding signs, shall be computed as the vertical distance measured from the base of the sign at normal grade to the top of the highest attached component of the sign. For signs attached to buildings, the height shall be measured from the lowest attached component of the sign to the highest attached component.

ILLUMINATED SIGN: Any sign illuminated by a source of light which is directly cast upon the exterior surface or face of the sign and intended to illuminate the sign by reflection or which is illuminated from within or behind the sign so as to reflect or emanate light through or around the sign.

INDUSTRIAL BUSINESS DISTRICTS: The BW, I-1 & I-2 zoning district within the city as identified in the City's Zoning Code and on the City of White Bear Lake's official zoning map.

INTERIOR SIGN: A sign which is located within the interior of any building, or within an enclosed lobby or court of any building that are not visible from outside of the building.

ISSUING AUTHORITY: The City of White Bear Lake.

DRIVE-THRU SIGN: A sign located in close proximity to a drive thru lane located on the subject site.

MONUMENT SIGN: Any freestanding sign with its sign face mounted on the ground or mounted on a base at least as wide as the sign and which has a maximum height of 10 feet.

MULTI-TENANT BUILDING: A commercial or industrial building containing three (3) or more tenants.

MURAL: An image painted or applied on the exterior of a building wall(s) or other permanent structure and for which no more than five percent (5%) of the total area covered by the mural, or one hundred (100) square feet (whichever is less), consists of text.

NONCOMMERCIAL SPEECH: Speech not defined as commercial speech which includes, but is not limited to, speech concerning political, religious, social, ideological, public service and informational topics.

NONCONFORMING SIGN: A sign which is lawfully existing on the effective date hereof, but does not conform to this section.

OFF-PREMISE SIGN: A commercial speech sign which directs the attention of the public to a business, activity conducted, or product sold or offered at a location not on the same lot where such sign is located. For purposes of this sign ordinance, easements and other appurtenances shall be considered to be outside such lot and any sign located or proposed to be located in an easement or other appurtenance shall be considered an off-premise sign.

PARAPET (WALL): That portion of a building wall that rises above the roof level.

PORTABLE SIGN: Any sign which is manifestly designed to be transported, including by trailer or on its own wheels, even though the wheels of such sign may be removed and the remaining chassis or support is converted to another sign or attached temporarily to the ground. A sign mounted on a vehicle identifying a business when the vehicle is being used in the normal day to day operation of that business is not subject to the regulations set forth in this section.

PRINCIPAL BUILDING: The building in which the principal use of the property occurs. Buildings with multiple principal uses shall not constitute multiple principal buildings (i.e., 3 separate uses in a building is equal to 1 building). Storage buildings, garages, and other clearly accessory buildings shall not be considered principal buildings.

PRINCIPAL ENTRANCE: The main doorways, lobby, or access leading or entering into a building or structure.

PROJECTING SIGN: A sign which projects from and is supported by a wall of a building or structure.

PROPERTY: Any lot or parcel of land which has been legally created and has been assigned a separate parcel identification number.

PUBLIC ROAD RIGHT OF WAY: The right of way for a public roadway.

PUBLIC ZONING DISTRICT: The P - Public Facilities, zoning district within the City as identified in the city's zoning code and on the City of White Bear Lake's official zoning map.

PYLON SIGN: Any freestanding sign which has its supportive structure(s) anchored in the ground and which has a sign face elevated above ground level by pole(s) or beam(s) more than 10' and with the area below the sign face open.

REGISTRATION: Signs which require registration shall be registered by providing the site address, point of contact, date to be installed and date to be removed to the Zoning Administrator.

RESIDENTIAL DISTRICTS: The R-1, R-2, R-3, R-4, R-5, R-6, R-7, R-B & R-MH zoning districts within the city as identified in the city's zoning code on the city of White Bear Lake's official zoning map.

RESIDENTIAL PROPERTY: A piece of land or real estate, consisting of one or more lots or parcels, where a residential dwelling and its associated accessory buildings or structures are located.

ROOF: The exterior surface and its supporting structure on the top of a building or structure makeup of which conforms to the roof structures, roof construction and roof covering sections of the state building code.

ROOF SIGN: Any sign erected and constructed wholly on and above the roof or parapet of a building or structure, supported by the roof structure.

SANDWICH BOARD SIGN: See definition of A-frame sign.

SHIMMERING SIGNS: A sign which reflects an oscillating sometimes distorted visual image.

SIGN: Any letter, word or symbol, poster, picture, reading matter or representation in the nature of advertisement, announcement, message or visual communication, other than a "flag" or "mural" as defined in this section whether painted, posted, printed, affixed, engraved or constructed, including all associated brackets, braces, supports, wires, and structures, which is displayed for informational or communicative purposes.

SIGN FACE: The surface of a sign upon, against, or through which the message of the sign is exhibited.

SIGN STRUCTURE: Any structure including the base, poles, supports, uprights, bracing and framework which supports or is capable of supporting any sign.

SITE: A plot or parcel of land, or combination of contiguous lots or parcels of land, which are intended, designated, and/or approved to function as an integrated unit.

TEMPORARY SIGN: Any sign which is erected or displayed on a non-permanent basis for a limited period of time.

TOTAL SITE SIGNAGE: The maximum combined area of all signs allowed on a specific property or site.

VISIBLE: Capable of being seen by a person of normal visual acuity (whether legible or not) without visual aid.

WALL: Any structure which defines the exterior boundaries or courts of a building or structure and which has a slope of sixty degrees (60°) or greater with the horizontal plane.

WALL SIGN: Any building sign attached parallel to a wall, painted on the wall surface of, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one sign surface.

WINDOW SIGN: A sign displayed in or on a window that is visible from outside of the building.

(Ordinance 16-8-Z, 2/28/17)

1202.030: ADMINISTRATION:**Subd. 1 Administration:**

- A. Permit Required: No sign whose highest attached part is greater than six feet (6') above the ground surface directly beneath the highest point, except as otherwise specified herein, shall be erected, altered, reconstructed, maintained or moved in the city without first securing a permit from the city. The content of the sign shall not be reviewed or considered in determining whether to approve or deny a sign permit. Applications for a permit may be for specific signs or may be in the form of an overall signage plan for the property and shall be in writing addressed to the issuing authority on a form provided by the city. Permit applications shall be reviewed by city staff.

The issuing authority shall approve or deny the sign permit application in a manner consistent with the time lines required in Minnesota Statutes, Section 15.99, or successor statute.

- B. Permit Application: Required Information: Applications for a permit shall be on a form designated by the city. At a minimum, such application shall include the following items:
1. Names, addresses, and signatures of the applicant, owners of the sign, and fee owner of the property upon which the sign is to be erected;
 2. The address at which any signs are to be erected;
 3. The legal description of the property or site upon which the signs are to be erected and the street on which they are to front;
 4. A complete set of plans showing the necessary elevations, distances, size, location and details to fully and clearly represent the construction and placement of the signs;
 5. The cost of the sign;
 6. The type of sign (i.e. wall sign, monument, mural, etc.), installation details (i.e. raceway or individual mount), and style of illumination, if any;
 7. Footing and construction details, if a freestanding sign;
 8. If the proposed sign(s) is along a state trunk highway, county road, or interstate highway, the applicant may be required to provide proof that the applicant has obtained any necessary approvals from the responsible units of government for the sign(s).

For the purposes of the permits, all of the parties required to sign under paragraph B.1 of this section shall be considered joint applicants. All requirements of this section, including the ongoing maintenance for any sign erected within the city, shall be the joint and severable responsibility of the applicant(s).

- C. Permit Exemptions: The following signs shall be exempt from the permit application requirements of this section. These exemptions, however, shall not be construed as relieving the owner of the sign from the responsibility of its erection and ongoing maintenance, and its compliance with the provisions of this section or any other law or ordinance relating to maintenance, repair and removal.
1. Individual signs not exceeding one-half (0.5) square feet in any zoning district. Such signage shall not be counted against any overall square footage requirement applicable to a property.
 2. Individual signs, in any zoning district, which are:
 - a. Located no closer than one hundred feet (100') to the edge or curb of any road within a public roadway right of way; and
 - b. Not greater than six (6) feet in height, three (3) square feet in size and with any letters or numbers not greater than six inches (6") in height; or
 - c. Not greater than six (6) feet in height, six (6) square feet in size and with any letters or numbers not greater than three inches (3") in height.
 3. Signs erected within a public road right of way that are approved by the appropriate governmental agency with authority over the right of way.
 4. The changing of the display surface or sign face on a previously approved and erected sign when such change or replacement would be consistent with a previously issued permit or a sign considered to be a legal nonconformity and would not require compliance with applicable building codes, unless such sign has been deemed abandoned.
 5. Flags, subject to the following (any flags in excess of these amounts shall be regulated as a sign):
 - a. Public, Commercial and Industrial zoned properties: 150 square feet
 - b. Residential zoned properties: 40 square feet
 6. Interior signs.
 7. Signs which are integrally attached to or part of:
 - a. Waste roll-offs, dumpsters, garbage cans, vending or dispensing machines, portable storage units or other similar equipment owned and maintained by a commercial business for the purpose of waste collection or temporary storage;

- b. Personal property or motor vehicles such as, but not limited to, passenger vehicles, snowmobiles, all-terrain vehicles, trucks, semi-tractors and trailers, recreational vehicles, fish houses, boats, boat lifts, and trailers;
 - c. Construction materials or equipment.
- 8. Signs which are affixed on city owned property.
 - 9. Murals located on a building used primarily for commercial or industrial purposes which are maintained by the property owner or his/her designee.
 - 10. Signs which are affixed on property owned by a county, state or federal governmental body or a public school district unless specifically prohibited by this section.
 - 11. Signs required by law.
 - 12. Headstones, gravestones, grave markers or other similar signs attached to, or adjacent to, a burial plot, columbarium, mausoleum or the like.
 - 13. Temporary Banners.
 - a. In Open Space or Residential districts, for all legal non-residential uses, banners may be erected for no more than thirty (30) days at a time, with no more than ninety (90) display days per property per calendar year. Said banner shall not exceed thirty-two (32) square feet in area. Only one (1) banner shall be displayed on the property at any given time and each banner display will count for a minimum of seven (7) days. The banner must be registered with the Zoning Administrator in order to insure compliances, but no permit is required.
 - b. In Commercial and Industrial business districts, properties without dynamic display signs may have up to four (4) banners permitted per property per calendar year, but not to exceed sixty (60) consecutive days for any one banner and not more than one (1) banner at a time for single tenant buildings. The total number of banner display days shall not exceed more than one hundred twenty (120) days per calendar year. Each banner displayed on the site on any given day will be counted as a banner display day. A sign permit is not required, but all banners must be registered with the Zoning Administrator to insure compliance. A banner shall not count towards the building or properties' maximum allowable sign area. Banners shall be a maximum of thirty-two (32) square feet in area, and shall be attached to a building or other permanent structure. For multi-tenant buildings where each tenant has a separate entrance and the property does not have a dynamic display sign, each tenant is permitted up to three (3) banner signs per calendar year, not to exceed sixty (60) consecutive days per banner or ninety (90) banner display days total per calendar year. No more than two (2) banners shall be displayed at any given time. For properties with dynamic display areas incorporated into the sign, temporary banners are prohibited.

- c. In the Public zoning district, Temporary banners are permitted for properties without dynamic display signs for up to sixty (60) days. A sign permit is not required, but all banners must be registered with the Zoning Administrator to insure compliance.
14. Temporary Sandwich Boards. Sandwich board signs are permitted in the B-1 through B-6, DCB and P zoning districts only, subject to the following requirements:
 - a. One (1) sandwich board sign is permitted per business.
 - b. The maximum size permitted is six (6) square feet per side.
 - c. The sign shall be professionally painted and maintained in a neat and readable manner.
 - d. Signs shall be placed on private property only.
 - e. Signs shall not be staked into the ground.
 - f. Signs shall not obstruct vehicular or pedestrian traffic or visibility and shall not create a safety hazard.
 - g. Signs shall not be lighted and shall not utilize noise amplifiers.
 - h. In the B-5, Central Business District only, sandwich boards may be placed on public sidewalks, directly in front of the business being advertised.
 - i. Properties which have a dynamic display sign may not display sandwich board signs.
 - j. Signs may be displayed only during hours of operation.
15. Temporary Window Signs. In Commercial and Industrial business districts only, such signs shall be neatly displayed, attached to either surface of the window displayed upon or displayed in a window within three (3) feet of the glass, but shall obscure no more than fifty percent (50%) of the total square footage of such windows. Total window coverage of both temporary and permanent window signs shall not exceed more than seventy-five percent (75%) of the total square footage of such windows. Temporary signs shall be allowed for a maximum of ninety (90) days per each twelve (12) month period. A sign permit is not required, but all temporary window signs must be registered with the Zoning Administrator to insure compliance.

- D. Fees: Sign permit fees shall be established by resolution/ordinance of the city council.

Any person, firm or corporation who either erects or has erected on his property any sign governed by this ordinance prior to a permit being issued shall pay an additional administrative fee.

- E. Repairs: Any sign located in the city which may now be or hereafter become out of order, rotten or unsafe, and every sign which shall hereafter be erected, altered, resurfaced, reconstructed or moved contrary to the provisions of this section, shall be removed or otherwise properly secured in accordance with the terms of this section by the owners thereof or by the owners of the grounds on which said sign shall stand, upon receipt of proper notice so to do, given by the issuing authority.
- F. Removal: Signs which may be or may hereafter become rotted, unsafe or unsightly shall be repaired or removed by the owner or lessee of the property upon which the sign stands upon reasonable notice by the city. The owner, lessee or manager of any sign that contacts the ground and the owner of the land on which the same is located shall keep grass, weeds and other growth cut and shall remove all debris and rubbish from the area beneath the sign. If the owner, lessee or manager of the property fails to act in accordance with this paragraph, such failure to act shall constitute a public nuisance, and the city may seek injunctive relief through a motion for summary enforcement, or obtain an administrative search and seizure warrant for removal of the sign in question. All costs incurred for removal may be charged to the owner of the sign and/or property owner and if unpaid, certified to the Ramsey County auditor as a lien against the property on which the sign was located.
- G. Legal non-conforming signs: An existing sign which has previously been issued a sign permit by the City and which conformed with the prior provisions of this code, shall be considered a legal non-conforming sign and may continue to be displayed.

State Statute 462.357 allows for nonconforming uses destroyed by fire or other peril to the extent of greater than 50% of its market value to be rebuilt to former extent, so long as a building permit is applied for within 180 days of when the property was damaged.

- H. Lapse of Permit: Any sign for which a permit is issued shall be erected and in place within six (6) months from a date of such permission, or the permit shall automatically become void and a new permit must be applied for pursuant to the provisions of this ordinance.

Subd. 2 General Provisions:

- A. General: Except as hereinafter provided, no signs shall be erected or maintained at any angle to a building or structure which extends over the street or highway. No sign shall be erected or maintained at any angle to a building or structure which sign shall extend more than four feet (4') over the sidewalk and shall be a minimum of eight feet (8') from the ground.

- B. Size: No individual sign shall exceed three hundred (300) square feet in area other than billboards which are regulated in §1202.040. Subd.2.G.
- C. Signs which utilize electricity must be installed in accordance with the current electrical code and all necessary electrical and building permits must be obtained prior to placement. Exposed wiring or conduit shall not be allowed.
- D. Prohibited Signs: The following signs are prohibited:
1. Any sign, signal, marking or device which purports to be or is an imitation of or resembles any official traffic control device or railroad sign or signal, or emergency vehicle signal, or which attempts to direct the movement of traffic or which hides from view or interferes with the effectiveness of any official traffic control device, roadway, intersection or any railroad sign or signal.
 2. Changeable copy message signs that comprise more than 70% of a sign.
 3. Roof signs.
 4. Signs painted, attached, engraved, etched or in any other manner affixed to public utility poles, bridges, towers, streetlights, or similar public structures, or to trees, rocks or other natural features.
 5. Off-premises signs, other than billboards which are regulated in §1202.040. Subd.2.G.
 6. Flashing signs.
 7. Shimmering signs.
 8. Portable signs, except A-frame signs as otherwise provided herein.
- E. Area: The area within the frame shall be used to calculate the square footage, and if such letters or graphics be mounted directly on a wall or fascia or in such way as to be without a frame, the dimensions for calculating the square footage shall be the area formed around such letters or graphics in a plane figure bounded by straight lines connecting the outermost points thereof. Symbols, pictures, wording, figures or other forms of graphics painted on or attached to walls, awnings, freestanding structures, or free standing structures are considered a sign and are included in calculating the overall square footage. The area of a sign with more than one visible sign face will be calculated as the sum of the area of each sign face divided by the number of sign faces.
- F. Illumination: External illumination for signs shall be constructed and maintained so that the source of light is not visible from the public right of way or residential property. Illuminated signs are subject to Zoning Code Sections 1202.080, Subd.1 a and b, and 1302.030, Subd.9, requiring all illumination of signs to be constant and steady and for all illuminated signs to be arranged such that light is deflected away from any adjoining residential area or public street.

- G. Retroactive Effect: This section shall apply to all sign applications applied for but not yet issued prior to the date of enactment.
- H. Noncommercial Speech: Notwithstanding any other provisions of this section, the noncommercial speech exemption provided by Minnesota statutes section 211B.045 (or successor statute) is hereby incorporated by reference, which shall also include the period of time thirteen (13) weeks prior to any election until ten (10) days following the election.

(Ordinance 16-8-Z, 2/28/17)

1202.040: REGULATIONS BY ZONING DISTRICT:

Subd. 1 Open Space and Residential Districts: Within the O, R-1 thru R-7, RB and R-MH zoning districts, nonexempt signs are allowed as follows:

- A. Wall Signs. For nonresidential uses only, one wall sign is permitted per property of up to forty (40) square feet. For residential apartment complexes of nine (9) or more units, one wall sign or one canopy or awning sign of up to ten (10) square feet is permitted on the main building. Wall signs may only be halo-lit, externally illuminated or non-illuminated. An awning sign counts as a wall sign.
- B. Freestanding Monument Signs. One monument sign is permitted per property or development, whichever is more restrictive, in residential districts for residential subdivisions and multi-family developments of nine (9) or more units, and for all legal nonresidential uses. Monument signs shall be a maximum of twenty-five (25) square feet per side, or thirty-five (35) square feet per side for properties over one (1) acre in size. Said sign shall be a maximum of six (6) feet in height, measured from ground grade, and shall be set back at least ten (10) feet from all property lines. The sign shall be designed to be architecturally compatible with the building or project, and shall be landscaped around the base of the sign. Monument signs in residential zoning districts may be lit internally provided that portions of the sign not devoted to changeable messaging consists of white or light-colored lettering with a dark, un-lit background. All internally illuminated signs shall be light-colored lettering with dark, unlit background.
- C. Changeable Copy Message Boards. For all legal nonresidential uses, changeable copy message boards are limited to no more than seventy percent (70%) of the total square footage of the sign.
- D. All Other Signs. Within any Open Space or Residential zoning district, additional nonexempt signs, such as home occupation, directional, garage sale, real estate and construction signs, are allowed as follows:
 - 1. Maximum height of any sign: Four feet (4').
 - 2. Maximum sign area for a single sign: Eight (8) square feet.
 - 3. Cumulative maximum sign area per property or site: Twenty four (24) square feet.
- E. Prohibited Signs. The following types of signs are not permitted in Open Space and Residential zoning districts:
 - A-frame signs.
 - Dynamic Display signs.
 - Flag signs.
 - Murals.
 - Portable signs.
 - Roof signs.
 - Shimmering signs.
 - Temporary displays.
 - Window signs.

Subd. 2 Commercial and Industrial Districts: Within the B-1 thru B-6, LVMU, DCB, DBD, B-W, I-1, I-2, P-Z and PZ-R zoning districts, nonexempt signs are allowed as follows:

A. Wall Signs.

1. Single Tenant Buildings. For single tenant buildings, wall signs are permitted on the front, side or rear of a building, except that wall signs may not face abutting residential property on the side or rear of a building. Wall signs may cover a maximum of ten percent (10%) of the gross wall area of the main or front building wall, and may cover a maximum of five percent (5%) of the gross wall area of the side and/or rear building walls. Up to two (2) signs may be placed on each building facade. In no case shall the total square footage of all wall signs exceed the sign area maximums stated below:

<u>S.F. of building:</u>	<u>Maximum sign area for building:</u>
Under 5,000 s.f.	80 s.f.
5,000-10,000 s.f.	100 s.f.
10,001-20,000 s.f.	150 s.f.
Over 20,000 s.f.	200 s.f.

2. Multi-Tenant Buildings. For multi-tenant buildings each tenant having a private entrance is permitted one (1) wall sign a minimum of 30 square feet in area. The sign may be a maximum of seven percent (7%) of the exterior wall area pertaining to that tenant, and shall be displayed on that wall area. In Industrial zoning districts, the maximum size of the sign shall be 80 square feet.

For end cap tenants where a side elevation faces a street, a secondary wall sign is permitted on the side elevation not to exceed 3.5% of that wall area or 30 square feet. All tenant signs shall have a consistent display format and be constructed of similar materials. For multi-tenant buildings where all tenants share a common entrance, two (2) building identification signs are permitted: one (1) monument sign (see below) and one (1) wall sign up to thirty-five (35) square feet.

The type, materials, design and colors of signs to be permitted on the building must be coordinated to ensure a consistent display format across the building. Each sign subsequently erected on the property must conform to the established display format or receive special approval from the Zoning Administrator.

3. Canopy Signs. Signs located on the canopies of gas stations or other business canopies shall be considered wall signs, and shall count towards the overall maximum wall sign area allowed in subsection A.1, above. Businesses with canopies are allowed not more than two (2) permanent signs on the canopy. Signs located on a canopy shall not occupy more than twenty percent (20%) of the canopy face on which the sign is located.

4. Awning Signs. Awning signs shall be considered wall signs and shall count towards the overall maximum wall sign area allowed in subsection A.1 above.
 5. Permanent Window Signs. Signs may cover a maximum of thirty-three (33%) of plate glass windows. All permanent window signs must be professionally made and neatly displayed. All permanent window signs shall count towards the percentage of wall area coverage for that wall.
 6. Painted signs. Painted signs are allowed in the B-5 – Central Business and DCB – Diversified Central Business districts only, when located on the side or rear of a block, brick or stucco building. All painted signs shall count towards the percentage of wall area coverage for that wall.
 7. Projecting Signs. In the B-5 and LVMU Zoning Districts only, signs may project over the public sidewalk or pedestrian right-of-way, subject to the following criteria:
 - a. Only one sign per business.
 - b. The maximum size of each sign shall be nine (9) square feet per side.
 - c. The sign shall not exceed three (3) feet in length on any side.
 - d. The sign shall have the general appearance and style compatible with existing signs, and must be constructed of similar materials, i.e., wood, iron, steel. No plastic or internally illuminated signs are permitted.
 - e. Projecting signs and supports shall extend no more than four (4) feet beyond the walls of the buildings to which they are attached, and shall not extend beyond the public sidewalk. Such signs shall be at least one (1) foot from the wall of the building to which they are attached, and shall be at least two (2) feet from any curb line.
 - f. The sign shall be a minimum of eight (8) feet above grade, and a maximum of fifteen (15) feet above grade.
 - g. Sign support strength. All projecting signs shall comply with the requirements of the Minnesota State Building Code.
- B. Freestanding Monument Signs.
1. Except for in the B-1 district and portions of the B-5 District, in all commercial and industrial districts one monument sign shall be permitted per property or development. Such sign shall be a maximum of thirty-five (35) square feet per side. The sign shall be architecturally compatible with the principal building, with a brick, masonry or similar base, and shall be a maximum of ten (10) feet high and shall be set back from all property lines and driveways a minimum of ten (10) feet.

Landscaping consisting of a mulched shrub and perennial bed shall be installed around the base of the sign, with a landscaping plan to be approved by City staff. No monument signs are permitted in the B-1 district. In the B-5 district, one monument sign, meeting the above-mentioned criteria shall be permitted only on those parcels having a minimum of one-hundred fifty (150) lineal feet of frontage along the Highway 61 right-of-way.

2. In the B-2, B-3 and B-4 districts only, for multi-tenant buildings where each tenant has a private entrance, the one monument-style sign allowed in subsection B.1 above may be a maximum of one hundred (100) square feet per side and fifteen (15) feet in height. The same setbacks and all other requirements of subsection B.1, above, shall apply.
3. Properties in the B-2, B-3, B-4, DBD, PZ, I-1, I-2 and BW zoning districts may incorporate a dynamic display type sign into a freestanding monument sign subject to the following requirements:
 - a. Duration. The image or any portion thereof must have a minimum duration of 5 minutes and must be a static display. No portion of the image may flash, scroll, change color, imitate movement in any manner, or otherwise meet the characteristics of a flashing sign.
 - b. Transition. When the image or any portion thereof changes, the change sequence must be accomplished by means of instantaneous re-pixelization. The image may not change in a manner or by a method characterized by motion or which depicts action or a special effect to imitate movement (such as fades or bursts).
 - c. Brightness. The brightness of the sign may not at any time exceed 0.3 foot candles above ambient light levels as measured from fifty (50) feet from the sign's face. The sign must be equipped with automatic dimming technology or other mechanism that automatically adjusts the sign's illumination level based on ambient light conditions.
 - d. Display. The text and images displayed must be complete in themselves, without continuation in content to the next image or text or to any other signs.
 - e. Malfunction. The sign must be designed and equipped with a means to immediately discontinue the display (i.e., shut down) if a malfunction occurs.
 - f. Spacing. The sign must be at least 100 feet from the nearest dwelling unit unless the sign is not visible from said dwelling unit.
 - g. Size. The digital display portion or a digital sign may be incorporated into a freestanding monument sign, but are limited to no more than 70% of the total square footage of the sign or 25 square feet (per side), whichever is less. Digital signs may not be used as wall signage and must comply with all criteria required of a dynamic display sign, except spacing and resolution. Properties with digital signs may still display approved temporary banners and sandwich board signs. (Ref. Ord. 19-12-2038, 12/10/19)

- h. Design. All dynamic displays shall be designed to be an integral part of the overall monument sign; including frame color, materials, etc. and in no case may the dynamic display be wider or taller than the remaining portion of monument sign. Only one dynamic display area is allowed per sign face.
 - i. Resolution. The spacing between the bulbs (otherwise known as the “true pixel pitch” of the sign) shall not exceed 12 millimeters. Full color displays are permitted. Signs that use “virtual”, “shared pixel” or “optimized” LEDs are specifically prohibited.
 - j. Acknowledgement. Prior to the issuance of a sign permit for a dynamic sign, each property owner must sign an acknowledgement indicating agreement to comply with these standards.
 - k. Other. Audio speakers or any audio component is prohibited. The sign may not emit any sound or odor. The sign must be part of the State of Minnesota’s public safety alert system.
 - l. Enforcement. All outstanding code compliance issues must be resolved before a permit for a dynamic display sign may be approved. Upon installation of a freestanding dynamic display sign, the property owner acknowledges that the property may no longer display any temporary banners, or sandwich board signs. All window signs must comply with the sign code, both permanent and temporary. The person owning or controlling the sign must adjust the sign to meet the standards of this code or turn the sign off within one business day of notice of non-compliance by the City. Once the issue has been corrected, the owner/operator shall notify the City prior to turning the sign back on.
- C. Changeable Copy Message Boards. Changeable copy message boards are permitted as part of a permanent wall or monument, but may not be on the same sign as a dynamic display sign and are limited to comprising no more than seventy percent (70%) of the total square footage of the sign.
- D. Freestanding Pylon Signs. Freestanding pylon signs are allowed in the B-W, I-1, and I-2 zoning districts only subject to the following requirements:
- 1. The property must be adjacent to a federal highway.
 - 2. The sign must be oriented towards and no more than thirty (30) feet from the federal highway right-of-way.
 - 3. Maximum of one hundred twenty (120) square feet per side.
 - 4. Twenty-five (25) foot height maximum as measured from ground grade.

- 5. Ten (10) foot setback from all property lines.
 - 6. The design of the sign must be architecturally compatible with the building or property and shall not detract from surrounding properties.
 - 7. Only one (1) pylon sign per property is permitted.
 - 8. A dynamic display sign component may not be added to the pylon sign.
- E. Drive Thru Signs. One sign is allowed per drive-through lane, not to exceed thirty-two (32) square feet in area. Said sign may be freestanding or a wall sign. If freestanding, the sign shall be a maximum of six (6) feet in height and shall be set back from all property lines at least ten (10) feet. Up to 100% of a drive-thru sign may be a dynamic display style face and must otherwise comply with all criteria required of a dynamic display sign, except spacing and resolution. Drive thru signs are not permitted in the B-5, Central Business District. (Ref. Ord. 19-12-2038, 12/10/19)
- F. All Other Signs: Within any Commercial or Industrial zoning district, additional nonexempt signs are allowed as follows:

Sign Type	Maximum Size per Sign	Maximum Total Sign Area	Maximum Sign Height
Temporary*	50 square feet	100 square feet	10 feet
Permanent	10 square feet	30 square feet	6 feet

*Only allowed on properties which have an active building permit until the issuance of a certificate of occupancy, or properties containing a legal temporary sales lot.

- G. Billboards: Billboards shall be permitted with a Conditional Use Permit in accordance with the procedures outlines in Code Section 1301.050.
- 1. Maximum Number in City.
 - a. The maximum number of billboards allowed in the City will be the number of billboards currently existing and in use in the City as of the date of June 1, 2019.
 - b. Existing billboard signs may be upgraded and modernized to the most current technology for either a static or dynamic sign face(s), or relocated, subject to the general requirements listed in this Section.
 - 2. General Requirements:
 - a. Billboards may be erected on properties adjacent to Interstate Highways 35E and 694 and only allowed in Zoning Districts I-1, 1-2, BW, B-3, B-4, and PZ.
 - b. The minimum setback of any portion of a billboard sign to an interstate highway right-of-way is ten (10) feet and the maximum distance from an interstate highway right-of-way is 150 feet.
 - c. The maximum allowable area of any sign face, whether a single sign face or each face of a back-to-back or V-shaped signs, shall not exceed 700 square feet per sign face.

- d. The maximum allowable height of any billboard is 50 feet, or at a height above any physical barrier subject to the review and approval of a height variance by the City.
 - e. The minimum allowable distance as measured along the centerline of I-35E and I-694 is 1300 feet to the nearest billboard within the City and 1300 feet to nearest residential zoned property.
 - f. Any upgrade, modernization, or relocation of an existing billboard shall be limited to a billboard containing two sign faces that may be static or dynamic.
 - g. All visible sign support columns shall be concealed with an approved architectural treatment primarily consisting of natural stone, brick, or approved masonry materials.
 - h. No portion of any billboard shall occupy air space above any building or parking spaces.
 - i. No billboard may display any moving parts, nor shall it be illuminated with any flashing or intermittent lights.
3. Additional requirements for dynamic billboards:
- a. The image or any portion thereof must have a minimum duration of eight (8) seconds and must be a static display. No portion of the image may flash, scroll, change color, imitate movement in any manner, or otherwise meet the characteristics of a flashing sign.
 - b. The image must have a change sequence accomplished by means of instantaneous re-pixelization. The image may not change in a manner or by a method characterized by motion or which depicts actions, or a special effect to imitate movement (such as fades or bursts).
 - c. The sign image must contain a complete message and not be continued to a subsequent image.
 - d. The sign shall not exceed a maximum brightness of 0.3 footcandles with automatic dimmer control.
 - e. The sign resolution shall not exceed a maximum 25 mm pixel pitch.
 - f. Dynamic signs must provide to the City a minimum of five hours (2,250 eight (8) second spots) per month per enhanced dynamic display sign in the City for community and public service messages at such times as shall be equitably scheduled throughout the day by the City. (Ref. Ord. 21-12-2052, 12/14/2021)
- H. Prohibited Signs: The following types of signs are not permitted in commercial or industrial zoning districts:

Flashing signs.
Portable signs.
Roof sign.
Shimmering signs.
Temporary Displays.

Subd. 3 Public Zoning District: Within the P, Public Facilities, zoning district, nonexempt signs are allowed as follows:

- A. Wall Signs. One wall sign shall be permitted per building facade. The total area of all wall signs shall be a maximum of ten percent (10%) of the total area of the main wall.
- B. Freestanding Monument Signs. For properties less than one acre in size, one monument sign shall be permitted per development. Said sign shall be a maximum of thirty-five (35) square feet per side and ten (10) feet in height. Properties greater than one (1) acre in area shall be allowed one (1) monument sign up to fifty (50) square feet per side and ten (10) feet high. Properties 20 acres in size or greater shall be allowed two monuments signs, one thirty-five (35) square foot sign and one fifty (50) square foot sign.

Such signs shall be designed to reflect the architectural character of the building or property, and shall be landscaped around the base of the sign. Signs shall be set back at least ten (10) feet from all property lines. A dynamic display sign may be incorporated into the freestanding sign. The dynamic display portion of a sign shall not comprise more than 70% of the sign face, not to exceed 25 square feet. If a sign contains a dynamic display, it shall meet all the standards of Section 1020.040.B.2.c, above.

- C. Changeable Copy Message Boards. Changeable copy message boards are permitted as part of a permanent freestanding sign or wall sign, but are limited to comprising no more than seventy percent (70%) of the total square footage of any sign.
- D. All Other Signs: Additional nonexempt signs are allowed as follows:
 - 1. Maximum height of any sign: Ten feet (10')
 - 2. Maximum sign area for a single sign: Ten (10) square feet.
 - 3. Cumulative maximum sign area per property or site: Thirty (30) square feet.
- E. Billboard Signs: Billboards shall be permitted with a Conditional Use Permit in accordance with the procedures outlines in Code Section 1301.050.
 - a. General Requirements:
 - a. Billboards may be erected on properties adjacent to Interstate Highway 35E and 694 and only allowed in Zoning Districts I-1, I-2, BW, B-3, B-4, and PZ.
 - b. The minimum setback of any portion of a billboard sign to an interstate highway right-of-way is ten (10) feet and the maximum distance from an interstate highway right-of-way is 150 feet.
 - c. The maximum allowable area of any sign face, whether a single sign face or each face of a back-to-back or V-shaped signs, shall not exceed 700 square feet per sign face.
 - d. The maximum allowable height of any billboard is 50 feet, or at a height above any physical barrier subject to the review and approval of a height variance by the City.
 - e. The minimum allowable distance as measured along the centerline of I-35E and I-694 is 1300 feet to the nearest billboard within the City and 1300 feet to nearest residential zoned property.

- f. Any upgrade, modernization, or relocation of an existing billboard shall be limited to a billboard containing two sign faces that may be static or dynamic, and shall include a single pole with brick, stone or similar masonry material at the base of the billboard.
 - g. All visible sign support columns shall be concealed with an approved architectural treatment primarily consisting of natural stone, brick, or approved masonry materials.
 - h. No portion of any billboard shall occupy air space above any building or parking spaces.
 - i. No billboard may display any moving parts, nor shall it be illuminated with any flashing or intermittent lights.
2. Additional requirements for dynamic billboards:
- a. The image or any portion thereof must have a minimum duration of eight (8) seconds and must be a static display. No portion of the image may flash, scroll, change color, imitate movement in any manner, or otherwise meet the characteristics of a flashing sign.
 - b. The image must have a change sequence accomplished by means of instantaneous re-pixelization. The image may not change in a manner or by a method characterized by motion or which depicts actions, or a special effect to imitate movement (such as fades or bursts).
 - c. The sign image must contain a complete message and not be continued to a subsequent image.
 - d. The sign shall not exceed a maximum brightness of 0.3 footcandles with automatic dimmer control.
 - e. The sign resolution shall not exceed a maximum 25 mm pixel pitch.
 - f. Dynamic signs must provide to the City a minimum of five hours (2,250 eight (8) second spots) per month per enhanced dynamic display sign in the City for community and public service messages at such times as shall be equitably scheduled throughout the day by the City. (Ref. Ord. 21-12-2052, 12/14/2021)
- F. Prohibited Signs: The following types of signs are not permitted in the Public zoning district:
- Flashing signs.
 - Portable signs.
 - Roof sign.
 - Shimmering signs.

(Ordinance 16-8-Z, 2/28/17)

1202.050: MISCELLANEOUS PROVISIONS:**Subd. 1 Noncommercial Speech:**

- A. Substitution Clause: The owner of any sign which is otherwise allowed by this section may substitute noncommercial copy in lieu of any other commercial or noncommercial copy. This substitution of copy may be made without any additional approval or permitting. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over noncommercial speech, or favoring of any particular noncommercial message over any other noncommercial message. The provision prevails over any more specific provision to the contrary.

Subd. 2 Enforcement:

- A. Administration: Provisions of this section shall be administered and enforced by the zoning administrator or their designee, who shall be appointed by the city council, and may have other municipal duties. Their duties shall include, but not be limited to:
1. Determine that all sign permits comply with the terms of this section.
 2. Conduct site inspections to determine compliance with the terms of this section.
 3. Receive, file and forward all applications for appeals, variances, or other matters to the designated official bodies.
- B. Appeals: Any appeal to a decision made under this chapter shall be brought under the terms of Section 10-3-3 of the city code.

Subd. 3 Violations:

- A. Violations; Separate Offense. Each day that the violation continues shall constitute a separate offense. Violations of this ordinance shall be deemed a misdemeanor.

(Ordinance 16-8-Z, 2/28/17)

XIII. ZONING CODE

1301. ADMINISTRATION

§1301.010 TITLE AND APPLICATION

Subd. 1. Title. This Code shall be known as the "White Bear Lake Zoning Code" except as referred to herein, where it shall be known as "this Code".

Subd. 2. Intent and Purpose. The intent of this Code is to protect the public health, safety and general welfare of the community and its people through the establishment of minimum regulations in regard to location, erection, construction, alteration and use of structures and land. Such regulations are established to protect such use areas; to promote orderly development and redevelopment; to provide adequate light, air and convenience to access to property; to prevent congestion in the public right-of-way; to prevent over crowding of land and undue concentration of structures by regulating land, building, yards and density of population; to provide for compatibility of different land uses; to provide for administration of this Code, to provide for amendments; to prescribe penalties for violation of such regulations; and to define powers and duties of the City staff, the Board of Adjustments and Appeals, the Planning Commission, and the City Council in relation to the Zoning Code.

Subd. 3. Relation to Comprehensive Municipal Plan. It is the policy of the City of White Bear Lake that the enforcement, amendment, and administration of this Code be accomplished with due consideration of the recommendations contained in the City Comprehensive Plan as developed and amended from time to time by the Planning Commission and City Council of the City. Any requests to amend the Comprehensive Municipal Plan shall be accompanied by a fee of six hundred and fifty (\$650) dollars. The Council recognizes the City Comprehensive Plan as the policy for regulating land use and development in accordance with the policies and purpose herein set forth. (Ref. Ord. No. 10-1-1061, 1/12/10)

Subd. 4. Standard, Requirement. Where the conditions imposed by any provision of this Code are either more or less restrictive than comparable conditions imposed by other code, ordinance, rule or regulation of the City, the code, ordinance, rule or regulation which imposes the more restrictive condition, standard, or requirement shall prevail.

Subd. 5. In their interpretation and application, the provisions of this Code shall be held to the minimum requirements for the promotion of the public health, safety and welfare.

Subd. 6. No structure shall be erected, converted, enlarged, reconstructed or altered, and no structure or land shall be used for any purpose nor in any manner which is not in conformity with the provisions of this Code.

Subd. 7. Except as herein provided, no building, structure or premises shall hereafter be used or occupied and no building permit shall be granted that does not conform to the requirements of this Code.

Subd. 8. Uses Not Provided for Within Zoning Districts. Whenever in any zoning district a use is neither specifically permitted nor denied, the use shall be considered prohibited. In such cases, the City Council or the Planning Commission, on their own initiative or upon request, may conduct a study to determine if the use is acceptable and if so what zoning district would be most appropriate and the determination as to conditions and standards relating to development of the use. The City Council, Planning Commission or property owner, upon receipt of the staff study shall, if

appropriate, initiate an amendment to the Zoning Code to provide for the particular use under consideration, or shall find that the use is not compatible for development within a District or the City.

Subd. 9. Severability. It is hereby declared to be the intention of the City that the several provisions of this Code are severable in accordance with the following:

- a) If any court of competent jurisdiction shall adjudge any provision of this Code to be invalid, such judgment shall not effect any other provisions of this Code not specifically included in said judgment.
- b) If any court of competent jurisdiction shall adjudge invalid the application of any provision of this Code to a particular property, building, or other structure, such judgment shall not affect the application of said provision to any other property, building, or structure not specifically included in said judgment.

Subd. 10. Authority. This Code is enacted pursuant to the authority granted by the Municipal Planning Act, Minnesota Statutes, Section 462.351 to 462.363.

Subd. 11. Comprehensive, Revision. The Council intends this Code to be a comprehensive revision to Ordinance No. 456 of the City, as amended. Any act done, offense committed, or rights accruing or accrued, or liability, penalty incurred or imposed prior to the effective date of this Code is not affected by its enactment.

Subd. 12. Repeal. Ordinance No. 456 as amended, of the City of White Bear Lake is hereby repealed.

§1301.020 RULES.

The language set forth in the text of this code shall be interpreted in accordance with the following rules of construction.

Subd. 1. The singular number includes the plural, and the plural the singular.

Subd. 2. The present tense includes the past and the future tenses, and the future the present.

Subd. 3. The word "shall" is mandatory while the word "may" is permissive.

Subd. 4. The masculine gender includes the feminine and neuter.

Subd. 5. Whenever a word or term defined hereinafter appears in the text of this Code, its meaning shall be construed as set forth in such definition thereof.

Subd. 6. All measured distances expressed in feet shall be the nearest tenth of a foot.

§1301.030 DEFINITIONS.

The following words and terms, whenever they occur in this Code, shall be interpreted as herein defined:

Subd. 1. "A" Definitions

Abutting. Making contact with or separated only by public thoroughfare, railroad, public utility right-of-way or navigable waters.

Accessory Apartment. A single rental housing unit for no more than two (2) persons, one of whom is at least 55 years of age or handicapped as defined by the Minnesota State Statutes. The unit is subordinate to the principal single family dwelling unit use, which can only be established by Conditional Use Permit, and which is subject to specific performance standards. (Ref. Ord. No. 770, 9/14/88)

Accessory Building or Use. A subordinate building or use which is located on the same lot on which the principal building or use is situated and which is reasonably necessary and incidental to the conduct of the primary use of such building or principal use. Examples include garages, sheds, gazebos, greenhouses, driveways, patios, detached decks and the like. (Ref. Ord. No. 10-1-1061, 1/12/10)

Accessory Structure, Recreational. A small, above ground building or other improvement, except stairways, fences and retaining walls, used primarily for recreational purposes. Examples of such structures shall include gazebos, screen houses, detached decks and similar structures, but not including attached or detached garages, storage sheds, stored ice fishing houses and the like. (Ref. Ord. 915, 12/13/94)

Accessory Structure, Storage Shed. A small, above ground building or other improvement which is intended for and used to store materials and equipment and is not capable of automobile storage. The height of a storage shed shall not exceed 12 feet in height and shall be measured from ground grade to the top of the roof. (Ref. Ord. 10-10-981, 10/10/00)

Accessory Structure, Water-oriented. A small, above ground building or other improvement, except stairways, fences, piers, docks and retaining walls, which because of the relationship of its use to a surface water feature, reasonably needs to be located closer to public waters than the normal principal structure setback. Examples of such structures and facilities include gazebos, screen houses, pump houses, lock boxes, patios and detached decks, but not including attached or detached garages, storage sheds, stored ice fishing houses and the like. (Ref. Ord. 915, 12/13/94, 10-1-1061, 1/12/10)

Addition. A physical enlargement of an existing structure.

Affordable Housing Unit. Housing with a sales price or rental amount within the means of a household with a gross annual household income of not more than 60% of area median income (AMI), adjusted for household size, for the Twin City Metropolitan Area as determined by the U.S. Department of Housing and Urban Development. In the case of dwelling units for sale, affordable means housing in which mortgage, amortization, taxes, insurance, and condominium or association fees, if any, constitute no more than 30% of such gross annual household income for a household of the size that may occupy the unit in question. In the case of dwelling units for rent, affordable means housing for which the rent and utilities constitute no more than 30% of gross annual household income for a household of the size that may occupy the unit in question. (Ref. Ord. 09-01-1054, 1/13/09)

Affordable and/or Transit-Oriented Housing Development Agreement. A written agreement between an applicant for a development and the City of White Bear Lake containing specific requirements to ensure the continuing affordability of housing included in the development. (Ref. Ord. 09-01-1054, 1/13/09)

Affordable Housing Dwelling Unit. Any affordable housing subject to covenants or restrictions requiring such dwelling units to be sold or rented at prices preserving them as affordable housing for a period to be determined and agreed to by the City. (Ref. Ord. 09-01-1054, 1/13/09)

Affordable Housing Unit. Either a housing unit subsidized by the federal or state government or an affordable dwelling unit. (Ref. Ord. 09-01-1054, 1/13/09)

Agriculture Uses. Those uses commonly associated with the growing of produce on farms. These include: field crop farming; pasture for hay; fruit growing; tree, plant, shrub, or flower nursery without building; truck gardening; roadside stand for sale in season of products grown on premises; and livestock raising and feeding, but not including fur farms, commercial animal feed lots, and kennels.

Alley. A public or private right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on a street.

Animals.

- a) Domestic-House Pet. For purposes of this Code, a domestic house pet shall be defined as those animals such as dogs, cats and birds which can be contained within a principal structure throughout the entire year, provided that containment can be accomplished without special modification to said structure requiring a building permit from the City of White Bear Lake
- b) Domestic-Farm. Cattle, hogs, sheep, goats, roosters, turkeys, horses and other commonly accepted farm animals. (Ref. Ord. 1085, 5/14/13; Ref. Ord. 16-04-2011, 4/12/16)
- c) Domestic-Hobby. Pigeons and bees. (See Municipal Code Section 702.043 and 702.045, respectively.) (Ref. Ord. 1085, 5/14/13)
- d) Non-domestic. All animals unable to fit the definition of domestic house pet animal, including any "protected" animal species or others not protected, and not commonly recognized as a farm animal in the State of Minnesota. "Protected" shall be construed as protection in time or manner of taking, as defined in Minnesota State Statutes, Chapter 97.40.

Apartment. A room or suite of rooms which is designed for, intended for, or occupied as a residence by a single family or an individual, and is equipped with cooking facilities. Includes dwelling unit and efficiency unit.

Aquifer Recharge Areas. All land surface areas which by nature of their surface and/or subsurface soil characteristics are determined to contribute to the replenishment of subsurface water supplies.

Arcade. Any structure or building in which the principal purpose and use is to provide amusement or entertainment through the operation of mechanical amusement devices.

Artificial Obstruction. Any obstruction which is not a natural obstruction (see obstruction).

Assisted and Congregate Care Senior Housing. A multiple dwelling for seniors, fifty-five (55) years of age or older, which provides at least two meals per day for each of its residents and may include other supportive services including housekeeping, home health care, and transportation. (Ref. Ord. 00-04-979, 4/11/00)

Automobile Repair - Major. General repair, rebuilding or reconditioning engines, motor vehicles or trailers; collision service, including body, frame or fender straightening or repair; overall painting or paint job; vehicle steam cleaning.

Automobile Repair - Minor. Minor repairs, incidental body and fender work, painting and upholstering, replacement of parts and motor services to passenger automobiles and trucks not exceeding twelve thousand (12,000) pounds gross weight, but not including any operation specified under "Automobile Repair - Major".

Automobile Wrecking or Junk Yard. Any place where two (2) or more vehicles not in running condition and/or not licensed, or parts thereof, are stored in the open and are not being restored to operation or any land, building, or structure used for wrecking or storing of such motor vehicles or parts thereof; and including any commercial salvaging and scavenging of any other goods, articles or merchandise.

Awning. A temporary hood or cover which projects from the wall of a building and of a type which can be retracted, folded or collapsed against the face of a supporting building.

Subd. 2. "B" Definitions

Balcony. A landing or porch projecting from the wall of a building and which serves as a means of egress.

Basement. That portion of a building between floor and ceiling, which is partly below and partly above grade, but so located that the vertical distance from grade to the floor below is less than the vertical distance from grade to ceiling (see "Story").

Basement (Flood Plain). Any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level. (Ref. Ord. 10-4-1068, 4/13/10)

Bay. Cantilevered area of a room.

Block. That property abutting on one side of a street and lying between the two nearest intersecting or intercepting streets or railroad right-of-way or unsubdivided acreage.

Boarding (House) Home - foster Children. A family dwelling where children out of their own homes are cared for.

Boathouse. A structure designed and used solely for the storage of boats or boating equipment. (Ref. Ord. 915, 12/13/94)

Boulevard. The portion of the street right-of-way not occupied by pavement.

Brewer Taproom. Facility on the premises of a malt liquor beverage production facility/brewery intended for the on-sale and consumption of malt liquor produced by the brewer pursuant to Minnesota Statute Section 340A.301 Subdivision 6.b. A brewer taproom may include a restaurant. (Ref. Ord. 12-07-1081, 7/10/12)

Buffer yard. A required portion of an interior side or rear yard setback that shall be maintained with a screen fence and/or landscape material to provide screening from abutting residential properties. (Ref. Ord. 1012, 12/9/03)

Buildable Area. The portion of a lot remaining after required yards have been provided.

Building. Any structure used or intended for supporting or sheltering of any use or occupancy.

Building Height. A distance to be measured from the mean ground level to the top of a flat roof, to the mean distance of the highest gable on a pitched or hip roof, to the deck line of a mansard roof, to the uppermost point on all other roof types.

Building Line. An imaginary line extending from any face of a principal structure, parallel and coincident with that face, extending to and intersecting with the lot line. (Ref. Ord. 704, 11/12/85).

Business. Any establishment, occupation, employment or enterprise where merchandise is manufactured, exhibited or sold, or where services are offered for compensation.

Subd. 3. "C" Definitions

Caliper Inches. The length of a straight line measured through the trunk of a tree twelve (12) inches above the ground. (Ref. Ord. 876, 8/11/92)

Canopy of a Tree. See Tree Canopy. Ref. Ord. 888, 3/9/93)

Caregiver. An individual 18 years of age or older who provides care for a mentally or physically impaired person; and is a relative, legal guardian, or health care agent of the mentally or physically impaired person for whom the individual is caring. (Ref. Ord. 16-10-2019, 10/11/16)

Carport. A canopy constructed of metal or other materials supported by posts either ornamental or solid and completely open on one (1) or more sides.

Cellar. That portion of a building between floor and ceiling which is wholly or partly below grade and so located that the vertical distance from grade to the floor below is equal to or greater than the vertical distance from grade to ceiling.

Central Business District. A centralized area of commercial and service activities which draw from and serve customers from the entire community or region. For the purpose of this Code, the White Bear Lake ultimate Central Business District boundary shall be that area located east of T.H. 61 between 2nd Street and 7th Street and between Highway 61 and Cook Avenue. The current boundaries are as defined in Section 1303.160, Subd. 1, and on the most current Zoning Map.

Channel. A natural or artificial depression of perceptible extent, with definite bed and banks to confine and conduct water either continuously or periodically.

Church. A building, together with its accessory buildings and use; where persons regularly assemble for religious worship and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

City Council. The governing body for the City of White Bear Lake.

Clear-Cutting. The removal of an entire stand of trees.

Club or Lodge. A club or lodge that is a nonprofit association of persons who are bona fide members paying annual dues, use of premises being restricted to members and their guests.

Clubs and lodges. This use includes buildings and facilities that are operated by a corporation, association, or membership organization for a social, service, or recreational purpose primarily for members and their guests, and not primarily for profit or to render a service that is customarily carried on as a business. (Ref. Ord. 1012, 12/9/03)

Common Front Building Line. In residential districts, the common front building line shall be a line between the two corners of the structure closest to the street right-of-way, except for structures on a corner lot, where the common front building line shall be the longest line between two corners of the structure, which are adjacent to a street right-of-way. (Ref. Ord. 04-10-1024, 10/12/04)

Commercial Planned Unit Developments [See Planned Unit Development, Commercial] (Ref. Ord. 915, 12/13/94)

Commercial Recreation. Bowling alley, cart track, jump center, golf, pool hall, vehicle racing or amusement, dance hall, skating, trampoline, theatre, firearms range, boat rental, amusement rides, bingo halls, campgrounds, park, live music and dancing, and similar uses.

Commercial Vehicles. (Ref. Ord. No. 803, 3/14/90; 839, 6/11/91; 989, 3/12/02)

A motor vehicle that meets any of the following:

- Commercial Vehicle – Type I

A van or pickup truck modified through the installation of a roof attachment, ladder rack, or similar feature provided the vehicle is not greater than 8'-6" in height or 22' in length. (Ref. Ord. 02-03-989, 3/12/02)

- Commercial Vehicle – Type II

- a) Tractors other than those intended for residential purposes;
- b) Trucks, and pickups which have a capacity greater than one (1) ton or having a gross vehicle weight over twelve thousand (12,000) pounds, whichever is less.
- c) Step vans designed or modified for the transportation of cargo, freight, construction machinery, equipment, materials or implements, dump trucks, cargo trucks, cube vans, tow trucks, semi trailer tractors, tank trucks, boom trucks, bucket trucks and fire trucks. (Ref. Ord. 02-03-989, 3/12/02)
- d) Any vehicle (not including recreational vehicles as defined in City Code) which are greater than 8'-6" in height or 22' in length. (Ref. Ord. 02-03-989, 3/12/02)

Note: Vehicles with signage affixed to the exterior body of the vehicle are not commercial vehicles unless they also meet the definition of a commercial vehicle in this section of the code. (Ref. Ord. No. 839, 6/11/91; 989, 3/12/02)

Commercial Use - The principal use of land or buildings for the sale, lease, rental, or trade of products, goods, and services. (Ref. Ord. 915, 12/13/94)

Commissioner - The commissioner of the Department of Natural Resources. (Ref. Ord. 915, 12/13/94)

Conditional Use - A land use or development as defined by ordinance that would not be appropriate generally but may be allowed with appropriate restrictions as provided by official controls upon a finding that (1) certain conditions as detailed in the zoning ordinance exist, and (2) the use or development conforms to the comprehensive land use plan and (3) is compatible with the existing neighborhood. (Ref. Ord 915, 12/13/94)

Conditional Use Permit. A permit issued by the City Council in accordance with procedures specified in this Code, as a flexibility device to enable the City Council to assign dimensions to a proposed use or conditions surrounding it after consideration of adjacent uses and their functions and the special problems which the proposed use presents.

Convenience Food Establishment. An establishment which serves food in or on disposable or edible containers in individual servings for consumption on or off the premises.

Convenience Commercial Centers. A limited commercial office, retail, service outlet which deals directly with the customer for whom the goods or services are furnished. The centers are to provide services or goods for the surrounding neighborhoods and are not intended to draw customers from the entire community.

Cooperative (Housing). A multiple family dwelling owned and maintained by the residents and subject to the provisions of MS 290.09 and 290.13. The entire structure and real property is under common ownership as contrasted to a condominium dwelling where individual units are under separate individual occupant ownership.

Comprehensive Plan. The group of maps, charts and texts that make up the comprehensive long range plan of the City.

Court. An unoccupied open space other than a yard which is bounded on two (2) or more sides by the walls of the buildings.

Crowding Potential. The ratio of total acreage to shore miles.

Subd. 4. "D" Definitions

Day Care. The care of children outside of their own homes for a part of the twenty-four (24) hour day by persons unrelated to them by blood or marriage. Day Care includes family day care, group family day care, and care in group-day-care centers.

Day Care facility. A program providing day care for eleven (11) or more children at any one time, including the provider's or helper's own children under school age. (3-27-85)

Day Care - Family. A program providing day care for no more than five (5) children at one time, including the family-day-care provider's own children under school age.

Day Care - Group Nursery. A program providing day care for more than five (5), but fewer than eleven (11) children at any one time, including the provider's or helper's own children under school age.

Deck - A horizontal, unenclosed platform with or without attached railings, seats, trellises, or other features, attached to or detached from a principal building. (Ref. Ord 915, 12/13/94)

Density Bonus. An increase in the number of market-rate or affordable housing units on a site in order to provide an incentive for the construction of affordable and transit-oriented housing pursuant to this ordinance. (Ref. Ord. 09-01-1054, 1/13/09)

Department Store. A business which is conducted under a single owner's name wherein a variety of unrelated merchandise and services are housed enclosed and are exhibited and sold directly to the customer for whom the goods and services are furnished.

Deposition. Any rock, soil, gravel, sand or other material deposited naturally or by man into a waterbody, watercourse, flood plains or wetlands.

Dimensionally Non-Conforming Structure. A structure which does not conform to the dimensional requirements established by this Code for minimum building setbacks or maximum building heights. (Ref. Ord. 923, 5/9/95)

District. A section or sections of the City for which the regulations and provisions governing the use of buildings and lands are uniform for each class of use allowed therein.

Diversion. A channel that intercepts surface water runoff and that changes the accustomed course of all or part of a stream.

Dog Kennel. Any place where four (4) dogs or more over six (6) months of age are boarded, bred and/or offered for sale, except a veterinary clinic.

Draining. The removal of surface water or groundwater from land.

Dredging. To enlarge or clean out a waterbody, watercourse, or wetland.

Drip Line of a Tree. An imaginary vertical line which extends from the outermost branches of a tree's canopy to the ground. (Ref. Ord. 876, 8/11/92)

Drive-in Facility. An establishment, such as an outdoor movie theatre or a drive-up restaurant, which accommodates the patron's automobile from which the occupants may receive a service or in which products purchased from the establishment are customarily consumed within the vehicle while parked on the site. (Ref. Ord. No. 810, 3/14/90, No. 10-1-1061, 1/12/10)

Drive-through Facility. An establishment, such as a bank or fast food restaurant, which allows the customers to purchase a good or service or otherwise conduct an exchange, typically through a window, while remaining in their vehicles. Food purchased from a drive-through is customarily consumed off site. (Ref. Ord. No. 10-1-1061, 1/12/10)

Dwelling. A building or portion thereof, designated exclusively for residential occupancy, including one-family, two-family, and multiple family dwellings, but not including hotels, motels, boarding houses, mobile homes or trailers.

Dwelling, Multiple (Apartment). A building designed with three (3) or more dwelling units exclusively for occupancy by three (3) or more families living independently of each other, but sharing hallways and main entrances and exits.

Dwelling, Single Family. A dwelling unit designed exclusively for occupancy by one (1) family.

a) Attached. A dwelling which is joined to another at one or more sides by a party wall.

b) Detached. A dwelling unit not attached to another dwelling or structure.

Dwelling Site - A designated location for residential use by one or more persons using temporary or movable shelter, including camping and recreational vehicle sites. (Ref. Ord. 915, 12/13/94)

Dwelling, Two-Family. A dwelling designed exclusively for occupancy by two (2) families living independently of each other.

- a) Double Bungalow. A two-family dwelling with two (2) units side-by-side.
- b) Duplex. A two-family dwelling with one (1) unit above the other.

Dwelling Unit - A residential building or portion thereof consisting of one or more rooms physically arranged so as to create an independent housekeeping establishment intended for occupancy by one (1) family but not including hotels, motels, nursing homes, seasonal cabins, boarding or rooming houses, tourists homes or trailers. (Ref. Ord. 915, 12/13/94)

Subd. 5. "E" Definitions

Earth Sheltered Dwelling Unit. A structure which complies with applicable building standards and which is constructed so that:

- a) Eighty (80) percent or more of the roof area is covered with a minimum depth of twelve (12) inches of earth; and
- b) Fifty (50) percent or more of the wall area is covered with a minimum depth twelve (12) inches of earth.

Elderly Senior Citizen Housing. A public agency owned or controlled multiple dwelling building with open occupancy limited to persons over sixty (60) years of age.

Efficiency Apartment. A dwelling unit consisting of one (1) principal room exclusive of bathroom, hallway, closets, or dining alcove.

Elevator Penthouse. An enclosure located on the top of a building which houses the working mechanisms of an elevator.

Engineering Design Standards. A stormwater design manual set forth by the City for land disturbing activities. These standards are created to preserve, protect, and manage the City's water resources as well as to meet federal, state and watershed stormwater regulations. (Ref. Ord. 15-05-1999, 5/12/15)

Essential Services. The erection, construction, alteration, or maintenance of underground or overhead gas, electrical, steam, or water transmission or distribution systems, collection, communication, supply or disposal systems by public utilities, municipal or other governmental agencies, but not including buildings.

Equal Degree of Encroachment. A method of determining the location of encroachment lines so that flood plain land on both sides of a stream are capable of conveying a proportionate share of flood flows. This is determined by considering the effect of encroachment on the hydraulic efficiency of the flood plain along both sides of a stream for a significant reach.

Exterior Storage. The storage of goods, materials, equipment, manufactured products and similar items not fully enclosed by a building.

Extractive Use - The use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other nonmetallic minerals, and peat not regulated under Minnesota Statutes, Sections 93.44 to 93.51. (Ref. Ord. 915, 12/13/94)

Subd. 6. "F" Definitions

Family. An individual or two (2) or more persons each related to the other by blood, marriage, adoption, or foster care, or a group of not more than five (5) persons not so related maintaining a common household and using common cooking and kitchen facilities.

Farm. A tract of land of ten (10) or more acres in size usually with a house and barn plus other buildings on which crops and often livestock are raised for a principal source of livelihood.

Farm-Hobby. A tract of land generally consisting of ten (10) or less acres in size with a house and accessory buildings on which crops and often livestock are raised but not as a principal source of income. A hobby farm shall not qualify for exemptions provided in this Code for farms.

Farming. Process of operating a farm for the growing and harvesting of crops which shall include those necessary accessory buildings, related to operating the farm, and the keeping of common domestic farm animals.

Fence. A fence is defined for the purpose of this Code as any partition, structure, wall or gate erected as a dividing mark, barrier or enclosure.

a) Fence - Boundary Line. All fences located within five (5) feet of a property line.

b) Fences - Interior Yard. All fences located five (5) feet beyond a property line.

Filling. The act of depositing any rock, soil, gravel, sand or other material so as to fill a waterbody, watercourse, or wetland.

Financial institution. This use includes establishments, the principal use or purpose of which is the providing of financial services. These will include bank facilities for teller and walk-up, automated teller machines ("ATMs"), credit unions, savings and loan institutions, and mortgage companies. (Ref. Ord. 1012, 12/9/03)

Flood. A temporary rise in a stream flow or stage which results in inundation of the areas adjacent to the channel.

Flood Frequency. The average frequency statistically determined, for which it is expected that a specific flood stage or discharge may be equaled or exceeded. By strict definition, such estimates are designated "exceedence frequency", but in practice the term "frequency" is used. The frequency of a particular stage or discharge is usually expressed as having a probability of occurring once within a specific number of years.

Flood Fringe. That portion of the flood plain outside of the floodway.

Flood Plain. The areas adjoining a watercourse which have been or hereafter may be covered by the regional flood; flood plain areas within the City of White Bear Lake shall encompass all areas designated as Zone A on the flood insurance rate map. (Ref. Ord. 745, 8/11/87)

Flood Profile. A graph or a longitudinal plot of water surface elevation of flood event a long a reach of a stream or river.

Floodway. The channel of the watercourse and those portions of the adjoining flood plains which are reasonably required to carry and discharge the regional flood.

Floor Area. The sum of the gross horizontal areas of the several floors of the building or portion thereof devoted to a particular use, including accessory storage areas located within selling or

working space such as counters, racks or closets, and any basement floor area devoted to retailing activities, to the production or processing of goods, or to business or professional offices. However, the floor area shall not include: basement or cellar floor area other than area devoted to retailing activities, the production or processing of goods, or to business or professional offices. The floor area of a residence shall not include the cellar area. Floor area shall be determined on the basis of the exterior floor area dimensions of the buildings, structures, or use times the number of floors.

Subd. 7. "G" Definitions

Game Room. Any room or area, open to the public, located within a building or structure, such as a bar, restaurant, lounge, supper club or bowling establishment, the purpose and use of which is to provide amusement or entertainment through the operation of mechanical amusement devices.

Garage - Private. An accessory building or accessory portion of the principal building which is intended for and used to store the private passenger vehicles and not more than one Type I commercial vehicle, as defined in City Code for use by the family or families resident upon the premises, and in which no business, service or industry is carried on. (Ref. Ord. 02-03-989, 3/12/02)

Garage - Public. A building or portion of a building, except any herein defined is a private garage or as a repair garage, used for the storage of motor vehicles, or where any such vehicles are kept for remuneration or hire and in which any sale of gasoline, oil and accessories is only incidental to the principal use.

Gross Vehicle Weight. Gross vehicle weight (GVW) means the weight of the vehicle plus the weight of the load thereon or the registered gross weight of the vehicle whichever is greater. (Ref. Ord. 794, 10/24/89; 813, 4/10/90)

Group Care Facility. A facility which provides resident services to fewer than seven (7) individuals of whom one or more are unrelated. These individuals are handicapped, aged or disabled, are undergoing rehabilitation, and are provided services to meet their needs. Category includes uses such as homes for physically handicapped, mentally retarded, chemically dependent, foster children, maternity shelters and half-way houses.

Guest Room. A room occupied by one (1) or more guests for compensation and in which no provision is made for cooking, but not including rooms in a dormitory for sleeping purposes primarily.

Subd. 8. "H" Definitions

Habitable Room. A room or enclosed floor space used or intended to be used for living, sleeping, eating, or cooking purposes, excluding bathrooms, flush water compartments, laundries, furnace rooms, unfinished basements, pantries, utility rooms of less than 50 square feet or floor space, foyers, halls, stairways, closets, storage spaces, workshops, hobby and recreation areas in parts of the structure below ground level or in attics and other similar areas. (Ref. Ord. No. 993, 8/13/02)

Hard Surfaced. All weather, durable, impervious, dust-free surfacing materials. (Ref. Ord. No. 803, 3/14/90)

Hardship. A zoning case in which property in question cannot be put to a reasonable use under the conditions allowed by the Zoning Code where the plight of the landowner is due to circumstances unique to this property, not created by the landowner. Economic considerations alone shall not constitute a hardship if a reasonable use for the property exists under terms of the official controls.

Home Occupation. Any occupation or profession engaged in by the occupant of a residential dwelling unit, which is clearly incidental and secondary to the residential use of the premises and does not change the character of said premises.

Hotel. Any building or portion thereof occupied as the more or less temporary abiding place of individuals and containing six (6) or more guest rooms, used, designated or intended to be used, let or hired out to be occupied, or which are occupied by six (6) or more individuals for compensation, whether the compensation be paid directly or indirectly.

Subd. 9. "I" Definitions

Impervious Surface. An artificial or natural surface through which water, air, or roots cannot penetrate.

Indoor recreation. This use includes active recreation facilities that are enclosed in buildings and are open to the public or operated on a commercial or membership basis for the use of persons not residing on the same lot on which the recreation use is located. It includes bowling alleys, billiards, skating rinks, indoor sports clubs, community centers, health and fitness clubs with or without swimming pools, and tennis courts. (Ref. Ord. 1012, 12/9/03)

Industrial Use - The use of land or buildings for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities, or other wholesale items. (Ref Ord. 915, 12/13/94)

Inoperable Vehicles. Any motor vehicle including but not limited to any automobile, truck, trailer, marine craft, snow mobile, motorcycle, all terrain vehicle, equipment for motorized transportation that; (1) has a missing or defective part that is necessary for the normal operation of the vehicle; or (2) is stored on blocks, jacks or other supports; or (3) is not currently licensed. (Ref. Ord. No. 803, 3/14/90)

Intensive Vegetation Clearing - The complete removal of trees or shrubs in a contiguous patch, strip, row, or block. (Ref. Ord 915, 12/13/94)

Interlock. This is the painted line or barrier in a parking lot that separates two facing rows of parking from one another.

Intermittent. A stream or portion of a stream that flows only in direct response to precipitation.

Irrevocable Letter of Credit. An irrevocable engagement by a bank or other person made at the request of a customer and of a kind within the scope of Minnesota Statutes, Section 336.501, et seq. that the issuer of a credit will honor drafts or other demands for payment upon compliance with the conditions specified in the credit.

Subd. 10. "J" Definitions

Junk Yard. An open area where waste, used, or second hand materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including but not limited to, scrap iron and other metals, paper, rags, rubber, tires, and bottles. A junk yard includes an auto wrecking yard, but does not include uses established entirely within closed buildings.

Subd. 11. "K" Definitions No definitions.

Subd. 12. "L" Definitions

Land Reclamation. The process of the re-establishment of acceptable topography (i.e. slopes), vegetative cover, soil stability and the establishment of safe conditions appropriate to the subsequent use of the land.

Lift - A mechanical device used to transport people to and from the water's edge. (Ref. Ord. 915, 12/13/94)

Liquor Lounge. Any establishment other than a hotel or restaurant, open to the general public, licensed for the "on-sale" distribution of intoxicating liquor and employs an adequate staff to provide the usual and suitable services to its guests. Such establishment shall have facilities for seating not less than 30 guests at one time. (Ref. Ord. 14-6-1095, 6/10/14)

Loading Space or Berth. A space accessible from a street, alley or way in a building or on a lot, for the use of vehicles while loading or unloading merchandise, materials or passengers.

Lock Box - An accessory structure accommodating the storage of boat and beach equipment, not exceeding twenty-eight (28) square feet in area and four (4) feet in height. (Ref. Ord 915, 12/13/94)

Lodging House. A building other than a hotel, where for compensation for definite periods, lodging is provided for three (3) or more persons not of the principal family, but not including a building providing this service for more than ten (10) persons.

Lodging Room. A room rented as sleeping and living quarters, but without cooking facilities and with or without an individual bathroom. In a suite of rooms without cooking facilities, each room which provides sleeping accommodation shall be counted as one (1) lodging room.

Lost Significant Tree: (See Tree, Lost Significant. Ref. Ord. 888, 3/9/93)

Lot - A parcel of land designated by plat, metes and bounds, registered land survey, auditors plot, or other accepted means, separated from other parcels or portions by said description for the purpose of sale, lease, or separation, and occupied or used or intended for occupancy or use by an individual principal permitted use in this Code abutting on a city-approved street, equipped with sanitary facilities and with sufficient size to provide the yards required by this Code. (Ref. Ord. 692, 8/13/85; 915, 12/13/94, No. 10-1-1061, 1/12/10)

Lot Area. The area of a horizontal plane within the lot lines. If the lot abuts a DNR public water body, the lot area shall include all land up to the Ordinary High Water Level. (Ref. Ord. No. 10-1-1061, 1/12/10, Ref. Ord. 10-1-1061, 1/12/10)

Lot, Base. Lots meeting all the specifications in the zoning district prior to being subdivided into a two family dwelling, townhouse, or quadraminium subdivisions.

Lot, Corner. A lot situated at the junction of and abutting on two (2) or more intersecting streets; or a lot at the point of deflection in alignment of a single street, the interior angle of which is one hundred thirty-five (135) degrees or less.

Lot, Depth. The shortest horizontal distance between the front lot line and the rear lot line measured from a ninety (90) degree angle from the street right-of-way within the lot boundaries.

Lot, Double Frontage. An interior lot having frontage on two (2) streets.

Lot, Frontage. The front of a lot shall be, for purposes of complying with this Code, that boundary abutting a city-approved street having the least width. (Ref. Ord. No. 10-1-1061, 1/12/10)

Lot, Interior. A lot, other than corner lot, including double frontage lots. (Ref. Ord. No. 10-1-1061, 1/12/10)

Lot, Line. A property boundary line of any lot held in single or separate ownership; except that where any portion of the lot extends into the abutting street or alley, the lot line shall be deemed to be the street or alley right-of-way.

Lot of Record. A parcel of land, whether subdivided or otherwise legally described and recorded with the County, as of the effective date of this Code, or approved by the City as a lot subsequent to such date and which is occupied by or intended for occupancy by one (1) principal building, or principal use together with any accessory buildings and such open spaces as required by this Code, and having its principal frontage on a street or a proposed street approved by the City Council.

Lot, Standard. A lot which meets the minimum lot area and lot width requirements as specified by the applicable zoning use district(s). (Ref. Ord. 99-11-974, 11/9/99)

Lot, Substandard. A lot which does not meet the minimum lot area or lot width requirements as specified by the applicable zoning use district(s) and does not meet the two criteria as outlined in Section 1302.030, Subd. 3.c. (General Building and Performance Requirements of Platted and Unplatted Property). (Ref. Ord. 99-11-974, 11/9/99, No. 10-1-1061, 1/12/10)

Lot, Substandard Buildable Residential. A lot which meets the two criteria as outlined in Section 1302.030, Subd. 3.c. (General Building and Performance Requirements of Platted and Unplatted Property). (Ref. Ord. 99-11-974, 11/9/99, No. 10-1-1061, 1/12/10)

Lot, Unit. Lots created from the subdivision of a two family dwelling, townhouse, or quadraminium having different minimum lot size requirements than the conventional base lots within the zoning district.

Lot, Width. The shortest horizontal distance between the side lot lines measured at right angles to the lot depth, at the minimum building setback line. (Ref. Ord. 915, 12/13/94, No. 10-1-1061, 1/12/10)

Lowest Floor. The lowest floor of the lowest enclosed area (including basement). (Ref. Ord. 10-4-1068, 4/13/10).

Subd. 13. "M" Definitions

Manufactured Home. A structure, transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on the site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the plumbing, heating, air conditioning, and electrical systems contained therein. No manufactured home shall be moved into the City of White Bear Lake which does not meet the Manufactured Home Building Code as defined in Minnesota Statutes, Chapter 327.31, Subd. 3.

Manufactured Home (Flood Plain). A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the plumbing, heating, air conditioning, and electrical systems contained therein. The term "manufactured home" does not include the term "recreational vehicle". No manufactured home shall be moved into the City of White Bear Lake which does not meet the Manufactured Home Building Code as defined in Minnesota Statutes, Chapter 327.31, Subd. 3. (Ref. Ord. 10-4-1068, 4/13/10)

Manufacturing, Heavy. A use engaged in the basic processing and manufacturing of materials or products predominately from extracted of raw materials, or a use engaged in storage of, or manufacturing processes using flammable or explosive materials, or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions. (Ref. Ord. 03-10-1010, 10/14/03)

Manufacturing, Light. A use engaged in the manufacture, predominately from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products, but excluding basic industrial processing. (Ref. Ord. 03-10-1010, 10/14/03)

Manufacturing Uses. All manufacture, compounding, processing, packaging, treatment, or assembly of products and materials.

Marina. An area of concentrated small craft mooring, where ancillary facilities may be provided for some or all of such services as fueling, sewage pump out, boat, launching, boat repair, and boat storage; except that marina does not mean temporary docks associated with riparian residential development if the mooring area is of a size not to exceed the resource limitations of the site and the needs of the residents of the development.

Mechanical Amusement Device. Any mechanical, electrical or electronic device operated by means of the insertion of a coin, token or similar object; for the purpose of amusement or skill whether or not registering a score; of which is designed to be played by a contestant or contestants and upon which the contestants receive a score or rating based upon their performance. This definition includes such devices as pin ball machines, table shuffleboard games, table hockey and soccer games, electronic devices, motion picture machines, and all other machines and devices which operate or are operated for the entertainment or amusement of the public.

Median Gross Household Income. The median income level for the Seven-County Metropolitan Area, as established and defined in the annual schedule published by the Secretary of the U.S. Department of Housing and Urban Development, adjusted for household size. (Ref. Ord. 09-01-1054, 1-13-09).

Medical and Dental Clinic. A structure intended for providing medical and dental examinations and service available to the public. This service is provided without overnight care available.

Microbrewery. A malt liquor beverage production facility/brewery which manufactures less than 3,500 barrels of malt liquor in a year pursuant to Minnesota Statute Section 340A.301 Subdivision 6(i) and 6(j). (Ref. Ord. 12-07-1081, 7/10/12)

Minerals. Soil, clay, stone, sand and gravel and other similar solid material or substance to be mined from natural deposits.

Mining. All or any part of the process involved in the extraction of minerals by removing the overburden and extracting directly from the mineral deposits thereby exposed.

Mobile Home. Any vehicle used or so constructed as to permit its being used as a conveyance upon the public streets or highways, and shall include self-propelled or non-self-propelled vehicles as designed, constructed, reconstructed or added to by means of an enclosed addition or room in such a manner as will permit the occupancy thereof as a dwelling or sleeping place for one or more persons, generally having no foundation other than wheels, jacks, or skirting, but not including a manufactured home as defined herein.

Mobile Home Park. Any premises on which are parked two (2) or more trailers, or any premises used or held out for the purpose of supplying to the public a parking space for one or more of such trailers. Sales lots on which automobiles or unoccupied trailers, new or used, are parked for purposes of inspection or sale are not included in this definition.

Motel/Motor Hotel. A building or group of detached, semidetached or attached buildings containing guest rooms or units, each of which has a separate entrance directly from the outside of the building, or corridor, with garage or parking space conveniently located to each unit, and which is designed, used or intended to be used primarily for the accommodation of transient guests travelling by automobile.

Motor Fuel Station. A place where gasoline is stored only in underground tanks, kerosene or motor oil and lubricants or grease, for operation of automobiles, are retailed directly to the public on premises, and including minor accessories and services for automobiles, but not including automobile major repairs and rebuilding.

Motor Freight Terminal (Truck Terminal). A building in which freight brought by motor truck is assembled and sorted for routing in intra-state and inter-state shipment.

Subd. 14. "N" Definitions

Natural Drainage System. All land surface areas which by nature of their contour configuration, collect, store and channel surface water runoff.

Natural Obstruction. Means any rock, tree, gravel or analogous natural matter that is an obstruction and has been located within a waterbody, watercourse, or wetland by a nonhuman cause.

Nonconforming Structure or Use. Any lawfully established structure or use which on the effective date of this Code does not conform to the applicable conditions if the structure or use was to be erected under the guidance of this Code. (See also "Dimensionally Non-Conforming Structure") (Ref. Ord. 923, 05/09/95)

Nonconformity - Any legal use, structure or parcel of land already in existence, recorded, or authorized before the adoption of official controls or amendments thereto that would not have been permitted to become established under the terms of the official controls as now written, if the official controls had been in effect prior to the date it was established, recorded or authorized. (Ref. Ord. 915, 12/13/94)

Normal High Water Mark. (Deleted, Ref. Ord. 692, 8/13/85, see "Ordinary High Water Level.")

Nursing Home (Rest Home). A building having accommodations where care is provided for two (2) or more invalids, infirmed, aged convalescent or physically disabled persons that are not of the immediate family; but not including hospitals, clinics, sanitariums, or similar institutions.

Subd. 15. "O" Definitions

Obstruction (Flood Plain). Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, dredged soil, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, stockpile of sand or gravel or other material, or matter in, along, across, or projecting into any channel, watercourse, lake bed, or regulatory flood plain which may impede, retard, or change the

direction of flow, either in itself or by catching or collecting debris carried by floodwater. (Ref. Ord. 745, 8/11/87)

Off-Sale Liquor. An establishment that sells intoxicating alcoholic beverages for consumption off the premises.

Off-Street Loading Space. A space accessible from the street, alley or way, in a building or on the lot, for the use of trucks while loading or unloading merchandise or materials.

Office, professional. This use includes administrative, executive, professional, research, nonprofit, or similar organizations that may have contact with the public, but provided that no merchandise or merchandising services are sold on the premises, except such that is incidental or accessory to the principal professional office use. These uses include offices of physicians, dentists, insurance, real estate, security monitoring or other administrative professionals. (Ref. Ord. 1012, 12/9/03)

On-Sale Liquor. An establishment that serves intoxicating alcoholic and/or non-intoxicating beverages for consumption on the premises.

Open Sales Lot. Any open land used or occupied for the purpose of buying, selling and/or renting merchandise and for the storing of same prior to sale.

Ordinary High Water Level. The boundary of public waters and wetlands indicated by an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape. The ordinary high water level is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel. For reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool. (Ref. Ord. 915, 12/13/94)

Ornamental Tree. (See Tree, Ornamental. Ref. Ord. 888, 3/9/93)

Out-Patient Care. Medical examination or service available to the public in a hospital. This service is provided without overnight care and shall be considered a separate, independent, principal use when combined or operated in conjunction with a hospital.

Overburden. The earth, rock and other materials that lie above a natural deposit of mineral.

Subd. 16. "P" Definitions

Parcel. A lot, piece or portion of land designed by metes and bounds, registered land survey, auditor's plat or other means separated from other parcels and portions by said description for the purpose of separation thereof. (Ref. Ord. 876, 8/11/92)

Parking Ramp. An accessory structure designed and used for the storage of motor vehicles at, below and/or above grade.

Parking Space. An area, enclosed in the main building, in an accessory building, or unenclosed, sufficient in size to store one (1) automobile, which has adequate access to a public street or alley and permitting satisfactory ingress and egress of an automobile.

Passenger Vehicle: Any vehicle used for everyday residential use, not including Type I or Type II Commercial Vehicles or Recreational Vehicles, as defined by City Code. (Ref. Ord. 05-03-1028, 3/8/05)

Permitted Use. A use which may be lawfully established in a particular district or districts, provided it conforms with all requirements, regulations, and performance standards (if any) of such districts.

Person. An individual, firm, partnership, association, corporation or organization of any kind.

Personal Service Establishments: An establishment or place of business primarily engaged in providing individual services related to personal needs. Typical uses include, but are not limited to beauty or barber shops, massage therapy, dry cleaning establishments (only with off-site plants), laundromats, shoe repair shops, tanning salons, photography studios, and tailor shops. This use specifically excludes tattoo parlors and adult uses. (Ref. Ord. 1012, 12/9/03)

Planned Unit Development - A type of development characterized by a unified site design for a number of dwelling units or dwelling sites on a parcel, whether for sale, rent, or lease, and also usually involving clustering of these units or sites to provide areas of common open space, density increases, and a mix of structure types and land uses. These developments may be organized and operated as condominiums, full fee ownership, commercial enterprises, or any combination of these, or cluster subdivisions of dwelling units, residential condominiums, timeshare condominiums, cooperatives, townhouses, apartment buildings, campgrounds, recreational vehicle parks, resorts, hotels, motels, and conversions of structures and land uses to these uses. (Ref. Ord. 915, 12/13/94)

Planned Unit Development, Commercial - Typically uses that provide transient, short-term lodging spaces, rooms, or parcels and their operations are essentially service-oriented. For example, hotel/motel accommodations, resorts, recreational vehicle and camping parks, and other primarily service-oriented activities are commercial planned unit developments. (Ref. Ord. 915, 12/13/94)

Planned Unit Development, Residential. A use where the nature of residency is nontransient and the major or primary focus of the development is not service-oriented. For example, residential apartments, manufactured home parks, time-share condominiums, townhouses, cooperatives, and full fee ownership residences would be considered as residential planned unit developments. To qualify as a residential planned unit development, a development must contain at least five (5) dwelling units or sites. (Ref. Ord. 915, 12/13/94)

Principal Use. The main use of land or buildings as distinguished from subordinate or accessory uses. A "principal use" may be either permitted or conditional.

Public Uses. Uses owned or operated by municipal, school districts, county, state, or other governmental units.

Public Waters. Any waters of the State which serve a beneficial public purpose, as defined in MN Stat. 103G.005, Subd. 15. The official determination of the size and physical limits of the drainage areas of rivers and streams shall be made by the Commissioner of Natural Resources. The official size of lakes, ponds, or flowages shall be the areas listed in the Division of Waters, Soils and Minerals Bulletin 25, An Inventory of Minnesota Lakes, or in the event the lakes, ponds or flowages are not listed therein, official determination of size and physical limits shall be made by the Commissioner in cooperation with the City of White Bear Lake. (Ref. Ord. 915, 12/13/94)

Public Waters - General Development. Those waters whose shores are generally characterized by industrial, commercial or high density residential development.

Public Waters - Recreational Development. Those waters whose shores are generally characterized by medium density residential development with or without limited service-oriented commercial development.

Subd. 17. "Q" Definitions

Quadraminium. A single structure which contains four (4) separately owned dwelling units, all of which have individually separate entrances from the exterior of the structure.

Subd. 18. "R" Definitions

Recommended Species. Indigenous tree vegetation of the White Bear Lake area as identified in §1302.075, Subd. 5. (Ref. Ord. 876, 8/11/92)

Recreation, Field or Building. An area of land, water, or any building in which amusement, recreation or athletic sports are provided for public or semipublic use, whether temporary or permanent, except a theatre, whether provision is made for the accommodation of an assembly or not. A golf course, arena, baseball park, stadium circus or gymnasium is a recreation field or building for the purpose of this Code.

Recreational Vehicle. Campers, pick-ups with campers or mounted toppers, motor homes, all terrain vehicles, marine craft, camping trailers, and snow mobiles. Also a trailer used to transport recreational vehicles shall itself be a recreational vehicle. (Ref. Ord. No. 803, 3/14/90)

Recreational Vehicle (Flood Plain). A vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest projection, is designed to be self-propelled or permanently towable by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. For the purposes of the flood plain ordinance, the term recreational vehicle shall be synonymous with the term travel trailer/travel vehicle. (Ref. Ord. 10-4-1068, 4/13/10)

Regional Flood. A flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the one hundred (100) year recurrence interval. Regional flood is synonymous with the term "base flood" used in the Flood Insurance Study.

Regulatory Flood Protection Elevation. A point not less than one (1) foot above the elevation of the regional flood, plus any increases in flood heights attributable to encroachments on the flood plain. It is the elevation to which uses regulated by this Code are required to be elevated or flood proofed. (Ref. Ord. 10-4-1068, 4/13/10)

Residential Planned Unit Development. (See Planned Unit Development, Residential.) (Ref. Ord. 915, 12/13/94)

Restaurant. An establishment which serves food in or on nondisposable dishes to be consumed primarily while seated at tables or booths within the building.

Retail sales establishments. An establishment or place of business that provides goods and/or services directly to the consumer where such goods are available for immediate purchase or rental and removal from the premises by the purchaser. Professional offices which offer retail goods, as described above, and which occupy at least one-third of the gross floor area, and all of the street frontage of the business shall also be considered retail. This use specifically excludes currency exchanges, pawn shops, and adult uses. (Ref. Ord. 1012, 12/9/03)

Roof Line. Is defined as the top of the coping; or, when the building has a pitched roof, as the intersection of the outside wall with the roof.

Root Zone of a Tree. The area which is within the drip line of a tree's canopy. (Ref. Ord. 876, 8/11/92)

Subd. 19. "S" Definitions

Screening. The presence of an artificial barrier, vegetation, or topography which makes any structure on any property visually inconspicuous.

Security Apartment. A single rental Housing unit for no more than (2) persons employed as security or management for the facility in which the apartment is located. The unit is subordinate to the principal structure, which can only be established by Conditional Use Permit and which is subject to performance standards. (Ref. Ord. No. 766, 8/9/88)

Self-Storage Facility. The rental or lease of individual storage units to various tenants, usually on a short-term basis. Also known as "mini storage". (Ref. Ord. No. 17-02-2022, 2/14/17)

Semipublic Use - The use of land by a private, nonprofit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization. (Ref. Ord. 915, 12/13/94)

Senior Citizen Housing. Multi-family dwelling units occupied by persons 55 years or older. In the case of double occupancy of a unit, only one resident is required to be at least 55 years of age. (Ref. Ord. 09-01-1054, 01-13-09)

Setback. The minimum horizontal distance between a structure, sewage treatment system, or other facility and an ordinary high water level, the top of a bluff, road, highway, property line, or other facility. Distances are to be measured from the most outwardly extended portion of the structure at ground level, except as provided hereinafter. (Ref. Ord. 915, 12/13/94)

Sewage Treatment System - A septic tank and soil absorption system or other individual or cluster type sewage treatment system as described and regulated in Minnesota Pollution Control Agency's document titled "Individual Sewage Treatment Systems Standards, Chapter 7080." (Ref. Ord. 915, 12/13/94)

Sewer System - Pipelines or conduits, pumping stations, and force main, and all other constructions, devices, appliances, or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal. (Ref. Ord. 915, 12/13/94)

Shopping Center. An integrated grouping of commercial stores, under single ownership or control.

Shore Impact Zone - Land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50 percent of the structure setback. (Ref. Ord. 915, 12/13/94)

Shoreland - Land located within the following distances from public waters: 1,000 feet from the ordinary high water level of a DNR designated protected lake, pond, or flowage; and 300 feet from a river or stream, or the landward extent of a flood plain designated by ordinance on a river or stream, whichever is greater. The limits of shorelands may be reduced whenever the waters involved are bounded by topographic divides which extend landward from the waters for lesser distances and when approved by the Commissioner. (Ref. Ord. 915, 12/13/94)

Showroom. Any business wherein a family of related products and/or services are housed, enclosed, sold and exhibited directly to the customer or to other businesses. (Ref. Ord. No. 788, 8/22/89)

Sign. (See definition in the White Bear Lake Sign Code, Chapter 1202.)

Significant Historic Site - Any archaeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites, or is determined to be an unplatted cemetery that falls under the provisions of Minnesota Statutes, section 307.08. A historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the Minnesota state archaeologist or the director of the Minnesota Historical Society. All unplatted cemeteries are automatically considered to be significant historic sites. (Ref. Ord. 915, 12/13/94)

Significant Tree. (See Tree, Significant. Ref. Ord. 888, 3/9/93)

Single Room Occupancy: A multi-family structure containing dwelling units used on a non-transient basis where the bedrooms are leased individually to tenants and in which cooking and/or bathroom facilities are shared by said tenants. (Ref. Ord. No. 832, 4-9-91)

Single Room Occupancy Unit: A dwelling unit containing a common living space, kitchen, bathroom facilities and bedrooms which are leased individually to tenants and located within a single room occupancy multi-family structure. (Ref. Ord. 832, 4-9-91)

Site Alteration. The excavating, grading, clearing, filling or other earth change which may result in:

- a) The movement of earth where significant trees are present; or
- b) Any alteration of land more than one (1) foot from the natural contour of the ground on any continuous four hundred fifty (450) square feet of ground where significant trees of any land within a period of five (5) years; or
- c) Any cutting, removal or killing of more than ten (10) percent of the significant trees of any land within a period of five (5) years; or
- d) Any destruction or disruption of vegetation covering an area equal to or greater than ten (10) percent of any parcel of land; or
- e) Any other significant change in the natural character of the land. (Ref. Ord. 876, 8/11/92)

Slope. Means the degree of deviation of a surface from the horizontal, usually expressed in percent or degrees.

Small Engine Sales and Repair. Sales and/or service of any of the following: landscape supplies and equipment, lawn care maintenance supplies and equipment and outdoor power equipment. (Ref. Ord. 03-10-1010, 10/14/03)

Specimen Tree. (See Tree, Specimen. Ref. Ord. 888, 3/9/93)

Steep Slope - Lands having average slopes over twelve (12) percent, as measured over horizontal distances of fifty (50) feet or more. (Ref. Ord. 915, 12/13/94)

Story. That portion of a building including beneath the upper surface of a floor and upper surface of floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement or cellar, or unused under floor space is more than six (6) feet above grade as defined herein for more than fifty (50) percent of the total perimeter or is more than twelve (12) feet

above grade as defined herein at any point, such basement, cellar, or unused under-floor space shall be considered a story.

Street Frontage. The proximity of a parcel of land to one or more streets. An interior lot has one (1) street frontage and a corner lot has two (2) frontages.

Structure. Anything which is built, constructed or erected; an edifice or building of any kind; or any piece of work artificially built up and/or composed of parts jointed together in some definite manner whether temporary or permanent in character including but not limited to decks, buildings, factories, sheds, screen porch, gazebos, detached garages, cabins, manufactured homes, and other similar items, except aerial or underground utility lines, such as sewer, electric, telephone, telegraph, gas lines, towers, poles, and other supporting facilities. (Ref. Ord. 745, 8/11/87; 915, 12/13/94)

Structural Alterations. Any changes in the supporting members of the building, such as bearing walls, columns, beams or girders.

Substantially Damaged. Damage of any origin sustained by a structure where the cost of restoring the structure to it before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. (Ref. Ord. 06-05-1035, 5/9/06)

Substantial Improvement. Within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however include either:

- a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specification which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.
- b) Any alteration of a "historic structure," provided that the alteration will not preclude the structures continued designation as an "historic structure." For the purpose of this ordinance, "historic structure" shall be as defined in Code of Federal Regulations, Part 59.1 (Ref. Ord. 06-05-1035, 5/9/06)

Swimming Pool, Above Ground. All swimming pools that are constructed so that the edge of the pool is greater than three (3.0) feet above the mean ground grade. (Ref. Ord. No. 803, 3/14/90, Ref. Ord. 04-05-1019, 5/11/04, Ref. Ord. 07-09-1044, 9/12/07)

Swimming Pool, Hot Tub. All pools that are intended for hydro-therapeutic massage and relaxation purposes that have a capacity of less than 900 gallons of water, including such pools generally constructed with a filter unit(s), pump(s), water jet(s), molded seating and a heating unit(s). Any hot tub(s) greater than 900 gallons of water shall be considered an above ground pool for regulatory purposes. (Ref. Ord. 07-09-1044, 9/12/07, 03-06-1002, 6/24/03)

Swimming Pool, In Ground. All swimming pools that are constructed so that the pool edge is level with the ground grade. (Ref. Ord. No. 803, 3/14/90)

Swimming Pool, Portable. Any temporary pool designed for easy construction and removal with a maximum height of three (3.0) feet above the mean ground grade, including inflatable pools. (Ref. Ord. 803, 3/14/90, Ref. Ord. 04-05-1019, 5/11/04, Ref. Ord. 07-09-1044, 9/12/07)

Swimming Pool, Private Residential. A permanent or portable pool located on private property under control of the homeowner, the use of which is limited to swimming or bathing by the owner's family or invited guests. (Ref. Ord. No. 803, 3/14/90)

Swimming Pool, Public. A swimming pool other than residential pool which is intended to be used collectively by a number of persons for swimming and bathing, regardless of whether a fee is charged. (Ref. Ord. No. 803, 3/14/90)

Swimming Pool, Wading. Any swimming pool used and designed for wading and bathing and having a maximum water depth of one (1) foot. (Ref. Ord. No. 803, 3/14/90)

Subd. 20. "T" Definitions

Temporary Health Care Dwelling Unit. A portable residential dwelling providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person. (Ref. Ord. 16-10-2019, 10/11/16)

Townhouses. Structure housing three (3) or more dwelling units, contiguous to each other only by the sharing of one (1) common wall, such structures to be of the town or row houses type as contrasted to multiple dwelling apartment structures. No single structure shall contain in excess of eight (8) dwelling units and each dwelling unit shall have separate and individual front and rear entrances.

Transit-Oriented Housing. Housing located within a quarter-mile of an existing transit stop or a future transit corridor as defined in the City's Comprehensive Plan and having at least one underground parking space for each qualifying unit. (Ref. Ord. 09-01-1054, 1-13-09)

Tree Canopy. The horizontal extension of a tree's branches in all directions from its trunk. (Ref. Ord. 888, 3/9/93)

Tree -- Lost Significant. Significant healthy trees shall be considered lost as a result of: (Ref. Ord. 888, 3/9/93)

- A) Grade change or land alteration, whether temporary or permanent, of greater than one (1) foot measured vertically, affecting sixty (60) percent (as measured on a horizontal plan) or more of the tree's root zone; or
- B) Utility construction (i.e., sewer, water, storm sewer, gas, electric, telephone and cable TV and trenching) resulting in the cutting of sixty (60) percent of the tree's roots within the root zone; or
- C) Mechanical injury to the trunk including the bark of a significant tree causing life threatening damage to the tree; or
- D) Compaction to ninety (90) percent of the standard proctor to a depth of six (6) inches or more of sixty (60) percent or more of the surface of the soil within a significant tree's root zone.

Tree -- Ornamental. Small trees which are grown for their colorful flowers, leaves, fruit and exceptional fall color. (Ref. Ord. 888, 3/9/93)

Tree -- Premium. All those significant deciduous and evergreen trees subject to the premium tree replacement constant and not included within the definition of secondary tree. (Ref. Ord. 888, 3/9/93)

Tree -- Secondary. All those significant deciduous trees subject to the secondary tree replacement constant characterized by rapid rate of growth and softwood fiber including all those trees in the Poplar family, Silver Maple and Russian Olive, and other similar trees as may be determined by the Zoning Administrator. (Ref. Ord. 888, 3/9/93)

Tree -- Significant. Any healthy, living, deciduous tree larger than eight (8) inches in caliper (excepting Box Elder and Chinese Elm) and any healthy, living evergreen tree at least six (6) inches in diameter. (Ref. Ord. 888, 3/9/93)

Tree -- Specimen. Any tree of notable historic association or any tree of extra ordinary value because of its age, size or type. (Ref. Ord. 888, 3/9/93)

Tree Trunk. The stem portion of a tree from the ground to the first branch thereof. (Ref. Ord. 876, 8/11/92)

Subd. 21. "U" Definitions

Use. The purpose or activity for which the land or building thereon is designated, arranged, or intended or for which it is occupied, utilized or maintained, and shall include the performance of such activity as defined by the performance standards of this Code.

Usable Open Space. A required ground area or terrace area on a lot which is graded, developed, landscaped and equipped and intended and maintained for either active or passive recreation or both, available and accessible to and usable by all persons occupying a dwelling unit or rooming unit on the lot and their guests. Such areas shall be grassed and landscaped or covered only for a recreational purpose. Roofs, driveways and parking areas shall not constitute usable open space.

Subd. 22. "V" Definitions

Variance - Any modification or variation of this Code approved by the Board of Adjustment Appeals where it is determined that, because of physical hardships unique to the individual property under consideration, strict enforcement of this Code is impractical and would cause unnecessary hardships. (Ref. Ord. 692, 8/13/85; 915, 12/13/94)

Vegetation. Means the sum total of plant life in some area; or a plant community with distinguishable characteristics.

Subd. 23. "W" Definitions

Warehousing. The storage of goods, material, or equipment within an enclosed building as a principal use (30% or more of the gross floor area), but not including self-storage facilities. (Ref. Ord. 17-02-2022, 2/14/17)

Waterbody. Means a body of water (lake, pond) or a depression of land or expanded part of a river, or an enclosed basin that holds water and surrounded by land.

Watercourse. Means a channel or depression through which water flows, such as rivers, streams, or creeks, and may flow year-around or intermittently.

Watershed. The area drained by the natural and artificial drainage system, bounded peripherally by a bridge or stretch of high land dividing drainage areas.

Wetlands. An area where water stands near, at, or above the soil surface during a significant portion of most years, saturating the soil and supporting a predominantly aquatic form of vegetation, and which may have the following characteristics:

- a) Vegetation belonging to the marsh (emergent aquatic), bog, fen, sedge meadow, shrub land, southern lowland forest (lowland hardwood), and northern lowland forest (conifer swamp) communities. (These communities correspond roughly to wetland types 1, 2, 3, 4, 6, 7, and 8 described by the United States Fish and Wildlife Service, Circular 39, "Wetlands of the U.S. 1971"). (Ref. Ord. 915, 12/13/94)
- b) Mineral soils with grey horizons or organic soils belonging to the Histosol order (peat and muck).
- c) Soil which is water logged or covered with water at least three (3) months of the year.

Swamps, bogs, marshes, potholes, wet meadows, and sloughs are wetlands, and such property, may be shallow water bodies, the waters of which are stagnant or actuated by very feeble currents, and may at times be sufficiently dry to permit tillage but would require drainage to be made arable. The edge of a wetland is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial.

Subd. 24. "X" Definitions -- No definitions.

Subd. 25. "Y" Definitions

Yard. An open space on the lot which is unoccupied and unobstructed from its lowest level to the sky. A yard extends a lot line at right angles to such lot line to a depth or width required in the yard regulations for the zoning district in which such lot is located.

Yard, Front. That area extending along the full length of a front lot line between side lot lines and to the depth required in the yard regulations for the district in which it is located. In the case of a corner lot abutting one or more major roads, both yards shall be considered front yards. A major road is any road that is of a collector designation or greater.

Yard, Rear. A yard extending across the full width of the lot and lying between the rear line of the lot and the nearest line of the principal building.

Yard, Required. That distance specified in the yard requirements pertaining to setbacks. Setbacks and required yards are used interchangeably.

Yard, Side. A yard between the side line of the lot and the nearest line of the principal building and extending from the front lot line of the lot to the rear yard.

Subd. 26. "Z" Definitions

Zoning Administrator. That person appointed by the City Manager, who shall be responsible for the administration of the City's development controls (i.e., zoning, subdivision, etc.).

§1301.040 AMENDMENTSSubd. 1. Procedure

- a) Request for rezonings shall be filed with the Zoning Administrator on an official application form. Such application shall be accompanied by a fee of six hundred and fifty (\$650.00) dollars. Such application shall also be accompanied by a fee as provided by five (5) copies of detailed written and graphic materials fully explaining the proposed change, development, or use and a list of property owners located within three hundred fifty (350) feet of the subject property obtained from and certified by an abstract company. The request for amendment shall be placed on the agenda of the first possible Planning Commission meeting occurring after twenty (20) days from the date of submission. The request shall be considered as being officially submitted when all the information requirements are complied with. (Ref. Ord. 01-04-1015, 1/13/04)
- b) Upon receipt of said application, the City Clerk shall set a public hearing following proper hearing notification. The City shall provide at least ten (10) days published notice of the date, time, place, and purpose of the hearing. The Planning Commission shall conduct the hearing, and report its findings and make recommendations to the City Council. When an amendment involves changes in district boundaries affecting an area of five acres or less, notice of said hearing shall also be mailed at least ten (10) days prior to all owners of land situated wholly or partly within three hundred fifty (350) feet of the boundary of the property in question. Such property owner list shall be obtained from the County in which the property lies, the City, or other source approved by the City. The City shall retain for the record a copy of the mailed notice and a list of the owners and their addresses to which the notice was mailed. A failure to give mailed notice to individual property owners, or defects in the notice, shall not invalidate the proceedings, provided the City made a bona fide attempt to comply with the notice requirement. (Ref. Ord. No. 811, 3/14/1990; 984, 3/13/2001; 24-01-2702, 1/23/2024)
- c) Failure of a property owner to receive said notice shall not invalidate any such proceedings as set forth within this Code.
- d) The Zoning Administrator shall instruct the appropriate staff persons to prepare technical reports where appropriate, and provide general assistance in preparing a recommendation on the action to the Planning Commission and City Council.
- e) The Planning Commission shall consider possible affects of the proposed amendment. Its judgment shall be based upon (but not limited to) the following factors:
 - 1) The proposed action has been considered in relation to the specific policies and provisions of and has been found to be consistent with the official City Comprehensive Plan.
 - 2) The proposed use is or will be compatible with present and future land uses of the area. (Revised 3/14/90.)
 - 3) The proposed use conforms with all performance standards contained herein.
 - 4) The proposed use will not tend to or actually depreciate the area in which it is proposed.
 - 5) The proposed use can be accommodated with existing public services and will not overburden the City's service capacity.

- 6) Traffic generation by the proposed use within capabilities of streets serving the property.
- f) The Planning Commission and City staff shall have the authority to request additional information from the applicant concerning operational factors or to retain expert testimony with the consent and at the expense of the applicant concerning operational factors, said information to be declared necessary to establish performance conditions in relation to all pertinent sections of this Code.
- g) The applicant or a representative thereof shall appear before the Planning Commission in order to answer questions concerning the proposed request.
- h) The Planning Commission shall recommend approval or denial of the request. Such recommendation shall be accompanied by the report and recommendation of the City staff.
- i) The City Council shall not act upon an amendment until they have received a report and recommendation from the Planning Commission and the City staff, or until sixty (60) days after the first regular Planning Commission meeting at which the request was considered.
- j) Upon receiving the report and recommendation of the Planning Commission and the City staff, the City Council shall place the report and recommendation on the agenda for the next regular meeting. Such reports and recommendations shall be entered in and made part of the permanent written record of the City Council meeting.
- k) Upon receiving the report and recommendation of the Planning Commission and the City staff, the City Council shall have the option to set and hold a public hearing if deemed necessary.
- l) The City Council shall consider possible affects of the proposed amendment and make a finding of fact. Its evaluation and findings shall be based upon but not limited to) the following factors:
 - 1) The proposed action has been considered in relation to the specific policies and provisions of and has been found to be consistent with the official City Comprehensive Plan.
 - 2) The proposed use is or will be compatible with present and future land uses of the area.
 - 3) The proposed use conforms with all performance standards contained herein.
 - 4) The proposed use will not tend to or actually depreciate the area in which it is proposed.
 - 5) The proposed use can be accommodated with existing public services and will not overburden the City's service capacity.
 - 6) Traffic generation by the proposed use within capabilities of streets serving the property.
- m) Approval of a proposed amendment shall a majority vote of the entire City Council. Any amendment proposing to change all or part of the existing classification of a zoning district from residential to either commercial or industrial requires a 4/5 majority vote of the entire City Council. (Ref. Ord. 2702, 1/23/2024)
- n) The amendment shall not become effective until such time as the City Council approves an ordinance reflecting said amendment and after said ordinance is published in the official newspaper.

- o) Whenever an application for an amendment has been considered and denied by the City Council, a similar application for the amendment affecting substantially the same property shall not be considered again by the Planning Commission or City Council for at least six (6) months from the date of its denial; and a subsequent application affecting substantially the same property shall likewise not be considered again by the Planning Commission or City Council for an additional six (6) months from the date of the second denial unless a decision to reconsider such matter is made by not less than four-fifths (4/5) vote of the full City Council.

Subd. 2. Amendments, Initiation. The City Council or Planning Commission may, upon their own motion, initiate a request to amend the text or the district boundaries of this Code, the Sign Code (Chapter 1202) or the Subdivision Regulations (Chapter 1400). The procedural requirements of 1301.040, Subd. 1.a and b of this Code shall not apply to such proposed amendments except to the extent required by State Statute. Any person owning real estate within the City may initiate a request to amend the district boundaries or text of this Code, the Sign Code, or the Subdivision Regulations so as to affect the said real estate. Amendments to the Sign Code or Subdivision Regulations shall be approved by simple majority of the City Council. (Ref. Ord. 10-1-1061, 1/12/10)

§1301.050 CONDITIONAL USE PERMITS.

Subd. 1. Purpose. The purpose of a conditional use permit is to provide the City of White Bear Lake with a reasonable degree of discretion in determining the suitability of certain designated uses upon the general welfare, public health and safety. In making this determination, whether or not the conditional use is to be allowed, the City may consider the nature of the adjoining land or buildings, the effect upon traffic into and from the premises, or on any adjoining roads, and all other or future factors as the City shall deem a prerequisite of consideration in determining the effect of the use on the general welfare, public health and safety.

Subd. 2. Procedure.

- a) Request for conditional use permits, as provided within this Code, shall be filed with the Zoning Administrator on an official application form. Such application shall be accompanied by a fee of four hundred (\$400.00) dollars. A request for an amendment to an existing conditional use permit shall have a fee of two hundred (\$200.00) dollars. Such application shall be accompanied by five (5) copies of detailed written and graphic materials fully explaining the proposed development or use and a list of property owners located within three hundred fifty (350) feet of the subject property obtained from and certified by a title company, or obtained from the County in which the property lies, the City, or other source approved by the City. The request for a conditional use permit or significant amendment shall be placed on the agenda of the first possible Planning Commission meeting occurring after twenty (20) days from the date of submission. The request shall be considered as being officially submitted when all the information requirements are complied with. (Ref. Ord. 984, 3/13/01; 01-04-1015, 1/13/04, Ref. Ord. 08-01-1047, 1/8/08)
- b) Upon receipt of said application, the City Clerk shall set a public hearing following proper hearing notification. The Planning Commission shall conduct the hearing, and report its findings and make recommendations to the City Council. Notice of said hearing shall consist of a legal property description and description of requests, and be published in the official newspaper at least ten (10) days prior to the hearing and written notification of said hearing shall be mailed at least ten (10) days prior to all owners of land within three hundred fifty (350) feet of the boundary of the property in question.
- c) Failure of a property owner to receive said notice shall not invalidate any such proceedings as set forth within this Code.
- d) The Zoning Administrator shall instruct the appropriate staff persons to prepare technical reports where appropriate, and provide general assistance in preparing a recommendation on the action to the Planning Commission and City Council.
- e) The Planning Commission shall consider possible adverse affects of the proposed conditional use. Its judgment shall be based upon (but not limited to) the following factors:
 - 1) The proposed action has been considered in relation to the specific policies and provisions of and has been found to be consistent with the official City Comprehensive Land Use Plan and all other plans and controls.
 - 2) The proposed use is or will be compatible with present and future land uses of the area.
 - 3) The proposed use conforms with all performance standards contained herein.
 - 4) The proposed use will not tend to or actually depreciate the area in which it is proposed.

- 5) The proposed use can be accommodated with existing public services and will not overburden the City's service capacity.
- 6) Traffic generation by the proposed use is within capabilities of streets serving the property.
- f) The Planning Commission and City staff shall have the authority to request additional information from the applicant concerning operational factors or to retain expert testimony with the consent and at the expense of the applicant concerning operational factors, said information is to be declared necessary to establish performance conditions in relation to all pertinent sections of this Code.
- g) The applicant or a representative thereof shall appear before the Planning Commission in order to answer questions concerning the proposed request.
- h) The Planning Commission shall make a finding of fact and recommend such actions or conditions relating to the request as they deem necessary to carry out the intent and purpose of the Code. Such recommendation shall be in writing and accompanied by the report and recommendation of the City staff.
- i) The City Council shall not act upon a conditional use permit request until they have received a report and recommendation from the Planning Commission and the City staff or until sixty (60) days after the first regular Planning Commission meeting at which the request was considered.
- j) Upon receiving the report and recommendation of the Planning Commission and the City staff, the City Council shall place the report and recommendation on the agenda for the next regular meeting. Such reports and recommendations shall be entered in and made part of the permanent written record of the City Council meeting.
- k) Upon receiving the report and recommendation of the Planning Commission and the City staff, the City Council shall have the option to set and hold a public hearing if deemed necessary and shall make a recorded finding of fact and may impose any condition it considers necessary to protect the public health, safety and welfare.
- l) The City Council shall consider possible affects of the proposed conditional use and make a finding of fact. Its evaluation and findings shall be based upon (but not limited to) the following factors:
 - 1) The proposed action has been considered in relation to the specific policies and provisions of and has been found to be consistent with the official City Comprehensive Plan.
 - 2) The proposed use is or will be compatible with present and future land uses of the area.
 - 3) The proposed use conforms with all performance standards contained herein.
 - 4) The proposed use will not tend to or actually depreciate the area in which it is proposed.
 - 5) The proposed use can be accommodated with existing public services and will not overburden the City's service capacity.
 - 6) Traffic generation by the proposed use within capabilities of streets serving the property.
- m) Approval of a request shall require passage by a majority vote of the City Council.

- n) Whenever an application for a conditional use permit has been considered and denied by the City Council, a similar application for the conditional use permit affecting substantially the same property shall not be considered again by the Planning Commission or City Council for at least six (6) months from the date of its denial; and a subsequent application affecting substantially the same property shall likewise not be considered again by the Planning Commission or City Council for an additional six (6) months from the date of the second denial unless a decision to reconsider such matter is made by not less than three-fifths (3/5) vote of the full City Council.

Subd. 3. Information Requirement. The information required for all conditional use permit applications generally consists of the following items, and shall be submitted when requested by the City.

a) Site Development Plan:

- 1) Location of all buildings on lots including both existing and proposed structures.
- 2) Location of all adjacent buildings located within three hundred fifty (350) feet of the exterior boundaries of the property in questions.
- 3) Location and number of existing and proposed parking spaces.
- 4) Vehicular circulation.
- 5) Architectural elevations (type and materials used in all external surface).
- 6) Location and type of all proposed lights.
- 7) Curb cuts, driveways, number of parking spaces.

b) Dimension Plan:

- 1) Lot dimensions and area.
- 2) Dimensions of proposed and existing structures.
- 3) "Typical" floor plan and "typical" room plan.
- 4) Setbacks of all buildings located on property in questions.
- 5) Proposed setbacks.
- 6) Sanitary sewer and water plan with estimated use per day.

c) Grading Plan:

- 1) Existing contour.
- 2) Proposed grading elevations.
- 3) Drainage configuration.
- 4) Storm sewer catch basins and invert elevations.

- 5) Spot elevations.
- 6) Proposed road profile.
- d) Landscape Plan:
 - 1) Location of all existing trees, type, diameter, and which trees will be removed.
 - 2) Location, type and diameter of all proposed plantings.
 - 3) Location and material used of all screening devices.
- e) Legal description of property under consideration.
- f) Proof of ownership of the land for which a conditional use permit is requested.
- g) Any other information as the City may reasonably require.

Subd. 4. Lapse of Conditional Use Permit by Non-Use. Whenever within one (1) year after granting a conditional use permit, the use as allowed by the permit shall not have been completed or utilized, then such permit shall become null and void unless a petition for an extension of time in which to complete or utilize the use that has been granted by the City. Such extension shall be requested in writing and filed with the Zoning Administrator at least thirty (30) days before the expiration of the original conditional use permit. There shall be no charge for the filing of such petition. The request for extension shall state facts showing a good faith attempt to complete or utilize the use permitted in the conditional use permit. Such petition may be acted upon by the Zoning Administrator or forwarded to the City Council at the administrator's discretion. (Ref. Ord. 08-01-1047, 1/8/08)

Subd. 5. Security of Performance.

- a) Except in the case of non-income producing residential property, upon approval of a conditional use permit, the City, where deemed necessary, may require a surety bond, cash escrow, certificate of deposit, securities, irrevocable letter of credit, or other financial guarantee approved by the City, or cash deposit prior to the issuing of building permits or initiation of work on the proposed improvements or development. Said security shall be non-cancellable and shall guarantee conformance and compliance with the conditions of the conditional use permit and the Code of the City.
- b) The security shall be in the amount equal to one hundred twenty-five (125) percent of the City Engineer's or City Building Official's estimated costs of labor and materials for the proposed improvements or development. Said project may be handled in stages upon the discretion of the City Engineer and Building Official.
- c) The City shall hold the security until completion of the proposed improvements or development and a certificate of occupancy indicating compliance with the conditional use permit and Code of the City has been issued by the City Building Official.
- d) Failure to comply with the conditions of the conditional use permit or the Code of the City shall result in forfeiture of the security.

Subd. 6. Enforcement and Revocation.

- a) In addition to other remedies provided in this Code or at law, failure to comply with any condition set forth in a conditional use permit, or any other violation of this Section, shall be a misdemeanor.

- b) In addition to any other remedies provided for in this Code or at law, failure to comply with any condition set forth in a conditional use permit or any other violation of this Section, shall also constitute sufficient cause for termination of the conditional use permit by the City Council following a public hearing. Written notification of said public hearing shall be mailed at least ten (10) days prior to said hearing to the current holder of the conditional use permit. Such notice should outline the violation(s) considered by the City to be grounds for revocation and inform the current holder of the conditional use permit of the opportunity to be heard at such public hearing. (Ref. Ord. 716, 4/8/86)

§1301.060 VARIANCES AND APPEALS (Ref. Ord. 712, 3/12/86; Ord. No. 14-08-1096, 8/26/14)

Subd. 1. General Provisions and Standards.

- a) All applications for zoning variances shall be considered by the Planning Commission as described herein or be processed as an administrative variance as also described.
- b) A variance from the strict application of any of the provisions of Zoning Code shall be granted only if the City Council, acting on the advice of the Planning Commission, finds as follows:
 - 1) That the proposed action will not:
 - a. Impair an adequate supply of light and air to adjacent property.
 - b. Unreasonably increase the congestion in the public street.
 - c. Increase the danger of fire or endanger the public safety.
 - d. Unreasonably diminish or impair established property values within the neighborhood, or in any way be contrary to the intent of this Code.
 - 2) That, for reasons which are to be set forth in the findings, the variance is necessary for reasonable use of the land or building and that the variance is a minimum variance which will accomplish this purpose.
 - 3) That granting the variance will be in harmony with the general purpose and intent of this Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
 - 4) That the special condition or circumstance is not the result of actions of the applicant, the property owner or a predecessor in title.
 - 5) That non-conforming use of neighboring lands, structures, or buildings in the same district is not the sole grounds for issuance of the variance.
- c) Variances from the strict application of the Zoning code may be granted to alleviate practical difficulties such as problems caused by public actions, unusual topography, lot shapes, wetlands, or other exceptional physical conditions. The situation must be such that strict application of the Zoning Code would result in exceptional practical difficulty, which would deprive the owner of the reasonable use of the land or of the building involved. Should the City Council, acting on the advice of the Planning Commission, find that these conditions apply to the land, a variance may be granted from the strict application of this Code so as to relieve such difficulty to the degree considered reasonable, provided such relief may be granted without impairing the intent of this Code. The City Council may approve the variance subject to such conditions as it may deem necessary or desirable. (Ref. Ord. 10-1-1061, 1/12/10; Ord. No. 14-08-1098, 8/26/14)

Subd. 2. Procedures.

a) Purpose. The purpose of this section is to provide for an expeditious method of processing variance and appeals and adjustments requests.

b) Processing.

1) Applications. Requests for a variance and appeals and adjustments shall be filed with the Zoning Administrator on an official application form. Such application shall be accompanied by a fee of two-hundred (\$200.00) dollars for residential property and two hundred fifty (\$250.00) for commercial and industrial property. This fee shall not be refundable. Such application shall also be accompanied by five (5) copies of detailed written and graphic materials necessary for the explanation of the request and a list of all adjoining or abutting property owners, certified by the Ramsey County Land Records Office or an abstract or title insurance company acceptable to the Zoning Administrator. (Ref. Ord. 1015, 1/13/04)

2) City Staff Report. The Zoning Administrator shall instruct the appropriate staff persons to prepare technical reports when appropriate, and provide general assistance in preparing a recommendation on the action to the Planning Commission.

3) Notice. The Zoning Administrator shall provide written notice of the request, as far as practicable, to all adjoining and abutting property owners at least ten (10) days prior to the hearing of the Planning Commission. The Zoning Administrator may rely on the certified list of adjoining and abutting property owners supplied by the applicant. The Zoning Administrator shall also publish notice of public hearing in the official newspaper at least ten (10) days prior to said hearing. (Ref. Ord. 04-05-1018, 5/11/04)

In addition, a sign, available from the City Zoning Administrator, shall be placed by the applicant on a portion of the property visible from the primary road frontage, stating that the owner has a planning request application before the Planning Commission, and the City Council, the date of the hearing, and the City Zoning Administrator's phone number for further information. Such sign shall be placed at least ten (10) days prior to said hearing. (Ref. Ord. 04-05-1018, 5/11/04)

4) Additional Information. The City staff shall have the authority to request additional information from the applicant concerning operational factors or to retain expert testimony with the consent and at the expense of the applicant concerning operational factors, said information to be declared necessary to establish performance conditions in relation to all pertinent sections of this Code.

5) Planning Commission Hearing. The Planning Commission shall hear variance and appeals from administrative action applications and make its decision within a reasonable time.

a. The applicant or a representative may appear before the Planning Commission in order to answer questions concerning the proposed request.

b. All decisions of the Planning Commission shall be by majority vote of those voting on the question before the Planning Commission. A quorum shall be four (4) members of the Planning Commission. (Ref. Ord. 754, 12/8/89; Ord. No. 14-08-1096, 8/26/14)

c. The Planning Commission shall keep minutes of all proceedings and report its actions in writing to the Council.

- d. The Planning Commission shall provide a copy of its decision to the Council, to the applicant, and any interested party requesting the same in writing.
- 6) Council Review. All decisions of the Planning Commission which grant, deny, or modify a variance application or any other decision relative to the variance application shall be reported to the City Council at the earliest practicable time. Such report shall include:
 - a. Copies of all exhibits, memoranda and materials submitted to the Planning Commission.
 - b. Minutes of the Planning Commission.
 - c. A copy of the Planning Commission's decision, including the required findings and reasons for the decision. All such decisions are advisory in nature to the Council.

The Council shall either affirm, modify, or overrule the decision and shall state the reasons for such action. In the event of affirmance, the Council may adopt the record, findings, reasons, and decisions of the Planning Commission.

- 7) The Planning Commission and Council shall not reconsider an application for a variance which has been previously denied within the past year.
- 8) The Planning Commission may adopt such other rules of operations as it shall deem necessary. Any such rules must be approved by the Council.

Subd. 3. Lapse of Variance or Appeal.

- a) If within one (1) year after granting a variance or appeal, the use as permitted by the variance or appeal shall not have been completed or utilized, then such a variance or appeal shall become null and void unless a petition for extension of time in which to complete or to utilize the use has been granted by the Council. Such extension shall be requested in writing and filed with the Zoning Administrator at least thirty (30) days before the expiration of the original variance or appeal. There shall be no charge for the filing of such petition. The request for extension shall state facts showing a good faith attempt to complete or utilize the use permitted in the variance or appeal. Such petition shall be acted upon by the Zoning Administrator.

Subd. 4. Performance Bond.

- a) Upon approval of a variance or appeal, the City, where deemed necessary, shall be provided with a surety bond, cash escrow, certificate of deposit, irrevocable letter of credit, securities, cash deposit, or other financial guarantee approved by the City Attorney, prior to the issuing of building permits or initiation of work on the proposed improvements or development. Said security shall guarantee conformance and compliance with the conditions of the variance or appeal and the codes of the City.

- b) The security shall be in the amount equal to one hundred twenty-five (125) percent of the City Engineer's or Building Official's estimated costs of labor and materials for the proposed improvements or development or such other amount which is deemed necessary by the Zoning Administrator.
- c) The City shall hold the security until completion of the proposed improvements or development and a certificate of occupancy indicating compliance with the variance or appeal and codes of the City has been issued by the City Building Official.
- d) Failure to comply with the conditions of the variance or appeal and the ordinances of the City shall result in forfeiture of the security.

Subd. 5. Appeals from Administrative Action.

- a) The Planning Commission shall hear and decide all appeals where it is alleged that there is an error in any order, requirements, decision, or determination made by an administrative officer in the enforcement of the Zoning Code, pursuant to the procedures outlined in Subd. 2 of this Section. (Ref. Ord. No. 712, 3/12/86; Ord. No. 14-08-1096, 8/26/14)

Subd. 6. Administrative Variance Panel. Pursuant to §1301.060, an Administrative Variance Panel is created to review variances where the variance requested concerns:

- a) a proposed addition to a pre-existing, dimensionally non-conforming structure as per §1302.040, Subd., 4d, of this Code;
- b) a second accessory structure greater than one hundred twenty (120) square feet in area, as per §1302.030, Subd. 4.i.2.b and c of this Code; (Ref. Ord. 16-01-2007; 1/12/16)
- c) certain cases regarding the front yard averaging setback requirements per §1302.040, Subd. 4c;
- d) a hard surface parking space in front of the living area of a home, as per §1302.050, Subd. 6.f of this code;
- e) an increase to the amount of rear yard covered by accessory uses and structures per 1302.030, Subd. 4.i.2.e of this Code, and
- f) ground-mounted solar energy systems on residential properties per §1302.030, Subd. 22. (Ref. Ord. 848, 07/09/91; 916, 1/10/95; 996, 11/12/02, 10-1-1061, 1/12/10, 11-1-1074, 1/11/11, 12-06-1080, 6/12/12; 16-01-2008, 1/12/16; 16-03-2010, 3/8/16)

Subd. 7. Administrative Variance Procedure. An Administrative Variance may be issued by unanimous approval of a staff panel of three (3) individuals appointed by the City Manager. In the event the application for such a variance is not unanimously approved by the staff panel, the applicant may apply for a formal variance to the requirements of this Code as is set forth elsewhere. Before the staff panel may consider such variance application, the applicant shall pay a fee of twenty-five dollars (\$25.00) and shall present written statements from owners of the property or properties contiguous to the affected yard in which the Administrative Variance is requested, specifically noting no objection and consenting to such Administrative Variance. The staff panel shall determine, without an abstract or certificate, the names of such property owners. (Ref. Ord. 02-11-996, 11/12/02; 01-04-1015, 1/13/04)

§1301.070 ADMINISTRATION - PLANNED UNIT DEVELOPMENT

Subd. 1. Purpose. The purpose of the “PUD”, Planned Unit Development Overlay District is to provide for the integration and coordination of land parcels as well as the combination of varying types of residential and commercial uses. This section is established to provide comprehensive procedures and standards designed to allow greater flexibility in the development of neighborhoods and/or nonresidential areas by incorporating design modifications as part of a PUD conditional use permit or a mixture of densities/intensities, or use types when applied to a PUD district. The PUD process by allowing variation from the strict provisions of this Code related to density, setbacks, height, lot area, width and depth, yards, etc., is intended to encourage: (Ref. Ord. 10-1-1061, 1/12/10)

- a) Innovations in development to the end that the growing demands for all styles of economic expansion may be met by greater variety in type, design, and siting of structures and by the conservation and more efficient use of land in such developments;
- b) Higher standards of site and building design through the use of trained and experienced land planners, architects, landscape architects and engineers;
- c) More convenience in location and design of development and service facilities;
- d) The preservation and enhancement of desirable site characteristics such as natural topography and geologic features and the prevention of soil erosion;
- e) A creative use of land and related physical development which allows a phased and orderly development and use pattern;
- f) An efficient use of land resulting in smaller networks of utilities and streets thereby lower development costs and public investments;
- g) A development pattern in harmony with the objectives of the White Bear Lake Comprehensive Plan. (Ref. Ord. 10-1-1061, 1/12/10)
- h) A more desirable and creative environment than might be possible through the strict application of zoning and subdivision regulations of the City.
- i) A mix of land uses made compatible through careful oversight. (Ref. Ord. 10-1-1061, 1/12/10)

Subd. 2. General Requirements and Standards.

- a) Application. All permitted, permitted accessory, or conditional uses contained in Section 1303.020 (Open Space) through 1303.180 (BW) and 1303.225 (DBD) through 1303.227 (LVMU) of this code shall be treated as permitted uses within a PUD District to eliminate the overlapping procedural requirements of individual conditional use provisions. The PUD overlay district shall be applied to and superimposed upon all zoning districts. Upon approval by the City Council, the regulations and requirements imposed upon the PUD process shall supersede the underlying zoning district standards. (Ref. Ord. 10-1-1061, 1/12/10)

- b) Ownership. An application for PUD approval must be filed by the landowner or jointly by all landowners of the property included in a project and must be accompanied by a fee of six hundred fifty (\$650.00) dollars. The application and all submissions must be directed to the development of the property as a unified whole. In the case of multiple ownership, the approved Final Plan shall be binding on all owners. (Ref. Ord. 01-04-1015, 1/13/04)
- c) Comprehensive Plan Consistency. The proposed PUD shall be consistent with the City Comprehensive Plan.
- d) Sanitary Sewer Plan Consistency. The proposed PUD shall be consistent with the City Comprehensive Sewer Plan and shall not create a discharge which is in excess of the City's assigned regional limitations.
- e) Common Open Space. Common private or public open space and facilities and such complementary structures and improvements as are necessary and appropriate for the benefit and enjoyment of the residents of the PUD may be required within the area of the PUD development. In the "S" Shoreland District, sufficient open space shall be determined by the standards set forth in Subd. 8 of §1303.230 of this Code. (Ref. Ord. 915, 12/13/94, Ord. 10-1-1061, 1/12/10)
- f) Operating and Maintenance Requirements for PUD Common Open Space Facilities. Whenever common private or public open space or service facilities are provided within the PUD, the PUD plan shall contain provisions to assure the continued operation and maintenance of such open space and service facilities to a predetermined reasonable standard. Common private or public open space and service facilities within a PUD may be placed under the ownership of one or more of the following, as approved by the City Council;
- 1) Dedicated to public, where a community-wide use is anticipated and the City Council agrees to accept the dedication.
 - 2) Landlord control, where only use by tenants is anticipated.
 - 3) Property Owners Association provided all of the following conditions are met.
 - a. Prior to the use or occupancy or sale or the execution of contracts for sale of an individual building unit, parcel, tracts, townhouse, apartment, or common area, a declaration of covenants, conditions and restrictions or an equivalent document or a document such as specified by Laws 1963, Chapter 457, Section 11 and a set of floor plans such as specified by Laws 1963, Chapter 457, Section 13 shall be filed with the City of White Bear Lake, said filing with the City to be made prior to the filings of said declaration or document or floor plans with the recording officers of the County.
 - b. The declaration of covenants, conditions and restrictions or equivalent document shall specify that deeds, leases or documents of conveyance affecting buildings, units, parcels, tracts, townhouses, or apartments shall subject said properties to the terms of said declaration.

- c. The declaration of covenants, conditions and restrictions shall provide that an owner's association or corporation shall be formed and that all owners shall be members of said association or corporation which shall maintain all properties and common areas in good repair and which shall assess individual property owners proportionate shares of joint or common costs. This declaration shall be subject to the review and approval of the City Attorney. The intent of this requirement is to protect the property values of the individual owner through establishing private control.
 - d. The declaration shall additionally, amongst other things, provide that in the event the association or corporation fails to maintain properties in accordance with the applicable rules and regulations of the City of White Bear Lake or fails to pay taxes or assessments on properties as they become due and in the event the said City of White Bear Lake incurs any expenses in enforcing its rules and regulations, which said expenses are not immediately reimbursed by the association or corporation, then the City of White Bear Lake shall have the right to assess each property its pro rata share of said expenses. Such assessments, together with interest thereon and costs of collection, shall be a lien on each property against which each such assessment is made.
 - e. Membership must be mandatory for each owner, and any successive buyer.
 - f. The open space restrictions must be permanent and not for a given period of years.
 - g. The Association must be responsible for liability insurance, local taxes, and the maintenance of the open space facilities to be deeded to it.
 - h. Property owners must pay their pro rata share of the cost of the Association by means of an assessment to be levied by the Association which meets the requirements for becoming a lien on the property in accordance with Minnesota Statutes.
 - i. The Association must be able to adjust the assessment to meet changed needs.
 - j. The by-laws and rules of the Association and all covenants and restrictions to be recorded must be approved by the City Council prior to the approval of the final PUD plan.
- g) Staging of Public and Common Open Space. When a PUD provides for common private or public open space, and is planned as a staged development over a period of time, the total area of common or public open space or land escrow security in any stage of development shall, at a minimum, bear the same relationship to the total open space to be provided in the entire PUD as the stages or units completed or under development bear to the entire PUD.

- h) Density.
- 1) The maximum allowable density in a PUD District shall be determined by standards negotiated and agreed upon between the applicant and the City. Whenever any PUD is to be developed in stages, no such stage shall, when averaged with any previously completed stages, have a residential density that exceeds one hundred fifty (150) percent of the proposed residential density of the entire PUD. (Ref. Ord. 10-1-1061, 1/12/10)
 - 2) Density shall be as allowed for in the City zoning districts outlined in Subd. 2.a, above, most appropriate to the proposal presented in the PUD, as determined by the City. (Ref. Ord. 10-1-1061, 1/12/10)
 - 3) Within the "S" Shoreland District, allowable density shall be determined by the provisions set forth in §1303.230 of this Code. The Lake Village Mixed Use District is exempt from this provision. (Ref. Ord. 915, 10/11/94, 10-1-1061, 1/12/10)
- i) Utilities. In any PUD, all utilities, including telephone, electricity, gas and telecable shall be installed underground.
- j) Utility Connections.
- 1) Water Connections. Where more than one property is served from the same service line, individual unit shut off valves shall be provided as required by the City Engineer.
 - 2) Sewer Connections. Where more than one (1) unit is served by a sanitary sewer lateral which exceeds three hundred (300) feet in length, provision must be made for a manhole to allow adequate cleaning and maintenance of the lateral. All maintenance and cleaning shall be the responsibility of the property owners association or owner.
- k) Roadways. All streets shall conform to the design standards contained in the White Bear Lake Subdivision Code, unless otherwise approved by the City Council.
- l) Landscaping. In any PUD, landscaping shall be provided according to a plan approved by the City Council, which shall include a detailed planting list with sizes and species indicated as part of the Final Plan. In assessing the landscaping plan, the City Council shall consider the natural features of the particular site, the architectural characteristics of the proposed structure and the overall scheme of the PUD plan.
- m) Urban/Rural Servicing Requirements. All development will be carefully phased so as to ensure that all developable land will be accorded a present vested right to develop at such time as services and facilities are available. Lands which have the necessary available municipal facilities and services will be granted approval in accordance with existing codes and development techniques. Lands which lack the available public facilities and services may be granted approval for development, provided that all applicable provisions of this Code, the City Code, and State Regulations are complied with.

n) Setbacks.

- 1) The front, rear and side yard restrictions on the periphery of the Planned Unit Development site shall be evaluated and negotiated on a case by case basis taking into consideration the proposal's relationship to surrounding land uses. (Ref. Ord. 10-1-1061, 1/12/10)

Subd. 3. Submission Requirements. Five (5) copies of the following exhibits, analysis and plans shall be submitted to the Planning Commission and Council during the PUD process, at the times specified in Subd. 4, below.

a) General Stage.1) General information:

- a. The landowner's name and address and his interest in the subject property.
- b. The applicant's name and address if different from the landowner.
- c. The names and addresses of all professional consultants who have contributed to the development of the PUD plan being submitted, including attorney, land planner, engineer and surveyor.
- d. Evidence that the applicant has sufficient control over the subject property to effectuate the proposed PUD, including a statement of all legal, beneficial, tenancy and contractual interests held in or affecting the subject property and including an up-to-date certified abstract of title or registered property report, and such other evidences as the City Attorney may require to show the status of title or control of the subject property.

2) Present Status:

- a. The address and legal description of the subject property.
 - b. The existing zoning classification and present use of the subject property and all lands within one thousand (1,000) feet of the subject property.
 - c. A map depicting the existing development of the subject property and all land within one thousand (1,000) feet thereof and indicating the location of existing streets, property lines, easements, water mains and storm and sanitary sewers, with invert elevations on and within one hundred (100) feet of the subject property.
- 3) A written statement generally describing the proposed PUD and the market which it is intended to serve and the market demand. The statement is also to demonstrate the proposed PUD's relationship to the City's Comprehensive Plan and how the proposed PUD is to be designed, arranged and operated in order to permit the development and use of neighboring property in accordance with the applicable regulations of the City.

- 4) Site Conditions: Graphic reproductions of the existing site conditions at a scale of one hundred (100) feet.
 - a. Contours - minimum two (2) foot intervals.
 - b. Location, type and extent of tree cover and vegetation.
 - c. Slope analysis.
 - d. Location and extent of water bodies, wetlands and streams and flood plains within three hundred (300) feet of the subject property.
 - e. Significant rock outcroppings.
 - f. Existing drainage patterns.
 - g. Vistas and significant views.
 - h. Soil conditions as they affect development.

All of the graphics should be the same scale as the final plan to allow easy cross reference. The use of overlays is recommended for clear reference.

- 5) Schematic drawings of the proposed development concept including, but not limited to, the general location of major circulation elements, public and common open space, buildings, structures, and other land uses, and buffering and screening.
- 6) A statement of the estimated total number of dwelling units or square feet of developed land use activities proposed for the PUD and a tabulation of the proposed approximate allocations of land use expressed in acres and as a percent of the total project area, which shall include at least the following as applicable:
 - a) Area devoted to residential uses.
 - b) Area devoted to residential use by building type.
 - c) Area devoted to common open space.
 - d) Area devoted to public open space.
 - e) Approximate area devoted to streets.
 - f) Approximate area devoted to, and number of, off-street parking and loading spaces and related access.
 - g) Approximate area, and floor area, devoted to commercial uses.
 - h) Approximate area, and floor area, devoted to industrial or office use.

- 7) When the PUD is to be constructed in stages during a period of time extending beyond a single construction season, a schedule for the development of such stages or units shall be submitted stating the approximate beginning and completion date for each such stage or unit and the proportion of the total PUD public or common open space and structures-/units to be provided or constructed during each such stage and the overall chronology of development to be followed from stage to stage.
 - 8) When the proposed PUD includes provisions for public or common open space or service facilities, a statement describing the provision that is to be made for the care and maintenance of such open space or service facilities.
 - 9) General intents of any restrictive covenants that are to be recorded with respect to property included in the proposed PUD.
 - 10) Schematic utilities plans indicating placement of water, sanitary and storm sewers.
 - 11) The Planning Commission may excuse an applicant from submitting any specific item of information or document required in this stage, which it finds to be unnecessary to the consideration of the specific proposal for PUD approval.
 - 12) The Planning Commission may require the submission of any additional information or documentation which it may find necessary or appropriate to full consideration of the proposed PUD or any aspect or stage thereof.
- b) Development Stage. Development stage submissions should depict and outline the proposed implementations of the general stage for the PUD. Information from the general stage may be included for background and to provide a basis for the submitted plan. The Development Stage submissions shall include but not be limited to:
- 1) Zoning classification required for development stage submission and any other public decisions necessary for implementation of the proposed plan.
 - 2) Five (5) sets of preliminary plans, drawn to a scale of not less than one (1) inch equals one hundred (100) feet (or scale requested by the Zoning Administrator) containing at least the following information:
 - a. Proposed name of the development (which shall not duplicate nor be similar in pronunciation to the name of any plat theretofore recorded in the County).
 - b. Property boundary lines and dimensions of the property and any significant topographical or physical features of the property.
 - c. The location, size, use and arrangement including height in stories and feet and total square feet of ground area coverage and floor area, of proposed buildings, including model homes, and existing buildings which will remain, if any.
 - d. Location, dimensions of all driveways, entrances, curb cuts, parking stalls, loading spaces and access aisles, and all other circulation elements including bike and pedestrian; and the total site coverage of all circulation elements.
 - e. Location, designation and total area of all common private open space and facilities.

- f. Location, designation and total area proposed to be conveyed or dedicated for public open space, including parks, playgrounds, school sites and recreational facilities.
 - g. Proposed lots and blocks, if any, and numbering system.
 - h. The location, use and size of structures and other land uses on adjacent properties.
 - i. Detailed sketches and provisions of proposed landscaping.
 - j. General grading and drainage plans for the developed PUD.
 - k. Any other information that may have been required by the City staff, Planning Commission or Council in conjunction with the approval of the general plan stage.
- 3) An accurate legal description of the entire area within the PUD for which final development plan approval is sought.
 - 4) Where applicable, a tabulation indicating the number of residential dwelling units and expected population.
 - 5) Where applicable, a tabulation indicating the gross square footage, if any, of commercial and industrial floor space by type of activity (e.g. drug store, dry cleaning, supermarket).
 - 6) Preliminary architectural "typical" plans indicating use, floor plan, elevations and exterior wall finishes of proposed building, including model homes.
 - 7) A detailed site plan, suitable for recording, showing the physical layout, design and purpose of all streets, easements, rights-of-way, utility lines and facilities, lots, block, public and common private open space, general landscaping plan, structure, including model homes, and uses.
 - 8) Preliminary grading and site alteration plan illustrating changes to existing topography and natural site vegetation and all proposed stormwater management practices. The plan should conform with the approved concept plan and demonstrate conformance with requirements of the City's Engineering Design Standards, the applicable Watershed District, Department of Natural Resources, Ramsey Conservation District, or any other agency with review authority. (Ref. Ord. 15-05-1999, 5/12/15).
 - 9) A preliminary plat prepared in accordance with the White Bear Lake Subdivision Code.
 - 10) A statement summarizing all changes which have been made in any document, plan data or information previously submitted, together with revised copies of any such document, plan or data.
 - 11) Such other and further information as the City staff, Planning Commission, or Council shall find necessary to a full consideration of the entire proposed PUD or any stage thereof.
 - 12) The Planning Commission may excuse an applicant from submitting any specific item of information or document required in this Section which it finds to be unnecessary to the consideration of the specific proposal for PUD approval.

- c) Final Plan Stage. After approval of a general plan stage for the PUD and approval of a development stage plan for all or a section of the proposed PUD, the applicant will submit the following material for review by the City staff prior to issuance of a building permit.
- 1) Proof of recording any easements and restrictive covenants prior to the sale of any land or dwelling unit within the PUD and of the establishment and activation of any entity that is to be responsible for the management and maintenance of any public or common open space or service facility.
 - 2) All certificates, seals and signatures required for the dedication of land and recordation of documents.
 - 3) Final architectural working drawings of all structures.
 - 4) A final plat and final engineering plans and specifications for streets, utilities, stormwater management practices and other public improvements, together with a Community/Developer Agreement for the installation of such improvements and financial guarantees for the completion of such improvements. (Ref. 15-05-1999, 5/12/15)
 - 5) Any other plan, agreements, or specifications necessary for the City staff to review the proposed construction. All work must be in conformance with the Minnesota State Uniform Building Code.

Subd. 4. Procedure for Processing a Planned Unit Development.

- a) Approval. The establishment of a PUD shall be subject to a majority vote of the entire City Council, which may impose any condition it considers necessary to protect the public health, safety and welfare. (Ref. Ord. 10-1-1061, 1/12/2010; 24-01-2702, 1/23/2024)
- b) Application Conference. Prior to the filing of an application for PUD, the applicant of the proposed PUD is encouraged to arrange for and attend a conference with the Zoning Administrator. The primary purpose of the conference shall be to provide the applicant with an opportunity to gather information and obtain guidance as to the general suitability of his proposal for the area for which it is proposed and its conformity to the provisions of this Code before incurring substantial expense in the preparation of plans, surveys and other data.
- c) General Plan Stage.
 - 1) Purpose. The General Plan Stage provides an opportunity for the applicant to submit a plan to the City showing his basic intent and the general nature of the entire development without incurring substantial cost. The following elements of the proposed general plan stage represent the immediately significant elements for City review and comment.
 - a. Overall maximum PUD density/intensity range.
 - b. General location of major streets and pedestrian ways.
 - c. General location and extent of public and common private open space.
 - d. General location of residential and nonresidential land uses with approximate type and intensities of development.
 - e. Staging and time schedule of development.

- f. Environmental information affecting the development.
- g. Other special criteria for development.
- h. Utility and servicing demands.

2) Schedule.

- a. Developer meets with the Zoning Administrator to discuss the proposed developments.
- b. The applicant shall file the concept stage application, together with all supporting data and filing fee as established by City Council resolution.
- c. Within thirty (30) days after verification by the staff that the required plan and supporting data is adequate, the Planning Commission shall hold a public hearing.
- d. The Zoning Administrator, upon verification of said application, shall instruct the City Clerk to set a public hearing for the next regular meeting of the Planning Commission. The Planning Commission shall conduct the hearing, and report its findings and make recommendations to the City Council. Notice of said hearing shall consist of a legal property description, description of request and map detailing property location, and be published in the official newspaper at least ten (10) days prior to the hearing and written notification of said hearing shall be mailed at least ten (10) days prior to all owners of land within three hundred fifty (350) feet of the boundary of the property in question. Such property owner list shall be obtained from and certified by a title company, or obtained from the County in which the property lies, the City, or other source approved by the City. (Ref. Ord. 01-03-984, 3/13/01)
- e. Failure of a property owner to receive said notice shall not invalidate any such proceedings as set forth within this Code.
- f. The Zoning Administrator shall instruct the appropriate staff persons to prepare technical reports where appropriate and provide general assistance in preparing a recommendation on the action to the City Council.
- g. The Planning Commission and City staff shall have the authority to request additional information from the applicant concerning operational factors or to retain expert testimony with the consent and at the expense of the applicant, concerning operational factors, said information to be declared necessary to establish performance conditions in relation to all pertinent sections of this Code.
- h. The applicant or a representative thereof shall appear before the Planning Commission in order to answer questions concerning the proposed development.
- i. Within sixty (60) days of the public hearing, or such further time as may be agreed to by the applicant, the Planning Commission shall itself review said reports and plans and submit its written report and recommendations to the Council and applicant. Such report shall contain the findings of the Planning Commission with respect to the General Plan Stage. If the Planning Commission fails to act within the time specified herein, it shall be deemed to have recommended the Plan for approval.

- j. Within thirty (30) days of receipt of the report and recommendation of the Planning Commission, or such further time as may be agreed to be the applicant, the Council shall grant approval, resubmit the plan to the Planning Commission for further consideration of specified items, or deny approval of the plan.
- 3) Operational Submission of Development Stage Plan. In cases of single stage PUD's or where the applicant wishes to begin the first stage of a multiple stage PUD immediately, he may, at his option, initially submit Development Stage Plans for the proposed PUD. In such case, the Planning Commission and Council shall consider such plans, grant or deny Development Stage Plan approval in accordance with the provisions of Subd. 4.c. above. (Ref. Ord. 10-1-1061, 1/12/10)
 - 4) Effect of Concept Plan Approval. Unless the applicant shall fail to meet time schedules for filing Development Stage and Final Plans or shall fail to proceed with development in accordance with the plans as approved or shall in any other manner fail to comply with any condition of this Code or of any approval granted pursuant to it, a General Plan Stage which has been approved shall not be modified, revoked or otherwise impaired pending the application of Development Stage and Final Plans by any action of the City of White Bear Lake without the notification of the applicant.
 - 5) Limitation on General Plan Stage Approval. Unless a Development Stage Plan covering at least ten (10) dwelling units or the area designated in the General Plan Stage as the first stage of the PUD, whichever is greater, has been filed within six (6) months from the date Council grants General Plan Stage approval, or in any case where the applicant fails to file Development Stage and Final Plans and to proceed with development in accordance with the provisions of this Code and of an approved General Plan Stage, the approval may be revoked by Council action. In such case, following notification of the applicant, the Council shall forthwith adopt a resolution repealing the General Plan Stage approval for that portion of the PUD that has not received final approval and re-establishing the zoning and other code provisions that would otherwise be applicable. Upon application by the applicant, the Council at its discretion may extend for additional periods the filing deadline for any Development Stage Plan, when, for good cause shown, such extension is necessary.
- d) Development Stage.
- 1) Purpose. The purpose of the Development Stage Plan is to provide a specific and particular plan upon which the Planning Commission will base its recommendation to the Council and with which substantial compliance is necessary for the preparation of the Final Plan.
 - 2) Submission of Development Stage. Upon approval of the General Plan Stage, and within the time established in Subd. 4 above, the applicant shall file with the Zoning Administrator a Development Stage Plan consisting of the information and submissions required by Subd. 3 for the entire PUD or for one or more stages thereof in accordance with a staging plan approved as part of the General Plan Stage. The Development Stage Plan shall refine, implement and be in substantial conformity with the approved General Plan Stage.

- 3) Review and Action by City Staff and Planning Commission. Immediately upon receipt of a completed Development Stage Plan, the Zoning Administrator shall refer such plan to the following City staff and/or official bodies for the indicated action.
- a. The City Attorney for legal review of all documents.
 - b. The City Engineer for review of all engineering data and the City/Developer Agreement.
 - c. The City Building Official for review of all building plans.
 - d. The Zoning Administrator for review of all plans for compliance with the intent, purpose and requirements of this Code and conformity with the General Plan Stage and Comprehensive Plan.
 - e. The City Planning Commission for review and recommendation to the Council.
 - f. When appropriate, as determined by the Zoning Administrator to the Park Advisory Commission for review and recommendations.
 - g. When appropriate, as determined by the Zoning Administrator to other special review agencies such as the Watershed District, Soil Conservation Services, Highway Departments or other affected agencies.

All staff designated in paragraphs a. through d. hereof shall submit their reports in writing to the Planning Commission and applicant.

4) Schedule.

- a. Developer meets with the Zoning Administrator and City staff to discuss specific development plans.
- b. The applicant shall file the Development Stage application together with all supporting data and filing fee as established by City Council resolution.
- c. A technical staff report shall be prepared on the proposed development, and distributed to the Planning Commission and the applicant prior to the meeting.
- d. The applicant or a representative thereof shall appear before the Planning Commission in order to answer questions concerning the proposed development.
- e. The Planning Commission will make a recommendation to the City Council on the Development Plan.
- f. The City Council reviews all recommendations and approves/denies the plan.
- g. The Zoning Administrator shall draw up a PUD Agreement which stipulates the specific terms and conditions approved by the City Council and accepted by the applicant. This Agreement shall be signed by the Mayor of the City of White Bear Lake, City Manager and the applicant within thirty (30) days of Council approval of the Development Stage Plan. Where the Development Stage Plan is to be resubmitted or denied approval, the Council action shall be by written report setting forth the reasons for its action. (Ref. Ord. 10-1-1061, 1/12/10)

- 5) Limitation on Development Stage Plan Approval. Unless a Final Plan covering the area designated in the Development Stage Plan as the first stage of the PUD has been filed within six (6) months from the date Council grants Development Stage Plan approval, or in any case where the applicant fails to file Final Plans and to proceed with development in accordance with the provisions of this Code and/or an approved Development Stage Plan, the approval shall expire. Upon application by the Applicant, the Council at its discretion may extend the filing deadline for any Final Plan when, for good cause shown, such extension is necessary. In any case where Development Plan approval expires, the Council, following notification to the applicant, shall forthwith adopt a resolution repealing the General Plan Stage approval and the Development Stage Plan approval for that portion of the PUD that has received Final Plan approval and re-establishing the zoning and other code provisions that would otherwise be applicable.
 - 6) Site Improvements. At any time following the approval of a Development Stage Plan by the Council, the applicant may, pursuant to the applicable codes of the City apply for, and the City Engineer may issue, grading permits for the area within the PUD for which Development Stage Plan approval has been given.
- d) Final Plan.
- 1) Purpose. The Final Plan is to serve as a complete, thorough and permanent public record of the PUD and the manner in which it is to be developed. It shall incorporate all prior approved plans and all approved modifications thereof resulting from the PUD process. It shall serve in conjunction with other City codes as the land use regulation applicable to the PUD. The Final Plan is intended only to add detail to, and to put in final form, the information contained in the Development Stage Plan and shall conform to the Development Stage Plan in all respects.
 - 2) Schedule.
 - a. Upon approval of the Development Stage Plan, and within the time established by this Section, the applicant shall file with the Zoning Administrator a Final Plan consisting of the information and submissions required by Subd. 3.c) of this Section for the entire PUD or for one or more stages. This plan will be reviewed and approved/denied by City staff, unless otherwise specified by the City Council.
 - b. Within thirty (30) days of its approval, the applicant shall cause the Final Plan, or such portions thereof as are appropriate, to be recorded with the County Register of Deeds or Registrar of Titles. The applicant shall provide the City with a signed copy verifying County recording within forty (40) days of the date of approval.
 - 3) Building and Other Permits. Except as otherwise expressly provided herein, upon receiving notice from the Zoning Administrator that the approved Final Plan has been recorded and upon application of the applicant pursuant to the applicable codes of the City, all appropriate officials of the City may issue building and other permits to the applicant for development, construction and other work in the area encompassed by the approved Final Plan provided, however, that no such permit shall be issued unless the appropriate official is first satisfied that the requirements of all codes and ordinances which are applicable to the permit sought, have been satisfied.

- 4) Limitation on Final Plan Approval. Within one (1) year after the approval of a Final Plan for PUD, or such shorter time as may be established by the approved development schedule, construction shall commence in accordance with such approved plan. Failure to commence construction within such period shall, unless an extension shall have been granted as hereinafter provided, automatically render void the PUD and all approvals of the PUD plan and the area encompassed within the PUD shall thereafter be subject to those provisions applicable in the district in which it is located. In such case, the Council shall forthwith, as applicable, adopt a resolution or ordinance repealing the PUD and all PUD approvals and re-establishing the zoning and other code provisions that would otherwise be applicable. The time limit established by this paragraph may, at the discretion of the Council, be extended.

- 5) Inspections During Development.
 - a. Compliance with Overall Plan. Following Final Plan approval of a PUD, or a stage thereof, the Zoning Administrator shall, at least annually until the completion of development, review all permits issued and construction undertaken and compare actual development with the approved development schedule. If the Zoning Administrator finds that development is not proceeding in accordance with the approved schedule, or that it fails in any other respect to comply with the PUD plans as finally approved, he shall immediately notify the Council. Within thirty (30) days of such notice, the Council shall either by ordinance or resolution as may be applicable, revoke the PUD and the land shall thereafter be governed by the regulations applicable in the district in which it is located; or shall take such steps as it shall deem necessary to compel compliance with the Final Plans as approved; or shall require the landowner or applicant to seek an amendment of the Final Plan.

(Ref. Ord. 23-01-2060, 01/10/23)

§1301.080 CERTIFICATE OF OCCUPANCY CONDITIONAL USE PERMITS AND VARIANCES.

Subd. 1. A certificate of occupancy for conditional uses and/or variances shall be applied for following City Council approval of respective applications. Said application shall be accompanied by a fee as established by the City Council.

Subd. 2. No structure, building or project for which a conditional use permit and/or variance is required shall be occupied or utilized until a certificate of occupancy, approved by the City Building Official, has been issued.

Subd. 3. Construction performed pursuant to the provisions of the City Code establishing and regulating Building Codes of the City of White Bear Lake shall not be subject to the requirements of a certificate of occupancy established by this Section.

§1301.090 ENFORCEMENT AND PENALTIES.

Subd. 1. The City Manager shall designate compliance Official(s) who shall administer and enforce the provisions stated in any statute, charter or code. The Compliance Officer(s) may institute in the name of the City of White Bear Lake any appropriate actions or proceedings against a violator as provided by statute, charter or code.

Subd. 2. Notice of Correction. When the City determines that an activity is not being carried out in accordance with the Zoning Code, it may issue a written correction notice to the owner of the property. (Ref. Ord. 15-05-1999, 5/12/15).

Subd. 3. Stop Work Orders. Persons receiving a Stop Work Order will be required to halt all activities. This Stop Work Order will be in effect until the City confirms that the property is in compliance and the violation has been satisfactorily addressed. Failure to address a notice of violation in a timely manner may result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this ordinance. (Ref. Ord. 15-05-1999, 5/12/15).

Subd. 4. All persons who have possession, control, or an interest in property, are responsible for violations of any provision of this Code on said property. Each day that a violation is permitted to exist shall constitute a separate offense.

Subd. 5. Notwithstanding any other provision of this City Code to the contrary, a nonaggravated violation of any provision of the Zoning Code, §1301.010 et. seq., shall constitute a petty misdemeanor punishable by up to the maximum penalty provided for in Minn. Stat. §609.0332, as that statute is, from time-to-time, amended. Any aggravated violation of the Zoning Code shall constitute a misdemeanor punishable by up to the maximum penalty provided for in Minn. Stat. §609.034, as that Statute is, from time-to-time, amended. The following are aggravated violations:

- a) A violation of the Zoning Code within three (3) years of a prior conviction of a violation of the Zoning Code;
- b) A violation of the Zoning Code within three (3) years of a prior petty misdemeanor charge of a violation of the Zoning Code where the charged person fails to make a court appearance on the charge; and
- c) A violation of the Zoning Code jeopardizing the health or safety of a person or persons.

A prosecution for a violation of this section may be maintained, whether or not the Code Enforcement Officer gives the violator prior written notice of and the opportunity to abate the violation of the Zoning Code. (Ref. Ord. 04-03-1015A, 3/9/04)

§1301.100 CONCEPT PLAN REVIEW.

Subd. 1. Purpose & Intent. The purpose of the pre-application concept plan review is to help inform and involve the public in the planning process and allow developers to gain feedback directly from the public, Planning Commission and City Council prior to preparing a full formal application. Feedback and opinions expressed by the city as part of a concept plan review are for guidance only and are not to be considered binding. Comments provided during the concept plan review may help inform/influence future plans if the developer chooses to proceed with a future formal development application.

Subd. 2. Applicability. Any applicant for approval of a land use or zoning application may request a preliminary (pre-application) concept plan review to explore the concept ideas and all other pertinent general information related to a possible future formal application. The concept plan review process is a required pre-application steps for those applications that may include a comprehensive plan amendment, rezoning, planned unit development (PUD) or city financial assistance.

Subd. 3. Schedule. The concept plan review process shall follow the following schedule.

- a) Neighborhood Meeting. The developer hosts a neighborhood meeting to review a concept plan and solicit community feedback. These meetings shall follow the Neighborhood Meeting requirements contained in Section 1301.110. City officials and/or staff may attend the neighborhood meeting, but only to observe the dialog between the developer and neighborhood and answer “procedure” questions.
- b) Planning Commission. The Planning Commission review is intended as a follow-up to the neighborhood meeting. The objective of this meeting is to identify major issues and challenges in order to inform subsequent review and discussion. The meeting includes a presentation by the developer of conceptual sketches and ideas, but not detailed engineering or architectural drawings. No staff recommendations are provided, the public is invited to offer comments, and planning commissioners are afforded the opportunity to ask questions and provide feedback without any formal motions or votes.
- c) City Council. The City Council review is intended as a follow-up to the neighborhood meeting and Planning Commission review and would follow the same format as the Planning Commission review. No staff recommendations are provided, the public is invited to offer comments, and city council members are afforded the opportunity to ask questions and provide feedback without any formal motions or votes.

Subd. 4. Next Steps. The developer may choose to use feedback gathered through the concept plan review process to help prepare a future formal application. (Ref. Ord. 23-01-2060, 01/10/23)

§1301.110 NEIGHBORHOOD MEETINGS.

Subd. 1. Purpose & Intent. It is the city's intent to expand and enhance the dissemination of information to the residents and to encourage greater involvement by the community in the planning process.

Subd. 2. Applicability. Applicants for concept plan review or conditional use permits or zoning map amendments located adjacent to or within any portion of a residential zone must host and facilitate a neighborhood meeting in accordance with the procedures listed below. The city may also require a neighborhood meeting for other land use applicants, as determined necessary and appropriate. Required neighborhood meetings are separate and distinct from any public hearing required pursuant to state law. The following conditional uses within Residential zones are exempt from the requirements of this subsection: daycares, home occupations, second curb cut, earth shelter homes and Home Accessory Apartments.

Subd. 3. Scheduling.

- a) Applicants must schedule required neighborhood meetings to take place only after the city has accepted either a pre-application concept plan review or a formal land use or zoning application and at least one week before the planning commission concept plan review or the statutorily required public hearing on the subject application.
- b) Meetings must be scheduled Monday through Thursday evenings after 6:30 p.m., although meetings may not take place on any of the following dates:
 - 1) On a holiday, as that term is defined in Minnesota Statutes, Section 645.44;
 - 2) On October 31;
 - 3) On the evening of a major political party caucus; or
 - 4) On the date of an election being held within the city's boundaries.
- c) The applicant must host the meeting and present the proposed project for questions and comments from those in attendance.

Subd. 4. Notice and Invitation. Notice of required neighborhood meetings must be mailed at least 10 days before the meeting to those names and addresses listed on the public hearing notice list provided by the Community Development department. The area of notification may be modified by city staff based on the specific project. A copy of the meeting invitation must also be emailed to the members of the Planning Commission, City Council, and Community Development Director. A list of these individuals and their email addresses will be provided to the applicant by the Community Development department. The notice and invitation must include at least the following:

- a) Date, time, and location of the meeting;
- b) Project location map;
- c) General project description; and
- d) Contact information for the applicant, including an email address, project website and a telephone number.

Subd. 5. Meeting Materials. The applicant must make available to the public a complete description of the proposed project necessitating the application, including copies of printed materials and maps, where appropriate. This information must also be available through a project website that allows the public to ask questions and provide comments directly to the developer.

- a) The applicant must provide a sign-in sheet at the meeting to be signed at the option of those in attendance. The applicant must also take minutes at the meeting. A copy of this information must be provided to city staff no more than one day following the neighborhood meeting.
- b) The schedule of meeting dates for Planning Commission and City Council to consider the application, as applicable, must be provided to those in attendance at the meeting, if those dates are known.

Subd. 6. Modification Of Requirements. The city recognizes that not all land use applications or circumstances are similar in nature and certain situations may warrant deviating from the express requirements of this section for reasons that cannot necessarily be predicted or contemplated within a rigid set of policy provisions. To that end, the City Manager is authorized to permit deviations from any of the neighborhood meeting requirements of this section upon determining that such deviation is reasonable under the circumstances. This subsection is not to be interpreted to act as a mechanism through which an applicant may request or apply for deviations, but rather is intended solely to provide city staff with the flexibility to initiate a deviation when circumstances warrant. (Ref. Ord. 23-01-2060, 01/10/23)

§1302 GENERAL PROVISIONS§1302.010 NONCONFORMING BUILDINGS STRUCTURES AND USES.

Subd. 1. Purpose. It is the purpose of this Section to provide for the regulation of nonconforming buildings, structures and uses and to specify those requirements, circumstances and conditions under which nonconforming buildings, structures and uses will be operated and maintained. The Zoning Code establishes separate districts, each of which is an appropriate area for the location of uses which are permitted in that district. It is necessary and consistent with the establishment of these districts that nonconforming buildings, structures and uses not be permitted to continue without restriction. Furthermore, it is the intent of this Section that all nonconforming uses shall be eventually brought into conformity.

Subd. 2. Provisions.

- a) Any nonconforming structure or use lawfully existing upon the effective date of this Code shall not be enlarged or reconstructed, but may be continued at the size and in the manner of operation existing upon such date except as hereinafter specified or subsequently amended.
- b) Any proposed structure which will, under this Code, become nonconforming but for which a building permit has been lawfully granted prior to the effective date of this Code may be completed in accordance with the approved plans, provided construction is started within sixty (60) days of the effective date of this Code, is not abandoned for a period of more than one hundred twenty (120) days, and continues to completion within two (2) years. Such structure and use shall thereafter be a legally nonconforming structure and use.
- c) Normal maintenance of a building or other structure containing or related to a lawful nonconforming use is permitted, including necessary repairs and incidental alterations which do not physically extend or intensify the nonconforming use. (Ref. Ord. 10-1-1062, 1/12/10)
- d) Except as provided in e) below, alterations may be made to a building containing lawful nonconforming residential units when they will improve the livability thereof, provided they will not increase the number of dwelling units or size or volume of the building. A dwelling may not, however, be demolished and a new dwelling constructed unless the new dwelling is in full compliance with this Code.
- e) Nonconforming, single family dwelling units may be expanded to improve livability as a conditional use as regulated by Section 1301.050 of this Code, provided that the nonconformity is not increased.
- f) Nothing in this Section shall prevent the placing of a structure in safe condition when said structure is declared unsafe by the Building Official providing the necessary repairs shall not constitute more than fifty (50) percent of fair market value of such structure. Said value shall be determined by the City.
- g) No nonconforming building, structure or use shall be moved to another lot or to any other part of the parcel of land upon which the same was constructed or was conducted at the time of this Code adoption unless such movement shall bring the nonconformance into substantially closer compliance with the requirements of this Code.

- h) When any lawful nonconforming uses of any structure or land in any district has been changed to a conforming use, it shall not thereafter be changed to a nonconforming use.
- i) A lawful nonconforming use of a structure or parcel of land may be changed to lessen the nonconformity of use. Once a nonconforming structure or parcel of land has been changed, it shall not thereafter be so altered to increase the nonconformity.
- j) If at any time, a nonconforming building, structure or use shall be destroyed to the extent of more than fifty (50) percent of its fair market value, said value to be determined by the City, then without further action by the Council, the building and the land on which such building was located or maintained shall, from and after the date of said destruction, be subject to all the regulations specified by these zoning regulations for the district in which such land and buildings are located. Any building which is damaged to an extent of less than fifty (50) percent of its value may be restored to its former extent, if it is reconstructed within twelve (12) months after the date of said damage. Estimate of the extent of damage or destruction shall be made by the Building Official.
- k) Whenever a lawful nonconforming use of a structure or land is discontinued for a period of one (1) year, any future use of said structure or lands shall be made to conform with the provisions of this Code. (04-04-1017, 4/13/04)
- l) Wherever a non-conforming use is adjacent to a residential property, and this code would require screening between the non-conforming use and the residential property, if the non-conforming use was in a proper zoning district, such screening requirement is applicable to the non-conforming use. (Ref. Ord. 779, 1/10/89)

§1302.020 BUILDING PERMITS AND STAFF REVIEWS.

Subd. 1. All applications for building permits pertaining to the erection or major alterations of permitted structures located in "R-5", "R-6", "R-B", and all business and industrial districts, which affect the outside dimensions of a structure or its required parking, shall be submitted in duplicate (two copies) to the City Planner for staff review. The City staff shall have fifteen (15) business days to review and provide written comment to the applicant on the following plans submitted with the application: (Ref. Ord. 10-1-1062, 1/12/10)

- a) Contour drainage and grading plans including on-site sand, silt, and oil traps and water storage.
- b) Utilities plans illustrating proposed connections and alignments for water, sanitary sewer, storm water, gas and electricity from service points to new structure.
- c) Complete landscape plans including names, numbers, sizes, root conditions of all plant materials and locations of all turf (seed or sod) or mulch areas (see Section 1302.030, Subd. 7).
- d) Tree preservation plans (See Section 1302.075). (Ref. Ord. 10-1-1062, 1/12/10)
- e) On-site business signage and traffic direction signs.
- f) Emergency plans as required by City staff.
- g) Concept elevations of the building facades.
- h) Other plans as required by City staff.

(Ref. Ord. 726, 8/12/86)

Subd. 2. Each application for a building permit for a new residential principal structure or for new or remodeled business or industrial buildings shall be accompanied by a certified land survey indicating that permanent iron monuments are in place at each lot corner. Permanent iron monuments shall also be placed on each side lot a distance from the front lot line equivalent to the building set-back line. Such certified land survey shall also show thereon the following:

- a) All existing buildings with dimensions of each building and reference dimensions from the lot lines to the nearest point of each building on the lot or parcel.
- b) All proposed buildings with dimensions of each building and reference dimensions from the front and side lot lines to the nearest point of each building.
- c) The elevations to sea level datum of the centerline of the nearest street at points where the side line of proposed buildings are extended intersect said street.
- d) The proposed elevations to sea level datum of the top of the foundation and the lower most floor.
- e) The proposed elevations to sea level datum of grade within five feet (5') of foundation on all sides of proposed buildings.
- f) The proposed slope of ground for a distance of not less than thirty feet (30') on all sides of the foundation.

- g) The elevation and location to sea level of sanitary sewer and water main, if existing, at point of connection. The survey shall show elevation of inverts to nearest manholes up and down stream of proposed building to determine elevation of sewer line.
- h) The location of any and all existing utilities, easements, drainage ways, water ways and swamp land on or within lot.
- i) Any and all variances that are requested or proposed.
- j) All private water and sewer services shall be located on the survey.

(Ref. Ord. 726, 8/12/86; 741, 4/14/87)

Subd. 3. Upon completion of the staff review, the applicant shall meet with the staff to discuss modifications necessary to the site plan. After completion of the modifications by the applicant, the City Planner shall notify the Building Official that the applicant meets or exceeds the City's land use requirements and may proceed with the building permit application.

Subd. 4. The City Planner, in consultation with other City staff members, may require the posting of performance bonds or other assurances of completed work as established in Section 1301.060, Subd. 4.

Subd. 5. The applicant may file an appeal to the City Council (Board of Adjustment and Appeals) concerning the interpretation or requirements placed on the project by the City staff. Said appeal shall follow the public hearing/appeal process established in Section 1301.060. (Ref Ord. No. 726, 8/12/86)

Subd. 6. Exterior Completion of Single-Family and Two-Family Dwelling Unit Buildings.

- a) The roof and all exterior surfaces of single-family dwelling unit and two-family dwelling unit buildings, and buildings and structures accessory thereto, shall be completed with exterior finish materials within one (1) year from the effective date of this subdivision or within one (1) year after the date of the building permit, whichever is later, for the new construction, alteration, remodeling or relocation of such building or structure.

Any person unable to satisfy conditions of this subdivision due to unforeseen conditions having a significant impact on the completion of the exterior, may request an extension to the initial one-year time limit. Such a request shall be made in writing, submitted at least thirty (30) days prior to the initial expiration date and accompanied by a fee of fifteen dollars (\$15.00). The request shall be reviewed by a staff panel consisting of three (3) individuals appointed by the City Manager. One (1) extension of up to one (1) year may be granted by unanimous approval of the staff panel if the exterior work is proceeding expeditiously and will be at least fifty percent (50%) complete at the end of the initial one-year period. The decision of the staff panel may be appealed to the City Council. Subsequent requests for time extensions shall require a formal variance pursuant to Section 1301.060.

- b) The term "finish materials" as used in this subdivision shall mean materials installed in compliance with the building code and shall include, but not be limited to stucco, brick, stone, shingles or shakes, painted, stained or color clad siding materials, windows and doors. Tar paper, unfinished plywood, fiberboard sheathing, foam insulation, brown coat or scratch coat of stucco, plastic sheeting and other similar materials not designed to be exterior finish shall not be considered an acceptable exterior finish.
- c) Any property owner who violates this subdivision shall be liable to pay a penalty of twenty-five dollars (\$25.00) for each day of violation. Payment of these penalties may be enforced by civil action.
- d) Any person who violates this subdivision is guilty of a misdemeanor as per Section 1301.090 of this Code. (Ref. Ord. 911; 4/26/94)

§1302.025 MORATORIUM ON ISSUANCE OF BUILDING PERMITS.

Subd. 1. The City Council finds that there are circumstances where, because of changing development patterns, proposed changes to the City's comprehensive plan, and for other good reasons, it is necessary to establish moratoriums on the issuance of building permits to allow the City staff and City Council to study and make amendments to the City's zoning code, subdivision code, or to consider proposed public improvements. It is the intent of the City Council through this ordinance, to establish an expeditious procedure for the implementation of such moratoriums and to provide persons affected by such moratoriums with a means for seeking a variance from the provisions of such a moratorium.

Subd. 2. After adopting findings setting forth the basis for its action, the City Council, by resolution adopted by a majority of its members voting, may impose a moratorium on the issuance of building permits, not to exceed six (6) months.

Subd. 3. Such moratorium resolution shall describe the land included in the moratorium area and shall establish the expiration date of the moratorium.

Subd. 4. Any individual or entity adversely affected by the imposition of such a moratorium may, upon making written application to the City Council, seek a variance from the provisions of the moratorium. Upon receipt of an application for a variance, the matter shall be heard by the City's Planning Commission, which will make recommendations to the City Council. Upon receipt of such recommendation, the City Council shall consider the application for a variance and when, in its sole discretion, believes the issuance of a variance is appropriate, may pass a resolution varying the terms of the moratorium with regard to the variance application. (Ref. Ord. 872, 6-9-92)

§1302.030 GENERAL BUILDING AND PERFORMANCE REQUIREMENTS.

Subd. 1. Purpose. The purpose of this Section of the Zoning Code is to establish general development performance standards. These standards are intended and designated to assure compatibility of uses; to prevent urban blight, deterioration and decay; and to enhance the health, safety and general welfare of the residents of the community.

Subd. 2. Dwelling Unit Restriction.

- a) No cellar, basement, garage, tent or accessory building shall at any time be used as an independent single family residence or dwelling unit, temporarily or permanently, except for approved home accessory apartments or permitted temporary health care dwelling units per Section 1302.125. (Ref. Ord. 10-1-1062, 1/12/10, 16-10-2019, 10/11/16)
- b) Basements may be used as living quarters or rooms as a portion of residential dwellings.
- c) Earth Sheltered dwelling units shall not be considered as a basement or cellar, but shall require a conditional use permit as regulated by Section 1301.050 of this Code.
- d) Tents, play houses or similar structures may be used for play or recreational purposes.

Subd. 3. Platted and Unplatted Property.

- a) Any person desiring to improve property shall submit to the Building Official a survey of said premises and information on the location and dimensions of existing and proposed buildings, location of easements crossing the property, encroachments, and any other information which may be necessary to insure conformance to City Codes.
- b) All buildings shall be so placed so that they will not obstruct future streets which may be constructed by the City in conformity with existing streets and according to the system and standards employed by the City.
- c) A lot of record existing upon the effective date of this Code (12-19-84) in a residential district which does not meet the requirements of this Code as to area or width may be utilized for single family detached dwelling purpose, provided that:
 - 1) The measurement of such area and width are within seventy (70) percent of the requirements of this Code; and
 - 2) Setbacks and yard requirements shall be in conformance with this Code. (Ref. Ord. No. 09-02-1056, 2/10/09)
- d) Except in the case of planned unit development as provided for in Section 1301.070 of this Code, not more than one (1) principal building shall be located on a lot.
- e) On a double frontage lot (a lot fronting on two (2) parallel streets), both street lines shall be front lot lines for applying the yard and parking regulations of the Code. (Ref. Ord. 10-1-1062, 1/12/10)

Subd. 4. Accessory Buildings and Structures and Uses.

- a) No accessory building or structure shall be permitted on any lot prior to the time of the issuance of the building permit for the construction of the principal building.

- b) Accessory buildings and structures are permitted in the rear and side yard only. On lots which have access to an alley, the garage shall utilize that alley unless an alternative location is approved by the Zoning Administrator, provided that the garage does not face or access the true front of the lot, and on a corner lot, an attached garage must be located in the rear yard. (Ref. Ord. 09-02-1056, 2/10/09)
- c) An accessory structure shall be considered attached if it is located less than six (6) feet from the principal structure. (Ref. Ord. 897, 7/13/93)
- d) Any attached or unattached accessory building which abuts a public street right-of-way shall adhere to the same setback requirement as that of the principal structure except lock boxes as provided in §1303.230, Subd. 5b of this Code. (Ref Ord 915, 12/13/94)
- e) In all residential zoning districts except the "R-1I" and "R-1S" districts, an attached residential garage shall not set within five (5) feet of the side property line and shall maintain the principal structure's minimum setback requirement for the rear yard and when adjacent to the public right-of-way. A property owner who constructs a tuck-under garage shall adhere to the same setback requirements for that of the principal structure. Any detached residential accessory structure, except recreational and water-oriented accessory structures, shall not set within five (5) feet of a side lot line and five (5) feet of the rear lot line. The exterior color, design and/or material of the garage shall be compatible with the principal structure. (Ref. Ord. 804, 3/14/90; 897, 7/13/93; 915, 12/13/94; 981, 10/10/00)
- f) In the "R-1I" and "R-1S" districts, attached and detached residential garages shall not set within fifteen (15) feet of the side lot line except where the high point of the roof of an accessory structure (either attached or detached) exceeds fifteen (15) feet in height, the structure shall be setback from the side lot boundary line an additional one (1) foot for every foot of structure height exceeding fifteen (15) feet. Structure height shall be measured from mean ground grade to the high point on the roof. An attached garage shall also maintain the principal structure's minimum setback requirement for the rear yard and when adjacent to a public right-of-way. A property owner who constructs a tuck-under garage shall adhere to the same setback requirements for that of the principal structure. The exterior color, design and/or material of the garage shall be compatible with the principal structure. (Ref. Ord. 897, 7/13/93)
- g) No detached garages or other accessory buildings except attached garages in residential districts shall be located nearer the front lot line than the principal building on that lot except in planned unit developments or cluster developments.
- h) Accessory structures located on lake frontage lots or lots with a rear alley may be located between the public right-of-way and the principal structure provided that the physical conditions of the lot require such a location. Following are the required setbacks to the public right-of-way: (Ref. Ord. 981, 10/10/00)
 - 1) For lake frontage lots, a twenty (20) foot setback to the public right-of-way is required for an accessory structure (garage or storage shed). (Ref. Ord. 773, 1/10/89; 981, 10/10/00)
 - 2) For lots with a rear alley, a twenty (20) foot setback to the public right-of-way is required for an accessory structure (garage) if the garage door faces the alley. (Ref. Ord. 00-10-981, 10/10/00)

- 3) For lots with a rear alley, a five (5) foot setback to the public right-of-way is required for an accessory structure (garage) if the garage door faces into the yard. (Ref. Ord. 00-10-981, 10/10/00)
 - 4) For lots with a rear alley, a five (5) foot setback to the public right-of-way is required for a storage shed. (Ref. Ord. 00-10-981, 10/10/00)
- i) Up to two (2) accessory structures are permitted for each single or two family dwelling unit, the first being a primary accessory structure (an attached or detached residential garage) and the second being a secondary accessory structure subject to the following conditions: (Ref. Ord. 915, 12/13/94, 10-1-1062, 1/12/10)
- 1) Primary Accessory Structures (Ref. Ord. 10-1-1062, 1/12/10)
 - a) Attached residential garage(s) shall not exceed one (1) story or the height of the principal structure. The maximum gross floor area shall not exceed 100% of the first floor area of the dwelling unit or 1,000 square feet, whichever is more restrictive.
 - b) Detached residential garages shall not exceed fifteen (15) feet in height as measured to the mean of the roofline, or the height of the principal structure, whichever is more restrictive. The maximum gross floor area shall not exceed 100% of the first floor area of the principal structure or 1,000 square feet, whichever is more restrictive. Only one detached garage shall be permitted on any single or two family lot. (Ref. Ord 915, 12/13/94, 00-10-981, 10/10/00)
 - 2) Secondary Accessory Structures. (Ref. Ord. 00-10-981, 10/10/00, 10-1-1062, 1/12/10)
 - a. Storage sheds (120 square feet or less) shall be measured from the ground grade to the top of the roof and shall not exceed twelve (12) feet in height. (Ref. Ord 915, 12/13/94; 00-10-981, 10/10/00)
 - b. Lots containing attached garages: Through an administrative variance, pursuant to Section 1301.060, Subd. 6-7 of this Code, a second accessory structure no greater than six hundred twenty-five (625) square feet, but not exceeding ten (10) percent of the existing rear yard is allowed, provided that the combined square footage of a second accessory structure and an attached garage for lots having 10,500 square feet or less shall not exceed one thousand (1,000) square feet or 100 percent of the first floor area of the principal structure, whichever is more restrictive. For lots greater than 10,500 square feet, the combined square footage of a second accessory structure and an attached garage shall not exceed one thousand two hundred fifty (1,250) square feet or 100 percent of the first floor area of the principal structure, whichever is more restrictive. Second accessory structures of 120 square feet (storage shed) or less are allowed without an administrative variance and must comply with the combined square footages mentioned above. (Ref. Ord 915, 12/13/94; 00-10-981, 10/10/00; 996, 11/12/02)

- c. Lots containing detached garages: Limited to a second accessory structure of 120 square feet (storage shed) or less without an administrative variance. Through an administrative variance, pursuant to Section 1301.060, Subd. 6-7 of this Code, a second accessory structure no greater than two hundred (200) square feet, but not exceeding ten (10) percent of the existing rear yard is allowed. Either way, the combined square footage of these accessory structures for lots having 10,500 square feet or less shall not exceed one thousand (1,000) square feet or 100 percent of the first floor area of the principal structure, whichever is more restrictive. For lots greater than 10,500 square feet, the combined square footage of these accessory structures shall not exceed one thousand two hundred fifty (1,250) square feet or 100 percent of the first floor area of the principal structure, whichever is more restrictive. (Ref. Ord 915, 12/13/94; 00-10-981, 10/10/00; 16-01-2007, 1/12/16)
 - d. One recreational or water-oriented accessory structure (other than a lock box) not exceeding fifteen (15) feet in height and two hundred fifty (250) square feet in size shall be permitted. This structure shall be set back at least five (5) feet from the rear property line, and shall maintain the same side yard setback as required for the principal structure. (Ref. Ord. 10-1-1062, 1/12/10)
 - e. For properties less than 10,000 square feet in size, no combination of accessory buildings or uses per single or two-family home shall cover more than 35% percent of the available rear yard, or no more than 42% with an administrative variance pursuant to Section 1301.060, Subd. 6-7 of this Code. For properties 10,000 square feet in size or greater, no combination of accessory buildings or uses per single or two-family home shall cover more than 25% of the available rear yard, or no more than 33% through an administrative variance, pursuant to Section 1301.060, Subd. 6-7 of this Code. (Ref. Ord. 10-1-1062, 1/12/10; 16-01-2008, 1/12/16)
 - f. A site plan and permit shall be required for all decks, lock boxes and for all accessory structures used as tool and storage sheds and similar uses. A fee of thirty (\$30.00) dollars shall be required. (Ref. Ord. 00-10-981, 10/10/00, 1015, 1/13/04, 10-1-1062, 1/12/10)
- 3) All single family dwellings hereafter erected on lots of 10,500 square feet or greater or those lots resulting from a subdivision enacted after January 1, 1989 shall have a double garage. All existing double car garages for single family dwellings on lots of the same shall be retained. All single family dwellings on lots having an area less than 10,500 square feet shall have a single car garage. All existing single car garages for single family dwellings on lots of the same shall be retained. All two family dwellings hereafter erected shall have at least a single car garage per unit. All existing two family dwellings which provide a single car garage per unit shall retain said garage. (Ref. Ord. No. 804, 3/14/90)
- j) All accessory buildings over 120 square feet in size shall require a concrete foundation or concrete slab, except for permitted temporary health care dwelling units per Section 1302.125. In lieu of concrete foundation or concrete slab as specified above, accessory buildings of one hundred twenty (120) square feet or less shall have adequate anchorage of the walls to the ground as approved by the Building Official to provide resistance to overturning, uplift or sliding. (Ref. Ord. 10-1-1062, 1/12/10, 16-10-2019, 10/11/16)
 - k) No accessory uses or equipment such as air conditioning cooling structures or condensers which generate noise may be located in a front yard except for townhome units which have no yards

other than front yards or secondary front yards abutting streets where equipment is fully screened from view. (Ref. Ord. No. 848, 07/09/91; 996, 11/12/02; 12-06-1080, 06/12/12)

- l) No accessory buildings in an apartment, multi-family or townhome development shall exceed the height of the principal building. (Ref. Ord. 915, 12/13/94, 10-1-1062, 1/12/10)
- m) Accessory buildings in the commercial and industrial districts shall maintain the building setbacks required for the principal building and shall be located to the rear of the principal building, subject to the building code and fire regulations. (Ref. Ord. 915, 12/13/94)
- n) Houseboats and buildings used as shelters during open water months from which to fish are considered accessory structures for purposes of this ordinance. All houseboats dry-docked outside of a marina area for a period of thirty (30) days or more shall be considered an accessory building. No houseboat shall be used as a permanent residence. (Ref. Ord. 915, 12/13/94)
- o) Ice fishing houses stored on parcels of land during summer months shall be considered as an accessory storage building equivalent to a storage shed. Ice fishing houses shall meet all existing setback and size limitations of this ordinance. (Ref. Ord. 915, 12/13/94)
- p) It shall be the responsibility of the property owner to ensure that: (Ref. Ord. 915, 12/13/94)
 - 1) Every exterior wall, foundation and roof of any accessory building or structure shall be reasonably watertight, weather tight and rodent proof and shall be kept in a good state of maintenance and repair. Exterior walls shall be maintained free from extensive dilapidation due to cracks, tears or breaks of deteriorated plaster, stucco, brick, wood or other material.
 - 2) All exterior wood surfaces other than decay resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. A protective surface of an accessory building or structure shall be deemed to be out of repair if more than twenty-five (25) percent of the exterior surface area is unpainted or paint blistered the surface shall be painted. If twenty-five (25) percent or more of the exterior surface of the pointing of any brick block or stone wall is loose or has fallen out, the surface shall be repaired. (Ref. Ord. No. 845, 6/11/91)

Subd. 5. Drainage.

- a) No land shall be developed and no use shall be permitted that results in additional water runoff, causing flooding or erosion on adjacent properties. Such runoff shall be properly channeled into a storm drain, water course, ponding area, or other public facility. All new developments shall provide for curbs and gutters along public streets. All site plans shall be designed in accordance to the City's Engineering Design Standards and be reviewed and subject to the approval of the City Engineer relative to storm water runoff, based on the following fees (Ref. Ord. No. 15-05-2000, 5/12/15):
 - 1) Review of new grading and/or drainage plans for parcels of a half acre in size or greater shall be subject to an Engineering review fee of two hundred and fifty (\$250) dollars. (Ref. Ord. 08-01-1047, 1/8/08)
 - 2) Review of amendments to existing grading and/or drainage plans and new grading/drainage plan for parcels less than a half acre in size shall be subject to an Engineering review fee of seventy-five (\$75) dollars. (Ref. Ord. 08-01-1047, 1/8/08)

- 3) Grading plans for individual single family parcels shall be exempt from Engineering fees. (Ref. Ord. No. 08-01-1047, 1/8/08)
- b) In the case of all residential subdivisions, multiple family, business and industrial developments, the drainage plans shall be submitted to the City Engineer for his review and the final drainage plan shall be subject to his written approval. In the case of such uses, no modification in grade and drainage flow through fill, erection of retaining walls or other such actions shall be permitted until such plans have been reviewed and received written approval from the City Engineer. Approval from a Watershed District may also be required.
- c) Except for written authorization of the City Engineer, the top of the foundation and garage floor of all structures shall be eighteen (18) inches above the grade of the crown of the street.
- d) All new single-family subdivisions greater than 3 lots that rely on common drainage facilities for stormwater management, and all multiple family residential, commercial, mixed-use and industrial developments that create or re-create 10,000 square feet or more of impervious area shall have stormwater facilities designed and constructed in accordance with the City's Engineering Design Standards. These stormwater facilities require future maintenance, and as such, these developments shall enter into a Stormwater Operation and Maintenance Agreement (SOMA) with the City in order to insure that the stormwater facilities provided are appropriately maintained. Said agreement shall meet the requirements of the City's Engineering Design Standards and be recorded at the County Recorder's Office for all properties associated with the referenced drainage facilities. (Ref. Ord. 10-1-1062, 1/12/10, Ref. Ord. No. 15-05-2000, 5/12/15)

Subd. 6. Fences: (Ref. Ord. 10-1-1062, 1/12/10)

- a) Solid walls in excess of four (4) feet above adjacent ground grades shall be prohibited.
- b) Fences shall be at least thirty percent (30%) open through the structure to allow for passage of light, air and wind, or have an approved foundation.
- c) That side of the fence considered to be the face (finished side as opposed to structural supports) shall face abutting property.
- d) All fences four (4) feet in height and over from the finished grade shall require a site plan and permit. A fee of thirty (\$30.00) dollars shall be required. (Ref. Ord. No. 01-04-1015, 1/13/04)
- e) No fences shall be permitted on public right-of-ways.
- f) In the case of a corner lot, both yards abutting a street shall be considered a front yard.
- g) Fences located within the buildable area of a lot may be up to eight (8) feet in height.
- h) Fences may be permitted along property lines and within required non-buildable setback areas, subject to the following:
- 1) Fences may be placed along property lines provided no construction, grading, or drainage damage results to abutting property.
 - 2) Fences in commercial and industrial districts may be erected along the side and rear lot lines to a height of eight (8) feet with or without a security arm for barbed wire. In no case shall a fence or security arm extension encroach over the property line. (Ref. Ord. 774, 1/10/89)

- 3) Fences in residential districts may be located on any side or rear lot line to a height of six (6) feet above finished grade, beginning at the front building line of the principal structure.
- 4) In residential districts, no fence or wall more than four (4) feet in height shall be constructed within any required front yard. At the intersection of corner lot lines, the height is limited to thirty (30) inches in height (See Municipal Code Section 904.010). On corner lots in residential districts, both yards abutting a right-of-way shall be considered a front yard. A fence up to six (6) feet in height may be allowed within a front yard which qualifies as an equivalent side yard abutting a public right-of-way provided that it is setback at least 12 feet from the property line and does not impede safety by obstructing vision for pedestrians or motor vehicle operators. At no point shall a fence greater than four (4) feet in height be located in front of the front building line of the principal structure. Chain link fences are not permitted in front yards, not including side yard areas otherwise defined as a front yard. (Ref. Ord. 10-1-1062, 1/12/10)

In the case of corner lot houses situated at an angle to the front lot lines, a fence in an equivalent side yard shall not lie any closer to the front lot line than the furthest point of the common front building line adjacent to the equivalent side yard.(Ref. Ord. No. 1024, 10/12/04, 808, 3/14/90)

- 5) Where the property line is not clearly defined, a Certificate of Survey may be required by the Zoning Administrator to establish the property line.
 - 6) In those instances where a boundary line fence exists as an enclosure which restricts access from the front yard, a gate, identifiable collapsible section, or other such means of recognizable ingress shall be provided for emergency vehicles. Such ingress points shall be unobstructed and a minimum of ten (10) feet in width. The location of such ingress points shall be positioned at any point paralleling the front lot line, between the side lot property line and the principal structure.
 - 7) Fences erected within side or rear yards which abut any navigable lake, channel or stream shall not exceed four (4) feet in height. Fencing around pools as required by Section 1302.030, Subd. 20 shall supercede this section. (Ref. Ord. 10-1-1062, 1/12/10)
 - 8) Chain link fences (without slat screens) used for the enclosure of tennis courts or other such recreational purposes shall not exceed ten (10) feet in height and shall be located in a rear yard only.
 - 9) In residential districts, barbed wire fences and electrical fences shall be prohibited. (Ref. Ord. No. 808, 3/14/90)
- i) Every fence shall be constructed in a substantial, workmanlike manner and of substantial material reasonably suited for the purpose for which the fence is proposed to be used. Every fence shall be maintained in a condition of reasonable repair and shall not by reason of age, decay accident or other wise be allowed to become and remain in a state of disrepair so as to be or tend to be a nuisance to the injury of the public or any abutting property. Any fence which is dangerous by reason of its construction or state of disrepair or is otherwise injurious to the public safety, health or welfare is a nuisance; and any such fence which has become or tends to be a nuisance shall upon order of a competent court be repaired or removed as necessary to abate the nuisance caused. (Ref. Ord. 704, 11/12/85; 808, 3/14/90)
 - j) Boundary line fences in residential areas shall not include any of the following temporary type

fences: snow fences, construction fences, silt fences, and chicken wire fences not used for gardening purposes, etc.

Nothing in this section shall prohibit the use of construction or silt fences for the use for which they were intended, provided they are removed in a timely fashion as determined by the City's Building Official. (Ref. Ord. No. 04-10-1024, 10/12/04)

Subd. 7. Required Fencing, Screening, and Landscaping.

- a) Fencing and Screening. Where any business or industrial use (i.e., structure, parking or storage) abuts property zoned for residential use, that business or industry shall provide screening along the boundary of the residential property. Screening shall also be provided where a business or industry is across the street from a residential zone, but not on that side of a business or industry considered to be the front (as determined by the Building Official). All the fencing and screening specifically required by this Code shall be subject to Section 1302.030, Subd. 8 and shall consist of either a fence or a green belt planting strip as provided for below:
- 1) A green belt planting strip shall consist of evergreen trees and/or deciduous trees and plants and shall be of sufficient width and density to provide an effective visual screen. This planting strip shall be designed to provide complete visual screening to a minimum height of six (6) feet. Earth mounding or berms may be used, but shall not be used to achieve more than three (3) feet of the required screen. The planting plan and type of plantings shall require the approval of the City Council.
 - 2) A required screening fence shall be constructed of masonry, brick, wood or metal. Such fence shall provide a solid screening effect six (6) feet in height. The design and materials used in constructing a required screening fence shall be subject to the approval of the City Council. Fences in excess of six (6) feet in height shall require approval of the Zoning Administrator and Building Official.
- b) Landscaping, General Residential. The lot area remaining after providing for off-street parking, off-street loading, sidewalks, driveways, building site and/or other requirements shall be landscaped using ornamental grass, shrubs, trees or other acceptable vegetation or treatment generally used in landscaping within one (1) year following the date of building occupancy. Fences or trees placed upon utility easements are subject to removal if required for the maintenance or improvement of the utility. Landscape treatment within boulevard areas may be required to be removed for public works activities at no expense to the City. The City will not be responsible for damage to landscape treatments resulting from public works activity. (Ref. Ord. 913, 9/14/94, 01-03-983, 3/13/01)
- c) Landscaping, New Residential Subdivisions, Semi-Public and All Income-Producing Property Uses. (Excluding residential structures containing less than four [4] dwelling units). Prior to approval of a building permit, all above referenced uses shall be subject to mandatory landscape plan and specification requirements. Said landscape plan (2 copies) shall include the following information:
1. General: Name and address of developer/owner, name and address of architect/designer, date of plan preparation, date and description of all revisions, name of project or development, scale of plan, north point indication.
 2. Site Analysis: Boundary lines of property line with dimensions based upon certified survey, name and alignment of proposed and existing adjacent on-site streets, location of

all proposed utility easements and right-of-way, location of existing and proposed buildings, topographic contours at two (2) foot contour intervals, location of parking areas, water bodies, proposed sidewalks, and percent of site not covered by structures.

3. Landscape Data: A planting schedule table shall contain the following information including symbols, quantities, common names, botanical names, size of plant materials, root specifications, and special planting instructions.
 4. Typical sections and details of fences, tywalls, planting boxes, retaining walls, tot-lots, picnic areas, berms and other landscape improvements.
 5. Typical sections of landscape islands and planter beds with identification of materials used.
 6. Details of planting beds and foundation plantings.
 7. Delineation of both sodded and seeded areas indicated in square footage.
 8. Where landscape or manmade materials are used to provide required screening from adjacent and neighboring properties, a cross section shall be provided at a legible scale illustrating the prospective of the site from the neighboring property and property line elevation.
- d) All landscaping incorporated in said plan shall conform to the following standards and criteria:
1. Minimum Size of Plantings:
 - a. Over story deciduous -- 2-1/2 inch caliper.
 - b. Coniferous -- 6 feet in height.
 - c. Shrubs -- 24 inch (pot)
 - d. Ornamental trees -- 1-1/2 inch caliper.
 2. Method of Installation: All deciduous and coniferous trees shall be ball and burlap and staked and guyed per National Nurserymen's Standards. All shrubs and ornamental trees shall be potted. Bare root materials may be used with approval of the City Planner.
 3. Sodding and Ground Cover: All areas of any site not occupied by building, parking, or storage, shall be sodded. Exceptions to this are as follows:
 - a. Seeding of future expansion areas as shown on approved plans.
 - b. Undisturbed areas containing existing natural vegetation which can be maintained free to foreign and noxious materials.
 - c. Areas designated as open space for future expansion area properly planted and maintained with grass.
 4. Slopes and Berms:
 - a. Final slope grade steeper than the ratio of 3:1 will not be permitted without special approval or treatment, such as terracing or retaining walls.
 - b. Berming used to provide required screening of parking lots and other open areas shall not have a slope to exceed 3:1.

- 5. Use of Landscaping for Screening: Where natural materials, such as trees or hedges are approved in lieu of the required screening by means of walls or fences, density and species of planting shall be such to achieve ninety percent (90%) opaqueness year round.
- 6. Maintenance Policy: It is the responsibility of the property owner to insure that the landscaping is maintained in an attractive condition. The owner shall replace any damaged or dead trees, shrubs, ground covers, and sodding.
- 7. Erosion Control: All open disturbed areas of any site shall be stabilized as an erosion control measure in accordance with the provisions of the City's Engineering Design Standards. (Ref. Ord. 724, 8/12/86, Ord. No. 15-05-2000, 5/12/15)
- 8. Spacing:
 - a. Plant material shall not be planted to conflict with public plantings, based on the judgment of the City staff.
 - b. Where plant materials are planted in two or more rows, plantings shall be staggered in rows unless otherwise approved by the City staff.
 - c. Deciduous trees shall be planted not more than forty (40) feet apart.
 - d. Where massing of plants or screening is intended, large deciduous shrubs shall not be planted more than four (4) feet on center, and/or, evergreen shrubs shall not be planted more than three (3) feet on center.
- 9. Prohibited Trees: It shall be unlawful to plant any of the following trees within the City of White Bear Lake:

<u>Genus</u>	<u>Species</u>	<u>Common Name</u>
Ginkgo	Biloba	Ginkgo (Maidenhair tree female only)
Acer		Negundo Boxelder (ash-leaved maple)
Populus	Deltoides	Eastern Cottonwood
Populus	Nigra Italica	Lombardy Poplar

- 10. Design Standards:
 - a. The landscape plan must show some form of designed site amenities (i.e., composition of plant materials, and/or creative grading, decorative lighting, exterior sculpture, etc., which are largely intended for aesthetic purposes).
 - b. All areas within the property lines (or beyond, if site grading extends beyond) shall be treated. All exterior areas not paved or designated as roads, parking, or storage must be planted into ornamental vegetation (lawns, ground covers, or shrubs) unless otherwise approved by the Zoning Administrator.
 - c. All ground areas under the building roof overhang must be treated with a decorative mulch and/or foundation planting.
 - d. All buildings must have an exterior water spigot to insure that landscape maintenance can be accomplished.

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11. Landscape Guarantee:

- a. The City Planner/Zoning Administrator may require a surety bond, irrevocable letter of credit, cash escrow, certificate of deposit, securities, or cash deposit prior to approval of the landscaping plan or initiation of work on the proposed improvement or development. Said security shall guarantee conformance and compliance with the provisions of this section, and where applicable, the conditions of the Conditional Use Permit.
- b. The security shall be in an amount to be determined by the Zoning Administrator, but no less than one hundred twenty-five (125) percent of the cost of construction and materials to guarantee the completion of the required landscaping and to insure proper planting and growth.

12. Existing Trees: With respect to existing trees in new developments, trees on the site shall be preserved and replaced in accordance to §1302.075 of this code. (Ref. Ord. 724, 8/12/86; 876, 8-92)

- e) Mechanical Equipment. The City Council may require all mechanical equipment such as air conditioning units, etc. erected on the roof of any structure, to be screened so as not to be visible.

Subd. 8. Traffic Visibility. Refer to section 904.010.

Subd. 9. Glare. Any lighting used to illuminate an off-street parking area, sign or other structure shall be arranged as to deflect light away from any adjoining residential zone or from the public streets. Direct or sky-related glare, whether from flood lights or from high temperature processes such as combustion or welding shall not be directed into any adjoining property. The source of lights shall be hooded or controlled in some manner so as not to light adjacent property. Bare incandescent light bulbs shall not be permitted in view of adjacent property or public right-of-way. Any light or combination of lights which cast light on a public street shall not exceed one (1) foot candle (meter reading) as measured from the centerline of said street. Any light or combination of lights which cast light on residential property shall not exceed four-tenths (0.4) foot candles (meter reading) as measured from said property. Except when part of a public safety device or a temporary seasonal display, all LED light sources must be controlled and equipped with opaque covers, lenses, louvers or shields, or otherwise designed to prevent direct views of the light source (Ref. Ord. No. 851, 09/24/91; 12-06-1080, 6/12/12)

Subd. 10. Smoke. The emission of smoke by any use shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Regulation APC 1-15, as amended.

Subd. 11. Dust and Other Particulate Matter. The emission of dust, fly ash or other particulate matter by any use shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Regulation APC 1-15, as amended.

Subd. 12. Odors. The emission of odor by any use shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Regulation APC 1-15, as amended.

Subd. 13. Noise. The emission of noise by any use shall be in compliance with the City Ordinance relating to noise (Section 703.070). (Ref. Ord. 10-1-1062, 1/12/10)

Subd. 14. Refuse.

- a) Definition of Refuse. The term refuse shall mean all putrescent and non-putrescent waste both combustible and non-combustible including but not limited to both refuse consisting of motor vehicles and refuse not consisting of motor vehicles as defined below. (Ref. Ord. 02-03-989, 3/12/02, 03-03-999, 3/11/03)
- 1) Refuse consisting of motor vehicles. Any motor vehicle including but not limited to any automobile, truck, trailer, marine craft, snowmobile, motorcycle, all terrain vehicle, or equipment for motorized transportation that; (1) has a missing or defective part that is necessary for the normal operation of the vehicle; or (2) is stored on blocks, jacks or other supports; or (3) is not currently licensed. (Ref. Ord. 03-03-999, 3/11/03)
 - 2) Refuse not consisting of motor vehicles. All putrescible animal and vegetable wastes resulting from the handling of food, ashes, paper, rags, cartons, boxes, cardboard, bottles, cans, glass, building material, refuse containers of any design, yard waste including bags or piles of leaves, grass, brush, branches or prunings, dead trees, dismantled/unused or non-working appliances or equipment and car parts but not including properly stored recyclable material as defined at 501.020, subd. 3 of the City Code. (Ref. Ord. 03-03-999, 3/11/03)
 - 3) The following exceptions shall not be considered refuse: (Ref. Ord. 03-03-999, 3/11/03)
 - a. Pioneer, classic, collector vehicles, collector military vehicles, or street rods as defined in Minnesota Statutes Section 168.10, provided such vehicles are licensed and in compliance with Section 1302.055, Subd. 1 of this Code. (Ref. Ord. 03-03-999, 3/11/03)
 - b. Bags of leaves used for insulation purposes between October 1 and May 15 of the following year. (Ref. Ord. 03-03-999, 3/11/03)
 - c. Plant materials stored in a compost container in compliance with City Code Section 509 regarding composting. (Ref. Ord. 03-03-999, 3/11/03)
 - d. Building material being utilized and/or openly stored in conjunction with a legally authorized construction project. (Ref. Ord. 03-03-999, 3/11/03)
 - e. Marine craft less than 150 pounds stored off the ground on saw horses, racks, blocks or similar objects provided said craft is stored in the rear yard. (Ref. Ord. 03-03-999, 3/11/03)
 - f. One inoperable vehicle stored in a garage or other lawfully constructed building. (Ref. Ord. No. 03-03-999, 3/11/03)

- b) Prohibition of Open Storage, Required Container. To protect and promote the interests of public welfare, safety and health, it shall be unlawful to openly store refuse, as defined in §1302.030 Subd. 14a of this code, on any portion of a yard in any district; except as provided herein. Refuse shall be stored in an enclosed building. Refuse not consisting of motor vehicles shall also be stored in a rigid, closed watertight container designed for such storage. The owner of a vacant lot shall be responsible for keeping such land free of all refuse. The following shall be considered allowable exceptions to the open storage and required container regulations when stored behind the front line of any house or related garage, apartment, industrial or commercial building. (Ref. Ord. 999, 3/11/03).
- 1) Yard waste securely tied in bundles not longer than 4 feet in length or bagged in an orderly manner stored between regularly scheduled collection times. (Ref. Ord. 03-03-999, 3/11/03)
 - 2) Up to three (3) rigid closed containers designed for the storage of refuse and one additional such container for recycling provided that none exceed an individual capacity of 90 gallons, or a combined capacity of 120 gallons. (Ref. Ord. 806, 3/14/90; 989, 3/12/02; 999, 3/11/03)
- c) Curbside Storage. Refuse will be stored consistent with 14b above except for collection purposes when refuse shall be placed at the edge of the street or alley where collected after 5:00 p.m. the night before a scheduled collection and shall be removed by 11:00 p.m. the day of collection. Owners of property found in violation of this Subdivision (Subd. 14c) or the open storage, required container exceptions in Subdivision 14b.1 or 14b.2 may be cited for violation without notice. (Ref. Ord. 03-03-999, 3/11/03)
- d) Notice. Whenever the Code Enforcement Officer determines that there are reasonable grounds to believe that there has been a violation of this subdivision (except Subdivision 14b.1, 14b.2, and 14c), he shall utilize the following notice of violation procedures. (Ref. Ord. 02-03-989, 3/12/02, 03-03-999, 3/11/03)
1. Refuse Not Consisting of Motor Vehicles. The notice provided by the Code Enforcement Officer of illegally stored or piled refuse not including motor vehicles shall state that, if within fifteen (15) days of receipt of the notice the violation has not been corrected, the City, at its discretion, may either issue a citation to the property owner or dispose of the refuse or garbage and bill the property owner for the City disposal and reasonable administrative costs incurred. If repayment of such City costs is not forthcoming within thirty (30) days of actual disposal, the City Council shall cause all costs of such disposal to be assessed against the property in accordance with the procedure for assessment in M.S.A. Section 429.061 and subsequent amendments thereto. (Ref. Ord. 03-03-999, 3/11/03, 10-1-1062, 1/12/10)
 2. Refuse Consisting of Motor Vehicles. In the event refuse consisting of a motor vehicle is illegally stored, the City shall give the owner of the vehicle notice of the violation and fifteen (15) days to take corrective action. An owner has taken corrective action when the vehicle is legally parked and licensed, mechanically operable, and in compliance with all state requirements for an operable vehicle on public roads. In the event corrective action is not taken within fifteen (15) days from the notice of the violation, the City may either take the vehicle into custody, impound it, and sell it immediately at public auction pursuant to M.S.A. section 168B.08, or issue a citation to the property owner (Ref. Ord. 10-1-1062, 1/12/10).

- e) Right of Entry. The Code Enforcement Officer is hereby authorized and directed to enter onto private property to investigate any complaint for a violation or any apparent violation of this Subdivision or to dispose of any refuse stored or piled in violation of this Code. The property owner and every property occupant shall give the Code Enforcement Officer free access to the property at all reasonable times for the purpose of such investigation or disposal. (Ref. Ord. 03-03-999, 3/11/03)
- f) Limited Exceptions. The City Council is hereby empowered to grant limited exceptions to the requirements of Subdivisions 14 and 15 of this Section as recommended by the Variance Board. A request for exception to any requirement of these subdivisions may be filed with the Zoning Administrator in accordance with Section 1301.060, Subd. 2 of the Code at any time before a notice of an alleged violation has been served, or within ten (10) days after the day a notice of violation has been served.

Composting as permitted under the Composting Municipal Code Section 509 is a limited exception to this ordinance. Said exception does not require Council approval as described above. (Ref. Ord. No. 863, 2/11/92, 10-1-1062, 1/12/10)

Subd. 15. Exterior Storage.

- a) All building material and construction equipment (not including commercial vehicles as regulated by Code Section 1302.055) shall be stored in an enclosed building. Lawn and garden equipment, snow blowers and detached snow plows shall be stored within buildings or in the rear or side yard (but not in a side yard abutting a street) if screened so as not to be visible from adjoining properties as viewed from ground level, except for the following allowable exceptions: (Ref. Ord. 02-03-989, 3/12/02, 03-03-999, 3/11/03)
- 1) Firewood piles which are neatly stacked and free from vermin shall be stored in the rear and side yards only. In the case of corner lots, both yards abutting a public right of way are considered a front yard.
 - 2) Building materials and construction equipment stored outside in conjunction with a legally authorized construction project shall not be considered unlawful. (Ref. Ord. 989, 3/12/02; 999, 3/11/03)

Subd. 16. Waste Material.

- a) Waste material resulting from or used in commercial servicing, processing or trimming shall be disposed of in a manner approved by the Minnesota State Fire Marshall, the Pollution Control Agency, and the Department of Natural Resources.
- b) Waste material may not accumulate on the site, except where fully screened.
- c) Waste discharged into a public sewer system shall meet the following performance standards.
- 1) Shall be neutralized to a pH of 7.0 as a daily average on a volumetric basis, with a temporary variation of pH 5.0 to 10.0;

- 2) Shall contain no cyanides and no halogens, and shall contain not more than 10 p.p.m. of the following gases: hydrogen, sulphide, sulphur dioxide and nitrous oxide;
- 3) Shall not contain any insoluble substances in excess of 10, or exceed a daily average of 500 p.p.m. or fail to pass a No. 8 Standard Sieve, or have a dimension greater than 1/2 inch;
- 4) Shall not be a temperature in excess of 180' Fahrenheit;
- 5) Shall not have a chlorine demand greater than 15 p.p.m.;
- 6) Shall not contain phenols in excess of .005 p.p.m.;
- 7) Shall not contain any grease or oil or any oily substance in excess of 100 p.p.m. or exceed a daily average of 25 p.p.m.

Subd. 17. Bulk Storage (Liquid). All existing above ground liquid (oil, gasoline, fertilizer, chemicals, and similar materials) storage tanks or structures having a capacity in excess of three hundred (300) gallons shall be inspected by the City and the City Council may require the development of dyking around said tanks or structures, suitably sealed, to hold a leakage capacity equal to one hundred fifteen (115) percent of the capacity of the tank or structure. Any existing tank or structure that, in the opinion of the City Council, constitutes a hazard to the public health or safety shall discontinue operations, and if said conditions are not corrected, the tanks shall be removed by the owner. All storage tanks or structures shall comply with the requirements of the Minnesota State Fire Marshall's and Minnesota Department of Agriculture Offices and have documents from those stating the use is in compliance. All tanks or structures hereafter erected or constructed shall be inspected by the City in order to assure against fire, explosion, water contamination, and other hazards; the City Council may withhold issuance of a building permit if it determines that said hazards exist.

Subd. 18. Radiation Emission. All activities that emit radioactivity shall comply with the minimum requirements of the Minnesota Pollution Control Agency.

Subd. 19. Electrical Emission. All activities which create electrical emissions shall comply with the minimum requirements of the Federal Communications Commission.

Subd. 20. Swimming Pools. (Ref. Ord. No. 805, 3/14/90)

- a) Building permits are required for all swimming pools except for wading and portable pools. (Ref. Ord. 07-09-1044, 9/12/07)
 - 1) Portable and Wading Pools: Do not require a building permit but must still comply with the general setback and safety requirements as outlined in sections b(1) and b(2)c below. (Ref. Ord. 07-09-1044, 9/12/07)

- 2) All other pools: An application for a building permit shall include a site plan showing the following: the type and size of pool, location of pool, location of house, garage, fencing and other lot improvements, location of structures on all adjacent lots, location of filter unit, pump and wiring indicating the type of such units, location of back flush and drainage outlets, grading plan, finished elevations and final treatment (decking, landscaping, etc.) around pool, location of existing overhead and underground wiring, utility easements, trees, and similar features, location of any water heating unit.
- b) Those pools which require a building permit are subject to the following requirements:
- 1) In general:
 - a. Pools shall not be located beneath overhead utility lines nor over underground utility lines of any type.
 - b. Pools shall not be located within any private or public utility, walkway, drainage or other easement.
 - c. All access for construction shall be over the owner's land. Due care shall be taken to avoid damage to public streets and adjacent private or public property.
 - d. To the extent feasible, back-flush water or water from pool drainage shall be directed onto the owner's property or into approved public drainage ways. Water shall not drain onto adjacent or nearby private land or sanitary sewers.
 - e. The filter unit, pump, heating unit, and any other noise-making mechanical equipment associated with above-ground, in-ground, and portable pools shall be located a minimum of fifty (50) feet from any adjacent or nearby residential structure and not closer than ten (10) feet to any lot line. The filter unit, pump, and heating unit for a hot tub apparatus shall be located a minimum of ten (10) feet from any lot line. (Ref. Ord. 03-06-1002, 6/24/03)
 - f. Lighting for the pool shall be directed toward the pool and not toward the adjacent property.
 - g. Water in the pool shall be maintained in a suitable manner to avoid health hazards of any type. Such water shall be subject to periodic inspection by the local Health Official. (Ref. Ord. 07-09-1044, 9/12/07)
 - h. All wiring, installation of heating units, grading, installation of pipes, and all other installation and construction shall be subject to inspection.
 - i. Where required, structure or safety fencing shall be completely installed prior to filling the pool. (Ref. Ord. 07-09-1044, 9/12/07)
 - j. Drainage of pools into public drainage ways shall require written permission of the City Engineer.
 - k. Any proposed variation from the dimensional standards and requirements of this section shall require a variance in accordance with normal zoning procedures. (Ref. Ord. 07-09-1044, 9/12/07)

- 2) Private Residential Pools (Single Family-Two Family)
 - a. Above Ground Pools (Ref. Ord. 04-05-1019, 5/11/04):
 1. Pools shall not be located within twenty (20) feet of any side or rear lot line nor within six (6) feet of any principal structure or frost footing. Pools shall not be located within any required front yard. On corner lots in residential districts, a pool may be permitted within a front yard which qualifies as a side yard abutting a public right-of-way provided that it is setback twenty (20) feet from the property line. (Ref. Ord. 04-05-1019, 5/11/04, 07-09-1044, 9/12/07)
 2. Such pools shall be completely enclosed by a fence at least four (4) feet in height and with the bottom being no more than four (4) inches above grade. The fence shall be constructed as to not have openings, holes, or gaps in which a four (4) inch sphere may pass. When a fence has horizontal members spaced less than forty-five (45) inches apart, the horizontal members shall be placed on the pool side of the barrier. Any decorative design work on the side away from the pool, such as protrusions, indentations, or cutouts, which render the barrier easily climbable, is prohibited. If chain link fence is utilized, the mesh must be not greater than one-and-three-fourths (1¾) inch. All fence openings or point of entry into the pool area shall be equipped with self-closing and self-latching devices located on the pool side of the fence placed at least three (3) inches from the top of the gate or otherwise inaccessible to small children. The gate and fence shall have no opening greater than one-half (½) inch within eighteen (18) inches of the self-latching device. (Ref. Ord. 04-05-1019, 5/11/04, 07-09-1044, 9/12/07)
 3. Depth of water shall be plainly marked at or above the deck of the pool at points of change or slope between the deep and shallow portions and at intermediate increments of depth spaced at no more than twenty-five (25) foot intervals.
 4. The enclosure for above-ground swimming pools may utilize the wall(s) of the pool itself, or with a barrier extension mounted to the pool edge to achieve an overall height of four (4) feet above grade. (Ref. Ord. 04-05-1019, 5/11/04, Ref. Ord. 07-09-1044, 9/12/07)
 - b. In-ground pools
 1. Pools shall not be located within twenty (20) feet of any side or rear lot line nor within six (6) feet of any principle structure or frost footing. Pools shall not be located within any required front yard. On corner lots in residential districts, a pool may be permitted within a front yard which qualifies as a side yard abutting a public right-of-way provided that it is setback twenty (20) feet from the property line. (Ref. Ord. 877, 8/11/92; 04-05-1019, 5/11/04, 07-09-1044, 9/12/07)

2. Such pools shall be completely enclosed by a fence at least six (6) feet in height and with the bottom being no more than four (4) inches above grade. The fence shall be constructed as to not have openings, holes, or gaps in which a four (4) inch sphere may pass. When a fence has horizontal members spaced less than forty-five (45) inches apart, the horizontal members shall be placed on the pool side of the barrier. Any decorative design work on the side away from the pool, such as protrusions, indentations, or cutouts, which render the barrier easily climbable, is prohibited. If chain link fence is utilized, the mesh must be not greater than one-and-three-fourths ($1\frac{3}{4}$) inch. All fence openings or points of entry into the pool area shall be equipped with self-closing and self-latching devices located on the pool side of the fence placed no more than one (1) foot from the top of the gate or otherwise inaccessible to small children. The gate and fence shall have no opening greater than one-half ($1/2$) inch within eighteen (18) inches of the self-latching device. (Ref. Ord. 04-05-1019, 5/11/04, 07-09-1044, 9/12/07)
 3. In the case of in-ground pools, the necessary precautions shall be taken during the construction: a) Avoid damage, hazards, or inconvenience to adjacent or nearby property; b) Assure that proper care shall be taken in stockpiling excavated material to avoid erosion, dust or other infringements upon adjacent property. (Ref. Ord. 07-09-1044, 9/12/07)
 4. Depth of water shall be plainly marked at or above the deck or walk of the pool at points of change or slope between the deep and shallow portions and at intermediate increments of depth spaced at no more than twenty five (25) foot intervals.
 5. A deck at least three (3) feet wide, measured from the pool's water edge shall be provided which extends completely around the pool. Such decking shall be subject to approval by the City Building Official.
- c. Portable and Wading Pools: (Ref. Ord. 07-09-1044, 9/12/07)
1. Safety fencing is not required, however, all above ground portable pools which are constructed or erected to be accessible by means of a ladder are required that such ladder be detachable and so placed that no child can use them to gain entrance without the owner's consent. (Ref. Ord. 07-09-1044, 9/12/07)
 2. Wading pools may be placed in any yard, but shall not sit within five (5) feet of a lot line. Portable pools are not permitted in front yards. On corner lots in residential districts, a portable pool may be permitted within a front yard which qualifies as a side yard abutting a public right-of-way provided that it is set back twenty (20) feet from the property line. In rear and side yards a portable pool must be setback five (5) feet from the side and rear lot lines. (Ref. Ord. 04-05-1019, 5/11/04, 07-09-1044, 9/12/07)
 3. Such pools shall not be in place longer than six (6) months in a calendar year.

d. Hot Tubs:

- 1) Hot tubs shall not be located within ten (10) feet of any side or rear lot line provided that in no case shall a hot tub be located closer than twenty-five (25) feet from the living area of an adjacent residential structure. Hot tubs shall not be located within any required front yard. On corner lots in residential districts, a hot tub may be permitted within a front yard which qualifies as a side yard abutting a public right-of-way, provided that it is set back 20.5 feet from the property line. (Ref. Ord. 03-06-1002, 6/24/03)
- 2) Such pools shall be equipped with a child-resistant cover. (Ref. Ord. 03-06-1002, 6/24/03)
- 3) Hot tubs are permitted on attached or detached decks if it can be proven that the deck is engineered to be structurally sound enough to support the bearing load of the hot tub. (Ref. Ord. 03-06-1002, 6/24/03)

3) Multiple Family Dwelling Pools:

- a. No part of the water surface of the swimming pool shall be less than thirty (30) feet from any lot line.
- b. Pumps, filter or other apparatus use in connection with or to service the swimming pool shall be located a minimum of fifty (50) feet from any adjacent or nearby residential structure and not closer than ten (10) feet to any lot line.
- c. Such pools shall be completely enclosed by a non-climbable type fence at least five (5) feet in height and no more than six (6) feet in height and no more than two (2) inches above grade. All fence openings or point of entry into the pool area shall be equipped with self-closing and self latching devices placed no more than one (1) foot from the top of the gate or otherwise inaccessible to small children. Adequate screening, including but not limited to, landscaping shall be placed between the pool area adjacent single-family district boundary lines.
- d. All deck areas, adjacent patios, or other similar areas used in conjunction with the swimming pool shall be located at least thirty (30) feet from any lot line in an adjacent single-family district.
- e. Depth of water shall be plainly marked at or above the deck or walk of the pool at points of change or slope between the deep and shallow portions and at intermediate increments of depth spaced at no more than twenty five (25) foot intervals.

Subd. 21. Garage, Rummage or Yard Sales. The sale of used household goods at a garage, yard or rummage sale may be conducted on residential property for no more than three consecutive days nor more than six days per calendar year. Such sale(s) may only be conducted by a resident of the property on which the sale(s) are conducted. Such sale(s) lasting more than three consecutive days or more than six days in a calendar year are prohibited. The sale of new, unused goods purchased or consigned for resale at such a garage, yard or rummage sale within a residential district shall be considered a violation of this Code. (Ref. Ord. No. 768, 8/9/88; 870, 6/9/92)

Subd. 22. Solar Energy Systems.

- a. The installation and construction of a roof-mounted solar energy system shall be subject to the following development and design standards:
1. May be mounted on either a principal or accessory building.
 2. Height limitations of the respective Zoning District shall apply.
 3. On a flat roof, the panels must be set back 6 feet from the edge of the roof. On all other roof types, panels may not extend past the roofline.
 4. All lines and accessory equipment shall be located internally or otherwise hidden from view.
 5. All residential systems must be roof-mounted unless it is demonstrated that a roof-mounted system is not feasible. Residential roof-mounted systems must be flush mounted on pitched roofs.
- b. The installation and construction of a ground mounted solar energy system shall be subject to the following development and design standards:
1. The height of the solar collector and any mounts shall not exceed 4 feet when oriented at maximum tilt.
 2. If located within the Shoreland Overlay District, the surface area of a ground-mounted system, regardless of the mounted angle, shall be calculated as impervious area coverage.
 3. Through an administrative variance, pursuant to Section 1301.060, Subd. 6-7 of this Code, ground mounted systems may be allowed on residential properties. The system may not exceed 100% of the footprint of the home, must be located in the side or rear yard, and rear yard cover regulations shall apply.
 4. For commercial and industrial properties, the system may not exceed the size of an accessory structure, as limited by the underlying zoning district or 30% of the gross floor space of the principal use, whichever is less.
 5. The setback distance from the property lines (including electrical equipment) shall be equivalent to the accessory building setback requirement of the underlying zoning district.
 6. All lines and accessory equipment shall be located underground or otherwise hidden from view.
 7. Systems may not encroach on required open space, required buffer areas, wetlands or other protected natural areas, or on public drainage, utility, roadway or trail easements.
 8. Trees, which were either preserved or planted as part of an approved tree preservation plan for a property shall not be removed to accommodate solar systems without the prior approval of the Zoning Administrator.
- c. For both roof-mount and ground-mount, reflection angles shall be oriented away from neighboring principal structures. Should glare with an intensity sufficient to cause annoyance, discomfort or

loss in visual performance and visibility result, screening may be required.

- d. No solar energy system may be used to display permanent or temporary advertising, such as signage, or other displays. The manufacturers and equipment information, such as UL listing info., safety warnings, or indication of ownership shall be allowed on any equipment of the solar energy system provided they comply with the current sign regulations.
- e. A solar energy system shall not be installed until a zoning permit has been approved and issued. A site plan may be required to show compliance with the above-stated regulations.

(Ref. Ord. 16-03-2010, 3/8/16)

§1302.040 GENERAL YARD AREA AND BUILDING REQUIREMENTS.

Subd. 1. Purpose. This Section identifies yard, lot area, building size, building type, and height requirements in each zoning district.

Subd. 2. Usable Open Space. Each multiple family dwelling site shall contain at least five hundred (500) square feet of usable open space as defined in Section 1301.030 of this Code for each dwelling unit contained thereon.

Subd. 3. Height.

- a) The building height limits established herein for districts shall not apply to the following:
- 1) Belfries
 - 2) Chimneys or flues
 - 3) Church spires
 - 4) Cooling towers
 - 5) Cupolas and domes which do not contain usable space
 - 6) Elevator penthouses
 - 7) Flag poles
 - 8) Parapet walls extending not more than three (3) feet above the limiting height of the building
 - 9) Monuments
 - 10) Water towers
 - 11) Poles, towers, and other structures for public and semipublic essential services.
 - 12) Independent broadcasting and reception antennas or towers not exceeding forty-five (45) feet. Antennas attached to a building shall not exceed ten (10) feet above the roof.
- b) Building heights and broadcasting and reception antennas in excess of those permitted within the District provisions of this code may be permitted through a conditional use permit provided that:
- 1) The site is capable of accommodating the increased intensity of use.

- 2) The increased intensity of use does not cause an increase in traffic volumes beyond the capacity of the surrounding streets.
 - 3) Public utilities and services are adequate.
 - 4) For each additional story over three (3) stories or for each additional ten (10) feet above forty (40) feet, front and side yard setback requirements shall be increased by five (5) percent.
 - 5) The increased height is not in conflict with airport zoning regulations.
 - 6) The provisions of Section 1301.050, Subd. 2.e) of this Code are considered and satisfactorily met.
- c) No excluded roof equipment or structural element extending beyond the limited height of a building may occupy more than twenty-five (25) percent of the area of such roof nor exceed ten (10) feet unless otherwise noted.

Subd. 4. Yards. No lot, yard or other open space shall be reduced in area or dimension so as to make such lot, yard or open space less than the minimum required by this Code, and if the existing yard or other open space as existing is less than the minimum required, it shall not be further reduced. No required open space provided about any building or structure shall be included as part of any open space required for another structure.

- a) The following shall not be considered as encroachments on required yard setbacks:
- 1) Chimneys, flues, belt courses, sills, pilaster, lintels, ornamental features, cornices, eaves, gutters and the like, provided they do not project more than two (2) feet into a required yard.
 - 2) A one (1) story enclosed entrance for a detached single family, two family or townhouse dwelling up to 64 square feet in area, may extend into the front yard setback not more than five (5) feet. (Ref. Ord. 06-05-1036, 5/9/06)
 - 3) Unenclosed terraces, covered and uncovered porches, stoops, landings or similar features in front or rear yards, provided they do not extend above the entrance floor level of the building or more than eight (8) feet in the required yard. (Ref. Ord. 06-05-1036, 5/9/06)
 - 4) Laundry drying and recreational equipment, arbors, trellises, air conditioning or heating equipment in rear yards to a point no closer than three (3) feet from any lot line.
 - 5) Balconies ten (10) feet above grade in rear yards, provided they do not extend more than five (5) feet into the required yard and are at minimum five (5) feet from a property line.
 - 6) Steps leading to a first floor entrance. (Ref. Ord. 06-05-1036, 5/9/06)
 - 7) An unenclosed, uncovered ramp or modified steps and landings for handicap accessibility leading to a first floor entrance may encroach into the required setbacks provided it does not extend closer than two (2) feet from a side lot line and ten (10) feet from a rear or front lot line (Ref. Ord. 10-1-1062, 1/12/10, 11-1-1074, 1/11/11)

- b) For lots platted prior to the effective date of this Code, accessory buildings or structures as provided for in §1302.030, Subd. 4 of this Code.
- c) Where the front yard setback of existing buildings in residentially zoned districts is greater or lesser than the minimum front yard setback required and said existing buildings are within one hundred (100) feet on either side of a structure to be erected, then the setback for the new structure shall be the mean depth of the adjacent structures. In the case where an adjacent structure is within one hundred (100) feet on either side of a structure to be erected and on the other side an adjacent property is vacant, then the setback shall be the average of the adjacent structure and the required minimum front yard setback. In the case of a corner lot or a lot abutting a corner lot but not addressed to the same street, the setback shall be the average of the adjacent building addressed to the same street and the required minimum front yard setback. Except for those properties abutting a lake, pond, or wetland area, the said average setback distance may be varied by an Administrative Variance, pursuant to Section 1301.060, Subd. 6-7 of this Code, if the structure to be erected is no greater or lesser than ten (10) feet from the average setback requirement. For existing non-conforming structures where a proposed addition is closer to the average setback requirement, no variance shall be required. In the case of a lot having lake frontage in the "S" Shoreland District, for the purposes of complying with this provision, the yard abutting the lake shall be considered the front yard. (Ref. Ord. 775, 1/10/89; 916a, 1/10/95; 996; 11/12/02)
- d) Where an addition is proposed to a pre-existing, dimensionally non-conforming structure or side of a structure, and the proposed addition extends no closer to a property line or other structure than the pre-existing, non-conforming structural encroachment currently on the site, the required building setbacks may be varied by an Administrative Variance, pursuant to Section 1301.060, Subd. 6-7 of this Code. (Ref. Ord. 731, 8/12/86; 916a, 1/10/95; 996; 11/12/02)

Subd. 5. Efficiency Apartments. Except for elderly (senior citizen) housing, the number of efficiency apartments in a multiple dwelling shall not exceed five (5) percent of the total number of apartments. In the case of elderly (senior citizen) housing, efficiency apartments shall not exceed twenty (20) percent of the total number of apartments.

Subd. 6. Minimum Floor Area - Commercial and Industrial Structures. Commercial buildings having less than one thousand (1,000) square feet of floor area or industrial buildings having less than two thousand five hundred (2,500) square feet of floor area (principal structures) may only be allowed upon approval of a conditional use permit as provided for in §1301.050 of this Code.

Subd. 7. Townhouse, Quadraminium, Apartments.

- a) No single townhouse structure shall contain more than eight (8) dwelling units.
- b) Minimum unit lot frontage for townhouses shall be not less than twenty (20) feet.
- c) Townhouses, quadraminiums, and apartments intended for owner occupancy shall be subdivided on an individual unit basis according to the provisions of §1301.070 of this Code.

Subd. 8. Subdivision of Two Family, Townhouse or Quadraminium Lots. The subdivision of base lots containing two family, townhouse or quadraminium dwellings to permit individual private ownership of a single dwelling within such a structure is acceptable upon the approval by the City Council. Approval of a subdivision request is contingent on the following requirements:

- a) Prior to a two family dwelling or a quadraminium subdivision, the base lot must meet all the requirements of the zoning district.
- b) The following are minimum unit lot requirements for two family dwelling and quadraminium subdivisions where the City sewer or water systems are available:

Zoning District	Type of Dwelling Unit	Lot Area / Dwelling Unit	Lot Width	Front Yard	Rear Yard	Side Yard Adjacent to Another Lot	Side Yard Adjacent to Public ROW
R-5, R-6, R-6	2 Family	* 5,000	40'	30'	30'	** 10'	20'
R-5, R-6, R-7	Quadraminium	* 5,000	50'	30'	30'	** 15'	30'

* No multiple dwelling is permitted without public sewer and water.

** Side yard setback is not applicable where structure has a shared wall(s) as in the case of two family dwellings and quadraminiums.

- c) There shall be no more than one (1) principal structure on a base lot in all residential districts. The principal structure on unit lot created in a two family or quadraminium subdivision will be the portion of the attached dwelling existing or constructed on the platted unit lots.
- d) Permitted accessory uses as defined by the zoning districts are acceptable, provided they meet all the zoning requirements.
- e) A property maintenance agreement must be arranged by the applicant and submitted to the City Attorney for his review and subject to approval. The agreement shall ensure the maintenance and upkeep of the structure and the lots to meet minimum City standards. The agreement is to be filed with the Ramsey County Recorder's office as a deed restriction against the title of each unit lot.
- f) Separate public utility service shall be provided to each subdivided unit and shall be subject to the review and approval of the City Engineer.
- g) The subdivision is to be platted and recorded in conformance to requirements of the White Bear Lake Subdivision Code.
- h) Deviations from the lot size standards for quadraminiums as listed in b) above and for townhouses may be allowed through a planned unit development conditional use permit.

§1302.045 TELECOMMUNICATIONS - ANTENNAS, DISH ANTENNAS AND TOWERS.

Subd. 1. Purpose and Objectives. The purpose and objective of this Section is to provide for safe and aesthetically acceptable installation and usage of antennas, dish antennas, and towers. The provisions of this section are intended to protect the health, safety, and general welfare of the community, while providing for well designed and efficient telecommunications systems. The provisions are intended to lessen the adverse aesthetic impact on the community by providing for placement of commercial antennas on designated municipally owned facilities and to ensure that antennas, dish antennas, and towers are installed in a manner that can withstand high winds and other adverse weather conditions. To meet these objectives, the City Council has determined to impose location, size, heights, and installation requirements on antennas, dish antennas, and towers.

Subd. 2. Permit Required; Exemptions. No antenna, dish antenna, or tower of any kind shall be erected, constructed or placed, re-erected or re-constructed, or replaced anywhere within the City without first making an application for and obtaining a permit from the City. Provided, however, no permit shall be required for the following:

- a) Dish antennas not greater than nine square feet (9 sq. ft.) in cross sectional area, which do not exceed six feet (6 feet) in height as measured from the base of the dish antenna to the highest point of the dish antenna.
- b) All towers or other antennas which do not exceed six feet (6 feet) in height as measured from the base of the antenna or tower to the highest point of the antenna or tower.
- c) Antennas, dish antennas, and towers erected or constructed by the City for City purposes.

Subd. 3. Application for Permit; Issuance; Fee. Application for a permit required by the Section shall be made to the Building Official in the same manner, and containing the same information, as for the building permit pursuant to Section 1302.020 of this Code. The application shall be accompanied by the fee set forth in Section 1201.050 of this Code. Such a permit shall be issued by the Building Official.

Subd. 4. General Requirements. All antennas, dish antennas, and towers for which a permit is required shall comply with the following requirements:

- a) All applicable provision of Section 1302.020 of this Code, including wind loading requirements set forth in the State Building Code.
- b) Antennas, dish antennas, and towers shall be grounded for protection against a direct strike by lightning and shall comply, as to electrical wiring and connections, with all applicable provisions of this Code and State law.
- c) No antennas, dish antennas, or towers shall exceed a height equal to the distance from the base of the antenna, dish antenna, or tower to the nearest overhead electrical power line (except individual service drops), less five feet (5 feet).
- d) Antennas, dish antennas, or towers shall be protected by a City approved barrier to discourage climbing by unauthorized persons.
- e) No antennas, dish antennas, or towers shall have affixed to it in any way any signs, banners, or placards of any kind, except one sign not over ten square inches (10 sq. in.) may be affixed indicating the name of the manufacturer or installer. Lighting may be permitted by the City, for safety purposes only.
- f) No tower shall have constructed on it, or attached to it in any way, any platform, catwalk, crow's nest, or similar structure.
- g) All towers shall be constructed of corrosive-resistant steel or other corrosive-resistant, non-combustible materials. Towers shall not be constructed or made of wood, including timbers or logs.
- h) No part of any antenna, dish antenna, or tower, or any lines, cables, equipment, wires, or braces used in connection with any tower or antenna shall, at any time, extend across or over any part of a street, sidewalk, or alley.
- i) The applicant shall present documentation of the possession of any required license by any Federal, State, or local agency.

Subd. 5. Conditional Use, Location and Setback.

- a) In all residential districts, private receiving or transmitting antennas more than twenty feet (20 feet) in height above a man-made structure or more than fifty feet (50 feet) in height above the ground, if constructed on the ground, are prohibited.
- b) Commercial receiving or transmitting antennas regardless of height or size with the exception of satellite dish antennas shall connect to and use the Municipal antenna site, if use of such facilities is technically feasible. The applicant shall have the burden of providing proof to determine that a municipal location is not feasible.
- c) Commercial receiving or transmitting antennas not located on the Municipal antenna site shall be restricted to industrial and business warehouse zoning districts and shall require a conditional use permit processed per Section 1301.050.
- d) Private and Commercial receiving or transmitting antennas not located on the Municipal antenna site shall have a setback from any lot line equal to the height of the antenna plus five feet (5 feet).
- e) Dish antennas greater than nine square feet (9 sq. ft.) in cross section area shall not be located on the roof or exterior wall of a principal or accessory building.
- f) Dish antennas shall only be located in the rear yard.
- g) No antenna, dish antenna, or tower shall be located in the front yard.
- h) No antenna, dish antenna, or tower shall be constructed, located, or maintained, at any time, permanently or temporarily, closer to the allowed buildable area of a principal building on any adjacent lot than it is to the principal building on the lot on which it is located.

Subd. 6. Standards. All antennas, dish antennas, and towers shall be designed and situated to be visually unobtrusive, shall be screened as appropriate, shall not be multi-colored, and shall contain no signage, including logos, except as may be required by any State and Federal regulations.

Subd. 7. Existing Transmitting and Receiving Facilities. Existing transmitting and receiving facilities at the time of the adoption of this Title may remain in service. However, at such time as any material change is made in the facilities, full compliance with this Title shall be required. No transmitting or receiving antennas may be added to existing nonconforming facilities.

§1302.050 OFF-STREET PARKING REQUIREMENTS

Subd. 1. Purpose. The regulation of off-street parking spaces in these zoning regulations is to alleviate or prevent congestion of the public right-of-way and to promote the safety and general welfare of the public, by establishing minimum requirements for off-street parking of motor vehicles in accordance with the utilization of various parcels of land or structures.

Subd. 2. Application of Off-Street Parking Regulations. The regulations and requirements set forth herein shall apply to all off-street parking facilities in all of the zoning districts of the City except the Central Business District.

Subd. 3. Site Plan Drawing Necessary. All applications for a building or an occupancy permit in all zoning districts shall be accompanied by a site plan drawn to scale and dimension indicating the location of off-street parking and loading spaces in compliance with the requirements set forth in this Section. (Ref. Ord. No. 809, 3/14/90)

Subd. 4. General Provisions.

- a) Floor Area. The term "floor area" for the purpose of calculating the number of off-street parking spaces required shall be determined on the basis of the exterior floor area dimensions of the buildings, structure or use times the number of floors, minus ten (10) percent, except as may hereinafter be provided or modified.
- b) Reduction of Existing Off-Street Parking Space or Lot Area. Off-street parking spaces and loading spaces or lot area existing upon the effective date of this Code (12/13/83) shall not be reduced in number or size unless said number or size exceeds the requirements set forth herein for a similar new use. (Ref. Ord. No. 841, 6/11/91)
- c) Nonconforming Structures. Should a nonconforming structure or use be damaged or destroyed by fire, it may be re-established if elsewhere permitted in these zoning regulations, except that in doing so, any street parking or loading space which existed before shall be retained.
- d) Change of Use or Occupancy of Land. No change of use or occupancy of land already dedicated to a parking area, parking spaces, or loading spaces shall be made, nor shall any sale of land, division or subdivision of land be made which reduces area necessary for parking, parking stalls, or parking requirements below the minimum prescribed by these zoning regulations.
- e) Change of Use or Occupancy of Buildings. Any change of use or occupancy of any building or buildings including additions thereto requiring more parking area shall not be permitted until there is furnished such additional parking spaces as required by these zoning regulations.

- f) On and off-street parking facilities accessory to residential use shall be utilized for the parking of licensed and operable passenger vehicles and recreational vehicles and equipment. One commercial usage vehicle is allowed per dwelling unit but must be stored in a garage or other lawfully constructed building. Under no circumstances shall exterior parking facilities accessory to residential structures be used for the storage of commercial vehicles or equipment or for the parking of automobiles belonging to the employees, owners, tenants, or customers of business or manufacturing establishments. (Ref. Ord. No. 841, 6/11/91)
- g) Calculating Space.
- 1) When determining the number of off-street parking spaces results in a fraction, each fraction of one-half (1/2) or more shall constitute another space.
 - 2) In stadiums, sports arenas, churches and other places of public assembly in which patrons or spectators occupy benches, pews or other similar seating facilities, each twenty-two (22) inches of such seating facilities shall be counted as one (1) seat for the purpose of determining requirements.
 - 3) Except as provided for under joint parking and shopping centers, should a structure contain two (2) or more types of use, each use shall be calculated separately for determining the total off-street parking spaces required.
- h) Stall, Aisle and Driveway Design.
- 1) Parking Space Size. Each parking space shall be not less than eight and one-half (8-1/2) feet wide and twenty (20) feet in length, exclusive of access aisles, and each space shall be served adequately by access aisles.
 - 2) Within Structures. The off-street parking requirements may be furnished by providing a space so designed with the principal building or one (1) structure attached thereto; however, unless provisions are made, no building permit shall be issued to convert said parking structure into a dwelling unit or living area or other activity until other adequate provisions are made to comply with the required off-street parking provisions of this Code.
 - 3) Except in the case of single, two family, townhouse and quadraminium dwellings, parking areas shall be designed so that circulation between parking bays or aisles occurs within the designated parking lot and does not depend upon a public street or alley. Except in the case of single, two family, townhouse and quadraminium dwellings, parking area design which requires backing into the public street is prohibited.

- 4) Only in the case of lots platted prior to the effective date of this Code (12/13/83) and having a lot width of seventy-five (75) feet or less, the required parking spaces serving one and two family dwellings may be designed for parking not more than two (2) vehicles in a tandem arrangement for each dwelling unit in order to comply with the requirements of this code. (Ref. Ord. No. 841, 6/11/91)
- 5) No curb cut access shall be located less than forty (40) feet from the intersection of two (2) or more street rights-of-way. This distance shall be measured from the intersection of lot lines.
- 6) (Ref. Ord. No. 841, 06/11/91)
- 7) No curb cut shall exceed twenty-four (24) feet in width in single and two family developments and thirty-two (32) feet in width in all other districts unless approved by the City Engineer. (Ref. Ord. 776, 1/10/89)
- 8) Driveway Setbacks for single, two-family, townhomes and quadraminiums.
 - a. On residential lots platted prior to the effective date of this Code (12/13/83) and having a lot width of seventy-five (75) feet or less, shall maintain a minimum side yard setback of one (1) foot in all districts. (Ref. Ord. No. 841, 6/11/91)
 - b. For residential lots platted after the effective date of this Code (12/13/83) or having a lot width greater than seventy-five (75) feet shall maintain a minimum side yard setback of five (5) feet in all districts. (Ref. Ord. 841, 6/11/91)
 - c. Driveway side yard setbacks may be reduced with special approval from the City Zoning Administrator.
- 9) All properties shall be entitled to at least one (1) curb cut. Each property shall be allowed one (1) curb cut access for each one hundred twenty-five (125) feet of street frontage except for single family uses. Single family uses shall be limited to one (1) curb cut access per property unless a Conditional Use Permit is reviewed by the Planning Commission and approved by the City Council. Except in the case of single, two family, quadraminium and townhouse dwellings, the distances between driveway access curb openings onto a public street shall not be located less than forty (40) feet from one another. (Ref. Ord. No. 841, 6/11/91)

- 10) Drainage. All driveways and parking areas, except those for less than five (5) vehicles, shall be graded according to a drainage plan, which has been approved by the City Engineer. The grade elevation of any parking area shall not exceed five (5) percent. (Ref. Ord. 776, 1/10/89)
- 11) (Ref. Ord. No. 841, 06/11/91)
- 12) Surfacing. All areas intended to be utilized for parking areas, driveways and loading areas shall be surfaced with blacktop, concrete or other hard surface material; design and material used, to be approved by the City Engineer. (Ref. Ord. 775, 1/10/89; 841, 06/11/91)
- 13) Striping. Except for single, two family, townhouse and quadraminiums, all parking stalls shall be marked with white or yellow painted lines not less than four (4) inches wide.
- 14) Lighting. Any lighting used to illuminate an off-street parking area shall be hooded and so arranged as to reflect the light away from adjoining property, abutting residential uses and public rights-of-way and be in compliance with Section 1302.030, Subd. 9 of this Code.
- 15) Curbing. Except for single, two-family, townhouses and quadraminiums, all off-street parking of five (5) or more spaces shall have a poured, six (6) inch concrete curb and gutter barrier around the entire parking lot perimeter. (Ref. Ord. No. 841, 6/11/91)
 - a) Curbing shall be required around parking lot islands.
 - b) Curb cuts and ramps for the handicapped shall be in accordance with State law.
 - c) The City may exempt curbing.
 1. Where the parking lot directly abuts a sidewalk which is sufficiently higher than the grade of the parking lot and satisfies the curbing requirement.
 2. Where the City has approved future expansion. (Ref. Ord. 776, 1/10/89)
- 16) Required Screening and Landscaping.
 - a) Parking Lot Screening. All open off-street parking areas of five (5) or more spaces shall be screened from abutting property and views from the public right-of-way in compliance with Section 1302.030, Subd. 6 and Subd. 7 of this Code and the following:
 1. Perimeter parking lot landscaping provides for the enhancement and screening of parking lots by requiring a scheme of pedestrian walls and/or landscaping along shared lot lines. Perimeter landscaping is required for all parking lots and shall be established along the edge of the parking lot. The landscape treatment shall run the full length of the parking lot and be located between the property line and the edge of the parking lot. All perimeter parking lot screening areas shall be protected with raised concrete curbs.
 2. The perimeter parking lot landscaping area shall be at least fifteen (15) feet in width, as measured from the right-of-way line to the back of curb and five (5) feet from adjacent shared property lines to the back of curb in order to

accommodate vehicle bumper overhang and ensure planting areas that are adequate in size.

3. One tree measuring two and one-half (2-1/2) inches in caliper shall be planted for each twenty-five feet of landscaped area length. Trees may be grouped or staggered to maximize their effect as approved by the City.
 4. One shrub, measuring a minimum of 18 inches in height at planting and not to exceed 5 feet at maturity, for every 3 feet of landscaped area length, spaced linearly to adequately screen vehicle bumpers, and/or a low pedestrian wall the height of which provides effective screening to a maximum height of 3-1/2 feet.
 5. Landscaped areas outside of shrub and tree masses shall be planted in turf or other groundcover.
- b) Screening of Loading Areas. For uses with loading docks, they shall be located at the rear of the building, where possible, and shall be adequately screened with a wall, fence, and/or landscaping that is a minimum of 6 feet in height, unless such screening is determined to be unnecessary by the City.
- c) Interior Parking Lot Landscaping. All parking facilities of twenty (20) contiguous spaces or more shall be subject to interior landscaping at the rate of one hundred and forty-four (144) square feet of parking lot landscaped island area for every ten (10) parking spaces. Landscaping areas located along the perimeter of a parking lot beyond the curb or edge of pavement shall not be included toward satisfying this requirement. Interior parking lot landscaping areas shall be a minimum of eight (8) feet in width, as measured from back of curb to back of curb. The landscape areas shall be improved as follows:
1. Interior parking lot landscaping areas shall consist of planting islands or planting strips that are protected with concrete curbing and shall be dispersed throughout the parking lot in a design and configuration that corresponds to the size and shape of the parking lot.
 2. The primary plant materials used in parking lots shall be shade tree species. Ornamental trees, shrubbery, hedges and other plant materials may be used to supplement the shade tree plantings, but shall not be the sole contribution to such landscaping. One (1) shade tree with a trunk size a minimum of two and one-half (2-1/2) inches in caliper shall be provided for every one-hundred and forty-four (144) square feet of landscaping area.
 3. A minimum of fifty percent (50%) of every interior parking lot landscaping area shall be planted with an approved groundcover in the appropriate density to achieve complete cover within two (2) years.
- d) Irrigation. All perimeter and interior parking lot landscaping shall have an automatic irrigation system supplied with a rain gauge sensor.

- e) Maintenance. All plant material shall be maintained in good condition so as to present a healthy, neat, and orderly appearance and shall be kept free of refuse and debris. Fences and walls shall be maintained in good repair and neat appearance. Landscaping shall be trimmed so as not to obstruct public or private sidewalks, parking lots, and driveways. All landscape areas shall have automatic irrigation system installed and properly maintained to promote the health of the plant material and conservation of water, including rain shut offs. The owner of the premises and any tenant shall be jointly responsible for maintenance, repair, and replacement of all landscape materials, fences, and barriers. (Ref. Ord. 10-1-1062, 1/12/10)
- 17) Setbacks.
- a) Except for single, two family, townhouse and quadraminiums, exterior all parking and hard surfaced areas (except that portion of the driveway crossing the public right-of-way to give access to the street) shall be:
- 1) No closer than fifteen (15) feet from any street right-of-way or street easement.
 - 2) No closer than five (5) feet from any side or rear lot line unless adjacent to an alley, then the setback shall be increased to fifteen (15) feet.
 - 3) No closer than five (5) feet from the main building. (Ref. Ord. 776, 1/10/89; 841, 6/11/91)
- b) For single, two family, townhouse and quadraminium dwellings, there shall be no off-street parking within fifteen (15) feet of any street curblin e or pavement edge and no off-street parking within a five (5) foot setback from the nearest street right-of-way line, whichever is the greatest setback from the pavement edge. (Ref. Ord. No. 725, 8/12/86; 841, 6/11/91)
- 18) Off-street parking shall be provided for all vehicles concerned with any use on the lot. (Ref. Ord. 776, 1/10/89)
- 19) All new and replacement driveways (not including pavement overlay or sealcoating) shall require a site plan and permit. A fee of thirty (\$30.00) dollars shall be required (Ref. Ord. 01-04-1015, 1/13/04)

Subd. 5. Maintenance. It shall be the joint and several responsibility of the lessee and owner of the principal use, uses or building to maintain in a neat and adequate manner, the parking space, accessways, striping, landscaping and required fences.

Subd. 6. Location. All accessory off-street parking facilities required by this Code shall be located and restricted as follows:

- a) Required accessory off-street parking shall be on the same lot under the same ownership as the principal use being served, except under the provisions of Section 1302.050, Subd. 10 and 11 of this Code. (Ref. Ord. 10-1-1062, 1/12/10)
- b) Except for single, two family, townhouse and quadraminium dwellings, head-in parking, directly off of and adjacent to a public street, with each stall having its own direct access to the public street, shall be prohibited.

- c) (Ref. Ord. No. 725, 8/12/87; 841, 6/11/91)
- d) The boulevard portion of the street right-of-way shall not be used for parking except when leased or otherwise conveyed by the City to the adjoining property owner. (Ref. Ord. No. 725, 8/12/86)
- e) Setback Area. Required accessory off-street parking shall not be provided in required front yards or in side yards in the case of a corner lot, in "0", R-1, R-2, R-3, R-4, R-5, R-6, R-7, R-B and B-1 Districts.
- f) In the case of single family, two family, townhouse and quadraminium dwellings, parking shall be prohibited in any portion of the front or side yard except designated driveways leading directly into a garage or one (1) open, hard surfaced space located on the side of a driveway or garage. A hard surface space may be allowed in front of the principal living area through the Administrative Variance process, pursuant to Section 1301.060, subd. 6-7 of this code, provided that the applicant can effectively demonstrate that such space is needed for turning around a vehicle so as not to have to back onto a roadway designated as a local collector or greater, and that conditions such as the lot width and/or placement of structure(s) on the property, or other factors, would preclude the placement of a similar space not located in front of the principal living area. Such parking spaces shall be a maximum of ten (10) feet wide and twenty (20) feet long. Said parking space shall adhere to the side yard setbacks established for the lot's driveway and shall be set back from the front right-of-way line a minimum of fifteen (15) feet. Said extra space shall be surfaced with blacktop, concrete or other hard surface material approved by the City Engineer and is subject to impervious surface limits. Parking on parking spaces located in front of living area of a dwelling shall be limited to passenger vehicles as defined in Section 1301.030, subd. 16.

Parking spaces located adjacent to a driveway shall be connected to the driveway with a continuous hard surfacing. (Ref. Ord. 841, 6/11/91; 05-03-1028, 3/8/05)

Subd. 7. Use of Required Area. Required accessory off-street parking spaces in any district shall not be utilized for open storage, sale or rental of goods, storage of inoperable vehicles as regulated by Section 1302.030, Subd. 15 of this Code, and/or storage of snow.

Subd. 8. Number of Spaces Required. The following minimum number of off-street parking spaces shall be provided and maintained by ownership and/or lease for and during the life of the respective uses hereafter set forth.

- a) Single Family. All new single family dwelling on lots of ten thousand five hundred (10,500) square feet or greater, or any lots resulting from a subdivision enacted after January 1, 1989 shall have a double garage. All new single family dwellings on lots having an area less than ten thousand five hundred (10,500) square feet, that were subdivided before January 1, 1989, shall have at least a single garage. (Ref. Ord. 777, 1/10/89; 841, 6/11/91)
- b) Boarding House. Two (2) spaces plus at least one (1) parking space for each person for whom accommodations are provided for sleeping.
- c) Duplex and Multi-family Dwelling. At least two (2) rent free spaces per unit, one of which must be fully enclosed. (Ref. Ord. 777, 1/10/89)

- d) Motels Motor Hotels, Hotels. One (1) space per each rental unit plus one (1) space for each ten (10) units and one (1) space for each employee on any shift.
- e) School, Elementary and Junior High (Public or Private). At least one (1) parking space for each classroom plus one (1) additional space for each fifty (50) student capacity.
- f) School, High School through College (Public and Private). At least one (1) parking space for each three (3) students based on design capacity plus one (1) for each three (3) classrooms.
- g) Church, Theatre, Auditorium. At least one (1) parking space for each three (3) seats based on the design capacity of the main assembly hall. Facilities as may be provided in conjunction with such buildings or uses shall be subject to additional requirements which are imposed by this Code.
- h) Private Athletic Stadiums. At least one (1) parking space for each eight (8) seats of design capacity.
- i) Community Centers, Health Studios, Libraries, Private Clubs, Lodges, Museums, Art Galleries. Ten (10) spaces plus one (1) for each two hundred fifty (250) square feet in excess of two thousand (2,000) square feet of floor area in the principal structure.
- j) Sanitariums, Convalescent Home, Rest Home, Nursing Home or Day Nurseries. Four (4) spaces plus one (1) for each three (3) beds for which accommodations are offered.
- k) Elderly (Senior Citizen) Housing. Reservation of area equal to one space per unit. Initial development shall require one-half (1/2) enclosed space and one-quarter (1/4) exposed space per senior citizen unit. The balance of the one stall per unit shall be supplied at such time as the City Council determines the need for the additional parking. (Ref. Ord. 776, 1/10/89)
- l) Drive-In. At least one (1) parking space for each fifteen (15) square feet of gross floor area, but not less than fifteen (15) spaces (sit down eating area not included). (Ref. Ord. 10-1-1062, 1/12/10)
- m) Drive-Thru. At least 3 stacking spaces at each window or menu per lane. Stacking required separate of and in addition to the parking requirements of the use. (Ref. Ord. 10-1-1062, 1/12/10)
- n) Office Buildings, Animal Hospitals, Professional Offices and Medical Clinics. At least one (1) space for each two hundred (200) square feet of floor area. (Ref. Ord. 10-1-1062, 1/12/10)
- o) Bowling Alley. At least five (5) parking spaces for each alley, plus additional spaces as may be required herein for related uses contained with the principal structure.
- p) Motor Fuel Station. At least four (4) off-street parking spaces plus two (2) off-street parking spaces for each service stall. Those facilities designed for sale of other items than strictly automotive products, parts or service shall be required to provide additional parking in compliance with other applicable sections of this Code.

- q) Retail Store and Service Establishment. At least one (1) off-street parking space for each two hundred (200) square feet of floor area.
- r) Retail Sales and Service Business with Fifty (50) Percent or More of Gross Floor Area Devoted to Storage, Warehouses and/or Industry. At least eight (8) spaces or one (1) space for each two hundred (200) square feet devoted to public sales or service plus one (1) space for each five hundred (500) square feet of storage area; or at least eight (8) spaces or one (1) space for each employee on the maximum shift whichever is appropriate.
- s) Restaurants, Cafes, Private Clubs Serving Food and/or Drinks, Bars, On- Sale Nightclubs. At least one (1) parking stall for every two and one-half (2.5) seats based on the maximum design capacity of the use. (Ref. Ord. 03-06-1001, 6/10/03)
- t) Undertaking Establishments. At least twenty (20) parking spaces for each chapel or parlor, plus one (1) parking space for each funeral vehicle maintained on the premises. Aisle space shall also be provided off the street for making up a funeral procession.
- u) Auto Repair, Major Bus Terminal, Taxi Terminal, Boats and Marine Sales and Repair, Bottling Company, Shop for a Trade Employing Six (6) or Less People, Garden Supply Store, Building Material Sales in Structure. Eight (8) off-street parking spaces, plus one (1) additional space for each eight hundred (800) square feet of floor area over one thousand (1,000) square feet.
- v) Private Skating Rink, Dance Hall, or Public Auction House. Twenty (20) off-street parking spaces, plus one (1) additional off-street parking space for each two hundred (200) square feet of floor space over two thousand (2,000) square feet.
- w) Golf Driving Range, Miniature Golf, Archery Range. Ten (10) off-street parking spaces plus one (1) for each one hundred (100) square feet of floor space.
- x) Manufacturing, Fabricating or Processing of a Product or Material. One (1) space for each three hundred fifty (350) square feet of floor area, plus one (1) space for each company owned truck (if not stored inside principal building).
- y) Warehousing, Storage or Handling of Bulk Goods. That space which is solely used as office shall comply with the office use requirements and one (1) space per each one thousand (1,000) square feet of floor area, plus one (1) space for each employee on maximum shift and one (1) space for each company owned truck (if not stored inside principal building).

- z) Car Wash. (In addition to required magazinging or stacking space.)
- 1) Automatic Drive Through, Serviced. A minimum of ten (10) spaces, or one (1) space for each employee on the maximum shift, whichever is greater.
 - 2) Self-Service. A minimum of two (2) spaces.
 - 3) Motor Fuel Station Car Wash. Zero in addition to that required for the station.
- aa) Shopping Centers. Five and one-half (5 1/2) spaces per each one thousand (1,000) square feet of gross leasable floor area (exclusive of common areas).
- bb) Private Racquetball, Handball and Tennis Courts. Not less than six (6) spaces per each court.
- cc) Other Uses. Other uses not specifically mentioned herein shall be determined on an individual basis by the City Council. Factors to be considered in such determination shall include (without limitation) size of building type of use, number of employees, expected volume and turnover of customer traffic and expected frequency and number of delivery or service vehicles.

Subd. 9. Handicapped Parking. All uses shall provide and maintain parking in accordance with Chapter 1341-7 of the State Uniform Building Code. (Ref. Ord. 10-1-1062, 1/12/10)

Subd. 10. Joint Facilities. All uses shall provide and maintain parking in accordance with Chapter 1340.0000 of the State Uniform Building Code.

- a) The City Council may, after receiving a report and recommendations from the Planning Commission, approve a conditional use permit for one (1) or more businesses to provide the required off-street parking facilities by joint use of one (1) or more sites where the total number of spaces provided are less than the sum of the total required for each business should they provide them separately. When considering a request for such a permit, the Planning Commission shall not recommend that such permit be granted nor the Council approve such a permit except when the following conditions are found to exist:
- 1) Up to fifty (50) percent of the parking facilities required for a theatre, bowling alley, dance hall, community centers, health studios, libraries, private clubs, lodges, museums, art galleries, bar or restaurant may be supplied by the off-street parking facilities provided by types of uses specified as primarily daytime uses in 4) below. (Ref. Ord. 10-1-1062, 1/12/10)
 - 2) Up to fifty (50) percent of the off-street parking facilities required for any use specified under 4) below as primary daytime uses may be supplied by the parking facilities provided by the following night time or Sunday uses; auditoriums incidental to a public or parochial school, churches, bowling alleys, dance halls, community centers, health studios, libraries, private clubs, lodges, museums, art galleries, theatres, bars, apartments, or restaurants. (Ref. Ord. 10-1-1062, 1/12/10)

- 3) Up to eighty (80) percent of the Parking facilities required by this Subdivision for a church or for an auditorium incidental to a public or parochial school may be supplied by the off-street parking facilities provided by uses specified under 4) below as primarily daytime uses.
- 4) For the purpose of this section, the following uses are considered as primarily daytime uses: banks, business offices, marinas, retail stores, personal service shops, household equipment or furniture shops, clothing or shoe repair or service shops, manufacturing wholesale and similar uses. (Ref. Ord. 10-1-1062, 1/12/10)
- 5) Conditions required for joint use:
 - a. The building or use for which application is being made to utilize the off-street parking facilities provided by another building or use shall be located within three hundred (300) feet of such parking facilities.
 - b. The application shall show that there is no substantial conflict in the principal operating house of the two (2) buildings or uses (for which joint use of off-street parking facilities is proposed).
 - c. A properly drawn legal instrument, executed by the parties concerned for joint use of off-street parking facilities, duly approved as to form and manner of execution by the City Attorney, shall be filed with the City Clerk and recorded with the Ramsey County Recorder.

Subd. 11. Off-Site Parking.

- a) Any off-site parking which is used to meet the requirements of this Code shall be a conditional use as regulated by Section 1301.050 of this Code and shall be subject to the conditions listed below.
- b) Off-site parking shall be developed and maintained in compliance with all requirements and standards of this Code.
- c) Reasonable access from off-site parking facilities to the use being served shall be provided.
- d) Except as provided below, the site used for meeting the off-site parking requirements of this Code shall be under the same ownership as the principal use being served or under public ownership.
- e) Off-site parking for multiple family dwellings shall not be located more than one hundred (100) feet from any normally used entrance of the principal use served.
- f) Except as provided below, off-site parking for nonresidential uses shall not be located more than five hundred (500) feet from the main public entrance of the principal use being served.
- g) Any use which depends upon off-site parking to meet the requirements of this Code shall maintain ownership and parking utilization of the off-site location until such time as on-site parking is provided or a site in closer proximity to the principal use is acquired and developed for parking.
- h) Compliance with off-street parking requirements provided through leased off-street parking may be approved by the City Council, subject to the following additional conditions.

- 1) The lease shall specify the total number and location of parking spaces under contract and this number, when added to any on-site parking provided, must be equal to the total number of parking spaces required.
- 2) The lease instrument shall legally bind all parties to the lease and provide for amendment or cancellation only upon written approval from the City of White Bear Lake.
- 3) The lease agreement shall incorporate any other provisions, as recommended by the White Bear Lake City Attorney that are deemed necessary to ensure compliance with the intent of this Code.

Subd. 12. Bicycle Parking. All non-residential uses, except for uses in B-5 zoning district, shall provide bicycle parking at the rate of one bicycle space for every 30 parking spaces. Lots with less than 30 parking spaces shall provide at least 1 bicycle parking space. Bicycle parking racks shall be of a style that allows the bicycle to be locked at the frame, rather than the tires. The location of any bicycle parking shall not result in a bicycle obstructing a walkway. Bicycle racks shall be installed to the manufacturer's specifications, including the minimum recommended distance from other structures. (Ref. Ord. 10-1-1062, 1/12/10)

§1302.055 PERMITTED STORAGE

Subd. 1: Vehicle Parking in Residential Zones. Motor vehicles, recreational equipment and vehicles shall be stored subject to the following chart and regulations:

a) Permitted Parking or Storage

<u>Type of Vehicle</u>	<u>Permitted Location</u>	<u>Numerical Restriction</u>
1) Automobiles; motorcycles, pickup trucks and passenger vans with a capacity not to exceed: one (1) ton or a gross vehicle weight of twelve thousand (12,000) pounds, whichever is less.	In a garage or other lawfully constructed building. On the designated driveway and/or on a hard surface space located adjacent to a driveway or garage. Said space shall be constructed and used in accordance with 1302.050, subd. 6(f) of this code.	None One vehicle per licensed driver residing on the premises, plus one.
2) Commercial vehicles		
Type I commercial vehicles.	Must be stored off of the street and right-of-way and only on a driveway or other legally constructed hard surface area or in a garage. Said space shall not be located in front of the principal structure's living area.	Not more than one Type I commercial vehicle per dwelling unit, said vehicle shall be counted against the numerical restriction in a(1) above.
Type II commercial vehicles.	Prohibited in residential districts except as provided for in subd. 1.b) below.	
3) Recreational vehicles and equipment.	On the designated driveway and/or on one hard surface space located adjacent to a driveway or garage. Said space shall not be located in front of the principal structure's living area. In a garage.	None None
	In the rear or side yards except for corner lots in which case the side yard abutting a street shall also be considered a front yard.	None
4) Inoperable vehicles.	In a garage or other lawfully constructed building.	One
5) Any vehicle parked on residential property and posted for sale must be owned and licensed to the property owner or tenant of the premises and shall be parked on a designated driveway.		

(Ref. Ord. 02-03-989, 3/12/02, 05-03-1028, 3/8/05)

- b) Commercial vehicles and equipment may only be stored on properties or streets within a residential zone in the City as noted above except for the following:
- 1) Any equipment or vehicles described above being used by a public utility, governmental agency, construction company, moving company or similar company which is currently being used to service a residence not belonging to or occupied by the operator of the vehicle. (Ref. Ord. 02-03-989, 3/12/02)
 - 2) Any equipment or vehicle described above which is making a pickup or delivery at the location where it is parked. Parking for any period of time beyond the time reasonably necessary to make such a pickup or delivery and in excess of the two hour limit shall be unlawful. (Ref. Ord. 02-03-989, 3/12/02)
 - 3) Any equipment or vehicle exceeding the above described length or height limitations, but which is classified as recreation equipment as defined in City code. (Ref. Ord. 02-03-989, 3/12/02)
 - 4) Any commercial vehicle which is parked or stored on property zoned residential and being lawfully used as a church, school, cemetery, golf course, park, playground or publicly owned structure provided the equipment or vehicle is used by said use in the conduct of its normal affairs. (Ref. Ord. 02-03-989, 3/12/02)
 - 5) School buses may be parked on-street for up to ninety (90) minutes provided they are set back at least fifty (50) feet from any intersection. (Ref. Ord. 02-03-989, 3/12/02)

Subd. 2: Measurement. For purposes of measurement of vehicle dimensions under this Section, the "height" of a vehicle shall be the vertical distance between the lowest part of the tires of the measured vehicle to the top of the highest part of the vehicle, and the "length" of a vehicle shall be the horizontal distance between the front edge of the vehicle to the rear edge of the vehicle. For purposes of these measurements, accessories, attachments, and materials fixed or carried upon such vehicle shall be considered part of the vehicle (with the exception of aerial antennas, hitches and trailers). (Ref. Ord. 02-03-989, 3/12/02)

Subd. 3: Certain Trailers Prohibited:

- a) Trailers that have a trailer bed of greater than eight feet six inches (8'6") in length or are greater than six feet (6') in height shall not be parked or stored on any residentially zoned lot or in the public right-of-way or street in residentially zoned areas, subject to the following exceptions and limitations: (Ref. Ord. 02-03-989, 3/12/02)
- 1) Trailers otherwise restricted by this Section which are recreational vehicles within the meaning of the Code may be parked or stored on a site if properly parked or stored per City code. (Ref. Ord. 02-03-989, 3/12/02)

- 2) Trailers otherwise restricted by this Section may be temporarily parked at a site while being loaded or unloaded or used in connection with the rendering of a service at a site. (Ref. Ord. 02-03-989, 3/12/02)
 - 3) Trailers otherwise restricted by this Section may be parked or stored on a site when housed within a garage. (Ref. Ord. 02-03-989, 3/12/02)
 - 4) Trailers otherwise restricted by this Section may be parked on a residentially zoned lot when the lawful principal use of the lot under the Zoning Code is other than residential and the vehicle is directly related to that lawful use. (Ref. Ord. 02-03-989, 3/12/02)
- b) For purposes of the measurement of trailer dimensions, the “height” of a trailer shall be the vertical distance between the lowest part of the tires of the measured trailer to the top of the highest part of the trailer, and accessories, attachments, and materials carried upon such trailer shall be considered part of the trailer. The “length” of a trailer bed shall be the horizontal distance between the front and rear edges of the trailer bed, not including the trailer’s hitch. (Ref. Ord. 02-03-989, 3/12/02)
- c) Only one trailer of a size permitted under this ordinance shall be parked or stored on a residentially zoned lot outside of a garage provided it is stored in the rear or side yard. Trailers loaded with recreational vehicles shall not be counted for purposes of this limitation. (Ref. Ord. 02-03-989, 3/12/02)

§1302.060 OFF-STREET LOADING

Subd. 1. Purpose. The regulation of loading spaces in these zoning regulations is to alleviate or prevent congestion of the public right-of-way and so to promote the safety and general welfare of the public, by establishing minimum requirements for off-street loading and unloading from motor vehicles in accordance with the utilization of various parcels of land or structures.

Subd. 2. Location.

- a) All required loading berths or loading areas shall be off-street and located on the same lot as the building or use to be served.
- b) All loading berth or loading area curb cuts shall be located at minimum fifty (50) feet from the intersection of two (2) or more street rights-of-way. This distance shall be measured from the property line.
- c) Except for loading berths or loading area required for multiple family, no loading berth or loading area shall be located closer than fifty (50) feet from a residential district unless within a structure.
- d) Loading berths or loading areas located at the front, or at the side of buildings on a corner lot, shall require a conditional use permit.
 - 1) Loading berths or loading areas shall not conflict with pedestrian movement.
 - 2) Loading berths or loading area shall not obstruct the view of the public right-of-way from off-street parking access.
 - 3) Loading berths or loading areas shall comply with all other requirements of this Section.
- e) Each loading berth or loading area shall be located with appropriate means of vehicular access to street or public alley in a manner which will cause the least interference with traffic.

Subd. 3. Surfacing. All loading berths or loading areas and accessways shall be improved to control the dust and drainage according to a plan submitted to and subject to the approval of the City Engineer.

Subd. 4. Accessory Use, Parking and Storage. Any space allocated as a required loading berth, loading area, or access drive so as to comply with the terms of these zoning regulations shall not be used for the storage of goods, inoperable vehicles or snow and shall not be included as part of the space requirements to meet the off-street parking area.

Subd. 5. Screening. Except in the case of multiple dwellings all loading areas shall be screened and landscaped from abutting and surrounding residential uses in compliance with Section 1302.030, Subd. 7.a) of this Code.

Subd. 6. Size. Unless otherwise specified in this Code, the first loading berth or loading area shall be not less than fifty-five (55) feet in length and additional berths or areas required shall be not less than thirty (30) feet in length and all loading berths or loading areas shall be not less than ten (10) feet in width and fourteen (14) feet in height, exclusive of aisle and maneuvering space.

Subd. 7. Number of Loading Berths or Loading Areas Required. The number of required off-street loading berths shall be as follows:

- a) Nonresidential Building and Uses. For each building one (1) loading berth or loading area and one (1) additional berth or area for each additional ten thousand (10,000) square feet or fraction thereof.
- b) Multiple-Family Dwellings. Where such building has ten (10) or more dwelling units, one (1) loading berth or loading area per structure.

Subd. 8. Off-Street Loading Required. Any structure erected or substantially altered for a use which requires the receipt of distribution of materials or merchandise by trucks or similar vehicles, shall provide off-street loading space as required for a new structure.

§1302.070 LAND ALTERATION AND MINING

Subd. 1. Purpose. The purpose of this ordinance is to promote, preserve, and enhance the natural resources within the City and protect them from adverse effects by activities that would have an adverse and potentially irreversible impact on water quality.

Subd. 2. Definitions.

- a) Land alteration. The grading or depositing of fill on the same property from which it was excavated or importation of fill on any lands within the City.
- b) Mining. The extraction and removal of sand, gravel, or other material from any lands in the City in an amount exceeding four hundred (400) cubic yards.

Subd. 3. Provisions.

- a) No development, utility or street construction will be allowed and no permits will be issued unless the development is in full compliance with the requirements of this Ordinance.
- b) All land disturbing activities within the City that will result in more than 6,000 square feet of disturbed area or will result in more than 100 cubic yards of cut or fill are required to follow the Erosion and Sediment Control standards set within the City's Engineering Design Standards.
- c) Projects that meet either of the following criteria are required to develop both a Stormwater Management Plan and Erosion and Sediment Control Plan as specified by the City's Engineering Design Standards.
 - 1) Create 10,000 or more square feet of new impervious surface or fully reconstruct 10,000 or more square feet of impervious surface.
 - 2) Single family subdivisions greater than 3 lots that rely on common drainage facilities for stormwater management.
- d) Mining shall be permitted only upon issuance of a conditional use permit. Such permit shall include, as a condition thereof, a plan for a finished grade and land reclamation which will not adversely affect the surrounding land or the development of the site on which the mining is being conducted, and the route of trucks moving to and from the site.

Subd. 4. Inspection. The Permittee must inspect the construction project as detailed in the City's Engineering Design Standards. The City may conduct inspections as needed to ensure that both Erosion and Sediment Control and Stormwater Management measures are properly installed and maintained prior to construction, during construction, and at the completion of the project. The Applicant shall notify the City a minimum of seventy-two (72) hours prior to the following required City inspections.

- a) Initial Inspection – When all Erosion and Sediment Control BMPs are installed. This inspection must be completed before a Building Permit can be issued.
- b) Project Complete Inspection – When the project is complete, including, but not limited to, Final Grading, installation of all Stormwater Management Facilities, and Final Stabilization measures are complete.

Subd. 5. Site Maintenance. All site maintenance activities shall be performed to the requirements within the City's Engineering Design Standards.

Subd. 6. Final Stabilization. The Permittee(s) must ensure Final Stabilization of the site after the completion of construction activities and prior to the termination of the permit. Final Stabilization is not complete until all of the requirements within the City's Engineering Design Standards are complete that are intended to prevent discharge of pollutants associated with stormwater dischargers from the project.

Subd. 7. Enforcement. Any person, firm or corporation violating any provision of this ordinance shall be fined for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues, in accordance with Zoning Code §1301.090.

- a) Restoration of Lands. Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the City may take necessary corrective action, the cost of which may, after notice and opportunity for hearing, be specially assessed against the property and collected along with the ordinary taxes by the City. (Ref. Ord. 15-05-2000, 5/12/15)

§1302.075 TREE PRESERVATION

Subd. 1. Purpose. The purpose of this ordinance is to provide for minimal tree loss and for the mitigation of tree removal resulting from development in wooded areas of the City. Tree cover is beneficial in terms of aesthetics, screening, cooling, wildlife habitat, watershed, erosion control and property value. Alteration of land in such a way as to cause destruction of trees diminishes and impairs the public health, safety and general welfare. This ordinance provides guidelines relating to the cutting, removal or killing of trees in areas where natural vegetation and topography of the land are to be altered.

Subd. 2. Applicability. This document shall apply to the following:

- a) Parcels of land containing wood lots or treed areas having significant and or specimen trees which are being developed for single family residential, multiple family residential, commercial, mixed-use and industrial developments. Does not apply to development involving building additions or accessory structures for single-family, two-family or medium density residential. (Ref. Ord. 10-1-1062, 1/12/10)

Subd. 3. Site Alteration Permit.

- a) General requirements:
 - 1) No person shall alter any lot containing significant and or specimen trees without first obtaining a site alteration permit.
 - 2) Before any construction or grading takes place, snow fencing or erosion control fencing shall be placed around the borders of any woodlot or the drip lines of significant trees to be preserved. Signs shall be placed along this fence prohibiting grading beyond the fence line.
 - 3) If any protected significant tree dies after the completion of the project, the tree must be replaced with a tree of the same or other approved species. The minimum size permitted for replacement is designated in the approved species list. If ornamentals are used a minimum caliper size of one and one-half (1½) inch ornamental trees is required.

Subd. 4. Permit Procedures.

- a) The applicant shall submit a Site Alteration Permit Application to the Zoning Administrator with the designated application fee and a site plan of the property and tree protection and replacement plan.
- b) The Site Plan shall contain the following information:
 - 1) An inventory of all significant trees on the site, certified by a Minnesota registered land surveyor and/or landscape architect or forester, which contains the following information.

- a. The size, species, condition and location of all significant trees (on large wooded sites, forest mensuration methods may be used to determine the total caliper inches of the trees outside the area of the proposed land alteration). The location of the trees should be depicted on the site plan relative to the proposed building and site alteration boundaries, location of utilities, parking lots and the limits of the proposed grading activity.
 - b. The number, type, size and location of trees required to be replaced.
 - c. Prior to submitting the plan to the City, the applicant shall mark all trees proposed for removal on the site with a yellow ribbon.
- 2) The tree replacement plan shall contain the following information:
- a. The number, type, size and location of the replacement trees.
 - b. The methods to be used for the protection of trees which are to remain and the location where protection will take place.
 - c. Existing vegetation on the site, which is to remain.
- 3) The Zoning Administrator will review the application and make recommendations regarding tree protection, site plan adjustments to mitigate tree loss and advise on tree replacement.
- 4) The Zoning Administrator is authorized to approve or deny the Site Alteration Permit based on compliance with the regulations stated in this ordinance. If denied, the Zoning Administrator shall state findings of fact as to why the application does not comply with the ordinance.
- 5) If the permit application is denied, the applicant may appeal the decision to the City Council. The appeal must be submitted in writing by the applicant within ten (10) days of the Zoning Administrator's decision.
- 6) The applicant may amend his application so as to reduce the number of trees to be removed at any time.
- c) Guarantee
- 1) The applicant shall submit to the Zoning Administrator a surety bond, irrevocable letter of credit, cash escrow, certificate of deposit, securities or cash deposit prior to approval of the Site Alteration Permit.
 - 2) The guarantee shall be in an amount to be determined by the Zoning Administrator to guarantee the completion of the project as permitted by the Site Alteration Permit. (Ref. Ord. 876, 8/11/92)

Subd. 5. Tree Replacement.

- a) The removal of significant and for specimen trees on the site requires tree replacement. Trees shall be replaced based on the following formula: (Ref. Ord. 888, 3/9/93)

$$(A1/B) \times C1 \times A1 = D$$

$$(A2/B) \times C2 \times A2 = D$$

- A1 = Total caliper inches of significant premium trees lost as a result of land alteration.
- A2 = Total caliper inches of significant secondary trees lost as a result of land alteration.
- B = Total caliper inches of significant trees situated on the land.
- C1 = Tree replacement constant, premium tree (1.33)
- C2 = Tree replacement constant, secondary tree (.266)
- D = Replacement Trees (number of caliper inches)

(Ref. Ord. 888, 3/9/93, 10-1-1062, 1/12/10)

- b) No more than one-third (1/3) of the replacement trees shall be of the same type of tree, without approval of the Zoning Administrator. Replacement trees must meet the following minimum size requirements:

- 1) Deciduous trees - 2½ caliper inches
- 2) Coniferous trees - 6 feet tall
- 3) Ornamental trees - 1½ caliper inches

- c) Recommended Species List:

<u>Common Name</u>	<u>Latin Name</u>
Red Maple	Acer rubrum
Sugar Maple	Acer saccharum
Silver Maple	Acer saccharinum
Paper Birch	Betula papyrifera
River Birch	Betula nigra
Hackberry	Celtis occidentalis
American Mountain Ash	Sorbus americana
Tamarac	Larix laricina
Ironwood	Ostrya virginiana

Cottonwood-male	Populus deltoides
Big Tooth Aspen	Populus grandidentata
Trembling Aspen	Populus tremuloides
Wild Plum	Prunus americana
Wild Black Cherry	Prunus serotina
Bur Oak	Quercus macrocarpa
Swamp White Oak	Quercus bicolor
White Oak	Quercus alba
Red Oak	Quercus rubra
Northern Pin Oak	Quercus ellipsoidalis
Arborvitae	Thuja occidentalis
Black Willow	Salix nigra
American Basswood	Tilia americana
Butternut	Juglans cinerea
Black Walnut	Juglans nigra
White Spruce	Picea glauca
White Pine	Pinus strobus

(Ref. Ord. 10-1-1062, 1/12/10)

- d) Replacement trees can be utilized in a required landscape and screening plan for the proposed development.
- e) If the development property does not contain sufficient area or it is otherwise not practical to plant the replacement trees on the development property, then these trees can be planted on public property as approved by the Zoning Administrator.
- f) Replacement trees shall be planted within twelve (12) months after the issuance of the Site Alteration Permit. If the applicant cannot meet this performance requirement, the Zoning Administrator may extend the time for performance. The applicant shall inform the Zoning Administrator when the replacement trees have been planted. The site shall then be inspected by the designated City representative.
- g) Any replacement tree which dies or is unhealthy one (1) year after the date that the last replacement tree has been planted must be removed and replaced. The replacement tree shall be the same species and size of the original replacement tree.
- h) Trees which are removed illegally without City approval must be replaced. The replacement trees required for trees removed illegally shall equal twice the caliper inches as determined by the tree replacement formula.

(Ref. Ord. 876, 8/11/92)

§1302.080 ESSENTIAL SERVICES

Subd. 1. Purpose. The purpose of this Section is to provide for the installation of essential services such as telephone lines, pipelines, electric transmission lines and substations in such a manner that the health, safety and welfare of the City will not be adversely affected. Essential services should also be installed in cognizance of existing and projected demands for such services.

Subd. 2. All underground telephone lines, pipelines for local distribution, underground electric transmission lines, and overhead electric transmission lines and substations less than 33 KV, when installed in any public right-of-way in any zoning district, shall require a special permit approved by the City Engineer.

Subd. 3. All underground telephone lines, pipelines for local distribution, underground electric transmission lines, and overhead electric transmission lines less than 33 KV, which are intended to serve more than one parcel and are proposed to be installed at locations other than in public right-of-way, shall require a special permit issued by the City after approval by the City Engineer. Approval by the City Engineer shall be based upon the information furnished in the following procedural requirements.

- a) Prior to the installation of any of the previous essential services, the owner of such service shall file with the Zoning Administrator, all maps and other pertinent information as deemed necessary for the City Engineer to review the proposed project.
- b) The Zoning Administrator shall transmit the map and accompanying information to the City Engineer for his review and approval regarding the project's relationship to the Comprehensive Plan and/or Codes and parts thereof.
- c) The City Engineer shall report in writing to the Zoning Administrator his findings as to the compliance of the proposed project with the Comprehensive Plan and Codes of the City.
- d) In considering applications for the placement of essential services, as regulated in this Section, the aforesaid City staff shall consider the effect of the proposed project upon the health, safety and general welfare of the City, as existing and as anticipated; and the effect of the proposed project upon the Comprehensive Plan.
- e) Upon receiving the approval of the City Engineer, the Zoning Administrator shall issue a special permit for the installation and operation of the applicant's essential services. If the Engineer's report recommends the denial of said permit causing the Zoning Administrator to deny its issuance, the applicant may appeal said decision to the Board of Appeals and Adjustments under the rules and procedures as set forth in Section 1301.060 of this Code.

Subd. 4. All transmission pipelines (i.e. pipelines not required for local distribution network) and overhead transmission and substation lines in excess of 33 KV shall be a conditional use in all districts, subject to the following procedural requirements:

- a) Prior to the installation of any of the previous essential services, the owner of such service shall file with the Zoning Administrator, all maps and other pertinent information as deemed necessary for the Planning Commission to review the proposed project.
- b) The Zoning Administrator shall transmit the map and accompanying information to the Planning Commission for its review and recommendations regarding the project's relationship to the Comprehensive Plan and parts thereof.
- c) The Planning Commission shall hold the necessary public hearings as prescribed by the Code for conditional uses.
- d) The Planning Commission shall report in writing to the City Council its findings as to compliance of the proposed project with the Comprehensive Plan.
- e) In considering the applications for the placement of essential services, as regulated by this subdivision, the City Council shall consider the advice and recommendations of the Planning Commission and the effect of the proposed project upon the health, safety and general welfare of the City, existing and anticipated; and the effect of the proposed project upon the Comprehensive Plan.

§1302.090 BUS SHELTERS

Subd. 1. Purpose. The purpose of this Section is to provide for the erection or placement of bus shelters and covered bus benches in the public right-of-way.

Subd. 2. Procedure. The erection and placement of bus shelters and covered bus benches in the public right-of-way shall require a conditional use permit as regulated under the provisions of Section 1301.050 of this Code.

§1302.100 MOBILE HOMES

Subd. 1. Mobile homes (used on a temporary or permanent basis) as defined in Section 1301.030 of this Code, shall only be permitted within the "R-MH" Mobile Home Park District as established by Section 1301.090 of this Code and as provided below:

- a) During the reconstruction of a home that has been damaged or destroyed so as to be uninhabitable, the City Council may grant a nonrenewable permit for a period of not to exceed one (1) year for a mobile home in any zoning district.

§1302.110 MODEL HOMES

Subd. 1. The purpose of this Section is to provide for the erection of model homes in new subdivisions without adversely affecting the character or surrounding residential neighborhoods or creating a general nuisance. As model homes represent a unique temporary commercial use, special consideration must be given to the peculiar problems associated with them and special standards must be applied to insure reasonable compatibility with their surrounding environment.

Subd. 2. Procedure. The erection of a model home(s) shall require approval of the White Bear Lake City Council.

Subd. 3. Special Requirements.

- a) Temporary parking facilities equal to four (4) spaces per model home dwelling unit shall be provided. The overall design, drainage, and surfacing of the temporary parking facility shall be subject to the approval of the City Engineer.
- b) Access from a temporary parking facility onto a local, residential street shall be discouraged. Where this requirement is physically impracticable, access shall be directed away from residential neighborhoods to the greatest extent possible.
- c) No model home shall incorporate outside lighting which creates a nuisance due to glare or intensity, as provided for in Section 1302.030, Subd. 9 of this Code.
- d) All model home signage shall comply with the sign regulations as established in the White Bear Lake Sign Code.
- e) All criteria for conditional use consideration, but not procedural requirements, as contained in Section 1301.050 of this Code shall be considered and satisfactorily met.

§1302.115 THE MOVING OF STRUCTURES.

Subd. 1. All the requirements associated with the moving of a building or structure shall apply only to destinations within the City of White Bear Lake limits.

Subd. 2. No building or structure which has been wholly or partially erected shall be moved within the White Bear Lake limits unless a building permit to move said building or structure has been obtained as provided herein. Said permit application shall include:

- a) A site plan of both the existing and the proposed sites including an illustration of how and where the structure will be located during and after the moving operation.
- b) A designated route and any stops which the structure must make.
- c) An administrative fee of \$100.00, in addition to the building permit fee, shall cover all City administration costs such as police, fire, street supervision, tree inspection, and other City costs associated with the transfer of the structure. The City Building Official shall collect these fees prior to issuance of the building permit to move the structure. Additional unanticipated administration costs, incurred by the City during the move shall be paid by the applicant prior to issuance of a certificate of occupancy. These additional charges shall also be collected by the City Building Official.
- d) A proposal to move a structure may be approved on a form supplied by the Building Official after review by the following:
 - 1) The electrical and natural gas utilities serving the existing and proposed sites.
 - 2) The telephone and cable utilities serving either or both sites.
 - 3) The City of White Bear Lake Engineering, Utility, Water, Public Works, Police and Fire Departments, the City Forester, and the County or State Highway Department. The Building Official shall prepare for the applicant a report on the building code compliance of the house prior to beginning the actual move.
- e) A performance bond in the sum of \$20,000 payable to the City of White Bear Lake, in a form approved by the City Manager. Said bond shall be exercised by the City to complete utility, foundation, site grading and minimum standards set forth in Section 502.100 of this Code if said improvements are not complete within 21 days from the date the permitted structure is placed on the site. The Building Official may grant a time extension if weather conditions do not allow required improvements.

Subd. 3. Any such building or structure proposed to be moved shall meet the requirements of the Building Code as required by the Building Official. All life safety requirements shall be met. In addition, the Building Official may request a Planning Commission review of the structure to determine architectural compatibility with other adjacent structures.

Subd. 4. All moving operations of the structure within public property shall be performed only from 10:00 P.M. to 6:00 A.M., unless the Building Official specified otherwise.

Subd. 5. No structure shall be raised on moving blocks more than seven (7) calendar days prior to or fourteen (14) days after completion of an approved move. In no case shall an exposed vacant basement be left unfenced by the applicant. A minimum four (4) foot high safety fence shall be placed around the entire perimeter of any exposed basement.

Subd. 6. All exposed basements shall be filled in or back filled with clean granular fill within seven (7) calendar days after removal of the house from the lot. If the exposed basement is left uncovered more than seven (7) calendar days, the Building Official may direct the City Public Works Director to fill in the basement. All City costs attributable to such filling shall be considered an unanticipated City administration expense to be paid by the landowner.

Subd. 7. All excavations and basements at the proposed site of the structure shall be filled in or back filled within twenty-one (21) days after completion of the move, unless the building Official grants an extension of time because of frost conditions.

Subd. 8. All fine grading, seeding and sodding in required yards shall be completed prior to issuance of a certificate of occupancy, unless the Building Official grants an extension of time because of frost or other weather conditions.

Subd. 9. The City Police Department shall post temporary no parking signs along both side of the entire moving route twenty-four (24) hours in advance of the move.

Subd. 10. No building or structure shall be moved from a site outside the White Bear Lake City Limits through the City on City streets to a site outside the White Bear Lake City limits without approval of the Building Official. Such a move shall not be made unless the following subdivisions (above) are complied with: 2b, 2c, 2d, 4, and 9.

Subd. 11. Farm buildings, prebuilt or panelized housing, mobile homes, construction sheds, buildings moved from one lot to another lot without use of City street systems, or temporary structures to be located on a site for twelve (12) months or less shall be exempt from the moving review process.

Buildings of fourteen (14) feet or less in width to be moved on City streets shall be exempt from the moving process. Such buildings do require a building permit.

Subd. 12. Building movers must meet all State of Minnesota requirements, including those imposed by MSA 221.81. (Ref. Ord. Nos. 709, 2/18/86; 937, 10/23/96)

§1302.120 HOME OCCUPATIONS

Subd. 1. Purpose. The purpose of this Section is to prevent competition with business districts and to provide a means through the establishment of specific standards and procedures by which home occupations can be conducted in residential neighborhoods without jeopardizing the health, safety and general welfare of the surrounding neighborhood. In addition, this Section is intended to provide a mechanism enabling the distinction between permitted home occupations and special or customarily "more sensitive" home occupations, so that permitted home occupations may be allowed through an administrative process rather than a legislative hearing process.

Subd. 2. Application. Subject to the nonconforming use provision of this Section, all occupations conducted in the home shall comply with the provisions of this Section. This Section shall not be construed, however, to apply to home occupations accessory to farming.

Subd. 3. Procedures and Permits.

- a) Registered Home Occupation. Any home occupation determined by the Zoning Administrator to meet the specific provisions of Section 1302.120, Subdivision 4 b), shall be considered a registered home occupation. The Zoning Administrator is authorized to waive the formal permit requirements for a registered home occupation. The applicant shall register the home occupation with the city by submitting a letter of intent to the Zoning Administrator describing the nature of the home occupation and consenting to comply with all of the provisions for a registered home occupation and other applicable provisions of this Code.

The home occupation shall be allowed to continue until such time as there has been a change in conditions or until such time as the provisions of this Section have been breached. At such time as the city has reason to believe that either event has taken place, the Zoning Administrator shall determine whether the applicant shall be required to make formal application for a permit. (Ref. Ord. 908; 4/12/94)

- b) Permitted Home Occupation. Any permitted home occupation as defined in this Code shall require a "permitted home occupation permit". Such permits shall be issued subject to the conditions of this Section, other applicable City Codes and State law. This permit may be issued by the Zoning Administrator or his agent based upon proof of compliance with the provisions of this Section. Application for the "permitted home occupation permit" shall be accompanied by a fee as adopted by the City Council. If the Administrator denies a permitted home occupation permit to an applicant, the applicant may appeal the decision to the Planning Commission. The Planning Commission shall make a recommendation to the Council, which shall make the final decision. The permit shall remain in force and effect until such time as there has been a change in conditions or until such time as the provisions of this Section have been breached. At such time as the City has reason to believe that either event has taken place, a public hearing shall be held before the Planning Commission. The City Council shall make a final decision on whether or not the permit holder is entitled to the permit.

- c) Special Home Occupation. Any home occupation which does not meet the specific requirements for a permitted home occupation as defined in this Section shall require a "special home occupation permit" which shall be applied for, reviewed and disposed of in accordance with the provisions of Section 1301.050 of this Code (Conditional Use).
- d) Declaration of Conditions. The Planning Commission and City Council may impose such conditions on the granting of a special home occupation permit as may be necessary to carry out the purpose and provisions of this Section.
- e) Effect of Permit. A "special home occupation permit" may be issued for a period of one (1) year after which the permit may be reissued for periods of up to three (3) years each. After a decade of continuous operation, the permit may be reissued for periods of up to six (6) years each. The first renewal shall be processed in accordance with the procedural requirement of the initial "special home occupation permit". After the one year renewal, each application for permit renewal shall be subject to the procedures of Section 1301.060, Subd.7, (Administrative Variances) and shall be contingent upon the results of a mail notice to all owners within 350 feet of the subject property calling for any concerns or objections to be voiced within 10 business days. If concerns or objections are received, the renewal may be processed in accordance with the procedural requirements of the initial "special home occupation permit". (Ref. Ord. No. 21-10-2051, 10/12/21)
- f) Transferability. Permits shall not run with the land and shall not be transferable.
- g) Lapse of Special Home Occupation Permit by Nonuse. Whenever within one (1) year after granting a permit the use as permitted by the permit shall not have been initiated, then such permit shall become null and void unless a petition for extension of time in which to complete the work has been granted by the City Council. Such extension shall be requested in writing and filed with the Zoning Administrator at least thirty (30) days before the expiration of the original permit. There shall be no charge for the filing of such petition. The request for extension shall state facts showing a good faith attempt to initiate the use. Such petition shall be presented to the Planning Commission for a recommendation and to the City Council for a decision.
- h) Reconsideration. Whenever an application for a permit has been considered and denied by the City Council, a similar application for a permit affecting substantially the same property shall not be considered again by the Planning Commission or City Council for at least six (6) months from the date of its denial unless a decision to reconsider such matter is made by a majority vote of the City Council.
- i) Renewal of Permits. An applicant shall not have a vested right to a permit renewal by reason of having obtained a previous permit. In applying for and accepting a permit, the permit holder agrees that his monetary investment in the home occupation will be fully amortized over the life of the permit and that a permit renewal will not be needed to amortize the investment. Each application for the renewal of a permit will be considered de novo without taking into consideration that a previous permit has been granted. The previous granting of renewal of a permit shall not constitute a precedent or basis for the renewal of a permit. (Ref. Ord. 908; 4/12/94)

Subd. 4. Requirement, General Provisions. All home occupations shall comply with the following general provisions and according to definition, the applicable requirement provisions.

a) General Provisions.

- 1) No home occupation shall produce light glare, noise, odor or vibration that will in any way have an objectionable effect upon adjacent or nearby property.
- 2) No equipment shall be used in the home occupation which will create electrical interference to surrounding properties.
- 3) Any home occupation shall be clearly incidental and secondary to the residential use of the premises, should not change the residential character thereof, and shall result in no incompatibility or disturbance to the surrounding residential uses.
- 4) No home occupation shall require internal or external alterations or involve construction features not customarily found in dwellings except where required to comply with local and state fire and police recommendations.
- 5) There shall be no exterior storage of equipment or materials used in the home occupation, except licensed passenger vehicles used in the home occupation may be parked on site provided they are in accordance to §1302.030, Subd. 15, Exterior Storage and §1302.050, Off-Street Parking Requirements. (Ref. Ord. 871, 6-9-92)
- 6) The home occupation shall meet all applicable fire and building codes.
- 7) There shall be no exterior display or exterior signs or interior display or interior signs which are visible from outside the dwelling with the exception of directional and identification/business signs to the extent authorized by the City's Sign Code.
- 8) All home occupations shall comply with the provisions of the City Nuisance Ordinance.
- 9) No home occupation shall be conducted between the hours of 10:00 P.M. and 7:00 A.M. unless said occupation is contained entirely within the principal building and will not require any on-street parking facilities.
- 10) Commercial vehicles utilized in the home occupation shall be stored according to Section 1302.030, Subd. 15, Exterior Storage, Section 1302.050, Off-Street Parking Requirements; and 1302.055, Permitted Storage. (Ref. Ord. 871, 6-9-92, 10-1-1062, 1/12/10)

- b) Requirements-Registered Home Occupation. The Zoning Administrator is authorized to waive the permit requirement if the home occupation can be conducted subject to the following restrictions:
- 1) No goods or services shall be produced or provided which require customers or clients to visit the premises.
 - 2) The home occupation shall be conducted entirely within the principal dwelling.
 - 3) No signs shall be permitted on or off the premises.
 - 4) No person other than those who customarily reside on the premises shall be employed.
 - 5) No commercial vehicles shall be utilized in conducting the home occupation, with the exception of pick up or delivery of materials by parcel delivery services.
 - 6) In addition to 1 through 5 above, the home occupation shall be conducted in compliance with the standards of Subdivision 4 a), General Provisions, of this Section. Where the provisions are found to conflict, the more restrictive standard shall apply. (Ref. Ord. No. 908; 4/12/94)
- c) Requirements - Permitted Home Occupations.
- 1) No person other than those who customarily reside on the premises shall be employed.
 - 2) All permitted home occupations shall be conducted entirely within the principal dwelling and may not be conducted in accessory buildings.
 - 3) Permitted home occupations shall not create a parking demand in excess of that which can be accommodated in an existing driveway, where no vehicle is parked closer than fifteen (15) feet from the curb line or edge of paved surface.
 - 4) Permitted home occupations include and are limited to: Art studio, contractor's offices, dressmaking, secretarial services, professional offices and teaching with musical, dancing and other instructions which consist of no more than one (1) pupil at a time and similar uses. (Ref. Ord. 871, 6/9/92)
 - 5) The home occupation shall not involve any of the following: repair service or manufacturing which requires equipment other than customarily found in a dwelling; teaching which customarily consists of more than one (1) pupil at a time; over-the-counter sale of merchandise produced off the premises, except for those brand name products that are not marketed and sold in a wholesale or retail outlet.

d) Requirements - Special Home Occupation.

- 1) No person other than a resident shall conduct the home occupation, except where the applicant can satisfactorily prove unusual or unique conditions or need for nonresident assistance and that this exception would not compromise the intent of this Code.
- 2) Examples of special home occupations include: Barber and beauty services, contractor fabrication of materials being conducted in an accessory structure, photography studio, group lessons, saw sharpening, small appliances and small engine repair and the like. (Ref. Ord. 871, 6-9-92)
- 3) The special home occupation may involve any of the following: retail business, stock-in-trade incidental to the performance of the service, repair service or manufacturing which requires equipment other than customarily found in a home, the teaching of musical, dancing and other instruction of more than one (1) pupil at a time.
- 4) Special home occupations may be allowed to accommodate their parking demand through utilization of on-street parking. In such cases where on street parking facilities are necessary, however, the City Council shall maintain the right to establish the maximum number of on-street spaces permitted and increase or decrease that maximum number when and where changing conditions require additional review.

Subd. 5. Nonconforming Use. Existing home occupations lawfully existing on the date of this Code may continue as nonconforming uses. They shall, however, be required to obtain permits for their continued operation. Any existing home occupation that is discontinued for a period of more than thirty (30) days, or is in violation of the Code provisions under which it was initially established shall be brought into conformity with the provisions of this Section.

Subd. 6. Inspection. The City of White Bear Lake hereby reserves the right upon issuing any home occupation permit to inspect the premises in which the occupation is being conducted to insure compliance with the provisions of this Section or any conditions additionally imposed.

§1302.125 HOME ACCESSORY APARTMENTS

Subd. 1. Purpose. The purpose of this section is to provide standards for the establishment and use of home accessory apartments in owner-occupied single family residences located within any residential zoning district where a single family home is a permitted use. This section is also intended to provide standards for the establishment and use of temporary health care dwellings for single family residences located within any residential zoning district where a single family home is a permitted use. (Ref. Ord. 02-08-993, 8/13/02, 16-10-2019, 10/11/16)

Subd. 2. Application. Subject to the nonconforming use provisions of this code, all home accessory apartments established after the effective date of this code (December 23, 1983) shall comply with the provisions of this Section.

Subd. 3. Procedures and Permits. All home accessory apartments shall require a conditional use permit. Applicants for such a permit shall follow the application procedures for a conditional use permit provided in Section 1301.050 of this code.

- a) Permanent Home Accessory Apartments. All permanent home accessory apartments shall require a conditional use permit. Applicants for such a permit shall follow the application procedures for a conditional use permit provided in Section 1301.050 of this code. (Ref. Ord. 16-10-2019, 10/11/16)
- b) Temporary Health Care Dwelling Units. A temporary health care dwelling unit shall require a zoning permit. Applicants seeking to install a temporary health care dwelling unit shall follow the application procedures for a zoning permit provided in Section 1302.030, Subd. 4 of this code. (Ref. Ord. 16-10-2019, 10/11/16)

Subd. 4. Requirements for Permanent Home Accessory Apartments. All permanent home accessory apartments shall comply with the following requirements: (Ref. Ord. 16-10-2019, 10/11/16)

- a) Accessory apartments shall be located in existing single family structures (principal or accessory) only; the owner of the single family structure shall reside in the principal structure. The accessory apartment shall remain an accessory rental apartment, owned by the occupant of the principal structure. There shall be no separate ownership of the accessory rental apartment. (Ref. Ord. 02-08-993, 8/13/02)
- b) In no case shall an accessory apartment be allowed to occupy that portion of an accessory structure required by code to be utilized for car storage. In no case shall an accessory apartment above a garage exceed the allowable height requirement unless authorized through a variance per City Code Section 1301.060. (Ref. Ord. 02-08-993, 8/13/02)
- c) Only exterior modifications, which in the judgement of City Council, do not detract from the single family character of the neighborhood shall be permitted for an accessory apartment provided all other applicable requirements of the City's zoning ordinance are met. (Ref. Ord. 02-08-993, 8/13/02)
- d) A separate exterior entrance to the accessory unit may be required. Any exterior alterations or expansion shall be constructed of similar size, color, and type of materials as the principal single family unit provided that no unenclosed ramps or stairways are utilized to access either the primary or accessory unit and provided that not more than one entrance faces the same city street. (Ref. Ord. 02-08-993, 8/13/02)

- e) Interior and exterior modifications to create a barrier free dwelling may be required after considering occupant mobility. (Ref. Ord. 02-08-993, 8/13/02)
- f) Accessory apartments shall not exceed eight hundred eighty (880) square feet or forty (40) percent of the habitable area within the single family home, whichever is less. (Ref. Ord. 02-08-993, 8/13/02)
 - 1. The unit shall have a floor area of not less than two hundred (200) square feet of habitable floor area for the first occupant and at least 100 square feet of habitable floor area for each additional occupant. (Ref. Ord. 02-08-993, 8/13/02)
 - 2. The unit shall be provided with a separate closet.
 - 3. The unit shall be provided with a kitchen sink, cooking appliance and refrigeration facilities, each having a clear working space of not less than thirty (30) inches in front. (Ref. Ord. No. 770, 9/14/88)
 - 4. Accessory apartments shall conform to the Minnesota State Building Code requirements concerning adequate light, ventilation, minimum room dimensions and sanitation.
 - 5. The unit shall be provided with a separate bathroom containing a water closet, lavatory and bathtub or shower.
 - 6. The unit shall meet all fire suppression and alarm systems as stipulated for a two (2) family home in the 1985 Building Code and adopted by the City of White Bear Lake.
- g) No separate driveway or curb cut shall be permitted for the accessory apartment unit. Additional parking may be required. Off-street parking shall be required for all vehicles. Said parking is restricted to a garage and/or approved hard surface area. (Ref. Ord. 02-08-993, 8/13/02)
- h) Where conditions or circumstances make implementation of these standards for a specific accessory apartment impractical, the City Council may, after citing the specific problem unique to the site or building, alter the condition of this section to allow establishment of a specific accessory apartment unit. Such alterations shall become part of the Conditional Use Permit. (Ref. Ord. 02-08-993, 8/13/02)
- i) Upon receiving a conditional use permit, the owner(s) must file on subject property a certified copy of the conditional use permit with the County Recorder. Proof of recording shall be supplied to the City prior to any related alterations or occupancy. The permit shall state that the right to rent a temporary accessory apartment ceases upon transfer of title unless reissued by the City Council. The permit shall become null and void if the owner ceases to reside in the residence. (Ref. Ord. 02-08-993, 8/13/02)
- j) The owner will obtain a certificate of occupancy for the conditional use once a year in the month of January for the duration of the use, presenting, at the time of such renewal, proof in the form of an affidavit that the circumstances for which the conditional use was granted have not changed. An administrative fee, as established by Council resolution, shall be charged at the time of each renewal. (Ref. Ord. 02-08-993, 8/13/02)
- k) In no case shall the number of permanent occupants of an accessory apartment exceed four (4). (Ref. Ord. 02-08-993, 8/13/02)
- l) Except where this ordinance is more restrictive, all accessory apartments will be in compliance with the City's Minimum Housing Standards as outlined in Section 502 of the City's Municipal

Code. (Ref. Ord. 770, 9/14/88; 993, 8/13/02)

Subd. 5. Requirements for Temporary Health Care Dwelling Units. All temporary health care dwelling units shall comply with the following requirements:

- a) The caregiver or relative must apply for a Zoning Permit to install a temporary health care dwelling unit, including a dimensioned Site Plan indicating the proposed location of the temporary health care dwelling unit, as well as location of the principle structure and the garage and distance to property line(s). The permit application must be signed by the primary caregiver, the owner of the property on which the dwelling unit will be located, and the resident of the property if the property owner does not reside on the property, and include:
 1. The name, address and contact information of the property owner, the resident of the property if different from the owner, and the primary caregiver responsible for the care of the mentally or physically impaired person; and the name(s) of the individual(s) who will reside in the temporary health care dwelling unit;
 2. Written certification that the occupant of the temporary health care unit requires assistance with two or more instrumental activities of daily living signed by a physician, a physician assistant, or an advanced practice registered nurse licensed to practice in the state of Minnesota;
 3. Copy of an executed contract for septic service management or other proof of adequate septic service management;
- b) A temporary health care dwelling must be located on the same lot where the primary caregiver or relative resides.
- c) Temporary health care dwelling units shall not be located in the front yard of the residential lot and shall provide a minimum setback of 10 feet from any side or rear lot line. The caregiver shall reside in the principal structure located on the same lot.
- d) A temporary health care dwelling unit must be located on the lot so that septic services and emergency vehicles can gain access to the temporary health care dwelling unit.
- e) A temporary health care dwelling unit may not exceed 300 square feet and must be universally designed and meet state-recognized accessibility standards.
- f) A temporary health care dwelling is limited to two occupants, one of whom is a mentally or physically impaired person.
- g) A temporary health care dwelling unit shall provide access to water and electric utilities either by connecting to the utilities that are serving the principal dwelling on the lot or by other comparable means.
- h) In no case shall a temporary health care dwelling unit be allowed to occupy or obstruct access to that portion of an accessory structure required by code to be utilized for car storage.
- i) The initial temporary dwelling permit is valid for six (6) months. The applicant may renew the permit one (1) time for an additional six (6) months. If the applicant wishes to seek renewal for a second six (6) month term, an application for a conditional use permit for a permanent home accessory apartment shall be submitted. In no case shall a temporary health care dwelling unit remain on a lot for more than one (1) year. (Ref. Ord. 16-10-2019, 10/11/16)

§1302.130 ANIMALS

Subd. 1. General. Except as otherwise provided for in this Code, or other City regulations, all domestic house pet animals shall be allowed as permitted uses in any zoning district and domestic farm animals may be considered as conditional uses, provided they are maintained on an existing farm property. Horses may be kept in the "O" zoning district, on property not used for farming, provided they are sheltered or corralled at a distance of not less than two hundred (200) feet from an adjoining residential property. The ratio of horses to lot acreage shall not exceed one horse for every two and one-half (2-1/2) acres of land, unless a conditional use permit is first obtained by the owner. (Ref. Ord. 16-07-2015, 7/12/16)

In all districts, the governing body may order the owner or occupier of any property to apply for a conditional use permit to keep non-domestic wild animals, including existing uses, provided it is found by the governing body that the use may pose a threat to the public health, safety, convenience or general welfare.

Subd. 2. Care of Animals. Animals kept within any zoning district shall be subject to the following requirements:

- a) The size, number, species, facilities for and location of animals kept shall be maintained so as not to constitute a danger or nuisance by means of odor, noise or otherwise.
- b) The person caring for any animal(s) shall be of sufficient age, knowledge and experience to adequately and safely care for and control the animal(s).
- c) Facilities for housing animal(s) shall be:
 - 1) Constructed of such material as is appropriate for the animal(s) involved.
 - 2) Maintained in good repair.
 - 3) Controlled as to temperature, ventilated and lighted compatible with the health and comfort of the animal(s).
 - 4) Of sufficient size to allow each animal to make normal postural and social adjustments with adequate freedom of movement. Inadequate space may be indicated by evidence of malnutrition, poor condition of debility, stress or abnormal behavior patterns.
 - 5) Cleaned as often as necessary to prevent contamination of the animal(s) contained therein and to minimize disease hazards and reduce odors.

- d) Animals shall be provided wholesome, palatable food and water free from contamination and of sufficient quantity and nutritive value to maintain all animals in good health.
- e) Animals kept in pet shops or kennels shall be kept in accordance with regulations for pet shops and kennels in addition to the regulations provided by this Code.

Subd. 3. Dog Kennels. Dog kennels as defined in Section 1301.030 are conditional uses in all zoning districts (requires a conditional use permit based on the procedures set forth in and regulated by Section 1301.050 of this Code) provided that:

- a) Minimum lot size of one (1) acre is required.
- b) All the provisions of Section 1302.130, Subd. 2 must be complied with.
- c) Any building in which animals are kept shall not be closer than fifty (50) feet from any lot line.

§1302.140 DAY CARE AND GROUP CARE FACILITIES

Subd. 1. Purpose. The regulation of day care and group care facilities in these zoning regulations is to establish standards and procedures by which such facilities can be conducted within the City of White Bear Lake without jeopardizing the health, safety, and general welfare of the day care participants and/or the surrounding neighborhood. This section establishes the City's minimum requirements for the establishment of day care and group care facilities.

Subd. 2. Application. Day care facilities shall be allowed as a permitted use or conditional use in all zoning districts in the City. A day care facility shall be permitted in all districts with a conditional use permit as provided in Section 1301.050. Day care family and day care group nursery shall be permitted in all zoning districts. Group care facilities with fewer than seven (7) individuals shall be considered a permitted use within all zoning districts in the City. In addition to the City regulations, all day care operations shall be licensed in accordance with State Law and shall otherwise comply with the minimum requirements of the MN DPW Rule 3 as may be amended. (3-27-85)

Subd. 3. General Provisions. Day care and group care facilities shall be permitted as a principal or an accessory use provided that the day care and group care facilities meet all the applicable provisions of this Section of the White Bear Lake Code.

- a) Lot Requirements and Setbacks. The proposed site for a day care or group care facility must meet the minimum lot area, lot width and the setback requirements of the respective zoning district.
- b) Municipal Sanitary Sewer and Water. All day care and group care facilities shall have access to municipal sewer and water to protect the health and safety of all persons who occupy the facility.
- c) Screening. Where the day care or group care facility is in or abuts any commercial or industrial use or zoned property, the facility shall provide screening along the shared boundary of the two uses. All of the required fencing and screening shall comply with the fencing and screening requirements in Section 1302.030, Subd. 6 and 7 of this Code.
- d) Parking.
 - 1) There shall be adequate off-street parking which shall be located separately from any outdoor play area and shall be in compliance with Section 1302.050 of this Code. Parking areas shall be screened from view of surrounding and abutting residential districts in compliance with Section 1302.030, Subd. 7 of this Code.
 - 2) When a day care or group care facility is an accessory use within a structure containing another principal use, each use shall be calculated separately for determining the total off-street parking spaces required.

- e) Loading. One (1) off-street loading space in compliance with Section 1302.060 of this Code shall be provided.
- f) Signage. All signing and informational or visual communication devices shall be in compliance with the White Bear Lake Sign Ordinance.
- g) Day Care or Group Care Facility. The building plans for the construction or alteration of a structure that shall be used as a day care or group care facility shall be submitted to the City for review by the City Building Official to insure the structure is in compliance with the State Building Code. The facility shall meet the following conditions:
- 1) The architectural appearance and functional plan of the building and site shall not be so dissimilar to the existing buildings or area as to cause impairment of property values or constitute a blighting influence within a reasonable distance of the lot.
 - 2) When the day care or group care facility is an accessory use within a building, it shall be located in a portion of the building separated from the other uses located within the structure.
 - 3) An accessory use day care or group care facility shall be adequately soundproofed to remove extraneous noise that would interfere with the day care or group care operation and would affect the health, safety and welfare of the day care or group care participants.
 - 4) Internal and external site land use compatibility and sufficient peripheral area protections shall be provided by the day care or group care facility.
 - 5) Primary Space
 - a. There shall be a minimum of thirty-five (35) square feet of usable floor space (primary space) per person in attendance, exclusive hallways, bathrooms, lockers, kitchens and floor space occupied by sanitary equipment, but including equipment and furnishings regularly used by the participants.
 - b. No more than twenty-five (25) percent of the proposed primary space shall be occupied by equipment to be left stationary.
 - c. The state licensing agent shall designate the licensed capacity of the program.
 - d. All stairways and corridors leading to exits shall be kept clear and free from obstructions at all times.

- 6) Bathroom Facilities
 - a. Toilet and washbowls must be provided in a well ventilated place. (Ref. Ord. 10-1-1062, 1/12/10)
 - b. There must be at least one toilet and one washbowl provided for each fifteen (15) participants and one additional toilet and washbowl for each additional fifteen (15) participants or fraction thereof. Toilets and washbowls must be reachable. (Ref. Ord. 10-1-1062, 1/12/10)
- 7) Day Care Facility Sick Room. Day care facility participants who are not well should not be required to be with a group or involved in its activities. Neither should an ill child be placed in solitary confinement. Centers must provide care for a child who becomes ill. Supervision must be provided until the child is picked up.
 - a. Space designated for use by an ill child need not be permanently arranged, but shall be:
 1. Used only for compatible purposes, e.g., private office, library, staff's room, or
 2. Effectively protected from the main activity area and the kitchen by screening, and
 3. Equipped with a child's cot, and
 4. Within sight and hearing of an adult.
- 8) Day Care Facility Sleeping Area. Children in a day care program need rest and quiet as part of the daily activity. A cot or a crib must be provided for each child taking a nap in a program that includes a rest. Adequate space and accessibility of exit must be maintained.
- 9) Day Care Facility Outdoor Play Area. Good child education requires adequate room to engage in large-muscle activity under safe conditions. Outdoor space is also appropriate for other learning activities.
 - a. Outdoor play area of at least seventy-five (75) square feet per child and no less than one thousand (1,000) square feet per program must be provided. This requirement will be considered fulfilled by any one of the following:
 1. An adjacent play area where children are rotated in appropriate numbers to maintain seventy-five (75) square feet per child for outdoor play.

2. Adjacent park facilities within one thousand (1,000) feet, or
 3. Park space that is more than one thousand (1,000) feet from the day care center, where daily transportation is provided.
- b. Play space must be adequately enclosed where necessary to prevent children from leaving the premises unattended and outdoor playtime must be directly supervised with the required staff-to-child ratio as specified in the Department of Welfare Regulations D.P.W. Rule 3.
 - c. Outdoor play areas shall not be provided within the required front yard setbacks.

Subd. 4. Inspection. The City of White Bear Lake hereby reserves the right to inspect the day care or group care facility in which the occupation is being conducted to insure compliance with the provisions of this Section.

§1302.150 PLAN REVIEW

Subd. 1. Purpose. The purpose of this Section is to establish a formal plan review procedure and provide regulations pertaining to the enforcement of site design and construction standards as agreed to by the contractor through his officially submitted plan documents.

Subd. 2. Plans Required. In addition to other plan requirements outlined in this Code, site and construction plans will be required and shall be submitted to and approved by the Building Official prior to the issuance of any building permit.

Subd. 3. Plan Agreements. All site and construction plans officially submitted to the City shall be treated as a formal agreement between the Building Contractor and the City. Once approved, no changes, modifications, or alterations shall be made to any plan detail, standard or specification without prior submission of a plan modification request to the Building Official for his review and approval.

Subd. 4. Erosion and Sediment Control Plan. Every applicant for a building permit, grading permit, or any other permit that allows land disturbing activities that will result in more than 6,000 square feet of disturbed area or 100 cubic yards of cut or fill must submit an Erosion and Sediment Control Plan in accordance with the City's Engineering Design Standards.

Subd. 5. Stormwater Management Plan. Every applicant for a building permit, grading permit, or any other permit that creates or fully reconstructs 10,000 or more square feet of impervious surface, including all single family subdivisions greater than 3 lots is required to submit a Stormwater Management Plan in accordance with the City's Engineering Design Standards as well as obtain a separate NPDES Construction Site Permit. A copy of the NPDES permit shall be submitted to the City. All projects that require a Stormwater Management Plan shall also submit an Erosion and Sediment Control Plan as outlined in Subd. 4 above.

Subd. 6. Maintenance Agreement. All projects that require permanent stormwater facilities must enter into a Maintenance Agreement acceptable to the City. The Stormwater Operation and Maintenance Agreement (SOMA) shall be in accordance with the City's Engineering Design Standards.

Subd. 7. Enforcement. The Building Official shall have the authority to order the stopping of any and all site improvement activities, when and where a violation of the provisions of this Section has been officially documented by the Building Official.

(Ref. Ord. 10-1-1062, 1/12/10, 15-05-2000, 5/12/15)

§1302.160 TOBACCO PRODUCTS SHOP

Subd. 1. Purpose. The purpose of this section is to allow tobacco products shops in certain zoning districts within the City, subject to certain regulations.

Subd. 2. Definitions. For the purposes of this section, the following terms shall have the meanings given them in this subdivision.

- a) Day Care. “Day care” has the meaning given the term in Section 1302.170, subd. 2 of this Code.
- b) Public Park. “Public park” has the meaning given the term in Section 1302.170, subd. 2 of this Code.
- c) Residential Treatment Facility. “Residential treatment facility” has the meaning given the term in Section 1302.170, subd. 2 of this Code.
- d) School. “School” has the meaning given the term in Section 1302.170, subd. 2 of this Code.
- e) Tobacco Products Shop. A retail establishment with a current tobacco license issued by the City that:
 - 1) Has an entrance door opening directly to the outside;
 - 2) Prohibits persons under the age of 21 years from entering the establishment at any time;
 - 3) Is in compliance with all applicable provisions of this Code; and
 - 4) Derives more than 90 percent of its gross revenue from the sale of tobacco, tobacco-related devices, and electronic delivery devices, as defined in Minnesota Statutes, section 609.685, and in which the sale of other products is merely incidental.

The term does not include a tobacco department or section of any individual business establishment with any type of liquor, food, or restaurant license.

Subd. 3. Allowed Use. A tobacco products shop is a permitted use within the B-4, General Business District.

Subd. 4. Separation Buffer. A tobacco products shop shall not be located within 1,000 feet of a school and shall not be located within 500 feet of a day care, residential treatment facility, or a public park.

(Ref. Ord. 23-09-2070; 9/26/2023)

§1302.170 EDIBLE CANNABINOID BUSINESS

Subd. 1. Purpose. The purpose of this section is to initially establish zoning regulations associated with businesses selling edible cannabinoid products at retail under Minnesota Statutes, section 151.72, and in anticipation of the eventual retail sales of cannabis products by cannabis businesses under Minnesota Statutes, chapter 342. The City is expressly authorized by Minnesota Statutes, section 342.13(c) to adopt reasonable time, place, and matter restrictions on the operation of cannabis businesses. The City has adopted a moratorium on cannabis businesses, which does not apply to businesses selling edible cannabinoid products at retail under Minnesota Statutes, section 151.72, and anticipates updating these regulations before the moratorium expires no later than January 1, 2025. The Office of Cannabis Management will be developing sample regulations for local governments to consider when adopting or amending its regulations. It is not clear when these guidance documents will be available and so these regulations are intended to apply to cannabis businesses licensed under Minnesota Statutes, chapter 342 in case the guidance documents are not available in time to update these regulations before January 1, 2025. The City anticipates being able to update these regulations before that date, but if that is not reasonably possible the City Council does not want to leave a gap in the zoning regulations applicable to state licensed cannabis businesses.

Subd. 2. Definitions. For the purposes of this section, the following terms shall have the meanings given them in this subdivision. If a term is not defined herein, it shall have the meaning given the term in Section 1301.030 of this Code and, if not defined therein, it shall have the meaning given it in Minnesota Statutes, section 151.72 or Minnesota Statutes, section 342.01.

- a) Cannabis Business. “Cannabis business” means any business included in the definition of cannabis business in Minnesota Statutes, section 342.01, subdivision 14. The term does not include an edible cannabinoid business as defined in this subdivision.
- b) Edible Cannabinoid Business. “Edible cannabinoid business” means any business offering for sale or selling at retail an edible cannabinoid product, as defined in Minnesota Statutes, section 151.72, subdivision 1(f), or a lower-potency hemp edible product, as defined in Minnesota Statutes, section 342.01, subdivision 50, to the public. The term does not include any business that also sells any other product containing tetrahydrocannabinol that requires a license to sell under Minnesota Statutes, section 342.
- c) Day Care. “Day care” means a facility that is licensed by the Minnesota Department of Human Services as any of the following: (1) an adult day care licensed under Minnesota Rules, parts 9555.9600 to 9555.9730; (2) a residential or nonresidential day care program required to be licensed under Minnesota Statutes, section 245A.03; (3) a family day care or group family day care facility required to be licensed under Minnesota Rules, parts 9502.0315 to 9502.0445; or (4) any other day care facility required to be licensed by the state to provide day care services.
- d) School. “School” means a public or private facility that provides educational programs to 10 or more persons that are under the age of 21 in a classroom setting. The term includes, but is not limited to, any school operated by an independent school district or a charter school operating under Minnesota Statutes, chapter 124E.
- e) Residential Treatment Facility. “Residential treatment facility” means a facility providing mental health, alcohol, or drug treatment services established or operated in accordance with Minnesota Rules, chapter 2960, or Minnesota Statutes, chapters 245G or 260C.

- f) Public Park. “Public park” means an open space, playground, athletic field, or other facility owned by the City, a school district, the county, or other public entity that is open to, and regularly used by, those under the age of 21.

Subd. 3. Edible Cannabinoid Business. An edible cannabinoid business is a permitted use within any of the commercial districts identified in Section 1303.010, Subd. 1(b) of this Code, provided the business also has a current tobacco license or a current on-sale or off-sale intoxicating liquor license.

(Ref. Ord. 23-09-2070; 9/26/2023)

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1303. ZONING DISTRICTS§1303.010 GENERAL DISTRICT PROVISIONS

Subd. 1. Establishment of Districts. The following zoning classifications are hereby established within the City of White Bear Lake:

a) Residential Districts.

- 1) "O" Open Space Conservation District
- 2) "R-1I" Low Density Single Family Residential-Island District
- 3) "R-1S" Low Density Single Family Residential-Shoreland District
- 4) "R-2" Single Family Residential District
- 5) "R-3" Single Family Residential District
- 6) "R-4" Single Family, Two Family Residential District
- 7) "R-5" Single Family, Two Family, Medium Density Residential District
- 8) "R-6" Medium Density Residential District
- 9) "R-7" High Density Residential District
- 10) "R-B" Residential-Business Transition District
- 11) "R-MH" Mobile Home Park District

b) Commercial Districts.

- 1) "B-1" Neighborhood Business District
- 2) "B-2" Limited Business District
- 3) "B-3" Auto-Oriented Business District
- 4) "B-4" General Business District
- 5) "B-5" Central Business District
- 6) "B-6" Commercial Recreational District
- 7) "B-W" Business/Warehousing District

- c) Industrial Districts.
 - 1) "I-1" Limited Industry District
 - 2) "I-2" General Industry District
- d) Special Districts.
 - 1) "P-Z" Performance Zone District
 - 2) "PZ-R" Performance Zone-Residential District
 - 3) "PUD", Planned Unit Development Overlay District
 - 4) "DBD", Diversified Business Development District
 - 5) "DCB", Diversified Central Business District
 - 6) "LVMU", Lake Village Mixed Use District
 - 7) "S" Shoreland Overlay District
 - 8) "FP" Flood Plain Overlay District
 - 9) "W" Wetlands Overlay District
 - 10) "P", Public Facilities District

Subd. 2. Map. The location and boundaries of districts established by this text are hereby set forth on the Zoning Map, entitled "Zoning Map of White Bear Lake". Said map shall be on file with the Zoning Administrator, and hereafter referred to as the "Zoning Map". Which map and all the notations, references and other information shown thereon shall have the same force and effect as if fully set forth herein and thereby made part of this Code by reference.

Subd. 3. Annexed Territory. Annexed territory shall be placed in the zoning classification appropriate for that territory as reviewed by the Planning Commission and rezoned by the City Council.

Subd. 4. Zoning District Boundaries. Zoning district boundary lines of this Code generally follow lot lines, railroad right-of-way lines, the center of water courses or the corporate limit lines, all as they exist upon the effective date of this Code.

- a) Appeals concerning the exact location of a zoning district boundary line shall be heard by the City Council serving as the Board of Adjustment and Appeals.
- b) When any street, alley or public right-of-way is vacated by official action of the City, the zoning district abutting the centerline of said alley or other public right-of-way shall not be affected by such proceeding.

§1303.020 "O" OPEN SPACE CONSERVATION DISTRICT

Subd. 1. Purpose. The "O", Open Space Conservation District is intended to provide a district which will allow suitable areas of the City to be retained and utilized for low density residential, non-local jurisdiction public uses, open space, agricultural uses and provide a "holding" zone for new annexed lands to ensure that development will be staged to maintain reasonable economy in public expenditures for public utilities and services.

Subd. 2. Permitted Uses. The following are permitted uses in an "O" District:

- a) Farming and agricultural related buildings and structures, subject to the Minnesota Pollution Control Standards, but not including commercial feed lots or other commercial operations.
- b) City parks and recreation.
- c) Nurseries, tree farms and greenhouses, all for growing of plants.
- d) Single family dwellings, including manufactured homes.
- e) Essential services.

Subd. 3. Accessory Uses. The following are permitted accessory uses in an "O" District:

- a) Operation and storage of such vehicles, equipment, and machinery which are incidental to the permitted or conditional uses allowed in this district.
- b) The renting of rooms by a resident family for lodging purposes only and for the accommodation of not more than two (2) persons in a single family dwelling.
- c) Living quarters for persons employed on the premises.
- d) Home occupations.
- e) Recreational vehicles and equipment.
- f) Swimming pool, tennis courts, and other recreational facilities which are operated for the enjoyment and convenience of the residents of the principal use and their guests, when in full compliance with all state standards.

- g) Tool houses, sheds and similar buildings for storage of domestic supplies and noncommercial recreational equipment.
- h) Private garages, parking spaces and carports for licensed and operable passenger cars and trucks.

Subd. 4. Conditional Uses. The following are conditional uses in an "O" District, which require a conditional use permit based on the procedures and provisions set forth in and regulated by Section 1301.050 of this Code. (Ref. Ord. 10-1-1063, 1/12/10)

- a) Public or semi-public recreational buildings and neighborhood or community centers; public and private educational institutions limited to elementary, junior high and senior high schools; and religious institutions such as churches, chapels, temples and synagogues provided that:
 - 1) Side yards shall be double that required for the district, but no greater than forty (40) feet.
 - 2) Adequate screening from abutting residential uses and landscaping is provided in compliance with Section 1302.030, Subd. 7.a) of this Code.
 - 3) Adequate off-street parking and access is provided on the site or on lots directly abutting directly across a public street or alley to the principal use in compliance with Section 1302.050 of this Code and that such parking is adequately screened and landscaped from surrounding and abutting residential uses in compliance with Section 1302.030, Subd. 7.a) of this Code.
 - 4) Adequate off-street loading and service entrances are provided and regulated where applicable by Section 1302.060 of this Code.
- b) Non-city governmental and public regulated utility buildings and structures necessary for the health, safety and general welfare of the community provided that:
 - 1) When abutting a residential use in a residential use district, the property is screened and landscaped in compliance with Section 1302.030, Subd. 7.a) of this Code.

- c) Commercial outdoor recreational areas including golf courses and club house country clubs, and similar facilities provided that:
- 1) The principal use, function or activity is open, outdoor in character.
 - 2) When abutting a residential use or a residential use district, the property is screened and landscaped in compliance with Section 1302.030 Subd.7.a) of this Code.
 - 3) The land area of the property containing such use or activity meets the minimum established for the district.
- d) Private stables, animal hospitals with overnight care and similar uses, provided that:
- 1) Any building in which animals are kept, whether roofed shelter or enclosed structure, shall be located at a distance of two hundred (200) feet from any lot line.
 - 2) Any animals shall at a minimum be kept in an enclosed pen or corral of sufficient height and strength to retain such animals. Said pen or corral may not be located closer than two hundred (200) feet from a lot line.
 - 3) The provisions of Minnesota Pollution Control Agency Regulations SW 53 (2) are complied with.
 - 4) All other applicable state and local regulations pertaining to nuisance, health, and safety conditions, etc. are complied with.
- e) Cemeteries, provided that:
- 1) The site accesses on a minor or intermediate arterial only.
 - 2) The site is totally screened from view in accordance with Section 1302.030, Subd. 7.a) of this Code.
- f) Home Accessory Apartments for Seniors/Handicapped. As specified in §1302.125. (Ref. Ord. No. 770, 9/14/88)

Subd. 5. Lot Requirements and Setbacks. The following minimum requirements shall be observed in an "O" District, subject to additional requirements, exceptions and modifications as set forth in this Code:

- a) Lot Area - 5 acres
- b) Lot Width - 200 feet
- c) Setbacks:
 - 1) Front yards: Not less than (varies by district) feet, except as required by averaging as provided in Section 1302.040, Subd. 4.c. (Ref. Ord. 10-1-1063, 1/12/10)
 - 2) Side yards: Not less than thirty-five (35) feet from the adjacent lot, nor less than forty (40) feet on the side yard abutting a public right-of-way.

3) Rear yards: Not less than fifty (50) feet.

Subd. 6. Building Requirements.

- d) Height. No structure shall exceed thirty-five (35) feet, except as provided in Section 1302.040, Subd. 3 of this Code.
- e) Width. Dwelling units shall have a minimum width of twenty-two (22) feet at its narrowest point on the first story.

§1303.030 "R-1I", LOW DENSITY SINGLE FAMILY RESIDENTIAL-ISLAND DISTRICT

Subd. 1. Purpose. The purpose of the "R-1I", Single Family District is to provide for large lot, low density single family detached residential dwelling units directly related, complementary uses in areas of the City containing highly unique natural features and amenities.

Subd. 2. Permitted Uses. The following are permitted uses in an "R-1I" District:

- a) Single family detached dwellings, including manufactured homes.
- b) Public parks and playgrounds.
- c) Essential services.

Subd. 3. Accessory Uses. The following are permitted accessory uses in an "R-1I" District:

- a) Private garages, parking spaces and carports for licensed and operable passenger cars and trucks, as regulated by Section 1302.055 (Vehicle Parking in Residential Zones) of this Code. Private garages are intended for use to store the private passenger vehicles of the family or families resident upon the premises, and in which no business service or industry is carried on. Such space can be rented to nonresidents of the property for private passenger vehicles and/or noncommercial vehicles, trailers, or equipment if sufficient off-street parking in full compliance with this Code is provided elsewhere on the property. Such garage shall not be used for the storage of more than one (1) Type I commercial usage vehicle owned or operated by a resident per dwelling unit. (Ref. Ord. No. 842, 6/11/91; 989, 1/8/02)
- b) Recreational vehicles and equipment.
- c) Home occupations as provided for in Section 1302.120.
- d) Noncommercial greenhouses and conservatories.
- e) Swimming pool, tennis courts and other recreational facilities which are operated for the enjoyment and convenience of the residents of the principal use and their guests.
- f) Tool houses, sheds and similar buildings for storage of domestic supplies and noncommercial recreational equipment.
- g) Boarding or renting of rooms by a resident family for lodging purposes only and for the accommodation of not more than two (2) persons. "Resident family" shall mean the owner-occupant of the premises. (Ref. Ord. 922, 5/9/95)
- h) Solar energy systems per Code Section 1302.030, Subd. 22 (Ref. Ord. 10-1-1063, 1/12/10; 16-03-2010, 3/8/16)

Subd. 4. Conditional Uses. The following are conditional uses in an "R-1I" District, which require a conditional use permit based upon procedures and provisions set forth in and regulated by §1301.050 of this Code.

- a) Public or semipublic recreational buildings and neighborhood or community centers; public and private educational institutions limited to elementary, junior high and senior high schools; and religious institutions such as churches, chapels, temples and synagogues provided that:
 - 1) Side yards shall be double that required for the district, but no greater than forty (40) feet.
 - 2) Adequate screening from abutting residential uses and landscaping is provided in compliance with Section 1302.030, Subd. 7.a) of this Code.
 - 3) Adequate off-street parking and access is provided on the site or on lots directly abutting directly across a public street or alley to the principal use in compliance with Section 1302.050 of this Code and that such parking is adequately screened and landscaped from surrounding and abutting residential uses in compliance with §1302.030, Subd. 7.a) of this Code.
 - 4) Adequate off-street loading and service entrances are provided and regulated where applicable by §1302.060 of this Code.
- b) Non-city governmental and public regulated utility buildings and structures necessary for the health, safety and general welfare of the community provided that:
 - 1) Compatibility with the surrounding neighborhood is maintained and required setbacks and side yard requirements are met.
 - 2) Equipment is completely enclosed in a permanent structure with no outside storage.
 - 3) Adequate screening from neighboring uses and landscaping is provided in compliance with §1302.030, Subd. 7.a) of this Code.
- c) Home Accessory Apartments for Seniors/Handicapped. As specified in §1302.125. (Ref. Ord. 770, 9/14/88)
- d) Residential planned unit development as regulated by §1301.070 of this Code.
- e) Elderly (senior citizen) housing and nursing homes, provided that:
 - 1) Compatibility with the surrounding neighborhood is maintained.
 - 2) The dwelling structure is in compliance with the lot width and setback requirements of §1303.080 of this Code. (Ref. Ord. 01-05-986, 5/8/01)

- 3) a. Density calculations for senior multi-family rental and owner occupied condominium buildings with more than eight (8) units are as follows: the area of the tract shall not be less than the sum of the required lot area for each dwelling unit thereon adjusted by the allowances permitted by this subsection. For purposes of determining the base density prior to allowances, 2,000 square feet of gross lot area per unit shall be required; a density bonus of 750 square feet per unit for each underground parking space; an additional 250 square feet density bonus shall be allowed for each dwelling unit if the building to lot coverage does not exceed forty (40) percent. In no case shall the density bonus exceed 600 square feet per unit. (Ref. Ord. 882, 12/8/92, 01-05-986, 5/8/01)
- b. Density calculation for senior two family, threplex, fourplex, townhouses, and quadrominiums shall be based on the standards outlined in §1303.080, subd. 7. (Ref. Ord. 01-05-986, 5/8/01)
- 4) The permanent residents shall be limited to persons who are 55 years of age or over except that one other person may reside in any senior or elderly housing unit including his or her spouse, parent, foster parent, or legal guardian. An exception is allowed for all owner-occupied senior housing approved under the provisions of §1303.030, subd. 4(e), whereby up to 20 percent of the total project's units may be occupied by person(s) who are less than 55 years of age. When determining the number of non-senior units allowed calculations resulting in a fraction shall not be rounded to allow for an additional unit. (Ref. Ord. 01-05-986, 5/8/01)
- 5) The structure is in compliance with the Minnesota State Uniform Building Code.
- 6) The provisions of §1301.050 of this Code are considered and satisfactorily met.
- 7) To continue to qualify for the elderly (senior citizen) housing classification, the owner or agency shall annually file with the City Clerk and the zoning Administrator a certified copy of a monthly census of the residents of the dwelling structure, listing the number of tenants by age and clearly identifying and setting forth the relationship of all occupants under 55 years of age to the other residents of the dwelling structure. (Ref. Ord. 689, 3/19/85)
- 8) All senior housing developments processed under the provisions of 1303.030, subd. 4(e) shall also be subject to the requirements of the Planned Unit Development ordinance as outlined in § 1301.070. (Ref. Ord. No. 986, 5/8/01)

Subd. 5. Lot Requirements and Setbacks. The following minimum requirements shall be observed in an "R-11" District subject to additional requirements, exceptions and modifications set forth in this Code.

- a) Lot Area - Interior 1 acre
- Corner 1 acre

- b) Lot Width - Interior 150 feet
 - Corner 150 feet
 - c) Setbacks:
 - 1) Front yards: Not less than forty (40) feet, except as required by averaging as provided in Section 1302.040, Subd. 4.c. (Ref. Ord. 10-1-1063, 1/12/10)
 - 2) Side yards: Not less than thirty-five (35) feet from the adjacent lot, nor less than forty (40) feet on the side yard abutting a public right-of-way.
 - 3) Rear yards: Not less than fifty (50) feet.
- Subd. 6. Building Requirements.
- a) Height. No structure shall exceed thirty-five (35) feet, except as provided in §1302.040, Subd. 3 of this Code.
 - b) Width. Dwelling units shall have a minimum width of twenty-two (22) feet at its narrowest point on the first story.

§1303.035 "R-1S", LOW DENSITY SINGLE FAMILY RESIDENTIAL-SHORELAND DISTRICT

Subd. 1. Purpose. The purpose of the "R-1S", Single Family Residential-Shoreland District, is to provide for large lot, low density single family detached residential dwelling units and directly related complimentary accessory uses within a portion of the White Bear Lake Shoreland District. The district ensures low density housing by retaining large lot areas with generous lot widths and performance based setback requirements for the dwelling units and accessory structures. The district further recognizes and protects the area's unique natural features and amenities.

In addition, because of the inability to ascertain whether structures constructed in this district complied with code requirements in effect at the time of the construction, this ordinance grants legal status to all structures, except non-conforming detached accessory structures, in the district for the purpose of razing and reconstruction.

Subd. 2. Permitted Uses. The following are permitted uses in the "R-1S" District:

- a) All permitted uses as provided for in the "R-1I" District.

Subd. 3. Accessory Uses. The following are permitted accessory uses in the "R-1S" District:

- a) All permitted accessory uses as provided for in the "R-1I" District.

Subd. 4. Conditional Uses. The following are conditional uses in an "R-1S" District, which require a Conditional Use Permit based upon procedures and provisions set forth in and regulated by §1301.050 of this Code:

- a) All conditional uses allowed in an "R-1I" District, subject to the same conditions as in an "R-1I" District.

Subd. 5. Lot Requirements and Setbacks. The following minimum requirements shall be observed in an "R-1S" District, subject to additional requirements, exceptions and modifications set forth in this Code:

- a) Lot Area: One (1) acre.
- b) Lot Width: One hundred twenty (120) feet.
- c) Setbacks:
 - 1. Front Yards: Not less than fifty (50) feet, except as required by averaging as provided in Section 1302.040, Subd. 4.c. (Ref. Ord. 10-1-1063, 1/12/10)
 - 2. Side Yards: Not less than fifteen (15) feet from the side lot line, nor less than fifty (50) feet on the side yard abutting a public right-of-way, except:

- a. Where the high point of the roof of a principal structure exceeds fifteen (15) feet in height, then the principal structure shall be setback from the side lot boundary line an additional one (1) foot for every foot of principal structure height exceeding fifteen (15) feet. (Ref. Ord. 894, 7/13/93)
- b. Where the high point of the roof of an accessory structure (either attached or detached) exceeds fifteen (15) feet in height, then the accessory structure shall be setback from the side lot boundary line an additional one (1) foot for every foot of accessory structure height exceeding fifteen (15) feet. An attached garage not exceeding fifteen (15) feet may set as close as fifteen (15) feet from the side lot line irrespective of the principal structure's height, provided that the setback of the principal structure satisfies the aforementioned side yard setback requirements.
- c. In no case shall a side lot setback requirement exceed thirty-five (35) feet for a principal structure and an attached accessory structure.
- d. For purposes of this section, the height of a structure shall be the distance as measured from the mean ground to the top of a flat roof, to the high point of the highest gable on a pitched or hip roof, to the deck line of a mansard roof, to the uppermost point on all other roof types.
- e. Accessory structures located on lake frontage lots may be located between the public right-of-way and the principal structure provided that in no case shall such a structure be located less than fifty (50) feet from the public right-of-way.

3) Rear Yards: Not less than fifty (50) feet.

Subd. 6. Building Requirements.

- a) Height: No structure shall exceed thirty-five (35) feet, except as provided in §1302.040, Subd. 3 of this Code.
- b) Width: Dwelling units shall have a minimum width of twenty-two (22) feet at their narrowest point on the first story, except bays, bump outs and similar architectural features as determined by the Zoning Administrator are exempt.

Subd. 7. Special Provisions. The following provisions apply to development, redevelopment and expansion of structures within the "R-1S" District.

- a) Notwithstanding the provisions of §1302.075, Subd. 2, exempting development of single family residential associated with subdivisions up to three lots from the Tree Preservation Ordinance, properties in this zoning classification undergoing development, redevelopment or expansion shall be subject to all provisions of the Tree Preservation Ordinance as outlined in §1302.075.

- b) Notwithstanding the provisions of §1302.010, prohibiting reconstruction of non-conforming structures where fifty percent (50%) or more of the structure is destroyed or otherwise damaged by an act of God or other accidental occurrence, all structures, except non-conforming detached accessory structures, in this zoning classification may be reconstructed regardless of the percentage of destruction or damage, even though such structures would not meet the setback requirements of this zoning classification.
- c) Notwithstanding the provisions of §1302.030, Subd. 4j prohibiting air conditioner cooling structures or condensers in the front yard, air conditioning cooling structures or condensers on lake frontage lots in this zoning district, must be placed in the front yard within five (5) feet of the structure provided the unit is screened from the public right-of-way. (Ref. Ord. 894, 7/13/93)

§1303.040 "R-2", SINGLE FAMILY RESIDENTIAL DISTRICT

Subd. 1. Purpose. The purpose of the "R-2", Single Family District is to provide for urban density single family detached residential dwelling units and directly related, complementary uses.

Subd. 2. Permitted Uses. The following are permitted uses in an "R-2" District.

- a) All permitted uses as provided for in the "R-11" District.

Subd. 3. Accessory Uses. The following are permitted accessory uses in an "R-2" District:

- a) All permitted accessory uses as allowed in an "R-11" District.

Subd. 4. Conditional Uses. The following are conditional uses in an "R-2" District, which require a conditional use permit based on the procedures and provisions set forth in and regulated by Section 1301.050 of this Code.

- a) All conditional uses allowed in an "R-11" District, subject to the same conditions as in an "R-11" District.

Subd. 5. Lot Requirements and Setbacks. The following minimum requirements shall be observed in an "R-2" District, subject to additional requirements, exceptions and modifications set forth in this Code:

- a) Lot Area - 15,000 square feet
- b) Lot Width - 100 feet
- c) Setbacks:
- 1) Front yards: No less than thirty-five (35) feet, except as required by averaging as provided in Section 1302.040, Subd. 4.c. (Ref. Ord. 10-1-1063, 1/12/10)
 - 2) Side yards: Not less than fifteen (15) feet from the adjacent lot, nor less than thirty-five (35) feet on the side yard abutting a public right-of-way.
 - 3) Rear yards: Not less than forty (40) feet.

Subd. 6. Building Requirements.

- a) Height. No structure shall exceed thirty-five (35) feet, except as provided in Section 1302.040, Subd. 3 of this Code.
- b) Width. Dwelling units shall have a minimum width of twenty-two (22) feet at its narrowest point on the first story.

§1303.050 "R-3", SINGLE FAMILY RESIDENTIAL DISTRICT

Subd. 1. Purpose. The purpose of the "R-3", Single Family District is to provide for single family detached residential dwelling units at a density higher than that permitted in the "R-2", Single Family District along with directly related and complementary uses.

Subd. 2. Permitted Uses. The following are permitted uses in an "R-3" District:

- a) All permitted uses as provided for in an "R-2" District.

Subd. 3. Accessory Uses. The following are permitted accessory uses in an "R-3" District.

- a) All permitted accessory uses as allowed in an "R-2" District.

Subd. 4. Conditional Uses. The following are conditional uses in an "R-3" District, which require a conditional use permit based on the procedures and provisions set forth in and regulated by Section 1301.050 of this Code.

- a) All conditional uses allowed in an "R-2" District, subject to the same conditions as in an "R-2" District.
- b) Office structures located in pre-existing institutional housing, offices, or schools provided that:
 - 1) Side yards for all new expansions/additions shall be double that required for the district, but no greater than forty (40) feet.
 - 2) Adequate screening from abutting residential uses and landscaping is provided in compliance with Section 1302.030, Subd. 7. a) of this Code.
 - 3) Adequate off-street parking and access is provided on the site or on lots directly abutting directly across a public street or alley to the principal use in compliance with Section 1302.050 of this Code and that such parking is adequately screened and landscaped from surrounding and abutting residential uses in compliance with Section 1302.030, Subd. 7. a) of this Code.
 - 4) Adequate off-street loading and service entrances are provided; screened from residences, and regulated where applicable by Section 1302.060 of this Code.
 - 5) The structure shall contain fifteen (15) or fewer total offices (leased or owner occupied) with a maximum employment within the structure of thirty (30) full time employees.
 - 6) The structure shall be in compliance with the Minnesota State Uniform Building and Life/Safety Codes.
 - 7) Office hours when the building is open to the public (exclusion of employees) shall be limited to Monday through Friday from 7:00 A.M. to 6:00 P.M. except as approved by the City Council.

- 8) The office structure shall not involve any of the following: Repair, service, or manufacturing which requires equipment other than customarily found in an office; teaching which customarily consists of more than one (1) pupil at a time; over-the-counter sale of merchandise produced off the premises; medical or dental clinics with more than two (2) practitioners per clinic, restaurants, cafes, bar, etc.
 - 9) There shall be no exterior display or exterior signs; or interior display or signs which are visible from outside the office with the exception of identification/business signs totaling a maximum of sixty-four (64) square feet of sign area for the entire building.
 - 10) All permitted office occupations shall be conducted entirely within the principal structure and may not be conducted in accessory buildings.
 - 11) No office shall produce light glare, noise, odor or vibration that will in any way have an objectionable effect on the adjacent or nearby property.
 - 12) No equipment shall be used in the office structure which will create electrical interference to surrounding properties.
 - 13) There shall be no exterior storage of refuse, equipment, materials, used in the office structure.
- c) Lapse of Office Conditional Use Permit by Nonuse. Whenever within one (1) year after granting a permit the use as permitted by the permit shall not have been initiated, then such permit shall become null and void unless a petition for extension of time in which to complete the work has been granted by the City Council. Such extension shall be requested in writing and filed with the Zoning Administrator at least thirty (30) days before the expiration of the original permit. There shall be no charge for the filing of such petition. The request for extension shall state facts showing a good faith attempt to initiate the use. Such petition shall be presented to the Planning Commission for a recommendation and to the City Council for a decision.
- d) Reconsideration. Whenever an application for a permit has been considered and denied by the City Council, a similar application for a permit affecting substantially the same property shall not be considered again by the Planning Commission or City Council for at least six (6) months from the date of its denial unless a decision to reconsider such matter is made by a majority vote of the City Council.
- e) Renewal of Permits. Whenever the use on the site changes, the applicant shall apply for renewal of said permit. Each application for renewal of a permit will be considered de novo without taking into consideration that a previous permit has been granted. The previous granting of renewal of a permit shall not constitute a precedent or basis for the renewal of a permit. Changes in ownership which do not change the originally permitted land use shall not require a permit review. (Ref. Ord. 723, 8/12/86)

Subd. 5. Lot Requirements and Setbacks. The following minimum requirements shall be observed in an "R-3" District, subject to additional requirements, exceptions and modifications set forth in this Code.

- a) Lot Area - 10,500 square feet
- b) Lot Width - 80 feet
- c) Setbacks:
 - 1) Front yards: No less than thirty (30) feet, except as required by averaging as provided in Section 1302.040, Subd. 4.c. (Ref. Ord. 10-1-1063, 1/12/10)
 - 2) Side yards: Not less than ten (10) feet from the adjacent lot, nor less than thirty (30) feet on the side yard abutting a public right-of-way.
 - 3) Rear yards: Not less than thirty (30) feet.
 - 4) Residential garage from adjacent lot: (see Section 1302.030, Subd. 4). (Ref. Ord No. 727, 8/12/86)

Subd. 6. Building Requirements.

- a) Height. No structure shall exceed thirty-five (35) feet, except as provided in Section 1302.040, Subd. 3 of this Code.
- b) Width. Dwelling units shall have a minimum width of twenty-two (22) feet at its narrowest point on the first story. (Ord. No. 723, 8/12/86)

§1303.060 "R-4" SINGLE FAMILY, TWO-FAMILY RESIDENTIAL DISTRICT.

Subd. 1. Purpose. The purpose of the "R-4", Single and Two-Family District is to provide for low and moderate density one and two unit dwellings and directly related, complementary uses.

Subd. 2. Permitted Uses. The following are permitted uses in an "R-4" District:

- a) All permitted uses allowed in an "R-3" District.
- b) Two-family dwellings.

Subd. 3. Accessory Uses. The following are permitted accessory uses in an "R-4" District:

- a) All permitted accessory uses as allowed in an "R-3" District.

Subd. 4. Conditional Uses. The following are conditional uses in an "R-4" District, which require a conditional use permit based upon procedures and provisions set forth in and regulated by Section 1301.050 of this Code.

- a) All conditional uses allowed in an "R-3" District, subject to the same conditions as in an "R-3" District.

Subd. 5. Lot Requirements and Setbacks. The following minimum requirements shall be observed in the "R-4" District, subject to additional requirements, exceptions, and modifications as set forth in this Code.

- a) Lot Area:
 - 1) Single Family - 7,200 square feet
 - 2) Two Family Dwelling - 5,000 square feet per unit (Ref. Ord. 798, 12/12/89)
- b) Lot Width:
 - 1) Single Family - 60 feet
 - 2) Two Family Dwelling - 80 feet (Ref. Ord. 798, 12/12/89)
- c) Setbacks:
 - 1) Front yards: Not less than twenty-five (25) feet, except as required by averaging as provided in Section 1302.040, Subd. 4.c. (Ref. Ord. 10-1-1063, 1/12/10)
 - 2) Side yards: Not less than ten (10) feet from the adjacent lot, nor less than twenty-five (25) feet on the side yard abutting a public right-of-way.

- 3) Rear yards: Not less than thirty (30) feet.
- 4) Residential garage from adjacent lot: (see Section 1302.030, Subd. 4). (Ref. Ord. No. 727, 8/12/86)
- d) Impervious Area: No R-4 property which is located east of Highway 61, but not within the Shoreland Overlay District, shall exceed a maximum impervious surface to lot area ratio of 30%. (Ref. Ord. No. 09-02-1056, 2/10/09)
- e) Tree Preservation: All new construction of residences located east of Highway 61 shall be subject to the tree preservation requirements of Section 1302.075. (Ref. Ord. No. 09-02-1056, 2/10/09)

Subd. 6. Building Requirements.

- a) Height: No structure shall exceed thirty-five (35) feet, except as provided in Section 1302.040, Subd. 3 of this Code. On lots which are located east of Highway 61 and are 51 feet wide or less, no structure shall exceed thirty (30) feet in height and on lots which are greater than 51 feet wide, no structure shall exceed thirty-five (35) feet in height, except as provided in Section 1302.040, Subd. 3 of this Code. On lots which are located east of Highway 61, height shall be measured from the ground grade to the peak of the roof. (Ref. Ord. No. 09-02-1056, 2/10/09 10-1-1063, 1/12/10)
- b) Width: Dwelling units shall have a minimum width of twenty-two (22) feet at its narrowest point on the first story.

§1303.070 "R-5", SINGLE FAMILY, TWO-FAMILY, MEDIUM DENSITY RESIDENTIAL DISTRICT

Subd. 1. Purpose. The purpose of the "R-5", Single Family, Two-Family and Medium Density Residential District is to provide for moderate density through the mixture of one and two unit and medium density dwellings and directly related, complementary uses.

Subd. 2. Permitted Uses. The following are permitted uses in an "R-5" District:

- a) All permitted uses allowed in an "R-4" District.
- b) Two-family dwelling units.
- c) Threplex and fourplex multiple family units.
- d) Townhouses and quadraminiums.

Subd. 3. Accessory Uses. The following are permitted accessory uses in an "R-5" District:

- a) All accessory uses as allowed in an "R-4" District.

Subd. 4. Conditional Uses. The following are conditional uses in an "R-5" District, which require a conditional use permit based upon procedures and provisions set forth in and regulated by Section 1301.050 of this Code.

- a) All conditional uses, subject to the same conditions as allowed in an "R-4" District.

Subd. 5. Lot Requirements and Setbacks. The following minimum requirements shall be observed in an "R-5" District subject to additional requirements, exceptions and modifications set forth in this Code:

- a) Lot Area:
 - 1) Single Family dwelling - 7,200 square feet
 - 2) Two-Family dwelling - 5,000 square feet per unit
 - 3) Threplex and Fourplex Multiple Family dwellings - 5,000 square feet per unit.
 - 4) Townhouse and Quadraminium - 5,000 square feet per unit
- b) Lot Width:
 - 1) Single Family dwelling - 60 feet
 - 2) Two-Family dwelling - 80 feet

- 3) Threplex and Fourplex Multiple Family dwellings - 100 feet
- 4) Townhouse and Quadraminium - 100 feet
- c) Setbacks:
 - 1) Front yards: Not less than twenty-five (25) feet, except as required by averaging as provided in Section 1302.040, Subd. 4.c. (Ref. Ord. 10-1-1063, 1/12/10)
 - 2) Side yards:
 - a. Single and Two-Family Dwellings: Not less than ten (10) feet nor less than twenty-five (25) feet on the side yard abutting a public right-of-way, except as required by averaging as provided in Section 1302.040, Subd. 4.c. (Ref. Ord. 10-1-1063, 1/12/10)
 - b. All other uses: Not less than fifteen (15) feet nor less than thirty (30) feet on the side yard abutting a public right-of-way.
 - c. Residential garage: (see Section 1302.030, Subd. 4). (Ref. Ord. No. 727, 8/12/86)
 - 3) Rear yards: Not less than thirty (30) feet.

Subd. 6. Building Requirements.

- a) Height: No structure shall exceed thirty-five (35) feet, except as provided in Section 1302.040, Subd. 3 of this Code.
- b) Width: Buildings used for dwelling units shall have a minimum width of at least twenty-two (22) feet at its narrowest point on the first story.

Subd. 7. Maximum Building Density. Building Density per acre of net developable land shall be calculated by including all land within the proposed project, except all lakes and wetlands protected by the Wetland Conservation Act, and public dedications for County or State road right-of-ways, divided by the number of dwelling units on the project site. (Ref. Ord. 01-05-985, 5/8/01, 09-01-1055, 1/13/09)

- a) Single family attached dwelling units -- 6 units per acre of net developable land.
- b) Two family dwelling -- 9 Units per acre of net developable land.
- c) Threplex and fourplex multi-family dwellings -- 9 units per acre of net developable land. (Ref. Ord. 01-05-985, 5/8/01)
- d) Townhouse and quadrominium dwellings -- 9 units per acre of net developable land. (Ref. Ord. 01-05-985, 5/8/01)
- e) Up to two additional dwelling units per acre of wetland are allowed provided that the development of the upland portion of the site does not exceed 30% impervious surface coverage. (Ref. Ord. 730, 8/12/86; 01-05-985, 5/8/01)

§1303.080 "R-6", MEDIUM DENSITY RESIDENTIAL DISTRICT

Subd. 1. Purpose. The purpose of the "R-6", Medium Density Residential District is to provide for medium density housing through the mixture of two unit and medium density dwellings and directly related complimentary uses. (Ref. Ord. 730, 8/12/86, and Ord. 09-01-1055, 1/13/09)

Subd. 2. Permitted Uses. The following are permitted uses in an "R-6" District:

- a) Two family dwellings.
- b) Threeplex and fourplex multiple family units.
- c) Townhouses and quadraminiums.
- d) Multiple family dwelling structures.
- e) Single family detached dwellings including manufactured homes.(Am 12/11/84)

Subd. 3. Accessory Uses. The following are permitted accessory uses in an "R-6" District:

- a) All permitted accessory uses as allowed in an "R-5" District.
- b) Off-street loading.

Subd. 4. Conditional Uses. The following are conditional uses in an "R-6" District, which require a conditional use permit based upon procedures and provisions set forth in and regulated by Section 1301.050 of this Code.

- a) All conditional uses allowed in an "R-5" District, subject to the same conditions as in an "R-5" District.

Subd. 5. Lot Requirements and Setbacks. The following minimum requirements shall be observed in an "R-6" District subject to additional requirements, exceptions and modifications set forth in this Code:

- a) Lot Area:
 - 1) Two-Family dwelling - 5,000 square feet per unit
 - 2) Threeplex and Fourplex Multiple Family dwellings - 5,000 square feet per unit
 - 3) Townhouse and Quadraminium - 5,000 square feet per unit
 - 4) Multiple Family - 3,600 square feet per unit (Ref. Ord. 730, 8/12/86)
 - 5) Single Family dwelling - 7,200 square feet per unit (Am 12/11/84)

- b) Lot Width:
- 1) Two-Family dwelling - 80 feet
 - 2) Threplex and Fourplex Multiple Family dwellings - 100 feet
 - 3) Townhouse and quadraminium - 100 feet
 - 4) Multiple Family - 100 feet
 - 5) Single Family dwelling - 60 feet (Am 12/11/84)
- c) Setbacks:
- 1) Front yards: Not less than thirty (30) feet, except as required by averaging as provided in Section 1302.040, Subd. 4.c. (Ref. Ord. 10-1-1063, 1/12/10)
 - 2) Side yards:
 - a. Two-family dwellings: Not less than ten (10) feet nor less than thirty (30) feet on the side yard abutting a public right-of-way.
 - b. All other uses: Not less than fifteen (15) feet nor less than thirty (30) feet on the side yard abutting a public right-of-way.
 - c. Residential garage: (see Section 1302.030, Subd. 4). (Ref. Ord. 727, 8/12/86)
 - d. Single family dwellings: Not less than ten (10) feet nor less than thirty (30) feet on the side abutting a public right-of-way.
 - 3) Rear yards: Not less than thirty (30) feet.
- Subd. 6. Building Requirements.
- a) Height. No structure shall exceed thirty-five (35) feet, except as provided in Section 1302.040, Subd. 3 of this Code.
 - b) Width. Buildings used for dwelling units shall have a minimum width of twenty-two (22) feet at its narrowest point on the first story.

Subd. 7. Maximum Building Density. Building Density per acre of net developable land shall be calculated by including all land within the proposed project, except all lakes and wetlands protected by the Wetland Conservation Act and public dedications for County or State road right-of-ways, divided by the number of dwelling units on the project site. (Ref. Ord. 730, 8/12/86, Ord. 01-05-985, 5/8/01, and Ord. 09-01-1055, 1/13/09)

- a) Single family detached dwelling units -- 6 per acre of net developable land.
- b) Two family dwelling -- 9 units per acre of net developable land.
- c) Threeplex and fourplex multi-family rental dwellings -- 9 units per acre of net developable land.
- d) Townhouses and quadrominium owner-occupied dwellings -- 9 units per acre of net developable land.
- e) Multi-family rental or owner-occupied condominiums with more than eight (8) units per structure -- 12 units per acre of net developable land. (Ref. Ord. 01-05-985, 5/8/01)
- f) Up to two additional dwelling units per acre of wetland are allowed provided that the development of the upland portion of the site does not exceed 30% impervious surface coverage. (Ref. Ord. 730, 8/12/86; 985, 5/8/01)
- g) A density bonus for affordable or transit-oriented units may be granted according to the following chart:

R-6		Base Max. Density:	12 du/ac
Affordable²	<u>Bonus ratio^a</u>	3:1	
	<u>Max. density allowed^c</u>	16 du/ac ^b	
Affordable with underground parking^d	<u>Bonus ratio^a</u>	4:1	
	<u>Max. density allowed^c</u>	20 du/ac ^b	
Transit-Oriented³	<u>Bonus ratio^a</u>	4:1	
	<u>Max. density allowed^c</u>	15 du/ac ^b	
Transit-Oriented Affordable^d	<u>Bonus ratio^a</u>	3:1	
	<u>Max. density allowed^c</u>	20 du/ac ^b	

- a. Number of affordable or transit oriented units required respectively for every bonus unit granted. Bonus units may be either affordable or market rate.
- b. du/ac = dwelling units per acre
- c. If the maximum density number is not a whole number, the number should be rounded to the nearest whole number.
- d. The density bonus for affordable with underground parking builds upon the base density bonus for affordable. Likewise, the bonus for transit-oriented affordable is in addition to the bonus for transit-oriented.

- 1) In no case shall the density bonus for townhome developments result in a density of more than 12 units/acre.
- 2) Affordable defined as 60% of Area Median Income (AMI), as defined by The U.S. Department of Housing and Urban Development.
- 3) Transit-Oriented is defined as located within a quarter-mile of an existing transit stop or a future transit corridor and having at least one underground parking space for each unit, for which a bonus is requested.
- 4) An affordable and/or transit-oriented housing development agreement acceptable to the City is required to receive any of the above outlined density bonuses. (Ref. Ord. 09-01-1054, 1/13/09)

§1303.090 "R-7", HIGH DENSITY RESIDENTIAL DISTRICT

Subd. 1. Purpose. The purpose of the "R-7", High Density Residential District is to provide for high density residential uses and directly related uses. (Ref. Ord. 730, 8/12/86, and Ord. 09-01-1055, 1/13/09)

Subd. 2. Permitted Uses. The following are permitted uses in an "R-7" District:

- a) Two family dwellings.
- b) Threeplex and fourplex multiple family units.
- c) Townhouses and quadraminiums.
- d) Multiple family dwelling structures.
- e) Public park and playgrounds.
- f) Essential services.

Subd. 3. Accessory Uses. The following are permitted accessory uses in an "R-7" District:

- a) All permitted accessory uses as allowed in an "R-6" District.

Subd. 4. Conditional Uses. The following are conditional uses in an "R-7" District, which require a conditional use permit based upon procedures and provisions set forth in and regulated by Section 1301.050 of this Code.

- a) All conditional uses allowed in an "R-6" District, subject to the same conditions as in an "R-6" District.
- b) Elderly (senior citizen) housing, provided that:
 - 1) Not more than ten (10) percent of the occupants may be persons sixty (60) years of age or under.
 - 2) To continue to qualify for the elderly housing classification, the owner or agency shall annually file with the City Clerk and the Zoning administrator a certified copy of a monthly resume' of occupants of such a multiple dwelling, listing the number of tenants by age and clearly identifying and setting forth the relationship of all occupants sixty (60) years of age or under to qualified tenants, or to the building.

- 3) There is adequate off-street parking in compliance with Section 1302.050 of this Code.
 - 4) One (1) off-street loading space in compliance with Section 1302.060 of this code.
 - 5) Parking areas are screened and landscaped from view of surrounding and abutting residential districts in compliance with Section 1302.030, Subd. 7.a) of this Code.
 - 6) The principal use structure is in compliance with the Minnesota State Uniform Building Code.
 - 7) Elevator service is provided to each floor level above ground floor.
 - 8) Usable open space as defined in Section 1301.020 of this Code at a minimum is equal to twenty (20) percent of the gross lot area.
- c) Student housing provided that: (Ref. Ord. No. 787, 7/11/89)
- 1) All occupants of an approved student housing project must be one of the following:
 - a. Currently enrolled at a vocational technical and/or community college at least 3/4 time of a full time basis as defined by the institute for financial purposes.
 - b. Have been enrolled for six of the last nine months at a vocational technical institute and/or community college at least 3/4 time of a full time basis as defined by the institute for financial purposes.
 - c. Have been accepted for enrollment for the next regular term at a vocational technical institute and/or community college at least 3/4 time of a full time basis as defined by the institute for financial purposes.
 - 2) Lease agreements shall specify the student status requirements outlined in 1)a. through 1)c. above.
 - 3) The owner shall annually file with the City Clerk and the Zoning Administrator a certified copy of a quarterly resume of occupants. All of the occupants' student status shall be clearly identified.
 - 4) Off-street parking shall be provided on site at not less than .5 stalls per occupant based on maximum allowable occupancy. If the number of parking spaces required proves to be inadequate, additional on-site parking shall be provided as determined by the Zoning Administrator.

- 5) At least one off-street loading space shall be provided in compliance with §1302.060 of this Code.
 - 6) Parking areas shall be screened from view of residential districts and from public right-of-ways in compliance with §1302.030, Subd. 7)a. of this Code.
 - 7) Any reuse or modification which results in a change of student occupancy qualifications and/or changes to any other of the above outline provisions shall be contingent upon City Council review and approval.
 - 8) The petitioner shall submit a security management plan to be approved by the City Police Department. (Ref. Ord. No. 787, 7/11/89)
- d) Single Room Occupancies (SRO), provided that: (Ref. Ord. 833, 4/9/91)
- 1) Each SRO unit shall contain the following:
 - a. Common Living Space: Each SRO unit shall contain a common living area, exclusive of the kitchen, bathroom and hallways. The floor area of the common living area shall be at least one hundred and twenty (120) square feet; the floor space shall be calculated on the basis of total habitable room area.
 - b. Kitchen Facilities: Each SRO unit shall contain a kitchen which must have the following:
 1. A kitchen sink in good working condition.
 2. Cabinets and/or shelves for the storage of eating, drinking, and cooking equipment and utensils and of food that does not require refrigeration for safekeeping; and a counter or table for food preparation.
 3. A stove, conventional oven and a refrigerator for the safe storage of food which are properly installed with all necessary connections for safe, sanitary and efficient operation.
 - c. Sleeping Room: Every SRO unit shall contain a sleeping room which is separated from the common living area, bathroom, kitchen, hallways by a wall and a door which affords privacy. Every room occupied for sleeping purposes by one person shall contain at least one hundred (100) square feet of floor area with at least fifty (50) additional square feet of floor space for every additional occupant thereof; the floor space shall be calculated on the basis of total habitable room area.

- d. Bathroom Facilities: For every two (2) sleeping rooms, at least one (1) bathroom shall be provided or fraction thereof. Said bathroom shall contain at least one (1) flush water closet, lavatory basin and a bathtub or shower. If a half-bath is required said bathroom shall contain at least one (1) flush water closet, and a lavatory basin. Access to bathroom facilities for all persons sharing such facilities shall not be gained through private sleeping rooms.
 - e. Maximum Occupancy: The maximum occupancy per SRO unit shall not exceed five (5) tenants with no more than two (2) tenants per sleeping room.
- 2) At least one (1) off-street parking stall shall be provided per sleeping room. If the number of parking spaces proves to be inadequate, additional on-site parking shall be provided as determined by the Zoning Administrator.
 - 3) At least one (1) off-street loading space shall be provided in compliance with §1302.060 of this code.
 - 4) All parking areas shall be screened from view of other residential districts, uses and public rights-of-way in compliance with §1302.030, Subd. 7a of this Code.
 - 5) The petitioner shall submit a security plan and an on-site management plan to the City staff. The security management plan must be approved by the City Police Department while the on-site management plan must be approved by the Zoning Administrator. (Ref. Ord. No. 833, 4/9/91)

Subd. 5. Lot Requirements and Setbacks. The following minimum requirements shall be observed in an "R-7" District subject to additional requirements, exceptions and modifications set forth in this Code:

- a) Lot Area:
 - 1) Two-Family dwelling - 5,000 square feet per unit
 - 2) Threeplex and fourplex Multiple family dwellings - 5,000 square feet per unit.
 - 3) Townhouse and Quadraminium - 5,000 square feet per unit
 - 4) Multiple family - 2,500 square feet per unit
- b) Lot Width:
 - 1) Two-Family dwelling - 80 feet
 - 2) All other uses - 100 feet

c) Setbacks:

- 1) Front yards: Not less than thirty (30) feet, except as required by averaging as provided in Section 1302.040, Subd. 4.c. (Ref. Ord. 10-1-1063, 1/12/10)
- 2) Side yards:
 - a. Two-family dwellings: Not less than ten (10) feet nor less than twenty (20) feet on the side yard abutting a public right-of-way.
 - b. All other uses: Not less than fifteen (15) feet nor less than thirty (30) feet on the side yard abutting a public right-of-way.
- 3) Rear yards: Not less than thirty (30) feet.
- 4) Residential garages: See Section 1302.030, Subd. 4. (Ref. Ord. 727, 8/12/86)

Subd. 6. Building Requirements.

- a) Height. No structure shall exceed thirty-five (35) feet, except as provided in Section 1302.040, Subd. 3 of this Code.
- b) Width. Buildings used for dwelling units shall have a minimum width of twenty-two (22) feet at its narrowest point on the first story.

Subd. 7. Maximum Building Density. Building Density per acre of net developable land shall be calculated by including all land within the proposed project, except all lakes and wetlands protected by the Wetland Conservation Act and public dedications for County or State road right-of-ways, divided by the number of dwelling units on the project site. (Ref. Ord. 01-05-985, 5/8/01, Ord. 09-01-1055, 1/13/09, 10-1-1063, 1/12/10)

- a) Two-family dwelling -- 9 units per acre of net developable land.
- b) Threeplex and fourplex multi-family rental dwellings -- 9 units per acre of net developable land.
- c) Townhouses and quadraminium owner occupied dwellings -- 9 units per acre of net developable land.
- d) Multi-family rental or owner occupied condominiums with more than eight (8) units per structure - up to 17 units per acre of net developable land. (Ref. Ord. 01-05-985, 5/8/01)
- e) Up to two additional dwelling units per acre of wetland are allowed provided that the development of the upland portion of the site does not exceed 30% impervious surface coverage. (Ref. Ord. 730, 8/12/86; 985, 5/8/01)

- f) A density bonus for affordable or transit-oriented units may be granted according to the following chart:

R-7 Base Max. Density: 17 du/ac		
Affordable²	<u>Bonus ratio^a</u>	3:1
	<u>Max. density allowed^c</u>	22 du/ac ^b
Affordable with underground parking^d	<u>Bonus ratio^a</u>	5:1
	<u>Max. density allowed^c</u>	26 du/ac
Transit-Oriented³	<u>Bonus ratio^a</u>	4:1
	<u>Max. density allowed^c</u>	21 du/ac
Transit-Oriented Affordable^d	<u>Bonus ratio^a</u>	3:1
	<u>Max. density allowed^c</u>	28 du/ac

- a. Number of affordable or transit-oriented units required respectively for every bonus unit granted. Bonus units may be either affordable or market rate.
- b. du/ac = dwelling units per acre.
- c. If the maximum density number is not a whole number, the number should be rounded to the nearest whole number.
- d. The density bonus for affordable with underground parking builds upon the base density bonus for affordable. Likewise, the bonus for transit-oriented affordable is in addition to the bonus for transit-oriented.

- 1) In no case shall the density bonus for townhome developments result in a density of more than 12 units/acre.
- 2) Affordable defined as 60% of Area Median Income (AMI), as defined by the U.S. Department of Housing and Urban Development.
- 3) Transit-Oriented is defined as located within a quarter-mile of an existing transit stop or a future transit corridor and having at least one underground parking space for each unit, for which a bonus is requested.
- 4) An affordable and/or transit-oriented housing development agreement acceptable to the City is required respectively to receive any of the above outlined density bonuses. (Ref. Ord. 09-01-1054, 1/13/09)

§1303.100 "R-B" RESIDENTIAL-BUSINESS TRANSITION DISTRICT

Subd. 1. Purpose. The purpose of the "R-B", Residential-Business Transition District is to provide for high density residential uses and for the transition in land use from residential to low intensity business allowing for the intermixing of such uses.

Subd. 2. Permitted Uses. The following are permitted uses in an "R-B" District:

- a) All permitted uses allowed in an "R-7" District.

Subd. 3. Accessory Uses. The following are permitted accessory uses in an "R-B" District:

- a) All permitted accessory uses as allowed in an "R-7" District.

Subd. 4. Conditional Uses. The following are conditional uses in an "R-B" District, which require a conditional use permit based upon procedures and provisions set forth in and regulated by Section 1301.050 of this Code.

- a) All conditional uses allowed in an "R-7" District, subject to the same conditions as in an "R-7" District.
- b) Hospitals, medical offices and clinics, dental offices and clinics, professional offices and commercial offices, veterinary clinics (not including outside kennels) and funeral homes and mortuaries, provided that:
 - 1) The site and related parking and service entrances are served by an arterial or collector street of sufficient capacity to accommodate the traffic which will be generated.
 - 2) Adequate off-street parking is provided in compliance with Section 1302.050 of this Code.
 - 3) Adequate off-street loading is provided in compliance with Section 1302.060 of this Code.
 - 4) Vehicular entrances to parking or service areas shall create a minimum of conflict with through traffic movement.
 - 5) When abutting any other Residential District, a buffer area with screening and landscaping in compliance with Section 1302.030, Subd. 7.a) of this Code shall be provided.

- c) Retail commercial activities provided that:
- 1) Merchandise is sold at retail.
 - 2) The retail activity is located within a structure whose principal use is not commercial sales.
 - 3) The retail activity shall not occupy more than fifteen (15) percent of the gross floor area of the building.
 - 4) No directly or indirectly illuminated sign or sign in excess of ten (10) square feet identifying the name of the business shall be visible from the outside of the building.
 - 5) No signs or posters of any type advertising products for sale shall be located on the outside of the building.
- d) Buildings combining residential and nonresidential uses allowed in this District, provided that:
- 1) Residential and nonresidential uses shall not be contained on the same floor.
 - 2) The residential and nonresidential uses shall not conflict in any manner.
 - 3) The residential building standards as outlined in this Section are met.
- e) Nursing homes and similar group housing, but not including hospitals, sanitariums or similar institutions, provided that:
- 1) Side yards are double the minimum requirements established for this District and are screened in compliance with Section 1302.030, Subd. 7.a) of this Code.
 - 2) Only the rear yard shall be used for play or recreational areas. Said area shall be fenced and controlled and screened in compliance with Section 1302.030, Subd. 7.a) of this Code.
 - 3) The site shall be served by an arterial or collector street of sufficient capacity to accommodate traffic which will be generated.

- 4) All state laws and statutes governing such use are strictly adhered to and all required operating permits are secured.
- 5) Adequate off-street parking is provided in compliance with Section 1302.050 of this Code.
- 6) One (1) off-street loading space in compliance with Section 1302.060 of this Code is provided.

Subd. 5. Lot Requirements and Setbacks. The following minimum requirements shall be observed in an "R-B" District subject to additional requirements, exceptions and modifications set forth in this Code:

a) Lot Area:

- 1) Two-Family dwelling - 5,000 square feet per unit
- 2) Threplex and Fourplex Multiple Family dwellings - 5,000 square feet per unit
- 3) Townhouse and Quadraminium - 5,000 square feet per unit
- 4) Multiple Family - 2,500 square feet per unit
- 5) Nonresidential uses - 15,000 square feet

b) Lot Width:

- 1) Two-Family dwelling - 75 feet
- 2) All other uses - 100 feet

c) Setbacks:

- 1) Front yards: Not less than thirty (30) feet, except as required by averaging as provided in Section 1302.040, Subd. 4.c. (Ref. Ord. 10-1-1063, 1/12/10)
- 2) Side yards:
 - a. Two-family dwellings: Not less than ten (10) feet nor less than twenty (20) feet on the side yard abutting a public right-of-way.
 - b. All other uses: Not less than fifteen (15) feet nor less than thirty (30) feet on the side yard abutting a public right-of-way.
- 3) Rear yards: Not less than thirty (30) feet.
- 4) Residential garages: (see Section 1302.040, Subd. 4). (Ref. Ord. 727, 8/12/86)

Subd. 6. Building Requirements.

- a) Heights. No structure shall exceed forty-five (45) feet, except as provided in Section 1302.040, Subd. 3 of this Code. (Ref. Ord. 730, 8/12/86)
- b) Width. Buildings used for dwelling units shall have a minimum width of twenty-two (22) feet at its narrowest point on the first story.

Subd. 7. Maximum Building Density. Building Density per acre of net developable land shall be calculated by including all land within the proposed project, except all lakes and wetlands protected by the Wetland Conservation Act and public dedications for County or State road right-of-ways divided by the number of dwelling units on the project site. (Ref. Ord. 730, 8/12/86, 10-1-1063, 1/12/10)

- a) Two-family dwelling -- 9 units per acre of net developable land.
- b) Threeplex and fourplex multi-family rental dwellings -- 9 units per acre of net developable land.
- c) Townhouses and quadrominium owner occupied dwelling units -- 9 units per acre of net developable land.
- d) Multi-family rental or owner occupied condominiums with more than four (4) units per structure -- up to 17 units per acre of net developable land. (Ref. Ord. 730, 8/12/86)

§1303.110 "R-MH" MOBILE HOME PARK DISTRICT

Subd. 1. Purpose. The purpose of the "R-MH", Mobile Home Park District is to provide a specialized district for mobile home development which insures and use compatibility and quality.

Subd. 2. Permitted Uses. The following are permitted uses in an "R-MH" District:

- a) Mobile homes.
- b) All permitted uses in an "R-1" District.

Subd. 3. Accessory Uses. The following are permitted accessory uses in an "R-MH" District:

- a) Any accessory use permitted in an "R-1" District.

Subd. 4. Conditional Uses. The following are conditional uses in an "R-MH" District, which require a conditional use permit based upon procedures and provisions set forth in and regulated by Section 1301.050 of this Code.

- a) All conditional uses, subject to the same conditions, as allowed in an "R-1" District.

Subd. 5. Design/Operational Standards for Mobile Home Parks.

- a) General Provisions.
 - 1) All land area shall be:
 - a. Adequately drained
 - b. Landscaped to control dust
 - c. Clean and free from refuse, garbage, rubbish or debris.
 - 2) No tents shall be used for other than recreational purposes in a mobile home park.
 - 3) There shall not be outdoor camping or use of recreational vehicles as a dwelling unit anywhere in a mobile home park.
 - 4) Access to mobile home parks shall be as approved by the City.

- 5) All structures (fences, storage, cabana, etc.) shall require a building permit from the White Bear Lake Building Official.
- 6) The area beneath a mobile home coach shall be enclosed except that such enclosure must have access for inspection.
- 7) Laundry and clothing shall be hung out to dry only on lines located in City approved areas established and maintained exclusively for that purpose, as identified on the mobile home park site plan.
- 8) A mobile home park shall have an adequate central community building with the following features:
 - a. Laundry drying areas and machines
 - b. Laundry washing machines
 - c. Public toilets and lavatories
 - d. Storm/emergency shelter

Such buildings shall have adequate heating in all areas and be maintained in a safe, clean and sanitary condition.

b) Site Plan Requirements.

- 1) Legal description and size in acres of the proposed mobile home park.
- 2) Location and size of all mobile home sites, dead storage areas, recreation areas, laundry drying areas, roadways, parking sites, and all setback dimensions (parking spaces, exact mobile home sites, etc.).
- 3) Detailed landscaping plans and specifications.
- 4) Location and width of sidewalks.
- 5) Plans for sanitary sewer disposal, surface drainage, water systems, electrical service, and gas service.
- 6) Location and size of all streets abutting the mobile home park and all driveways from such streets to the mobile home park.
- 7) Road construction plans and specifications.
- 8) Plans for any and all structures.
- 9) Such other information as required or implied by these mobile home park standards or requested by public officials.
- 10) Name and address of developer or developers.

- 11) Description of the method of disposing of garbage and refuse.
 - 12) Detailed description of maintenance procedures and grounds supervision.
 - 13) Details as to whether all of the area will be developed or a portion at a time.
- c) Design Standards.
- 1) Park Size:
 - a. The minimum area required for a mobile home park designation shall be five (5) acres.
 - 2) Individual Mobile Home Sites: (homes fourteen [14] feet wide or less):
 - a. Each mobile home site shall contain at least five thousand (5,000) square feet of land area for the exclusive use of the occupant:

Width: No less than fifty (50) feet
Depth: No less than one hundred (100) feet
 - b. Each mobile home site shall have frontage on an approved roadway and the corner of each mobile home shall be marked and each site shall be numbered.
 - 3) Individual Mobile Home Sites: (homes over fourteen (14) feet in width):
 - a. Each mobile home site shall contain at least six thousand five hundred (6,500) square feet of land area for the exclusive use of the occupant:

Width: No less than sixty-five (65) feet
Depth: No less than one hundred (100) feet
 - b. Each mobile home site shall have frontage on an approved roadway and the corner of each mobile home site shall be marked and each site shall be numbered.
 - 4) Individual Mobile Home Unit Site Setbacks:
 - a. No unit shall be parked closer than ten (10) feet to its side lot lines nor closer than thirty (30) feet to its front lot line, or within ten (10) feet of its rear lot line.
 - 5) Building Requirements:
 - a. No structure shall exceed one (1) story or twenty-five (25) feet, whichever is least.
 - 6) Parking:
 - a. Each mobile home site shall have off-street parking space for two (2) automobiles.

- b. Each mobile home park shall maintain a hard surfaced off-street parking lot for guests of occupants in the amount of one (1) space for each five (5) coach sites.
 - c. Access drives off roads to all parking spaces and coach sites shall be hard surfaced according to specifications established by the City.
- 7) Utilities:
- a. All mobile homes shall be connected to a public water and sanitary sewer system.
 - b. All installations for disposal of surface storm water must be approved by the City.
 - c. All utility connections shall be as approved by the City.
 - d. The source of fuel for cooking, heating, or other purposes at each mobile home site shall be as approved by the City.
 - e. All utilities shall be underground; there shall be no overhead wires or supporting poles except those essential for street or other lighting purposes.
 - f. No obstruction shall be permitted that impedes the inspection of plumbing, electrical facilities, and related mobile home equipment.
 - g. The method of garbage, waste, and trash disposal must be approved by the City.
 - h. The owner shall pay any required sewer connection fees to the City.
 - i. The owner shall pay inspection and testing fees for utility service to the City.
- 8) Internal Roads and Street:
- a. Roads shall be surfaced as approved by the City.
 - b. All roads shall have a hard (mountable, roll type) curb and gutter.
 - c. All streets shall be developed with a roadbed of not less than twenty-four (24) feet in width. If parking is permitted on the street then the roadbed shall be at least thirty-six (36) feet in width
 - d. The park shall have a street lighting plan approved by the City.
- 9) Recreation:
- a. All mobile home parks shall have at least ten (10) percent of the land area developed for recreational use (tennis courts, children's play equipment, swimming pool, golf green, etc.). These facilities are to be developed and maintained at the owner/operator's expense.

- b. In lieu of land dedication for public park purposes, a cash contribution as established by the City Subdivision Code shall be paid to the City.

10) Landscaping:

- a. Each site shall be properly landscaped with trees, hedges, grass, fences, windbreaks, and the like.
- b. A compact hedge, redwood fence, or landscaped area shall be installed around each mobile home park and be maintained in proper condition at all times as approved.
- c. All areas shall be landscaped in accordance with landscaping plan approved by the City Council.

11) Lighting:

- a. Artificial light shall be maintained during all hours of darkness in all buildings containing public toilets, laundry equipment, storm shelters, and the like.
- b. The mobile home park grounds shall be lighted as approved by the City from sunset to sunrise.

12) Storage:

- a. Enclosed storage lockers (when provided) shall be located either adjacent to the mobile home in a mobile home park or at such other place in the park as to be convenient to the unit for which it is provided. Storage of large items such as boats, boat trailers, etc., shall be accommodated in a separate secured and screened area of the park.

- 13) General: For those items not specifically referenced, the design standards as established by the City's Subdivision Code shall be utilized as for general development guidelines.

d) Registration.

- 1) It shall be the duty of the operator of the mobile home park to keep a record of all mobile homeowners and occupants located within the park. The register shall contain the following information:
 - a. The name and address of each mobile home occupant.
 - b. The name and address of the owner of each mobile home.
 - c. The make, model, year and registration number of each mobile home.
 - d. The state, territory or county issuing such registration.
 - e. The date of arrival and departure of each mobile home.

- f. The number and type of motor vehicles of residents in the park.
- 2) The park operator shall keep the register available for inspection at all times by authorized City, state and county officials, public health officials and other public offices whose duty necessitates acquisition of the information contained in the register. The register shall not be destroyed until after a period of three (3) years following the date of departure of the registrant from the park.
- e. Maintenance. The operator of any mobile home park, or a duly authorized attendant and/or caretaker shall be responsible at all times for keeping the mobile home park, its facilities and equipment, in a clean, orderly, operable, and sanitary condition. The attendant or caretaker shall be answerable, along with said operator, for the violation of any provisions of these regulations to which said operator is subject.

Subd. 6. Review Procedures.

- a) All informational elements as required in Subd. 5 of this Section shall be submitted to the City in accordance with the normal time schedule outlined for zoning district amendments, whether or not the proposal requires a rezoning. Proposals for mobile home park expansions on properly zoned land shall be reviewed for compliance with the applicable standards and requirements as contained in Subd. 5 of this Section by all designated and official City review bodies.

§1303.120 "B-1", NEIGHBORHOOD BUSINESS DISTRICT

Subd. 1. Purpose. The purpose of the "B-1", Neighborhood Business District is to provide for the establishment of local centers of convenient, limited office, retail or service outlets which deal directly with the customer for whom the goods or services are furnished. These centers are to provide services and goods only for the surrounding neighborhoods and are not intended to draw customers from the entire community.

Subd. 2. Permitted Uses. The following are permitted uses in a "B-1" District:

- a) Barber shops.
- b) Beauty parlors.
- c) Essential services.
- d) Convenience grocery stores (not supermarket type and without motor fuel facilities).
- e) Laundromat, self-service washing and drying.

Subd. 3. Permitted Accessory Uses. The following are permitted accessory uses in an "B-1" District:

- a) Commercial or business buildings and structures accessory to the principal building, but not to exceed thirty (30) percent of the gross floor space of the principal building. (Ref. Ord. 20-11-2044, 11/18/20)
- b) Off-street parking as regulated by Section 1302.050 of this Code, but not including semi-trailer trucks.
- c) Off-street loading as regulated by Section 1302.060 of this Code.
- d) Solar energy systems, either roof-mounted or ground-mounted per Code Section 1302.030, Subd. 22. (Ref. Ord. 16-03-2010, 3/8/16)

Subd. 4. Conditional Uses. The following are conditional uses in an "B-1" District, which require a conditional use permit based upon procedures and provisions set forth in and regulated by Section 1301.050 of this Code.

- a) Public regulated utility buildings and structures necessary for the health, safety and general welfare of the community, provided that:
 - 1) Conformity with the surrounding neighborhood is maintained and required setbacks and side yard requirements are met.
 - 2) Equipment is completely enclosed in a permanent structure with no outside storage.

- 3) Adequate screening and landscaping from neighboring residential districts is provided in accordance with Section 1302.030, Subd. 7.a) of this Code.
- b) Professional and commercial offices, provided that:
- 1) The traffic generated will not raise traffic volumes beyond the capacity of the surrounding streets.
 - 2) The architectural appearance of the building housing the office use shall reflect the building character of the area and shall not be so dissimilar as to cause impairment of property values or constitute a blighting influence with the neighborhood.
- c) Commercial planned unit development as regulated by Section 1301.070 of this Code.
- d) Residential and non-residential uses within one structure provided that:
- 1) Residential and non-residential uses shall not be contained on the same floor and no residential use shall be located on the first floor.
 - 2) Residential and non-residential uses shall have separate entrances and exits.
 - 3) Off-street parking shall be provided for both the residential and non-residential uses as required by §1302.050.
 - 4) The residential use shall comply with the minimum housing standards as stated in Chapter 502 of the Municipal Code. (Ref. Ord. No. 857, 1/14/92)
- e) Restaurant, carry out and food delivery services: (Ref. Ord. 899, 8/24/93)
- 1) Off-street parking shall be provided on site at a ratio of one stall per each employee and two stalls for customers.
 - 2) Off-street parking areas shall be screened from view of the public right-of-way and adjacent residential properties in accordance with §1302.030, Subd. 7a of this Code.
 - 3) If the business abuts residentially zoned property, an odor filtration system may be required to reduce odor drift. Said system shall be approved by the Building Official.
 - 4) The hours of operation for a business adjacent to residential properties shall be determined by the City Council.
- f) Expansions to preexisting animal clinics provided that there is no expansion of overnight care of animals. (Ref. Ord. No. 02-11-995, 11/12/02)

Subd. 5. Lot Requirements and Setbacks. The following minimum requirements shall be observed in an "B-1" District subject to additional requirements, exceptions and modifications set forth in this Code:

- a) Lot Area - Not less than fifteen thousand (15,000) square feet.
- b) Lot Width - Not less than one hundred (100) feet.
- c) Setbacks:
 - 1) Front yards: Not less than thirty (30) feet.
 - 2) Side Yards: Not less than ten (10) feet from an interior side lot line.

Not less than thirty (30) feet on a side yard abutting a street or twenty (20) feet from adjacent Residential Districts. (Ref. Ord. No. 728, 8/12/86)
 - 3) Rear yards: Not less than thirty (30) feet.

Subd. 6. Building Requirements.

- a) Height. No structure shall be taller than two and one-half (2 1/2) stories, not to exceed thirty (30) feet, except as provided in Section 1302.040, Subd. 3 of this Code.
- b) Minimum Floor Area. Commercial buildings (principal structure) having less than one thousand (1,000) square feet of floor area may only be allowed upon approval of a conditional use permit as provided for in Section 1301.050 of this Code.
- c) Exterior Building Materials. This section identifies permitted building materials to be used in commercial building construction which are durable and long lasting. By identifying permitted building materials, high quality development is achieved in both visual and functional terms.
 - 1) All exterior wall finishes shall be of consistent quality limited to one or a combination of the following:
 - a. Face brick;
 - b. Natural stone;
 - c. Decorative concrete block which is colored by pigment impregnated throughout the entire block;
 - d. Cast in place concrete or pre-cast concrete panels which are colored by pigment impregnated throughout the entire panel per approval of an architectural treatment by the Zoning Administrator;
 - e. Stucco;
 - f. Wood, provided the surfaces are finished for exterior use;

- g. Curtain wall panels of steel, fiberglass and aluminum, provided such panels are factory fabricated and finished with a durable non-fade surface and their fasteners are corrosion resistant. The gross building wall area of this type shall be limited to no more than fifty (50) percent of the aggregate wall area excluding window and door areas;
 - h. Glass;
 - i. Decorative painted concrete block shall be permitted on any building wall not visible from a public right-of-way.
- 2) All subsequent additions and exterior alterations to non-conforming buildings must be constructed with the materials required in this ordinance if the addition or alteration exceeds twenty-five (25) percent of the floor area of the original non-conforming structure.
- 3) Accessory buildings constructed after the erection of the original building or buildings shall be constructed of materials comparable to those used in the principal building and shall be designed in a manner conforming to the architectural and general appearance.
- 4) The following exterior building materials are prohibited:
- a. Face materials which rapidly deteriorate or become unsightly such as galvanized metal;
 - b. Unfinished structural clay tile and metal panels not factory finished with a permanent surface;
 - c. Buildings comprised exclusively of metal, pole buildings, sheet metal, plastic or fiberglass siding unless such siding is a component of a factory fabricated and finished panel;
 - d. Unadorned and/or painted concrete block. (Ref. Ord. 884, 2/9/93)

§1303.130 "B-2", LIMITED BUSINESS DISTRICT

Subd. 1. Purpose. The purpose of the "B-2", Limited Business District is to provide for low intensity retail or service outlets which deal directly with the customer for whom the goods or services are furnished. The uses allowed in this district are to provide goods and services on a limited community market scale and are to be located only in areas which are well served by collector or arterial street facilities at the edge of residential districts.

Subd. 2. Permitted Uses. The following are permitted uses in a "B-2" District:

- a) All permitted uses allowed in a "B-1" District.
- b) Art and school supplies.
- c) Bakery goods and baking of goods for retail sales on the premises.
- d) Bank, savings and loan, savings credit unions and other financial institutions.
- e) Bicycle sales and repair.
- f) Candy, ice cream, popcorn, nuts, frozen deserts and soft drinks.
- g) Camera and photographic supplies.
- h) Clothing stores.
- i) Commercial (leased) and professional offices.
- j) Delicatessen.
- k) Dry cleaning pick-up and laundry pick-up stations including incidental repair and assembly but not including processing.
- l) Drugstore.
- m) Florist shop.
- n) Frozen food store, but not including a locker plant.
- o) Funeral home. (Ref. Ord. 14-05-1091, 5/13/14)
- p) Gift or novelty store.
- q) Grocery, fruit or vegetable store but not including sales from moveable, motorized vehicles.
- r) Grocery, supermarket.
- s) Hardware store.

- t) Hobby store, including handicraft and other instructional classes. (Ref. Ord. 10-1-1063, 1/12/10)
- u) Home accessories and furnishings, including furniture repair and painting when proper fire suppression and ventilation is provided (spray booths only when in a single-tenant building). (Ref. Ord. 14-05-1091, 5/13/14)
- v) Ice sales with storage not to exceed five (5) tons.
- w) Insurance sales.
- x) Liquor, off-sale.
- y) Locksmith.
- z) Meat market but not including processing for locker plant.
- aa) Medical and dental offices and clinics and professional offices. (Ref. Ord. 10-1-1063, 1/12/10)
- bb) Paint and wallpaper sales.
- cc) Plumbing, television, radio, electrical sales and such repair as are accessory use to the retail establishments permitted within this district.
- dd) Public utility collection offices.
- ee) Public garage.
- ff) Real estate sales.
- gg) Resale business where the stock of goods is primarily used and donated, including consignment and thrift shops but not including pawn shops.
- hh) Shoe repair.
- ii) Sporting goods establishment and bait shops. (Ref. Ord. 1091, 5/13/14, Ref. Ord. 16-07-2012, 7/12/16)

Subd. 3. Permitted Accessory Uses. The following are permitted accessory uses in a "B-2" District:

- a) All permitted accessory uses allowed in a "B-1" District.

Subd. 4. Conditional Uses. The following are conditional uses allowed in a "B-2" District, which require a conditional use permit based upon procedures and provisions set forth in and regulated by Section 1301.050 of this Code.

- a) Public regulated utility buildings and structures necessary for the health, safety and general welfare of the community, provided that:

- 1) Conformity with the surrounding neighborhood is maintained and required setbacks and side yard requirements are met.
 - 2) Equipment is completely enclosed in a permanent structure with no outside storage.
 - 3) Adequate screening and landscaping from neighboring residential districts is provided in accordance with Section 1302.030, Subd. 7.a) of this Code.
- b) Commercial Planned Unit Development (PUD) as regulated by Section 1301.070 of this Code:
- 1) Self-serve car washes are permitted as a part of this PUD provided that the facility complies with the following performance standards:
 - a. The architectural appearance and functional plan of the building and site shall not be so dissimilar to the existing buildings or areas as to cause impairment in property values or constitute a blighting influence within a reasonable distance of the lot.
 - b. Stacking space is constructed to accommodate that number of vehicles which can be washed during a maximum thirty (30) minute period and shall be subject to the approval of the City Planner.
 - c. At the boundaries of residential districts, a buffer zone not less than twenty (20) feet in width shall be designed to include the following: An opaque wooden or masonry fence of at least eight (8) feet in height; a planting strip which includes a combination of deciduous trees to provide added screening above the fence line and evergreens to provide enhanced noise buffer as needed; an earthen berm may also be required to reduce noise and improve screening. The screening buffer plan shall be subject to City Council approval. Said plan shall comply with the City's landscape ordinance, Section 1302.030, Subd. 7.
 - d. Each light standard island and all islands in the parking lot landscaped or covered.
 - e. Parking or car stacking space shall be screened from view of abutting residential districts in compliance with Section 1302.030, Subd. 7.a) of this Code.
 - f. The entire area other than occupied by the building or plantings shall be surfaced with material which will control dust and drainage which is subject to the approval of the City Engineer.
 - g. The entire area shall have a drainage system which is subject to the approval of the City Engineer.
 - h. All lighting shall be hooded and so directed that the light source is not visible from the public right-of-way or from an abutting residence and shall be in compliance with Section 1302.030, Subd. 9 of this Code.

- i. Vehicular access points shall be limited, shall create a minimum of conflict with through traffic movement and shall be subject to the approval of the City Engineer.
 - j. All signing and information or visual communication devices shall be in compliance with the White Bear Lake sign ordinance.
 - k. Provisions are made to control and reduce noise.
 - l. The provisions of Section 1301.050, Subd. 2.e) of this Code are considered and satisfactorily met.
 - m. Said car wash shall not exceed three (3) service bays and further not exceed thirty-five percent (35%) of the gross commercial floor area building area within the PUD.
 - n. The hours of operation shall be limited to 7:00 A.M. to 9:00 P.M. daily.
- c) Indoor commercial recreation facilities.
- d) Restaurants, cafes, on-sale liquor.
- e) Commercial businesses which are defined as a permitted or conditional use in this district abutting residentially zoned land provided that: (Ref. Ord. No. 794, 10/24/89; 813, 4/10/90; 827, 1/08/91)
- 1) Deliveries and/or delivery truck access of site during the hours of 10:00 P.M. to 6:00 A.M., will be limited to single unit, two-axle vehicles not in excess of 26,000 pounds gross vehicle weight (GVW). In the event that said vehicles making deliveries during the hours between 10:00 P.M. and 6:00 A.M. establish a pattern of violating the City of White Bear Lake's noise ordinance, §703.070, and amendments thereto, after ten (10) days written notice to the property owner and after a hearing before the City Council, the City Council, in its discretion, by resolution, including specific findings of fact establishing such a pattern of violating said noise ordinance, may further restrict deliveries to the property, but such restriction shall not be more stringent than necessary to assure compliance with the noise ordinance. The City may only use violations of the noise ordinance which it gave previous notice of to the property owner. (Ref. Ord. No. 813, 4/10/90)
 - 2) No building, loading dock or loading berth shall set within fifty (50) feet of residentially zoned property.
 - 3) The business or industry will provide a screening/buffer zone along the boundary of the residential property. The screening/buffer zone shall be at least twenty (20) feet in width and shall be designed to include all of the following: An opaque wooden or masonry fence of at least eight (8) feet in height; a planting strip which includes a combination of deciduous trees to provide added screening above the fence line and evergreens to provide enhanced noise buffering as needed; an earthen berm may also be required to reduce noise and improve screening. The screening/buffer plan shall be subject to City Council approval.

- 4) All lighting shall be equipped with sharp cut-offs with concealed luminaries. Pole heights shall not be higher than twenty-five (25) feet, except no pole higher than twelve (12) feet shall set closer to residentially zoned land than fifty (50) feet. Where backs of stores and/or loading docks are immediately adjacent to residentially zoned land, wall packs, mounted not higher than ten (10) feet, shall be used instead of poles where possible. The lighting plan shall be subject to approval by the City Council.
 - 5) Said businesses' operations and deliveries shall not disturb the peace and repose of adjacent residences as outlined in the City of White Bear Lake noise ordinance §703.070. No use of forklifts shall take place out of doors within one hundred fifty (150) feet of residentially zoned property.
 - 6) The above outlined requirements are minimum requirements. The City Council may impose additional standards as are deemed necessary to promote compatibility between land uses. (Ref. Ord. 794, 10/24/89; 813, 4/10/90)
- f) Garden supply stores. (Ref. Ord. 943, 4/8/97)
- g) Buildings less than 1,000 square feet, per Section 1302.040, Subd. 6. (Ref. Ord. 10-1-1063, 1/12/10)

Subd. 5. Lot Requirements and Setbacks. The following minimum requirements shall be observed in a "B-2" District, subject to additional requirements, exceptions and modifications set forth in this Code.

- a) Lot Area - None.
- b) Lot Width - Not less than one hundred (100) feet.
- c) Setbacks:
 - 1) Front yards: Not less than thirty (30) feet.
 - 2) Side yards: Not less than ten (10) feet, nor less than thirty (30) feet on a side yard abutting a street. (Ref. Ord. 813, 4/10/90)
 - 3) Rear yards: Not less than thirty (30) feet. (Ref. Ord. No. 813, 4/10/90)

Subd. 6. Building Requirements.

- a) Height. No structure shall be taller than three (3) stories, not to exceed thirty-six (36) feet, except as provided in Section 1302.040, Subd. 3 of this Code.
- b) Minimum Floor Area. Commercial buildings (principal structure) having less than one thousand (1,000) square feet of floor area may only be allowed upon approval of a conditional use permit as provided for in Section 1301.050 of this Code.
- c) Exterior Building Materials. This section identifies permitted building materials to be used in commercial building construction which are durable and long lasting. By identifying permitted building materials, high quality development is achieved in both visual and functional terms.

- 1) All exterior wall finishes shall be of consistent quality limited to one or a combination of the following:
 - a. Face brick;
 - b. Natural stone;
 - c. Decorative concrete block which is colored by pigment impregnated throughout the entire block;
 - d. Cast in place concrete or pre-cast concrete panels which are colored by pigment impregnated throughout the entire panel per approval of an architectural treatment by the Zoning Administrator;
 - e. Stucco;
 - f. Wood, provided the surfaces are finished for exterior use;
 - g. Curtain wall panels of steel, fiberglass and aluminum, provided such panels are factory fabricated and finished with a durable non-fade surface and their fasteners are corrosion resistant. The gross building wall area of this type shall be limited to no more than fifty (50) percent of the aggregate wall area excluding window and door areas;
 - h. Glass;
 - i. Decorative painted concrete block shall be permitted on any building wall not visible from a public right-of-way.
- 2) All subsequent additions and exterior alterations to non-conforming buildings must be constructed with the materials required in this ordinance if the addition or alteration exceeds twenty-five (25) percent of the floor area of the original non-conforming structure.
- 3) Accessory buildings constructed after the erection of the original building or buildings shall be constructed of materials comparable to those used in the principal building and shall be designed in a manner conforming to the architectural and general appearance.
- 4) The following exterior building materials are prohibited:
 - a. Face materials which rapidly deteriorate or become unsightly such as galvanized metal;
 - b. Unfinished structural clay tile and metal panels not factory finished with a permanent surface;
 - c. Buildings comprised exclusively of metal, pole buildings, sheet metal, plastic or fiberglass siding unless such siding is a component of a factory fabricated and finished panel;
 - d. Unadorned and/or painted concrete block. (Ref. Ord. 884, 2/9/93)

§1303.140 "B-3", AUTO-ORIENTED BUSINESS DISTRICT

Subd. 1. Purpose. The purpose of the "B-3, Auto-Oriented Business District is to provide for and limit the establishment of motor vehicle oriented or dependent commercial and service activities. The "B-3" District is intended to provide additional control over high intensity commercial uses which rely on extensive traffic generation, thus the "B-3" District may result in intentional "spot zoning".

Subd. 2. Permitted Uses. The following are permitted uses in a "B-3" District:

- a) All permitted uses allowed in the "B-2" District.
- b) Auto accessory store. (Ref. 703, 11/12/85)
- c) Indoor commercial recreational facilities. (Ref. Ord. 731, 8/12/86)
- d) Motels, motor hotels and hotels provided that the lot contains not less than five hundred (500) square feet of lot area per unit.
- e) Restaurants, cafes, on and off-sale liquor establishments.
- f) Restaurant, carry out and food delivery service. (Ref. Ord. 899, 8/24/93)
- g) Private clubs or lodges serving food and beverages.

Subd. 3. Permitted Accessory Uses. The following are permitted accessory uses in a "B-3" District.

- a) All permitted accessory uses allowed in a "B-2" District. (Ref. Ord. 10-1-1063, 1/12/10)
- b) Semi-truck parking.

Subd. 4. Conditional Uses. The following are conditional uses in a "B-3" District, which require a conditional use permit based upon procedures and provisions set forth in and regulated by Section 1301.050 of this Code.

- a) All conditional uses allowed in the "B-2" District, except for §1303.12, subd. 4D, residential and non-residential uses within one structure. (Ref. Ord. No. 858, 1/14/92)
- b) Drive-in and drive-through facilities for pharmacies, financial institutions, donation collection sites and convenience food establishments provided that (Ref. Ord. 10-1-1063, 1/12/10)
 - 1) The architectural appearance and functional plan of the building and site shall not be so dissimilar to the existing buildings or area so as to cause impairment in property values or constitute a blighting influence within a reasonable distance of the lot.
 - 2) At the boundaries of a residential district, a strip of not less than twenty (20) feet shall be landscaped and screened in compliance with Section 1302.030, Subd. 7.a and 1303.130, Subd. 4.e of this Code.

- 3) Parking areas shall be screened from view of abutting residential districts in compliance with Section 1302.030, Subd. 7.a) of this Code.
 - 4) Vehicular access points shall be limited, shall create a minimum of conflict with through traffic movements, shall comply with Section 1302.050 of this Code and shall be subject to the approval of the City Engineer.
 - 5) All lighting shall be hooded and so directed that the light source is not visible from the public right-of-way or from an abutting residence and shall be in compliance with Section 1302.030, Subd. 9 of this Code.
 - 6) The entire area shall have a drainage system which is subject to the approval of the City Engineer.
 - 7) All signing and information or visual communication devices shall be in compliance with the White Bear Lake Sign Ordinance.
 - 8) Stacking space and on-site circulation shall be sufficient to accommodate the demand.
 - 9) Provisions are made to control and reduce noise.
 - 10) Additional trees to off-set the carbon impact of idling cars may be required subject to the approval of the Zoning Administrator.
 - 11) All conditions pertaining to a specific site are subject to change when the Council, upon investigation in relation to a formal request, finds that the general welfare and public betterment can be served as well or better by modifying the conditions. (Ref. Ord. 16-07-2013, 7/12/16)
- c) Car washes (drive through, mechanical and self-service) provided that:
- 1) The architectural appearance and functional plan of the building and site shall not be so dissimilar to the existing buildings or areas as to cause impairment in property values or constitute a blighting influence within a reasonable distance of the lot.
 - 2) Stacking space is constructed to accommodate that number of vehicles which can be washed during a maximum thirty (30) minute period and shall be subject to the approval of the City Engineer.
 - 3) At the boundaries of a residential district, a strip of not less than five (5) feet shall be landscaped and screened in compliance with Section 1302.030, Subd. 7.a) of this Code.
 - 4) Each light standard island and all islands in the parking lot landscaped or covered.
 - 5) Parking or car stacking space shall be screened from view of abutting residential districts in compliance with Section 1302.030, Subd. 7.a) of this Code.
 - 6) The entire area other than occupied by the building or plantings shall be surfaced with material which will control dust and drainage which is subject to the approval of the City Engineer.

- 7) The entire area shall have a drainage system which is subject to the approval of the City Engineer.
 - 8) All lighting shall be hooded and so directed that the light source is not visible from the public right-of-way or from an abutting residence and shall be in compliance with Section 1302.030, Subd. 9 of this Code.
 - 9) Vehicular access points shall be limited, shall create a minimum of conflict with through traffic movement and shall be subject to the approval of the City Engineer.
 - 10) All signing and informational or visual communication devices shall be in compliance with the White Bear Lake Sign Ordinance.
 - 11) Provisions are made to control and reduce noise.
- d) Motor fuel station, auto repair-minor and tire and battery stores and service provided that:
- 1) Regardless of whether the dispensing, sale or offering for sale of motor fuels and/or oil is incidental to the conduct of the use or business, the standards and requirements imposed by this Code for motor fuel stations shall apply. These standards and requirements are, however, in addition to other requirements which are imposed for other uses of the property.
 - 2) The architectural appearance and functional plan of the building and site shall not be so dissimilar to the existing buildings or area as to cause impairment in property values or contribute a blighting influence within a reasonable distance of the lot.
 - 3) The entire site other than that taken up by a building, structure or plantings shall be surfaced with a material to control dust and drainage which is subject to the approval of the City Engineer.
 - 4) A minimum lot area of twenty thousand (20,000) square feet and minimum lot widths of one hundred fifty (150) feet shall be provided.
 - 5) A drainage system subject to the approval of the City Engineer shall be installed.
 - 6) A curb not less than six (6) inches above grade shall separate the public sidewalk from motor vehicle service areas.
 - 7) The lighting shall be accomplished in such a way as to have no direct source of light visible from adjacent land in residential use or from the public right-of-way and shall be in compliance with Section 1302.030, Subd. 9 of this Code.
 - 8) Wherever fuel pumps are to be installed, pump islands shall be installed.
 - 9) At the boundaries of a residential district, a strip of not less than five (5) feet shall be landscaped and screened in compliance with Section 1302.030, Subd. 7.a) of this Code.

- 10) Parking or car stacking space shall be screened from view of abutting residential districts in compliance with Section 1302.030, Subd. 7.a) of this Code.
 - 11) Vehicular access points shall create a minimum of conflict with through traffic movement, shall comply with Section 1302.050 of this Code and shall be subject to the approval of the City Engineer.
 - 12) All signing and informational or visual communication devices shall be minimized and shall be in compliance with the White Bear Lake Sign Ordinance.
 - 13) Provisions are made to control and reduce noise.
 - 14) No outside storage except as allowed in compliance with e) of this subdivision.
 - 15) Sale of products other than those specifically mentioned in this subdivision be subject to a conditional use permit and be in compliance with g) of this subdivision.
 - 16) All conditions pertaining to a specific site are subject to change when the Council, upon investigation in relation to a formal request, finds that the general welfare and public betterment can be served as well or better by modifying the conditions.
- e) Open and outdoor storage as an accessory use provided that: (Ref. Ord. 10-1-1063, 1/12/10)
- 1) The area is fenced and screened from view of the neighboring residential uses or if abutting a Residential District in compliance with Section 1302.030, Subd. 7.a) of this Code.
 - 2) Storage is screened from view from the public right-of-way in compliance with Section 1302.030, Subd. 9.a) of this Code.
 - 3) Storage area is grassed or surfaced to control dust.
 - 4) All lighting shall be hooded and so directed that the light source shall not be visible from the public right-of-way or from neighboring residences and shall be in compliance with Section 1302.030, Subd. g of this Code.
 - 5) Does not take up parking space as required for conformity to this Code.
- f) Open or outdoor service, sale and rental as a principal or accessory use provided that:
- 1) Outside services, sales and equipment rental connected with the principal use is limited to thirty (30) percent of the gross floor area of the principal use.
 - 2) Outside sales areas are fenced or screened from view of neighboring residential uses or an abutting "R" District in compliance with Section 1302.030, Subd. 7.a) of this Code.
 - 3) All lighting shall be hooded and so directed that the light source shall not be visible from the public right-of-way or from neighboring residences and shall be in compliance with Section 1302.030, Subd. 9 of this Code.

- 4) Sales area is grassed or surfaced to control dust.
 - 5) The use does not take up parking space as required for conformity to this Code.
- g) Accessory, enclosed retail, rental or service activity other than that allowed as a permitted use or conditional use within this Section, provided that:
- 1) Such use is allowed as a permitted use in a "B-1" or "B-2" District.
 - 2) Such use does not constitute more than thirty (30) percent of the lot area and not more than fifty (50) percent of the gross floor area of the principal use.
 - 3) Adequate off-street parking and off-street loading in compliance with the requirements of Section 1302.050 and 1302.060 of this Code is provided.
 - 4) All signing and informational or visual communication devices shall be in compliance with the White Bear Lake Sign Code.
- h) New and used automobile, truck, recreation vehicle, and trailer sales and showrooms provided that: (Ref. 703, 11/12/85)
- 1) Setbacks, Building and Lot Requirements:
 - a. Parking. A minimum fifteen (15) foot wide landscaped yard shall be required and maintained between any public street right-of-way and parking lots or buildings.
 - b. Contiguous Site. Vehicle sales shall be on one (1) lot or contiguous lots not separated by a public street, alley, or other use.
 - c. Lot Width. The minimum lot width shall be one hundred (100) feet at the minimum required front yard setback.
 - d. Lot Area. A minimum lot area of two (2) acres shall be required.
 - e. Building Area. A minimum building floor area which is twenty percent (20%) of the lot area shall be required.
 - 2) Access Driveways:
 - a. Distance of Driveway from Street Intersection. The distance of the driveway from the street intersection shall be not less than fifty (50) feet provided, however, greater distances may be required to avoid reasonably anticipated traffic hazards.
 - b. Minimum Distance Between Driveways. Minimum distance between driveways shall be fifty (50) feet at the curb cut.
 - c. Minimum Driveway Angle to Street. Minimum driveway angle to street shall be sixty (60) degrees unless otherwise approved by the City Engineer.

- d. Minimum distance between driveway and adjacent property shall be five (5) feet at the curb cut.
 - e. No driveway shall exceed twenty-four (24) feet in width and no curb cut shall exceed thirty-two (32) feet in width or as approved by the City Engineer.
- 3) Screening: A screen shall be erected and maintained along all property lines separating institutional, residential, dwelling, or business and professional office district or use. The screening required in this section shall be not less than six (6) feet in height except along the street frontage utilized for vehicle display purposes wherein a fence at least four (4) feet in height shall be installed. (Ref. Ord. 750, 10/27/87)
 - 4) Landscaping and Lighting: A landscaped yard shall be constructed and maintained on all areas of the site not devoted to the building or parking areas. A lighting plan with hooded pole lights shall be prepared and approved by the City Planner. All signs shall also be included with the lighting plan.
 - 5) Planting Islands: For each additional three thousand (3,000) square feet after the first three thousand (3,000) square feet of outside display area parking space, one (1) parking island of two hundred (200) square feet shall be installed within the interior of the planting surface. All planting islands shall have six (6) inch concrete or asphalt curbs and a landscaped interior including tree and shrub materials.
 - 6) Curbing: Interior concrete or asphalt curbs shall be constructed within the property to separate driving and parking surfaces from landscaped areas. Interior curbs required by this section shall be a normal six (6) inches in height.
 - 7) Surfacing: The entire site on which vehicle sales is located, other than that devoted to buildings and structures or landscaped areas, shall be hard paved surface and maintained for control of dust, erosion and drainage.
 - 8) Parking:
 - a. Customer Parking. Eight (8) off-street parking spaces, plus one (1) additional space for each eight hundred (800) square feet of floor area over one thousand (1,000) square feet.
 - b. Employee Parking. A minimum of two (2) employee parking spaces shall be provided for every three (3) employees. The required parking spaces shall be shown and designated on the site plan.
 - 9) Parking for Outside Sales and Storage: The maximum area permitted for outside sales or storage of automobiles, new and used, shall not exceed three and one-half (3.5) square feet of outside storage area to each one (1) square foot of enclosed ground floor area. Not more than one (1) automobile shall be stored on each one hundred fifty (150) square feet of outside paved storage/display area. No rooftop parking shall be permitted.
 - 10) Surface Drainage Plan and Improvements: A drainage plan shall illustrate all paved area surface drainage flows. Catch basin traps and/or settling ponds shall be required

to dispose of interior parking or display area drainage and shall be subject to approval by the City Engineer. (Ref. Ord. 703, 11/12/85)

- i) Contractors Shops and Yards subject to the following requirements:
- 1) The site is 150' from residentially zoned or used property.
 - 2) The site must be at least one acre in size but not more than two acres in size.
 - 3) The site may not be located on a corner lot at the intersection of two roadways.
 - 4) The site may not be a riparian lot.
 - 5) The site must have a principal building constructed of at least two different types of building materials on all four elevations, not including concrete block or precast concrete panels. No wall of the building may be without windows.
 - 6) The site must be owner occupied.
 - 7) No outside storage except as allowed in compliance with e) of this subdivision.
 - 8) All conditions pertaining to a specific site are subject to change when the City Council, upon investigation in relation to a formal request, finds that the general welfare and public betterment can be served as well or better by modifying the conditions.

In addition to other remedies available through the Municipal Code, multiple failures to comply with any standard of this Permit shall constitute sufficient cause for revocation of the Conditional Use Permit, as determined by the City Council following a Public Hearing. (Ref. Ord. 17-07-2026, 7/11/17)

Subd. 5. Lot Requirements and Setbacks. The following minimum requirements shall be observed in a "B-3" District subject to additional requirements, exceptions and modifications set forth in this Code.

- a) Lot Area - None.
- b) Lot Width - Not less than one hundred (100) feet.
- c) Setbacks:
 - 1) Front yards: Not less than thirty (30) feet.
 - 2) Side Yards: Not less than ten (10) feet from an interior side lot line nor less than thirty (30) feet on a side yard abutting a street. (Ref. Ord. No. 813, 4/10/90)
 - 3) Rear yards: Not less than thirty (30) feet. (Ref. Ord. 813, 4/10/90)

Subd. 6. Building Requirements.

- a) Height. No structure shall be taller than three (3) stories, not to exceed thirty-six (36) feet, except as provided in Section 1302.040, Subd. 3 of this Code.

- b) Minimum Floor Area. Commercial buildings (principal structure) having less than one thousand (1,000) square feet of floor area may only be allowed upon approval of a conditional use permit as provided for in Section 1301.050 of this Code.
- c) Exterior Building Materials. This section identifies permitted building materials to be used in industrial building construction which are durable and long lasting. By identifying permitted building materials, high quality development is achieved in both visual and functional terms.
- 1) All exterior wall finishes shall be of consistent quality limited to one or a combination of the following:
 - a. Face brick;
 - b. Natural stone;
 - c. Decorative concrete block which is colored by pigment impregnated throughout the entire block;
 - d. Cast in place concrete or pre-cast concrete panels which are colored by pigment impregnated throughout the entire panel per approval of an architectural treatment by the Zoning Administrator;
 - e. Stucco;
 - f. Wood, provided the surfaces are finished for exterior use;
 - g. Curtain wall panels of steel, fiberglass and aluminum, provided such panels are factory fabricated and finished with a durable non-fade surface and their fasteners are corrosion resistant. The gross building wall area of this type shall be limited to no more than fifty (50) percent of the aggregate of wall area excluding window and door areas;
 - h. Glass;
 - i. Decorative painted concrete block shall be permitted on any building wall not visible from a public right-of-way.
 - 2) All subsequent additions and exterior alterations to non-conforming buildings must be constructed with the materials required in this ordinance if the addition or alteration exceeds twenty-five (25) percent of the floor area of the original non-conforming structure.
 - 3) Accessory buildings constructed after the erection of the original building or buildings shall be constructed of materials comparable to those used in the principal building and shall be designed in a manner conforming to the architectural and general appearance.
 - 4) The following exterior building materials are prohibited:
 - a. Face materials which rapidly deteriorate or become unsightly such as galvanized metal;

- b. Unfinished structural clay tile and metal panels not factory finished with a permanent surface;
- c. Buildings comprised exclusively of metal, pole buildings, sheet metal, plastic or fiberglass siding unless such siding is a component of a factory fabricated and finished panel.
- d. Unadorned and/or painted concrete block. (Ref. Ord. 885, 2/9/93)

§1303.150 "B-4", GENERAL BUSINESS DISTRICT

Subd. 1. Purpose. The purpose of the "B-4", General Business District is to provide for the establishment of commercial and service activities which draw from and serve customers from the entire community or region and are located in areas which are well served by collector or arterial street facilities outside the Central Business District.

Subd. 2. Permitted Uses. The following are permitted uses in a "B-4" District:

- a) All permitted uses allowed in a "B-1", "B-2", and "B-3" District.
- b) Antique or gift shop.
- c) Amusement places (such as dance halls or roller rinks) except arcades.
- d) Animal clinics (with no overnight care).
- e) Enclosed boat and marine sales.
- f) Books, office supplies or stationary stores.
- g) Bowling alleys.
- h) Home improvement stores, including the retail sales of any or all of the following: building materials, carpeting, rugs, tile, hardware, garden supplies, household furnishings, fixtures and accessories provided that:
 - 1) All building material storage and sales shall be totally enclosed within the principal structure.
 - 2) Open or outdoor service, sales, and rental (excluding building material sales) subject to provisions of § 1303.140, Subd. 4(f). (Ref. Ord. 99-08-972A, 8/10/99)
- i) Coin and philatelic stores (and other hobby stores). (Ref. Ord. 10-1-1063, 1/12/10)
- j) Commercial recreation facilities (indoor only) except arcades.
- k) Copy service and instant offset printing service.
- l) Costume, clothes rental.
- m) Department and discount stores.

- n) Dry cleaning including plant accessory heretofore, pressing and repairing.
- o) Dry goods store.
- p) Electrical appliance stores including incidental repair and assembly, but not fabricating or manufacturing.
- q) Employment agencies.
- r) Finance companies.
- s) Furniture stores.
- t) Furriers when conducted only for retail trade on premises.
- u) Garden supply stores.
- v) Government and public utility buildings.
- w) Haberdasheries and ladies ready-to-wear.
- x) Insurance sales, claims and branch offices.
- y) Jewelry stores and watch repair.
- z) Leather goods and luggage stores.
- aa) Record - music shops.
- bb) Sewing machines sales and service.
- cc) Shoe stores.
- dd) Tailor shops.
- ee) Theatres, not of the outdoor drive-in type.
- ff) Toy stores.
- gg) Travel bureaus, transportation ticket offices.
- hh) Variety stores, 5 and 10 cent stores, and stores of similar nature.
- ii) Wearing apparel.

Subd. 3. Permitted Accessory Uses. The following are permitted accessory uses in a "B-4" District:

- a) All permitted accessory uses allowed in a "B-3" District.

Subd. 4. Conditional Uses. The following are conditional uses in a "B-4" District, which require a conditional use permit based upon procedures and provisions set forth in and regulated by Section 1301.050 of this Code.

- a) All conditional uses subject to the same conditions as allowed in the "B-3" District, except public regulated utility buildings.
- b) Arcades and game rooms, provided that such a use meets all the applicable provisions of the White Bear Lake Licensing Code.
- c) Assisted and Congregate Senior Housing.
 - 1) The lot or parcel shall have its access off of a collector, minor arterial, or trunk highway, as defined in the City's comprehensive plan.
 - 2) The lot or parcel shall have a minimum lot area of two (2) acres. The minimum lot area shall further be calculated according to the following dwelling unit schedule.

<u>Unit Type</u>	<u>Land Required Per Unit</u>
Efficiency/Studio	1,200 sf.
One Bedroom	1,400 sf.
Two Bedroom	2,200 sf.

- 3) The minimum floor area (as measured from the inside face of the unit walls) shall be as follows:

<u>Unit Type</u>	<u>Floor Area Required Per Unit</u>
Efficiency/Studio	400 sf.
One Bedroom	500 sf.
Two Bedroom	700 sf.

- 4) Off-street parking shall be provided at minimum of one-half (1/2) paved striped stall per unit.
- 5) Setbacks shall be as set forth in the setback section of the B-4 zoning district (Section 1303.150) except where abutting property is zoned for single family uses, the minimum building setback shall not be less than thirty (30) feet.
- 6) The maximum percentage of lot or parcel that may be covered by building shall be twenty-five percent (25%) exclusive of existing or proposed road dedications.

- 7) Passive outdoor recreation area(s) such as, but not limited to, walking paths, seating accommodations, and landscaped gardens shall be provided for residents in a location, configuration, and extent approved by the City Council. (Ref. Ord. No. 979, 4/11/00)

Subd. 5. Lot Requirements and Setbacks. The following minimum requirements, shall be observed in a "B-4" District subject to additional requirements, exceptions and modifications set forth in this Code.

- a) Lot Area - None.
- b) Lot width - Not less than one hundred (100) feet.
- c) Setbacks:
 - 1) Front yards: Not less than thirty (30) feet.
 - 2) Side Yards: Not less than thirty (30) feet on a side yard abutting a street. (Ref. Ord. No. 813, 4/10/90)

Not less than ten (10) feet from an interior side lot line. (Ref. Ord. 728, 8/12/87)
 - 3) Rear yards: Not less than twenty (20) feet. (Ref. Ord. No. 813, 4/10/90)

Subd. 6. Building Requirements.

- a) Height. No structure shall be taller than three (3) stories, not to exceed thirty-six (36) feet, whichever is least, except as provided in Section 1302.040, Subd. 3 of this Code.
- b) Minimum Floor Area. Commercial buildings (principal structure) having less than one thousand (1,000) square feet of floor area may only be allowed upon approval of a conditional use permit as provided for in Section 1301.050 of this Code.
- c) Exterior Building Materials. This section identifies permitted building materials to be used in commercial building construction which are durable and long lasting. By identifying permitted building materials, high quality development is achieved in both visual and functional terms.
 - 1) All exterior wall finishes shall be of consistent quality limited to one or a combination of the following:
 - a. Face or modular brick; (Ref. Ord. 10-1-1063, 1/12/10)
 - b. Natural stone;

- c. Decorative concrete block which is colored by pigment impregnated throughout the entire block;
 - d. Cast in place concrete or pre-cast concrete panels which are colored by pigment impregnated throughout the entire panel per approval of an architectural treatment by the Zoning Administrator;
 - e. Stucco or EFIS; (Ref. Ord. 10-1-1063, 1/12/10)
 - f. Wood, provided the surfaces are finished for exterior use;
 - g. Curtain wall panels of steel, fiberglass and aluminum, provided such panels are factory fabricated and finished with a durable non-fade surface and their fasteners are corrosion resistant. The gross building wall area of this type shall be limited to no more than fifty (50) percent of the aggregate of wall area excluding window and door areas;
 - h. Glass; (Ref. Ord. 885, 2/9/93)
 - i. Decorative painted concrete block shall be permitted on any building wall not visible from a public right-of-way.
- 2) All subsequent additions and exterior alterations to non-conforming buildings must be constructed with the materials required in this ordinance if the addition or alteration exceeds twenty-five (25) percent of the floor area of the original non-conforming structure.
- 3) Accessory buildings constructed after the erection of the original building or buildings shall be constructed of materials comparable to those used in the principal building and shall be designed in a manner conforming to the architectural and general appearance.
- 4) The following exterior building materials are prohibited:
- a. Face materials which rapidly deteriorate or become unsightly such as galvanized metal;
 - b. Unfinished structural clay tile and metal panels not factory finished with a permanent surface;
 - c. Buildings comprised exclusively of metal, pole buildings, sheet metal, plastic or fiberglass siding unless such siding is a component of a factory fabricated and finished panel.
 - d. Unadorned and/or painted concrete block. (Ref. Ord. 884, 2/9/93)

§1303.160 "B-5", CENTRAL BUSINESS DISTRICT

Subd. 1. Purpose. The purpose and intent of the B-5, Central Business District is to sustain the economic viability of the White Bear Lake Central Business District by preserving its historic character and allowing for compatible redevelopment. It is intended that the mixed-use, small-scale, and pedestrian-oriented character associated with the Central Business District will be strengthened through improvements to existing properties and new-infill development that is consistent with its distinct historic scale, architecture, and landscape architecture. The desired mix of uses shall consist of retail, service, and limited office establishments on the ground floor with office and residential above the ground floors. Development shall be carefully controlled to protect neighboring residential properties from impact while at the same time permitting needed revitalization and redevelopment. (Ref. Ord. 12-03-1012, 12/9/03)

Subd. 2. Applicability. Where the standards contained in this Section conflict with other sections of the Zoning Ordinance the standards of Section 1303.160 shall be controlling, including the following: (Ref. Ord. 10-1-1063, 1/12/10)

- a. All provisions and procedural requirements outlined in the B-5, Central Business District, shall supersede the provisions and procedural requirements outlined in the City's Shoreland District at City Code Section 1303.230 for the following properties:

All properties zoned B-5, Central Business District and also lying within the Shoreland Overlay District of White Bear Lake as depicted on the City's official zoning map.

- b. Notwithstanding paragraph (a), all new development or redevelopment proposals for any of the properties located in the B-5, Central Business District and the Shoreland Overlay District, which require a conditional use permit as outlined in Subd. 5 of this Section, shall also be forwarded to the Minnesota Department of Natural Resources for its review and comment.
- c. All new development and/or redevelopment shall adhere to best stormwater management practices for urban sites, as determined by the Public Works Director. (Ref. Ord. 12-03-1012, 12/9/03)
- d. All redevelopment in the Shoreland District will be encouraged to provide ten percent (10%) pervious surfacing to promote stormwater infiltration. (Ref. Ord. 04-04-1016, 4/13/04)

Subd. 3. Permitted Uses. Any proposed exterior structural change, or exterior remodeling exceeding twenty five hundred (\$2,500.00) dollars in value shall require the unanimous approval of the City Engineer, City Building Official, City Planner, and Zoning Administrator. The following are permitted uses in the B-5, Central Business District: (Ref. Ord. 10-1-1063, 1/12/10)

- a. Commercial uses. Commercial uses are limited to the following: banks (without drive-thru facilities), food services, hotels, bed and breakfast inns, printing process/supply, clubs and lodges, home improvement showrooms and studios, upholstery shops, restaurants (without drive-in or drive-thru facilities), indoor recreation, retail shops, grocery stores, and art, music and dance studios and personal service establishments.
- b. Civic/institutional and transportation uses. Community centers, education/ academic facilities, libraries, museum art/galleries, indoor and outdoor public parks/open space, post offices,

customer service facilities, public studios and performance theaters and time transfer and transit stations.

- c. Offices, professional uses, located above the ground floor.
- d. Offices, professional uses located at ground floor level, limited to no more than 30% of both the gross floor area and linear street frontage on any parcel in the B-5 District. Upper story offices shall be permitted uses and will not be included in determining this percentage. (Ref. Ord. 12-03-1012, 12/9/03)

Subd. 4. Accessory Uses. The following are permitted accessory uses in the B-5, Central Business district:

- a. All permitted accessory uses in the B-4 district. (Ref. Ord. 12-03-1012, 12/9/03)

Subd. 5. Conditional Uses. The following are conditional uses in the B-5, Central Business district, which require a conditional use permit based on the procedures and provisions set forth in and regulated by Section 1301.050 of this Code: (Ref. Ord. 10-1-1063, 1/12/10)

- a. Residential uses. Residential uses shall be limited to multiple family and senior citizen residential dwellings limited to apartments and condominiums.
- b. Liquor Lounges. Liquor lounges up to 1,500 square feet in area with not less than 30 nor more than 35 indoor seats, and not more than 20 outdoor seats. (Ref. Ord. 14-6-1095, 6/10/14)
- c. Microbreweries. Microbreweries up to 5,000 square feet in area provided a minimum 20 percent of the floor area is devoted to use as a brewer taproom and accessory retail sales display area. (Ref. Ord. 12-07-1081, 7/10/12)
- d. Mixed-use development provided all buildings are multistory and meet the following requirements:
 - 1. The ground floor building area is devoted to any of the uses listed as permitted uses above at 3a, 3b or 3d of this subdivision.
 - 2. Upper level uses are devoted to uses listed as permitted uses above at Subd. 3a, 3b and 3c and Subd. 5a, Conditional Uses of this district provided that within the same building, residential uses will not be located on the same building floor as non-residential uses.
- e. Drive-through facilities for pharmacies and financial institutions. (Ref. Ord. 12-03-1012, 12/9/03)
- f. Any new building or building addition in excess of 500 square feet. (Ref. Ord. 10-1-1063, 1/12/10)

Subd. 6. Interim Use. The City Council may issue an interim use permit to temporarily allow a professional use to exceed the percentage of floor area and linear street frontage on a parcel in the B-5 Central Business district. A request for an interim use permit shall be submitted and processed in accordance with Section 1301.050 of this Code and the following.

- a. The interim use permit must identify the specific date or event that can be identified with certainty on which the interim use permit will terminate. The term of an interim use permit, including any extensions, issued for a particular property shall not exceed a total of two years.
- b. The City Council may impose any conditions on an interim use permit which it deems necessary or expedient to protect the public health, safety or welfare or to assure that permission for the interim use will not impose additional costs on the public if it is necessary or expedient to take the property in the future.
- c. The interim use permit is not valid unless the applicant agrees to the conditions imposed on the permit by the City Council. The applicant shall either expressly agree in writing to the conditions imposed on the interim use permit or shall be deemed to have agreed to all such conditions without exception or reservation if the applicant undertakes the use allowed by the permit.
- d. The issuance of an interim use permit does not entitle the applicant or any subsequent owner to the issuance of any additional interim use permits for the use or property. Upon the termination of an interim use permit, the use must be brought into full compliance with this Code.
- e. The use must otherwise comply with the requirements of this Code. (Ref. Ord. 21-8-2049, 8/10/21)

Subd. 7. Prohibited Uses. The following shall be considered prohibited uses in the B-5, Central Business District.

- a. Convenience food restaurants with drive-through or drive-in facilities.
- b. Motor oil and/or fuel dispensing operations.
- c. Automobile repair minor and automobile repair major uses.
- d. Car washes, automated and mechanical.
- e. Sales of any of the following: new and/or used automobiles, trucks and recreational vehicles.
- f. Contractor shops and/or yards for any of the following: plumbing, heating, glazing, landscaping, painting, paper hanging, roofing, ventilation, air conditioning, appliance repair, masonry, electrical or refrigeration and the like.
- g. Billboards.
- h. Adult establishments as defined and regulated at Section 1124 of the Municipal Code.
- i. In-vehicle sales or services not including drive-through facilities associated with a pharmacy or financial institution as outlined in Subd. 5.c. of this Section.
- j. Any uses not listed as either permitted, accessory or conditional uses in this district.
- k. Tattoo parlors. (Ref. Ord. 12-03-1012, 12/9/03)

Subd. 8. Special Allowable Uses.

- a. Special Allowable Commercial Uses: Due to the relative size for their respective private capital investment as of the date of the amendments to Section 1303.160, the B-5, Central Business District, all existing commercial uses in the B-5, Central Business District that would otherwise be nonconforming are hereby declared to be special allowable uses.
- b. Special Allowable Residential Uses: Due to the longstanding residential nature of particular properties as of the date of establishment of amendments to Section 1303.160, the B-5, Central Business District, all residential uses in the Central Business District which would otherwise be nonconforming at their respective locations are hereby declared to be special allowable uses, provided that they shall be in conformance with the City's Minimum Housing Standards (as outlined in Section 502 of the Municipal Code) that had been in effect as of the date of the establishment of amendments to Section 1303.160 the B-5, Central Business District.
- c. Such special allowable uses shall be considered to be permitted for all purposes of the Zoning Ordinance, including the right of the present and future owners to be allowed to continue to maintain such uses, rebuild any building to original size in the event of any partial or complete destruction, and to renovate or expand in compliance with all applicable provisions of this Zoning Ordinance, notwithstanding that such use of the premises would not otherwise be permitted in the B-5, Central Business District. The above listed uses will lose their status as a special allowable use if one of the following occurs: 1) if they are converted to a permitted use, or 2) if any of the special allowable uses are left vacant or abandoned for a period of one (1) year, or 3) in the event of destruction of 50% or more of the total square footage of the building and/or structure, as determined by the City's Building Official, by fire or by any means not within the control of the property owner unless a building permit is acquired for its repair or replacement within a period of one (1) year. (Ref. Ord. 12-03-1012, 12/9/03)

Subd. 9. Specific Use Standards for Conditional Uses: In addition to the specific use standards, all conditional uses shall be required to meet all applicable standards of the Zoning Ordinance and all other city codes.

- a. Drive-through facilities:
 1. Drive-through facilities shall be located at the rear of buildings, and where possible, the building shall extend over the drive-through aisles to maintain the street wall. Drive through facilities in the Central Business District shall be limited to no more than two (2) drive-through lanes; no more than ten (10) feet in width per lane.
 2. Drive-through facilities shall be designed with adequate stacking spaces so that waiting vehicles will not impede traffic flow. A minimum of 3 stacking spaces shall be provided per each drive-through window or facility.
 3. Drive-through facilities for pharmacies shall be restricted to prescription drug pick-up only.
- b. Multiple family and senior citizen residential dwellings shall be limited to above-ground floor level uses.
- c. Senior citizen housing shall also comply with the following:

1. The permanent residents shall be limited to persons who are 55 years of age or over except that one other person may reside in any senior or elderly housing unit including his or her spouse, parent, foster parent, or legal guardian. An exception is allowed for all owner-occupied senior housing whereby up to 20 percent of the total project's units may be occupied by person(s) who are less than 55 years of age. When determining the number of non-senior units allowed, calculations resulting in a fraction shall not be rounded to allow for an additional unit.
2. To continue to qualify for senior citizen housing classification, the owner or agency shall annually file with the City Clerk and the Zoning Administrator a certified copy of a monthly census of the residents of the dwelling structure, listing the number of tenants by age and clearly identifying and setting forth the relationship of all occupants under 55 years of age to the other residents of the dwelling structure. (Ref. Ord. 12-03-1012, 12/9/03)

Subd. 10. Bulk Requirements:

- a. Purpose and Intent: The purpose and intent of the bulk requirement is to ensure that buildings are appropriately located on a site and of a size that is compatible with the size, and scale of existing buildings in the B-5, Central Business District and surrounding residential properties. (Ref. Ord. 12-03-1012, 12/9/03)

B-5 District Yard and Bulk Regulations Table White Bear Lake, Minnesota	
Yard and Bulk Regulations	
Minimum Lot Area – Non Residential	No Minimum Lot Area
Minimum Lot Width	No Minimum Lot Width
Minimum Lot Area per Multiple Family Dwelling Unit	1,360 Square Feet
Minimum Lot Area per Multiple Family Senior Dwelling Unit	870 Square Feet
Minimum Dwelling Unit Size ¹ Efficiency 1 bedroom 2 bedroom 3 bedrooms or more	400 Square Feet 600 Square Feet 900 Square Feet 1,100 Square Feet
Yards (feet)	
Maximum Front and Corner Side Yard Setback from all Right-of-Ways except Highway 61.	5 Feet

Minimum Front and Corner Side Yard Setback from all Right-of-Ways except Highway 61.	None
Minimum Rear & Side Yard Setback (abutting any residential use in an R-4 dist.) First Floor Second Floor Third Floor	10 Feet 15 Feet 20 Feet
Minimum Rear Yard Setback Abutting Non-residential Property	None
Minimum Interior Side Yard Setback	None
Minimum Setback from Highway 61	20 Feet
Maximum Setback from Highway 61	None
Maximum Building Height, Principal Buildings (feet) (see Section 1301.030, Definitions)	3 Stories or 38 Feet (whichever is lower)
Maximum Building Height, Accessory Buildings (feet)	15 Feet

Subd. 11. Building Scale and Design Standards:

- a. Purpose and Intent: The following design standards, together with the other regulations of this District, are intended to encourage high-quality, scale-appropriate building design that respects the historic character of the B-5, Central Business District. While the building scale and design standards do not dictate a particular architectural style, it is the intent of the City to encourage building design that compliments the architecture of its historically significant buildings located within the B-5, Central Business District.
- b. Building Scale Standards. The following regulations shall apply to all new construction, additions and exterior remodeling in the B-5, Central Business District:
 - 1. Buildings shall be designed with a definable base, middle and top. Cornices and parapets are encouraged to define these sections of the building.
 - 2. Facades of large buildings over 7,500 square feet shall be visually broken into bays to avoid the appearance to large, blank walls. Visual breaks in the façade shall be accomplished by alterations in the plane of the façade; height of the façade; changes in materials, color, texture, or pattern; and/or the addition of columns, pilasters, and/or windows.
 - 3. Punched openings in the wall plane shall be provided in which to set windows and doors. Flush mounted windows and doors are prohibited.
 - 4. The first floor of buildings in the district shall be designed with a minimum ceiling height of twelve (12) feet and fourteen (14) feet is encouraged.
 - 5. One-story buildings taller than eighteen (18) feet in height shall be architecturally detailed to simulate a two-story appearance.

6. No individual retail business shall be larger than 10,000 square feet in gross floor area. Basement areas and upper level mezzanine areas utilized for non-retail purposes shall not be included in this calculation. Retail businesses may be allowed up to 15,000 square feet in gross floor area provided a second story with at least 60% of the area of the first floor is provided. (Ref. Ord. 04-06-1020, 6/8/04)

c. Building Access Standards

1. Pedestrian Access: Each ground floor space with street frontage shall have its primary entrance on the public sidewalk. Additional entrances may be provided off of a parking area or an access corridor.
2. Parcels with frontages on both Trunk Highway 61 and a local street(s) will have their primary entrance on the public sidewalk of the local street frontage.
3. Vehicular Access: Front access drives disrupt the continuous building line, and have a detrimental effect on the pedestrian orientation of the B-5, Central Business District, and therefore are discouraged. Buildings on lots less than 150 feet wide shall have parking located in the rear of the site, with rear access whenever possible. When such access is not possible, it shall be encouraged that the width of the individual drive lanes be limited to ten (10) feet.

d. Building Design Standards

1. Architectural Style: Conformance to established architectural styles is encouraged, but not required. However, the exterior design of buildings shall emphasize traditional architectural themes consistent with older buildings in the B-5, Central Business District.
2. Exterior Materials: In order to adapt to changing technology, the development of new materials, and so as not to limit the designer, additional materials other than those specified in this section may be used. The right to use alternative materials shall be reviewed on a case-by-case basis, in the context of each individual project.
 - a) The following materials are permitted for use on exterior elevations.
 - i. Clay brick
 - ii. Natural or cast stone
 - iii. Cementitious stucco
 - iv. Stained or painted wood lap siding
 - v. Other materials may be considered by the City provided that they are not expressly prohibited below.
 - b) The following materials are prohibited:
 - i. Concrete masonry units (CMU)
 - ii. King-size, queen-size or jumbo brick
 - iii. Aluminum, vinyl, or steel siding or panel systems
 - iv. Exposed aggregate (rough finish) concrete wall panels
 - v. Exterior insulating finish systems (EIFS, "Dryvit")
 - vi. Glass curtain wall systems
 - vii. Plastic
 - viii. T-111 Composite plywood siding

ix. Clear finished wood

3. Door & Window Design: In order to promote and maintain the small town, historic character of the B-5, Central Business District, glazed surfaces on front façade(s) shall be double hung, casement, or fixed picture windows, within discernable wall elements. Windows designed as true divided lights shall be encouraged. Sliding or jalousie windows shall not be permitted.
 4. Door and Storefront Window Materials: All windows on front and corner side facades on all stories, or serving public entrances, shall be wood or wood clad with aluminum. It is encouraged that all ground level doors on front and corner side facades be constructed of wood. The design of doors made of materials other than wood shall be compatible with the design of the building. The use of vinyl windows and trim is prohibited.
 5. Storefront Display Windows: In order to recognize the pedestrian orientation of the B-5, Central Business District, the following are requirements for display windows:
 - a) Along the length of façade(s) facing any public street 50% of the first floor façade shall be display type windows where retail sales, personal service, and/or office use is located on the first floor. A minimum 18-inch high knee wall shall be required beneath glazing and the bottom edge of such windows shall not be higher than thirty (30) inches above grade so as to allow pedestrians to see into the windows.
 - b) First story glass shall be clear and non-tinted; tinting of second and third story glass shall not vary by more than 20%. Reflective glass is prohibited.
- e. Accessory Buildings, Structures and Uses
1. Coordination with Principal Building. All accessory buildings and structures shall compliment and coordinate with the principal buildings on the lot, both in architectural style and material selection.
- f. Permitted Encroachments. The following encroachments shall be permitted into required yards in the B-5, Central Business District:
1. Bay and oriel windows no more than 24 inches.
 2. Balconies no more than 24 inches.
 3. Sills, cornices, roofs, eaves, gutters, corbelled chimneys and ornamental features projecting no more than 24 inches.
 4. Steps, ramps, and stoops no more than 16 square feet in area and projecting no more than 6 feet into the required rear or side yard.
 5. Awnings and canopies no more than 5 feet into required yards. Awnings and canopies may also extend up to 5 feet out over the public sidewalk, where approved by the City.
- g. Site Development Standards.

1. Purpose and Intent: The purpose and intent of the site development standards is to ensure that site improvements, including landscaping, parking, lighting and signage, complement high quality building design and enhance the historic character of White Bear Lake and the pedestrian orientation of the B-5, Central Business District.
2. Perimeter site landscaping/screening: A site in the B-5, Central Business District that abuts a single or two-family residential use in the R-4 district shall provide the required side or rear yard setback, per Subd. 9. This setback area shall consist of a buffer yard improved and maintained in conformance with the following:
 - a) Required Rear and Side Buffer Yards. A rear and side buffer yard that is a minimum of ten (10) feet in width shall be provided where a rear or side yard setback is required. Within the rear and side buffer yard, a visual barrier that is a minimum of six (6) feet in height shall be installed. The screen shall consist of either an opaque stone or brick wall or solid wood decorative fence. Fences shall be installed with the finished side facing the adjacent residential property. In addition, within the required rear and side buffer yard, a minimum of one (1) shade or ornamental tree with a trunk size a minimum of one and one half (1-1/2) inches in caliper shall be planted for each twenty five (25) feet of length of the rear property line abutting the residential district. The trees may be grouped or staggered to maximize their effect.
 - b) The remainder of the buffer yard areas shall be planted with shrubs, turf, and/or other plantings.
3. Parking lot landscape requirements.
 - a) Interior Parking Lot Landscaping. For parking lots consisting of twenty (20) or more spaces, interior parking lot landscaping shall be required. Interior parking lot islands shall be required at a rate of one (1) parking lot island for every ten (10) parking spaces. Landscaping areas located along the perimeter of a parking lot beyond the curb or edge of pavement shall not be included toward satisfying this requirement. Interior parking lot landscaping areas shall be a minimum of one hundred and forty-four (144) square feet in area and shall be a minimum of eight (8) feet in width, as measured from back of curb to back of curb. The landscaped areas shall be improved as follows:
 - i. Interior parking lot landscaping areas shall consist of planting islands or planting strips at least six (6) inches above the surface of the parking lot that are protected with concrete curbing and shall be dispersed throughout the parking lot in a design and configuration that corresponds to the size and shape of the parking lot.
 - ii. The primary plant materials used in parking lots shall be shade tree species. Ornamental trees, shrubbery, hedges and other plant materials may be used to supplement the shade tree plantings, but shall not be the sole contribution to such landscaping. One (1) shade tree with a trunk size a minimum of two and one-half (2-1/2) inches in caliper shall be provided for every one-hundred and forty-four (144) square feet of landscaping area.

iii. A minimum of fifty percent (50%) of every interior parking lot landscaping area shall be planted with an approved groundcover in the appropriate density to achieve complete cover within two (2) years. Mulch may only be used around the base of the plant material to retain moisture.

b) Perimeter Parking Lot Landscaping/Screening.

Perimeter parking lot landscaping provides for the enhancement and screening of parking lots by requiring a scheme of pedestrian walls and/or landscaping along public streets. Perimeter landscaping is required for all parking lots and shall be established along the edge of the parking lot. The landscape treatment shall run the full length of the parking lot and be located between the property line and the edge of the parking lot. All perimeter parking lot screening areas shall be protected with raised concrete curbs. The landscaped area shall be improved as follows:

- i. The perimeter parking lot landscaping area shall be at least 10 feet in width, as measured from the right-of-way line to the back of curb in order to accommodate vehicle bumper overhang and ensure planting areas that are adequate in size.
- ii. One tree measuring two and one-half (2-1/2) inches in caliper shall be planted for each twenty-five feet of landscaped area length. Trees may be grouped or staggered to maximize their effect as approved by the City.
- iii. One shrub, measuring a minimum of 18 inches at planting and not to exceed 5 feet at maturity, for every 3 feet of landscaped area length, spaced linearly to adequately screen vehicle bumpers, and/or a low pedestrian wall the height of which provides effective screening to a maximum height of 3 1/2 feet.
- iv. Landscaped areas outside of shrub and tree masses shall be planted in turf or other groundcover

c) Screening of loading areas. For uses with loading docks, they shall be located at the rear of the building, where possible, and shall be adequately screened with a wall, fence and/or landscaping that is a minimum of 6 feet in height, unless such screening is determined to be unnecessary by the City.

d) Maintenance. All plant material shall be maintained in good condition so as to present a healthy, neat, and orderly appearance and shall be kept free of refuse and debris. Fences and walls shall be maintained in good repair and neat appearance. Landscaping shall be trimmed so as not to obstruct public or private sidewalks, parking lots, and driveways. All landscape areas shall have automatic irrigation system installed and properly maintained to promote the health of the plant material and conservation of water including rain gauge shut-offs. The owner of the premises and any tenant shall be jointly responsible for maintenance, repair, and replacement of all landscape materials, fences, and barriers.

h. Parking Requirements

It is recognized that the pedestrian character and small lot sizes within the B-5, Central Business District make the provision of individual private on-site parking facilities difficult and detrimental to the traditional character of the district. In addition to on-street parking and public parking spaces, business owners are encouraged to pursue shared and off-site parking arrangements at the rear of properties in the B-5, Central Business District.

1. Number of Required Parking Spaces in the B-5, Central Business District
 - a) Multiple family residential uses with five or fewer units in any one development: No parking required.
 - b) Multiple family residential with five to twenty units in one development: 1.0 parking spaces/dwelling unit with two bedrooms or less; 2.0 parking spaces/dwelling unit with three or more bedrooms.
 - c) Multiple family residential with greater than twenty units in one development: 1.5 spaces/dwelling unit with two bedrooms or less; 2.0 parking spaces/dwelling unit with three or more bedrooms.
 - d) For senior citizen housing, the on-site parking requirements may be reduced by 50% of the above-referenced requirements.
 - e) For residential uses it shall be encouraged that at least one of the required spaces per dwelling unit be enclosed and located within the building or in an accessory garage building. These requirements shall apply to new residential development and not to existing nonconforming residential developments.
 - f) Non-residential uses of 5,000 sf of gross floor area or less: No on-site parking required.
 - g) Non-residential uses with more than 5,000 sf of gross floor area: 1 parking space/400 sf of gross floor area above the initial 5,000 sf of gross floor area.
2. Parking Lot Location. Parking lots shall be located at the rear of buildings such that buildings separate parking areas from the street. The City may permit parking to the side of a building if the lot is a minimum of 150' in width. The need for parking on the side of the buildings will be evaluated by the City on a case-by-case basis and shall only be permitted where the configuration of the site and/or need for on-site parking makes locating all parking at the rear of the building infeasible.

i. Lighting

Lighting standards and fixtures shall be consistent with the historic character of the B-5, Central Business District. All lighting poles and luminaries shall be consistent with the ornamental lighting adopted by the City. All on-site lighting shall be equipped with shielding and cut-off devices, such that no light shall shine directly upon adjacent residentially zoned property. In keeping consistent with the pedestrian scale of the B-5, Central Business District, light poles shall be maximum height of fifteen (15) feet as measured from the finished grade. Light intensity shall not exceed 0.4 foot candle as measured at any residential property line and 1 foot candle as measured at all other property lines. (Ref. Ord. 12-03-1012, 12/9/03)

Subd. 12. Termination of Moratorium:

- a. On July 8, 2003, the White Bear Lake City Council adopted Ordinance No. 03-07-1006, "An Interim Ordinance Establishing a Moratorium on Large Retailer and Drive-Through Facilities in the B-5, Central Business District".
- b. Said Moratorium is hereby terminated upon publication and the effective date of this ordinance establishing amended Code Section 1303.160. (Ref. Ord. 12-03-1012, 12/9/03)

§1303.170 "B-6", COMMERCIAL RECREATIONAL DISTRICT

Subd. 1. Purpose. The purpose of the "B-6", Commercial Recreational District is to provide for the establishment of commercial recreational activities in those areas of White Bear Lake that would serve the recreational needs for the residents and to encourage tourism in the community.

Subd. 2. Permitted Uses. The following are permitted uses in a "B-6" District:

- a) Arcades.
- b) Commercial recreation.
- c) Resort facilities (to include lodges, cabins, motels and the like).
- d) Restaurants.
- e) Taverns, liquor on-sale.
- f) Sporting goods establishments, outfitters and suppliers, bait shops.
- g) Public parks, playgrounds and recreational areas.
- h) Private athletic clubs for racquet ball, handball and tennis.

Subd. 3. Accessory Uses. The following are permitted accessory uses in a "B-6" District:

- a) Commercial or business buildings and structures for a use accessory to the principal use, but such use shall not exceed thirty (30) percent of the gross floor space of the principal use.
- b) Off-street parking as regulated by Section 1302.050 of this Code.
- c) Off-street loading as regulated by Section 1302.060 of this Code.
- d) Swimming pool, tennis courts and other recreational equipment and facilities.
- e) Storage garage, rental goods establishments.
- f) Solar energy systems, either roof-mounted or ground-mounted, per Code Section 1302.030, Subd. 22. (Ref. Ord. 16-03-2010, 3/8/16)

Subd. 4. Conditional Uses. The following are conditional uses within a "B-6" Districts, which require a conditional use permit based upon procedures and provisions set forth in and regulated by Section 1301.050 of this Code.

- a) Single family detached dwellings as regulated by Section 1303.040 of this Code where applicable.
- b) Service and storage marinas, harbor and docking facilities, provided that:

- 1) The area is fenced and screened from view of the neighboring residential uses or if abutting a Residential District in compliance with Section 1302.030, Subd. 7.a of this Code.
 - 2) Storage is screened from view from the public right-of-way in compliance with Section 1302.030, Subd. 7.a of this Code.
 - 3) Storage area is grassed or surfaced to control dust.
 - 4) All lighting shall be hooded and so directed that the light source shall not be visible from the public right-of-way or from neighboring residences and shall be in compliance with section 1302.030, Subd. 9 of this Code.
 - 5) Does not take up parking space as required by Section 1302.050 of this Code.
 - 6) Parking or car stacking space shall be screened from view of abutting residential districts in compliance with Section 1302.030, Subd. 7.a of this Code.
 - 7) Vehicular access points shall create a minimum of conflict with through traffic movement, shall comply with Section 1302.050, Subd. of this Code and shall be subject to the approval of the City Engineer.
 - 8) All signing and informational or visual communication devices shall be minimized and shall be in compliance with the White Bear Lake Sign Code.
 - 9) A drainage system subject to the approval of the City Engineer shall be installed.
 - 10) Regardless of whether the dispensing, sale or offering for sale of motor fuels and/or oils is incidental to the conduct of use or business, the standards and requirements of the City, state and federal government agencies regarding motor fuel operations shall apply.
 - 11) All conditions pertaining to a specific site are subject to change when the Council, upon investigation in relation to a formal request, finds that the general welfare and public betterment can be served as well or better by modifying the conditions.
- c) Auditoriums or dinner-dance establishments, etc. for public entertainment and use.
- 1) The architectural appearance and functional plan of the building and site shall not be so dissimilar to the existing buildings or area so as to cause impairment in property values or constitute a blighting influence within a reasonable distance of the lot.
 - 2) At the boundaries of a residential district, a strip of not less than five (5) feet shall be landscaped and screened in compliance with Section 1302.030, Subd. 7.a) of this Code.
 - 3) Each light standard island and all islands in the parking lot shall be landscaped or covered.
 - 4) Parking areas shall be screened from view of abutting Residential Districts in compliance with Section 1302.030, Subd. 7.a) of this Code.

- 5) Parking areas and driveways shall be curbed with continuous curbs not less than six (6) inches high above the parking lot or driveway grade.
 - 6) Vehicular access points shall be limited, shall create a minimum of conflict with through traffic movements, shall comply with Section 1302.050, Subd. 4.i) of this Code and shall be subject to the approval of the City Engineer.
 - 7) All lighting shall be hooded and so directed that the light source is not visible from the public right-of-way or from an abutting residence and shall be in compliance with Section 1302.030, Subd. 9 of this Code.
 - 8) The entire area shall have a drainage system which is subject to the approval of the City Engineer.
 - 9) The entire area other than occupied by buildings or structures or plantings shall be surfaced with a material which will control dust and drainage and which is subject to the approval of the City Engineer.
 - 10) All signing and information or visual communication devices shall be in compliance with the White Bear Lake Sign Code.
- d) Nature trails, snowmobile trails, ski trails and similar facilities.
- e) Commercial Planned Unit Developments, as regulated by Section 1301.070 of this Code.

Subd. 5. Lot Requirements and Setbacks. The following minimum requirements shall be observed in a "B-6" District, subject to additional requirements, exceptions and modifications set forth in this Code:

- a) Lot Area - 15,000 square feet.
- b) Lot Width - 100 feet.
- c) Setbacks:
 - 1) Front yards: Not less than thirty (30) feet.

*Lots located in the Shoreland District shall be subject to provisions of Section 1303.230 of this Code. (Ref. Ord. 10-1-1063, 1/12/10)

- 2) Side yards: Not less than ten (10) feet, nor less than thirty (30) feet on a side yard abutting a public right-of-way. (Ref. Ord. 813, 4/10/90)
- 3) Rear yards: Not less than thirty (30) feet.

Subd. 6. Building Requirements.

- a) Height. No structure shall be taller than three (3) stories, not to exceed thirty-six (36) feet, except as provided in Section 1302.040, Subd. 3 of this Code.

- b) Exterior Building Materials. This section identifies permitted building materials to be used in industrial building construction which are durable and long lasting. By identifying permitted building materials, high quality development is achieved in both visual and functional terms.
- 1) All exterior wall finishes shall be of consistent quality limited to one or a combination of the following:
 - a. Face brick;
 - b. Natural stone;
 - c. Decorative concrete block which is colored by pigment impregnated throughout the entire block;
 - d. Cast in place concrete or pre-cast concrete panels which are colored by pigment impregnated throughout the entire panel per approval of an architectural treatment by the Zoning Administrator;
 - e. Stucco;
 - f. Wood, provided the surfaces are finished for exterior use;
 - g. Curtain wall panels of steel, fiberglass and aluminum, provided such panels are factory fabricated and finished with a durable non-fade surface and their fasteners are corrosion resistant. The gross building wall area of this type shall be limited to no more than fifty (50) percent of the aggregate wall area excluding window and door areas;
 - h. Glass;
 - i. Decorative painted concrete block shall be permitted on any building wall not visible from a public right-of-way.
 - 2) All subsequent additions and exterior alterations to non-conforming buildings must be constructed with the materials required in this ordinance if the addition or alteration exceeds twenty-five (25) percent of the floor area of the original non-conforming structure.
 - 3) Accessory buildings constructed after the erection of the original building or buildings shall be constructed of materials comparable to those used in the principal building and shall be designed in a manner conforming to the architectural and general appearance.
 - 4) The following exterior building materials are prohibited:
 - a. Face materials which rapidly deteriorate or become unsightly such as galvanized metal;
 - b. Unfinished structural clay tile and metal panels not factory finished with a permanent surface;

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- c. Buildings comprised exclusively of metal, pole buildings, sheet metal, plastic or fiberglass siding unless such siding is a component of a factory fabricated and finished panel.
- d. Unadorned and/or painted concrete block.

§1303.180 "B-W", BUSINESS/WAREHOUSING DISTRICT

Subd. 1. Purpose. The purpose of the "B-W", Business/Warehousing District is to provide for the establishment of the following: storage and/or warehousing as well as individual sales of large volume wholesale or bulk commercial retail items. The overall character of the "B-W" District is intended to be transitional in nature, thus industrial uses allowed within this District shall be limited to those which can compatibly exist adjacent to commercial and lower intensity activities. (Ref. Ord. 99-08-972A, 8/10/99)

Subd. 2. Permitted Uses. The following are permitted uses in a "B-W" District:

- a) Radio and television stations.
- b) Warehouses.
- c) Government and public utility buildings and structures.
- d) Cartage and express facilities.
- e) Building materials sales.
- f) Commercial/leased offices.
- g) Transportation terminals.
- h) Research laboratories and facilities.
- i) Commercial printing establishments.
- j) Jewelry manufacturing.
- k) Medical, dental and optical laboratories.
- l) Wholesale business.
- m) Essential services.
- n) Trade schools.
- o) Commercial recreation facilities (indoor only) limited to firearms and archery ranges, fitness center, golf course, gymnastics center, jump center, indoor golf driving range, indoor batting cages, racquetball, roller, and ice skating rink, tennis, vehicle racing or amusement and similar uses. (Ref. Ord. 03-10-1010, 10/14/03, Ord. 05-06-1028, 6/14/05, Ord. 06-01-1032, 1/10/06)
- p) Manufacturing light.

Subd. 3. Permitted Accessory Uses. The following are permitted accessory uses in a "B-W" District:

- a) All permitted accessory uses as allowed in the "B-5" District.
- b) Semi-truck parking.

Subd. 4. Conditional Uses. The following are conditional uses in a "B-W" District, which require a conditional use permit based upon procedures and provisions set forth in and regulated by Section 1301.050 of this Code.

- a) Open and outdoor storage as a principal or accessory use, provided that:
 - 1) The area is fenced and screened from view of neighboring residential uses or if abutting a Residential District, in compliance with Section 1302.030, Subd. 7.a) of this Code.
 - 2) Storage is screened from view from the public right-of-way in compliance with Section 1302.030, Subd. 7.a) of this Code.
 - 3) Storage area is grassed or surfaced to control dust.
 - 4) All lighting shall be hooded and so directed that the light source shall not be visible from the public right-of-way or from neighboring residences and shall be in compliance with Section 1302.030, Subd. 9 of this Code.
 - 5) The use does not take up parking space as required for conformity to this Code.
- b) Open or outdoor service, sale and rental as a principal or accessory use, provided that:
 - 1) Outside services, sales and equipment rental connected with the principal use is limited to thirty (30) percent of the gross floor area of the principal use.
 - 2) Outside sales areas are fenced or screened from view of neighboring residential uses or an abutting Residential District, in compliance with Section 1302.030, Subd. 7.a) of this Code.
 - 3) All lighting shall be hooded and so directed that the light source shall not be visible from the public right-of-way or from neighboring residences and shall be in compliance with Section 1302.030, Subd. 9 of this Code.
 - 4) The use does not take up parking space as required for conformity to this Code.
 - 5) Sales area is grassed or surfaced to control dust.
- c) Accessory, enclosed retail, rental or service activity other than that allowed as a permitted use or conditional use within this Section, provided that:
 - 1) Such use is allowed as a permitted use in a "B-1" or "B-2" District.

- 2) Such use does not constitute more than thirty (30) percent of the lot area and not more than fifty (50) percent of the gross floor area of the principal use.
 - 3) Adequate off-street parking and off-street loading in compliance with the requirements of Sections 1302.050 and 1302.060 of this Code is provided.
 - 4) All signing and informational or visual communication devices shall be in compliance with the White Bear Lake Sign Code.
- d) Commercial/industrial planned unit development as regulated by Section 1301.070 of this Code.
- e) Commercial and industrial businesses which are defined as a permitted or conditional use in this district abutting residentially zoned land provided that: (Ord. No. 813, 4/10/90; 827, 1/08/91)
- 1) Deliveries and/or delivery truck access of site during the hours of 10:00 P.M. to 6:00 A.M., will be limited to single unit, two-axle vehicles not in excess of 26,000 pounds gross vehicle weight (GVW). In the event that said vehicles making deliveries during the hours between 10:00 P.M. and 6:00 A.M. establish a pattern of violating the City of White Bear Lake's noise ordinance, §703.070, and amendments thereto, after ten (10) days written notice to the property owner and after a hearing before the City Council, the City Council, in its discretion, by resolution, including specific findings of fact establishing such a pattern of violating said noise ordinance, may further restrict deliveries to the property, but such restriction shall not be more stringent than necessary to assure compliance with the noise ordinance. The City may only use violations of the noise ordinance which it gave previous notice of to the property owner.
 - 2) No building, loading dock or loading berth shall set within fifty (50) feet of residentially zoned property.
 - 3) The business or industry will provide a screening/buffer zone along the boundary of the residential property. The screening/buffer zone shall be at least twenty (20) feet in width and shall be designed to include all of the following: An opaque wooden or masonry fence of at least eight (8) feet in height; a planting strip which includes a combination of deciduous trees to provide added screening above the fence line and evergreens to provide enhanced noise buffering as needed; an earthen berm may also be required to reduce noise and improve screening. The screening/buffer plan shall be subject to City Council approval.
 - 4) All lighting shall be equipped with sharp cut-offs with concealed luminaries. Pole heights shall not be higher than twenty-five (25) feet, except no pole higher than twelve (12) feet shall set closer to residentially zoned land than fifty (50) feet. Where backs of stores and/or loading docks are immediately adjacent to residentially zoned land, wall packs, mounted not higher than ten (10) feet, shall be used instead of poles where possible. The lighting plan shall be subject to approval by the City Council.
 - 5) Said businesses' operations and deliveries shall not disturb the peace and repose of adjacent residences as outlined in the City of White Bear Lake noise ordinance §703.070. No use of forklifts shall take place out of doors within one hundred fifty (150) feet of residentially zoned property.

- 6) The above outlined requirements are minimum requirements. The City Council may impose additional standards as are deemed necessary to promote compatibility between land uses.
- f) Security Management Apartments Requirements. All security management apartments shall comply with the following requirements: (Ref. Ord. No. 766, 8/9/88)
 1. Security Apartment shall be defined as: A single rental unit for no more than two (2) persons employed as security or management for the facility in which the apartment is located.
 2. The security management apartment shall be located within the industrial complex and must be an integral portion of the original design, not to be added after the original complex is built.
 3. The security apartment shall not exceed twelve hundred (1200) square feet.
 4. The unit shall comply with all of the requirements of the State Building Code for R3 occupancy.
 5. No separate driveway or curb cut shall be permitted for the security apartment unit.
 6. In addition to meeting the off-street parking requirements of Section 1302.05 of the code, one (1) parking space shall be provided for each tenant, but not less than one space per security apartment.
 7. The apartment is to be used strictly for security management dwelling. Any other use is prohibited under this code.
- g) Adult establishments as defined and regulated by Chapter 1124 of the City Code.
- h) Pawnbrokers and precious metal dealers as defined and regulated by Chapter 1125 of the City Code.

Subd. 5. Lot Requirements and Setbacks. The following minimum requirements shall be observed in a "B-W" District, subject to additional requirements, exceptions and modifications set forth in this Ordinance:

- a) Lot Area - 15,000 square feet.
- b) Lot Width - 100 feet.
- c) Setbacks:
 - 1) Front yards: Not less than thirty (30) feet.
 - 2) Side yards: not less than twenty (20) feet on any one side, nor less than thirty (30) feet on a side yard abutting a public right-of-way. (Ref. Ord. No. 813, 4/10/90)
 - 3) Rear yards: Not less than thirty (30) feet.

Subd. 6. Building Requirements.

- a) Height. No structure shall be taller than three (3) stories, not to exceed thirty-six (36) feet, except as provided in Section 1302.040, Subd. 3 of this Code.
- b) Exterior Building Materials. This section identifies permitted building materials to be used in industrial building construction which are durable and long lasting. By identifying permitted building materials, high quality development is achieved in both visual and functional terms.
 - 1) All exterior wall finishes shall be of consistent quality limited to one or a combination of the following:
 - a. Face brick;
 - b. Natural stone;
 - c. Decorative concrete block which is painted or colored by pigment impregnated throughout the entire block;
 - d. Cast in place concrete or pre-cast concrete panels per approval of an architectural treatment by the Zoning Administrator;
 - e. Stucco;
 - f. Wood, provided the surfaces are finished for exterior use;
 - g. Curtain wall panels of steel, fiberglass or aluminum, provided such panels are factory fabricated and finished with a durable non-fade surface and their fasteners are corrosion resistant. The gross building wall area of this type shall be limited to no more than fifty (50) percent of an aggregate of walls excluding window and door areas;
 - h. Glass;
 - i. Painted concrete block provided that it is not used on any building wall visible from a public right-of-way.
 - 2) All subsequent additions and exterior alterations to non-conforming buildings must be constructed with the materials required in this ordinance if the addition or alteration exceeds twenty-five (25) percent of the floor area of the original non-conforming structure.
 - 3) Accessory buildings constructed after the erection of the original building or buildings shall be constructed of materials comparable to those used in the principal building and shall be designed in a manner conforming to the architectural and general appearance.
 - 4) The following exterior building materials are prohibited:
 - a. Face materials which rapidly deteriorate or become unsightly such as galvanized metal;

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- b. Unfinished structural clay tile and metal panels not factory finished with a permanent surface;
- c. Buildings comprised exclusively of metal, pole buildings, sheet metal, plastic or fiberglass siding unless such siding is a component of a factory fabricated and finished panel.

§1303.190 "I-1", LIMITED INDUSTRY DISTRICT

Subd. 1. Purpose. The purpose of the "I-1", Limited Industry District is to provide for the establishment of warehousing and light industrial development. The overall character of the "I-1" district is intended to be transitional in nature, thus industrial uses allowed in this District shall be limited to those which can compatibly exist adjacent to the "B-W" District or commercial uses, but require isolation from residential uses.

Subd. 2. Permitted Uses. The following are permitted uses in a "I-1" District:

- a) All permitted uses allowed in a "B-W" District, except:
 - 1) Commercial/leased offices.
 - 2) Commercial recreation facilities. (Ref. Ord. 06-01-1032, 1/10/06)
- b) Assembly, manufacturing, fabricating or processing of the following:
 - 1) Apparel.
 - 2) Artificial limbs.
 - 3) Bakery goods, for sale or use off the premises.
 - 4) Batteries.
 - 5) Bed springs and mattresses.
 - 6) Belting and chain conveyors.
 - 7) Bicycles and toys.
 - 8) Cabinets.
 - 9) Cameras and photographic supplies.
 - 10) Canvas and canvas goods.
 - 11) Ceramic products.
 - 12) Cork products.
 - 13) Drugs, cosmetics, pharmaceuticals, toiletries.
 - 14) Electrical motors, generators, transformers and controls.
 - 15) Electrical and electronic products.
 - 16) Felt products.

- 17) Musical instruments.
- 18) Packaging.
- 19) Products made of glass, cellophane, leather, plastic or wood.
- 20) Sporting equipment.
- 21) Televisions, radios and appliances.
- 22) Tobacco products.
- c) (Ref. Ord. 695, 8-13-85)
- d) Canning, packaging and storage of foodstuff.
- e) Cartography, blueprinting and reproduction services.
- f) Commercial printing and engraving.
- g) Contractor's offices, shops and yards for plumbing, heating, glazing, painting, paper hanging, roofing, ventilating, air conditioning, masonry, electrical and refrigeration.
- h) Creamery, dairy plants and ice cream plants.
- i) Dry cleaning plant.
- j) Electrical service shops.
- k) Self-Storage facilities. (Ref. Ord. 17-02-2022, 2/14/17)
- l) Farm implement and heavy equipment sales.
- m) Machine shop.
- n) Product showroom businesses which are accessory to the principal industrial use provided that said businesses' total floor area is not more than ten (10) percent of the gross floor area of the building. (Ref. Ord. No. 907; 4/12/94)

Subd. 3. Permitted Accessory Uses. The following are permitted accessory uses in an "I-1" District.

- a) All permitted accessory uses allowed in a "B-W" District.

Subd. 4. Conditional Uses. The following are conditional uses in an "I-1" District, which require a conditional use permit based upon procedures and provisions set forth in and regulated by Section 1301.050 of this Code.

- a) All conditional uses in a "B-W" District, except for open or outdoor service, sales and rental.

- b) Retail commercial activities provided that:
- 1) Merchandise is sold at retail.
 - 2) The retail activity is located within a structure whose principal use is not commercial sales.
 - 3) The retail activity shall not occupy more than fifteen (15) percent of the gross floor area of the building.
 - 4) The retail activity is accessory to the principal industrial use.
 - 5) All signage shall be in compliance with the City's sign ordinance. (Ref. Ord. No. 907; 4/12/94)
- c) Industrial planned unit development as regulated by §1301.070 of this Code.
- d) Commercial/leased offices.
- e) Automobile Major Repair uses provided that: In addition to satisfying all performance requirements of Section 1302.030, City Zoning Code, the use conforms to either of the following criteria.
- 1) The lot line must be not less than 300 feet from the lot line of the nearest lot zoned for residential uses; or
 - 2) Each of the following performance requirements are satisfied:
 - a) Screening and landscaping must be provided on all sides of any structures; and
 - b) All outdoor storage lots must be fully fenced and screened. (Ref. Ord. 695, 8-13-85)
- f) Motor fuel stations, provided that:
- 1) The station is an accessory use to the principal warehousing/industrial use of the property.
 - 2) The station does not consume more than 25% of the lot area.
 - 3) Adequate off-street parking in compliance with the requirements of Section 1302.050 of this Code is provided.
 - 4) The underground tanks must be located so that the fuel delivery trucks do not block any access openings or impede on-site traffic flow while filling tanks.
 - 5) All signage must comply with Section 1202.140.
 - 6) All canopy lighting shall be constructed so that the lens covering is flush with the ceiling. Other on-site lighting shall not exceed twenty-five (25) feet in height and shall comply with Section 1302.030, Subd. 9, of this Code. If adjacent to or across the street

from residential property, wall packs, mounted not higher than ten (10) feet shall be used instead of poles, where possible.

- 7) If adjacent to or across the street from residential property, a screening/buffer zone that complies with Section 1303.130, Subd. 4.e.3 shall be provided along the boundary of the property.
 - 8) The building materials must comply with the materials required in Section 1303.180, Subd. 6.b.
 - 9) A drainage system subject to the approval of the City Engineer shall be installed.
 - 10) No expansion of non-conforming structures or uses is allowed.
- g) Marina-Related Operations including the sale, service, outdoor display and outdoor storage of watercraft, along with associated accessory retail sales, provided that:
- 1) Any outdoor storage yard is fenced and screened from view of neighboring residential uses or if abutting a Residential District, subject to approval by the Zoning Administrator.
 - 2) Any outdoor storage yard is screened from view from the public right-of-way.
 - 3) Both the outdoor storage yard and the area for display of watercraft is grassed or surfaced to control dust.
 - 4) Both the outdoor storage yard and the area for display of watercraft do not take up parking space as required for conformity to this Code.
 - 5) Any outdoor display areas shall be regulated by the conditional use permit and limited to areas specified therein.
 - 6) All lighting shall be hooded and so directed that the light source shall not be visible from the public right-of-way or from neighboring residences and shall be in compliance with Section 1302.030, Subd. 9 of this Code.
 - 7) Retail sales shall not exceed fifteen percent (15%) of the gross floor area of the building.

Subd. 5. Lot Requirements and Setbacks. The following minimum requirements shall be observed in a "I-1" District, subject to additional requirements, exceptions and modifications set forth in this Code.

- a) Lot Area - 20,000 square feet.
- b) Lot Width - 100 feet.

c) Setbacks:

- 1) Front yards: Not less than thirty (30) feet.
- 2) Side yards: Not less than ten (10) feet, nor less than thirty (30) feet on a side yard abutting a public right-of-way. (Ref. Ord. No. 813, 4/10/90)
- 3) Rear yards: Not less than thirty (30) feet. (Ref. Ord. No. 813, 4/10/90)

Subd. 6. Building Requirements.

a) Height. No structure shall be taller than four (4) stories, not to exceed forty-eight (48) feet, except as provided in Section 1302.040, Subd. 3 of this Code.

b) Exterior Building Materials. This section identifies permitted building materials to be used in industrial building construction which are durable and long lasting. By identifying permitted building materials, high quality development is achieved in both visual and functional terms.

- 1) All exterior wall finishes shall be of consistent quality limited to one or a combination of the following:
 - a. Face brick;
 - b. Natural stone;
 - c. Decorative concrete block which is painted or colored by pigment impregnated throughout the entire block;
 - d. Cast in place concrete or pre-cast concrete panels per approval of an architectural treatment by the Zoning Administrator;
 - e. Stucco;
 - f. Wood, provided the surfaces are finished for exterior use;
 - g. Curtain wall panels of steel, fiberglass or aluminum, provided such panels are factory fabricated and finished with a durable non-fade surface and their fasteners are corrosion resistant. The gross building wall area of this type shall be limited to no more than fifty (50) percent of an aggregate of walls excluding window and door areas;
 - h. Glass;
 - i. Painted concrete block provided that it is not used on any building wall visible from a public right-of-way.
- 2) All subsequent additions and exterior alterations to non-conforming buildings must be constructed with the materials required in this ordinance if the addition or alteration exceeds twenty-five (25) percent of the floor area of the original non-conforming structure.

- 3) Accessory buildings constructed after the erection of the original building or buildings shall be constructed of materials comparable to those used in the principal building and shall be designed in a manner conforming to the architectural and general appearance.
- 4) The following exterior building materials are prohibited:
 - a. Face materials which rapidly deteriorate or become unsightly such as galvanized metal;
 - b. Unfinished structural clay tile and metal panels not factory finished with a permanent surface;
 - c. Buildings comprised exclusively of metal, pole buildings, sheet metal, plastic or fiberglass siding unless such siding is a component of a factory fabricated and finished panel.

§1303.200 "I-2", GENERAL INDUSTRY DISTRICT

Subd. 1. Purpose. The purpose of the "I-2", General Industry District is to provide for the establishment of heavy industrial and manufacturing development and use which because of the nature of the product or character of activity requires isolation from residential or commercial use.

Subd. 2. Application of Performance Requirements. All uses provided for under the "I-2" District shall show proof of ability to comply with the performance requirements of this Code prior to issuance of any construction permit.

Subd. 3. Permitted Uses. The following are permitted uses in an "I-2" District:

- a) All permitted uses allowed in an "I-1" District, except self-storage facilities. (Ref. Ord. 17-02-2022, 2/14/17)
- b) The manufacturing, compounding, assembly, packaging, treatment, or storage of products and materials.
- c) Processing of building stone, marble, or granite products not including extraction or quarrying.

Subd. 4. Permitted Accessory Uses. The following are permitted accessory uses in an "I-2" District:

- a) All permitted accessory uses allowed in an "I-1" District.

Subd. 5. Conditional Uses. The following are conditional uses in an "I-2" District, which require a conditional use permit based upon procedures and provisions set forth in and regulated by Section 1301.050 of this Code. (Ref. Ord. 693, 8/13/85)

- a) All conditional uses allowed in an "I-1" District.
- b) Recycling centers within buildings or screened by permanent walls.
- c) Crude oil, gasoline, or other liquid storage tanks.
- d) Electric light or other power maintenance stations.
- e) Extraction, processing, or storage of sand and gravel.

Subd. 6. Lot Requirements and Setbacks. The following minimum requirements shall be observed in a "I-2" District, subject to additional requirements, exceptions and modifications set forth in this Code.

- a) Lot Area - 20,000 square feet.
- b) Lot width - 100 feet.

c) Setbacks:

- 1) Front yards: Not less than thirty (30) feet.
- 2) Side yards: Not less than ten (10) feet, nor less than thirty (30) feet on a side yard abutting a public right-of-way. (Ref. Ord. 813, 4/10/90)
- 3) Rear yards: Not less than twenty (20) feet. (Ref. Ord. 813, 4/10/90)

Subd. 7. Building Requirements.

a) Height. No structure shall be taller than four (4) stories, not to exceed forty-eight (48) feet, except as provided in Section 1302.040, Subd. 3 of this Code.

b) Exterior Building Materials. This section identifies permitted building materials to be used in industrial building construction which are durable and long lasting. By identifying permitted building materials, high quality development is achieved in both visual and functional terms.

- 1) All exterior wall finishes shall be of consistent quality limited to one or a combination of the following:
 - a. Face brick;
 - b. Natural stone;
 - c. Decorative concrete block which is painted or colored by pigment impregnated throughout the entire block;
 - d. Cast in place concrete or pre-cast concrete panels per approval of an architectural treatment by the Zoning Administrator;
 - e. Stucco;
 - f. Wood, provided the surfaces are finished for exterior use;
 - g. Curtain wall panels of steel, fiberglass or aluminum, provided such panels are factory fabricated and finished with a durable non-fade surface and their fasteners are corrosion resistant. The gross building wall area of this type shall be limited to no more than fifty (50) percent of an aggregate of walls excluding window and door areas;
 - h. Glass;
 - i. Painted concrete block provided that it is not used on any building wall visible from a public right-of-way.
- 2) All subsequent additions and exterior alterations to non-conforming buildings must be constructed with the materials required in this ordinance if the addition or alteration exceeds twenty-five (25) percent of the floor area of the original non-conforming structure.

- 3) Accessory buildings constructed after the erection of the original building or buildings shall be constructed of materials comparable to those used in the principal building and shall be designed in a manner conforming to the architectural and general appearance.
- 4) The following exterior building materials are prohibited:
 - a. Face materials which rapidly deteriorate or become unsightly such as galvanized metal;
 - b. Unfinished structural clay tile and metal panels not factory finished with a permanent surface;
 - c. Buildings comprised exclusively of metal, pole buildings, sheet metal, plastic or fiberglass siding unless such siding is a component of a factory fabricated and finished panel.

(Ref. Ord. 884, 2/9/93)

§1303.210 "PZ", PERFORMANCE ZONE DISTRICT

Subd. 1. Purpose. The purpose of the "PZ", Performance Zone District is to allow for development flexibility and special design control within sensitive areas of the City due to environmental or physical limitations. As part of the City's Comprehensive Plan, it has been determined that within certain unique areas of the community the precise designation of acceptable land use and the geographic definition of such activities cannot be accomplished without detailed analysis of use type impact, construction and improvement feasibility and costs, market conditions, and financing. In such cases, in order to allow property owners the opportunity to pursue the highest and best use of their land within the constraints of environmental and physical limitations, the "PZ" Performance Zone has been created.

Subd. 2. District Application.

- a) The "PZ" Performance Zone District shall be applied in conjunction with the policies established in the White Bear Lake Comprehensive Plan.
- b) The special requirements and performance standards imposed as part of the "PZ", Performance Zone District shall serve as guidelines for the development of all property within the district.

Subd. 3. Permitted Uses. The following are permitted uses in a "PZ" District:

- a) Uses existing upon the effective date of this Ordinance (12/13/83). (Ref. Ord. 10-1-1063, 1/12/10)

Subd. 4. Permitted Accessory Uses. The following are permitted accessory uses in an "PZ" District:

- a) Uses existing upon the effective date of this Ordinance.
- b) Solar energy systems, either roof-mounted or ground-mounted, per Code Section 1302.030, Subd. 22. (Ref. Ord. 16-03-2010, 3/8/16)

Subd. 5. Conditional Uses. The following are conditional uses in an "PZ" District, which require a conditional use permit based upon procedures and provisions set forth in and regulated by Section 1301.050 of this Code.

- a) All permitted, accessory, and conditional uses allowed within the "O" through "B-6" zoning districts (Sections 1303.020-1303.170) of this Code, provided that the following conditions are met:
 - 1) Traffic generation demands shall not exceed the capacity of the area street system or add unreasonable increased volumes on area streets as determined by the following criteria:
 - a. Standards established by the adopted City Comprehensive Plan.
 - b. Engineering design, construction, and capacity standards.

- 2) Street improvements shall be provided at the expense of the developer, sufficient to meet the need which is generated, but which do not endanger the traffic carrying capacity or function of the local or regional system.
- 3) Public sewer and water extensions are available and feasible, and provided at the developer's expense.
- 4) Adequate development valuation or direct contribution to support necessary public safety expansion.
- 5) Internal and external site land use compatibility and sufficient peripheral area protection and screening.
- 6) There shall be no negative visual impact on the existing residential development or environmental features.
- 7) Demonstrated environmental compatibility:
 - a. Protection of wetland areas and natural drainage ways.
 - b. Creation of no smoke, dust, noise, odors or refuse that will adversely impact the adjoining properties.
- 8) The creation of no drainage or pollution problems.
- 9) Architectural compatibility and building code compliance.
- 10) Provisions for energy conservation.
- 11) The provision for adequate support facilities, i.e., off-street parking, off-street loading, etc.
- 12) Contribution to the community's economy and stability:
 - a. Preservation of the public cost/revenue balance.
 - b. Expansion of the community's economic base:
 1. Economic diversity.
 2. Local job opportunities.
 - c. Demonstrated fiscally sound and self-sustaining.
- 13) Adequate provision for property control and maintenance.
- 14) Demonstrated compliance with the White Bear Lake Comprehensive Plan Policy Plan/Development Framework and related detailed facilities plan.
- 15) The proposed use will not create fiscal problems for the City or adversely impact the health, safety or welfare of the community.

Subd. 6. Prohibited Uses. (Ref. Ord. 800, 1/9/90)

- a) Fuel and oil dispensing operations.

Subd. 7. Lot Requirements, Setbacks and the Like. The following minimum requirements shall be observed in the "PZ" District subject to additional requirements, exceptions and modifications set forth in this Code.

- a) Uses within the district shall be subject to the requirements and performance standards established in Subd. 5 above.
- b) Setback requirements shall be those typically imposed for respective uses by this Code and as approved by the City Council.

1303.211 "PZ-R" PERFORMANCE ZONE-RESIDENTIAL DISTRICT

Subd. 1. Purpose. The purpose of the "PZ-R", Performance Zone Residential District is to allow for residential development flexibility and special design control within sensitive areas of the City due to environmental or physical limitations, and unique character of the land. The precise designation of acceptable residential dominated land use and the geographic definition of such activities can be accomplished only with detailed analysis of proposed use(s) impact, construction and improvement feasibility and costs, market conditions, financing required and environmental assessment.

Subd. 2. District Application.

- a) The PZ-R Zone District shall be applied in conjunction with the policies established in the White Bear Lake Comprehensive Plan.
- b) The application form, City environmental assessment checklist, special requirements, the adopted design guidelines and the performance standards imposed as part of the "PZ" and "PZ-R" Zone District shall serve as guidelines for the development of all property within the district.

Subd. 3. Permitted Uses. The following are permitted uses in a "PZ-R" District (Requires site plan review and approval by Planning Commission and City Council):

- a) All permitted uses allowed in an "O", "R-11", "R-2" and "R-3" District, subject to DNR shoreland management requirements. (Ref. Ord. 896, 7/13/93)

Subd. 4. Permitted Accessory Uses. The following are permitted accessory uses in a "PZ-R" District (require site plan review and approval by Planning Commission and City Council):

- a) All permitted accessory uses allowed in an "O", "R-11", "R-2", and "R-3" District subject to DNR shoreland management requirements. (Ref. Ord. 896, 7/13/93)

Subd. 5. Conditional Uses. The following are conditional uses in a "PZ-R" District (requires a public hearing by the Planning Commission and approval of a Conditional Use Permit by the City Council pursuant to the procedures in §1301.050 of this Code) and subject to DNR shoreland management requirements:

- a) All conditional uses, subject to the same or more detailed conditions, as allowed in an "O", "R-11", "R-2" and "R-3" District. (Ref. Ord. 896, 7/13/93)
- b) All "R-5" uses of multi-family housing (more than three [3] units per structure) as outlined and regulated in §1303.070).
- c) Professional office buildings subject to the building and hard surface setback requirements of the "DBD" zone.
- d) Banks including those with drive through facilities as an accessory use provided that at least 5,000 square feet of interior bank operations are included. (Ref. Ord. 790, 8/22/89)
- e) Professional and commercial offices as defined in the "B-2" district (§1303.130, Subd. 4b) representing 25% or less of the gross floor area of a residential planned unit development.

Subd. 6. Special Minimum Requirements. The following minimum requirements shall be observed in a "PZ-R" District, subject to additional requirements which may be set forth in the issuance of a conditional use permit: (Ref. Ord. 10-1-1063, 1/12/10)

- a) Lot area - 20,000 square feet adjacent to lake, 15,000 square feet all other areas
- b) Lot width - 80 feet (at building setback line)
- c) Building setbacks from property lines
 - 1) Front yards: Not less than fifty (50) feet on nine (9) ton or more roads, otherwise thirty (30) feet.
 - 2) Interior side yards: Not less than ten (10) feet; attached garages not less than five (5) feet.
 - 3) Corner lot side yards: Not less than fifty (50) feet on nine (9) ton or more roads, otherwise thirty (30) feet.
 - 4) Rear yards: Not less than thirty (30) feet.
- d) Hard surface areas shall be setback a minimum of 20 feet from all right-of-ways except where adjacent to Interstate 35E or 694 the minimum shall be 10 feet. Side and rear yard setbacks shall be at least 10 feet except where adjacent to residential land use, then said setback shall be at least 20 feet.
- e) Underground lawn sprinkling systems shall be provided for all development to maintain the lawns and landscaping within the boulevards, front and side yards.
- f) All exterior wall finishes on any building shall be of consistent quality limited to one or a combination of the following: (Ref. Ord. 790, 8/22/89)
 - 1) Face brick.
 - 2) Natural stone.
 - 3) Stucco, wood or aluminum siding or specially designed precast concrete units if the surfaces have been integrally treated with an applied decorative material or texture provided that at least 50% of the gross facade is brick or natural stone.
 - 4) Glass.
 - 5) All subsequent additions, exterior alteration and accessory buildings constructed after the erection of an original building or buildings shall be constructed of materials comparable to those used in the original construction and shall be designed in a manner conforming to the original architectural design and general appearance.
- g) Parking and landscape standards shall be equivalent to the standards contained in §1302 of the City Code.

Subd. 7. Building Requirements.

- a) Height above grade. No structure shall exceed thirty-six (36) feet in height above the main entrance grade except as provided in §1302.040, Subd. 3.
- b) Height below grade. Structures may be built below the main entrance grade to the depth and standard prescribed in the City of White Bear Lake Building code.

§1303.220

ZONING CODE

§1303.220

§1303.220 "PUD", PLANNED UNIT DEVELOPMENT DISTRICT

See Section 1301.070, "ADMINISTRATION – PLANNED UNIT DEVELOPMENT OVERLAY DISTRICT" (Ref. Ord. 10-1-1063, 1/12/10)

1303.225 DBD, DIVERSIFIED BUSINESS DEVELOPMENT DISTRICT

Subd. 1. Purpose. The purpose of the Diversified Business Development District is to provide for a limited mixture of land uses, made mutually compatible through controls and high quality standards; to facilitate moderate intensity development in environmentally sensitive areas and to encourage economic development which will enhance employment opportunities within the City. This district shall allow opportunities to integrate high quality office structures, hotels, restaurants, and selected office, office/warehouse, office/showroom, quality light manufacturing uses, and limited medium density housing, in areas with convenient access to the metropolitan market area and excellent visibility from major thoroughfares.

Subd. 2. Permitted Uses. The following are permitted uses in a "DBD" district:

- a) Medical and dental services.
- b) Offices, business and professional.
- c) Private clubs or lodges.
- d) Hotels and motels.
- e) Mortuaries.
- f) Research, design, and development establishments.
- g) Banks and financial institutions including drive-through tellers.
- h) The following uses are permitted in structures containing a minimum of 10,000 square feet.
 1. Health and racquet clubs, gymnasiums and swimming pools.
 2. Graphic arts reproduction and photocopying establishments.
 3. Catering establishments.
 4. Clothing and costume rental.
 5. Trade schools.
 6. Day care facilities.
 7. Schools and studios: artistic, music, photo, decorating, dancing, health.
 8. Orthopedic and medical appliance stores.
 9. Recording studios.
 10. Manufacture of electronic equipment and medical instrument devices.
- i) Office/warehouse uses provided in buildings of at least 10,000 square feet in area provided that at least 25% of any tenant's gross floor area is office related.

- j) Hair Salons with services limited exclusively to hair-cuts, coloring, conditioning and styling. May not include other services such as massage, tanning, nails, facials and waxing. (Ref. Ord. 14-6-1094, 6/10/14)

Subd. 3. Permitted Accessory Uses. The following are permitted accessory uses in a "DBD" District.

- a) Off street parking and off street loading as regulated under §1302 of this code.
- b) Inside parking for cars and/or service trucks, including underground parking facilities or parking ramps.
- c) Solar energy systems, either roof-mounted or ground-mounted, per Code Section 1302.030, Subd. 22. (Ref. Ord. 16-03-2010, 3/8/16)

Subd. 4. Conditional Uses. The following are conditional uses in a "DBD" District, which require a Conditional Use Permit based upon procedures and provisions set forth in and regulated by §1301.050 of this Code.

- a) Restaurants over 4,000 square feet in gross building area (drive-through facilities are not allowed).
- b) Multi-tenant developments which may include any combination of the following: restaurants less than 4,000 square feet in gross floor area with no drive through facilities, offices, office/warehouse, product showrooms and product servicing, provided that the multi-tenant development includes at least 10,000 square feet of gross floor area with no fewer than three tenants.
- c) Product showroom and servicing of products manufactured or stored in the same single tenant structure of 10,000 square feet or greater. (Ref. Ord. 17-02-2022, 2/14/17)
- d) Wholesale businesses provided that the area allocated to storage does not exceed 50% of the total floor area of the building.
- e) Exterior storage of trucks, vans, service vehicles and loading equipment only when incidental to the principal use.
- f) (Deleted per Ord. 887, 3/9/93)
- g) Restaurants with on-sale liquor provided that the gross floor area is at least 4,000 square feet with not less that 60% devoted to dining.
- h) Light manufacturing, fabrication and processing of goods and materials which will not be dangerous or otherwise detrimental to persons residing or working in the area, and will not impair the use or value of any property.
- i) Site plans within the Diversified Business District shall require a Conditional Use Permit prior to issuance of construction or land alteration permits. Procedures and regulations shall be as set forth in §1301.050 of this code. Submittal for review shall include:
1. Site development plan, at not less than 1" = 50' in scale.

- 2. Building plans, including building elevations indicating mass, building materials and color of all exterior surfaces, including all materials intended to meet the screening requirement of this ordinance.
- 3. Landscape plans including the number, species and size of all plantings.
- 4. Grading, storm drainage, and utility plans.
- 5. A description of all anticipated environmental impacts, to be detailed on City supplied worksheet.

j) Assisted and Congregate Senior Housing (Ref. Ord. 1031, 12/13/05)

- 1) The lot or parcel shall have direct or indirect access to a collector, minor arterial, or trunk highway, as defined in the City's Comprehensive Plan.
- 2) The lot or parcel shall have a minimum lot area of one (1) acre. The minimum lot area shall further be calculated according to the following dwelling unit schedule:

<u>Unit Type</u>	<u>Land Required Per Unit</u>
Assisted Care Unit	1,000 s.f.
Efficiency/Studio	1,200 s.f.
One Bedroom	1,400 s.f.
Two Bedroom	2,200 s.f.

- 3) The minimum floor area (as measured from the inside face of the unit walls) shall be as follows:

<u>Unit Type</u>	<u>Land Required Per Unit</u>
Assisted Care Unit	200 s.f.
Efficiency/Studio	400 s.f.
One Bedroom	500 s.f.
Two Bedroom	700 s.f.

- 4) Off-street parking shall be provided at minimum of one-half (1/2) paved striped stall per unit.
- 5) Setbacks shall be as set forth in the setback section of the DBD zoning district (Section 1303.225 subd. 6)
- 6) Passive outdoor recreation area(s) such as, but not limited to, walking paths, seating accommodations, and landscaped gardens shall be provided for residents in a location, configuration, and extent approved by the City Council.

Subd. 5. Prohibited Uses.

- a) Drive-through and convenience food establishments.
- b) Car washes.

- c) Motor fuel station, auto-repair, tire, battery sales and all other auto-oriented services.
- d) Outdoor storage of goods and materials.
- e) New and used automobile, truck, recreational vehicle, trailer sales and showrooms.
- f) Retail uses and other commercial uses other than those outlined in §1303.225, Subd. 2 and 4.

Subd. 6. Special Minimum Requirements. (Ref. Ord. 10-1-1063, 1/12/10)

- a) Lot Area - not less than one acre
- b) Lot Width - not less than one hundred fifty (150) feet at the required front yard setback line
- c) The front yard setback shall be no less than 35 feet, except when the land use across the adjacent right-of-way is residential, then said setback shall be a minimum of 50 feet.
- d) The side and rear yard setbacks shall be a minimum of 20 feet except when adjacent to residential land uses, then said setback shall increase to 50 feet. In the case of double frontage lots the front setbacks shall apply except buildings adjacent to Interstate 35E or 694 shall be at least 20 feet.
- e) Hard surface areas shall be setback a minimum of 20 feet from all right-of-ways except where adjacent to Interstate 35E or 694 the minimum shall be 10 feet. Side and rear yard setbacks shall be at least 10 feet except where adjacent to residential land use, then said setback shall be at least 20 feet.
- f) Building height shall be limited to thirty six (36) feet, except as provided in §1302.040, Subd. 3
- g) All exterior wall finishes on any building shall be of consistent quality limited to one or a combination of the following:
 - 1. Face brick.
 - 2. Natural stone.
 - 3. Stucco, wood or aluminum siding or specially designed precast concrete units if the surfaces have been integrally treated with an applied decorative material or texture provided that at least 50% of the gross facade is brick or natural stone.
 - 4. Glass.
 - 5. All subsequent additions, exterior alteration and accessory buildings constructed after the erection of an original building or buildings shall be constructed of materials comparable to those used in the original construction and shall be designed in a manner conforming to the original architectural design and general appearance.
- h) Where the City's Shoreland District or Wetland District Ordinances, §1303.230 and §1303.240 respectively apply and conditions and requirements contained therein are more restrictive than

those contained in the Diversified Business Development District the more restrictive standards shall apply.

- i) Parking and landscaping standards shall be equivalent to the standards contained in §1302 of the City Code.
- j) Underground lawn sprinkling systems shall be provided for all development to maintain the lawns and landscaping within the boulevards, front and side yards. (Ref. Ord. 10-1-1063, 1/12/10)

§1303.226 DCB, DIVERSIFIED CENTRAL BUSINESS DISTRICT (Ref. Ord. No. 810, 3/14/90)

Subd. 1. Purpose. The Diversified Central Business District is intended to be used in designated areas in close proximity to the City's Central Business District. The purpose of the Diversified Central Business District is to provide for a limited mixture of land uses, made mutually compatible through controls and high quality standards; to facilitate development/redevelopment which will enhance viability within the City's Central Business District and employment and residential opportunities within the City. This district shall allow opportunities to integrate high quality office structures, hotels, restaurants, selected office, office/warehouse, office/showroom, medium to high density housing and limited commercial developments, in areas with convenient access to the metropolitan market area and excellent visibility from major thoroughfares.

Subd. 2. Permitted Uses. The following are permitted uses in a "DCB" district:

- a) Medical and dental services.
- b) Offices, business and professional.
- c) Private clubs or lodges.
- d) Hotels and motels.
- e) Mortuaries.
- f) Banks and financial institutions including drive-through tellers.
- g) The following uses are permitted in structures containing a minimum of 10,000 square feet.
 - 1) Health and racquet clubs, gymnasiums and swimming pools.
 - 2) Graphic arts reproduction and photocopying establishments.
 - 3) Catering establishments.
 - 4) Clothing and costume rental.
 - 5) Trade schools.
 - 6) Schools and studios: artistic, music, photo, decorating, dancing, health.
 - 7) Orthopedic and medical appliance stores.
 - 8) Recording studios.

Subd. 3. Permitted Accessory Uses. The following are permitted accessory uses in a "DCB" District.

- a) All permitted accessory uses in the DBD district. (Ref. Ord. 16-03-2010, 3/8/16)

Subd. 4. Conditional Uses. The following are conditional uses in a "DCB" District, which require a conditional use permit based upon procedures and provisions set forth in and regulated by §301.050 of this Code.

- a) Restaurants over 3,000 square feet in gross building area (drive-in facilities are not allowed).
- b) Restaurants with on-sale liquor provided that the gross floor area is at least 3,000 square feet with not less than 60% devoted to dining (drive in facilities are not allowed).
- c) Multi-tenant developments which may include any combination of the following: restaurants (with no drive in facilities) offices, office/warehouse with a minimum of 35% gross floor area devoted to office for each business, product showrooms and product servicing, provided that the multi-tenant development includes at least 10,000 square feet of gross floor area per structure with no fewer than three tenants.
- d) Product showroom and servicing of products stored in the same single tenant structure of 10,000 square feet or greater. (Ref. Ord. 17-02-2022, 2/14/17)
- e) Wholesale businesses provided that the area allocated to storage does not exceed 50% of the total floor area of the building.
- f) All permitted and conditional uses allowed in the "R-7", High Density Housing District, Section 1303.090, subject to the minimum conditions set forth therein. Where conditions set forth in the Diversified Central Business District, §1303.226, are more demanding than those in the R-7 High Density Housing District, then those more demanding conditions shall apply. (Ref. Ord. 09-01-1054, 1/13/09)
- g) Mixed-Use development provided all buildings are multistory and meet the following requirements:
 - 1) The ground floor building area is devoted to any of the following uses:
 - a) Commercial uses. Banks, food services, hotels, bed and breakfast inns, printing process/supply, clubs and lodges, homes improvement showrooms and studios, upholstery shops, restaurants (without drive-in or drive-thru facilities), indoor recreation, retail shops, grocery stores, art, music and dance studios and personal service establishments.
 - b) Civic/institution and transportation uses. Community centers, education/academic facilities, libraries, museum art/galleries, indoor and outdoor public parks/open space, post offices, customer service facilities, public studios and performance theatres and time transfer and transit stations.
 - c) Offices, professional uses located at the ground floor level, limited to no more than 30% of both the gross floor area and linear street frontage on any parcel in the DCB District. Upper story offices shall be permitted uses and will not be included in determining this percentage.

- 2) Upper level uses are devoted to uses listed below, provided that within the same building, residential uses will not be located on the same building floor as non-residential uses:
- a) Offices, professional uses, located above the ground floor.
 - b) Residential uses limited to multiple family and senior citizen residential dwellings limited to apartments and condominiums.
 - c) Civic/institution and transportation uses. Community centers, education/academic facilities, libraries, museum art/galleries, indoor and outdoor public parks/open space, post offices, customer service facilities, public studios and performance theaters and time transfer and transit stations. (Ref. Ord. 10-1-1063, 1/12/10)
- h) Drive through facilities for pharmacies. (Ref. Ord. 10-1-1063, 1/12/10)
- i) Day care facilities.
- j) Playhouses and indoor movie theatres.
- k) Research, design, and development establishments provided at least 35% of gross floor area is devoted to office use.
- l) Commercial Planned Unit Developments, limited to those uses specified as permitted and conditional uses in the B-2 "Limited Business District", §1303.130, provided that said planned commercial developments are at least two acres in contiguous land area and subject to the procedures and regulations set forth in §1301.070
- m) All site plans, whether for permitted or conditional uses, within the Diversified Central Business shall require a conditional use permit prior to issuance of construction or land alteration permits. Procedures and regulations shall be as set forth in §1301.050 of this code. Submittal for review shall include:
- 1) Site development plan, at not less than 1" = 50' in scale.
 - 2) Building plans, including building elevations indicating mass, building materials and color of all exterior surfaces, including all materials intended to meet the screening requirement of this ordinance.
 - 3) Landscape plans including the number, species and size of all plantings.
 - 4) Grading, storm drainage, and utility plans.
 - 5) A description of all anticipated environmental impacts, to be detailed on City supplied work sheet.

Subd. 5. Prohibited Uses.

- a) Drive through facilities, except drive through bank tellers and pharmacies.
- b) Car washes.

- c) Motor fuel station, oil dispensing, auto-repair, tire, battery sales and all other auto-oriented services.
- d) Outdoor storage of goods and materials.
- e) New and used automobile, motorcycle, truck, recreational vehicle, trailer sales and show-rooms.
- f) Retail uses and other commercial uses other than those outlined in §1303.226, Subd. 2 and Subd. 4.
- g) Contractor's shops and yards for plumbing, heating, glazing, painting, paper hanging, roofing, ventilation, air conditioning, masonry, electrical and refrigeration.

Subd. 6. Special Minimum Requirements. (Ref. Ord. 10-1-1063, 1/12/10)

- a) Lot Area - not less than 20,000 square feet.
- b) Lot Width - not less than one hundred (100) feet at the required front yard setback line.
- c) The front yard building setback shall be no more than 30 feet from a local street or less than 10 feet from the side adjacent to the railroad right-of-way. (Ref. Ord. 10-1-1063, 1/12/10)
- d) The side and rear yard building setbacks shall be a minimum of 15 feet except when adjacent to single family residential land uses, then said setback shall increase to 50 feet.
- e) Hard surface areas shall be setback a minimum of 15 feet from all right-of-ways and other property lines, except where adjacent to the railroad right of way, the minimum shall be 10 feet.
- f) Exterior Materials.
 - 1) All exterior wall finishes on any building shall be of consistent quality limited to one or a combination of the following:
 - a) Clay brick.
 - b) Natural or cast stone.
 - c) Cementitious stucco.
 - d) Glass.
 - e) Stained or painted wood lap siding.
 - f) Exterior insulating finish systems (EIFS, "Dryvit") so long as not more than 30% of the gross wall area and not within 5 feet above the ground grade.

- g) All subsequent additions, exterior alteration and accessory buildings constructed after the erection of an original building or buildings shall be constructed of materials comparable to those used in the original construction and shall be designed in a manner conforming to the original architectural design and general appearance.
 - h) Other materials may be considered by the City provided that they are not expressly prohibited, below.
- 2) The following materials are prohibited:
- a) Concrete masonry units (CMU)
 - b) King-size, queen size or jumbo brick
 - c) Aluminum, vinyl, or steel siding or panel systems
 - d) Exposed aggregate (rough finish) concrete wall panels
 - e) Glass curtain wall systems
 - f) Plastic
 - g) T-111 Composite plywood siding
 - h) Clear finished wood
- g) Parking and landscaping standards shall be equivalent to the standards contained in §1302 of the City Code. Buffering between incompatible uses will be subject to Council approval.
- h) Door & Window Design. In order to promote and maintain the small town, historic character of the downtown area, glazed surfaces on front façade(s) shall be double hung, casement, or fixed picture windows, within discernable wall elements. Windows designed as true divided lights shall be encouraged. Sliding or jalousie windows shall not be permitted.
- i) Door and Storefront Window Materials. All windows on front and corner side facades on all stories, or serving public entrances, shall be wood or wood clad with aluminum or fiberglass. It is encouraged that all ground level doors on front and corner side facades be constructed of wood. The design of doors made of materials other than wood shall be compatible with the design of the building. The use of vinyl windows and trim is prohibited.
- j) Storefront Display Windows. In order to recognize the pedestrian orientation of the downtown area, the following are requirements for display windows:
1. Along the length of façade(s) facing any public street 50% of the first floor façade shall be display type windows where retail sales, personal service, and/or office use is located on the first floor. A minimum 18-inch high knee wall shall be required beneath glazing and the bottom edge of such windows shall not be higher than thirty (30) inches above grade so as to allow pedestrians to see into the windows.
 2. First story glass shall be clear and non-tinted; tinting of second and third story glass shall not vary by more than 20%. Reflective glass is prohibited.
- k) Accessory Buildings, Structures and Uses. All accessory buildings and structures shall compliment and coordinate with the principal buildings on the lot, both in architectural style and material selection.

- l) Drive-through facilities:
1. Drive-through facilities shall be located at the rear of buildings, and where possible, the building shall extend over the drive-through aisles to maintain the street wall. Drive through facilities in the DCB, Diversified Central Business District shall be limited to no more than two (2) drive-through lanes; no more than ten (10) feet in width per lane.
 2. Drive-through facilities for pharmacies shall be restricted to prescription drug pick-up only.
- m) Building Scale Standards. The following regulations shall apply to all new construction, additions and exterior remodeling in the DCB, Diversified Central Business District:
1. Buildings shall be designed with a definable base, middle and top. Cornices and parapets are encouraged to define these sections of the building.
 2. Facades of large buildings over 7,500 square feet shall be visually broken into bays to avoid the appearance of large, blank walls. Visual breaks in the façade shall be accomplished by alterations in the plane of the façade; height of the façade; changes in materials, color, texture, or pattern; and/or the addition of columns, pilasters, and/or windows.
 3. Punched openings in the wall plane shall be provided in which to set windows and doors. Flush mounted windows and doors are prohibited.
 4. The first floor of buildings in the district shall be designed with a minimum ceiling height of twelve (12) feet and fourteen (14) feet is encouraged.
 5. One-story buildings taller than eighteen (18) feet in height shall be architecturally detailed to simulate a two-story appearance.
 6. No individual retail business shall be larger than 10,000 square feet in gross floor area. Basement areas and upper level mezzanine areas utilized for non-retail purposes shall not be included in this calculation. Retail businesses may be allowed up to 15,000 square feet in gross floor area provided a second story with at least 50% of the area of the first floor is provided.
- n) Building Access Standards.
1. Pedestrian Access: Each ground floor space with street frontage shall have either its primary entrance, or an entrance comparable in design to the primary entrance, facing the local public street.
 2. Vehicular Access: Vehicular access shall be from the rear of the property whenever possible. When such access is not possible, it shall be encouraged that the width of the individual drive lanes be limited to ten (10) feet in width.

3. Parking Lots: Whenever possible, parking lots shall be located at the rear of buildings such that buildings separate parking areas from the street. Parking may be located to the side of a building if the lot is a minimum of 150' in width. The need for parking on the side or front of the buildings will be evaluated by the City on a case-by-case basis and shall only be permitted where the configuration of the site and/or need for on-site parking makes locating all parking at the rear of the building infeasible.

o) Lighting

Lighting standards and fixtures shall be consistent with the historic character of the B-5, Central Business District. All lighting poles and luminaries shall be consistent with the ornamental lighting adopted by the City. All on-site lighting shall be equipped with shielding and cut-off devices, such that no light shall shine directly upon adjacent residentially zoned property. In keeping consistent with the pedestrian scale of the downtown area, light poles shall be maximum height of fifteen (15) feet as measured from the finished grade. Light intensity shall not exceed 0.4 foot candle as measured at any residential property line and 1 foot candle as measured at all other property lines.

p) Permitted Encroachments. The following encroachments shall be permitted into required yards in the DCB, Diversified Central Business District.

1. Bay and oriel windows no more than 24 inches
2. Balconies no more than 24 inches.
3. Sills, cornices, roofs, eaves, gutters, corbelled chimneys and ornamental features projecting no more than 24 inches.
4. Steps, ramps, and stoops no more than 16 square feet in area and projecting no more than 6 feet into the required rear or side yard.
5. Awnings and canopies no more than 5 feet into required yards. Awnings and canopies may also extend up to 5 feet out over the public sidewalk, where approved by the City.

(Ref. Ord. 10-1-1063, 1/12/10)

q) Underground lawn sprinkling systems shall be provided for all development to maintain the lawns and landscaping within the boulevards, front and side yards.

Subd. 7. Special Density Allowances for Multi-Family Housing Developments.

- a) The area of the tract shall not be less than the sum of the required lot area for each dwelling unit thereon adjusted by the allowances permitted by this subdivision. For purposes of determining the base density, prior to allowances, the R-7 "High Density Residential District" §1303.090 shall be used.
- b) Subtract 750 square feet for each parking space within or under the principal building or otherwise underground.
- c) Subtract 250 square feet for each dwelling unit if principal and accessory structures are at least 150 feet from a residentially zoned district.

- d) Subtract 250 square feet for each dwelling unit if the total impervious surface coverage is less than 60%.
- e) Subtract 1,000 square feet for each senior citizen dwelling unit.
- f) Maximum allowable allowance 1,500 square feet.

Subd. 8. Nonconforming Uses Within the DCB "Diversified Central Business District".

Any preexisting conforming or nonconforming residential uses which would become nonconforming by adoption of §1303.226 may be expanded, extended or intensified so long as such expansion, extension or intensification would be permitted under the R-4 "Single Family, Two Family Residential District." (Ref. Ord. No. 810, 3/14/90)

§1303.227 LVMU, LAKE VILLAGE MIXED USE DISTRICT (Ref. Ord. 03-06-1004, 6/10/03)

Subd. 1. Purpose. The purposes of the Lake Village Mixed Use district are to:

- a) Promote development and redevelopment consistent with the master plan for the Marina/Triangle area by encouraging residential uses in conjunction with commercial and expanded recreational activities in order to create an active street life, while enhancing the vitality of businesses and reducing vehicular traffic.
- b) Provide for mixed-use development(s) that are carefully planned to promote efficient use of land, parking and roadway systems.
- c) Provide enhanced oversight through conditional use permit provisions to ensure compatibility of mixed uses and consistency with the approved master plan for the site.
- d) Ensure compatibility with surrounding neighborhoods.
- e) Provide significant incentives to promote the development of mixed-use redevelopment projects.
- f) Improve visual access to the lake.
- g) Encourage pedestrian and bicycle use.
- h) Ensure that commercial and residential uses in a development are designed to be compatible with each other.
- i) Ensure high standards of site design, spatial relationships, architectural design, building materials and landscape design.

Subd. 2. Permitted Uses.

- a) All permitted uses in the B-4 General Business District and B-6 Commercial Recreation District provided said uses are located in a building in existence at the time of the adoption of the Lake Village Mixed Use District (6/10/03). (Ref. Ord. 10-1-1063, 1/12/10)

Subd. 3. Permitted Accessory Uses. The following are permitted accessory uses in the Lake Village Mixed Use district:

- a) Off street parking and off street loading.
- b) Structured parking including parking ramps and underground parking.
- c) Public transit stops/shelters.
- d) On-sale liquor if accessory to a restaurant, private club or lodging.
- e) Solar energy systems, either roof-mounted or ground-mounted, per Code Section 1302.030, Subd. 22. (Ref. Ord. 16-03-2010, 3/8/16)

Subd. 4. Conditional Uses. The following uses, to the extent not a permitted use in Subd. 2. of this district, and any redevelopment for the following uses on land zoned as Lake Village Mixed Use District requires a conditional use permit pursuant to procedures set forth in and regulated by Section 1301.050:

- a) Commercial uses. Commercial uses are limited to the following: banks (without drive-thru facilities), food service, bed and breakfast inn, printing process/supply, private clubs and lodges, restaurants (without drive-in or drive-thru facilities), retail shops, grocery stores, professional and personal services, showrooms and studios.
- b) Civic/institutional and transportation uses. Civic/institutional and transportation uses are limited to the following: Community centers, education/academic, library, museum art/galleries, indoor and outdoor public parks/open space, post office, customer service facilities, public studios and performance theaters and time transfer and transit stations.
- c) Office, human care and laboratory uses. Office, human care and laboratory uses are limited to the following: professional offices, medical/dental offices, day care, medical/dental/optical laboratories.
- d) Residential uses. Residential uses are limited to the following: townhomes, multiple family residential dwellings, apartments and senior citizen housing except density allowances shall be as determined by this district's standards. (Ref. Ord. 09-01-1054, 1/13/09)
- e) Mixed-use development provided all buildings are multistory and meet the following requirements.
 1. The ground floor building area is devoted to any of the uses listed as conditional uses above at 4a, 4b or 4c of this subdivision.
 2. Upper level uses are devoted to uses listed in Subd. 4c and 4d of this district provided that within the same building, residential uses will not be located on the same building floor as non-residential uses.
- f) Service and storage marinas, harbor and docking facilities, provided that:
 1. A minimum of thirty feet of shoreline frontage is required.
 2. Slip density shall be limited to not more than one slip for every four feet of adjacent shoreline associated with and under the control of the marina.
 3. On-shore storage, including but not limited to, docks, trash facilities and transformers shall be fenced or screened from view of neighboring residential Districts to the extent practical.
 4. On-shore storage, including but not limited to, docks, trash facilities and transformers shall be screened from view from the public right-of-way, parks, the lake and trails to the extent practical.

5. Storage area shall be grassed or surfaced to control dust and minimize storm water runoff.
6. All lighting shall be hooded and so directed that the light source shall not be visible from the public right-of-way or from neighboring residences and shall be in compliance with section 1302.030, Subd. 9 of this Code.
7. The use does not take up parking space as required by Section 1302.050 of this Code.
8. On shore dock storage shall not exceed one (1) linear feet of dock for each one (1) linear feet of shoreline associated with a marina use.
9. Vehicular access points to the lake shall create a minimum of conflict with through traffic movement, and shall be subject to the approval of the City Engineer.
10. All signing and informational or visual communication devices shall be minimized and shall be in compliance with the White Bear Lake Sign Code.
11. A drainage plan subject to the approval of the City Engineer shall be required.
12. Regardless of whether the dispensing, sale or offering for sale of motor fuels and/or oils is incidental to the conduct of use or business, the standards and requirements of the City, state and federal government agencies regarding motor fuel operations shall apply.
13. All conditions pertaining to a specific site are subject to change when the Council finds that the general welfare and public betterment can be served as well or better by modifying the conditions.
14. Winter dock storage in the bay adjacent to Lion's Park shall require an annual license to be granted by the City Council in October of each year.
15. Marinas shall provide adequate trash facilities which are reasonably screened from views from the lake utilizing vegetation.
16. Marinas with boat launch capabilities shall provide for car/trailer parking with adequate length and turning radii at a rate of one car/trailer stall per fifty slips.
17. Marina parking shall be provided at a rate of not less than .25 parking stalls per slip. Joint use parking will be considered at the time of the conditional use permit review provided that the non-marina, joint use, does not compete with the marina's evening and weekend use of the parking facilities.

Subd. 5. Prohibited Uses. The following shall be considered prohibited uses in the Lake Village Mixed Use District.

- a) Convenience food restaurants with drive-through or drive-in facilities.
- b) Motor oil and/or fuel dispensing operations not including marina fueling uses.
- c) Automobile repair minor and automobile repair major uses.
- d) Car washes.
- e) Sales of any of the following: new and/or used automobiles, trucks and recreational vehicles (not including individual sales of recreational vehicles owned by individuals renting slip(s) which shall be permitted).
- f) Contractor shops and/or yards for any of the following: plumbing, heating, glazing, painting, paper hanging, roofing, ventilation, air conditioning, appliance repair, masonry, electrical or refrigeration.
- g) Billboards.
- h) Adult establishments as defined and regulated at Section 1124 of the Municipal Code.
- i) In-vehicle sales or services.
- j) Any uses not listed as either permitted, accessory or conditional uses in this district.

Subd. 6. Shoreland District Provisions.

- a) All provisions and procedural requirements outlined in The Lake Village Mixed Use District shall supersede those provisions and procedural requirements outlined in the City's Shoreland District at City Code Section 1303.230 for the following properties.

All properties lying east of Highway 61, north of White Bear Avenue, south of the intersection of Lake Avenue South and Highway 61, and west of White Bear Lake.

- b) Notwithstanding Subd. 6a of this Section, any new development or redevelopment proposals for any of the properties described in said Subd. 6a above which require a conditional use permit as outlined in Subd. 4 of this Section shall also be forwarded to the Minnesota Department of Natural Resources for their review and comment.

Subd. 7. Dimensional Performance Standards and Incentives.

- a) Any new development or redevelopment shall be consistent with the master plan for the marina/triangle district adopted by the City Council which shall act as a general guide for redevelopment of the area and which may be amended from time to time.
- b) The maximum residential density is 40 units per acre for senior housing and 24 units per acre for all other housing types allowed in this district. In determining density, residential units shall be divided by the land associated with each use not including dedications of public right-of-ways. Densities may be increased up to a maximum of 50 percent at the sole discretion of the City Council if two or more of the following are provided:
 1. At least 75% of required parking is provided in underground or above ground structures, including all levels of parking ramps.
 2. Housing is provided above ground floor commercial or civic and the total floor area of the housing is equal to or greater than the commercial and/or civic uses.
 3. Building(s) are placed at or near the street right-of-way consistent with the approved master plan and off-street parking is screened from the right-of-way by the building(s).
 4. At least one-third of the housing units are affordable. (Ref. Ord. 09-01-1054, 1/13/09)
- c) Parking requirements shall be as outlined in Section 1302.050 of this code but said requirements may be reduced by 20% at the sole discretion of the City Council due to provision of municipal on-street parking. With the exception of parking adjacent to Highway 61, off-street parking areas shall be located in the rear or side yard only. When located in the side yard, the street frontage occupied by parking on all roads, excluding Highway 61, shall not exceed 64 feet in width. Cumulative parking requirements may be reduced by up to an additional 30% of required spaces at the sole discretion of the City Council if one or more of the following are provided:
 1. Joint/shared parking arrangements.
 2. Off-site employee parking.
 3. Off-site park and ride facilities, provided off-site facilities are within 1500 feet of the use receiving the reduction.
 4. Off-street municipal parking.
- d) Building setbacks shall be regulated by the redevelopment plan as approved by the City Council based on the following findings:
 1. The setbacks maintain and enhance the character of the district as depicted in the master plan, adopted by the City Council.

2. Adequate visibility is provided from all street intersections.
 3. Building fronts will not be set back greater than 20 feet from the front property line. (Ref. Ord. 10-1-1063, 1/12/10)
 4. Setbacks from the ordinary high water of White Bear Lake shall be a minimum of fifty (50) feet. (Ref. Ord. 03-10-1011, 10/14/03)
- e) Development sites will have a minimum of 10% pervious area. The overall goal for the district including public spaces and riparian areas is 20% pervious surfacing. Storm water management for the district will be consistent with best management practices for urban sites. Each development will be evaluated for consistency with a comprehensive storm water management plan for the district. (Ref. Ord. 03-10-1011, 10/14/03)
- f) Building height shall be limited to not more than thirty six (36) feet except as provided for in Section 1302.040, Subd. 3 of this Code.
- g) Retail uses as defined in this section shall be limited in size so that no individual store or business shall be larger than 10,000 square feet with the exception of grocery stores, which shall have no size restriction.
- h) All parking lots and interior driveways shall be set back a minimum of 10-feet from adjacent property lines and shall be screened from the public right-of-way, the lake and trails.
- i) All trash handling and loading areas must be interior or screened from the public right-of-way, other public areas and adjacent properties by use of architectural screening utilizing the same exterior facing material as the principal structure and shall include an opaque latchable gate.
- j) All exterior wall finishes on any building shall be of a consistent quality on all sides limited to one or a combination of the following:
1. face brick
 2. natural or cultured stone
 3. textured cement stucco
 4. glass
 5. wood
 6. accent materials may include metal, glass block, ceramic tile, artificial stucco (E.F.I.S. Drivit), burnished concrete block, integral colored split face (rock face and exposed aggregate concrete block), copper, or similar materials, provided accent materials do not exceed 20 percent of the total building façade.
 7. cementitious composite siding

- k) Prohibited building materials shall include the following:
1. jumbo brick
 2. concrete panels – all types
 3. unadorned or painted concrete block
 4. aluminum, vinyl and fiberglass siding
 5. reflective glass
 6. unpainted galvanized metal
- l) A development agreement is required as part of the development approval and shall address, at a minimum, approved site and building design criteria, approved sign locations and design criteria, construction phasing, financial surety for construction of on-site and off-site improvements generated by the development and property maintenance.
- m) The provisions of this Subd. 7 apply only to new development and redevelopment in the Lake Village Mixed Use District.

Subd. 8. Maximum Building Density: Building density per acre of net developable land shall be calculated by including all land within the proposed project, except all lakes and wetlands protected by the Wetland Conservation Act and public dedications for County or State road right-of-ways, divided by the number of dwelling units on the project site. In the case of vertically mixed-use projects, the housing component of said development shall be entitled to use of all of the acreage within the underlying parcel for density calculations. (Ref. Ord. 09-01-1054 and Ord. 09-01-1055, 1/13/09)

Subd. 9. Nonconforming uses within the Lake Village Mixed Use District: Any preexisting conforming use, which would become a nonconforming use by change of their zoning classification to Lake Village Mixed Use District may be expanded, intensified or rebuilt provided such expansion, intensification or rebuilding would have been permitted under their previous zoning classifications (either B-4 or B-6). (Ref. Ord. 03-06-1004, 6/10/03, 1063, 1/12/10)

§1303.230 "S", SHORELAND OVERLAY DISTRICT

Subd. 1. Shoreland Districts. The shorelands within the City of White Bear Lake are hereby designated as shoreland districts and the requirements set forth in this Code shall govern development and other activities within these districts. The classification of the shoreland areas shall govern the use, alteration and development of these areas according to said classification as per M.S. §105.485, M.S. §104.31-104.40, and Minnesota Regulations NR 78-84 and NR 2900.

Subd. 2. District Application. The "S", Shoreland District shall be applied to and superimposed upon all zoning districts as contained herein as existing or amended by the text and map of this Code. The regulations and requirements imposed by the "S", Shoreland District shall be in addition to those established for districts which jointly apply. Under the joint application of districts, the more restrictive requirements shall apply.

Subd. 3. Boundaries. The boundaries of the Shoreland District are established within the following distances from the ordinary high water level of the surface water, depending on the size of the surface water as indicated on the White Bear Lake Shoreland District Map. (Ref. Ord. 915, 12/13/94)

<u>SURFACE WATER</u>	<u>DISTANCE (FEET)*</u>
Greater than ten (10) acres (Table 1)	1,000
Rivers and Streams (draining on area greater than two (2) square miles)	300**

* The practical distance may be less whenever the waters involved are bounded by topographical divides which extend landward from the waters for lesser distances and prevent flowage toward the surface water.

** The distance requirement shall be increased to the limit of the flood plain when the flood plain is greater than three hundred (300) feet.

In the case of conflict between the map and the property description in NR 2900, the latter shall prevail.

Subd. 4. Shoreland Classification. The surface waters affected by this Section and which require controlled development of their shoreland (shoreland district) are shown on the map designated as the official "Shoreland Map of the City of White Bear Lake" which is properly approved and made a part of the Code and filed with the Zoning Administrator. Surface waters generally greater than ten (10) acres and given an identification number of the State of Minnesota as defined in §1301.030 of this Code and listed in Table 1. Other surface waters affected by this Code, generally having less than ten (10) acres, are classified as Wetland Systems and thus regulated under the provisions of §1303.240 of this Code.

TABLE 1
SURFACE WATER DISTRIBUTION
 (Ref. Ord. 915, 12/13/94)

DNR Identification Number	Name	Classification
82-167	White Bear Lake	GD
62-24	Birch Lake	RD
62-34	Goose Lake	RD
62-36	Priebe Lake	GD
62-41	Varney Lake	GD
62-42	Hiner's Pond	GD
Unnamed to Rice Lake	From Basin 34 (Sec. 23, Twp 30, Rng 22W)	TRIB

Subd. 5. Minimum Lot and Setback Requirements.

- a) The following chart sets forth the minimum area setbacks and other requirements of each respective classification.

	TRIB Tributary	RD Recreational Development	GD General Development
1) Min Lot Size (Single Family) Above Normal High Water Level			
• Sewered, Abutting Water	20,000 s.f.	20,000 s.f.	15,000 s.f.
• Sewered, Non-Abutting		15,000 s.f.	10,000 s.f.
• Unsewered, Abutting Water		40,000 s.f.	20,000 s.f.
• Unsewered, Non-Abutting		40,000 s.f.	40,000 s.f.
2) Lot Width (Single Family)*			
• Sewered	75 ft.	75 ft.	80 ft.
• Unsewered, Abutting	100 ft.	150 ft.	100 ft.
• Unsewered, Non-Abutting		150 ft.	150 ft.
3) Setback From Ordinary High Water Level*			
• Sewered	50 ft.	75 ft.	50 ft.
4) Setback From Public Streets*			
• Abutting Federal, State or County Road	50 ft.	50 ft.	50 ft.
• Abutting Town or Public Road	20 ft.	30 ft.	30 ft.
5) Maximum Impervious Surface to Area Ratio**	30%	30%	30%

(Ref. Ord. 692, 8/13/85; 915, 12/13/94)

	TRIB Tributary	RD Recreational Development	GD General Development
6) Maximum Building Height	35 ft.	35 ft.	35 ft.
7) Side Yard Setback***		20 ft.	10 ft.
8) Ordinary Setback of Roads and Parking (Impervious Surface) Areas From Ordinary High Water Level****	50 ft.	50 ft.	50 ft.
9) Structure Height (Lowest Floor) Above High Water Elevation *****	3 ft.	3 ft.	3 ft.

* Setback requirements from the ordinary high water level shall apply to principal and accessory structures and sewage treatment systems, and shall not apply to water-oriented accessory uses, including piers and docks. Where development exists on both sides of a proposed building site, building setbacks shall be altered subject to the provisions of §1302.040, Subd. 4c) of this Code provided the resulting setback is not within the shore impact zone. Lot width standards must be met at both the ordinary high water level and at the building line.

** For single-family and two-family uses only, staff may administratively grant an impervious surface “credit” for the use of pervious pavers, rain gardens, trench drains or other engineered stormwater infiltration systems. The credit granted may vary depending on specifications of the system but may not exceed 50% of the surface area of the porous system, and must infiltrate at least twice as much run-off as the additional hard-surface area generates, subject to the current requirements for infiltration rates for other systems. The surface area of the porous system may not exceed 25% of the total lot area, and the overall coverage of the site may not exceed 50%. The final surface and sub-grade design of an engineered infiltration system is subject to approval by the City Engineer. (Ref. Ord. 10-1-1063, 1/12/10; 14-01-1086, 1/14/14).

*** Also subject to regulations and exceptions as provided in the “O” through “LVMU” (§§1303.020 through 1303.227) of this Code. (Ref. Ord. 10-1-1063, 1/12/10).

**** Where feasible and practical, all roads and parking areas shall meet the setback requirements established for structures in 3) above. Natural vegetation or other natural materials shall be required in order to screen parking areas where viewed from the water. Parking areas of more than four (4) spaces shall be screened in accordance with a landscaping plan submitted and approved by the City.

***** Includes sewage treatment systems; does not include recreational and water-oriented accessory structures, lock boxes, piers and docks.

b) Water-oriented Accessory Structures. Each lot may have one water-oriented accessory structure not meeting the normal structure setback in Subd. 5a of this Section if the water-oriented accessory structure complies with the following provisions:

- 1) The structure or facility must not exceed fifteen (15) feet in height and cannot occupy an area greater than 250 square feet. Detached decks must not exceed eight feet above grade at any point;
 - 2) The structure or facility shall not be located within the shore impact zone except for lock boxes as provided in this Section;
 - 3) On lakeshore lots divided by a major thoroughfare, one lock box shall be permitted on the lakeshore portion of the lot. The lock box shall not exceed four (4) feet in height and twenty-eight (28) square feet in area, and shall be set back a minimum of five (5) feet from the public right of way. Lock boxes shall be set back at least ten (10) feet from the ordinary high water level and be positioned such that the narrowest side of the structure is parallel to the ordinary high water level, unless otherwise approved by City staff;
 - 4) The structure or facility must be buffered to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or structure color and/or materials, and the plan for accomplishing the buffering must be approved by the City;
 - 5) The structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities;
 - 6) The construction of boathouses shall be prohibited after the effective date of this ordinance (December 28, 1994), boathouses existing on the effective date of this ordinance (December 28, 1994) shall be governed under the provisions of §1302.010 for non-conforming buildings, structures and uses.
- c) Stairways, Lifts, and Landings. Stairways lifts and landings must meet the following design requirements:
- 1) Only one stairway is permitted per property. (Ref. Ord. 20-1-2043, 01/14/20)
 - 2) Stairways and lifts must not exceed four (4) feet in width on residential lots. Wider stairways may be used for commercial properties, public open space recreational properties, and planned unit developments, but shall require a conditional use permit as set forth in Subdivision 6 of this Section;
 - 3) Landings for stairways and lifts on residential lots must not exceed thirty-two (32) square feet in area. Landings larger than 32 square feet may be used for commercial properties, public open space recreational properties, and planned unit developments but shall require a conditional use permit as set forth in Subdivision 6 of this Section;
 - 4) Canopies or roofs are not allowed on stairways, lifts, or landings;
 - 5) Stairways, lifts, and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion;
 - 6) Stairways, lifts, and landings must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical;

- 7) Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of subitems 1-5 above are complied with in addition to the requirements of Minnesota Regulations, Chapter 1340;
- d) Substandard Lot. If in a group of two or more contiguous lots under the same ownership, any individual lot does not meet the requirements of this Code, the lot shall not be considered as a separate parcel of land for the purposes of sale or development and the substandard lot must be combined with the one or more contiguous lots so they equal one or more parcels of land, each meeting the requirements of this Code to the extent possible. (Ref. Ord. 915, 12/13/94)

Any lot of record filed in the office of the Ramsey or Washington County Register of Deeds on the effective date of this Code amendment which does not meet the area requirements of this Code may be allowed as a building site subject to the approval of a shoreland impact plan and provided:

- 1) The lot meets all standards of the applicable zoning use district.
- 2) The lot is in separate ownership from abutting land.
- 3) Except for lot area, all other sanitary and dimensional requirements of the Shoreland District are complied with insofar as practical.

Subd. 6. Development Regulations.

- a) Landowners or developers desiring to develop land or construct any other artificial obstruction on land located within any Shoreland District within the City of White Bear Lake shall first submit a conditional use permit application as regulated by §1301.050 of this Code and a plan of development, hereinafter referred to as a "shoreland impact plan". The purpose of the shoreland impact plan shall be to eliminate as much as possible potential pollution, erosion, siltation, and deforestation. (Ref. Ords. 915, 12/13/94; 99-11-974, 11/9/99)

The shoreland impact plan shall contain the following:

- 1) Proposed provisions for sediment control, storm water management, preservation of existing vegetative cover, and any additional measures intended to improve or maintain the quality of the environment;
- 2) Proposed changes requested by the applicant, affirmatively disclosing what, if any, change will be made in the natural condition of the earth, including loss or change of earth ground cover removal of trees, and alteration of grade courses and marshes;
- 3) The plan shall minimize tree removal, ground cover change, loss of natural vegetation and grade changes as much as possible, and shall affirmatively provide for the relocation or replanting of as many trees as possible which are proposed to be removed.

4) Steep Slope Evaluation. The City Planner must evaluate possible soil erosion impacts and development visibility from public waters before issuing a permit for construction of sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes. When determined necessary, conditions must be attached to issued permits to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters, assuming summer, leaf-on vegetation.

5) Exceptions.

a) Expansion of permitted principal use or accessory use or development of a new accessory use contained in the R-1I, R-1S, R-2, R-3, and R-4 Districts within any Shoreland District shall be exempt from the conditional use permit requirements. Except for legal non-conforming lot width and area conditions, said expansion must meet all other standards of applicable zoning use district(s) or be subject to a variance per § 1301.060. (Ref. Ord. 99-11-974, 11/9/99)

b) Development of a new permitted principal use contained in the R-1-I, R-1-S, R-2, R-3, and R-4 Districts within any Shoreland District shall be exempt from the conditional use permit requirements. Said development may be subject to a variance for lot area and/or lot width, per § 1301.060 as outlined below:

LOT DESCRIPTION	LOT ABUTTING WATER	NONABUTTING LOT
STANDARD LOT	No Variance Required	No Variance Required
SUBSTANDARD LOT	Variance Is Required	Variance Is Required
SUBSTANDARD BUILDABLE RESIDENTIAL LOT	Variance Is Required	No Variance Required <u>Exception:</u> Variance is required if development is a two-family dwelling within the R-4 zoning district)

c) The provisions otherwise set forth in this Code and in other applicable local codes shall apply to all development and subdivisions of real estate except Planned Unit Development. (Ref. Ord. 99-11-974, 11/9/99)

6) Subdivision. No land shall be subdivided which is determined by the City or the Commissioner of Natural Resources to be unsuitable by reason of flooding, inadequate drainage, soil and rock formations with severe limitations for development, severe erosion potential, unfavorable topography, inadequate water supply or sewage treatment capabilities or any other feature likely to be harmful to the health, safety, or welfare of the future residents of the proposed subdivision or the community.

b) Sewage and Waste Disposal.

- 1) Public Systems. All premises used for human occupancy shall be connected to public sanitary sewer collection and treatment facilities. Only in cases where public sewer is neither available nor proposed, and installation of sewer lines is deemed to be financially infeasible as determined through prior public hearing processes, then on-site sewage treatment facilities shall be deemed permissible provided all appropriate state and local regulations are met.
- 2) Private Sewage Treatment Standards. All private sewage treatment systems must meet or exceed the standards adopted by §504 of the City Code.
- 3) Sewage Treatment System Upgrade Required. A sewage treatment system not meeting the requirements of §1303.230, Subd. 6b)2) of this ordinance must be upgraded, at a minimum, at any time a permit or variance is required for any use of the property involving new construction or expansion of the living area of twenty-five percent (25%) or more, or the addition of a bedroom or bathroom, but excluding such improvements as screen porches, entry ways, decks, attics, patios, non-habitable storage space, etc. For the purposes of this provision, a sewage treatment system shall not be considered nonconforming if the only deficiency is the sewage treatment system's improper setback from the ordinary high water level.
- 4) Nonconforming Sewage Treatment Systems. Within a reasonable period of time which shall not exceed two years, all nonconforming private sewage treatments systems shall be identified by inspection required by §1303.230, Subd. 6b)5) and shall be upgraded or replaced. Systems that were installed according to all applicable local standards adopted and in effect at the time of installation shall be considered as conforming unless they are determined to be failing, except that systems using cesspools, leaching pits, or seepage pits, or systems with less than three feet of unsaturated soil or sand between the distribution device and the limiting soil characteristics or ground water shall be considered nonconforming. A system shall be determined failing if it shows signs of surface discharge or seepage from a soil treatment system to the ground surface, abandoned wells, bodies of surface water or into any rock or soil formation the structure of which is not conducive to purification by filtration or into any well or any excavation in the ground. For the purposes of this provision, a sewage treatment system shall not be considered nonconforming if the only deficiency is the sewage treatment system's improper setback from the ordinary high water level.
- 5) Sewage Treatment System Inspection Required. Each individual sewage treatment system currently existing shall be inspected for conformance and proper operation and these currently existing systems as well as those installed under §1303.230, Subd. 6b) of this ordinance, shall be inspected biennially for proper operation by an individual or firm certified and licensed to provide individual sewage treatment system inspection, site evaluation, or design services. The individual or firm performing the inspection must issue a certificate of compliance or notice of noncompliance, whichever may be the case, to the property owner, and must provide a copy of the certificate or notice to the City.

- c) Water Supply. Any private supply of water for domestic purposes shall conform to Minnesota Department of Health Standards for water quality. Private wells shall be placed in areas not subject to flooding and up slope from any source of contamination. Wells already existing in areas subject to flooding shall be flood proofed in accordance with City standards.

Subd. 7. Shoreland Alterations.

- a) The removal of natural vegetation shall be regulated to: Prevent erosion into public waters, conserve nutrients in the soil, preserve shoreland aesthetics and historic values, prevent bank slumping, and protect fish and wildlife habitat.
- 1) Intensive vegetation clearing within the shore impact zone is prohibited;
 - 2) Clear cutting is prohibited, except as necessary for placing public roads, utilities, structures, and parking areas;
 - 3) Natural vegetation shall be restored insofar as feasible after any construction project;
 - 4) Selective cutting of trees and underbrush is allowed as long as sufficient cover is left to make cars and structures inconspicuous when viewed from the water. (Ref. Ord. 915, 12/13/94)
- b) Grading and Filling.
- 1) Grading and filling within Shoreland Districts, or any alteration of the natural topography where the slope of the land is toward a public water or water course leading to a public water must be approved by the Building Official and a permit obtained prior to the commencement of any work thereon. The permit may be granted subject to the following conditions:
 - a. Alterations of topography will be permitted only if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties;
 - b. An approved schedule for grading which minimizes the duration for which bare ground is exposed shall be required;
 - c. Temporary ground cover such as mulch shall be used and permanent cover such as sod shall be planted as soon as possible;
 - d. Methods to prevent erosion and trap sediment shall be employed in accordance with the White Bear Lake Subdivision Code §1404.050;
 - e. Fill shall not be placed in areas lower in elevation than the ordinary high water level;
 - f. Fill shall be stabilized according to accepted engineering standards;
 - g. Fill shall not restrict a floodway or destroy the storage capacity of a flood plain;

- h. The maximum slope of the finished surface which slopes toward a water body or a water course leading to such water body shall be six (6) units horizontal to one (1) vertical; (Ref. Ord. 915, 12/13/94)
 - i. Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed three feet horizontal to one foot vertical, the landward extent of the riprap is within ten (10) feet of the ordinary high water level, and the height of the riprap above the ordinary high water level does not exceed three (3) feet.
- 2) Any work which will change or diminish the course, current, or cross section of a public water must be approved by the department of natural Resources as per M.S. §105.44 before the work is begun. This includes construction of channels and ditches, lagooning, dredging of lake bottom for the removal of muck, silt or weeds, and filling the lake bed, including low lying marsh areas. Approval shall be construed to mean the issuance by the Commissioner of the Department of Natural Resources of a permit under the procedures of Minnesota Statute, 1974, Section 42 and other related statutes.
 - 3) Excavation on shorelands where the intended purpose is connected to a public water, such as boat slips, canals, lagoons and harbors, shall require a permit from the Building Official prior to commencement of construction. Such permit shall be obtained only after the Commissioner of the Department of Natural Resources has approved the proposed connection to public waters. Approval will be given only if the proposed work is consistent with applicable state regulations for work in beds of public waters.

Subd. 8. Planned Unit Development. The Planned Unit Development provisions contained in §1301.070 of this Code may be utilized within a Shoreland District, provided that the following requirements are satisfactorily met.

- a) The PUD shall be processed as a conditional use and shall require a shore impact plan pursuant to the provisions of this Code;
- b) Preliminary plans shall be reviewed by the Department of Natural Resources prior to City approval;
- c) The proposed PUD development is served by public sanitary sewer and public water;
- d) Dwelling units or sites must be clustered into one or more groups and located on suitable areas of the development. They must be designed and located to meet or exceed the following dimensional standards for the relevant shoreland classification: setback from the ordinary high water level, elevation above the surface water features, and maximum height. Setbacks from the ordinary high water level must be increased in accordance with Subd. 8e) of this Section for developments with density increases;

Suitability of the site shall be evaluated according to the following method;

- 1) The project parcel must be divided into tiers by locating one or more lines approximately parallel to a line that identifies the ordinary high water level at the following intervals, proceeding landward:

	<u>Sewered</u>
General Development Lakes	
- 1st Tier	200 ft.
- 2nd and additional Tiers	200 ft.
Recreational Development Lakes	267 ft.
Tributary	300 ft.

- 2) The suitable area (SA_t) within each tier is calculated by excluding from the tier area all wetlands, bluffs, or land below the ordinary high water level of public waters. This suitable area and the proposed project are then subjected to either the residential or commercial planned unit development density evaluation steps to arrive at an allowable number of dwelling units or sites.

e) Density Evaluation. The procedures for determining the base density of a PUD are as follows. Allowable densities may be transferred from any tier to any other tier further from the waterbody, but must not be transferred to any other tier closer to the waterbody.

- 1) Residential PUD Base Density Evaluation. The base density within each tier shall be calculated using the following formula:

$$\text{Residential Base Density} = SA_t/LS$$

SA_t = Suitable area within the tier as defined in Subd. 8d)2) of this Section
 LS = For Lakes: Single residential lot size (area) standard from Subd. 5a) of this Section
 For Tributary: Single residential lot size (area) standard from Subd. 5a) of this Section

- 2) Commercial PUD Base Density Evaluation. The base density with each tier shall be calculated using the following steps:
 - a. Select the appropriate floor area ratio from Table 2:

TABLE 2
**Commercial Planned Unit Development
 Floor Area Ratios
 Public Waters Classes**

Avg. Unit Floor Area	GD Lakes (Sewered); Tributary; RD Lakes Non-Abutting Shoreline	RD Lakes
< 200	.040	.020
200	.040	.020
300	.048	.024
400	.056	.028
500	.065	.032
600	.072	.038
700	.082	.042
800	.091	.046
900	.099	.050
1,000	.108	.054
1,100	.116	.058
1,200	.125	.064
1,300	.133	.068
1,400	.142	.072
1,500	.150	.075
>1,500	.150	.075

b. Calculate the Base Density Evaluation as follows:

Commercial Base Density = FA_t / AL_t
 where $FA_t = (SA_t)(FAR)$

FA_t = Total Floor Area for each tier allowed to be used for dwelling units or sites
 AL_t = Average inside living area size of dwelling units or sites within each tier*
 SA_t = Suitable Area for each tier as defined in Subd. 8d)2) of this Section
 FAR = Floor Area Ratio from Table 2 above

* The average inside living area size of dwelling units or sites within each tier includes both existing and proposed units and sites, but does not include decks, patios, stoops, steps, garages, or porches and basements, unless they are habitable space.

f) Density Increase Multipliers:

- 1) Increases to the dwelling unit or dwelling site base densities are allowable if the dimensional standards of this Code are met or exceeded and the provisions of §1301.070 are satisfied. The allowable density increases will be allowed only if the following conditions are met: 1) Structure setbacks from the ordinary high water level are increased to at least fifty (50) percent greater than the minimum setback, or 2) the impact on the waterbody is reduced an equivalent amount through vegetative management, topography, or additional means acceptable to the city and the setback is at least twenty-five (25) percent greater than the minimum setback.
- 2) Allowable Dwelling Unit or Dwelling Site Density Increases for Residential or Commercial Planned Unit Developments:

<u>Density Evaluation Tiers</u>	<u>Maximum Density Increase Within Each Tier (Percent)</u>
First Tier	50%
Second Tier	100%
Third Tier	200%
Fourth Tier	200%
Fifth Tier	200%

g) Sufficient open space shall be preserved through the use of restrictive deed covenants, public dedications, etc. Open space shall be considered sufficient if it meets all of the following criteria:

- 1) At least fifty (50) percent of the total project area must be preserved as open space;
- 2) Dwelling units or sites, road rights-of-way, or land covered by road surfaces, parking areas, or structures, except water-oriented accessory structures or facilities, shall not be included in the computation of minimum open space;
- 3) Open space must include areas with physical characteristics unsuitable for development in their natural state, or areas containing significant historic sites or unplatted cemeteries;
- 4) Open space may include outdoor recreational facilities for use by owners of dwelling units or sites, by guests staying in commercial dwelling units or sites, and by the general public;
- 5) Open space must not include commercial facilities or uses, but may contain water-oriented accessory structures or facilities;
- 6) The appearance of open space areas, including topography, vegetation, and allowable uses, must be preserved by use of restrictive deed covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means;

- 7) The shore impact zone, based on normal structure setbacks, must be included as open space. For residential PUDs, at least fifty (50) percent of the shore impact zone area of existing and new developments must be preserved in its natural or existing state. For commercial PUDs, at least fifty (50) percent of the shore impact zone must be preserved in its natural state.
- h) All other provisions of this Section and §1301.070 of this ordinance are satisfied.
 - i) The following factors are carefully evaluated to ensure that the increased density of development is consistent with the resource limitations of the public water:
 - 1) Physical and aesthetic impact of increased density;
 - 2) Level of current development;
 - 3) Amount and ownership of undeveloped shoreland;
 - 4) Levels and types of water surface use and public access;
 - 5) Possible effects on overall public use.
 - j) Any commercial, recreational, community, or religious facility allowed as part of the planned unit development conforms to all applicable federal and state regulations including, but not limited to the following:
 - 1) Licensing provisions or procedures;
 - 2) Waste disposal regulations;
 - 3) Water supply regulations;
 - 4) Building codes;
 - 5) Safety regulations;
 - 6) Regulations concerning the appropriate use of Public Waters as defined in Minnesota Statutes, Chapter 105, as may be amended;
 - 7) Applicable regulations of the Minnesota Environmental Quality Board;
 - 8) Storm sewer.
 - k) The final PUD plan shall not be modified or altered in any way without written approval from the Department of Natural Resources;

- l) PUDs incorporating shoreline recreational facilities such as beaches, docks, or boat launching facilities, etc. shall be designed such that said facilities are centralized for common utilization. The number of spaces provided for continuous beaching, mooring, or docking of watercraft must not exceed one for each allowable dwelling unit or site in the first tier (notwithstanding existing mooring sites in an existing commercially used harbor). Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units or sites located in other tiers.
- m) Accessory structures and facilities, except water-oriented accessory structures, shall meet the required principal structure setback.

Subd. 9. Variance. Variances may be granted by the City Council upon application as required in §1301.060 of this ordinance in extraordinary cases. The City Council may grant variances only when the proposed use is determined to be in the public interest and no variance shall be granted which the Council determines will or has a tendency to: (Ref. Ord. 878, 8/11/92; 915, 12/13/94)

- a) Result in the placement of an artificial obstruction which will restrict the passage of storm and flood water in such a manner as to increase the height off-loading, except obstructions approved by the U.S. Army Corps of Engineers in conjunction with sound flood plain management.
- b) Result in incompatible land uses or which would be detrimental to the protection of surface and ground water supplies.
- c) Be not in keeping with land use plans and planning objectives for the City of White Bear Lake or which will increase or cause danger to life or property.
- d) Be inconsistent with the objectives of encouraging land uses compatible with the preservation of the natural land forms, vegetation and the marshes and wetlands within the City of White Bear Lake.
- e) Contrary to the purpose and intent of the zoning provisions herein established by these standards and criteria, and is consistent with the comprehensive management plan adopted by the Commissioner of Natural Resources.
- f) Alter the essential character of the locality as established by the management plan.
- g) No permit or variance shall be issued unless the applicant has submitted a shoreland impact plan as required and set forth in this Code. In granting any variance the Council may attach such conditions as they deem necessary to insure compliance with the purpose and intent of this Code.
- h) No variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located. (Ref. Ord. 915, 12/13/94)
- i) All variances to the requirements of this Section must be certified in accordance with NR 81 (b) and Subd. 10 of this Section.

Subd. 10. Effect of Permit. The granting of any permit, variance or subdivision approval under provisions of this Section shall in no way affect the owner's capability to obtain the approval required by any other statute, ordinance or legislation of any state agency or subdivision hereof. Approval may be expressly given in conjunction with other permits applied for, but no approval shall be implied from the grant of such permits nor from the necessity to apply for a permit as described herein.

Subd. 11. Notification. The Zoning Administrator shall send public hearing notices with copies of all requests for variances, conditional use permits, and preliminary plats, as well as amendment proposals to the shoreland provisions of this Code at least thirteen (13) days prior to such hearings to the Minnesota Department of Natural Resources. (Ref. Ord. 692, 8/13/85; 915, 12/13/94)

The City Zoning Administrator shall send copies of amendments and final decisions granting plat approval, variances, or conditional uses to the Department of Natural Resources within ten (10) days of final action. (Ref. Ord. 692, 8/13/85)

§1303.235, "FP", FLOOD PLAIN OVERLAY DISTRICT

Subd. 1. Statutory Authorization, Findings of Fact and Purpose (Ref. Ord. No. 846, 6/11/91)

- a) Statutory Authorization: The Legislature of the State of Minnesota has, in Minnesota Statutes Chapters 103F and Chapter (394 for counties or 462 for municipalities) delegated the authority to local governmental units to adopt regulations designed to minimize flood losses. Minnesota Statute, Chapter 103F further stipulates that communities subject to recurrent flooding must participate and maintain eligibility in the National Flood Insurance Program. Therefore the City of White Bear Lake, Minnesota does ordain as follows:
- b) Purpose: The purpose of this ordinance is to comply with the rules and regulations of the National Flood Insurance Program (NFIP) codified as 44 Code of Federal Regulations Parts 59-78, as amended, so as to maintain the community's eligibility in the NFIP and to minimize potential losses due to periodic flooding including loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare. (Ref. Ord. No. 10-4-1068, 4/13/10).
- c) Warning and Disclaimer of Liability: This Ordinance does not imply that areas outside of the flood plain district or land uses permitted within such districts will be free from flooding and flood damages. This Ordinance shall not create liability on the part of the City of White Bear Lake or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decisions lawfully made thereunder. (Ref. Ord. 06-05-1035, 5/9/06)

Subd. 2. General Provisions.

- a) Adoption of Flood Insurance Rate Map. Panel numbers 27123C0035G, 27123C0041G, 27123C0042G, 27123C0055G and 27123C0065G of the "Ramsey County, Minnesota All Jurisdictions" Flood Insurance Rate Maps, dated June 4, 2010 and Panel number 27163C0240E of the "Washington County, Minnesota and Incorporated Areas" Flood Insurance Rate Maps dated February 3, 2010, developed by the Federal Emergency Management Agency are hereby adopted by reference as the Official Flood Plain District Map and made a part of this ordinance. (Ref. Ord. 10-4-1068, 4/13/10)
- b) Lands to Which Ordinance Applies. This ordinance shall apply to all lands designated as flood plain within the jurisdiction of the City of White Bear Lake.
- c) Interpretation. The boundaries of the flood plain district shall be determined by scaling distances on the Official Flood Plain District Map. Where interpretation is needed as to the exact location of the boundaries of the flood plain district, the City Engineer shall make the necessary interpretation based on elevations on the regional (100-year) flood profile, if available, and the ground elevations that existed on the site at the time the City adopted its initial floodplain ordinance, or the date of the first National Flood Insurance Program map that placed the site in the floodplain, if earlier. If 100-year flood plain evaluations are not available, the City shall either require a flood plain evaluation consistent with Subd. 6 of this ordinance to determine a 100-year flood elevation for the site; or base its decision on available hydraulic/hydrologic or site elevation survey data which demonstrates the likelihood the site is within or outside of the flood plain. (Ref. Ord. 06-05-1035, 5/9/06, 10-4-1068, 4/13/10)

- d) Annexations. The Flood Insurance Rate Map panels adopted by reference in Subd. 2.a, above, may include floodplain areas that lie outside of the corporate boundaries of the City of White Bear Lake at the time of adoption of this ordinance. If any of these floodplain land areas are annexed into the City of White Bear Lake after the date of adoption of this ordinance (4/13/10), the newly annexed floodplain lands shall be subject to the provisions of this ordinance immediately upon the date of annexation into the City. (Ref. Ord. 10-4-1068, 4/13/10)

Subd. 3. Conflict with Pre-Existing Zoning Regulations, Uses, Standards, General Compliance and Evaluation Criteria: The flood plain zoning district shall be considered an overlay zoning district to all existing land use regulations of the community. The uses permitted in Subdivision 4.0 and 5.0 of this ordinance shall be permitted by issuance of a building or grading permit if not prohibited by any established, underlying zoning district. The requirements of this ordinance shall apply in addition to other legally established regulations of the community and where this ordinance imposes greater restrictions, the provisions of this ordinance shall apply. (Ref. Ord. 10-4-1068, 4/13/10)

- a) Compliance: No new structure or land shall hereafter be used and no structure shall be located, extended, converted, repaired, maintained, or structurally altered without full compliance with the terms of this Ordinance and other applicable regulations which apply to uses within the jurisdiction of this Ordinance. Within the Floodway and Flood Fringe, all uses not listed as permitted uses in Subdivision 4.0 and 5.0 of this ordinance shall be prohibited. In addition, a caution is provided here that: (Ref. Ord. 10-4-1068, 4/13/10)
- 1) New manufactured homes, replacement manufactured homes and certain recreational vehicles are subject to the general provisions of this ordinance and specifically Subdivision 4.0, 5.0 and 9.0. (Ref. Ord. 06-05-1035, 5/9/06, 10-4-1068, 4/13/10).
 - 2) Modifications, additions, structural alterations, normal repair and maintenance, or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of this Ordinance and specifically Subdivision 12.0; and (Ref. Ord. 10-4-1068, 4/13/10).
 - 3) As-built elevations for elevated structures must be certified by ground surveys as stated in Subdivision 10.0 of this Ordinance. (Ref. Ord. No. 846, 6/11/91)

Subd. 4. Permitted Uses Requiring Building Permit or Grading Permit Only.

- a) Any use of land which does not involve a structure, nor an addition to the outside dimensions of an existing structure, nor an obstruction to flood flows such as fill or storage of materials or equipment.
- b) Any use of land involving the construction of new structures, the placement or replacement of manufactured homes, the addition to the outside dimensions of an existing structure or obstructions such as fill or storage of materials or equipment, provided these activities are located in the flood fringe portion of the flood plain. These uses shall be subject to the development standards in Subdivision 5.0 of this ordinance and the flood plain evaluation criteria in Subdivision 6.0 of this Ordinance for determining floodway and flood fringe boundaries. (Ref. Ord. No. 846, 6/11/91)

- c) Recreational vehicles are regulated by Subdivision 9.0 of this Ordinance. (Ref. Ord. No. 846, 6/11/91, Ord. 06-05-1035, 5/9/06)

Subd. 5. Standards for all Flood Plain Permitted Uses.

- a) Fill shall be properly compacted and the slopes shall be properly protected by the use of riprap, vegetative cover or other acceptable method. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation - FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested. (Ref. Ord. No. 846, 6/11/91)
- b) Storage of materials and equipment:
- 1) The storage or processing of materials that are, in time of flooding, flammable, explosive or potentially injurious to human, animal, or plant life is prohibited.
 - 2) Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning or if placed on fill to the Regulatory Flood Protection Elevation.
- c) No use shall be permitted which will adversely affect the capacity of the channels or floodways of any tributary to the main stream, or of any drainage ditch, or any other drainage facility or system.
- d) All structures, including accessory structures, additions to existing structures and manufactured homes, shall be constructed on fill so that the lowest floor, including basement floor, is at or above the regulatory flood protection elevation. The finished fill elevation must be no lower than one foot below the regulatory flood protection elevation and shall extend at such elevation at least fifteen (15) feet beyond the limits of the structure constructed thereon. (Ref. Ord. 10-4-1068, 4/13/10)
- e) Uses that do not have vehicular access at or above an elevation not more than two feet below the Regulatory Flood Protection Elevation to lands outside of the flood plain shall not be permitted unless granted a variance by the Board of Adjustment. In granting a variance, the Board shall specify limitations on the period of use or occupancy of the use and only after determining that adequate flood warning time and local emergency response and recovery procedures exist. (Ref. Ord. 846, 6/11/91, Ord. 06-05-1035, 5/9/06)
- f) Commercial and Manufacturing Uses. Accessory land uses, such as yards, railroad tracks, and parking lots may be at elevations lower than the regulatory flood protection elevation. However, a permit for such facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would be inundated to a depth and velocity such that when multiplying the depth (in feet) times the velocity (in feet per second) the product number exceeds four (4) upon occurrence of the regional flood. (Ref. Ord. 06-05-1035, 5/9/06)
- g) Where public utilities are not provided: 1) On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems; and 2) New or replacement

on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and they shall not be subject to impairment or contamination during times of flooding. Any sewage treatment system designed in accordance with the State's current statewide standards for on-site sewage treatment systems shall be determined to be in compliance with this Section. (Ref. Ord. 846, 6/11/91, Ord. 06-05-1035, 5/9/06)

- h) All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces. (Ref. Ord. 846, 6/11/91, Ord. 06-05-1035, 5/9/06)

Subd. 6. Flood Plain Evaluation

- a) Upon receipt of an application for a Conditional Use/building permit, manufactured home park development or subdivision approval within the flood plain district, the City Building Official or Planner shall require the applicant to furnish sufficient site development plans and a hydrologic/hydraulic analysis by a qualified engineer or hydrologist specifying the nature of the development and whether the proposed use is located in the floodway or flood fringe and the regulatory flood protection elevation for the site. Procedures consistent with Minnesota Rules 1983 Parts 6120.5600 (Technical Standards and Requirements for Floodplain Evaluation) and 6120.5700 (Minimum Floodplain Management Standards for Local Ordinances) shall be followed during the technical evaluation and review of the development proposal.
- b) The City Planner shall submit one copy of all information required by Subd. 6a) of this section to the Minnesota Department of Natural Resources' Area Hydrologist for review and comment at least twenty (20) days prior to the granting of a conditional use/building permit or manufactured home park development/subdivision approval by the community. The City may accept or reject any review comments provided. The City Planner shall notify the Minnesota Department of Natural Resources Area Hydrologist within ten (10) days after a conditional use/building permit or manufactured home park development/subdivision approval is granted.

Subd. 7. Utilities, Railroads, Roads and Bridges in the Flood Plain District.

All utilities and transportation facilities, including railroad tracks, roads and bridges, shall be constructed in accordance with state flood plain management standards contained in Minnesota Rules 1983 Parts 6120.5000 - 6120.6200.

Subd. 8. Subdivisions

- a) No land shall be subdivided and no manufactured home park shall be developed or expanded where the site is determined to be unsuitable by the City Council for reason of flooding or inadequate drainage, water supply or sewage treatment facilities. All lots within the flood plain district shall be able to contain a building site outside the Floodway District at or above the regulatory flood protection elevation. The Planning Commission and City Council shall review the subdivision/development proposal to insure that each lot or parcel contains sufficient area outside of the floodway for fill placement for elevating structures, sewage systems and related activities.

- b) In the Flood Plain District, applicants for subdivision approval or development of a manufactured home park or manufactured home park expansion shall provide the information required in Subd. 6a) of this section. The City Planner and City Engineer shall evaluate the proposed subdivision or mobile home park development in accordance with the standards established in Subd. 5, Subd. 6, and Subd. 7 of this section.
- c) For all subdivisions in the flood plain, the Floodway and Flood Fringe boundaries, the Regulatory Flood Protection Elevation and the required elevation of all access roads shall be clearly labeled on all required subdivision drawings and platting documents. (Ref. Ord. No. 846, 6/11/91)
- d) Removal of Special Flood Hazard Area Designation: The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested. (Ref. Ord. No. 846, 6/11/91)

Subd. 9 Travel Trailers and Recreational Vehicles (Ref. Ord. No. 846, 6/11/91, 1035, 5/09/06, 06-05-1035, 5/9/06, 10-4-1068, 4/13/10)

Travel trailers, travel vehicles and recreational vehicles that do not meet the exemption criteria specified in Subdivision 9.0a below shall be subject to the provisions of this Ordinance and as specifically spelled out in Subdivision 9.0c - d below. (Ref. Ord. 06-05-1035, 5/9/06, 10-4-1068, 4/13/10)

- a) Exemption – Travel/Recreational vehicles are exempt from the provisions of this Ordinance if they are placed in any of the areas listed in Subdivision 9.0b below and further they meet the following criteria: (Ref. Ord. 06-05-1035, 5/9/06, 10-4-1068, 4/13/10)
 - 1) Have current licenses required for highway use.
 - 2) Are highway ready meaning on wheels or the internal jacking system, are attached to the site only by quick disconnect type utilities commonly used in campgrounds and trailer parks and the travel trailer/travel vehicle has no permanent structural type additions attached to it.
 - 3) Travel/Recreational vehicle and associated use must be permissible in any pre-existing, underlying zoning use district. (Ref. Ord. 06-05-1035, 5/9/06, 10-4-1068, 4/13/10)
- b) Areas Exempted For Placement of Recreational Vehicles: (Ref. Ord. 06-05-1035, 5/9/06)
 - 1) Individual lots or parcels of record.
 - 2) Existing commercial recreational vehicle parks or campgrounds.
 - 3) Existing condominium type associations.
- c) Travel/Recreational vehicles exempted in Subdivision 9.0a lose this exemption when development occurs on the parcel exceeding five hundred (500) dollars for a structural addition to the recreational vehicle or exceeding five hundred (500) dollars for an accessory structure

such as a garage or storage building. The recreational vehicle and all additions and accessory structures will then be treated as a new structure and shall be subject to the elevation requirements and the use of land restrictions specified in Subdivision 4.0 and Subdivision 5.0 of this Section. There shall be no development or improvement on the parcel or attachment to the recreational vehicle that hinders the removal of the recreational vehicle to a flood free location should flooding occur. (Ref. Ord. 06-05-1035, 5/9/06, 10-4-1068, 4/13/10)

- d) New commercial travel/recreational vehicle parks or campgrounds and new residential type subdivisions and condominium associations and the expansion of any existing similar use exceeding five (5) units or dwelling sites shall be subject to the following: (Ref. Ord. 06-05-1035, 5/9/06, 10-4-1068, 4/13/10)
- 1) Any new or replacement travel/recreational vehicle will be allowed in the Floodway or Flood Fringe Districts provided said vehicle and its contents are placed on fill above the Regulatory Flood Protection Elevation determined in accordance with the provisions of Subdivision 6.0 of this section and proper elevated road access to the site exists in accordance with Subdivision 5.0 of this Section. No fill placed in the floodway to meet the requirements of this Section shall increase flood stages of the 100-year or regional flood. (Ref. Ord. 06-05-1035, 5/9/06, 10-4-1068, 4/13/10)
 - 2) All new or replacement travel/recreational vehicles not meeting the criteria of Subdivision 9.d.1 above may, as an alternative, be allowed if in accordance with the following provisions. The applicant must submit an emergency plan for the safe evacuation of all vehicles and people during the 100 year flood. Said plan shall be prepared by a registered engineer or other qualified individual, shall demonstrate that adequate time and personnel exist to carry out the evacuation, and shall demonstrate the provisions of Subdivision 9.0a.1 and 9.0a.2 of this ordinance will be met. All attendant sewage and water facilities for new or replacement recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding in accordance with Subdivision 5.0g of this Ordinance. (Ref. Ord. 06-05-1035, 5/9/06, 10-4-1068, 4/13/10)

Subd. 10. Administration.

- a) Permits Required. A City of White Bear Lake Conditional Use Permit as per section 1301.050 and building permits shall be secured prior to the construction of a principal structure, or an expansion of a principal structure greater than twenty five (25) percent of the footprint of the original structure, within the flood fringe. A City permit issued by the Building Official or Planner shall be secured prior to the construction, addition, modification, rehabilitation (including normal maintenance and repair), or alteration of any building or structure or portion thereof; prior to the use or change of use of a building, structure, or land; prior to the construction of a dam, fence, or on-site septic system; prior to the change or extension of a nonconforming use; prior to the repair of a structure that has been damaged by flood, fire, tornado, or any other source, and prior to the placement of fill, excavation of materials or the storage of materials or equipment within the flood fringe. Per DNR Rule #6120.6200, City staff shall submit a copy of the conditional use permit application to the DNR sufficiently in advance so that it is received by the DNR at least 10 days prior to the public hearing, and a copy of all decisions granting conditional use permits shall be forwarded by mail to the DNR within 10 days of such action. (Ref. Ord. 10-4-1068, 4/13/10)
- b) State and Federal Permits. Prior to granting a Conditional Use/Building Permit or processing an application for a variance, the City Planner shall determine that the applicant has obtained all necessary State and Federal permits.

- c) Certification of Lowest Floor Elevations. The applicant shall be required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this ordinance. The Building Official shall maintain a record of the elevation of the lowest floor (including basement) for all new structures and alterations or additions to existing structures in the flood plain district. (Ref. Ord. No. 846, 6/11/91)
- d) Notifications for Watercourse Alterations. The City shall notify, in riverine situations, adjacent communities and the Commissioner of the Department of Natural Resources prior to the community authorizing any alteration or relocation of a watercourse. If the applicant has applied for a permit to work in the beds of public waters pursuant to Minnesota Statute, Chapter 1036, this shall suffice as adequate notice to the Commissioner of Natural Resources. A copy of said notification shall also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).
- e) Notification to FEMA When Physical Changes Increase or Decrease the 100-year Flood Elevation. As soon as is practicable, but not later than six (6) months after the date such supporting information becomes available, the Zoning Administrator shall notify the Chicago Regional Office of FEMA of the changes by submitting a copy of said technical or scientific data. (Ref. Ord. 06-05-1035, 5/9/06).

Subd. 11. Variances. (Ref. Ord. No. 846, 6/11/91; 1035, 5/9/06)

- a) A variance means a modification of a specific permitted development standard required in an official control including this ordinance to allow an alternative development standard not stated as acceptable in the official control, but only as applied to a particular property for the purpose of alleviating a hardship, practical difficulty or unique circumstance as defined and elaborated upon in a community's respective planning and zoning enabling legislation.
- b) The Board may authorize upon appeal in specific cases such relief or variance from the terms of this Ordinance as will not be contrary to the public interest and only for those circumstances such as hardship, practical difficulties or circumstances unique to the property under consideration, as provided for in the respective enabling legislation for planning and zoning for cities or counties as appropriate. In the granting of such variance, the Board of Adjustment shall clearly identify in writing the specific conditions that existed consistent with the criteria specified in the respective enabling legislation which justified the granting of the variance.
- c) Variances from the provisions of this Ordinance may be authorized where the Board of Adjustment has determined the variance will not be contrary to the public interest and the spirit and intent of this ordinance. No variance shall allow in any district a use prohibited in that district or permit a lower degree of flood protection than the Regulatory Flood Protection Elevation. Variances may be used to modify permissible methods of flood protection. The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:
 - 1) Variances shall not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result;
 - 2) Variances shall only be issued by a community upon a showing of good and sufficient cause or a determination that failure to grant the variance would result in exceptional hardship to the applicant, and a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

- 3) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief. (Ref. Ord. 06-05-1035, 5/9/06, 10-4-1068, 4/13/10)
- d) The Board shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed Variance sufficiently in advance so that the Commissioner will receive at least ten days notice of the hearing. A copy of all decisions granting a Variance shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.
- e) Appeals from any decision of the Board may be made, and as specified in this Community's Official Controls and also Minnesota Statutes. (Ref. Ord. 06-05-1035, 5/9/06)
- f) Flood Insurance Notice and Record Keeping. The Zoning Administrator shall notify the applicant for a variance that: 1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and 2) Such construction below the 100-year or regional flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions. A community shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biennial report submitted to the Administrator of the National Flood Insurance Program.

Subd. 12. Nonconforming Uses. (Ref. Ord. 06-05-1035, 5/9/06)

A structure or the use of a structure or premises which was lawful before the passage or amendment of this section but which is not in conformity with the provisions of this section may be continued as a pre-existing nonconforming use subject to the following conditions. Historic structures, as defined by 44 Code of Federal Regulations, Part 59.1 shall be subject to the provisions of Subd. 12.a-e of this ordinance: (Ref. Ord. 06-05-1035, 5/9/06, 10-4-1068, 4/13/10)

- a) No such use shall be expanded, changed, enlarged, or altered in a way which increases its nonconformity.
- b) A structural alteration within the inside dimensions of a nonconforming use or structure is permissible provided it utilizes flood resistant materials so it will not result in increasing the flood damage potential of that use or structure. A structural addition to a structure must be elevated to the regulatory flood protection elevation in accordance with Subd. 5.d of this ordinance. (Ref. Ord. 10-4-1068, 4/13/10)
- c) The cost of all structural alterations or additions both inside and outside of a structure to any nonconforming structure over the life of the structure shall not exceed 50 percent of the market value of the structure unless the conditions of this Section are satisfied. The cost of all structural alterations and additions constructed since the adoption of the Community's initial flood plain controls must be calculated into today's current cost which will include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the current cost of all previous and proposed alterations and additions exceeds fifty (50) percent of the current market value of the structure, then the structure must meet the standards of Subdivision 4.0 and Subdivision 5.0 of this section for new structures. (Ref. Ord. No. 846, 6/11/91)
- d) If any nonconforming use or structure is substantially damaged, as defined in Section 1301.030 of this ordinance, it shall not be reconstructed except in conformity with the provisions of this section. The applicable provisions for establishing new uses or new structures in Subdivisions 4.0, 5.0 or 7.0 will apply depending upon whether the use or structure is in the Floodway or Flood Fringe respectively. The City Council may issue a Conditional Use Permit as per Section 1301.050 for

reconstruction if the use is located outside the floodway and, upon reconstruction, is adequately elevated on fill in conforming with the provisions of this section. (Ref. Ord. 06-05-1035, 5/9/06, 10-4-1068, 4/13/10)

- e) If a substantial improvement occurs, as defined in Section 1303.030 of this ordinance, from any combination of a building addition to the outside dimension of the existing building or a rehabilitation, reconstruction, alteration, or other improvement to the inside dimensions of an existing nonconforming building, then the building addition (as required above) and the existing nonconforming building must meet the requirements of section 4.0 or 5.0 of this ordinance for new structures, depending upon whether the structures are in the Floodway, Flood Fringe, respectively. (Ref. Ord. 06-05-1035, 5/9/06)
- f) If any nonconforming use is discontinued for 12 consecutive months, any future use of the building premises shall conform to this ordinance. The Assessor shall notify the Zoning Administrator in writing of instances of nonconforming uses that have been discontinued for a period of 12 months. (Ref. Ord. 06-05-1035, 5/9/06)

Subd. 13. Amendments.

All amendments to this ordinance, including revisions to the Official Flood Plain Zoning District Map, shall be submitted to and approved by the Commissioner of Natural Resources prior to adoption. The flood plain designation on the Official Flood Plain Zoning District Map shall not be removed unless the area is filled to an elevation at or above the Regulatory Flood Protection Elevation and is contiguous to lands outside of the flood plain. Changes in the Official Zoning Map must meet the Federal Emergency Management Agency's (FEMA) Technical Conditions and Criteria and must receive prior FEMA approval before adoption. The Commissioner of Natural Resources must be given 10-days written notice of all hearings to consider an amendment to this Ordinance and said notice shall include a draft of the ordinance amendment or technical study under consideration. (Ref. Ord. No. 846, 6/11/91)

Subd. 14. Penalties and Violation. (Ref. Ord. No. 846, 6/11/91)

A violation of the provisions of this Ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of Variance) shall constitute a misdemeanor.

- a) In responding to a suspected ordinance violation, the Zoning Administrator and Local Government may utilize the full array of enforcement actions available to it including but not limited to prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The community must act in good faith to enforce these official controls and to correct ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.
- b) When an ordinance violation is either discovered by or brought to the attention of the Zoning Administrator, the Zoning Administrator shall immediately investigate the situation and document the nature and extent of the violation of the official control. As soon as is reasonably possible, this information will be submitted to the appropriate Department of Natural Resources' and Federal Emergency Management Agency Regional Office along with the Community's plan of action to correct the violation to the degree possible.
- c) The Zoning Administrator shall notify the suspected party of the requirements of this Ordinance and all other Official Controls and the nature and extent of the suspected violation of these controls. If the structure and/or use is under construction or development, the Zoning Administrator may order the construction or development immediately halted until a proper permit or approval is granted by the Community. If the construction or development is already completed, then the Zoning

Administrator may either (1) issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance with the official controls, or (2) notify the responsible party to apply for an after-the-fact permit/development approval within a specified period of time not to exceed 30-days.

- d) If the responsible party does not appropriately respond to the Zoning Administrator within the specified period of time, each additional day that lapses shall constitute an additional violation of this Ordinance and shall be prosecuted accordingly. The Zoning Administrator shall also upon the lapse of the specified response period notify the landowner to restore the land to the condition which existed prior to the violation of this Ordinance. (Ref. Ord. 745, 8/11/87; 846, 6/11/91)

§1303.240, "W", WETLANDS OVERLAY DISTRICT

Subd. 1. Purpose. A district relating to low lands, marshes, wetlands, drainage ways, water bodies, and water courses regulating alteration and development of such lands and providing for the issuance of permits therefore, and specifically to:

- a) Reduce danger to the health, safety and welfare of the residents of White Bear Lake by protecting surface and ground water supplies from the impairment which results from incompatible land uses and alterations, and by providing safe and sanitary drainage.
- b) Restrict and control land development so it will not impede the flow of floodwater or cause danger of life or property.
- c) Designate suitable land uses that are compatible with the preservation of the natural vegetation and marshes which are a principal factor in the maintenance of natural rates of water flow through the year and which sustain species of wildlife and plant growth. (Ref. Ord. 10-1-1063, 1/12/10)
- d) Regulate runoff of surface waters from developed areas to prevent excessive stormwater volume discharge and pollutants such as motor oils, sand, salt and other foreign materials from being carried directly into the nearest natural stream, lake or other public or private waters. (Ref. Ord. 10-1-1063, 1/12/10)
- e) Regulate the alteration of wetland systems to prevent excessive pollution, increased and rapid water runoff, excessive nutrient runoff pollution and to maintain the aesthetic appearance, functions and values of the wetlands. (Ref. Ord. 10-1-1063, 1/12/10)
- f) Prevent the development of structures in areas which will adversely affect the public passage and use of creeks, marshes, low lands and water courses within the City.

Subd. 2. District Application.

- a) The Wetlands District shall be applied to and superimposed (overlaid) upon all residential, commercial, or industrial districts contained herein existing or amended by the text and map of this Code. The regulations and requirements imposed by the Wetlands District shall be in addition to the requirements established in the White Bear Lake Zoning, Subdivision and Shoreland Codes and those established for the district which jointly apply. Under the joint application of districts, the most restrictive requirements shall apply.
- b) The Wetlands District within the City of White Bear Lake is defined and established to include those areas which include any water course, natural drainage system, waterbody, or wetland, that may be subject to periodic flooding, overflow, or seasonally high water tables. The Overlay District shall include, but not be limited to, the wetland areas not displayed on the map, the City Engineer shall determine if the Wetlands District regulations shall be applied.

Subd. 3. Permitted Uses. The following operations and uses are permitted in the Wetlands District as a matter of right, subject to any other applicable code, ordinance or law:

- a) Grazing, farming, nurseries, gardening, and harvesting of crops.
- b) Sustained yield forestry and tree farms.
- c) Conservation of soil, vegetation, water, fish and wildlife.

- d) Scientific research and education activities that teach principles of ecology and conservation.
- e) Leisure activities such as hiking, nature studies, canoeing, boating, camping, waterskiing, skin diving, horseback riding, field trails and general outdoor recreation, including play and sporting areas that are consistent with the intent of the Code. (Ref. Ord. 10-1-1063, 1/12/10)
- f) Essential services.

Subd. 4. Prohibited Uses. The following operations and uses shall be prohibited in the Wetlands District, except as may hereafter be conditionally permitted. No person shall perform any development in the Wetlands Overlay District without first having obtained a conditional use permit based on the procedures set forth and regulated by Section 1301.050 of this Code. Note: prohibited uses do not apply to maintenance and restoration activities conducted by regulating agencies. (Ref. Ord. 10-1-1063, 1/12/10)

- a) Place, deposit or permit to be deposited, fill or any material including structures into, within or upon any water body, water course, or wetland, flood plain or natural drainage system.
- b) Dig, dredge, or in any other way alter or remove any material from water bodies, water courses, wetlands, flood plains, or natural drainage system.
- c) Erect structures for human habitation.
- d) Create ponds, dam or relocate any water course, or change the natural drainage system.
- e) Clear and/or cut trees or other vegetation.
- f) Permanently store materials.
- g) Erect signs.
- h) Dispose of waste materials, including but not limited to, sewage, garbage, rubbish and other discarded materials.

Subd. 5. Conditional Uses. The following operations and uses shall be conditionally permitted within the Wetlands Overlay District provided they do not create a temporary or permanent obstruction to surface water flow patterns. (Requires a conditional use permit based upon procedures set forth in and regulated by Section 1301.050 of this Code.) Note: conditional uses do not apply to maintenance and restoration activities conducted by regulation agencies. (Ref. Ord. 10-1-1063, 1/12/10)

- a) The deposit or removal of natural products in or from the water bodies, water courses, wetlands, flood plains, or natural drainage system for commercial or development purposes. (Ref. Ord. 10-1-1063, 1/12/10)
- b) Docks, piers, bulkheads, boat launching or land sites and marinas.
- c) Temporary storage of materials.
- d) Public and private parks and recreational facilities.

- e) Dams and other water control devices, dredging or diversion of water levels or circulation or changes in water courses to improve hazardous navigation conditions, or for the improvement of fish or wildlife habitat, or drainage improvements deemed to be consistent with the intent and objectives of this Code.
- f) Driveways and roads where alternative means of access are proven to be impractical in the considered judgment of the City Council.
- g) Fencing, hedges or shrubbery.
- h) Public utility transmission and distribution lines, poles, towers and other accessories, cables, conduits, vaults, pipelines, laterals or any other similar distributing equipment or a public utility.

Subd. 6. Development Regulations.

- a) Land owners or developers desiring to develop land or construct any structure or any other artificial obstruction on land located within any of the Wetlands District within the City of White Bear Lake shall first submit a conditional use permit application as regulated in Section 1301.050 of this Code and a plan of development, hereinafter referred to as a "Wetlands Systems Impact Plan", which shall set forth proposed provision for sediment control, water management, maintenance of the landscaped features, and any additional matters intended to improve or maintain the quality of the environment. Such a plan shall set forth proposed changes regulated by the applicant and affirmatively disclose what, if any, change will be made in the natural condition of the earth, including loss or change of earth ground cover, destruction of trees, grade changes, amount and type of fill, and its effect, if any, upon lakes, streams, water courses and marshes, lowlands and wetlands in the area. The plan shall minimize tree removal, ground cover change, dredging, loss of natural vegetation, and grade changes as much as possible and shall affirmatively provide for the relocation or replanting of as many trees as possible which are proposed to be removed. The purpose of the wetland systems impact plan shall be to eliminate as much as possible potential pollution, erosion and siltation. (Ref. Ord. 10-1-1063, 1/12/10)
- b) High Water Elevation. For lakes, ponds or flowages, no structure, except boat houses, piers and docks shall be placed at an elevation such that the lowest floor, including basement floor, is less than two (2) feet above the highest known water levels. In those instances where sufficient data on known high water levels are not available, the elevation of the line of permanent shoreland vegetation shall be used as the estimated high water elevation. When fill is required to meet this elevation, the fill shall be allowed to stabilize, and construction shall not begin until the property has been inspected by the Building Official.
- c) When a wetland is located within a watershed district which has buffer and setback regulations, those requirements shall be met. When a wetland is located within a watershed district that does not have buffer and setback regulations an average setback of 30 feet shall be provided, with a minimum setback of 15 feet as measured from the delineated edge of the wetland. At least half of the setback provided must be a natural, or approved naturalized buffer, the extent of which shall be demarcated by permanent monumentation approved by the City. (Ref. Ord. 10-1-1063, 1/12/10)

1303.245 "P", PUBLIC FACILITIES DISTRICT REGULATIONSSubd. 1. General Provisions.

- a) "P" Districts include such land areas, waterways and water areas which are owned, controlled, regulated, used or proposed to be used by the City of White Bear Lake or other governmental body.
- b) A "P" district is automatically designated at the time of land purchase for the principal uses set forth in Section 1303.245, Subd. 2.
- c) A "P" District, upon removal of public use, shall be considered by the Planning Commission. Recommendations as to a proposed land use designation shall be forwarded to the City Council for final determination.
- d) In all "P" District properties, those portions which are determined by the City Engineer to be wetlands shall be subject to the provisions of the Wetlands District Overlay Zone, Section 1303.240.

Subd. 2. Uses Permitted.

- a) Principal Uses. The following are principal uses in P Districts:
 - 1) Public buildings and uses.
 - 2) Public parks, playgrounds, athletic fields, golf courses, airports and parking areas.
 - 3) Public streets, alleys, easements and other public ways, highways and thoroughfares.
 - 4) Public drains, sewers, water lines, water storage, treatment and pumping facilities and other public utility and service facilities.
 - 5) Temporary public housing required and designed to relieve a critical housing shortage.
 - 6) Other public or nonprofit uses as are necessary or incidental to a public use.
- b) Accessory Uses. The following are accessory uses in P Districts:
 - 1) Dwellings or dwelling units for employees having duties in connection with any premises requiring them to live thereon, including families of such employees when living with them.
 - 2) Solar energy systems either roof-mounted or ground-mounted, per Code Section 1302.030, Subd. 22. (Ref. Ord. 16-03-2010, 3/8/16)
- c) Conditional Uses. The following are uses permitted with a Conditional Use Permit in P Districts, which require a conditional use permit based on the procedures and provisions set forth in and regulated by Section 1301.050 of this code.
 - 1) Utility companies having transformers, pumping stations and substations subject to the following minimum requirements:

- a) They must conform to neighborhood setbacks, open spaces and design.
- b) They must be screened from adjacent districts by solid fencing or appropriate landscaping as approved by the Zoning Administrator.
- 2) Wind generators and other tower mounted energy devices exceeding a height of twenty (20) feet above the structure roof.
- 3) Public and private schools including trade schools. (Ref. Ord. No. 98-11-965 11/10/98)
- d) Additional Restrictions.

For uses, other than principal uses, requirements as to lot size, setbacks, building, parking, landscaping, screening, etc., shall be at least comparable to similar uses in other districts, but also subject to additional provisions as provided by the City.

Subd. 3. Uses Excluded. Any use allowed or excluded in any other district unless specifically allowed under Uses Permitted of this district are excluded in P Districts.

Subd. 4. Lot Requirements and Setbacks. All lot requirements and setbacks for uses in this district shall be comparable to other similar uses that are allowed in other districts.

Subd. 5. Building Requirements. All building requirements for uses in this district shall be comparable to other similar uses that are allowed in other districts. The City of White Bear Lake Planning Commission shall review plans for principle buildings and other significant capital improvements not including normal maintenance and other routine public works improvements. Upon receiving a recommendation from the Planning Commission, the Council shall consider final plans and specifications.

Subd. 6. Parking Requirements. All parking requirements for uses in this district shall be comparable to other similar uses that are allowed in other districts.

Subd. 7. Landscape Requirements. All landscape requirements for uses in this district shall be comparable to other similar uses that are allowed in other districts.

Subd. 8. Performance Standards. All performance standards for uses in this district shall be comparable to other similar uses that are allowed in other districts.

§1305.010

ZONING CODE

§1305.010

1305. ENACTMENT

§1305.010 EFFECT. This Code shall take effect and be in force from and after its passage and publication according to law, passed by the City Council of the City of White Bear Lake this 13th day of December, 1983.

CITY OF WHITE BEAR LAKE

/s/ Brad Stanius
Mayor

ATTEST:

/s/ Raymond R. Siebenaler
City Clerk

1306. OFFICIAL MAP OF FUTURE PARKS

§1306.010 OFFICIAL MAP. The City Council of the City of White Bear Lake, Minnesota does ordain that pursuant to Minnesota Statutes 462.359 the City Council hereby establishes an official map for the purpose of designating future park land and the following described property is hereby included:

Parcels D and E of Birch Lake Properties, identified as PIN's 15-30-22-23-0007 and 15-30-22-23-0008.

(Ref. Ord. 783, 2/14/89; 5/28/14)

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WHITE BEAR LAKE SUBDIVISION CODE

A CODE ESTABLISHING REGULATIONS FOR SUBDIVISION AND PLATTING WITHIN THE CITY OF WHITE BEAR LAKE, DEFINING CERTAIN TERMS USED THEREIN; PROVIDING FOR THE PREPARATION OF PLATS; PROVIDING FOR THE INSTALLATION OF STREETS AND OTHER IMPROVEMENTS; PROVIDING FOR THE DEDICATION OF CERTAIN LAND FOR PARKS AND PLAYGROUNDS; ESTABLISHING PROCEDURES FOR APPROVAL AND THE RECORDING OF PLATS; PROVIDING PENALTIES FOR VIOLATION OF THIS CODE AND REPEALING CODES AND ORDINANCES OR PARTS OF CODES AND ORDINANCES INCONSISTENT HEREWITH.

THE COUNCIL OF THE CITY OF WHITE BEAR LAKE DOES ORDAIN:

§1401. GENERAL PROVISIONS

§1401.010 TITLE AND APPLICATION.

Subd. 1. Short Title. This Code shall be known as the "SUBDIVISION CODE OF THE CITY OF WHITE BEAR LAKE", and referred to herein as "This Code."

Subd. 2. Purpose. In order to safeguard the best interests of the City of White Bear Lake and to assist the subdivider in harmonizing his interests with those of the City at large, the following Code is adopted so that the adherence to same will bring results beneficial to both parties. It is the purpose of this Code to make certain regulations and requirements for the platting of land within the City of White Bear Lake pursuant to the authority contained in Minnesota Statutes Annotated, which regulations the City Council deems necessary for the health, safety and general welfare of this community.

Subd. 3. Jurisdiction. The regulations herein governing plats and the subdivision of land shall apply within the corporate limits of the City of White Bear Lake.

Subd. 4. Interpretation. The interpretation and application of the provisions of this Code shall be the minimum requirements adopted for the protection of the public health, safety, and general welfare.

Subd. 5. Approvals Necessary for Acceptance of Subdivision Plats. Before any plat shall be recorded or be of any validity, it shall be referred to the City Planning Commission and approved by the City Council of White Bear Lake as having fulfilled the requirements of this Code.

Subd. 6. Conditions for Recording. No plat of any subdivision shall be entitled to record in the Ramsey or Washington County Recorder's Office or have any validity until the plat thereof has been prepared, approved, and acknowledged in the manner prescribed by this Code.

Subd. 7. Building Permits. No building permits shall be considered for issuance by the City of White Bear Lake for the construction of any building, structure or improvement of the land or to any lot in a subdivision as defined herein, until all requirements of this Code have been fully complied with.

Subd. 8. Exceptions. When requesting a subdivision, if either of the following conditions exist, the Zoning Administrator shall bring the request to the attention of the City Council, whereupon the said request shall be reviewed and the City Council may exempt the subdivider from complying with any procedural requirements that are deemed inappropriate.

- a) In the case of a request to divide a lot which is a part of a recorded plat, where the division is to permit the adding of a parcel of land to an abutting lot, or to create two (2) lots and the newly created property line will not cause the other remaining portion of the lot or any structure to be in violation with this Code or the Zoning Code.
- b) In the case of a request to divide a base lot upon which a two family dwelling or a quadraminium which is a part of a recorded plat, where the division is to permit individual private ownership of a single dwelling unit within such a structure and the newly created property lines will not cause any of the unit lots or the structure to be in violation of this Code or the Zoning Code.

Subd. 9. Separability. If any section, subsection, sentence, clause or phrase of this Code is for any reason found to be invalid, such decision shall not affect the validity of the remaining portions of this Code.

Subd. 10. Conflict. Whenever there is a difference between minimum standards or dimensions specified herein and those contained in other official regulations, resolutions, codes or ordinances of the City, the most restrictive standards shall apply.

Subd. 11. Repeal. Ordinances No. 316 and 438 are hereby repealed in their entirety.

§1401.020 RULES. The language set forth in the text of this Code shall be interpreted in accordance with the following rules of construction.

Subd. 1. The singular number includes the plural, and the plural the singular.

Subd. 2. The present tense includes the past and the future tenses, and the future the present.

Subd. 3. The word "shall" is mandatory while the word "may" is permissive.

Subd. 4. The masculine gender includes the feminine and neuter.

Subd. 5. Whenever a word or term defined hereinafter appears in the text of this Code, its meaning shall be construed as set forth in such definition thereof.

Subd. 6. All measured distances expressed in feet shall be the nearest tenth of a foot.

§1401.030 DEFINITIONS. The following words and terms, whenever they occur in this Code, shall be interpreted as herein defined:

Sub. 1. "A" Definitions.

Abutting. Making contact with or separated only by public thoroughfare, railroad, public utility right-of-way or navigable waters.

Alley. A public or private right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on a street.

Applicant. The owner of land proposed to be subdivided for his representation. Consent shall be required from the legal owner of the premises.

Subd. 2. "B" Definitions.

Block. An area of land within a subdivision that is entirely bounded by streets, or by streets and the exterior boundary or boundaries of the subdivision, or a combination of the above with a river or lake.

Boulevard. The portion of the street right-of-way between the curb line and the property line.

Buildable Area. The portion of the lot remaining after the required yards have been provided.

Building. Any structure built for the support, shelter, or enclosure of persons, animals, chattels, or movable property of any kind, and includes any structure.

Subd. 3. "C" Definitions.

City. The City of White Bear Lake.

City Council. The governing body of the City of White Bear Lake.

Comprehensive Plan. The group of maps, charts and texts that make up the Comprehensive Long-Range Plan of the City.

Subd. 4. "D" Definitions.

Design Standards. The specifications to land owners or subdividers for the preparation of plats, both preliminary and final, indicating among other things, the optimum, minimum or maximum dimensions of such items as rights-of-way, blocks, easements and lots.

Drainage. The removal of surface or groundwater from land.

Dredging. To enlarge or clean out a waterbody, water course or wetlands.

Subd. b. "E" Definitions.

Easement. A grant by a property owner for the use of a strip of land and for the purpose of constructing and maintaining drives, utilities, including, but not limited to wetlands, ponding areas, sanitary sewers, water mains, electric lines, telephone lines, storm sewer or storm drainage ways and gas lines.

Engineering Design Standards. A stormwater design manual set forth by the City for land disturbing activities. These standards are created to preserve, protect, and manage the City's water resources as well as to meet federal, state, and watershed stormwater regulations. (Ref. Ord. 15-05-2002, 5/12/15).

Essential Services. The erection, construction, alteration, or maintenance of underground or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems by public utilities, municipal or other governmental agencies, but not including buildings.

Subd. 6. "F" Definitions.

Filling. The act of depositing any rock, soil, gravel, sand, or other material so as to fill a waterbody, water course, or wetland.

Final Plat. A drawing or map of a subdivision, meeting all of the requirements of the City and in such a form as required by Ramsey or Washington County for the purpose of recording.

Subd. 7. "G" Definitions.

Grade (Adjacent Ground Elevation). The lowest point of elevation of the finished surface of the ground, paving, or sidewalk within the area between the building and the property line, or when the property line is more than five (5) feet from the building, between the building and lot line five (5) feet from the building.

Grading. Changing the natural or existing topography of the land.

Subd. 8. "H" Definitions. No definitions.

Subd. 9. "I" Definitions.

Individual Sewage Disposal System. A septic tank, seepage tile sewage disposal system, or any other approved sewage treatment device.

Subd. 10. "J" Definitions. No definitions.

Subd. 11. "K" Definitions. No definitions.

Subd. 12. "L" Definitions.

Lot of Record. A parcel of land, whether subdivided or otherwise legally described and

recorded with the County, as of the effective date of this Code, or approved by the City as a lot subsequent to such date and which is occupied by or intended for occupancy by one (1) principal building, or principal use together with any accessory buildings and such open spaces as required by this Code, and having its principal frontage on a street or a proposed street approved by the City Council.

Lot. Land occupied or to be occupied by a building and its accessory buildings, together with such open spaces as are required under the provisions of this zoning regulation, having not less than the minimum area required by this Zoning Code for a building site in the district in which such lot is situated and having its principal frontage on a city-approved street. (Ref. Ord. 10-1-1065, 1/12/10)

Lot Area. The area of a horizontal plane within the lot lines.

Lot, Base. Lots meeting all the specifications in the zoning district prior to being subdivided into a two family dwelling, townhouse, or quadraminium subdivisions.

Lot, Corner. A lot situated at the junction of and abutting on two (2) or more intersecting streets; or a lot at the point of deflection in alignment of a single street, the interior angle of which is one hundred thirty-five (135) degrees or less.

Lot, Depth. The shortest horizontal distance between the front lot line and the rear lot line measured from a ninety (90) degree angle from the street right-of-way within the lot boundaries.

Lot, Double Frontage. An interior lot having frontage on two (2) streets.

Lot, Frontage. The front of a lot shall be, for purposes of complying with this Code, that boundary abutting a city-approved street having the least width. (Ref. Ord. 10-1-1065, 1/12/10)

Lot Improvement. Any building, structure, place, work of art, or other object, or improvement of the land on which they are situated constituting a physical betterment of real property, or any part of such betterment. Certain lot improvements shall be properly bonded as provided in these regulations.

Lot, Interior. A lot, other than corner lot, including double frontage lots. (Ref. Ord. 10-1-1065, 1/12/10)

Lot Line. A property boundary line of any lot held in single or separate ownership; except that where any portion of the lot extends into the abutting street or alley, the lot line shall be deemed to be the street or alley right-of-way.

Lot, Unit. Lots created from the subdivision of a two family dwelling, townhouse, or quadraminium having different minimum lot size requirements, than the conventional base lots within the zoning district.

Lot, Width. The minimum required horizontal distance between the side lot lines measured at right angles to the lot depth, at the minimum building setback line.

Subd. 13. "M" Definitions. No definitions.

Metes and Bounds. A surveyor's description of unplatted property which commences and terminates at a specific point and utilizes a combination of directions, distances and angles to outline the boundaries or extent of the parcel. (Ref. Ord. 10-1-1065, 1/12/10)

Subd. 14. "N" Definitions. No definitions.

Subd. 15. "O" Definitions.

Outlot. A lot remnant or parcel of land left over after platting, which is intended as open space or other use, for which no development is intended and for which no building permit shall be issued.

Owner. Includes the plural as well as the singular, and where appropriate shall include a natural person, partnership, firm association, public or quasi-public corporation, private corporation, or a combination of them.

Subd. 16. "P" Definitions.

Parks and Playgrounds. Public land and open spaces in the City of White Bear Lake dedicated or reserved for recreation purposes.

Person. An individual, firm, partnership, association, corporation or organization of any kind.

Percentage of Grade. On street center line, means the distance vertically from the horizontal in feet and tenths of a foot for each one hundred (100) feet of horizontal distance.

Pedestrian Way. A public right-of-way or private easement across a block or within a block to provide access for pedestrians and which may be used for the installation of utility lines.

Planning Commission. The Planning Commission of the City of White Bear Lake.

Preliminary Plat. A tentative drawing or map of a proposed subdivision meeting the requirements herein enumerated.

Protective Covenants. Contracts made between private parties as to the manner in which land may be used, with the view to protecting and preserving the physical and economic integrity of any given area.

Public Improvement. Any drainage ditch, roadway, parkway, sidewalk, pedestrian way, tree, lawn, off-street parking area, lot improvement, or other facility for which the City may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which local government responsibility is established.

Subd. 17. "Q" Definitions.

Quadraminiums. Single structures which contain four (4) subdivided dwelling units all of which have individually separate entrances from the exterior of the structure.

Subd. 18. "R" Definitions. No definitions.

Subd. 19. "S" Definitions.

Setback. The distance between a building and the property line nearest thereto.

Street. A public right-of-way affording primary access by pedestrian or vehicles or both, to abutting properties, whether designated as a street, highway, thoroughfare, parkway, road, avenue, or boulevard.

Streets, Thoroughfares, Arterial Street. Those streets carrying larger volumes of traffic and serving as links between various subareas of the community. Thoroughfares or arterial streets are intended to provide for collection and distribution of traffic between highways and collector streets; hence regulation of direct access to property is critical.

Streets, Collector Street. Those streets which carry traffic from local streets to the major system of arterials and highways. Collector streets primarily provide principal access to residential neighborhoods, including, to a lesser degree direct land access.

Streets, Local Street. Those streets which are used primarily for access to abutting properties and for local traffic movement.

Streets, Marginal Access Street. Those local streets which are parallel and adjacent to thoroughfares and highways; and which provide access to abutting properties and protection from through traffic.

Streets, Cul-de-sac. A local street with only one outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement.

Street Width. The shortest distance between lines of lots delineating the streets right-of-way.

Subdivider. Any individual, firm, association, syndicate, co-partners, corporation, trust or other legal entity having sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the same under this Code.

Subdivision. The separation of an area, parcel, or tract of land under single ownership into two (2) or more parcels, tracts, lots or long term leasehold interests where the creation of the leasehold interest necessitates the creation of streets, roads, or alleys for residential, commercial, industrial or other use or any combination thereof, except those separations:

- a) Where all the resulting parcels, tracts, lots, or interests will be twenty (20) acres or larger in size and five hundred (500) feet in width for residential uses and five (5) acres or larger in size for commercial and industrial uses;
- b) Creating cemetery lots;

- c) Resulting from court orders, or the adjustment of lot line by the relocation of a common boundary.

Subd. 20. "T" Definitions.

Tangent. A straight line which is perpendicular to the radius of a curve where a tangent meets a curve.

Townhouses. Structure having three (3) or more dwelling units, contiguous to each other only by the sharing of one (1) common wall. Such structures to be of the town or row house type as contrasted to multiple dwelling apartment structures. No single structure shall contain in excess of eight (8) dwelling units and each dwelling unit shall have separate and individual front and rear entrances.

Two-family Dwelling. A dwelling designed exclusively for occupancy by two (2) families living independently of each other.

Subd. 21. "U" Definitions.

Use. The purpose or activity for which the land or building thereon is designated, arranged, or intended or for which it is occupied, utilized or maintained, and shall include the performance of such activity as defined by the performance standards of this Code.

Usable Open Space. A required ground area or terrace area on a lot which is graded, developed, landscaped and equipped and intended and maintained for either active or passive recreation or both, available and accessible to and usable by all persons occupying a dwelling unit or rooming unit on the lot and their guests. Such areas shall be grassed and landscaped or covered only for a recreational purpose. Roofs, driveways and parking areas shall not constitute usable open space.

Unit Lots. Lots created from the subdivision of a two-family dwelling or a quadraminium having different minimum lot size requirements than the conventional base lot within the zoning district.

Subd. 22. "V" Definitions.

Vegetation. Means the sum total of plant life in some area; or a plant community with distinguishable characteristics.

Vertical Curve. The surface curvature on a street, road and highway center line located between lines of different percentage of grade.

Subd. 23. "W" Definitions.

Waterbody. Means a body of water (lake, pond) or a depression of land or expanded part of a river, or an enclosed basin that holds water and surrounded by land.

Watercourse. Means a channel or depression through which water flows, such as rivers, streams, or creeks, and may flow year-around or intermittently.

Watershed. The area drained by the natural and artificial drainage system, bounded peripherally by a bridge or stretch of high land dividing drainage areas.

Wetlands. An area where water stands near, at, or above the soil surface during a significant portion of most years, saturating the soil and supporting a predominantly aquatic form of vegetation, and which may have the following characteristics:

- a) Vegetation belonging to the marsh (emergent aquatic), bog, fen, sedge meadow, shrub land, southern lowland forest (lowland hardwood), and northern lowland forest (conifer swamp) communities. (These communities correspond roughly to wetland types 1, 2, 3, 4, 6, 7 and 8 described by the United States Fish and Wildlife Service, Circular 39, "Wetlands of the U.S. 1956").
- b) Mineral soils with gley horizons or organic soils belonging to the Histosol order (peat and muck).
- c) Soil which is water logged or covered with water at least three (3) months of the year.

Swamps, bogs, marshes, potholes, wet meadows, and sloughs are wetlands, and such property may be shallow water bodies, the waters of which are stagnant or actuated by very feeble currents, and may at times be sufficiently dry to permit tillage, but would require drainage to be made arable. The edge of a wetland is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial.

Subd. 24. "X" Definitions. No definitions.Subd. 24. "Y" Definitions.

Yard. An open space on the lot which is unoccupied and unobstructed from its lowest level to the sky. A yard extends a lot line at right angles to such lot line to a depth or width required in the yard regulations for the zoning district in which such lot is located.

Yard, Front. That area extending along the full length of a front lot line between side lot

lines and to the depth required in the yard regulations for the district in which it is located. In the case of a corner lot abutting one or more major roads, both yards shall be considered front yards. A major road is any road that is of a collector designation or greater.

Yard, Rear. A yard extending across the full width of the lot and the nearest line of the principal building.

Yard, Required. That distance specified in the yard requirements pertaining to setbacks. Setbacks and required yards are used interchangeably.

Yard, Side. A yard between the side line of the lot and the nearest line of the principal building and extending from the front lot line of the lot to the rear yard.

Subd. 26. "Z" Definitions.

Zoning Administrator. That person appointed by the City manager, who shall be responsible for the administration of the City's development controls (i.e., zoning, subdivision, etc.).

§1402. PROCEDURES FOR FILING AND REVIEW

§1402.010. SKETCH PLAN. In order to insure that all applicants are informed of the procedural requirements and minimum standards of this Code and the requirements or limitations imposed by other City codes or plans, the applicant shall submit three (3) copies of the plat sketch plan and arrange a pre-application meeting with City staff. The sketch plan shall be reviewed by the City Planner, City Engineer, and City Attorney and a preliminary staff report shall be prepared outlining possible development problems and concerns. The applicant shall meet with the City staff to review and discuss the proposed development.

§1402.020. PRELIMINARY PLAT.

Subd. 1. Filing. Ten (10) copies of the preliminary plat, a preliminary plat reduction (8-1/2 x 11" or 8-1/2 x 14"), and a list of property owners located within three hundred fifty (350) feet of the subject property, obtained from and certified by Ramsey or Washington County, shall be submitted to the Zoning Administrator. The required filing fee of four hundred fifty (\$450.00) dollars shall be paid and any necessary applications for variances from the provisions of this Code shall be submitted with the required fee. The proposed plat shall be placed on the agenda of the first possible Planning Commission meeting occurring after thirty (30) days from the date of submission. The plat shall be considered as being officially submitted when all the information requirements are complied with. (Ref. Ord. 01-03-984, 3/13/01, 01-04-1015, 1/13/04)

Subd. 2. Hearing. The Planning Commission upon receipt of said application shall instruct the Zoning Administrator to set a public hearing for public review of the preliminary plat. Said hearing shall be established once adequate time has been allowed for staff and advisory body review of the plat. The Planning Commission shall conduct the hearing, and report its findings and make recommendations to the City Council. Notice of said hearing shall consist of a legal property description, description of request and map detailing property location, and be published in the official newspaper at least ten (10) days prior to the hearing and written notification of said hearing shall be mailed at least ten (10) days prior to all owners of land within three hundred fifty (350) feet of the boundary of the property in question.

Subd. 3. Technical Assistance Reports. After the public hearing has been set, the Zoning Administrator shall instruct the appropriate staff persons to prepared technical reports where appropriate, and provide general assistance in preparing a recommendation on the action to the City Council.

Subd. 4. Review by Other Commissions or Jurisdictions. The Zoning Administrator shall refer copies of the preliminary plat to the Park Advisory Commission, Watershed Districts, County, State or other public jurisdictions for their review and comment, where appropriate and when required.

Subd. 5. Planning Commission Action. The Planning Commission shall make a recommendation to the City Council immediately following the close of the public hearing. If the Planning Commission has not acted upon the preliminary plat within sixty (60) days from the opening of the public hearing, the Council may act on the preliminary plat without the Planning Commission's recommendation.

Subd. 6. City Council Action.

- a) If all requirements of this Code and as additionally imposed by the Planning Commission are complied with, the Council shall act upon the preliminary plat and may impose conditions and restrictions which are deemed necessary within sixty (60) days of the date of the close of the Planning Commission's public hearing.
- b) If the preliminary plat is not approved by the City Council, the reasons for such action shall be recorded in the proceedings of the Council and transmitted to the applicant. If the preliminary plat is approved, such approval shall not constitute final acceptance of the layout. Subsequent approval will be required of the engineering proposals and other features and requirements as specified by this Code to be indicated on the final plat. The City Council may require such revisions in the preliminary plat and final plat as it deems necessary for the health, safety,

general welfare and convenience of the City of White Bear Lake.

- c) If the preliminary plat is approved by the City Council, the subdivider must submit the final plat within one (1) year after said approval or approval of the preliminary plat shall be considered void, unless a request for time extension is submitted in writing and approved by the City Council. The subdivider may file a final plat limited to such portion of the preliminary plat which he proposes to record and develop at this time, provided that such portion must conform to all requirements of this Code.

§1402.030. FINAL PLAT.

Subd. 1. Filing. After the preliminary plat has been approved, final plat shall be submitted for review as set forth in the subdivisions which follow.

Subd. 2. Approval of the Planning Commission. If changes have been made on the final plat in comparison to the originally approved preliminary plat, ten (10) copies of the final plat and a final plat reduction (8 1/2 x 11" or 8 1/2 x 14") shall be submitted to the Zoning Administrator for distribution to the Planning Commission, City Council and appropriate City Staff ten (10) days prior to a Commission meeting at which consideration is requested. During the said ten (10) days, the City Staff shall examine the final plat and prepare a recommendation to the Planning Commission. Nature of approval, disapproval, or delay in decision of the final plat will be conveyed to the subdivider within ten (10) days after the meeting of the City Planning Commission at which such plat was considered. In case the plat is disapproved, the subdivider shall be notified in writing of the reasons for such action and what requirements shall be necessary to meet the approval of the Commission. (Ref. Ord. 749, 9/8/87)

If the plat is in substantial compliance with the preliminary plat, the Zoning Administrator may forward the final plat to the City Council without need of a Planning Commission review. (Ref. Ord. 749, 9/8/87)

Subd. 3. Approval of the City Council. After review of the final plat by the Planning Commission (if necessary), such final plat, together with the recommendation of the Planning Commission and/or the Staff shall be submitted to the City Council for approval. If accepted, the final plat shall be approved by resolution, which resolution shall provide for the acceptance of all agreements for basic improvements, public dedication and other requirements as indicated by the City Council. If disapproved, the grounds for any refusal to approve a plat shall be set forth in the proceedings of the Council and reported to the person or persons applying for such approval. (Ref. Ord. 749, 9/8/87)

Subd. 4. Special Assessments. When any existing special assessments which have been levied against the property described to be divided and allocated to the respective lots in the proposed plat, the Zoning Administrator shall estimate the clerical cost of preparing a revised assessment roll, filing the same with the County Auditor, and making such division and allocation, and upon approval by the Council of such cost, the same shall be paid to the City Clerk before the final plat approval.

Subd. 5. Street Addresses. With submission of the final plat, ten (10) copies of the plat map showing all addresses correctly labeled in conformance with all applicable Ramsey or Washington County and City ordinances, codes, and policies shall be supplied to the Zoning Administrator for subsequent distribution to the utility companies and local school districts.

Subd. 6. Recording Final Plat. If the final plat is approved by the City Council, the subdivider shall record it with the Ramsey or Washington County Recorder within one hundred (100) days after said approval or approval of the final plat shall be considered void, unless a request for time extension is submitted in writing and approved by the City Council. The subdivider shall, immediately upon recording, furnish the Zoning Administrator with two (2) prints and reproducible tracing of the final plat showing evidence of the recording. No building permits shall be let for construction of any structure on any lot in said plat until the City has received evidence of the plat being recorded by Ramsey or Washington County.

§1402.040. PREMATURE SUBDIVISIONS. Any preliminary plat of a proposed subdivision deemed premature for development shall be denied by the City Council of the City of White Bear Lake.

Subd. 1. Condition Establishing Premature Subdivisions. A subdivision may be deemed premature should any of the conditions set forth in the provisions which follow exist:

- a) Lack of Adequate Drainage. A condition of inadequate drainage shall be deemed to exist if:
 - 1) Surface or subsurface water retention and runoff is such that it constitutes a danger to the structural security of the proposed structures.
 - 2) The proposed subdivision will cause pollution of water sources or damage from erosion and siltation on downhill or downstream land.
 - 3) The proposed site grading and development will cause harmful and irreparable damage from erosion and siltation on downhill or downstream land.
 - 4) Factors to be considered in making these determinations may include: Average rainfall for the area; the relation of the land to flood plains; the nature of soils and subsoils and their ability to adequately support surface water runoff and waste disposal systems; the slope of the land and its effect on effluent; and the presence of streams as related to effluent disposal.
- b) Lack of Adequate Water Supply. A proposed subdivision shall be deemed to lack an adequate water supply if the proposed subdivision does not have adequate sources of water to serve the proposed subdivision if developed to its maximum permissible density without causing an unreasonable depreciation of existing water supplies for surrounding areas.
- c) Lack of Adequate Roads or Highways to Serve the Subdivision. A proposed subdivision shall be deemed to lack adequate roads or highways to serve the subdivision when:
 - 1) Roads which serve the proposed subdivision are of such a width, grade, stability, vertical and horizontal alignment, site distance and surface condition that an increase in traffic volume generated by the proposed subdivision would create a hazard to public safety and general welfare, or seriously aggravate an already hazardous condition, and when, with due regard to the advice of Ramsey or Washington County and/or the Minnesota Department of Transportation, said roads are inadequate for the intended use.
 - 2) The traffic volume generated by the proposed subdivision would create unreasonable highway congestion or unsafe conditions on highways existing at the time of the application or proposed for completion within the next two (2) years.
- d) Lack of Adequate Waste Disposal Systems. A proposed subdivision shall be deemed to lack adequate waste disposal systems if in subdivisions for which sewer lines are proposed, there is inadequate sewer capacity in the present system to support the subdivision if developed to its maximum permissible density after reasonable sewer capacity is reserved for schools, planned public facilities and commercial and industrial development projected for the next five (5) years; or if in subdivisions where sewer lines are neither available nor proposed, there is inadequate on-

site sewer capacity potential to support the subdivision if developed to the maximum permissible density indicated in the White Bear Lake Comprehensive Plan, as may be amended.

- e) Inconsistency with Comprehensive Plan. The proposed subdivision is inconsistent with the purposes, objectives, and recommendations of the duly adopted Comprehensive Plan of White Bear Lake as may be amended.
- f) Providing Public Improvements. If public improvements, such as recreational facilities, or other public facilities, reasonably necessitated by the subdivision, which must be provided at public expense, cannot be reasonably provided for within the next two (2) fiscal years.
- g) MEQC Policies. The proposed subdivision is inconsistent with the policies of MEQC 25, as may be amended, and could adversely impact critical environmental areas or potentially disrupt or destroy historic areas which are designated or officially recognized by the City Council in violation of federal and State historical preservation laws.

Subd. 2. Burden of Establishing. The burden shall be upon the applicant to show that the proposed subdivision is not premature.

§1403. PLAT AND DATA REQUIREMENTS

§1403.010. SKETCH PLAN. Sketch Plans shall contain, at a minimum, the following information:

Subd. 1. General Requirements.

- a) Plat boundary.
- b) North arrow.
- c) Scale.
- d) Street layout on and adjacent to plat.
- e) Designation of land use and current or proposed zoning.
- f) Significant topographical or physical features.
- g) General lot locations and layout.
- h) Preliminary evaluation by the applicant that the subdivision is not classified as premature based upon criteria established in Section 1402.040 of this Code.

§1403.020. PRELIMINARY PLAT. The subdivider shall prepare and submit a preliminary plat, together with any necessary supplementary information. The preliminary plat shall contain the information set forth in the subdivisions which follow.

Subd. 1. General Requirements.

- a) Proposed name of subdivision; names shall not duplicate or too closely resemble names of existing subdivisions.
- b) Location of boundary lines in relation to a known section, quarter section or quarterquarter section lines comprising a legal description of the property.
- c) Names and addresses of all persons having property interest, the developer, designer, and surveyor together with his registration number.
- d) Graphic scale or plat, not less than one (1) inch to one hundred (100) feet.
- e) Date and north arrow.

Subd. 2. Existing Conditions.

- a) Boundary line and total acreage of proposed plat, clearly indicated.
- b) Existing zoning classifications for land within and abutting the subdivision.
- c) Location, widths and names of all existing or previously plotted streets or other public ways, showing type, width and condition of improvements, if any, railroad and utility rights-of-way, parks and other public, open spaces, permanent buildings and structures, easements and section and corporate lines within the tract and to a distance of three hundred fifty (350) feet beyond the tract.
- d) Location and size of existing sewers, water mains, culverts or other underground facilities within the tract and to a distance of one hundred (100) feet beyond the tract. Such data as grades, invert elevations, and locations of catch basins, manholes and hydrants shall also be shown.
- e) Boundary lines of adjoining unsubdivided or subdivided land, within three hundred fifty (350) feet, identified by name and ownership, including all contiguous land owned or controlled by the subdivider.
- f) Topographical data, including contours at vertical intervals of not more than two (2) feet. Water courses, wetlands, rock outcrops, power transmission poles and lines, and other significant features shall also be known.
- g) In plats where public water and sewer are not available, the subdivider shall file a report prepared by a registered civil engineer on the feasibility of individual on-site sewer and water systems on each lot, and shall include soils boring analysis and percolation tests to verify conclusions.

Subd. 3. Proposed Design Features.

- a) Layout of proposed streets showing the right-of-way widths, centerline gradients, typical cross sections, and proposed names of streets in conformance with City and County street identification policies. The name of any street heretofore used in the City or its environs shall not be used unless the proposed street is a logical extension of an already named street, in which event the same name shall be used.
- b) Locations and widths of proposed pedestrian ways.
- c) Locations and size of proposed sewer lines and water mains.
- d) Location, dimension and purpose of all easements.
- e) Layout, numbers, lot areas, and preliminary dimensions of lots and blocks.
- f) Minimum front and side street building setback lines.
- g) When lots are located on a curve, the width of the lot at the building setback line.
- h) Areas, other than streets, alleys, pedestrian ways and utility easements, intended to be dedicated or reserved for public use, including the size of such area or areas in acres.
- i) Water supply. Water mains shall be provided to serve the subdivision by extension of an existing community system wherever feasible. Service connections shall be stubbed into the property line and all necessary fire hydrants shall also be provided. Extensions of the public water supply system shall be designed so as to provide public water in accordance with the standards of the City of White Bear Lake. In areas where public water supply is not available, individual wells shall be provided on each lot, properly placed in relation to the individual sewage disposal facilities on the same and adjoining lots. Well plans must comply with the Minnesota State Well Code, as may be amended, and be submitted for the approval of the City Engineer.
- j) Sewage disposal, public. Sanitary sewer mains and service connections shall be installed in accordance with the standards of the City of White Bear Lake.
- k) Sewage disposal, private. All on-site septic systems shall be installed in accordance with all applicable State Pollution Control Agency regulations and City Ordinance No. 655.

Subd. 4. Supplementary Information.

- a) Any or all of the supplementary information requirements set forth in this subdivision shall be submitted when deemed necessary by the City staff, consultants, advisory bodies and/or City Council.
- b) Proposed Protective covenants.
- c) An accurate soil survey of the subdivision prepared by a qualified person.

- d) A survey prepared by a qualified person identifying tree coverage in the proposed subdivision in terms of type, weakness, maturity, potential hazard, infestation, vigor, density, and spacing.

- e) Statement of the proposed use of lots stating type of buildings with number of proposed dwelling units or type of business or industry, so as to reveal the effect of the development on traffic, fire hazards, and congestion of population.
- f) If any zoning changes are contemplated, the proposed zoning plan for the areas, including dimensions, shall be shown. Such proposed zoning plan shall be for information only and shall not vest any rights in the applicant.
- g) Provision for surface water disposal, ponding, drainage, and flood control.
- h) Where the subdivider owns property adjacent to that which is being proposed for the subdivision, it shall be required that the subdivider submit a sketch plan of the remainder of the property so as to show the possible relationships between the proposed subdivision and the future subdivision. In any event, all subdivisions shall be required to relate well with existing or potential adjacent subdivisions.
- i) Where structures are to be placed on large or excessively deep lots which are subject to potential replat, the preliminary plat shall indicate a logical way in which the lots could possibly be resubdivided in the future.
- j) A plan for soil erosion and sediment control both during construction and after development has been completed. The plan shall include gradients of waterways, design of velocity and erosion control measures, design of sediment control measures, and landscaping of the erosion and sediment control system.
- k) A vegetation preservation and protection plan that shows those trees proposed to be removed, those to remain, the types and locations of trees and other vegetation that are to be planted.
- l) When the City has agreed to install improvements in a development, the developer shall furnish the City a Financial Statement satisfactory to the City. When the City has not undertaken to install improvements, the City may, at the City's option, require the developer to furnish a Financial Statement satisfactory to the City.
- m) Such other information as may be required.

§1403.030. FINAL PLAT. The owner or subdivider shall submit a final plat together with any necessary supplementary information. The final plat, prepared for recording purposes, shall be prepared in accordance with provisions of Minnesota State Statutes and Ramsey and Washington County regulations, and such final plat shall contain the following information:

Subd. 1. General Requirements.

- a) Names of the subdivision, which shall not duplicate or too closely approximate the name of any existing subdivision.
- b) Location by section, township, range, county and state, and including descriptive boundaries of the subdivision, based on an accurate traverse, giving angular and linear dimensions which must mathematically close. The allowable error closure or any portion of a final plat shall be one (1) foot in seventy-five hundred (7,500) feet.
- c) The location of monuments shall be shown and described on the final plat. Locations of such monuments shall be shown in reference to existing official monuments on the nearest established street lines, including true angles and distances to such reference points or monuments.
- d) Location of lots, streets, public highways, parks and other features, with accurate dimensions in feet and decimals of feet, with the length of radii and/or arcs of all curves, and with all other information necessary to reproduce the plat on the ground shall be shown. Dimensions shall be shown from all angle points of curve to lot lines.
- e) Lots shall be numbered clearly. Blocks are to be numbered, with numbers shown clearly in the center of the block.
- f) The exact locations, widths, and names of all streets to be dedicated.
- g) Location and width of all easements to be dedicated.
- h) Name and address of surveyor making the plat.
- i) Scale of plat (the scale to be shown graphically on a bar scale), date and north arrow.
- j) Statement dedicating all easements as follows: Easements for installation and maintenance of utilities and drainage facilities are reserved over, under and along the strips marked "utility easements".
- k) Statement dedicating all streets, alleys and other public areas not previously dedicated as follows: Streets, alleys and other public areas shown on this plat and not heretofore dedicated to public use are hereby so dedicated.

§1403.040. ADDRESS MAP. The Address Map shall be prepared in accordance with City and County policy and shall include all addresses of lots as platted.

§§1403.050. CERTIFICATION REQUIRED.

Subd. 1. Certification by registered surveyor in the form required by Section 505.03, Minnesota Statutes, as amended.

Subd. 2. Execution by all owners of any interest in the land or any holders of a mortgage thereon of the certificates required by Section 505.03, Minnesota Statutes, as amended, and where certificate shall include a dedication of the utility easements and other public areas in such form as approved by the City Council.

Subd. 3. Space for certificates of approval and review to be filled in by the signatures of the Mayor and City Clerk. The form of approval of the City Council is as follows:

Approved by the City of White Bear Lake, Minnesota.

This ___ day of _____, 19__.

Signed _____
Mayor

Attest _____
City Clerk

§1404. DESIGN STANDARDS

§1404.010. BLOCKS.

Subd. 1. Block Length. In general, intersecting streets, determining block lengths, shall be provided at such intervals so as to serve cross traffic adequately and to meet existing streets. Where no existing plats control, the blocks in residential subdivisions should not exceed eighteen hundred (1,800) feet nor be less than four hundred (400) feet in length, except where topography or other conditions justify a departure from this maximum. In blocks longer than twelve hundred (1,200) feet, pedestrian ways and/or easements through the block may be required near the center of the block.

Subd. 2. Block Width. The width of the block shall normally be sufficient to allow two (2) tiers of lots of appropriate depth. Blocks intended for business or industrial use shall be of such width as to be considered most suitable for their respective use, including adequate space for off-street parking and deliveries.

§1404.020. LOTS.

Subd. 1. Area. The minimum lot area, width and depth shall not be less than that established by the White Bear Lake Zoning Code in effect at the time of adoption of the final plat.

Subd. 2. Corner Lots. Corner lots for residential use shall have additional width to permit appropriate building setback from both streets as required in the Zoning Code.

Subd. 3. Side Lot Lines. Side lines of lots shall be approximately at right angles to street lines or radial to curved street lines.

Subd. 4. Frontage. Every lot must have the minimum frontage on a City approved street other than an alley, as specified in the lot width requirements of the White Bear Lake Zoning Code. (Ref. Ord. 10-1-1065, 1/12/10)

Subd. 5. Setback Lines. Setback or building lines shall be shown on all lots intended for residential use and shall not be less than the setback required by the White Bear Lake Zoning Code, as may be amended.

Subd. 6. Water Courses. Lots abutting a water course, wetland, ponding area, or stream shall have additional depth and width, as required under the provisions of the White Bear Lake Zoning Code.

Subd. 7. Features. In the subdividing of any land, due regard shall be shown for all natural features, such as tree growth, water courses, historic spots or similar conditions which, if preserved, will add attractiveness and stability to the proposed development.

Subd. 8. Lot Remnants. All remnants of lots below minimum size left over after subdividing of a larger tract must be added to adjacent lots, rather than allowed to remain as unusable parcels.

Subd. 9. Political Boundaries. No singular plat shall extend over a political boundary or school district line without document notification to affected units of government.

Subd. 10. Frontage on Two Streets. Double-frontage, or lots with frontage on two (2) parallel streets, shall not be permitted except: Where lots back on arterial streets or highways, or where topographic or other conditions render subdividing otherwise unreasonable. Such double-frontage lots shall have an additional depth of at least twenty (20) feet in order to allow space for screen planting along the back lot line.

Subd. 11. Turn Around Access. Where proposed residential lots abut a collector or arterial street, they should be platted in such a manner as to encourage turn around access and egress on each lot.

§1404.030. STREETS AND ALLEYS.

Subd. 1. Streets, Continuous. Except for cul-de-sacs, streets shall connect with streets already dedicated in adjoining or adjacent subdivisions, or provide for future connections to adjoining unsubdivided tracts, or shall be a reasonable projection of streets in the nearest subdivided tracts. The arrangement of thoroughfares and collector streets shall be considered in their relation to the reasonable circulation of traffic, to topographic conditions, to turn-off of storm water, to public convenience and safety, and in their appropriate relation to the proposed uses of the area to be served.

Subd. 2. Local Streets and Dead-End Streets. Local streets should be so planned as to discourage their use by non-local traffic. Dead-end streets are prohibited, but cul-de-sacs shall be permitted where topography or other physical conditions justify their use. Cul-de-sacs shall not be longer than five hundred (500) feet, including a terminal turnaround which shall be provided at the closed end, with a right-of-way radius of not less than sixty (60) feet.

Subd. 3. Street Plans for Future Subdivisions. Where the plat to be submitted includes only part of the tract owned or intended for development by the subdivider, a tentative plan of a proposed future street system for the unsubdivided portion shall be prepared and submitted by the subdivider.

Subd. 4. Temporary Cul-de-Sac. In those instances where a street is terminated pending future extension in conjunction with future subdivision, a temporary turn around facility shall be provided at the closed end.

Subd. 5. Provisions for Resubdivision of Large Lots and Parcels. When a tract is subdivided into larger than normal building lots or parcels, such lots or parcels shall be so arranged as to permit the logical location and openings of future streets and appropriate resubdivision, with provision for adequate utility connections for such resubdivision.

Subd. 6. Street Intersections. Under normal conditions, streets shall be laid out so as to intersect as nearly as possible at right angles, except where topography or other conditions justify variations. Under normal conditions, the minimum angle of intersection of streets shall be eighty (80) degrees. Street intersection jogs with an offset of less than one hundred twenty-five (125) feet shall be avoided.

Subd. 7. Subdivisions Abutting Major Rights-of-Way. Wherever the proposed subdivision contains or is adjacent to the right-of-way of a U.S. or State Highway or thoroughfare, provision may be made for a marginal access street approximately parallel and adjacent to the boundary of such right-of-way, provided that due consideration is given to proper circulation design, or for a street at a distance suitable for the appropriate use of land between such street and right-of-way. Such distance shall be determined with due consideration of the minimum distance required for approach connections to future grade separations, or for lot depths.

Subd. 8. Sidewalks. In those cases where the City Council deems appropriate and necessary, sidewalks of not less than five (5) feet in width shall be provided. Where a proposed plat abuts or includes an arterial street, sidewalks, of not less than five (5) feet in width on both sides of the paved surface shall be provided. Where the proposed plats abut or includes a collector street, sidewalks of not less than five (5) feet in width, shall be required on one side of the street. In all cases where sidewalks are provided, provisions shall be made for handicapped access.

Subd. 9. Service Access, Alleys. Service access shall be provided in commercial and industrial districts for off-street loading, unloading and parking consistent with and adequate for the uses proposed. Except where justified by special conditions, such as the continuation of an existing alley in the same block, alleys will not be approved in residential districts. Alleys where provided, shall not be less than twenty (20) feet wide. Dead-end alleys shall be avoided wherever possible, but if unavoidable, such dead-end alleys may be approved if adequate turn around facilities are provided at the closed end.

Subd. 10. Half Streets. Dedication of half streets shall not be considered for approval except where it is essential to the reasonable development of the subdivision and in conformity with the other requirements of these regulations or where it is found that it will be practical to require the dedication of the other half when the adjoining property is subdivided.

Subd. 11. Private Streets. Private streets shall be prohibited unless built to city standards and approved by the City Council. Existing private roads that become public streets shall be upgraded to City standards as much as possible. All private streets shall be maintained by a City-approved entity pursuant to a City-approved and recorded covenant or agreement. (Ref. Ord. 10-1-1065, 1/12/10)

Subd. 12. Street Grades. The grades in all streets, arterial highways, collector streets, minor streets and alleys in any subdivision shall not be greater than the maximum grades for each classification as follows:

Principal Arterial Highway	(As required by MNDOT
Intermediate Arterial Highway	4 percent
Minor Arterial Highway	4 percent
Collector Street	4 percent
Local Street	6 percent
Alley	6 percent

In addition, there shall be a minimum grade on all streets and arterial highways of not less than .03 percent.

Subd. 13. Curb Radius. The minimum curb radii for thoroughfares, collector streets, local streets and alleys shall be as follows:

Arterial Streets, Collector and Local Streets	10 feet
Alleys	4 feet

Subd. 14. Reverse Curves. Minimum design standards for collector and arterial streets shall comply to Minnesota State Aid Standards.

Subd. 15. Reserve Strips. Reserve strips controlling access to streets shall be prohibited except under conditions accepted by the City Council.

Subd. 16. Street Right-of-Way Width. For all public ways hereafter dedicated and accepted, the minimum right-of-way widths for streets and thoroughfares shall be shown in the Comprehensive Plan and where not shown therein, the minimum right-of-way width for streets, arterial highways or pedestrian ways included in any subdivision shall not be less than the minimum dimensions for each classification as follows:

<u>Classification</u>	<u>Right-of-Way</u>
Principal Arterial Highway	(As required by MnDot)
Intermediate Arterial Highway	100 feet
Minor Arterial Highway	80 feet
Collector Streets	70 feet
Local Streets	60 feet
Marginal Service Access Roads	50 feet
Alley	20 feet
Pedestrian Way	10 feet

Where existing or anticipated traffic on principal and minor arterial highways warrants greater widths of rights-of-way, these shall be required.

Subd. 17. All proposed streets shall be offered for dedication on public streets. Except that private streets may be permitted, following approval of the variance application, within the boundaries of property under one ownership.

§1404.040. EASEMENTS.

Subd. 1. Width and Location. An easement for utilities at least ten (10) feet wide, shall be provided along all lot lines. If necessary for the extension of main water or sewer lines or similar utilities, easements of greater width may be required along lot lines or across lots.

Subd. 2. Continuous Utility Easement Locations. Utility easements shall connect with easements established in adjoining properties. These easements, when approved, shall not thereafter be changed without the approval of the City Council after a public hearing.

Subd. 3. Guy Wires. Additional easements for pole guys should be provided, where appropriate, at the outside of turns. Where possible, lot lines shall be arranged to bisect the existing angle so that pole guys will fall along side lot lines.

§1404.050. SITE GRADING AND STORMWATER MANAGEMENT.

Subd. 1. Site grading and stormwater management shall comply with the City's Engineering Design Standards applicable watershed district standards and any other State regulations.

Subd. 2. The development shall conform to the natural limitations presented by topography and soil so as to create the least potential for soil erosion.

Subd. 3. Erosion and sediment control measures shall be coordinated with the different stages of construction. Appropriate control measures shall be installed prior to development when necessary to control erosion.

Subd. 4. Land shall be developed in increments of workable size such that adequate erosion and siltation controls can be provided as construction progresses. The smallest practical area of land shall be exposed at any one period of time.

Subd. 5. Where the topsoil is removed, sufficient arable soil shall be set aside for respreading over the developed area. Top soil shall be restored or provided to a depth of four (4) inches and shall be of a quality at least equal to the soil quality prior to development.

Subd. 6. Natural vegetation shall be protected wherever practical.

Subd. 7. Erosion and Sediment Control Plans and Stormwater Management Plans may be subject to review and approval of the applicable Watershed District and City Engineer. (Ref. Ord. 15-05-2002, 5/12/15).

§1404.060. STORM DRAINAGE.

Subd. 1. All subdivision design shall incorporate adequate provisions for storm water runoff consistent with the City of White Bear Lake's Engineering Design Standards and is subject to review and approval of the applicable Watershed District and City Engineer.

Subd. 2. Where municipal storm sewer systems do not exist or the introduction of said system is deemed inappropriate by the City Engineer, storm water drainage shall be discharged to retention basins or other treatment facilities. Diversion of storm water to marshlands or wetlands shall be considered for existing or planned surface drainage only when treated to the standards of the Wetland Conservation Act prior to being discharged. (Ref. Ord. 15-05-2002, 5/12/15).

§1404.070. PROTECTED AREAS.

Subd. 1. Where land proposed for subdivision is deemed environmentally sensitive by the City, due to the existence of significant trees, wetlands, drainage ways, watercourses, floodable areas or steep slopes, the design of said subdivision shall clearly reflect all necessary measures of protection to insure against adverse environmental impact.

Based upon the necessity to control and maintain certain sensitive areas, the City shall determine whether said protection will be accomplished through lot enlargement and redesign or dedication of those sensitive areas by easement. Platting of outlots for purposes of stormwater management shall not be permitted. (Ref. Ord. 15-05-2002, 5/12/15).

In general, measures of protection shall include design solutions which allow for construction and grading involving a minimum of alteration to sensitive areas. Where these areas are to be incorporated into lots within the proposed subdivision, the subdivider shall be required to demonstrate that the proposed design will not require construction on slopes over eighteen (18) percent, or result in significant alteration to the natural drainage system such that adverse impacts cannot be contained within the plat boundary.

§1405. PARK LAND DEDICATION REQUIREMENTS

§1405.010. As a prerequisite to plat approval, subdividers shall dedicate land for parks, playground, public open spaces or trails and/or shall make a cash contribution to the City's park fund as provided by this Code. The form of contribution, cash or land (or any combination), shall be decided by the City.

§1405.020. Subdivision of land which has been previously platted and officially recorded and which contains less than one (1) acre, shall be exempt from the dedication requirements of Section 1405.

§1405.030. Land to be dedicated shall be reasonably suitable for its intended use and shall be at a location convenient to the people to be served. Factors used in evaluating the adequacy of proposed park and recreation areas shall include size, shape, topography, geology, hydrology, tree cover, access and location.

§1405.040. The Park Commission shall recommend to the City Council the location of land and the amount of land to be conveyed or dedicated within a proposed subdivision.

§1405.050. The Park Commission shall recommend to the City Council the land dedication and cash contribution requirements for proposed subdivisions.

§1405.060. Changes in density of plats shall be reviewed by the Park Commission for reconsideration of park dedication and cash contribution requirements.

§1405.070. Because a new subdivision creates a need for parks, playgrounds, open space and trail systems for public recreational purposes, the City Council may require that 10% of the land area of a residential subdivision and 10% of the land area subdivided for non-residential purposes be dedicated for park and recreation purposes.

The land to be dedicated as a requirement of this section shall be reasonably acceptable for use as active park and recreational purposes and shall be at a location convenient to people to be served thereby or shall be of significant scenic value to be preserved by scenic easements. Factors used in evaluating the adequacy of the areas to be dedicated shall include the size, shape, topography, geology, vegetative cover, access and location.

At the option of the City, and in lieu of such land dedication, the owner of a subdivision shall pay to the City for park and recreational purposes the following sums for said subdivision.

- a. Single family dwelling(s) \$ 1,000 / unit
- b. Townhome, condominium and duplex dwellings \$ 750 / unit
- c. Apart dwellings \$ 500 / unit
for a one bedroom or
efficiency plus \$100 for
each additional bedroom
- d. Commercial and industrial..... \$3,500 / acre

The City may require additional park dedication fees if the number of residential units are increased in a subdivision after final plat approval.

§1405.010

SUBDIVISION REGULATIONS

§1405.070

In the case of land platted or otherwise subdivided before the approval of this chapter (June, 1995), the same fees shall be dedicated for park and recreation purposes. All park dedication fees shall be paid upon final plat approval or as building permits are issued at the discretion of the City. (Ref. Ord. 01-04-1015, 1/13/04, 10-1-1065, 1/12/10)

§1405.080. Where a proposed park, playground or other recreational areas, proposed school site or other public ground that has been indicated in the official map and/or comprehensive plan is located in whole, or in part, within a proposed subdivision such proposed public site shall be designated as such and should be dedicated to the City, School District or other proper governmental unit. If the subdivider chooses not to dedicate an area in excess of the land required hereunder for such proposed public site, the City shall not be required to act to approve or disapprove the preliminary plat of the subdivision for a period of sixty (60) days after the subdivider meets all the provisions of the subdivision code in order to permit the Council, School Board or other appropriate governmental unit to consider the proposed plat and to consider taking steps to acquire, through purchase or condemnation, all or part of the public site proposed under the official map or master plan.

§1405.090. Land area conveyed or dedicated to the City shall be in addition to and not in lieu of open space requirements for Planned Unit Developments. (Section 1302.040, Subd. 2, 10-1-1065, 1/12/10)

§1405.100. Where private open space for park and recreation purposes is provided in a proposed subdivision and such space is to be privately owned and maintained by the future residents of the subdivision, such areas may be used for credit at the discretion of the City Council against the requirements of dedication for park and recreation purposes, provided the City Council finds it is in the public interest to do so and that the following standards are met:

- a) That yards, court areas, setbacks and other open space required to be maintained by the zoning and building regulations shall not be included in the computation of such private open space; and
- b) That the private ownership and maintenance of the open space is adequately provided for by written agreement; and
- c) That the private open space is restricted for park and recreational purposes by recorded covenants which run with the land in favor of the future owners of property within the tract and which cannot be eliminated without the consent of the City Council; and
- d) That the proposed private open space is reasonably adaptable for use for park and recreational purposes, taking into consideration such factors as size, shape, topography, hydrological, geology, access and location of the private open space land; and
- e) That facilities proposed for the open space are in substantial accordance with the provisions of the recreational element of the comprehensive plan, and are approved by the City Council; and
- f) That where such credit is granted, the amount of credit shall not exceed twenty-five (25) percent of the park dedication requirements for the development.

§1405.110. The City shall maintain a separate fund into which all cash contributions received from owners or developers in lieu of conveyance or dedication of land for park and playground, public open space or trail purposes shall be deposited and shall make, from time to time, appropriations from such fund for acquisition of land for park and playground purposes, for developing existing park and playground sites, for public open space and trails, or for debt retirement in connection with land previously acquired for parks and playgrounds, which will benefit the residents of the City.

§1405.120. If a subdivider is unwilling or unable to make a commitment to the City as to the type of building that will be constructed on lots in the proposed plat, then the land and cash contribution requirement will be a reasonable amount as determined by the City Council.

§1405.130. Wetlands, ponding areas, and drainage ways accepted by the City shall not be considered in the park land and/or cash contribution to the City.

§1406. REQUIRED BASIC IMPROVEMENTS§1406.010. GENERAL PROVISIONS.

Subd. 1. Before a final plat is delivered by the City to the subdivider, the subdivider of the land covered by said plat shall pay all applicable fees and execute and submit to the City Council a developer's agreement which shall be binding on his or their heirs, personal representatives and assigns, a part of which agreement shall be set forth that the subdivider will cause no private construction to be made on the lands within said plat, nor shall the subdivider file or cause to be filed any application for building permits for such construction until all improvements required under this Code have been made or arranged for in the manner and conforming to the requirements as set forth herein.

Subd. 2. Prior to the delivery of the approved final plat, the subdivider shall deposit with the City Treasurer an amount equal to a minimum one hundred twenty-five (125) percent of the City Engineer's estimated cost of the required improvements within the plat, either in a cash escrow fund performance and indemnity bond, or letter of credit. The surety involved in said financial guarantees shall be approved by the City. The said cash escrow letter of credit or performance and indemnity bond shall be conditioned upon:

- a) The making and installing of all of the improvements required by the terms and conditions set forth by the City within one (1) year.
- b) Satisfactory completion of the work and payment therefore, which work was undertaken by the subdivider in accordance with the developer's agreement referred to above.
- c) The payment by the subdivider to the City of all expenses incurred by the City, which expenses shall include but not be limited to expenses for engineering, fiscal, legal, construction and administration. In instances where a cash escrow is submitted in lieu of a letter of credit or performance and indemnity bond, there shall be a cash escrow agreement which shall provide that in the event the required improvements are not completed within one year, all amounts held under the cash escrow agreement shall be automatically turned over and delivered to the City and applied by the City to the cost of completing the required improvements. If the funds available within said cash escrow agreement are not sufficient to complete the required improvements, the necessary additional cost to the City shall be assessed against the subdivision. Any balance remaining in the cash escrow fund after such improvements have been made and all expenses therefor have been paid, shall be returned to the subdivider. In instances where a letter of credit is used in lieu of a cash escrow or performance and indemnity bond, the said letter of credit shall be in a form satisfactory to the City and the terms thereof shall substantially comply with the procedure set forth for a cash escrow fund. In instances where a performance and indemnity bond is used in lieu of a cash escrow or letter of credit, the said bond shall be in a form acceptable to the City and shall comply with all requirements as set forth in Minnesota Statutes as amended, which statutes relate to Surety Bonds.

Subd. 3. No final plan shall be approved by the Council without first receiving a report signed by the City Engineer and the City Attorney certifying that the improvements described therein together with the agreements and documents required under this Section of the Code, meet the requirements of the City. The City Treasurer shall also certify that all fees required to be paid to the City in connection with the plat have been paid.

Subd. 4. The City of White Bear Lake shall, where appropriate, require of a subdivider submission of a Warranty/Maintenance Bond in the amount equal to the original cost of the improvements, which shall be in force for one year following the final acceptance of any required improvements and shall guarantee satisfactory performance of the said improvements.

Subd. 5. Reproducible "as built drawings" as required by the City Engineer shall be furnished to the City by the subdivider of all required improvements. Such "as built drawings" shall be certified to be true and accurate by the registered engineer responsible for the installation of the improvements.

Subd. 6. All of the required improvements to be installed under the provisions of this Code shall be approved by and subject to the inspection of the City Engineer. All of the City's expenses incurred as the result of the requirement improvements shall be paid either directly, indirectly or by reimbursement to the City by the subdivider.

§1406.020. MONUMENTS.

Subd. 1. Official monuments, as designated and adopted by the Ramsey or Washington County Surveyor's Office and approved by the Ramsey or Washington County District Court for use as judicial monuments, shall be set at each corner or angle on the outside boundary of the final plat or in accordance with a plan as approved by the City Engineer. The boundary line of the property to be included with the plat to be fully dimensioned; all angles of the boundary excepting the closing angle to be indicated; all monuments and surveyor's irons to be indicated, each angle point of the boundary perimeter to be so monumented.

Subd. 2. Pipes or steel rods shall be placed at each lot and at each intersection of street center lines. All United States, State, County or other official benchmarks, monuments or triangular stations in or adjacent to the property shall be preserved in precise position and shall be recorded on the plat. All lot and block dimensions shall be recorded on the plat. All lot and block dimensions shall be shown on the plat and all necessary angles pertaining to the lots and blocks, as an aid to the future surveys shall be shown on the plat. No ditto marks will be permitted in indicating dimensions.

Subd. 3. To insure that all irons and monuments are correctly in place following the final grading of a plat, a second monumentation shall be required. Proof of the second monumentation shall be in the form of a surveyor's certificate and this requirement shall additionally be condition of certificate of occupancy as provided for in the White Bear Lake Zoning Ordinance, as may be amended.

§1406.030. STREET IMPROVEMENTS.

Subd. 1. The full width of the right-of-way shall be graded, in accordance with the provisions for construction as outlined in Section 1404, Design Standards.

Subd. 2. All streets shall be improved in accordance with the standards and specifications for street construction as required by the City Council.

Subd. 3. All streets to be surfaced shall be of an overall width in accordance with the standards and specifications for construction as approved by the City Council. The portion of the right-of-way outside the area surfaced shall be so sodded or rip-rapped by the developer if deemed necessary.

Subd. 4. Where required, the curb and gutter shall be constructed in accordance to the standards and specifications for street construction as set forth and approved by the City Council.

Subd. 5. The grade and drainage requirements for each plat shall be approved by the applicable Watershed District and the City Engineer at the expense of the applicant. Every plat presented for final signature shall be accompanied by a Certificate of the City Engineer that the grade and drainage requirements have been met. In an area not having municipal storm sewer trunk the applicant shall be responsible, before platting, to provide for a storm water disposal plan, without damage to properties outside the platted area, and said storm water disposal plan shall be submitted to the City Engineer and applicable Watershed District, who shall report to the City Council on the feasibility of the plan presented. No plat shall be approved before an adequate storm water disposal plan is presented and approved by the City Engineer and City Council. The use of dry wells for the purpose of storm water disposal is prohibited.

Subd. 6. Trees and Boulevard Sodding.

- a) Trees having a trunk diameter of not less than one and three-fourths (1-3/4) inches (measured twelve [12] inches above the ground) shall be planted along all streets where trees do not exist, and not less than one per lot. This requirement shall be satisfied and it is preferable if an equivalent number and same size trees exist or are planted in a naturalistic way in the front yards of the lots.
- b) Trees shall be planted in at least one (1) cubic yard of growing soil.
- c) Trees shall be planted not less than two (2) feet from public property or easements.
- d) Boulevards shall be sodded in conformance with the standards and specifications as required by the City Council.

Subd. 7. Street signs of the design approved by the City Council shall be installed at each street intersection.

Subd. 8. Driveway approaches and sidewalks of standard design or pedestrian pathways as may be required by the City Council shall be installed.

Subd. 9. Street lighting fixtures as may be required by the City Council, shall be installed.

§1406.040. SANITARY SEWER AND WATER DISTRIBUTION IMPROVEMENTS.

Subd. 1. Sanitary sewers and water facilities shall be installed in accordance with the standards and specifications as required by the City Council and subject to the approval of the City Engineer.

Subd. 2. Where City sewer and water facilities are not available for extension into proposed subdivision, the Council may permit the use of individual water and sewer systems in accordance with all appropriate state and local regulations.

§1406.050. PUBLIC UTILITIES.

Subd. 1. All new electric distribution lines (excluding main line feeders and high voltage transmission lines), telephone service lines, and services constructed within the confines of and providing service to customers in a newly platted residential area shall be buried underground; unless the Council specifically shall find, after study and recommendation by the Planning Commission, that:

- a) The placing of utilities underground would not be compatible with the development planned.
- b) Topographical, soil or any other conditions make the underground installation unreasonable or impractical.

Subd. 2. All utility lines for telephone and electrical service shall be placed in rear line easements when carried on overhead poles. The Planning Commission may recommend, and the City Council require, that the type of overhead pole used be of a quality and durability aesthetically in conformance with the nature of the residential development.

Subd. 3. Where telephone, electric and/or gas service lines are to be placed underground entirely, conduits or cables shall be placed within easements or dedicated public ways, in such a manner so as not to conflict with other underground services.

Subd. 4. All drainage and other underground utility installations which traverse privately owned property shall be protected by easements.

Subd. 5. The subdivider is responsible for complying with the requirements of this section, and shall submit to the Zoning Administrator a written record from the utilities showing that the necessary arrangements with the utility involved for the installation of said facilities have been made.

§1406.060. ELECTION BY CITY TO INSTALL IMPROVEMENTS. In accordance with White Bear Lake City policy, it is the subdivider's responsibility to install all required improvements except that the City reserves the right to elect to install all or any part of the improvements required under the provisions of this Code in lieu of requiring the subdivider to install such improvements, pursuant to MSA 429, as amended.

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§1406.070. RAILROAD CROSSINGS. No street dedications will be accepted which require a crossing of a railroad unless sufficient land as determined by the City Council is dedicated to insure a safe view.

§1407. NON-PLATTED SUBDIVISION

§1407.010. REGISTERED LAND SURVEYS. It is the intention of this Code that all registered land surveys in the City of White Bear Lake should be presented to the Planning Commission in the form of a preliminary plat in accordance with the standards set forth in this Code for preliminary plats and that the Planning Commission shall first approve the arrangement, sizes, and relationships of proposed tracts in such registered land surveys, and that tracts to be used as easements or roads should be so dedicated. Unless a recommendation from the Planning Commission and approval from the City Council have been obtained in accordance with the standards set forth in this Code, building permits will be withheld for the buildings or tracts which have been so subdivided by registered land surveys and the City may refuse to take over tracts as streets or roads or to improve, repair, or maintain any such tracts unless so approved.

§1407.020. CONVEYANCE BY METES AND BOUNDS. No division of one (1) or more parcels in which the land is described by metes and bounds shall be made or recorded if the parcels described in conveyance are twenty (20) acres or less in size and five hundred (500) feet or less in width for residential uses and five (5) acres or less in size for commercial and industrial uses unless such parcel was a separate parcel of record at the effective date of this Code. Building permits will be withheld for buildings or tracts which have been subdivided and conveyed by this method and the City may refuse to take over tracts as streets or roads or to improve, repair or maintain any such tracts.

§1407.030 MINOR SUBDIVISION.

In the case of a subdivision resulting in three (3) or less parcels, situated in an area where public utilities and street right-of-ways already serve the proposed parcels, the subdivider may be exempt from complying with some of the more formal platting requirements of these regulations, so long as the new legal description does not rely on a metes and bounds description or is not excessive in length or complexity, as determined by the City Zoning Administrator. In the case of a request for a minor subdivision to create not more than three (3) new lots, and the newly created property lines will not cause any resulting lot to be in violation of these regulations or the Zoning Code, the proposed subdivision, in sketch form, shall be submitted to the Planning Commission for a recommendation (no public hearing required), along with a fee of two hundred twenty five (\$225.00) dollars, and then may be approved by the City Council, after which a Certificate of Survey by a registered land surveyor showing the original lot and the proposed subdivision and any required easements or dedications shall be supplied to the City Engineer within sixty (60) days after Council approval. The survey shall be recorded by the applicant with the Ramsey County Land Records Office within ninety (90) days after approval by the City Engineer. (Ref. Ord. 1015, 1/13/04, 10-1-1065, 1/12/10)

§1407.040 RECOMBINATION SUBDIVISION.

In the case of a request to divide one lot which is a part of a recorded plat where the division is to permit the adding of a parcel of land to an abutting lot to create two lots and the newly created property line will not cause the other remaining portion of the lot to be in violation with this regulation or the Zoning Code, the division, in sketch form, shall be submitted to the Planning Commission for a recommendation (no public hearing required), along with a fee of two hundred twenty five (\$225.00) dollars, and then may be approved by the City Council, after which a Certificate of Survey with a written legal description for all parcels and showing the original lot, the proposed subdivision, and all dimensions shall be supplied to the City Engineer, within sixty (60) days after Council approval. The survey shall be recorded by the applicant with the Ramsey Land Records Office within ninety (90) days after approval by the City Engineer. (Ref. Ord. 10-1-1065, 1/1/210)

§1407.050 CORRECTIVE SUBDIVISION.

In any case where the survey or description of a division of one parcel into two parcels or lots has been found to be inadequate to describe the actual boundaries, a corrective survey and/or subdivision may be necessary. This type of subdivision creates no new lots or streets and may be approved administratively. The subdivision shall not create a lot(s) which is in violation of this regulation or the Zoning Code. A Certificate of Survey shall be completed by a registered land surveyor describing existing and proposed property boundaries on both parcels or lots and a letter signed by both parties agreeing to the new subdivision. The Certificate of Survey shall be presented to the Zoning Administrator, who shall approve or deny the correction within ninety (90) days of receipt of said survey or corrected legal description. After approval by the City Engineer, the survey shall be recorded by the applicant with the Ramsey County Land Records Office with both properties within 90 days of said approval. (Ref. Ord No. 719, 6/10/86, 10-1-1065, 1/12/10)

§1408. VARIANCES, PLANNING COMMISSION RECOMMENDATIONS, STANDARDS

§1408.010. FINDINGS. The Planning Commission or Variance Board may recommend a variance from the minimum standards of this Code (not procedural provisions) when, in its opinion, undue hardship may result from strict compliance. Whenever, in the rest of this section, "Planning Commission" or "the Commission" is used, it shall also mean "Variance Board" or "The Board". Whether the variance shall be forwarded to the Planning Commission or the Variance Board shall be the decision of the Zoning Administrator. In recommending any variance, the Commission shall prescribe any conditions that it deems necessary to or desirable for the public interest. In making its recommendations, the Planning Commission shall take into account the nature of the proposed use of land and the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. A variance shall only be recommended when the Planning Commission finds: (Ref. 10-1-1065, 1/12/10)

Subd. 1. That there are special circumstances or conditions affecting said property such that the strict application of the provisions of this Code would deprive the applicant of the reasonable use of the land.

Subd. 2. That the granting of the variance will not be detrimental to the public health, safety and welfare or injurious to other property in the territory in which the property is situated.

Subd. 3. That the variance is to correct inequities resulting from an extreme physical hardship such as topography, etc. After considerations of the Planning commission recommendations, the City Council may grant variances, subject to subdivisions 1, 2 and 3 immediately above.

§1408.020. PROCEDURES.

Subd. 1. Requests for a variance or appeal shall be filed with the Zoning Administrator on an official application form. Such application shall be accompanied by a fee as established by the City Council resolution. Such application shall also be accompanied by ten (10) copies of detailed written and graphic materials necessary for the explanation of the request.

Subd. 2. Upon receiving said application, the Zoning Administrator shall refer the application, along with all related information, to the City Planning Commission for a report and recommendation to the City Council.

Subd. 3. The Planning Commission shall consider the variance at its next regular meeting unless the filing date falls within fifteen (15) days of said meeting, in which case the request would be placed on the agenda and considered at the regular meeting following the next regular meeting. The Zoning Administrator shall refer said application, along with all related information to the City Planning Commission for consideration and a report and recommendation to the City Council.

Subd. 4. The applicant or a representative thereof shall appear before the Planning Commission in order to answer questions concerning the proposed variance request.

Subd. 5. The variance application shall be referred to the City staff for a report and recommendation to be presented to the Commission. A preliminary draft of the City staff's report and recommendations shall be given to the City Planning Commission at least seven (7) days prior to the meeting at which said report and recommendations are to be presented. The final report and recommendations to the City staff is to be entered in and made part of the permanent written record of the Planning Commission meeting.

Subd. 6. The Planning Commission and City staff shall have the authority to request additional information for the applicant concerning the variance or to retain expert testimony with the consent and at the expense of the applicant concerning said variance where said information is declared necessary to insure preservation of health, safety and general welfare.

Subd. 7. The Planning Commission shall request the Zoning Administrator to set a date for a public hearing. Notice of such hearing shall be published in the official newspaper at least ten (10) days prior to said hearing, and individual notices shall be mailed not less than ten (10) days nor more than thirty (30) days prior to the hearing to all owners of property within three hundred fifty (350) feet of the parcel included in the request.

Subd. 8. Failure of a property owner to receive said notice shall not invalidate any such proceedings as set forth within this Code.

Subd. 9. The Planning Commission shall make a finding of fact and recommend such actions or conditions relating to the request as they deem necessary to carry out the intent and purpose of this Code. Such recommendation shall be in writing and accompanied by the report and recommendation of the City staff and forwarded to the City Council.

Subd. 10. The City Council shall not grant a variance until they have received a report and recommendation from the Planning Commission and the City staff or until sixty (60) days after the first

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regular Planning Commission meeting at which the request was considered.

Subd. 11. Upon receiving the report and recommendation of the Planning Commission and City staff, the City Council shall place the report and recommendations on the agenda for the next regular meeting. Such reports and recommendations shall be entered in and made part of the permanent written record of the City Council meeting.

Subd. 12. Upon receiving the report and recommendation of the Planning Commission and City staff, the City Council shall make a recorded finding of fact and impose any condition it considers necessary to protect the public health, safety and welfare.

Subd. 13. The City Council shall decide whether to approve or deny a request for a variance or an appeal within thirty (30) days after the public hearing on said request.

Subd. 14. A variance of this Subdivision Code or grant of an appeal shall be by a majority vote of the full City Council.

Subd. 15. The Zoning Administrator shall notify the originator of the variance request or appeal of the City Council's decision in writing.

§1408.030. AMENDMENTS.

Subd. 1. Requests for text amendments to this code shall be filed with the Zoning Administrator and processed pursuant to and as defined in the "Amendments" section of the City Zoning Code, Section 1301.040.

§1409. VIOLATIONS AND PENALTY

§1409.010. SALE OF LOTS FROM UNRECORDED PLATS. It shall be unlawful to sell, trade, or otherwise convey any lot or parcel of land as a part of, or in conformity with any plan, plat or replat of any subdivision or area located within the jurisdiction of this Code unless said plan, plat or replat shall have first been recorded in the Office of the Recorder of Ramsey or Washington County.

§1409.020. RECEIVING OR RECORDING UNAPPROVED PLATS. It shall be unlawful for a private individual to receive or record in any public office any plans, plats of land laid out in building lots and streets, alleys, or other portions of the same intended to be dedicated to public or private use, or for the use of purchasers or owners of lots fronting on or adjacent thereto, and located within the jurisdiction of this Code, unless the same shall bear thereon, by endorsement or otherwise, the approval of the City Council.

§1409.030. MISREPRESENTATION AS TO CONSTRUCTION, SUPERVISION, OR INSPECTION OF IMPROVEMENTS. It shall be unlawful for any person, firm or corporation owning an addition or subdivision of land within the City to represent that any improvement upon any of the streets, alleys or avenues of said addition or subdivision or any sewer in said addition or subdivision has been constructed according to the plans and specifications approved by the City Council, or has been supervised or inspected by the City, when such improvements have not been so constructed, supervised or inspected.

§1409.040. PENALTY. Any person who violates any of the provisions of this Code shall, upon conviction thereof, be fined not more than the maximum penalty for a misdemeanor prescribed under state law. Each day that a violation is permitted to exist shall constitute a separate offense.

§1410. ENACTMENT

§1410.010 EFFECT. This Code shall be in full force and effect from and after its passage and publication.

Passed and approved this 13th day of December, 1983.

/s/ Brad Stanius
Mayor

ATTEST:

/s/ Raymond R. Siebenaler
City Clerk